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Fisheries Act 1996

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

Sections 56 to 57J are administered by the Overseas Investment Office, the rest of this Act is administered by the Ministry for Primary Industries.

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An Act—

(a) to reform and restate the law relating to fisheries resources; and

(b) to recognise New Zealand's international obligations relating to fishing; and

(c) to provide for related matters

1 Short Title and commencement

(1) This Act may be cited as the Fisheries Act 1996.

(2) Subject to subsection (3), this Act shall come into force on a date to be appointed by the Governor-General by Order in Council; and different dates may be so appointed by 1 or more Orders in Council for different provisions and different purposes.

(2A) Despite subsection (2), sections 56, 57, 58, 62, and 358 come into force on 1 October 1999.

(3) Sections 332 and 333 shall come into force on 1 March 1997.

(4) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 1(2): section 314(1)(e) brought into force for all purposes, on 11 July 2002, by clause 2 of the Fisheries Act Commencement Order 2002 (SR 2002/167).

Section 1(2): sections 17, 20–24, 42, 43, 50, 59–61, 66, 67, 68, 72, 74, 76, 80–89, 91–93, 94, 96–98, 102–108, 110–113, 124, 127–130, 132–138, 139, 140, 141–152, 153–166, 168–173, 191, 192, 193–198, 199–217, 219–222, 229–239, 241, 244, 245, 247–254, 256–260, 314(1)(d), (f), (g), (j)–(n), (q), (r), (t)–(v), (y)–(zd), (zf)–(zj), (zl), (zn), (2), (4), 319–321,323, 325, 326, 328, 331(1)–(3), 336, 339, 344, 345, 347, 348–352, 357, 359, Schedules 5, 6, and 7, and Parts 4–6 and 8 of Schedule 12 brought into force, on 1 October 2001, by clause 2(4) of the Fisheries Act Commencement Order (No 2) 2001 (SR 2001/179).

Section 1(2): section 337 brought into force, on 30 September 2001, by clause 2 of the Fisheries Act Commencement Order (No 2) 2001 (SR 2001/179).

Section 1(2): section 343 brought into force, on 30 September 2001, by clause 2(3) of the Fisheries Act Commencement Order 2001 (SR 2001/38).

Section 1(2): section 342 brought into force, on 1 September 2001, by clause 2(2) of the Fisheries Act Commencement Order 2001 (SR 2001/38).

Section 1(2): sections 77 and 77A brought into force, on 1 August 2001, by clause 2 of the Fisheries Act Commencement Order (No 2) 2001 (SR 2001/179).

Section 1(2): sections 18, 19, 75, 75A, 75B, 113A, Part 6A, sections 299A, 362, and Schedules 1A and 11 brought into force on 1 May 2001, by clause 2(1) of the Fisheries Act Commencement Order 2001 (SR 2001/38).

Section 1(2): section 67B, Part 12, sections 228, 314(1)(w), 341, and Schedule 4 brought into force, on 1 October 2000, by clause 2 of the Fisheries Act Commencement Order 2000 (SR 2000/182).

Section 1(2): section 314(1)(zo) and (3) brought into force, on 1 December 1999, by clause 2 of the Fisheries Act 1996 Commencement Order 1999 (SR 1999/380).

Section 1(2): sections 312 and 313 brought into force, on 1 October 1998, by clause 2 of the Fisheries Act Commencement Order 1998 (SR 1998/251).

Section 1(2): sections 30–41, 44–49, 51–55, Part 7, sections 283–293, 356, 363, 364, and Part 9 of Schedule 12 brought into force, on 1 October 1997, by clause 2 of the Fisheries Act Commencement Order (No 2) 1997 (SR 1997/171).

Section 1(2): section 369 and Part 4 of Schedule 9 brought into force, on 1 April 1997, by clause 2 of the Fisheries Act Commencement Order 1997 (SR 1997/40).

Section 1(2): Parts 1, 2, 3, and 9, sections 187–190, Part 14, sections 276–282, 294–311, 314(1)(h), (i), (o), (p), (s), (ze), (zk), (zm), 316–318, 322, 324, 327, 329, 330, 334, 335, 353, 360, 361, 365–368, 370, Schedules 1, 2, and 3, Parts 1–3 of Schedule 9, Schedule 10, and Parts 1–3 and 7 of Schedule 12 brought into force, on 1 October 1996, by clause 2 of the Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

Section 1(2): sections 354 and 355 brought into force, on 23 August 1996, by clause 2 of the Fisheries Act Commencement Order 1996 (SR 1996/235).

Section 1(2A): inserted, on 9 September 1999, by section 1(5) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 1(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Part 1
Preliminary provisions

2 Interpretation

(1) In this Act, unless the context otherwise requires,—

annual catch entitlement means an annual catch entitlement allocated under any of sections 67, 67A, 68, 340, and 340A

Annual Catch Entitlement Register means the relevant Annual Catch Entitlement Register kept under section 124(1)(b)

Aotearoa Fisheries Limited has the meaning given to it in section 5 of the Maori Fisheries Act 2004

appointed day has the meaning given to it in section 5 of the Maori Fisheries Act 2004

approved means approved by the chief executive

approved form, in relation to any document, means the form prescribed by regulations made under this Act or, if there is no such prescribed form, the form approved by the chief executive; and includes an electronic format that is so prescribed or approved

approved service delivery organisation means a person declared to be an approved service delivery organisation, and to whom any specified functions, duties, or powers of the chief executive have been transferred, under section 296B

aquaculture activities has the same meaning as in the Resource Management Act 1991

aquaculture decision has the meaning given to it by section 186C

aquatic ecosystem means any system of interacting aquatic life within its natural and physical environment

aquatic environment—

(a) means the natural and biological resources comprising any aquatic ecosystem; and

(b) includes all aquatic life and the oceans, seas, coastal areas, inter-tidal areas, estuaries, rivers, lakes, and other places where aquatic life exists

aquatic life—

(a) means any species of plant or animal life that, at any stage in its life history, must inhabit water, whether living or dead; and

(b) includes seabirds (whether or not in the aquatic environment)

asset-holding company has the meaning given to it in section 5 of the Maori Fisheries Act 2004

associated or dependent species means any non-harvested species taken or otherwise affected by the taking of any harvested species

beach cast seaweed means seaweed of any species that is unattached and cast ashore

best available information means the best information that, in the particular circumstances, is available without unreasonable cost, effort, or time

biological diversity means the variability among living organisms, including diversity within species, between species, and of ecosystems

Catch History Review Committee means the committee established under section 283

Chatham Islands Enterprise Trust means the trustees duly incorporated under that name as a charitable trust board under the Charitable Trusts Act 1957

chief executive means, subject to section 296C and any other enactment, the chief executive for the time being of the Ministry, which chief executive has, with the authority of the Prime Minister, assumed responsibility for this Act

coastal marine area and **coastal permit** have the meanings given to those terms by section 2(1) of the Resource Management Act 1991

commercial fisher—

(a) means a person who holds a fishing permit issued under section 91; and

(b) for the purposes of sections 72 and 75, includes—

(i) a person who holds a high seas fishing permit; and

(ii) a person using a New Zealand ship who, in the judgment of the chief executive, holds a valid authority from a foreign country to take highly migratory species in the national fisheries jurisdiction of that foreign country

commercial fishing means taking fish, aquatic life, or seaweed in circumstances where a fishing permit is required by section 89

Commission means the Treaty of Waitangi Fisheries Commission established under section 4 of the Maori Fisheries Act 1989

conservation means the maintenance or restoration of fisheries resources for their future use; and **conserving** has a corresponding meaning

conservation services means outputs produced in relation to the adverse effects of commercial fishing on protected species, as agreed between the Minister responsible for the administration of the Conservation Act 1987 and the Director-General of the Department of Conservation, including—

(a) research relating to those effects on protected species:

(b) research on measures to mitigate the adverse effects of commercial fishing on protected species:

(c) the development of population management plans under the Wildlife Act 1953 and the Marine Mammals Protection Act 1978

court means the District Court or, where proceedings are commenced in the High Court, the High Court

customary marine title group has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

deemed value means an interim deemed value or an annual deemed value

deemed value amount means the amount of any interim or annual deemed value payable in respect of any catch taken in excess of any annual catch entitlement, as determined under section 76

deemed value rate means the rate of an interim or annual deemed value payable in respect of any stock, as determined under section 75

determination has the meaning given to it by section 186C

document means a document in any form whether signed or initialled or otherwise authenticated by its maker or not; and includes—

(a) any writing on any material:

(b) any information recorded or stored by means of any tape recorder, computer, or other device, and any material subsequently derived from information so recorded or stored:

(c) any label, marking, or other writing that identifies or describes any thing of which it forms part, or to which it is attached by any means:

(d) any book, map, plan, graph, or drawing:

(e) any photograph, film, negative, tape, or other device in which 1 or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced

dredge oyster means the mollusc known as *Tiostrea chilensis*

effect means the direct or indirect effect of fishing; and includes—

(a) any positive or adverse effect; and

(b) any temporary or permanent effect; and

(c) any past, present, or future effect; and

(d) any cumulative effect which arises over time or in combination with other effects—

regardless of the scale, intensity, duration, or frequency of the effect; and also includes—

(e) any potential effect of high probability; and

(f) any potential effect of low probability which has a high potential impact

encumbered, in relation to any quota, means the situation where the quota is—

(a) held by the Crown as a consequence of being forfeit to the Crown under this Act—

(i) while any proceedings in respect of that forfeiture are before a court and have not been finally resolved; or

(ii) during the period of 35 working days referred to in section 62(3) or section 256(3); or

(b) withheld from allocation by the Crown under section 46

environmental principles means the environmental principles set out in section 9

examiner means a person appointed under section 222 to be an examiner and holding a warrant under section 198

exclusive economic zone of New Zealand or **exclusive economic zone** means the exclusive economic zone of New Zealand as defined by section 9 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

farmed fish, in relation to a fish farmer, means fish, aquatic life, or seaweed—

(a) of a species specified in the fish farmer's registration or licence under the Freshwater Fish Farming Regulations 1983 for the site concerned; and

(b) that was not acquired in breach of section 192A

financial year means a period of 12 months commencing on 1 July and ending with 30 June

finfish includes all species of finfish of the classes Agnatha, Chondrichthyes, and Osteichthyes, at any stage of their life history, whether living or dead

fish includes all species of finfish and shellfish, at any stage of their life history, whether living or dead

fish carrier means any vessel capable of being used for transportation

fish farm means,—

(a) in relation to a person registered as a fish farmer under Part 9A, the area and premises specified in the fish farmer's registration:

(b) in relation to a person who holds a current licence under the Freshwater Fish Farming Regulations 1983, the area and premises specified in the licence

fish farmer means a person—

(a) registered as a fish farmer under Part 9A; or

(b) who holds a current licence under the Freshwater Fish Farming Regulations 1983

Fish Farmer Register means the register required to be kept under section 186K

fish farming—

(a) means the breeding, hatching, cultivating, rearing, or ongrowing of fish, aquatic life, or seaweed for harvest; and

(b) to avoid doubt, includes the possession and ongrowing of harvestable spat; but

(c) does not include an activity specified in paragraph (a) if the fish, aquatic life, or seaweed—

(i) is not in the exclusive and continuous possession or control of the fish farmer; or

(ii) cannot be distinguished or kept separate from naturally occurring fish, aquatic life, or seaweed

Fish Stocks Agreement—

(a) means the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling fish stocks and highly migratory fish stocks, done at New York on 4 December 1995 (a copy of the English text of which is set out in Schedule 1A); and

(b) includes amendments to the Fish Stocks Agreement made in accordance with Article 45 of the Agreement that are, or will become, binding on New Zealand from time to time

Fisheries Dispute Commissioner, or **Commissioner**, means a Fisheries Dispute Commissioner appointed under section 117(1)

fisheries resources means any 1 or more stocks or species of fish, aquatic life, or seaweed

fisheries services means outputs produced for the purpose of this Act or the Fisheries Act 1983 as agreed between the Minister and the chief executive; and includes—

(a) the management of fisheries resources, fishing and fish farming:

(b) the enforcement of provisions relating to fisheries resources, fishing, and fish farming:

(c) research relating to fisheries resources, fishing, and fish farming, including stock assessment and the effects of fishing and fish farming on the aquatic environment:

(d) the performance or exercise, by the Minister or the chief executive or any other person, of a function, duty, or power conferred or imposed relating to fisheries resources, fishing, or fish farming (including any observer performing or exercising a function, duty, or power in accordance with the observer programme)

fishery officer means—

(a) a person deemed by section 196(2) to be a fishery officer:

(b) a person appointed in accordance with section 196(1) to be a fishery officer and holding a warrant under section 198:

(c) a person appointed under section 197 to be an honorary fishery officer and holding a warrant under section 198:

(d) a person appointed under section 222 to be an examiner and holding a warrant under section 198

fishing—

(a) means the catching, taking, or harvesting of fish, aquatic life, or seaweed; and

(b) includes—

(i) any activity that may reasonably be expected to result in the catching, taking, or harvesting of fish, aquatic life, or seaweed; and

(ii) any operation in support of or in preparation for any activities described in this definition

fishing permit means a fishing permit issued under section 91

fishing-related mortality means the accidental death or incidental death of any protected species that occurs in the course of fishing

fishing vessel means any vessel that is capable of being used for fishing

Fishing Vessel Register means the Fishing Vessel Register kept under section 98

fishing year means,—

(a) in relation to rock lobster, southern scallops, Northland scallops, southern blue whiting, or any other stock declared under a notice made under section 18 to have a fishing year commencing on 1 April in any year, a period of 12 months commencing on each 1 April:

(aa) in relation to freshwater eel subject to an Order in Council under section 369L(1), a period of 12 months commencing on each 1 February:

(b) in relation to any other quota management stock, a period of 12 months commencing on each 1 October:

(c) in relation to any stock not subject to the quota management system, a period of 12 months commencing on each 1 October, unless otherwise prescribed

foreign allowable catch means a foreign allowable catch set under section 81

foreign fishing vessel means any fishing vessel that is neither a New Zealand fishing vessel nor a New Zealand ship

foreign-owned New Zealand fishing vessel means a fishing vessel registered with consent under section 103A(4)

foreign vessel means any vessel that is neither a vessel registered under this Act nor a New Zealand ship

Foveaux Strait dredge oyster means any dredge oyster found in the Foveaux Strait dredge oyster fishery

Foveaux Strait dredge oyster fishery means the Foveaux Strait Dredge Oyster Fishery defined in regulation 2 of the Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986

freshwater eel means the species *Anguilla australis*, *Anguilla dieffenbachii*, and *Anguilla reinhardtii*, in all areas in New Zealand fisheries waters

green-lipped mussel means a shellfish of the species *Perna canaliculus*

greenweight, in relation to any fish, aquatic life, or seaweed, means the weight of fish, aquatic life, or seaweed before any processing commences and before any part is removed

harvestable spat means the species of fish, aquatic life, or seaweed specified in Schedule 8A at the stage of the life cycle specified in that schedule

harvested species means any fish, aquatic life, or seaweed that may for the time being be taken with lawful authority

hazardous substance has the same meaning as it has in section 2(1) of the Hazardous Substances and New Organisms Act 1996

high seas means the waters outside the national fisheries jurisdiction of any country

high seas fishery inspector means a person who is a high seas fishery inspector under section 113Q

high seas fishing permit means a permit issued under section 113H

High Seas Permit Register means the High Seas Permit Register kept under section 98(1)(c)

highly migratory species means a species or stock listed in Schedule 4B

holder, in relation to any permit, authority, approval, permission, licence, or certificate, means the person to whom the permit, authority, approval, permis-

sion, licence, or certificate has been issued, granted, or given; and **holds** and **held** have corresponding meanings

honorary fishery officer means a person appointed under section 197 to be an honorary fishery officer and holding a warrant under section 198

individual transferable quota means—

(a) individual transferable quota allocated under section 44 or section 47 or section 49:

(b) quota that becomes individual transferable quota under section 49(3):

(ba) individual transferable quota allocated under Part 2A of the Fisheries Act 1983 that has been converted into quota shares under section 343:

(c) any quota that otherwise becomes individual transferable quota in accordance with this Act

information includes—

(a) scientific, customary Maori, social, or economic information; and

(b) any analysis of any such information

information principles means the information principles set out in section 10

infringement fee, in relation to an infringement offence, means the appropriate infringement fee set in respect of that offence by regulations made under section 297(1)(nc)

infringement offence means an offence prescribed as an infringement offence against this Act by regulations made under section 297(1)(na)

interest in fishing quota, in sections 56 to 58B, has the meaning set out in section 57A(1)

internal waters of New Zealand means all internal waters of New Zealand as defined by section 4 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

international fisheries organisation means an organisation or arrangement that is defined as a global, regional, or sub-regional fisheries organisation or arrangement under section 113B

international fisheries organisation management measure means a measure that is within the definition of international conservation and management measures in section 113B

kaitiakitanga means the exercise of guardianship; and, in relation to any fisheries resources, includes the ethic of stewardship based on the nature of the resources, as exercised by the appropriate tangata whenua in accordance with tikanga Maori

licensed fish receiver means a person licensed as a fish receiver under regulations made under section 297

long-term viability, in relation to a biomass level of a stock or species, means there is a low risk of collapse of the stock or species, and the stock or species has the potential to recover to a higher biomass level

mana whenua means customary authority exercised by an iwi or hapu in an identified area

mandated iwi organisation has the meaning given to it in section 5 of the Maori Fisheries Act 2004

master, in relation to any vessel, means any person for the time being having command or charge of the vessel

maximum sustainable yield, in relation to any stock, means the greatest yield that can be achieved over time while maintaining the stock's productive capacity, having regard to the population dynamics of the stock and any environmental factors that influence the stock

meatweight means,—

(a) in relation to scallops, the weight of the scallops remaining when the shell, skirt, and gut have been removed and discarded:

(b) in relation to any other stock, the weight calculated in accordance with the notice under section 18 declaring the stock to be subject to the quota management system or in the notice relating to the stock under section 188, as the case may be

Minister means, subject to any enactment, any Minister of the Crown who, under authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

Ministry means, subject to any enactment, the Ministry that is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act

mortgage means any charge registered under this Act on quota

mortgagee means the proprietor of a mortgage

mortgagor means any person who is the registered owner of quota subject to a mortgage

multi-species stock means a quota management stock that consists of 2 or more species

Nelson-Marlborough dredge oyster means any mollusc of the species *Tiostrea chilensis lutaria* found in the Nelson-Marlborough dredge oyster fishery

Nelson-Marlborough dredge oyster fishery means those New Zealand fisheries waters defined as OYS7 in Schedule 1

New Zealand fisheries waters means—

(a) all waters in the exclusive economic zone of New Zealand:

(b) all waters of the territorial sea of New Zealand:

(c) all internal waters of New Zealand:

(d) all other fresh or estuarine waters within New Zealand where fish, aquatic life, or seaweed that are indigenous to or acclimatised in New Zealand are found

New Zealand fishing vessel means any fishing vessel registered under section 103

New Zealand national means—

(a) a New Zealand citizen; or

(b) a person who is ordinarily resident in New Zealand; or

(c) a body corporate established by or under New Zealand law

New Zealand ship has the same meaning as in section 2(1) of the Ship Registration Act 1992

Northland scallop means any scallop found in the Northland scallop fishery

Northland scallop fishery means those New Zealand fisheries waters defined as SCA1 in Schedule 1

observer means an observer appointed under section 223

operator, in relation to a vessel, means the person who, by virtue of ownership, a lease, a sublease, a charter, a subcharter, or otherwise, for the time being has lawful possession and control of the vessel

ordinarily resident in New Zealand has the meaning set out in section 6(2) and (3) of the Overseas Investment Act 2005

ornamental fish means any species of fish, aquatic life, or seaweed declared by the chief executive, by notice in the *Gazette* under section 307, to be an ornamental fish

outputs means the goods and services that are produced by a department, Crown entity, Office of Parliament, or any other person or body

overseas investment fishing provisions has the meaning set out in section 57A(1)

overseas investment in fishing quota, in sections 56 to 58B, has the meaning set out in section 57D

overseas person has the meaning set out in section 7 of the Overseas Investment Act 2005

owner,—

(a) in relation to any vessel, means any person by whom the vessel is owned:

(b) in relation to any quota or annual catch entitlement, means the person shown as the owner in the appropriate register kept under Part 8

Permit Register means the Permit Register kept under section 98

planning document has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

port—

(a) means any area of land and water intended or designed to be used either wholly or partly for the berthing, unloading, departure, movement, and servicing of vessels:

(b) includes any anchorage, roadstead, pilot station, haven or estuary, navigable lake or river, wharf, dock, pier, jetty, or dry dock used or capable of being used for such purposes

possession means possession of, or control over, either jointly or on one's own account,—

(a) any fish, aquatic life, or seaweed; or

(b) any vessel, container, package, thing, premises, or place in or on which the fish, aquatic life, or seaweed are found

premises means any land or building; and includes any vessel, or any vehicle or conveyance of any kind whatever

processing includes cutting, shelling, freezing, and the use of all other methods of manufacture and preservation

protected customary right has the meaning given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

protected customary rights order and **agreement** have the meanings given in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

protected species means—

(a) any marine wildlife as defined in section 2 of the Wildlife Act 1953 that is absolutely protected under section 3 of that Act:

(b) any marine mammal as defined in section 2(1) of the Marine Mammals Protection Act 1978

provisional catch history means the provisional catch history specified in section 34 or section 40

provisional individual transferable quota means—

(a) provisional individual transferable quota allocated under section 47 or section 49:

(b) any quota that otherwise becomes provisional individual transferable quota in accordance with this Act

publicly notify means publish a notice in 1 or more daily newspapers circulating in the main metropolitan areas or, if the Minister or the chief executive (as the case may be) considers it appropriate, publish a notice in 1 or more newspapers circulating in the area to which the notice relates; and **public notification** and **publicly notified** have corresponding meanings

qualifying years, in relation to any stock, has the meaning given to it by section 33

quota means any individual transferable quota or provisional individual transferable quota

quota management area means any area declared by or under this Act to be a quota management area

quota management stock means any stock subject to the quota management system

quota management system means the quota management system established under Part 4

Quota Register means the relevant Quota Register kept under section 124(1)(a)

quota share has the meaning given to it by section 42

quota weight equivalent, in relation to any quota share, means the figure in kilogrammes (or, in the case of Foveaux Strait dredge oysters, the figure in oyster numbers) arrived at by dividing by 100 000 000 the total allowable commercial catch for the stock to which the quota share relates; and, consequently, the quota weight equivalent of a parcel of shares is the quota weight equivalent of 1 share multiplied by the number of shares in the parcel

record includes any document, whether or not it has been completed

regional council—

(a) has the same meaning as in section 5 of the Local Government Act 2002; and

(b) includes a unitary authority within the meaning of that Act

regional plan has the meaning given to it by section 2(1) of the Resource Management Act 1991

registered fish carrier means any fish carrier registered under section 105

relevant Ministers, in sections 56 to 58B, has the meaning set out in section 57A(1)

reservation has the meaning given to it by section 186C

rock lobster means—

(a) spiny rock lobster (*Jasus edwardsii*):

(b) packhorse rock lobster (*Jasus verreauxi*)

sale—

(a) includes—

(i) every method of disposition for valuable consideration, including barter; and

(ii) the disposition to an agent for sale on consignment; and

(iii) offering or attempting to sell, or receiving or having in possession for sale, or exposing for sale, or sending or delivering for sale, or causing or permitting to be sold, offered, or exposed for sale; and

(iv) disposal by way of gambling (as that term is defined in section 4(1) of the Gambling Act 2003); and

(v) the use by a person of fish, aquatic life, or seaweed as bait in that person's commercial fishing operations; and

(vi) any other use by a person of fish, aquatic life, or seaweed as part of that person's commercial activities;—

and **sell** and **sold** have a corresponding meaning; but

(b) does not include the disposal by any method approved by the chief executive of fish, aquatic life, or seaweed lawfully taken during the course of a fishing competition, if—

(i) the competition and the disposal method are carried out in accordance with any conditions imposed by the chief executive, either generally or specifically; and

(ii) the chief executive's approval has been obtained prior to the disposal of the fish, aquatic life, or seaweed; and

(iii) the proceeds (less any reasonable expenses of disposal) are applied to purposes that are cultural, benevolent, philanthropic, or charitable

scallop means the mollusc *Pecten novaezelandiae*; but does not include scallop spat

scallop spat—

(a) means the larval stage of the mollusc *Pecten novaezelandiae*; and

(b) includes any animal of that species, still in its shell, that has been retained by fishing gear on which it settled while in the larval stage

scampi means any fish of the species *Metanephrops challengeri*

seaweed includes all kinds of algae and sea-grasses that grow in New Zealand fisheries waters at any stage of their life history, whether living or dead

settlement quota has the meaning given to it in section 5 of the Maori Fisheries Act 2004

settlement quota interest means an interest registered in respect of quota management stocks under section 152A

shellfish includes all species of the phylum Echinodermata and phylum Mollusca and all species of the class Crustacea at any stage of their life history, whether living or dead

southern scallop means any scallop found in the southern scallop fishery

southern scallop fishery means those New Zealand fisheries waters defined as SCA7 in Schedule 1

spat catching permit means a permit issued under section 67Q of the Fisheries Act 1983

special permit means a special permit issued under section 97

specified functions, duties, or powers, in relation to an approved service delivery organisation, has the meaning given to it by section 296A

sports fish has the same meaning as in section 2(1) of the Conservation Act 1987

standards and specifications means standards and specifications issued under section 296O

statutory debt means any fee, charge, or levy required by this Act, or by any regulation, order, notice, direction, or other instrument made or issued under this Act, to be paid to the Crown or the Ministry or the holder of any named office

stock means any fish, aquatic life, or seaweed of 1 or more species that are treated as a unit for the purposes of fisheries management

subcompany, in relation to Aotearoa Fisheries Limited, has the meaning given to it in section 5 of the Maori Fisheries Act 2004

sustainability measure means any measure set or varied under Part 3 for the purpose of ensuring sustainability

taking means fishing; and **to take** and **taken** have a corresponding meaning

tangata whenua, in relation to a particular area, means the hapu, or iwi, that is Maori and holds mana whenua over that area

Te Ohu Kai Moana has the meaning given to it in section 5 of the Maori Fisheries Act 2004

Te Ohu Kai Moana Trustee Limited has the meaning given to it in section 5 of the Maori Fisheries Act 2004

Te Putea Whakatupu Trust has the meaning given to it in section 5 of the Maori Fisheries Act 2004

Te Putea Whakatupu Trustee Limited has the meaning given to it in section 5 of the Maori Fisheries Act 2004

Te Wai Maori Trust has the meaning given to it in section 5 of the Maori Fisheries Act 2004

Te Wai Maori Trustee Limited has the meaning given to it in section 5 of the Maori Fisheries Act 2004

tender means any vessel that—

(a) is carried by or attached to a fishing vessel and used or intended to be used for taking fish, aquatic life, or seaweed for sale in conjunction with the fishing vessel; and

(b) is not longer than the greater of—

(i) 6 metres; or

(ii) 50% of the overall length of the fishing vessel it is carried by or attached to

territorial sea of New Zealand or **territorial sea** means all the waters of the territorial sea of New Zealand as defined by section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

tikanga Maori means Maori customary values and practices

total allowable catch, in relation to any quota management stock, means a total allowable catch as set or varied for that stock by notice in the *Gazette* under section 13 or section 14

total allowable commercial catch, in relation to any quota management stock, means a total allowable commercial catch specified for that stock by notice in the *Gazette* under section 20, and includes any total allowable commercial catch set by or under the Fisheries Act 1983

transaction means,—

(a) in relation to any quota or annual catch entitlement or provisional catch history, a transfer of the quota, annual catch entitlement, or provisional catch history:

(b) in relation to any quota, a mortgage, variation of mortgage, discharge of mortgage, or assignment of mortgage over the quota:

(c) in relation to any quota or annual catch entitlement, a caveat or discharge of a caveat over the quota or annual catch entitlement

transhipment means the transfer of fish, aquatic life, or seaweed from one vessel to another vessel; and **tranship** and **transhipped** have a corresponding meaning

transportation means—

(a) the receiving and carriage of fish, aquatic life, or seaweed by any vessel; or

(b) the storage and refrigeration of fish, aquatic life, or seaweed by any vessel for the purpose of carriage

tuna means any fish of the genera *Katsuwonus, Euthynnus, Thunnus, Allothunnus*, or *Gasterochisma*

unwanted aquatic life means—

(a) any species (including subspecies, hybrids, and variations of that species) listed in Schedule 3 of the Freshwater Fisheries Regulations 1983:

(b) any species of fish, aquatic life, or seaweed that is determined by a chief technical officer under the Biosecurity Act 1993 to be an unwanted organism

vessel means any description of vessel, aircraft, hovercraft, submersible vessel, or other vessel of whatever size

whitebait includes the species *Retropina retropina* and juveniles of all species of the genus *Galaxias*

working day means any day other than—

(a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day; and

(ab) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and

(b) a day in the period commencing on 25 December in any year and ending with the close of 15 January in the following year.

(1A) References to **this Act** include references to rules and regulations made under this Act.

(2) For the avoidance of doubt, it is hereby declared that, unless the context otherwise requires,—

(a) every reference in this Act to any fisheries resources, stock, fish, aquatic life, seaweed, habitat, location of stock, quota, or annual catch entitlement includes any part thereof:

(b) the expression of any matter or thing by way of example, or a provision to the effect that any matter or thing includes certain matters or things, does not limit the generality of the provision to which the example relates or the included matters or things relate.

(3) For the purpose of this Act, the weight, greenweight, or meatweight of any fish, aquatic life, or seaweed shall be determined, where appropriate, in accordance with sections 187 and 188.

(4) The Governor-General may, by Order in Council,—

(a) add to Schedule 4B the name of any species or stock that, based on its range and biological characteristics, is highly migratory (including any new species or stock that results from a change in taxonomic classification):

(b) omit from that schedule the name of any species or stock if the criteria set out in paragraph (a) cease to apply to that species or stock.

(5) An order under subsection (4) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1977 No 28 s 2(1); 1983 No 14 s 2; 1986 No 34 s 2; 1989 No 159 s 48; 1990 No 29 s 2; 1990 No 31 s 129; 1992 No 90 s 2; 1993 No 67 s 2

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 2(1) **annual catch entitlement**: amended, on 9 September 1999, by section 2(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 2(1) **Aotearoa Fisheries Limited**: inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 2(1) **appointed day**: inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 2(1) **approved service delivery organisation**: inserted, on 9 September 1999, by section 2(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 2(1) **aquaculture activities**: inserted, on 1 January 2005, by section 4(4) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 2(1) **aquaculture decision**: inserted, on 1 January 2005, by section 4(4) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 2(1) **aquaculture management area**: repealed, on 1 October 2011, by section 4(1) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 2(1) **asset-holding company**: inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 2(1) **authorised stock**: repealed, on 1 October 2004, by section 3(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 2(1) **beach cast seaweed**: inserted, on 9 September 1999, by section 2(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 2(1) **chief executive**: amended, on 9 September 1999, by section 2(3) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 2(1) **commercial fisher**: substituted, on 1 October 2004, by section 3(2) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 2(1) **conservation services**: inserted, on 9 September 1999, by section 2(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 2(1) **court**: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 2(1) **customary marine title group**: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **deemed value**: inserted, on 9 September 1999, by section 2(4) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 2(1) **deemed value amount**: substituted, on 9 September 1999, by section 2(4) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 2(1) **deemed value rate**: substituted, on 9 September 1999, by section 2(4) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 2(1) **determination**: inserted, on 1 January 2005, by section 4(4) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 2(1) **dredge oyster**: inserted, on 1 April 1998, by section 3(1) of the Fisheries (Foveaux Strait Dredge Oyster Fishery) Amendment Act 1998 (1998 No 6).

Section 2(1) **exclusive economic zone of New Zealand** or **exclusive economic zone**: amended, on 1 August 1996, pursuant to section 5(4) of the Territorial Sea and Exclusive Economic Zone Amendment Act 1996 (1996 No 74).

Section 2(1) **farmed fish**: inserted, on 1 January 2005, by section 4(4) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 2(1) **financial year**: inserted, on 9 September 1999, by section 2(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 2(1) **fish farm**: substituted, on 1 January 2005, by section 4(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 2(1) **fish farmer**: substituted, on 1 January 2005, by section 4(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 2(1) **Fish Farmer Register**: inserted, on 1 January 2005, by section 4(4) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 2(1) **fish farming**: substituted, on 1 January 2005, by section 4(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 2(1) **Fish Stocks Agreement**: inserted, on 1 October 2000, by section 2 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 2(1) **fisheries services**: inserted, on 9 September 1999, by section 2(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 2(1) **fisheries services**: amended, on 1 January 2005, by section 4(2) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 2(1) **fisheries services** paragraph (c): amended, on 1 January 2005, by section 4(3) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 2(1) **fisheries services** paragraph (d): amended, on 8 August 2014, by section 10 of the Fisheries (Foreign Charter Vessels and Other Matters) Amendment Act 2014 (2014 No 60).

Section 2(1) **fishing year** paragraph (a): amended, on 23 June 1998, by section 2(1) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 2(1) **fishing year** paragraph(aa): inserted, on 1 July 2000, by section 5 of the Fisheries Amendment Act 2000 (2000 No 20).

Section 2(1) **foreign-owned New Zealand fishing vessel**: amended, on 1 May 2016, by section 7 of the Fisheries (Foreign Charter Vessels and Other Matters) Amendment Act 2014 (2014 No 60).

Section 2(1) **Foveaux Strait dredge oyster**: inserted, on 1 April 1998, by section 3(1) of the Fisheries (Foveaux Strait Dredge Oyster Fishery) Amendment Act 1998 (1998 No 6).

Section 2(1) **Foveaux Strait dredge oyster fishery**: inserted, on 1 April 1998, by section 3(1) of the Fisheries (Foveaux Strait Dredge Oyster Fishery) Amendment Act 1998 (1998 No 6).

Section 2(1) **fresh water eel**: inserted, on 1 October 2000, by section 2 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 2(1) **green-lipped mussel**: inserted, on 1 October 2004, by section 3(3) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 2(1) **harvestable spat**: inserted, on 1 January 2005, by section 4(4) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 2(1) **high seas**: inserted, on 1 October 2000, by section 2 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 2(1) **high seas fishery inspector**: inserted, on 1 October 2000, by section 2 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 2(1) **high seas fishing permit**: inserted, on 1 October 2000, by section 2 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 2(1) **High Seas Permit Register**: inserted, on 1 October 2000, by section 2 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 2(1) **highly migratory species**: inserted, on 1 October 2004, by section 3(4) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 2(1) **individual catch entitlement**: repealed, on 1 October 2004, by section 3(5) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 2(1) **individual transferable quota** paragraph (b): substituted, on 9 September 1999, by section 2(5) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 2(1) **individual transferable quota** paragraph (ba): inserted, on 9 September 1999, by section 2(5) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 2(1) **infringement fee**: inserted, on 9 September 1999, by section 2(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 2(1) **infringement offence**: inserted, on 9 September 1999, by section 2(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 2(1) **interest in fishing quota**: inserted, on 25 August 2005, by section 75 of the Overseas Investment Act 2005 (2005 No 82).

Section 2(1) **internal waters of New Zealand**: amended, on 1 August 1996, pursuant to section 5(4) of the Territorial Sea and Exclusive Economic Zone Amendment Act 1996 (1996 No 74).

Section 2(1) **international fisheries organisation**: inserted, on 1 October 2004, by section 3(6) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 2(1) **international fisheries organisation management measure**: inserted, on 1 October 2004, by section 3(6) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 2(1) **long-term viability**: inserted, on 9 September 1999, by section 2(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 2(1) **mandated iwi organisation**: inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 2(1) **multi-species stock**: inserted, on 9 September 1999, by section 2(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 2(1) **New Zealand national**: inserted, on 1 October 2000, by section 2 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 2(1) **ordinarily resident in New Zealand**: substituted, on 25 August 2005, by section 75 of the Overseas Investment Act 2005 (2005 No 82).

Section 2(1) **outputs**: inserted, on 9 September 1999, by section 2(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 2(1) **overseas investment fishing provisions**: inserted, on 25 August 2005, by section 75 of the Overseas Investment Act 2005 (2005 No 82).

Section 2(1) **overseas investment in fishing quota**: inserted, on 25 August 2005, by section 75 of the Overseas Investment Act 2005 (2005 No 82).

Section 2(1) **overseas person**: substituted, on 25 August 2005, by section 75 of the Overseas Investment Act 2005 (2005 No 82).

Section 2(1) **planning document**: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **port**: inserted, on 1 October 2004, by section 3(7) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 2(1) **protected customary right**: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **protected customary rights order** and **agreement**: inserted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 2(1) **publicly notify**: amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 2(1) **quota weight equivalent**: amended, on 1 April 1998, by section 3(2) of the Fisheries (Foveaux Strait Dredge Oyster Fishery) Amendment Act 1998 (1998 No 6).

Section 2(1) **regional council**: inserted, on 1 October 2011, by section 4(2) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 2(1) **Registrar**: repealed, on 9 September 1999, by section 2(6) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 2(1) **relevant Ministers**: inserted, on 25 August 2005, by section 75 of the Overseas Investment Act 2005 (2005 No 82).

Section 2(1) **reservation**: inserted, on 1 January 2005, by section 4(4) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 2(1) **sale** paragraph (a)(iv): substituted, on 1 July 2004, by section 374 of the Gambling Act 2003 (2003 No 51).

Section 2(1) **scampi**: inserted, on 13 August 2004, by section 3 of the Fisheries Amendment Act (No 2) 2004 (2004 No 71).

Section 2(1) **settlement quota**: inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 2(1) **settlement quota interest**: inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 2(1) **specified functions, duties, or powers**: inserted, on 9 September 1999, by section 2(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 2(1) **standards and specifications**: inserted, on 9 September 1999, by section 2(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 2(1) **subcompany**: inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 2(1) **Te Ohu Kai Moana**: inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 2(1) **Te Ohu Kai Moana Trustee Limited**: inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 2(1) **Te Putea Whakatupu Trust**: inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 2(1) **Te Putea Whakatupu Trustee Limited**: inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 2(1) **Te Wai Maori Trust**: inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 2(1) **Te Wai Maori Trustee Limited**: inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 2(1) **tender**: substituted, on 1 October 2004, by section 3(8) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 2(1) **territorial sea of New Zealand**: amended, on 1 August 1996, pursuant to section 5(4) of the Territorial Sea and Exclusive Economic Zone Amendment Act 1996 (1996 No 74).

Section 2(1) **total allowable commercial catch**: amended, on 23 June 1998, by section 2(2) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 2(1) **transaction** paragraph (b): substituted, on 26 May 2001, by section 3(2) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 2(1) **working day** paragraph (a): replaced, on 12 April 2022, by wehenga 7 o Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/section 7 of the Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14).

Section 2(1) **working day** paragraph (ab): inserted, on 1 January 2014, by section 8 of the Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19).

Section 2(1A): inserted, on 19 March 2004, by section 5 of the Fisheries Amendment Act 2004 (2004 No 6).

Section 2(4): added, on 1 October 2004, by section 3(9) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 2(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

3 Meaning of term associated person in relation to quota

[Repealed]

Section 3: repealed, on 1 October 2001, by section 4 of the Fisheries Amendment Act 2001 (2001 No 65).

3A Meaning of associated person in relation to issue of fishing permits

[Repealed]

Section 3A: repealed, on 1 October 2001, by section 4 of the Fisheries Amendment Act 2001 (2001 No 65).

4 Meaning of terms overseas person, ordinarily resident in New Zealand, and nominee

[Repealed]

Section 4: repealed, on 9 September 1999, by section 2(7) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

5 Application of international obligations and Treaty of Waitangi (Fisheries Claims) Settlement Act 1992

This Act shall be interpreted, and all persons exercising or performing functions, duties, or powers conferred or imposed by or under it shall act, in a manner consistent with—

(a) New Zealand's international obligations relating to fishing; and

(b) the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.

6 Application of Resource Management Act 1991

(1) No provision in any regional plan or coastal permit is enforceable to the extent that it provides for—

(a) the allocation to 1 or more fishing sectors in preference to any other fishing sector of access to any fisheries resources in the coastal marine area; or

(b) the conferral on any fisher of a right to occupy any land in the coastal marine area or any related part of the coastal marine area, if the right to occupy would exclude any other fisher from fishing in any part of the coastal marine area.

(2) Subsection (1) does not—

(a) prevent a regional council from taking into account the effects of aquaculture activities on fishing or fisheries resources when carrying out its functions under section 30(1)(d) of the Resource Management Act 1991; or

(b) prevent any coastal permit authorising aquaculture activities from being granted.

(3) In this section,—

fishing sector means—

(a) commercial fishers:

(b) recreational fishers:

(c) Maori non-commercial customary fishers:

(d) *[Repealed]*

(e) other fishers authorised under this Act to take fish, aquatic life, or seaweed

occupy has the same meaning as in section 2(1) of the Resource Management Act 1991.

(4) *[Repealed]*

Section 6(2): substituted, on 1 October 2011, by section 5(1) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 6(3) **fishing sector** paragraph (d): repealed, on 1 October 2011, by section 5(2) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 6(3) **occupy**: amended, on 1 January 2005, by section 5(2) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 6(4): repealed, on 1 January 2005, by section 5(3) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

6A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

Section 6A: inserted, on 17 December 2016, by section 46 of the Statutes Amendment Act 2016 (2016 No 104).

7 Act to bind the Crown

This Act shall bind the Crown.

Compare: 1983 No 14 s 2A; 1986 No 34 s 3

Part 2
Purpose and principles

8 Purpose

(1) The purpose of this Act is to provide for the utilisation of fisheries resources while ensuring sustainability.

(2) In this Act,—

ensuring sustainability means—

(a) maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of future generations; and

(b) avoiding, remedying, or mitigating any adverse effects of fishing on the aquatic environment

utilisation means conserving, using, enhancing, and developing fisheries resources to enable people to provide for their social, economic, and cultural well-being.

9 Environmental principles

All persons exercising or performing functions, duties, or powers under this Act, in relation to the utilisation of fisheries resources or ensuring sustainability, shall take into account the following environmental principles:

(a) associated or dependent species should be maintained above a level that ensures their long-term viability:

(b) biological diversity of the aquatic environment should be maintained:

(c) habitat of particular significance for fisheries management should be protected.

10 Information principles

All persons exercising or performing functions, duties, or powers under this Act, in relation to the utilisation of fisheries resources or ensuring sustainability, shall take into account the following information principles:

(a) decisions should be based on the best available information:

(b) decision makers should consider any uncertainty in the information available in any case:

(c) decision makers should be cautious when information is uncertain, unreliable, or inadequate:

(d) the absence of, or any uncertainty in, any information should not be used as a reason for postponing or failing to take any measure to achieve the purpose of this Act.

Part 3
Sustainability measures

11 Sustainability measures

(1) The Minister may, from time to time, set or vary any sustainability measure for 1 or more stocks or areas, after taking into account—

(a) any effects of fishing on any stock and the aquatic environment; and

(b) any existing controls under this Act that apply to the stock or area concerned; and

(c) the natural variability of the stock concerned.

(2) Before setting or varying any sustainability measure under subsection (1), the Minister shall have regard to any provisions of—

(a) any regional policy statement, regional plan, or proposed regional plan under the Resource Management Act 1991; and

(b) any management strategy or management plan under the Conservation Act 1987; and

(c) sections 7 and 8 of the Hauraki Gulf Marine Park Act 2000 (for the Hauraki Gulf as defined in that Act); and

(ca) regulations made under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012; and

(d) a planning document lodged with the Minister of Fisheries by a customary marine title group under section 91 of the Marine and Coastal Area (Takutai Moana) Act 2011—

that apply to the coastal marine area and are considered by the Minister to be relevant.

(2A) Before setting or varying any sustainability measure under this Part or making any decision or recommendation under this Act to regulate or control fishing, the Minister must take into account—

(a) any conservation services or fisheries services; and

(b) any relevant fisheries plan approved under this Part; and

(c) any decisions not to require conservation services or fisheries services.

(3) Without limiting the generality of subsection (1), sustainability measures may relate to—

(a) the catch limit (including a commercial catch limit) for any stock or, in the case of a quota management stock that is subject to section 13 or section 14, any total allowable catch for that stock:

(b) the size, sex, or biological state of any fish, aquatic life, or seaweed of any stock that may be taken:

(c) the areas from which any fish, aquatic life, or seaweed of any stock may be taken:

(d) the fishing methods by which any fish, aquatic life, or seaweed of any stock may be taken or that may be used in any area:

(e) the fishing season for any stock, area, fishing method, or fishing vessels.

(4) The Minister may,—

(a) by notice in the *Gazette*, set or vary the catch limit (including the commercial catch limit) for any stock not within the quota management system:

(b) implement any sustainability measure or the variation of any sustainability measure, as set or varied under subsection (1),—

(i) by notice; or

(ii) by recommending the making of regulations under section 298.

(5) Without limiting subsection (4)(a), when setting or varying a catch limit (including a commercial catch limit) for any stock not within the quota management system, the Minister shall have regard to the matters referred to in section 13(2) or section 21(1) or both those sections, as the case may require.

(6) A notice under subsection (4)(b)(i) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must: publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
	The Ministry of Foreign Affairs and Trade considers that the secondary legislation may have international transparency obligations under the CPTPP. As a result the maker may also have to comply with s 75 of the Legislation Act 2019	LA19 ss 74(2), 75
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 11(2)(b): amended, on 27 February 2000, by section 12 of the Hauraki Gulf Marine Park Act 2000 (2000 No 1).

Section 11(2)(c): substituted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 11(2)(ca): inserted, on 28 June 2013, by section 175 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72).

Section 11(2)(d): added, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 11(2A): inserted, on 9 September 1999, by section 5(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 11(4)(b): substituted, on 9 September 1999, by section 5(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 11(4)(b)(i): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 11(5): amended, on 23 June 1998, by section 3 of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 11(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

11A Fisheries plans

(1) The Minister may from time to time approve, amend, or revoke a fisheries plan.

(2) A fisheries plan approved under subsection (1) may relate to 1 or more stocks, fishing years, or areas, or any combination of those things.

(3) Without limiting anything in subsection (2), a fisheries plan may include—

(a) fisheries management objectives to support the purpose and principles of the Act:

(b) strategies to achieve fisheries management objectives, which may include—

(i) sustainability measures set or varied under any of sections 11, 13, 14, and 15:

(ii) rules to manage the interaction between different fisheries sectors:

(c) performance criteria to measure the achievement of the objectives and strategies:

(d) conservation services or fisheries services:

(e) contingency strategies to deal with foreseeable variations in circumstances.

(4) Nothing in this section prevents the Minister from considering a proposal under Part 9.

Section 11A: inserted, on 9 September 1999, by section 6 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

12 Consultation

(1) Before doing anything under any of sections 11(1), 11(4), 11A(1), 13(1), 13(4), 13(7) , 14(1), 14(3), 14(6), 14B(1), 15(1), and 15(2) or recommending the making of an Order in Council under section 13(9) or section 14(8) or section 14A(1), the Minister shall—

(a) consult with such persons or organisations as the Minister considers are representative of those classes of persons having an interest in the stock or the effects of fishing on the aquatic environment in the area concerned, including Maori, environmental, commercial, and recreational interests; and

(b) provide for the input and participation of tangata whenua having—

(i) a non-commercial interest in the stock concerned; or

(ii) an interest in the effects of fishing on the aquatic environment in the area concerned—

and have particular regard to kaitiakitanga.

(2) After setting or varying any sustainability measure, or after approving, amending, or revoking any fisheries plan, the Minister shall, as soon as practicable, give to the parties consulted in accordance with subsection (1) reasons in writing for his or her decision.

(3) This section does not apply in respect of emergency measures under section 16.

Section 12(1): amended, on 9 September 1999, by section 7(1)(a) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 12(1): amended, on 9 September 1999, by section 7(1)(b) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 12(1): amended, on 9 September 1999, by section 7(1)(c) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 12(2): amended, on 9 September 1999, by section 7(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

13 Total allowable catch

(1) Subject to this section, the Minister shall, by notice in the *Gazette*, set in respect of the quota management area relating to each quota management stock a total allowable catch for that stock, and that total allowable catch shall continue to apply in each fishing year for that stock unless varied under this section, or until an alteration of the quota management area for that stock takes effect in accordance with sections 25 and 26.

(2) The Minister shall set a total allowable catch that—

(a) maintains the stock at or above a level that can produce the maximum sustainable yield, having regard to the interdependence of stocks; or

(b) enables the level of any stock whose current level is below that which can produce the maximum sustainable yield to be altered—

(i) in a way and at a rate that will result in the stock being restored to or above a level that can produce the maximum sustainable yield, having regard to the interdependence of stocks; and

(ii) within a period appropriate to the stock, having regard to the biological characteristics of the stock and any environmental conditions affecting the stock; or

(c) enables the level of any stock whose current level is above that which can produce the maximum sustainable yield to be altered in a way and at a rate that will result in the stock moving towards or above a level that can produce the maximum sustainable yield, having regard to the interdependence of stocks.

(2A) For the purposes of setting a total allowable catch under this section, if the Minister considers that the current level of the stock or the level of the stock

that can produce the maximum sustainable yield is not able to be estimated reliably using the best available information, the Minister must—

(a) not use the absence of, or any uncertainty in, that information as a reason for postponing or failing to set a total allowable catch for the stock; and

(b) have regard to the interdependence of stocks, the biological characteristics of the stock, and any environmental conditions affecting the stock; and

(c) set a total allowable catch—

(i) using the best available information; and

(ii) that is not inconsistent with the objective of maintaining the stock at or above, or moving the stock towards or above, a level that can produce the maximum sustainable yield.

(3) In considering the way in which and rate at which a stock is moved towards or above a level that can produce maximum sustainable yield under subsection (2)(b) or (c), or (2A) (if applicable), the Minister shall have regard to such social, cultural, and economic factors as he or she considers relevant.

(4) The Minister may from time to time, by notice in the *Gazette*, vary any total allowable catch set for any quota management stock under this section by increasing or reducing the total allowable catch. When considering any variation, the Minister is to have regard to the matters specified in subsections (2), (2A) (if applicable), and (3).

(5) Without limiting subsection (1) or subsection (4), the Minister may set or vary any total allowable catch at, or to, zero.

(6) Except as provided in subsection (7), every setting or variation of a total allowable catch shall have effect on and from the first day of the next fishing year for the stock concerned.

(7) After considering information about the abundance during the current fishing year of any stock listed in Schedule 2, and after having regard to the matters specified in subsections (2), (2A) (if applicable), and (3), the Minister may, by notice in the *Gazette*, increase the total allowable catch for the stock with effect from such date in the fishing year in which the notice is published as may be stated in the notice.

(8) If a total allowable catch for any stock has been increased during any fishing year under subsection (7), the total allowable catch for that stock shall, at the close of that fishing year, revert to the total allowable catch that applied to that stock at the beginning of that fishing year; but this subsection does not prevent a variation under subsection (4) of the total allowable catch that applied at the beginning of that fishing year.

(9) The Governor-General may from time to time, by Order in Council, omit the name of any stock from Schedule 2 or add to that schedule the name of any stock whose abundance is highly variable from year to year.

(10) Subsection (1) does not require the Minister to set an initial total allowable catch for any quota management area and stock unless the Minister also proposes to set or vary a total allowable commercial catch for that area and stock under section 20.

(11) An order under subsection (9) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1983 No 14 ss 28C, 28D, 28OB–28OE; 1986 No 34 s 10; 1990 No 29 s 5(1); 1992 No 90 s 4; 1992 No 121 s 24(1)

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 13(1): amended, on 23 June 1998, by section 4(1) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 13(2)(b): substituted, on 23 June 1998, by section 4(2) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 13(2A): inserted, on 28 September 2008, by section 4(1) of the Fisheries Act 1996 Amendment Act 2008 (2008 No 96).

Section 13(3): amended, on 28 September 2008, by section 4(2) of the Fisheries Act 1996 Amendment Act 2008 (2008 No 96).

Section 13(4): amended, on 28 September 2008, by section 4(3) of the Fisheries Act 1996 Amendment Act 2008 (2008 No 96).

Section 13(4): amended, on 23 June 1998, by section 4(3) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 13(7): amended, on 28 September 2008, by section 4(3) of the Fisheries Act 1996 Amendment Act 2008 (2008 No 96).

Section 13(7): amended, on 23 June 1998, by section 4(4) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 13(8): amended, on 23 June 1998, by section 4(5) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 13(10): added, on 23 June 1998, by section 4(6) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 13(11): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

14 Alternative total allowable catch for stock specified in Schedule 3

(1) Notwithstanding anything in section 13, if satisfied, in the case of any quota management stock listed in Schedule 3, that the purpose of this Act would be better achieved by setting a total allowable catch otherwise than in accordance with subsection (2) of that section, the Minister may at any time, by notice in the *Gazette*, set in respect of the quota management area relating to the quota management stock a total allowable catch for that stock that he or she considers appropriate to achieve the purpose of this Act.

(2) Every total allowable catch set under subsection (1) for any stock shall continue to apply in each fishing year for the stock unless varied under subsection (3).

(3) The Minister may from time to time, by notice in the *Gazette*, vary any total allowable catch set under subsection (1) for any stock by increasing or reducing the total allowable catch.

(4) Without limiting subsection (1) or subsection (3), the Minister may set or vary any total allowable catch at, or to, zero.

(5) Except as provided in subsection (6), every setting or variation of a total allowable catch shall have effect on and from the first day of the next fishing year for the stock concerned.

(6) After considering information about the abundance during the current fishing year of any stock listed in Schedule 3, the Minister may, by notice in the *Gazette*, increase the total allowable catch for the stock with effect from such date in the fishing year in which the notice is published as may be stated in the notice.

(7) If a total allowable catch for any stock has been increased during any fishing year under subsection (6), the total allowable catch for that stock shall, at the close of that fishing year, revert to the total allowable catch that applied to that stock at the beginning of that fishing year; but this subsection does not prevent a variation under subsection (3) of the total allowable catch that applied at the beginning of that fishing year.

(8) The Governor-General may from time to time, by Order in Council,—

(a) omit the name of any stock from Schedule 3:

(b) add to that schedule the name of any stock if—

(i) it is not possible, because of the biological characteristics of the species, to estimate maximum sustainable yield; or

(ii) a national allocation for New Zealand has been determined as part of an international agreement; or

(iii) the stock is managed on a rotational or enhanced basis; or.

(iv) the stock comprises 1 or more highly migratory species.

(9) An order under subsection (8) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 14(8)(b)(ii): amended, on 1 October 2004, by section 4(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 14(8)(b)(iii): amended, on 1 October 2004, by section 4(2) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 14(8)(b)(iv): added, on 1 October 2004, by section 4(2) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 14(9): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

14A Alternative total allowable catch for stocks specified by Order in Council

(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister with the concurrence of the Minister responsible for the administration of the Environment Act 1986, apply section 14B to the quota management stock or stocks specified in the order.

(2) No recommendation relating to any stock may be made under subsection (1) unless quota owners (**proposers**) who hold in the aggregate at least 95 000 000 quota shares in that stock propose to the Minister that he or she recommend the making of an Order in Council under subsection (1).

(3) A proposal made under subsection (2) must—

(a) specify the concerns (if any) of the quota owners who do not support the proposal; and

(b) specify what arrangements are in place to address those concerns; and

(c) address the matters specified in subsection (4).

(4) In considering making a recommendation under subsection (1), the Minister must have regard to the following:

(a) the need to commission appropriate research to assess the impact of the order on the stock; and

(b) the need to implement measures to improve the quality of information about the stock; and

(c) whether it is appropriate to close areas to commercial fishing to reduce any sustainability risk to that stock; and

(d) the need to avoid any significant adverse effects on the aquatic environment of which the stock is a component.

(5) No recommendation may be made under subsection (1) in relation to a proposal made under subsection (2) unless the Minister is satisfied that—

(a) the stock is taken primarily as an incidental catch during the taking of 1 or more other stocks and is only a small proportion of the combined catch of the stock and other stock or stocks; and

(b) the total benefits of managing the stock at a level other than that permitted under section 13 outweigh the total costs; and

(c) managing the stock at a level other than that permitted under section 13 will have no detrimental effects on non-commercial fishing interests in that stock; and

(d) the stock is able to be maintained above a level that ensures its long-term viability; and

(e) the purpose of the Act would be better achieved by setting a total allowable catch otherwise than in accordance with section 13.

(6) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 14A: inserted, on 9 September 1999, by section 8 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 14A(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

14B Alternative total allowable catch for certain stocks

(1) Despite section 13, in the case of any quota management stock to which this section applies, the Minister must, by notice in the *Gazette*, set a total allowable catch for that stock in accordance with this section.

(2) Subject to subsection (3), the Minister must set a total allowable catch under subsection (1) that is no greater than a level that will allow the taking of another stock or stocks in accordance with the total allowable catch and the total allowable commercial catch set for that other stock or stocks.

(3) The Minister must set a total allowable catch that maintains the stock above a level that ensures its long-term viability.

(4) When setting a total allowable catch under subsection (1), the Minister must be satisfied that quota owners have taken, and will continue to take, all reasonable steps (including, but not limited to, modifying fishing methods, fishing areas, and times of fishing) to minimise take of the stock.

(5) Every total allowable catch set under subsection (1) for any stock continues to apply in each fishing year for the stock unless varied under subsection (6).

(6) The Minister may from time to time, by notice in the *Gazette*, vary any total allowable catch set under subsection (1) for any stock by increasing or reducing the total allowable catch.

(7) Without limiting subsection (1) or subsection (6), the Minister may set or vary any total allowable catch at, or to, zero.

(8) The setting or variation of a total allowable catch under this section has effect on and from the first day of the next fishing year for the stock concerned.

Section 14B: inserted, on 9 September 1999, by section 8 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

14C Stock may be declared no longer subject to section 14B

(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister, declare that section 14B no longer applies to the stock specified in the order.

(2) If an order under subsection (1) is made in respect of any stock, the total allowable catch for the stock must be set under section 13 or section 14, as the case may require.

(3) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 14C: inserted, on 9 September 1999, by section 8 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 14C(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

15 Fishing-related mortality of marine mammals or other wildlife

(1) If a population management plan has been approved under section 14F of the Wildlife Act 1953 or section 3E of the Marine Mammals Protection Act 1978, the Minister—

(a) shall take all reasonable steps to ensure that the maximum allowable fishing-related mortality level set by the relevant population management plan is not exceeded:

(b) may take such other measures as he or she considers necessary to further avoid, remedy, or mitigate any adverse effects of fishing on the relevant protected species.

(2) In the absence of a population management plan, the Minister may, after consultation with the Minister of Conservation, take such measures as he or she considers are necessary to avoid, remedy, or mitigate the effect of fishing-related mortality on any protected species, and such measures may include setting a limit on fishing-related mortality.

(3) The Minister may require, or authorise the chief executive to require, any person or class of persons listed in section 189 to give to the Minister or the chief

executive such information relating to fishing-related mortality as the Minister or chief executive, as the case may be, considers necessary, and may require, or authorise the chief executive to require, such information to be given in the approved manner and form.

(4) The Minister may recommend the making of such regulations under section 298 as the Minister considers necessary or expedient for the purpose of implementing any measures referred to in subsection (1) or subsection (2) or subsection (3).

(5) The Minister may, by notice, prohibit all or any fishing or fishing methods in an area either—

(a) under subsection (1)(a), for the purpose of ensuring the maximum allowable fishing-related mortality level set by the relevant population management plan is not exceeded; or

(b) under subsection (2), for the purpose of ensuring that any limit on fishing-related mortality is not exceeded.

(6) Every person commits an offence and is liable to the penalty set out in section 252(5) who fails to comply with any notice given under subsection (5).

(7) A notice under subsection (5) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
	The Ministry of Foreign Affairs and Trade considers that the secondary legislation may have international transparency obligations under the CPTPP. As a result the maker may also have to comply with s 75 of the Legislation Act 2019	LA19 ss 74(2), 75
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 15(5): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 15(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

16 Emergency measures

(1) If satisfied that there is or has been—

(a) an outbreak of disease; or

(b) a serious decline in the abundance or reproductive potential of 1 or more stocks or species; or

(c) a significant adverse change in the aquatic environment,—

the Minister may, by notice, impose such emergency measures in respect of any stocks or areas affected, or both, as the Minister considers necessary or expedient in the circumstances.

(2) Before giving notice under subsection (1), the Minister shall, to the extent reasonably practicable in the circumstances, consult such persons or organisations as the Minister considers are representative of the classes of persons having an interest in the stock or area affected, including Maori, environmental, commercial, and recreational interests.

(3) An emergency measure under this section may be in force for a period not exceeding 3 months and, after consultation by the Minister with such persons or organisations as the Minister considers are representative of those classes of persons having an interest in any stock or area affected, including Maori, environmental, commercial, and recreational interests, may be renewed once only for a further period not exceeding 9 months.

(4) This section does not empower the Minister to reduce or cause to be reduced during the fishing year to which it relates any total allowable catch set under section 13 or section 14.

(5) *[Repealed]*

(6) Every person commits an offence and is liable to the penalty set out in section 252(5) who contravenes any emergency measure imposed under this section.

(7) For the purposes of this section, the term **emergency measures** means 1 or more of the following:

(a) closing any area by prohibiting the harvesting of all or any fish, aquatic life, or seaweed in that area:

(b) restricting the methods that may be used to take any fish, aquatic life, or seaweed in any area:

(c) restricting the taking of any fish, aquatic life, or seaweed in any area by reference to the size, sex, or biological state of that fish, aquatic life, or seaweed and, for that purpose, setting or altering limits in respect of the size, sex, or biological state of any fish, aquatic life, or seaweed:

(d) setting or altering the fishing season for any stock in any area:

(e) imposing reporting requirements for any stock, area, or fishing method that are additional to reporting requirements for the time being in force under any other provision of this Act:

(f) requiring the disposal of any fish, aquatic life, or seaweed in a specified manner.

(8) A notice under subsection (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1983 No 14 ss 65, 85; 1986 No 34 s 13

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must: • publish it in the *Gazette* • publicly notify it (see definition in section 2)	LA19 ss 73, 74(1)(a), Sch 1 cl 14
	The Ministry of Foreign Affairs and Trade considers that the secondary legislation may have international transparency obligations under the CPTPP. As a result the maker may also have to comply with s 75 of the Legislation Act 2019	LA19 ss 74(2), 75
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 16(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 16(5): repealed, on 28 October 2021, by regulation 22 of the Legislation Act (Amendments to Legislation) Regulations 2021 (LI 2021/247).

Section 16(8): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Part 4
Quota management system

Application of this Part

Heading: substituted, on 1 October 2004, by section 5 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

17 Application of Part generally

(1) This Part applies to every stock made subject to the quota management system by—

(a) a declaration by the Minister by notice under section 18 (whether made before or after the commencement of section 5 of the Fisheries Amendment Act (No 3) 2004); or

(b) any provision of this Act or any other Act.

(2) This Part does not apply to fishing authorised by a foreign fishing licence issued under Part 5.

(3) For the purposes of subsection (1) and this Part, every species or class of fish, aquatic life or seaweed that was, immediately before the commencement of this Part, subject to Part 2A of the Fisheries Act 1983 is deemed to have been declared by the Minister by notice under section 18 to be subject to the quota management system.

Section 17: substituted, on 1 October 2004, by section 5 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

17A Highly migratory species taken outside New Zealand fisheries waters

(1) This section applies in relation to any stock of a highly migratory species (the **relevant stock**) that—

(a) is subject to the quota management system in any area outside New Zealand fisheries waters; and

(b) is taken in that area by an operator who is a New Zealand national using a New Zealand ship outside New Zealand fisheries waters.

(2) Except as otherwise expressly provided in subsection (3) or elsewhere in this Part, this Part applies in relation to any relevant stock as if the area outside New Zealand fisheries waters in which it was taken were in fact within New Zealand fisheries waters.

(3) This section does not apply to fish taken from a relevant stock if the commercial fisher concerned can prove to the satisfaction of the chief executive that the amount of fish concerned was taken under the authority of, and, where national allocations for the species exist, against the national allocation of, another State that has agreed to comply with all international fisheries organisation management measures for the species concerned to which New Zealand has agreed.

(4) In any case where New Zealand law conflicts with the laws of a State in whose jurisdiction any relevant stock was taken, the laws of that other State prevail over New Zealand law.

(5) Subsection (4) does not abrogate the obligations of the commercial fisher under this Part and Part 10.

Section 17A: inserted, on 1 October 2004, by section 5 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Declaration of quota management system

Heading: inserted, on 1 October 2004, by section 5 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

17B Determination that stock or species be subject to quota management system

(1) The Minister must make a determination under subsection (2) if satisfied that the current management of a stock or species—

(a) is not ensuring the sustainability of the stock or species; or

(b) is not providing for the utilisation of the stock or species.

(2) The Minister must determine to make the stock or species concerned subject to the quota management system, unless he or she determines that the purpose of this Act would be better met by setting 1 or more sustainability measures under section 11 (other than a total allowable catch set under section 13 or section 14).

(3) Before determining whether the criteria in subsection (1)(a) or (b) have been satisfied, and before making a determination under subsection (2), the Minister must consult those persons or organisations considered by the Minister to be representative of the classes of persons who have an interest in the relevant determination.

(4) As soon as practicable after making a determination under subsection (2), the Minister must give his or her reasons for the determination in writing to any persons or organisations consulted under subsection (3).

(5) In the case of a stock or species listed in Schedule 4C,—

(a) the Minister may make a determination under subsection (2), regardless of whether or not the Minister is satisfied of the matters specified in subsection (1); and

(b) if the Minister determines not to make the stock or species concerned subject to the quota management system,—

(i) the Minister must notify that fact in accordance with subsection (8); and

(ii) the moratorium on the issue of fishing permits for that stock or species under section 93 ceases to apply with effect on and from the first day of the fishing year for that stock or species that follows the date of that notification; and

(iii) the stock or species concerned must be removed from Schedule 4C from the first day of that fishing year following the date of the notification, and the notice must amend Schedule 4C (including any appropriate consequential amendments) accordingly.

(6) Despite subsection (2), the Minister may not determine under that subsection to make subject to the quota management system any stock of highly migratory species outside New Zealand fisheries waters except to give effect to—

(a) a national allocation to New Zealand by an international fisheries organisation in relation to that stock; or

(b) any other management measures to which New Zealand has agreed, made by an international fisheries organisation in relation to that stock.

(7) The Minister must consult the Minister of Conservation before making a determination under this section in respect of any stock or species that is both—

(a) listed in Schedule 4C; and

(b) listed in any of the appendices to the Convention on International Trade in Endangered Species of Wild Flora and Fauna.

(8) A notice under subsection (5)(b) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
	The Ministry of Foreign Affairs and Trade considers that the secondary legislation may have international transparency obligations under the CPTPP. As a result the maker may also have to comply with s 75 of the Legislation Act 2019	LA19 ss 74(2), 75
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 17B: inserted, on 1 October 2004, by section 5 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 17B(5)(b)(i): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 17B(5)(b)(ii): substituted, on 27 March 2008, by section 4 of the Fisheries Amendment Act 2008 (2008 No 11).

Section 17B(5)(b)(iii): substituted, on 27 March 2008, by section 4 of the Fisheries Amendment Act 2008 (2008 No 11).

Section 17B(8): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

18 Declaration that new stock subject to quota management system

(1) If the Minister determines under section 17B to make a stock subject to the quota management system, the Minister must, by notice, declare the stock to be subject to the quota management system on and from the first day of the fishing year stated in the notice.

(2) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
	The Ministry of Foreign Affairs and Trade considers that the secondary legislation may have international transparency obligations under the CPTPP. As a result the maker may also have to comply with s 75 of the Legislation Act 2019	LA19 ss 74(2), 75
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 18: substituted, on 1 October 2004, by section 5 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 18(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 18(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

19 Matters to be included in notice under section 18

(1) Any notice given under section 18 of this Act shall—

(a) define the quota management area to which the notice relates by reference to an area or areas defined in Schedule 1 or in any other manner:

(b) state the fishing year in respect of the stock, which year shall be a 12-month period commencing on either 1 April or 1 October:

(c) state whether, for the stock concerned, the total allowable commercial catch is, and annual catch entitlements are, to be expressed in meatweight or greenweight:

(d) make provision for such other matters as may be contemplated by this Act.

(2) In defining the quota management area, the Minister shall, as far as practicable, maintain the same quota management areas for different species.

(2A) In the case of a stock or species listed in Schedule 4C, the notice must amend that schedule by removing the stock or species concerned (and may make any amendments consequential on that removal) with effect on and from the date on which the stock becomes subject to the quota management system.

(3) If the Minister is satisfied that any species in the waters around the Chatham Islands can, for fisheries management purposes, be managed effectively as a unit, a notice under section 18 may create around the Chatham Islands a separate quota management area for that species.

(4) Subject to subsections (5), (5A), and (6),—

(a) no declaration made under section 18 shall be revoked; and

(b) no species or class of fish, aquatic life, or seaweed that was immediately before the commencement of this Part, subject to Part 2A of the Fisheries Act 1983, may be removed from the quota management system; and

(c) no quota management area shall be altered—

except by Act of Parliament.

(5) Subsection (4) does not prevent—

(a) the Minister varying, by notice, any date set under section 18, if the variation is published before that date; or

(b) any alteration under section 25; or

(c) any amendment to a notice under section 18 that involves a minor or technical correction only.

(5A) Without limiting subsection (5)(c), the Minister may amend a declaration under section 18 at any time before the allocation of provisional catch history under section 36, if the declaration was made on the basis of incorrect or misleading information, or as a result of a mistake.

(6) A provision in a regulation made under this Act, or in a notice given under section 15 or section 16 or a regulation made under section 186(2)(b), shall not be construed as altering a quota management area merely because it prohibits, limits, or restricts fishing in the quota management area.

(7) Before making a declaration under section 18 or amending a declaration under subsection (5A), the Minister must consult the persons or organisations considered by the Minister to be representative of those classes of persons having an interest in the matters referred to in subsection (1).

(8) The following are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements):

(a) a notice under subsection (5)(a):

(b) an amendment under subsection (5)(c):

(c) an amendment under subsection (5A).

(8) *[Repealed]*

Compare: 1983 No 14 s 28B(1), (3), (5), (6); 1986 No 34 s 10

Legislation Act 2019 requirements for secondary legislation referred to in subsection (8)		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
	The Ministry of Foreign Affairs and Trade considers that the secondary legislation may have international transparency obligations under the CPTPP. As a result the maker may also have to comply with s 75 of the Legislation Act 2019	LA19 ss 74(2), 75
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 19(2A): inserted, on 1 October 2004, by section 6(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 19(3): amended, on 1 May 2001, by section 9(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 19(4): amended, on 1 May 2001, by section 9(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 19(5)(a): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 19(5)(b): amended, on 1 May 2001, by section 9(3) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 19(5A): inserted, on 1 May 2001, by section 9(4) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 19(5A): amended, on 27 March 2008, by section 5 of the Fisheries Amendment Act 2008 (2008 No 11).

Section 19(7): substituted, on 1 May 2001, by section 9(5) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 19(8): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 19(8): repealed, on 1 October 2004, by section 6(2) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

20 Setting and variation of total allowable commercial catch

(1) Subject to this section, the Minister shall, by notice in the *Gazette*, set in respect of the quota management area relating to each quota management stock a total allowable commercial catch for that stock, and that total allowable commercial catch shall continue to apply in each fishing year for that stock unless varied under this section, or until an alteration of the quota management area for that stock takes effect in accordance with sections 25 and 26.

(2) The Minister may from time to time, by notice in the *Gazette*, vary any total allowable commercial catch set for any quota management stock by increasing or reducing that total allowable commercial catch.

(3) Without limiting the generality of subsections (1) and (2), the Minister may set or vary a total allowable commercial catch at, or to, zero.

(4) Every total allowable commercial catch set or varied under this section shall have effect on and from the first day of the next fishing year for the quota management stock concerned.

(5) A total allowable commercial catch for any quota management stock shall not—

(a) be set unless the total allowable catch for that stock has been set under section 13 or section 14; or

(b) be greater than the total allowable catch set for that stock.

Compare: 1983 No 14 s 28C; 1990 No 29 s 5(1)

Section 20(1): amended, on 1 October 2001, by section 5 of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

21 Matters to be taken into account in setting or varying any total allowable commercial catch

(1) In setting or varying any total allowable commercial catch for any quota management stock, the Minister shall have regard to the total allowable catch for that stock and shall allow for—

(a) the following non-commercial fishing interests in that stock, namely—

(i) Maori customary non-commercial fishing interests; and

(ii) recreational interests; and

(b) all other mortality to that stock caused by fishing.

(2) Before setting or varying a total allowable commercial catch for any quota management stock, the Minister shall consult such persons and organisations as the Minister considers are representative of those classes of persons having an interest in this section, including Maori, environmental, commercial, and recreational interests.

(3) After setting or varying any total allowable commercial catch under section 20, the Minister shall, as soon as practicable, give to the parties consulted under subsection (2) reasons in writing for his or her decision.

(4) When allowing for Maori customary non-commercial interests under subsection (1), the Minister must take into account—

(a) any mataitai reserve in the relevant quota management area that is declared by the Minister by notice in the *Gazette* under regulations made for the purpose under section 186:

(b) any area closure or any fishing method restriction or prohibition in the relevant quota management area that is imposed by the Minister by notice in the *Gazette* made under section 186A.

(5) When allowing for recreational interests under subsection (1), the Minister shall take into account any regulations that prohibit or restrict fishing in any area for which regulations have been made following a recommendation made by the Minister under section 311.

Compare: 1983 No 14 ss 28C, 28OB(1), (2); 1990 No 29 ss 5(1), 15

Section 21(4): substituted, on 1 October 2001, by section 6 of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

22 Effect of reduction of total allowable commercial catch

(1) If the Crown owns any unencumbered quota shares for a stock as at the date the total allowable commercial catch for that stock is reduced under section 20, the chief executive shall transfer to every quota owner at the time the reduction takes effect, in the form in which that quota is held by that person, a number of quota shares calculated in accordance with the following formula:

$$a \div (100\,000\,000 - b) \times c = d$$

where—

a is the number of quota shares for the stock held by the person immediately before the reduction in the total allowable commercial catch for the stock takes effect; and

b is the number of unencumbered quota shares for the stock owned by the Crown immediately before the reduction in the total allowable commercial catch for the stock takes effect; and

c is the lesser of—

(a) the number of unencumbered quota shares for the stock owned by the Crown immediately before the reduction in the total allowable commercial catch for the stock takes effect:

(b) the number of quota shares for the stock the quota weight equivalent of which is equivalent to the amount of the reduction in the total allowable commercial catch for the stock; and

d is the number of quota shares to be transferred to the quota owner under this section.

(2) If there has been a reduction in the total allowable commercial catch for any stock but the Crown does not hold any unencumbered quota shares for that stock as at the date the reduction takes effect, no deductions or transfers of quota shall be made under this section.

(3) The chief executive shall, as soon as practicable after the reduction takes effect, notify every quota owner affected by a reduction in the total allowable commercial catch for any stock of—

(a) the reduced total allowable commercial catch; and

(b) any consequential change in the number of the quota shares for that stock that are owned by that person; and

(c) the quota weight equivalent of 1 quota share of the reduced total allowable commercial catch.

(4) The chief executive shall, as soon as practicable after any reduction in the total allowable commercial catch for any stock takes effect, notify the Registrar of Quota for any stock of any quota transfer necessary to give effect to the reduction.

(5) For the purposes of subsection (1), the Crown is a quota owner except in relation to its unencumbered quota.

Compare: 1983 No 14 s 28OD; 1990 No 29 s 15

Section 22(1) formula item c paragraph (b): amended, on 1 October 2001, by section 4 of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

23 Effect of increase in total allowable commercial catch

(1) If the total allowable commercial catch for any stock has been increased under section 20 and any person (in this section called an **eligible person**) holds preferential allocation rights for that stock, the chief executive shall deduct from every person owning quota for that stock as at the date the increase takes effect the number of quota shares calculated in accordance with the following formula:

$$a \times \{1 - [b \div (b + c)]\} = d$$

where—

a is the number of quota shares for the stock owned by any person immediately before the increase in the total allowable commercial catch takes effect; and

b is the total allowable commercial catch for the stock (in kilogrammes) applying immediately before the increase takes effect; and

c is the lesser of—

(a) the amount of the increase in the total allowable commercial catch for the stock (in kilogrammes):

(b) the total of all preferential allocation rights for the stock (in kilogrammes); and

d is the number of quota shares to be deducted from each person's holdings and transferred to the Crown in accordance with this section.

(2) Immediately after deducting quota shares under subsection (1), the chief executive shall transfer to each eligible person a number of quota shares which shall be calculated in accordance with the following formula:

$$a \div b \times c \times 100\,000\,000 \div (d + c) = e$$

where—

a is the eligible person's current preferential allocation rights for the stock (in kilogrammes); and

b is the total of all preferential allocation rights for the stock (in kilogrammes); and

c is the lesser of—

(a) the amount of the increase in the total allowable commercial catch for the stock (in kilogrammes):

(b) the total of all preferential allocation rights for the stock (in kilogrammes); and

d is the total allowable commercial catch for the stock (in kilogrammes) applying immediately before the increase takes effect; and

e is the number of quota shares to be transferred from the Crown to the eligible person in accordance with this section.

(3) Every person who was, immediately before the commencement of this section, entitled to quota under section 28OE(1)(a) of the Fisheries Act 1983 is entitled to a preferential allocation right equivalent to the amount (in kilogrammes) of the reduction in that person's provisional maximum individual transferable quota for the stock under section 28N of that Act less the amount (in kilogrammes) of any quota allocated to that person under section 28OE(1)(a) of that Act, but that preferential allocation right (which entitles the holder to receive quota shares under subsection (2))—

(a) shall have effect only while that person continues to be registered on the Quota Register as the owner of shares for that stock, and those shares have been continuously owned by that person since the commencement of this section; and

(b) is personal to the eligible person who holds the right and is not transferable in any circumstances.

(4) The amount of an eligible person's preferential allocation right must be reduced in accordance with the following formula:

$$(a \div b) \times c = d$$

where—

a is the eligible person's current preferential allocation right for the stock (in kilogrammes)

b is the total of all preferential allocation rights for the stock (in kilogrammes)

c is the lesser of—

(a) the amount of the increase in the total allowable commercial catch for the stock (in kilogrammes):

(b) the total of all preferential allocation rights for the stock (in kilogrammes)

d is the amount of the reduction in the eligible person's preferential allocation right (in kilogrammes).

(4A) An eligible person's preferential allocation right expires if the amount of that right equals zero.

(4B) An eligible person is not entitled to receive, in the aggregate under subsection (2), quota shares whose quota weight equivalent (calculated at the time of transfer of the relevant shares to the eligible person) exceeds the amount of preferential allocation right held by that person on the commencement of this section or on the date of allocation of quota to that person under section 337, as the case may be.

(5) If the total allowable commercial catch for any stock is increased but there are no eligible persons in relation to that stock, no deductions or transfers of quota shall be made under this section.

(6) The chief executive shall, as soon as practicable after any increase in the total allowable commercial catch for any stock takes effect, cause every quota owner affected by the increase to be notified of—

(a) the increased total allowable commercial catch; and

(b) any consequential change in the number of the quota shares for that stock owned by that person; and

(c) the quota weight equivalent of 1 quota share of the increased total allowable commercial catch.

(7) The chief executive shall, as soon as practicable after any reduction in a person's preferential allocation right takes effect, notify the Registrar of Quota for any stock of any quota transfer necessary to give effect to the reduction.

Compare: 1983 No 14 s 28OE(1)(a), (5); 1990 No 29 s 15

Section 23(3)(a): amended, on 1 October 2001, by section 5(1) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 23(4): substituted, on 1 October 2001, by section 5(2) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 23(4A): inserted, on 1 October 2001, by section 5(2) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 23(4B): inserted, on 1 October 2001, by section 5(2) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Quota management areas

24 Quota management areas

(1) There shall be a quota management area for every stock to which this Part applies.

(2) Subject to section 25, the quota management area for any stock is,—

(a) in the case of any stock declared by notice under section 18 to be subject to the quota management system, the quota management area defined for that stock by that notice:

(b) in the case of any species or class of fish, aquatic life, or seaweed that, immediately before the date of commencement of this section, was subject to Part 2A of the Fisheries Act 1983, the quota management area in force for that stock immediately before that date.

Compare: 1983 No 14 s 28B(3), (4); 1986 No 34 s 10

25 Alteration of quota management areas

(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister,—

(a) alter a quota management area or quota management areas—

(i) by dividing an area into smaller quota management areas; or

(ii) by amalgamating a quota management area (or defined area or areas within a quota management area) with any adjoining quota management areas (or defined area or areas within any adjoining quota management area); or

(iii) by dividing a multi-species stock into 2 or more stocks; or

(iv) by amalgamating 2 or more quota management stocks; or

(v) by doing any combination of those things:

(b) in relation to quota for squid in a quota management area being altered under this section, remove any method restriction applying to that quota:

(c) amend Schedule 1 by adding a description of any new quota management area or quota management areas created as a result of an alteration under paragraph (a).

(2) The Minister may make a recommendation under subsection (1) if—

(a) the Minister complies with section 25A and quota owners who hold in the aggregate not fewer than 75 000 000 quota shares for any stock that would be affected by the proposed alteration have requested the Minister to make such a recommendation; or

(b) the Minister complies with section 25B, in which case a request specified in paragraph (a) is not required.

(3) Before recommending the alteration of any quota management area under subsection (1), the Minister must—

(a) have regard to—

(i) non-commercial fishing interests in the affected area; and

(ii) the biological characteristics of each stock that would be affected by the recommendation; and

(iii) such other matters as the Minister considers relevant; and

(b) consult the persons and organisations considered by the Minister to be representative of those classes of persons having an interest in the relevant quota management area, including Maori, recreational, commercial, and environmental interests; and

(c) provide for the input and participation of tangata whenua who have—

(i) a non-commercial interest in the stock or stocks concerned; or

(ii) an interest in the effects of fishing on the aquatic environment in the area or areas concerned; and

(d) for the purpose of paragraph (c), have particular regard to kaitiakitanga.

(4) The Minister's recommendation under subsection (1) must reflect what is in the quota owners' agreement referred to in section 25A, or in the plan referred to in section 25B, as the case may be.

(5) Every Order in Council made under subsection (1)—

(a) comes into force on the commencement of the first day of the fishing year to which it relates; and

(b) must be made no fewer than 90 days before it comes into force.

(6) When an Order in Council is made under subsection (1), the chief executive must ensure that—

(a) a memorial is recorded in the appropriate register against all quota for any stock affected by the alteration; and

(b) the memorial is to the effect that the stock will be affected by the alteration.

(7) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 25: substituted, on 1 October 2001, by section 10 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 25(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

25A Alteration of quota management areas with agreement of quota owners

(1) The Minister may not recommend the alteration of any quota management area under section 25(1) in response to a request referred to in section 25(2)(a) unless the Minister is satisfied that—

(a) the purpose of this Act would be achieved better by altering the quota management area or areas; and

(b) the alteration would not unduly prejudice any quota owner who—

(i) owns quota shares for the stock or stocks in the quota management area or areas concerned; and

(ii) is opposed to the alteration; and

(c) an agreement that, in the Minister's opinion, satisfactorily addresses the matters set out in subsection (2) has been executed (either as an original or in counterparts) by the quota owners who hold in the aggregate not fewer than 75 000 000 quota shares for each of the stock or stocks for the area or areas being altered; and

(d) the quota owners have publicly notified their intention to seek an alteration of the quota management area or areas; and

(e) the quota owners have also notified their intention to seek an alteration to—

(i) persons who are noted on the Quota Register as having an interest in the quota to which the proposed alteration relates; and

(ii) parties to leases or transfers registered on the Transitional Register in respect of quota to which the proposed alteration relates.

(2) The agreement must provide for all of the following matters:

(a) the boundaries of the proposed quota management area or quota management areas:

(b) the species that comprise the stock or stocks after the proposed alteration:

(c) the manner in which quota shares are to be apportioned after the alteration:

(d) the interests of aggrieved—

(i) quota owners who hold quota shares to which the proposed alteration relates; and

(ii) parties to leases or transfers registered on the Transitional Register in respect of quota to which the proposed alteration relates:

(e) in the case of any alteration to a quota management area or quota management areas for squid, whether any method restriction applying to squid quota should be removed:

(f) any other matter required by the Minister to be addressed.

(3) The agreement must include provisions to resolve any grievance of a quota owner who holds quota shares in any area affected by the proposed alteration only if required by the Minister.

Section 25A: inserted, on 1 October 2001, by section 10 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 25A(1)(e): substituted, on 1 October 2001, by section 6(1) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 25A(2)(d): substituted, on 1 October 2001, by section 6(2) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

25B Alteration of quota management areas without agreement of quota owners

The Minister may recommend the alteration of any quota management area under section 25(1) without receiving a request from quota owners in accordance with section 25(2)(a) if the Minister—

(a) has approved a plan that provides for all of the following matters:

(i) the boundaries of the proposed quota management area or areas:

(ii) the species that comprise the stock or stocks after the alteration:

(iii) the manner in which quota shares are to be apportioned after the alteration:

(iv) in the case of any alteration to a quota management area or areas for squid, whether any method restriction applying to squid quota should be removed; and

(b) is satisfied, having considered alternative options, that the alteration as specified in the plan is necessary to ensure sustainability; and

(c) has publicly notified his or her intention to recommend the alteration of the quota management area or areas; and

(d) has also notified his or her intention to recommend the alteration of the quota management area or areas to—

(i) persons who are noted on the Quota Register as having an interest in the quota to which the proposed alteration relates; and

(ii) parties to leases or transfers registered on the Transitional Register in respect of quota to which the proposed alteration relates.

Section 25B: inserted, on 1 October 2001, by section 10 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 25B(d): substituted, on 1 October 2001, by section 7 of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

26 Effect on quota if quota management area altered

(1) This section applies if an order is made under section 25.

(2) Subject to sections 43 and 52, the chief executive must allocate quota—

(a) in accordance with the agreement referred to in section 25A, or with the plan referred to in section 25B, as the case may be; and

(b) in the form in which the quota was held immediately before the alteration takes effect.

(3) The chief executive must, as soon as practicable after the order is made, cause every quota owner affected by the alteration—

(a) to be notified of the number of quota shares (if any) allocated to that person for each new stock and of any other relevant matters; and

(b) to be given a schedule setting out the allocation of quota shares to all other quota owners for each new stock.

(4) On the close of the last day of the fishing year before the fishing year in which the alteration takes effect, all existing quota affected by an alteration under section 25 is cancelled, but all rights, obligations, and liabilities (including liability to forfeiture) relating to the cancelled quota apply to the new quota.

(5) All preferential allocation rights held under section 23 must be apportioned in the same manner as quota is allocated under subsection (2).

(6) This section does not confer on Te Ohu Kai Moana Trustee Limited any entitlement to any further allocation of quota under section 44 or under any other enactment.

Section 26: substituted, on 1 October 2001, by section 10 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 26(6): amended, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Definition of rights relating to quota

[Repealed]

Heading: repealed, on 9 September 1999, by section 85(a) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

27 Characteristics of individual transferable quota

[Repealed]

Section 27: repealed, on 9 September 1999, by section 85(a) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

28 Characteristics of provisional individual transferable quota

[Repealed]

Section 28: repealed, on 9 September 1999, by section 85(a) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

29 Characteristics of provisional catch history

[Repealed]

Section 29: repealed, on 9 September 1999, by section 85(a) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Basis for allocation of quota

Heading: inserted, on 1 October 2004, by section 7 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

29A Basis for allocation of quota

(1) Except as provided in this section, quota must be allocated in accordance with section 29B.

(2) Quota for the following stocks must be allocated on the basis of provisional catch history:

(a) any stock or species listed in Schedule 4C, or any stock or species the subject of a *Gazette* notice under section 17B(5)(b), that is brought into the quota management system on or before 1 October 2009:

(b) any stock or species listed in Schedule 4D that is brought into the quota management system on or before 1 October 2009:

(c) tuna inside New Zealand fisheries waters:

(d) highly migratory species outside New Zealand fisheries waters.

Section 29A: inserted, on 1 October 2004, by section 7 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

29B Allocation to Crown and Te Ohu Kai Moana Trustee Limited

(1) After the Minister has declared a stock to be subject to the quota management system (other than a stock specified in section 29A(2)), the chief executive must—

(a) allocate 80 000 000 quota shares to the Crown; and

(b) in accordance with section 44, allocate 20 000 000 quota shares to the Te Ohu Kai Moana Trustee Limited.

(2) The allocation takes effect on the first day of the fishing year in respect of which the stock becomes a quota management stock.

Section 29B: inserted, on 1 October 2004, by section 7 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 29B heading: amended, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 29B(1)(b): amended, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Provisional catch history

30 Provisional catch history to be mechanism for allocation of quota

[Repealed]

Section 30: repealed, on 1 October 2004, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

31 Manner of calculating provisional catch history

[Repealed]

Section 31: repealed, on 1 October 2004, by section 9 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Calculation of provisional catch history if no individual catch entitlement

32 Criteria of eligibility to receive provisional catch history for quota management stock

(1) If a stock is declared by notice under section 18 to be subject to the quota management system, a person is eligible to receive provisional catch history for the stock if the person—

(a) either,—

(i) *[Repealed]*

(ii) was issued a fishing permit under section 2(2) of the Fisheries Amendment Act 1994; or

(iii) in the case of any highly migratory species outside New Zealand fisheries waters or tuna inside New Zealand fisheries waters, at any time during any applicable qualifying year,—

(A) held a fishing permit or high seas fishing permit issued under section 63 of the Fisheries Act 1983 or under section 91 or section 113H that authorised the holder to take the stock; or

(B) in the judgment of the chief executive, held a valid authority to take the stock using a New Zealand ship in the national fisheries jurisdiction of a foreign country; or

(iv) in any other case, held, at any time during any applicable qualifying year, a fishing permit issued under section 63 of the Fisheries Act 1983 for any species of fish, aquatic life, or seaweed; and

(b) in any case, is not an overseas person or, if an overseas person, either has obtained consent under the overseas investment fishing provisions to acquire provisional catch history or quota or is exempt from the requirement for that consent,—

and has provided the chief executive with eligible returns for the stock for the applicable qualifying year or qualifying years.

(2) For the purposes of this Part, an **eligible return**—

(a) means a lawfully completed catch landing return or a catch, effort, and landing return as referred to in the Fisheries (Reporting) Regulations 2001 or the Fisheries (Reporting) Regulations 1990 that—

(i) in the case of any stock referred to in subparagraph (ii) or subparagraph (iii) of subsection (1)(a), was given to the chief executive on or before the 15th day after the close of each applicable qualifying year; or

(ii) in any other case, was given to the chief executive on or before 15 October 1994:

(b) includes, in relation to any highly migratory species, any lawfully completed return that—

(i) is of a kind required by or under section 113K, or recognised for the purposes of this section by regulations made under section 297(1)(ha); and

(ii) was given to the chief executive on or before the 15th day after the close of each applicable qualifying year, or on or before such later date as may be specified for the purpose by regulations made under section 297(1)(ha).

Section 32(1): amended, on 1 October 2004, by section 10(1)(a) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 32(1)(a)(i): repealed, on 1 October 2004, by section 10(1)(b) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 32(1)(a)(iii): substituted, on 1 October 2004, by section 10(2) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 32(1)(b): substituted, on 25 August 2005, by section 75 of the Overseas Investment Act 2005 (2005 No 82).

Section 32(2): substituted, on 1 October 2004, by section 10(3) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

32A Application of Part 4 to estate of deceased fishing permit holder

(1) Subsections (2) and (3) apply for the purposes of this Part, in relation to any fishing permit other than a fishing permit to which section 63A of the Fisheries Act 1983 or section 93A of this Act relates, where the holder of the fishing permit has died.

(2) The deceased's estate must be treated as the holder of the fishing permit for the purposes of this Part.

(3) Where this Part requires that a person, at the date of publication of a notice under section 18, hold either a fishing permit that is current or (in the case of a controlled fishery) a controlled fishery licence, before eligibility for provisional catch history or quota can be determined or provisional catch history or quota

allocated, it is sufficient if the deceased held a current fishing permit or licence (as the case may be) at the date of his or her death.

(4) In this section, **fishing permit** includes a high seas fishing permit issued under section 113H.

Section 32A: inserted, on 9 September 1999, by section 12 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 32A(4): added, on 1 October 2004, by section 11 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

32B Expiry of section 32A

[Repealed]

Section 32B: repealed, on 1 October 2004, by section 12 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

33 Qualifying years

(1) For the purposes of this Part, the qualifying year or qualifying years are,—

(a) in the case of a person eligible under section 32(1)(a)(ii) to receive provisional catch history by virtue of a fishing permit issued under section 2(2) of the Fisheries Amendment Act 1994, either—

(i) the first consecutive 12 months following the date of issue of the fishing permit; or

(ii) the fishing years commencing respectively on 1 October 1990 and 1 October 1991:

(b) in the case of a person eligible to receive provisional catch history under section 32(1)(a)(iii), such fishing year or fishing years as the Minister may from time to time set for the purpose by notice:

(c) in any other case, the fishing years commencing respectively on 1 October 1990 and 1 October 1991.

(2) A notice under subsection (1)(b) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 33(1)(a): substituted, on 13 August 2004, by section 4 of the Fisheries Amendment Act (No 2) 2004 (2004 No 71).

Section 33(1)(b): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 33(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

34 Calculation of provisional catch history

(1) The provisional catch history of a person is,—

(a) if the qualifying year is the one referred to in section 33(a)(i) and the person is eligible to receive provisional catch history under section 32(1)(a)(ii) for any stock, the total weight of eligible catch reported in the person's eligible returns:

(b) subject to subsection (1A), if the qualifying year or years are set under section 33(b) and the person is eligible to receive provisional catch history under section 32(1)(a)(iii) for any stock, the total weight of eligible catch reported in the person's eligible returns in respect of the period of 12 consecutive months within the qualifying years relating to the person, which period shall be—

(i) chosen by the person in accordance with section 35(3)(c)(iv) or section 35(4)(b); or

(ii) if the person has not made such a choice, chosen by the chief executive in accordance with section 35(1)(d):

(c) in the case of any other person who is eligible to receive provisional catch history under paragraph (a)(i) or paragraph (a)(iv) of section 32(1), the total weight of eligible catch reported in the person's eligible returns in respect of a period of 12 consecutive months within the qualifying years relating to the person, which period shall be—

(i) chosen by the person in accordance with section 35(3)(c)(iv) or section 35(4)(b); or

(ii) if the person has not made such a choice, chosen by the chief executive in accordance with section 35(1)(d).

(1A) Despite subsection (1)(b), the provisional catch history of a person in respect of highly migratory species (other than southern bluefin tuna) taken outside New Zealand fisheries waters—

(a) must be calculated in the prescribed manner (if any) in accordance with regulations made under section 297(1)(hb) for the purpose of ensuring consistency of the calculation with the method used by the relevant international fisheries organisation in determining New Zealand's national allocation; and

(b) subject to paragraph (a), is the total weight of eligible catch reported in the person's eligible returns divided by the number of qualifying years.

(2) For the purposes of this Part and Part 15, the term **eligible catch** means the total weight of all the catch of the relevant stock lawfully taken and lawfully reported as landed or otherwise lawfully disposed of by a person eligible to receive provisional catch history under section 32 during the applicable qualifying years; and also includes fish, aquatic life, or seaweed of that stock reported as taken and used as bait; but does not include—

(a) fish, aquatic life, or seaweed seized by a fishery officer under section 80 of the Fisheries Act 1983 or section 207 of this Act, if the fish, aquatic life, or seaweed (or the proceeds of sale thereof) were forfeit to the Crown:

(b) fish, aquatic life, or seaweed, other than highly migratory species, taken outside New Zealand fisheries waters (even though such fish, aquatic life, or seaweed may be deemed to have been taken within New Zealand fisheries waters by the operation of this Act or the Fisheries Act 1983):

(c) fish, aquatic life, or seaweed (other than fish, aquatic life or seaweed taken by persons granted fishing permits under section 2(2) of the Fisheries Amendment Act 1994) taken under a special permit granted under this Act or under section 64 of the Fisheries Act 1983.

Section 34(1)(a): amended, on 1 October 2004, by section 13(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 34(1)(b): amended, on 1 October 2004, by section 13(2) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 34(1A): inserted, on 1 October 2004, by section 13(3) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 34(2)(b): amended, on 1 October 2004, by section 13(4) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

35 Notification of eligibility to receive provisional catch history

(1) The chief executive shall, as soon as practicable after the publication of a notice under section 18 declaring any stock to be subject to the quota management system,—

(a) decide whether, in the chief executive's opinion, a person is eligible to be allocated provisional catch history in accordance with this Act; and

(b) if the person is eligible to be allocated provisional catch history, determine whether, in the chief executive's opinion, the person is eligible to be allocated quota under section 47 because,—

(i) in the case of a stock that was a controlled fishery as at the date of the publication of the notice declaring the stock to be subject to the quota management system, the person was a holder of both a controlled fishery licence for that stock and a current fishing permit; or

(ii) in any other case,—

(A) the person was a holder of a fishing permit as at the date of the publication of the notice declaring the stock to be subject to the quota management system; and

(B) the person is not an overseas person or, if an overseas person, either has obtained consent under the overseas investment fishing provisions to acquire provisional catch history

or quota or is exempt from the requirement for that consent; and

(c) if section 33(a)(i) applies, determine both the relevant period of 12 consecutive months that is to be the person's qualifying year and the quantum of the person's eligible catch during that period; and

(d) if paragraph (a)(ii) or paragraph (b) or paragraph (c) of section 33 applies, decide the period of 12 consecutive months within the qualifying years which the chief executive will nominate for the purpose of calculating the person's provisional catch history (which period is to maximise the person's eligible catch) and the quantum of the person's eligible catch during that period.

(2) The chief executive shall, as soon as practicable after deciding or determining the matters referred to in subsection (1), notify in writing every person whom the chief executive considers to be eligible for provisional catch history of the following matters:

(a) the chief executive's decisions and determinations in respect of that person under subsection (1):

(b) the applicable qualifying years for the stock for which that person is eligible to receive provisional catch history:

(c) the eligible catch of that person for each month of the applicable qualifying years:

(d) the rights conferred by subsection (4):

(e) the date on which the notice under this section is issued:

(ea) the date by which objections must be lodged (which date must be at least 60 working days after the date specified under paragraph (e)):

(f) such other matters as the chief executive thinks relevant.

(3) Within 10 working days after the date specified in subsection (2)(e), the chief executive must publicly notify—

(a) that eligibility for provisional catch history for the stock has been determined and notified under subsection (2); and

(b) the location where information on the criteria of eligibility for an allocation of provisional catch history and quota can be found; and

(c) the location where information on the process for notifying the chief executive of an objection to the non-allocation of provisional catch history can be found; and

(d) the date by which a person to whom subsection (5) applies must lodge their notification under that subsection with the chief executive.

(4) Any person notified in accordance with subsection (2) may, on or before the date specified in the notice,—

(a) lodge with the chief executive in the approved form an objection giving reasons for the objection—

(i) as to the quantum of eligible catch stated in the notice; or

(ii) as to the chief executive's opinion that the person will not be eligible to receive an allocation of quota; and

(b) notify the chief executive in writing of an alternative period of 12 consecutive months to the period decided by the chief executive that the person requires the chief executive to use for the purposes of calculating the person's provisional catch history.

(5) Any person who has not received a notification under subsection (2), but who believes that the person is or will be—

(a) entitled to receive provisional catch history; or

(b) entitled to receive quota,—

under this Act, may, on or before the date specified in the public notification referred to in subsection (3), notify the chief executive on the approved form of—

(c) the grounds for the belief; and

(d) if the qualifying years are those set out in paragraph (b) or paragraph (c) of section 33, the period of 12 consecutive months within the qualifying years for the stock that the person wishes to be used as a basis for calculating the person's provisional catch history.

(6) *[Repealed]*

(7) *[Repealed]*

Section 35(1)(b)(ii)(B): substituted, on 25 August 2005, by section 75 of the Overseas Investment Act 2005 (2005 No 82).

Section 35(1)(c): amended, on 1 October 2004, by section 14(1)(a) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 35(1)(d): amended, on 1 October 2004, by section 14(1)(b) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 35(2)(e): substituted, on 23 June 1998, by section 10(1) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 35(2)(ea): inserted, on 23 June 1998, by section 10(1) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 35(3): substituted, on 1 October 2004, by section 14(2) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 35(3)(a): substituted, on 27 March 2008, by section 6 of the Fisheries Amendment Act 2008 (2008 No 11).

Section 35(4)(b): amended, on 1 October 2004, by section 14(3) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 35(6): repealed, on 1 October 2004, by section 14(4) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 35(7): repealed, on 1 July 2000, by section 6 of the Fisheries Amendment Act 2000 (2000 No 20).

35A Amendment of notification of eligibility to receive provisional catch history

(1) If the Minister amends a declaration under section 19(5A), the chief executive may, if the chief executive considers it necessary to do so, do any 1 or more of the following:

(a) decide or determine the matters in section 35(1):

(b) revoke a notice issued under section 35(2):

(c) revoke a notice published under section 35(3):

(d) issue a new notice under section 35(2):

(e) publish a new notice under section 35(3).

(2) If the chief executive revokes a notice under subsection (1)(b),—

(a) the chief executive must notify, in writing, the person who was issued the notice of—

(i) the revocation; and

(ii) the reasons for the revocation; and

(b) all objections lodged under section 35(4) in respect of that notice must be treated as having been withdrawn.

(3) If the chief executive revokes a notice under subsection (1)(c),—

(a) the chief executive must publicly notify—

(i) the revocation; and

(ii) the reasons for the revocation; and

(b) all notifications received under section 35(5) in respect of that notice must be treated as having been withdrawn.

Section 35A: inserted, on 9 September 1999, by section 13 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

36 Notification of allocation of provisional catch history

(1) As soon as practicable after the specified date referred to in section 35(2)(ea), the chief executive shall—

(a) complete his or her determination of any objection or notification received under section 35:

(b) in the case of any person whom the chief executive considers to be eligible to receive provisional catch history for a stock, allocate the amount of such provisional catch history as the chief executive considers the person is eligible to receive:

(c) notify the person concerned,—

(i) in the case of any person whom the chief executive considers to be eligible to receive provisional catch history for a stock, of the allocation and the amount of provisional catch history; and

(ii) in all cases, of the result of any determination under paragraph (a).

(2) Every notification under subsection (1) shall be sent to the person's last known address and shall state—

(a) both—

(i) the person's right to appeal under section 51(1)(b); and

(ii) that the appeal must be lodged not later than the date specified for the purpose in the notice; and

(b) if the chief executive considers under section 35(1)(b) that the person is not eligible to receive quota, that, unless the person lodges an appeal not later than the date specified under paragraph (a)(ii), the person may transfer the person's provisional catch history within the period of 20 working days commencing on the day after that specified date, and that, if the provisional catch history is not transferred within that period, it shall be deemed to be cancelled on the expiration of that period; and

(c) if the chief executive considers, under section 35(1)(b)(ii)(B), that the person is not eligible to receive quota,—

(i) the person's right to appeal under section 51(1)(b) and apply for a declaration under section 51(2); and

(ii) that any appeal to the Catch History Review Committee or application for a declaration to the High Court must be lodged not later than the date specified under paragraph (a)(ii).

(3) The date referred to in paragraphs (a)(ii) and (c)(ii) of subsection (2) and specified in a notification under subsection (1) shall be not less than 60 working days after the date of the notification.

(4) As soon as practicable after notifying persons under subsection (1), the chief executive shall notify the Registrar of Quota of—

(a) the amount of provisional catch history the chief executive has allocated to each person; and

(b) the name of every person allocated provisional catch history for the stock who the chief executive believes is not eligible to receive quota.

(5) As soon as practicable after the specified date referred to in subsection (2)(c)(ii), the chief executive shall notify the Registrar of Quota of whether any person or the chief executive has appealed to the Catch History Review Committee under section 51 in respect of any provisional catch history.

Section 36(1): amended, on 1 October 2001, by section 6 of the Fisheries Amendment Act 2001 (2001 No 65).

Section 36(1)(a): amended, on 23 June 1998, by section 11 of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

37 Transfer of provisional catch history

(1) Provisional catch history in respect of any stock, other than a stock to which section 40 applies, may be transferred only if—

(a) the transferor is not eligible to receive quota for the stock; and

(b) the transferee complies with section 45(a) and (b) or is the Crown; and

(c) any appeal against the amount of provisional catch history for the stock allocated to the transferor has been finally determined or withdrawn; and

(d) the transfer takes effect during the transfer period and the chief executive has been notified on the approved form of the transfer during that period; and

(e) the transfer is for an amount of provisional catch history expressed in whole kilogrammes.

(2) For the purposes of subsections (1) and (3), the transfer period is—

(a) the transfer period referred to in section 36(2)(b); or

(b) a period of 20 working days commencing on the later of the following:

(i) the day following the date of the final determination or withdrawal of any appeal in respect of the provisional catch history being transferred:

(ii) if section 54(1)(b) applies, the day following the day of the determination of the proceedings referred to in that section.

(3) If provisional catch history for any stock is allocated to any person who is not eligible to receive quota under section 45 for the stock, then, unless a transfer of the provisional catch history is notified to the chief executive within the transfer period or the referral of a dispute to the court is notified to the chief executive within the transfer period, that provisional catch history shall be deemed to be cancelled on the expiration of the transfer period.

(4) A transferee shall lodge a copy of the transfer, together with the prescribed fee (if any) with the Registrar of Quota and the Registrar shall record the transfer in the register and shall notify the chief executive, the transferor, and the transferee accordingly.

Section 37(1)(b): substituted, on 1 October 2001, by section 7(1) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 37(1)(d): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 37(3): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

38 Disputes about transfer of provisional catch history

[Repealed]

Section 38: repealed, on 1 October 2004, by section 15 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Allocation of provisional catch history based on individual catch entitlement [Repealed]

Heading: repealed, on 1 October 2004, by section 15 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

39 Criteria of eligibility to receive provisional catch history for stock controlled by individual catch entitlement

[Repealed]

Section 39: repealed, on 1 October 2004, by section 15 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

40 Calculation of provisional catch history based on individual catch entitlement

[Repealed]

Section 40: repealed, on 1 October 2004, by section 15 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

41 Notification of eligibility to receive provisional catch history on basis of individual catch entitlement

[Repealed]

Section 41: repealed, on 1 October 2004, by section 15 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Allocation of quota

42 Quota to be expressed in shares

Quota for any stock shall be expressed as shares that are whole numbers, and—

(a) the sum of that quota shall be 100 000 000 shares for each stock; and

(b) the value of 1 share is equal to one hundred-millionth of the total allowable commercial catch for the stock.

Compare: 1983 No 14 s 28O(2); 1986 No 34 s 10

43 Rounding of amounts or shares

If the chief executive allocates a number of quota shares to any person or increases or decreases the number of quota shares held by any person under this Act, the chief executive may round up or round down the number of quota shares consequently held by that person to ensure that—

(a) the sum of quota shares for the stock is always 100 000 000; and

(b) no person holds a part of a quota share.

44 Te Ohu Kai Moana Trustee Limited entitled to 20% of total new quota

(1) The chief executive shall allocate to Te Ohu Kai Moana Trustee Limited 20 000 000 shares of the individual transferable quota for each stock declared

by notice in the *Gazette* under section 18 to be subject to the quota management system.

(2) Every allocation under subsection (1) shall be made at the time when quota for that stock is allocated under section 29B or section 47 and shall take effect on the first day of the fishing year in respect of which the stock becomes a quota management stock.

(3) *[Repealed]*

Section 44 heading: amended, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 44(1): amended, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 44(2): amended, on 1 October 2004, by section 16(a) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 44(2): amended, on 1 October 2004, by section 16(b) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 44(3): repealed, on 1 October 2004, by section 16(c) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

45 Criteria of eligibility to receive quota

A person is eligible to receive quota for any stock declared by notice in the *Gazette* under section 18 to be subject to the quota management system if the person—

(a) at the date of the publication of the notice is—

(i) a holder of a fishing permit or a high seas fishing permit (or, in the judgment of the chief executive, a person holding a valid authority to fish in the national fisheries jurisdiction of a foreign country; or

(ii) in the case of a stock that was a controlled fishery on the date of the publication of the notice, a holder of both a controlled fishery licence for the stock and a fishing permit; or

(iii) the estate of a fishing permit holder to which section 32A applies; and

(b) is not an overseas person or, if an overseas person, either has obtained consent under the overseas investment fishing provisions to acquire provisional catch history or quota or is exempt from the requirement for that consent; and

(c) has obtained for the stock, whether by an allocation or a transfer in accordance with this Act, provisional catch history that is recorded in that person's name in the Quota Register.

Section 45(a)(i): substituted, on 1 October 2004, by section 17 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 45(a)(ii): amended, on 9 September 1999, by section 16(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 45(a)(iii): added, on 9 September 1999, by section 16(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 45(b): substituted, on 25 August 2005, by section 75 of the Overseas Investment Act 2005 (2005 No 82).

46 Withholding of quota for non-payment of cost recovery levies or deemed values

If a fishing permit or high seas fishing permit has been suspended under this Act for non-payment of levies payable under Part 14 or deemed value amounts payable under this Part, the chief executive may, until the levies or deemed value amounts are paid in full, withhold any quota that would, but for this section, have been allocated in respect of any provisional catch history held by the permit holder.

Section 46: amended, on 1 October 2004, by section 18 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

47 Allocation of quota on basis of provisional catch history

(1) As soon as practicable after the relevant date referred to in section 36(3), or at any time after the relevant date referred to in section 41(2), as the case may be, the chief executive shall allocate to every person who is eligible to receive quota an amount of provisional individual transferable quota or individual transferable quota, as the case may be, for the stock concerned, which amount shall be expressed as shares and, subject to section 43 and to subsection (1A), be the lesser of—

(a) the number of shares the quota weight equivalent of which is equivalent to the person's provisional catch history for the stock:

(b) the number of shares that bears the same proportion to the 80 000 000 shares of quota available for allocation for the stock as the person's provisional catch history bears to the total provisional catch history held by persons who are eligible to receive quota for the stock.

(1A) If the total allowable commercial catch for a stock is equal to zero, then the amount of provisional individual transferable quota or individual transferable quota to be allocated under subsection (1) must be determined in accordance with subsection (1)(b).

(2) If an appeal has been lodged in respect of a person's provisional catch history and that person is eligible to receive quota for that stock, then the quota allocated to that person shall be provisional individual transferable quota.

(3) Except as provided in subsection (2), the quota allocated shall be individual transferable quota.

(4) After the allocation of quota under subsection (1), the chief executive shall notify the Registrar of Quota, in respect of each person eligible to receive quota, of the amount of individual transferable quota, or provisional individual

transferable quota, as the case may be, the chief executive has allocated to that person.

(5) The provisional catch history—

(a) held by every person who is allocated individual transferable quota under subsection (1); and

(b) registered in that person's name on the date of allocation—

shall, on and from that date, be conclusive and shall be permanently fixed for all purposes.

(6) Any quota allocated under this section shall take effect on and from the first day of the fishing year in which that stock becomes a quota management stock.

Section 47(1): amended, on 1 October 2004, by section 19(1)(a) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 47(1): amended, on 1 October 2004, by section 19(1)(b) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 47(1): amended, on 1 July 2000, by section 9 of the Fisheries Amendment Act 2000 (2000 No 20).

Section 47(1A): inserted, on 1 October 2004, by section 19(2) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

48 Notification of allocation of quota

(1) At any time after the allocation of quota under section 47 and after the total allowable catch and the total allowable commercial catch for the stock have been declared, but before the commencement of the fishing year in which the stock becomes a quota management stock, the chief executive shall notify each person to whom he or she has allocated quota for that stock, and Te Ohu Kai Moana Trustee Limited, of—

(a) the total allowable catch for that stock; and

(b) the total allowable commercial catch for that stock; and

(c) the number of quota shares in that stock that has been allocated to that person; and

(d) the quota weight equivalent of 1 quota share for that stock.

(2) *[Repealed]*

Section 48(1): amended, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 48(2): repealed, on 1 October 2004, by section 20 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

49 Unallocated total allowable commercial catch to be held by Crown

(1) Immediately after quota is allocated under section 44 or section 47, all of the remaining quota shares in a stock that have not been allocated under those sections shall be automatically allocated to the Crown—

(a) in the form of provisional individual transferable quota; or

(b) if no appeals under section 51 have been lodged in respect of that stock, in the form of individual transferable quota.

(2) After the allocation of quota under subsection (1), the chief executive shall notify the Registrar of Quota of the amount of individual transferable quota, or provisional individual transferable quota, as the case may be, allocated to the Crown.

(3) Quota allocated to the Crown under subsection (1)(a) shall be held as unencumbered provisional individual transferable quota until all disputes of a kind referred to in subsection (1)(b) and all appeals in respect of the allocation of provisional catch history or quota for that stock have been finally determined and those determinations have been given effect, and, at that time, such provisional individual transferable quota held by the Crown shall become individual transferable quota.

(4) When any quota for a Chatham Islands quota management area, created in accordance with section 19, is allocated to the Crown under subsection (1) and becomes individual transferable quota, the Crown shall transfer that quota to the Chatham Islands Enterprise Trust.

Section 49 heading: amended, on 23 June 1998, by section 13 of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 49(1)(b): substituted, on 1 October 2004, by section 21 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 49(3): amended, on 23 June 1998, by section 13 of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

49A Surrender of quota to Crown

Any owner of quota who does not also hold any fishing permit, high seas fishing permit, licence, vessel registration, or approval under this Act may, if the quota is not subject to any caveat, mortgage, or other interest registered on the quota register (other than a settlement quota interest), surrender that quota to the Crown.

Section 49A: inserted, on 1 October 2004, by section 22 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 49A: amended, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

50 Rights of Crown in relation to quota

(1) Without limiting any other provision of this Act, the chief executive may, on behalf of the Crown,—

(a) purchase any individual transferable quota or provisional catch history:

(b) hold any quota allocated or acquired, or any provisional catch history, without being obliged to offer it to any person:

(c) transfer any individual transferable quota or provisional catch history held by or on behalf of the Crown:

(d) cancel any provisional catch history held by the Crown (and notify the Registrar accordingly).

(1A) Despite subsection (1), if settlement quota is held by the Crown as a result of forfeiture under this Act, the chief executive must, as soon as practicable after the date of forfeiture, endeavour to sell the quota to Te Ohu Kai Moana Trustee Limited or to 1 or more mandated iwi organisations in accordance with sections 161 (except subsection (2)) and 163 of the Maori Fisheries Act 2004.

(1B) If, within 18 months of the date of forfeiture, all of the settlement quota referred to in subsection (1A) has not been sold by the Crown in accordance with sections 161 (except subsection (2)) and 163 of the Maori Fisheries Act 2004, the chief executive must transfer the remaining settlement quota to Te Ohu Kai Moana Trustee Limited.

(1C) If settlement quota is transferred by the chief executive under subsection (1B), Te Ohu Kai Moana Trustee Limited must pay to the Crown a sum equivalent to the total of the cost recovery levies paid by the Crown in respect of the settlement quota for the period that the quota was held by the Crown.

(2) Subject to this Act, if unencumbered quota or interests in quota are owned by or on behalf of the Crown, the Crown shall have all the rights and obligations that would be enjoyed by any owner of such quota or interest in quota other than the Crown.

Compare: 1983 No 14 s 28U(1), (3); 1989 No 159 s 65; 1992 No 121 s 27

Section 50(1) heading: substituted, on 1 October 2001, by section 14 of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 50(1): substituted, on 1 October 2001, by section 14 of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 50(1A): inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 50(1B): inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 50(1C): inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Special provisions relating to allocation of quota for certain Schedule 4 stocks [Repealed]

Heading: repealed, on 1 October 2004, by section 23(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

50A Notification of allocation of provisional catch history

[Repealed]

Section 50A: repealed, on 1 October 2004, by section 23(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

50B Allocation of quota on basis of provisional catch history

[Repealed]

Section 50B: repealed, on 1 October 2004, by section 23(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

50C Notification of allocation of quota

[Repealed]

Section 50C: repealed, on 1 October 2004, by section 23(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

50D Quota holders may offer individual transferable quota to the Crown

[Repealed]

Section 50D: repealed, on 1 October 2004, by section 23(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

50E Chief executive to determine whether more than 80 000 000 quota shares held by other quota owners

[Repealed]

Section 50E: repealed, on 1 October 2004, by section 23(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

50F Crown acquisition of quota where more than 80 000 000 quota shares held by other quota owners

[Repealed]

Section 50F: repealed, on 1 October 2004, by section 23(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

50G Compensation for reduction of quota

[Repealed]

Section 50G: repealed, on 1 October 2004, by section 23(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Appeals

51 Rights of appeal

(1) Any person, including the chief executive, may, subject to subsection (3) and on or before the date specified for the purpose in the relevant notice under section 36, appeal to the Catch History Review Committee against,—

(a) *[Repealed]*

(b) in any case,—

(i) a decision of the chief executive to the effect that the person is or is not eligible to receive provisional catch history under section 32(1)(a) either because that person held or did not hold a fishing permit or high seas fishing permit (or authorisation referred to in

section 45(a)(i)) or controlled fishery licence at any time during the applicable qualifying year or years; or

(ii) a decision of the chief executive to the effect that the person has, or does not have, eligible catch in the qualifying year or years entitling the person to be allocated provisional catch history; or

(iii) a decision of the chief executive as to the quantum of eligible catch reported in any eligible returns made by any person eligible to receive provisional catch history, on the ground that—

(A) the information on the relevant returns held by the chief executive has been incorrectly recorded by the chief executive; or

(B) the chief executive has excluded fish, aquatic life, or seaweed that was lawfully taken and lawfully reported in eligible returns from the person's eligible catch; or

(iv) a decision of the chief executive to the effect that the person is or is not eligible to be allocated quota under paragraph (b)(i) or paragraph (b)(ii)(A) of section 35(1) either because that person held or did not hold a fishing permit or high seas fishing permit (or authorisation referred to in section 45(a)(i)) or controlled fishery licence as at the date of the publication of the notice under section 18 declaring the stock to be a quota management stock; or

(v) an allocation of provisional catch history that is different from the amount to which the person is entitled under section 34.

(2) Any person notified by the chief executive under section 36(1)(c)(ii) that he or she is not eligible to receive provisional catch history because of the operation of section 32(1)(b) may, on or before the date specified in the notification to that person,—

(a) apply to the High Court for a declaration as to whether that person is, or is not, an overseas person; and

(b) appeal to the Committee against the chief executive's decision and any other relevant action referred to in subsection (1).

(3) Any appeal lodged under this section shall be in the approved form and shall be available to the public once received by the Committee, but the Committee may—

(a) delete information that it considers commercially sensitive:

(b) make copies of the appeal available on payment of a reasonable charge.

Section 51(1): amended, on 1 October 2004, by section 24(1)(a) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 51(1)(a): repealed, on 1 October 2004, by section 24(1)(b) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 51(1)(b): amended, on 1 October 2004, by section 24(1)(c) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 51(1)(b)(i): amended, on 1 October 2004, by section 24(1)(d) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 51(1)(b)(iv): amended, on 1 October 2004, by section 24(1)(d) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 51(2): amended, on 1 October 2004, by section 24(2)(a) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 51(2): amended, on 1 October 2004, by section 24(2)(b) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

52 Effect of decision to alter provisional catch history

(1) The chief executive shall, as soon as practicable after—

(a) the Catch History Review Committee releases a decision; or

(b) any court on review of any decision of the Committee makes an order in respect of any appeal,—

(c) *[Repealed]*

adjust the entry in the appropriate register for the provisional catch history of the person concerned in such manner as may be necessary to give full effect to the decision or to the order.

(2) Except as provided in subsection (3), subsection (1) does not require the chief executive to allocate any quota as a result of any decision or order referred to in subsection (1).

(3) Subject to section 54, at the close of the last day of a fishing year in which a person's provisional catch history has been finally determined other than by the transfer of provisional catch history, the chief executive shall—

(a) transfer the person's provisional individual transferable quota for the relevant stock (if any) to the Crown, and that transferred quota shall be held as unencumbered provisional individual transferable quota; and

(b) calculate, in the manner set out in section 53, the amount of individual transferable quota for the stock (if any) to which the person is entitled following the adjustment to the person's provisional catch history under subsection (1); and

(c) either,—

(i) if the Crown has sufficient unencumbered provisional individual transferable quota to satisfy the person's entitlement to individual transferable quota for the stock, transfer to the person in the form of individual transferable quota such amount of its own provisional individual transferable quota as is sufficient to satisfy that entitlement; or

(ii) if the Crown does not have sufficient unencumbered provisional individual transferable quota to satisfy the person's entitlement to

individual transferable quota for the stock, deduct from all quota owners (including the Crown in respect of its encumbered quota and unencumbered individual transferable quota) on a pro rata basis sufficient quota so that, after adding the quota so obtained to the Crown's unencumbered provisional individual transferable quota holdings, the Crown has sufficient unencumbered provisional individual transferable quota to satisfy the person's entitlement to quota for the stock, and then transfer to the person in the form of individual transferable quota such amount of quota as is sufficient to satisfy that entitlement; and

(d) if any appeals result in persons being entitled to less individual transferable quota than the amount of provisional individual transferable quota that was transferred to the Crown under paragraph (a) and quota for that stock was allocated under section 47(1)(b), from the amount of quota remaining after making all allocations required under paragraph (c),—

(i) calculate, on a pro rata basis, for all persons (other than persons subject to the appeals and Te Ohu Kai Moana Trustee Limited) who received an allocation under section 47(1)(b), the amount of additional quota to which each person is entitled up to the amount each person would receive under section 53(1); and

(ii) after making the calculation in subparagraph (i), allocate to all persons (other than the persons subject to the appeals and Te Ohu Kai Moana Trustee Limited) who received an allocation in accordance with section 47(1)(b) and who have continuously owned and continue to be registered on the Quota Register as the owner of quota for that stock, their additional allocation of quota as calculated under subparagraph (i); and

(iii) if any quota remains after allocation under subparagraph (ii) as a result of ineligibility of persons who have not continuously owned and continue to be registered on the Quota Register as the owner of quota, allocate on a pro rata basis to all persons (other than Te Ohu Kai Moana Trustee Limited) who received an allocation in accordance with section 47(1)(b) and who have continuously owned and continue to be registered on the Quota Register as the owner of quota for that stock up to the amount each person would receive under section 53(1).

(4) Subject to section 54, at the close of the last day of a fishing year in which provisional catch history has been transferred to a person (which fishing year shall be a fishing year after the year in which quota was allocated for that stock under section 47), the chief executive shall—

(a) calculate, in the manner set out in section 53, the amount of individual transferable quota for the stock (if any) to which the person is entitled by virtue of the provisional catch history transferred to that person; and

(b) either,—

(i) if the Crown has sufficient unencumbered provisional individual transferable quota to satisfy the person's entitlement to individual transferable quota for the stock, transfer to the person in the form of individual transferable quota such amount of its own provisional individual transferable quota as is sufficient to satisfy that entitlement; or

(ii) if the Crown does not have sufficient unencumbered provisional individual transferable quota to satisfy the person's entitlement to individual transferable quota for the stock, deduct from all quota owners (including the Crown in respect of its encumbered quota and unencumbered individual transferable quota) on a pro rata basis sufficient quota so that, after adding the quota so obtained to the Crown's unencumbered provisional individual transferable quota holdings, the Crown has sufficient unencumbered provisional individual transferable quota to satisfy the person's entitlement to quota for the stock, and then transfer to the person in the form of individual transferable quota such amount of quota as is sufficient to satisfy that entitlement.

(c) *[Repealed]*

(4A) Any quota remaining unallocated under subsection (3)(d) is the property of the Crown subject to section 49.

(5) If the provisional catch history of more than 1 person has been adjusted under this section, then, in taking the steps set out in subsection (3) or subsection (4), the chief executive shall (so far as is possible) take those steps simultaneously in respect of all such persons.

(6) The provisional catch history of every person whose provisional catch history has been finalised and registered under subsection (1) shall, on and from the date of registration, be conclusive and shall be permanently fixed for all purposes.

(7) For the purposes of this section, a person registered as the owner of provisional individual transferable quota by virtue of section 162 is treated as the owner of the provisional catch history to which the quota relates.

Section 52(1): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 52(1)(b): amended, on 1 October 2004, by section 25(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 52(1)(c): repealed, on 1 October 2004, by section 25(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 52(2): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 52(3)(c)(ii): amended, on 29 September 2000, by section 3(1) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 52(3)(d): substituted, on 29 September 2000, by section 3(2) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 52(3)(d)(i): amended, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 52(3)(d)(ii): amended, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 52(3)(d)(ii): amended, on 26 May 2001, by section 8(1) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 52(3)(d)(iii): amended, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 52(3)(d)(iii): amended, on 26 May 2001, by section 8(2) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 52(4): amended, on 1 October 2004, by section 25(2)(a) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 52(4)(b): amended, on 1 October 2004, by section 25(2)(b) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 52(4)(b)(ii): amended, on 29 September 2000, by section 3(3)(a) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 52(4)(c): repealed, on 1 October 2004, by section 25(2)(b) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 52(4A): inserted, on 29 September 2000, by section 3(4) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 52(4A): amended, on 1 October 2004, by section 25(3) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 52(7): added, on 26 May 2001, by section 8(4) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

53 Calculation of entitlement to quota following appeal

(1) Every person entitled to receive a transfer of individual transferable quota under section 52 must receive—

(a) an amount of individual transferable quota for the stock concerned equivalent to the number of shares the person would have received under section 47 if the person (and all other persons whose provisional catch history has since been altered) had owned the revised amount of provisional catch history on the date on which quota was allocated for that stock under section 47; and

(b) an amount of shares equal to any shares that would have been transferred by the chief executive under section 22(1), where there has been a reduction in the total allowable commercial catch between the date of the original allocation of those shares under section 47 and the date of this calculation, as if that person had owned the revised amount of shares determined under section 53(1)(a).

(2) If—

(a) any person is entitled to receive a transfer of individual transferable quota under section 52 for any stock; and

(b) the quota management area for that stock has been altered under section 25,—

the person is entitled to a transfer of the amount of quota for the new quota management area, calculated in accordance with subsection (1) or subsection (3), as the case may be, that the person would have been allocated on the date of the alteration of the quota management area if the person had on that date owned quota for the original stock, and the chief executive has all the powers under subsections (3)(c) and (4)(b) of section 52 necessary to give effect to that entitlement.

(3) *[Repealed]*

Section 53(1): substituted, on 29 September 2000, by section 4 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 53(2): amended, on 1 July 2000, by section 12(1) of the Fisheries Amendment Act 2000 (2000 No 20).

Section 53(3): repealed, on 1 October 2004, by section 26 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

54 Allocation of quota if proceedings determined late in fishing year

(1) If any proceedings to which this Part applies that are before the Catch History Review Committee or any court are determined less than 90 days before the last day of a fishing year,—

(a) any person who is eligible to receive quota may request the chief executive to transfer individual transferable quota to the person in accordance with section 52 on the last day of the fishing year in which the proceedings are determined:

(b) any person who is not eligible to receive quota may transfer that person's provisional catch history in accordance with section 37 and the transferee may request the chief executive to allocate individual transferable quota to the transferee, as if it were the result of an appeal in accordance with section 52, on the last day of the fishing year in which the proceedings are finally determined.

(2) In any case to which subsection (1) applies, neither the person nor the transferee shall have any right of appeal or review in respect of the proceedings so determined or in respect of the person's eligibility or the quantum of provisional catch history for any stock, and the person's provisional catch history so determined or the transferred provisional catch history shall thereupon be conclusive and shall be permanently fixed for all purposes at the level then recorded in the Quota Register.

(3) The chief executive is not obliged to transfer any quota or provisional catch history under subsection (1) if the time allowed for filing an appeal or review has not expired.

55 Determination or order not to affect quota allocated to Te Ohu Kai Moana Trustee Limited

None of the following, namely, any—

(a) determination of the Catch History Review Committee; or

(b) order of any court, where the order relates to an application for a declaration concerning whether any person is, or is not, an overseas person; or

(c) transfer of quota by the chief executive for the purposes of giving effect to any such determination or order—

shall affect any quota allocated to Te Ohu Kai Moana Trustee Limited under section 44 (or part of such quota) if Te Ohu Kai Moana Trustee Limited has continuously owned such quota from the date of allocation to the date of the transfer of quota by the chief executive.

Section 55 heading: amended, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 55: amended, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 55: amended, on 1 October 2000, by section 5 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 55(b): amended, on 1 October 2004, by section 27 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Overseas investment in and aggregation of quota

Heading: substituted, on 25 August 2005, by section 73 of the Overseas Investment Act 2005 (2005 No 82).

56 Purpose of overseas investment fishing provisions

The purpose of the overseas investment fishing provisions is to acknowledge that it is a privilege for overseas persons to own or control interests in fishing quota by—

(a) requiring overseas investments in fishing quota, before being made, to meet criteria for consent; and

(b) imposing conditions on those overseas investments.

Section 56: substituted, on 25 August 2005, by section 73 of the Overseas Investment Act 2005 (2005 No 82).

57 Overview of overseas investment fishing provisions

(1) The general scheme and effect of the provisions governing overseas investments in fishing quota are as follows:

(a) their interpretation is covered by section 57A of this Act and Part 1 of the Overseas Investment Act 2005:

(b) when consent is required and the criteria for consent are stated in sections 57B to 57I:

(c) the procedure for obtaining consent and imposing conditions of consent is set out in subpart 2 of Part 2 of the Overseas Investment Act 2005:

(d) who administers those provisions is set out in section 57J of this Act and the role of the main regulator is set out in subpart 3 of Part 2 of the Overseas Investment Act 2005:

(e) the regulator's information-gathering powers are set out in subpart 4 of Part 2 of the Overseas Investment Act 2005:

(f) enforcement matters, including offences, penalties, and the court's powers to make orders for effective enforcement, are set out in subpart 5 of Part 2 of the Overseas Investment Act 2005 and additional forfeiture and other remedies are set out in sections 57K to 58B of this Act:

(g) regulations may be made under subpart 6 of Part 2 of the Overseas Investment Act 2005.

(2) This section is a guide only to the general scheme and effect of those provisions.

Section 57: substituted, on 25 August 2005, by section 73 of the Overseas Investment Act 2005 (2005 No 82).

Section 57(1)(e): amended, on 22 October 2018, by section 50(2) of the Overseas Investment Amendment Act 2018 (2018 No 25).

57A Interpretation of overseas investment fishing provisions

(1) In sections 56 to 58B, unless the context otherwise requires,—

interest in fishing quota means—

(a) provisional catch history, quota, or annual catch entitlement; or

(b) an interest in that provisional catch history, quota, or annual catch entitlement

overseas investment fishing provisions means sections 56 to 58B

overseas investment in fishing quota has the meaning set out in section 57D

relevant Ministers means the Minister and the Minister of Finance.

(2) In relation to the overseas investment fishing provisions,—

(a) the Overseas Investment Act 2005 incorporates those provisions as if they were part of that Act, so that a reference in that Act to **this Act** includes a reference to those provisions; and

(b) any term or expression that is defined in the Overseas Investment Act 2005 and used in those provisions has the same meaning as in that Act; and

(c) a term or expression that is defined in this Act and that is used in those provisions (and is not defined in the Overseas Investment Act 2005) has the same meaning in those provisions.

Section 57A: replaced, on 25 August 2005, by section 73 of the Overseas Investment Act 2005 (2005 No 82).

Section 57A(2)(b): replaced, on 16 June 2020, by section 60 of the Overseas Investment (Urgent Measures) Amendment Act 2020 (2020 No 21).

57B Consent required for overseas investments in fishing quota

A transaction requires consent under the overseas investment fishing provisions if it will result in an overseas investment in fishing quota.

Section 57B: inserted, on 25 August 2005, by section 73 of the Overseas Investment Act 2005 (2005 No 82).

57C Consent must be obtained before overseas investment given effect

(1) Consent must be obtained for a transaction before the overseas investment is given effect under the transaction.

(2) The procedure for obtaining consent (including who must obtain consent) is set out in subpart 2 of Part 2 of the Overseas Investment Act 2005.

Section 57C: inserted, on 25 August 2005, by section 73 of the Overseas Investment Act 2005 (2005 No 82).

57D What are overseas investments in fishing quota

An **overseas investment in fishing quota** is the acquisition by an overseas person, or an associate of an overseas person, of—

(a) an interest in fishing quota; or

(b) rights or interests in securities of a person (**A**) if A owns or controls (directly or indirectly) an interest in fishing quota and, as a result of the acquisition, 1 or more of the things referred to in section 12(1)(b)(i) to (iii) of the Overseas Investment Act 2005 happens.

Section 57D: inserted, on 25 August 2005, by section 73 of the Overseas Investment Act 2005 (2005 No 82).

Section 57D(b): replaced, on 16 June 2020, by section 61 of the Overseas Investment (Urgent Measures) Amendment Act 2020 (2020 No 21).

57E Approach to criteria for consent

(1) The relevant Ministers, in considering whether or not to grant consent to an overseas investment transaction under the overseas investment fishing provisions,—

(a) must have regard to only the criteria and factors that apply under the overseas investment fishing provisions (subject to this section); and

(b) may consult with any other person or persons, as the Ministers consider appropriate; and

(c) must grant consent if satisfied that all of the criteria in section 57G are met; and

(d) must decline to grant consent if not satisfied that all of the criteria in section 57G are met.

(2) For a transaction that is in more than 1 category of overseas investment under this Act and the Overseas Investment Act 2005, the relevant Ministers must have regard to the criteria that apply to all of the relevant categories.

(3) However, if the criteria are the same, the relevant Ministers only need to consider the same criteria once (and not consider them under each relevant category).

Section 57E: inserted, on 25 August 2005, by section 73 of the Overseas Investment Act 2005 (2005 No 82).

57F Who are relevant overseas persons, and individuals with control, for overseas investments

(1) The relevant Ministers may determine which 1 or more of the following persons is the **relevant overseas person** for an overseas investment:

(a) the person making the overseas investment (**A**), whether A is an overseas person or an associate of an overseas person:

(b) any associate of A in relation to the overseas investment.

(2) The relevant Ministers may determine which 1 or more of the following categories of persons are the **individuals with control of the relevant overseas person** for an overseas investment:

(a) the individual or individuals who each have a more than 25% ownership or control interest in the relevant overseas person:

(b) the member or members of the governing body of the relevant overseas person:

(c) the individual or body of individuals who the Ministers consider to have that control (whether directly or indirectly).

Section 57F: inserted, on 25 August 2005, by section 73 of the Overseas Investment Act 2005 (2005 No 82).

Section 57F(2)(a): amended, on 16 June 2020, by section 62 of the Overseas Investment (Urgent Measures) Amendment Act 2020 (2020 No 21).

57G Criteria for overseas investments in fishing quota

The criteria for an overseas investment in fishing quota are all of the following:

(a) the investor test is met:

(b) the overseas investment will, or is likely to, benefit New Zealand (or any part of it or group of New Zealanders) to the extent required by section 16A(1A) of the Overseas Investment Act 2005, as determined by the relevant Ministers under section 57H:

(c) if the overseas investment in fishing quota is a transaction of national interest, the Minister has not declined consent to the transaction (*see* section 20C of the Overseas Investment Act 2005):

(d) the interest in fishing quota is capable of being registered in the Quota Register or the Annual Catch Entitlement Register.

Section 57G: replaced, on 24 November 2021, by section 38 of the Overseas Investment Amendment Act 2021 (2021 No 17).

57H Factors for determining whether or not overseas investment in fishing quota will, or is likely to, benefit New Zealand

What are the factors

(1) The factors for assessing the benefit of overseas investments in fishing quota are whether the overseas investment will, or is likely to,—

(a) result in economic benefits for New Zealand (for example, the creation and retention of jobs, introduction of technology or business skills, increased export receipts, increased processing in New Zealand of fish, aquatic life, or seaweed, or a reduced risk of illiquid assets):

(b) result in benefits to the natural environment (for example, protection of indigenous fish or mitigation of environmental impacts by innovations in fishing technologies):

(c) give effect to or advance a significant Government policy:

(d) involve oversight of, or participation in, the overseas investment and any relevant overseas person by persons who are not overseas persons:

(e) result in other consequential benefits to New Zealand.

How factors must be considered

(2) Section 17(2) of the Overseas Investment Act 2005 applies with necessary modifications.

Section 57H: replaced, on 24 November 2021, by section 38 of the Overseas Investment Amendment Act 2021 (2021 No 17).

57I Applying good character and Immigration Act 2009 criteria

[Repealed]

Section 57I: repealed, on 22 March 2021, by section 63(4) of the Overseas Investment (Urgent Measures) Amendment Act 2020 (2020 No 21).

57J Who administers overseas investment fishing provisions

The regulator as defined in section 30 of the Overseas Investment Act 2005 administers the overseas investment fishing provisions (except sections 57K to 58B).

Section 57J: inserted, on 25 August 2005, by section 73 of the Overseas Investment Act 2005 (2005 No 82).

57K No person in breach becomes entitled to provisional catch history

An overseas person that does not obtain consent when required under the overseas investment fishing provisions has no entitlement to be allocated provisional catch history, and any provisional catch history allocated must be cancelled by the chief executive.

Section 57K: inserted, on 25 August 2005, by section 73 of the Overseas Investment Act 2005 (2005 No 82).

58 Interest in fishing quota that is overseas investment in fishing quota to be forfeit

(1) This section applies if the chief executive believes on reasonable grounds that a person (**A**) has been registered as the owner of an interest in fishing quota without obtaining consent when required under the overseas investment fishing provisions.

(2) The chief executive—

(a) may direct that a caveat be registered in the appropriate register under Part 8 over that interest in fishing quota; and

(b) must give A a written notice of forfeiture that complies with subsection (3).

(3) A notice of forfeiture must—

(a) state that the interest in fishing quota that has been obtained without consent under the overseas investment fishing provisions will be forfeited to the Crown without compensation unless A applies to the High Court for a declaration as to whether A is an overseas person; and

(b) state the period, which must not be less than 60 clear days after the notice is given, for A to make the application.

(4) A caveat that is directed to be registered under subsection (2)(a) must remain on the register until removed by direction of the chief executive or order of the court pursuant to an application by A for a declaration under subsection (3)(a).

(5) If A fails to apply for a declaration within the time stipulated in the notice, the relevant interest in fishing quota is forfeit to the Crown without compensation at the end of that period.

Section 58: substituted, on 25 August 2005, by section 73 of the Overseas Investment Act 2005 (2005 No 82).

58A Powers of court on application for declaration under section 58

(1) This section applies if, on an application for a declaration by a person (**A**) under section 58(3)(a), the court declares A to be an overseas person.

(2) In that case, the court may also order—

(a) that the relevant interest in fishing quota be forfeit to the Crown without compensation; or

(b) the disposal by A of the relevant interest in fishing quota within a specified period that,—

(i) in the case of provisional catch history or provisional individual transferable quota, is not more than 60 working days after the date on which any individual transferable quota is allocated for that

provisional catch history or provisional individual transferable quota:

(ii) in any other case, is not more than 60 working days after the order.

Section 58A: inserted, on 25 August 2005, by section 73 of the Overseas Investment Act 2005 (2005 No 82).

58B Interest in fishing quota forfeited under section 58 or section 58A must be dealt with in accordance with section 62

An interest in fishing quota that is forfeited under section 58 or section 58A must be dealt with in accordance with section 62.

Section 58B: inserted, on 25 August 2005, by section 73 of the Overseas Investment Act 2005 (2005 No 82).

59 Aggregation limits

(1) Notwithstanding the provisions of this Act relating to the transfer of quota, no person shall be entitled to own—

(a) a number of quota shares for any one species the total quota weight equivalent of which is more than 45% of the combined total allowable commercial catches for every stock of that species (which species shall be a species named in Schedule 5):

(b) more than 10 000 000 quota shares (10% of the total allowable commercial catch) for spiny rock lobster in any one quota management area:

(c) more than 20 000 000 quota shares (20% of the total allowable commercial catch) for paua in any one quota management area:

(d) in the case of bluenose (*Hyperoglyphe antarctica*), a number of quota shares for that species the quota weight equivalent of which is more than 20% of the combined total allowable commercial catches for every stock of that species:

(e) in any other case, a number of quota shares for any one species the total quota weight equivalent of which is more than 35% of the combined total allowable commercial catches for every stock of that species.

(2) Subject to subsection (5), nothing in subsection (1) prevents any person being allocated more than the permitted number of quota shares; but, except as may be permitted by any consent granted under section 60, no such person may acquire any more such quota.

(3) Nothing in subsection (1) prevents any person, after an alteration of a quota management area under section 25, being allocated more than the permitted number of quota shares; but, except as may be permitted by any consent granted under section 60, no such person may acquire any more such quota.

(4) Nothing in subsection (1) prevents any person who has quota shares transferred to that person under section 22 or section 23 or section 52 from holding those

shares; but, except as may be permitted by any consent granted under section 60, no such person may acquire any more such quota.

(5) If any person acquires any provisional catch history other than by allocation for any stock, the person is not entitled to be allocated any quota in respect of that provisional catch history to the extent that the allocation of such quota would result in the person being in breach of this section, and such provisional catch history shall be cancelled.

(6) *[Repealed]*

(6A) For the purposes of subsection (1)(e) and section 60(1)(c), in determining the aggregate percentage ownership of any person in relation to both Foveaux Strait dredge oysters and any other dredge oyster stock,—

(a) 980 Foveaux Strait dredge oysters (or such other number as may be fixed by the Minister under section 188(5) of this Act or section 3A(6) of the Fisheries Act 1983) are to be treated as equivalent to 100 kilogrammes; and

(b) the total allowable commercial catch for Foveaux Strait dredge oysters and the quota weight equivalent of quota shares held by any person for Foveaux Strait dredge oysters are to be calculated in kilogrammes accordingly before being aggregated with the relevant weight-related figures in respect of the other dredge oyster stock.

(7) The Governor-General may, by Order in Council made on the recommendation of the Minister, following consultation with such persons or organisations who are representative of those classes of persons the Minister considers have an interest in this section, add the name of any new species to, or delete the name of any existing species from, Schedule 5 (*see* subsection (12)).

(8) Subsection (1) does not apply to the Chatham Islands Enterprise Trust, Te Ohu Kai Moana Trustee Limited, or to the Crown.

(8A) Subsection (1) does not prevent a person from owning the following quota, in addition to quota owned by that person immediately before the commencement of the Maori Fisheries Act 2004:

(a) settlement quota, whether it was acquired by allocation under the Maori Fisheries Act 2004 or by purchase, exchange, or otherwise; or

(b) quota purchased under a right of first refusal under any enactment; or

(c) in the case of Aotearoa Fisheries Limited or its subcompanies—

(i) quota transferred to it under section 75 of the Maori Fisheries Act 2004 by the Commission or by Te Ohu Kai Moana Trustee Limited:

(ii) quota purchased after the commencement of the Maori Fisheries Act 2004; or

(d) in the case of an asset-holding company of a mandated iwi organisation or a subsidiary of an asset-holding company, quota purchased after the commencement of the Maori Fisheries Act 2004 under an exemption consented to under—

(i) section 28W(3) of the Fisheries Act 1983; or

(ii) section 60 of the Fisheries Act 1996.

(9) *[Repealed]*

(10) For the purposes of this section and sections 60(4) and 61, the term **person**, in relation to a particular person, includes—

(a) any person who is in partnership with the person:

(b) any person who is a director or employee of any company of which the person is a director or employee:

(c) any person who is a relative of the person as defined in paragraph (c) of the definition of that term, as it was before the enactment of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 in section YA 1 of the Income Tax Act 2007:

(d) any person who would be an associated person under subpart YB of the Income Tax Act 2007 as it was before the enactment of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009, to the extent to which those rules apply for the whole of that Act excluding the 1973, 1988, and 1990 version provisions, with the exception that paragraph (e) of the definition of market value circumstance in section YA 1 of that Act does not apply.

(e) any beneficiary or trustee of any trust of which the person is a trustee or beneficiary.

(10A) For the purposes of subsection (10)(b) and (e), a person is not a person referred to in that subsection solely because the person is—

(a) in the case of subsection (10)(b), a director of Te Ohu Kai Moana Trustee Limited, Te Putea Whakatupu Trustee Limited, or Te Wai Maori Trustee Limited; or

(b) in the case of subsection (10)(e), a beneficiary, director, trustee, or officeholder, as the case may be, of—

(i) Te Ohu Kai Moana, Te Putea Whakatupu Trust, or Te Wai Maori Trust; or

(ii) a mandated iwi organisation or an asset-holding company; or

(iii) any trust of which the settlor is Aotearoa Fisheries Limited or a subcompany.

(11) Despite subsection (10),—

(a) Te Ohu Kai Moana Trustee Limited is not to be regarded as being included with any other person; and

(b) no person is to be regarded as being included with any other person merely because either or both of those persons would be included with Te Ohu Kai Moana Trustee Limited but for paragraph (a); and

(c) no bank registered under the Banking (Prudential Supervision) Act 1989 is to be regarded as being included with any other person merely because the bank has, in the ordinary course of its business as a financier, been granted any interest in quota owned by the person; and

(d) no person is to be regarded as included with any other person solely because they are both beneficiaries of the same trust.

(12) An order under subsection (7) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 59(6): repealed (without coming into force), on 1 October 2001, by section 9(1) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 59(7): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 59(6A): inserted, on 1 April 1998, by section 4 of the Fisheries (Foveaux Strait Dredge Oyster Fishery) Amendment Act 1998 (1998 No 6).

Section 59(8): amended, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 59(8A): inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 59(9): repealed (without coming into force), on 1 October 2001, by section 9(1) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 59(10): added, on 1 October 2001, by section 9(2) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 59(10)(c): amended, on 1 April 2010, by section 861 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section 59(10)(c): amended, on 1 April 2008 (effective for 2008–09 income year and later), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 59(10)(d): substituted, on 1 April 2010, by section 861 of the Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34).

Section 59(10A): inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 59(11): added, on 1 October 2001, by section 9(2) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 59(11)(a): amended, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 59(11)(b): amended, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 59(11)(c): amended, on 1 July 2022, by section 300(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 59(12): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

60 Minister may consent to persons holding quota in excess of aggregation limits

(1) Notwithstanding section 59, the Minister may from time to time, after consultation with such persons or organisations the Minister considers are representative of those classes of persons having an interest in this section, by notice in the *Gazette*, consent to any named person holding,—

(a) in the case of spiny rock lobster, up to a specified number of quota shares exceeding 10 000 000 for any one quota management area:

(b) in the case of paua, up to a specified number of quota shares exceeding 20 000 000 for any one quota management area:

(c) in any other case, quota shares for any one species having a combined quota weight equivalent less than or equal to a specified percentage of the combined total allowable commercial catches for all stocks of that species (which percentage is greater than the percentage specified in section 59(1) for the stock concerned).

(2) Any consent under subsection (1) may be given subject to such conditions as the Minister may impose, including any limit on the number of quota shares for any particular stock, and may be given for any specified year or years or generally.

(3) The Minister shall, in considering whether to grant any consent under subsection (1), consider—

(a) the willingness and ability of other members of the New Zealand fishing industry to acquire quota of the relevant species:

(b) the likely effect of the granting or withholding of the consent on—

(i) the development of any new or existing stock or species:

(ii) other quota owners or commercial fishers:

(iii) the processing and marketing of that stock or species:

(iv) the ability of the applicant to take any other stock or species:

(v) the efficiency of the New Zealand fishing industry or any person engaged in the New Zealand fishing industry:

(c) such other matters as the Minister considers relevant.

(4) The Minister shall not grant any consent under subsection (1) in any case if quota shares have been acquired by any person (within the meaning of section 59(10) and (11)) in excess of the then permitted number of shares before the consent is obtained.

Section 60(4): amended, on 1 October 2001, by section 10 of the Fisheries Amendment Act 2001 (2001 No 65).

61 Quota held in excess of aggregation limits to be forfeit

(1) If the chief executive believes on reasonable grounds that any person has acquired any quota in breach of section 59 or any consent given by the Minister under section 60, the chief executive—

(a) may direct that a caveat be registered in the appropriate register under Part 8 in respect of all quota owned by that person; and

(b) shall notify in writing the owner that quota acquired in breach of section 59 or any consent given by the Minister under section 60 shall be forfeit to the Crown without compensation unless, within 60 working days after the date specified in the notice, the owner applies to the High Court for a declaration as to whether that quota was acquired in breach of section 59 or any consent given by the Minister under section 60.

(2) Any caveat directed to be registered under subsection (1)(a) shall remain on the register until removed by direction of the chief executive or order of a court pursuant to any proceedings referred to in subsection (1)(b).

(3) If any person whose quota has been caveated under subsection (1) fails to apply to the High Court under that subsection or the High Court declares the quota to have been acquired in breach of section 59 or any consent given by the Minister under section 60, then any quota held in breach of those sections (which quota shall be the quota acquired most recently in time) shall be forfeit to the Crown without compensation.

(4) Any quota forfeit to the Crown under subsection (3) shall be dealt with in accordance with section 62.

(5) In this section, **person** has the same meaning as in section 59(10) and (11).

Compare: 1983 No 14 s 28W; 1986 No 34 s 10; 1989 No 159 s 67; 1990 No 29 s 23; 1991 No 149 s 17; 1992 No 121 s 28

Section 61(5): substituted, on 1 October 2001, by section 11 of the Fisheries Amendment Act 2001 (2001 No 65).

62 Provisions relating to forfeit property

(1) In this section, unless the context otherwise requires,—

forfeit property means any—

(a) quota or interest in quota; or

(b) annual catch entitlement or interest in an annual catch entitlement; or

(c) provisional catch history or interest in provisional catch history—

forfeit to the Crown under section 58 or section 58A or section 61

interest means—

(a) any interest that was recorded on any register kept under this Act at the time the forfeiture occurred:

(b) any other legal or equitable interest in that forfeit property that existed at the time the forfeiture occurred.

(2) The chief executive shall, within 10 working days after the date of any forfeiture under section 58 or section 58A or section 61, publicly notify the details of the forfeit property and the right of any person to apply under this section.

(3) Any person claiming an interest in any forfeit property may, within 35 working days after the date on which the forfeiture occurred or within such further period before the property has been disposed of as the court may allow, apply to the court for relief from the effect of forfeiture on that interest.

(4) Every application under subsection (3) shall contain sufficient information to identify the interest and the property in which it is claimed, and shall include—

(a) a full description of the forfeit property in which the interest is claimed; and

(b) full details of the interest or interests claimed, including,—

(i) whether the interest is legal or equitable; and

(ii) whether the interest is by way of security or otherwise; and

(iii) if the interest is by way of security, details of the security arrangement and any other property included in that arrangement; and

(iv) whether the interest is noted on any register maintained pursuant to statute; and

(v) any other interests in the property known to the applicant; and

(c) a statement as to whether the applicant is an associated person of the person who breached the provisions of section 59 or any consent given under section 60 and owned the forfeit property that is the subject of the application; and

(d) the applicant's estimate of both the value of the forfeit property and the value of the claimed interest.

(5) The court shall hear all applications in respect of the same property together, unless it considers that it would not be in the interests of justice to do so.

(6) The court shall, in respect of every application made under subsection (3),—

(a) determine the value of the forfeit property, which value shall be the amount the property would realise if sold at public auction in New Zealand; and

(b) determine the nature, extent, and, if possible, value of any applicant's interest in the property; and

(c) determine whether, in the case of quota that was owned by an associated person before being forfeit under section 61, the interest of the associated person was created solely or principally for the purpose of avoiding or defeating the consequences of the application of this Act in respect of forfeiture; and

(d) determine the cost to the Ministry of the holding, and the anticipated cost of disposal, of the forfeit property, including the court proceedings in respect of that holding and disposal.

(7) Having determined the matters specified in subsection (6), the court may, after having regard to—

(a) the purpose of this Act (including the purpose of the overseas investment fishing provisions stated in section 56 or the purpose of section 59, as the case may be); and

(b) the social and economic effects on the person who owned the property or quota, and on persons employed by that person, of non-release of the property or quota; and

(c) the economic benefits that accrued or might have accrued to the owners of the property or quota through the commission of the offence; and

(d) the cost to the Ministry of the holding, and the anticipated cost of disposal, of the forfeit property, including the court proceedings in respect of that holding and disposal,—

make an order or orders providing relief (either in whole or in part) from the effect of forfeiture on any of the interests determined under subsection (6).

(8) No order shall be made under subsection (7) unless—

(a) it is necessary to avoid manifest injustice; and

(b) the court is satisfied that, in the case of an order made in respect of an application made by an associated person relating to forfeit quota, the interest was not created solely or principally for the purpose of avoiding or defeating the consequences of the application of this Act in respect of forfeiture.

(9) *[Repealed]*

(10) *[Repealed]*

(11) Without limiting subsection (7), any order under that subsection may include 1 or more of the following orders:

(a) for the retention of the forfeit property by the Crown:

(b) for the return of some or all of the forfeit property to the owner at the time of forfeiture, with or without the prior payment to the Crown of a sum of money:

(c) for the sale of some or all of the forfeit property, with directions as to the manner of sale and dispersal of proceeds:

(d) for the delivery of some or all of the forfeit property to a person with an interest in the property, with or without directions as to payment of a sum of money to specified persons (including the Crown) prior to such delivery:

(e) for the reinstatement (notwithstanding the forfeiture) of any interest that was forfeit or cancelled as a result of a forfeiture.

(12) This section does not require the Crown to pay, or secure the payment of, any sum of money to any person claiming an interest in forfeit property, other than the net proceeds of sale of forfeit property under a court order made under subsection (7).

(13) For the purpose of assisting the court in determining any application for relief, the chief executive and any employee or agent of the Ministry is entitled to appear before the court and be heard.

(14) Any forfeiture under section 58 or section 58A or section 61, and any payment of a sum of money or delivery of property under subsection (7), to persons claiming an interest, shall be in addition to, and not in substitution for, any other penalty that may be imposed by the court or by this Act (but *see* section 42(3) of the Overseas Investment Act 2005 in relation to penalties imposed under that section).

(15) In this section, **associated person**, in relation to a particular person, means a person who is included with the person by virtue of any paragraph of section 59(10) (as subject to section 59(11)).

Compare: 1983 No 14 s 107C; 1990 No 29 s 52(1)

Section 62(1) **forfeit property**: amended, on 25 August 2005, by section 75 of the Overseas Investment Act 2005 (2005 No 82).

Section 62(2): amended, on 25 August 2005, by section 75 of the Overseas Investment Act 2005 (2005 No 82).

Section 62(3): amended, on 1 October 1999, by section 21(a) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 62(4)(c): amended, on 1 October 2001, by section 12(1) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 62(7): amended, on 1 October 1999, by section 21(b) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 62(7)(a): amended, on 25 August 2005, by section 75 of the Overseas Investment Act 2005 (2005 No 82).

Section 62(9): repealed (without coming into force), on 1 October 1999, by section 21(c) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 62(10): repealed (without coming into force), on 1 October 1999, by section 21(c) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 62(14): amended, on 25 August 2005, by section 75 of the Overseas Investment Act 2005 (2005 No 82).

Section 62(15): added, on 1 October 2001, by section 12(2) of the Fisheries Amendment Act 2001 (2001 No 65).

Order of transactions

Heading: substituted, on 1 October 2001, by section 22 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

63 Order of transactions

If any regulations made under section 297(1)(sa) provide that any transactions must be actioned in a specified order, the chief executive must action those transactions in accordance with this Act in the specified order.

Section 63: substituted, on 1 October 2001, by section 22 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

64 Order of transactions on first day of new fishing year

[Repealed]

Section 64: repealed (without coming into force), on 1 October 2001, by section 22 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Generation of annual catch entitlement

65 Characteristics of annual catch entitlement

[Repealed]

Section 65: repealed (without coming into force), on 9 September 1999, by section 85(b) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

66 Generation of annual catch entitlement at beginning of new fishing year

(1) On the first day of each fishing year, quota shall generate annual catch entitlement.

(2) The chief executive shall, in respect of each quota management stock, calculate as at the first day of each fishing year the amount of annual catch entitlement that would be generated by the amount of quota owned by each quota owner, in accordance with the following formula:

$$(a \div 100\,000\,000) \times b = c$$

where—

a is the number of quota shares held by the quota owner; and

b is the total allowable commercial catch (expressed in kilogrammes); and

c is the amount (expressed in kilogrammes) of annual catch entitlement that would be generated by the amount of quota owned by each quota owner.

(3) Any annual catch entitlement calculated under subsection (2) shall be rounded up or rounded down by the chief executive to ensure that—

(a) the sum of all annual catch entitlements equals the applicable total allowable commercial catch for the stock; and

(b) only whole kilogrammes of annual catch entitlement are generated.

67 Allocation of annual catch entitlement

(1) On the first day of each fishing year, the chief executive must allocate to each quota owner the person's annual catch entitlement for any quota management stock that has been generated under section 66.

(2) *[Repealed]*

(2A) *[Repealed]*

(2B) If between the beginning of a fishing year and the beginning of the Foveaux Strait dredge oyster season in that year there is an increase in the total allowable commercial catch for Foveaux Strait dredge oysters,—

(a) the chief executive must calculate the amount of annual catch entitlement that each person would have received under subsection (1) if the altered total allowable commercial catch had been in effect at the beginning of the fishing year, and an annual catch entitlement had been generated under section 66 accordingly; and

(b) the chief executive must, on or before the first day of the Foveaux Strait dredge oyster season, allocate to each person who receives an amount of annual catch entitlement under subsection (1) for Foveaux Strait dredge oysters a further amount of annual catch entitlement for that stock calculated in accordance with the following formula:

$$a - b = c$$

where—

a is the amount calculated under paragraph (a) in respect of the person; and

b is the amount of annual catch entitlement allocated to the person under subsection (1); and

c is the amount of annual catch entitlement to be allocated under this subsection.

(3) *[Repealed]*

(4) *[Repealed]*

(5) Any annual catch entitlement calculated under this section shall be rounded up or rounded down by the chief executive to ensure that no quota owner holds part of a kilogramme of annual catch entitlement as a result of an allocation.

(6) Any annual catch entitlement allocated under this section shall have effect for all purposes of this Act on and from the date of allocation.

(7) The chief executive shall, as soon as practicable after allocating any annual catch entitlement in accordance with this section, notify every quota owner of the amount of annual catch entitlement allocated to that quota owner under this section.

(8) The chief executive shall, as soon as practicable after allocating any annual catch entitlement in accordance with this section, notify the relevant Registrar

of Annual Catch Entitlement of the amount of annual catch entitlement allocated to each quota owner.

Section 67(1): substituted, on 1 October 2001, by section 23(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 67(2): repealed, on 1 October 2001, by section 23(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 67(2A): repealed, on 1 October 2001, by section 23(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 67(2B): substituted, on 1 October 2001, by section 23(3) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 67(3): repealed, on 1 October 2001, by section 23(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 67(4): repealed, on 1 October 2001, by section 23(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 67(6): amended, on 1 October 2001, by section 23(4) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

67A Allocation of additional annual catch entitlement in case of underfishing

(1) As soon as practicable after the 15th day after the end of the fishing year for each stock (**the first fishing year**), the chief executive must, for each person who, as at that date, owns annual catch entitlement for the first fishing year for that stock, compare—

(a) the annual catch entitlement for that stock (other than annual catch entitlement created under section 68) for the first fishing year owned by the person as at the close of the 15th day after the end of that fishing year; and

(b) the reported catch (if any) for that stock, calculated in accordance with regulations made for that purpose under section 297, taken by that person during the first fishing year.

(2) If the amount of annual catch entitlement referred to in subsection (1)(a) is greater than the reported catch referred to in subsection (1)(b), the chief executive must—

(a) calculate the difference between that annual catch entitlement and that reported catch; and

(b) subject to subsection (5), allocate to the person an amount of annual catch entitlement for the stock for the fishing year after the first fishing year (**the second fishing year**) that is the lesser of the following:

(i) the amount calculated under paragraph (a):

(ii) 10% of the amount of annual catch entitlement referred to in subsection (1)(a).

(3) This section does not apply to—

(a) a stock listed in Schedule 5A; or

(b) a stock for which the total allowable commercial catch at the beginning of the second fishing year is less than the total allowable commercial catch applying at the close of the first fishing year.

(4) The chief executive must allocate annual catch entitlement under this section as soon as practicable after the 15th day after the end of the first fishing year.

(5) The amount of annual catch entitlement allocated under subsection (2) must be rounded up or rounded down by the chief executive to the nearest kilogramme or, in the case of Foveaux Strait dredge oysters, to the nearest whole number of oysters.

(6) Any annual catch entitlement allocated under subsection (2)—

(a) is in addition to any annual catch entitlement generated under section 66 or created under section 68; and

(b) has effect for all purposes under this Act on and from the date of the allocation.

(7) The chief executive must, as soon as practicable after allocating any annual catch entitlement under subsection (2),—

(a) notify every person to whom annual catch entitlement has been allocated under this section of the amount of annual catch entitlement allocated to that person; and

(b) ensure that the amount of annual catch entitlement allocated is registered on the Annual Catch Entitlement Register.

Section 67A: inserted, on 1 October 2001, by section 24 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

67B Amendments to Schedule 5A

(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister, amend Schedule 5A by—

(a) adding 1 or more stocks to that schedule:

(b) omitting 1 or more stocks from that schedule.

(2) An Order in Council made under subsection (1) takes effect on and from the first day of the next fishing year for the stocks concerned.

(3) Before recommending the making of an Order in Council under subsection (1), the Minister must consult with such persons or organisations as the Minister considers are representative of those classes of persons having an interest in the stocks subject to the order.

(4) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)

Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 67B: inserted, on 1 October 2000, by section 24 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 67B(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

68 Minister to create additional annual catch entitlement if total allowable catch increased during fishing year

(1) If—

(a) the total allowable catch in respect of any stock is increased during a fishing year in accordance with section 13(7) or section 14(6); and

(b) the Minister believes that, after considering the matters referred to in section 21(1), he or she would have increased the total allowable commercial catch but for section 20(4),—

the Minister shall create an additional amount of annual catch entitlement for the stock that equals the amount by which he or she would have increased the total allowable commercial catch.

(2) Subject to subsections (2A), (2B), and (3), the chief executive shall allocate to every person owning quota for the stock an amount of the annual catch entitlement created by the Minister under subsection (1) calculated in accordance with the following formula:

$$(a \div 100\,000\,000) \times b = c$$

where—

a is the number of quota shares held by the quota owner on the date the increase in the total allowable catch takes effect; and

b is the amount (expressed in kilogrammes) of annual catch entitlement created by the Minister under subsection (1); and

c is the amount (expressed in kilogrammes) of annual catch entitlement to be allocated under this section to the quota owner.

(2A) Where—

(a) an increase in the total allowable catch for a highly migratory species is a result of an agreement, consistent with the rules or procedures established by the relevant international fisheries organisation, between New Zealand and another member of the international fisheries organisation; and

(b) the Minister is satisfied that the basis for the increase in the total allowable catch justifies a different allocation mechanism,—

the Minister may determine how the additional annual catch entitlement is to be allocated in a manner different to that specified in subsection (2), taking into account the nature and basis of the agreement between New Zealand and the other member of the international fisheries organisation.

(2B) The chief executive must allocate the additional catch entitlement in accordance with any determination of the Minister under subsection (2A).

(3) Any annual catch entitlement calculated under subsection (2) or subsections (2A) and (2B) that any quota owner is entitled to be allocated under this section shall be rounded up or rounded down by the chief executive to ensure that—

(a) the sum of all annual catch entitlements allocated under this section equals the amount of the increase that would have been made to the total allowable commercial catch but for section 20(4); and

(b) no quota owner holds part of a kilogramme of annual catch entitlement consequent upon such allocation.

(4) The chief executive shall, after any rounding under subsection (3), notify every quota owner of the amount of annual catch entitlement allocated to that quota owner under this section.

(5) Any annual catch entitlement so allocated shall have effect on and from the date of allocation and shall have the same characteristics as any annual catch entitlement allocated under section 67.

(6) The chief executive shall, as soon as practicable after allocating annual catch entitlements in accordance with this section, notify the relevant Registrar of Annual Catch Entitlement of the amount of annual catch entitlement allocated to each quota owner.

Section 68(2): amended, on 1 October 2004, by section 28(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 68(2A): inserted, on 1 October 2004, by section 28(2) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 68(2B): inserted, on 1 October 2004, by section 28(2) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 68(3): amended, on 1 October 2004, by section 28(3) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Annual catch entitlement required before fishing

69 Catch must be covered by annual catch entitlement

[Repealed]

Section 69: repealed (without coming into force), on 9 September 1999, by section 85(c) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

70 Defences applicable to certain stock

[Repealed]

Section 70: repealed (without coming into force), on 9 September 1999, by section 85(c) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

71 Defences applicable to individual fishers

[Repealed]

Section 71: repealed (without coming into force), on 9 September 1999, by section 85(c) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

72 Dumping of fish prohibited

(1) No commercial fisher shall return to or abandon in the sea or any other waters any fish, aquatic life, or seaweed of legal size, or for which no legal size is set, that is subject to the quota management system.

(2) Subsection (1) does not apply if the stock is listed in Schedule 6 and the commercial fisher complies with the requirements set out in that schedule.

(3) Any commercial fisher who takes any fish, aquatic life, or seaweed subject to the quota management system that is not of legal size shall immediately return that fish, aquatic life, or seaweed, whether alive or dead, to the sea or waters from which the fish, aquatic life, or seaweed was taken.

(4) Every person commits an offence and is liable to the penalty set out in section 252(3) who contravenes subsection (1) or subsection (3).

(5) Without limiting the application of section 241, it is a defence to any offence under subsection (4) if—

(a) the return was a return of parts of fish, aquatic life, or seaweed lawfully processed on a vessel; or

(b) the fish, aquatic life, or seaweed was returned or abandoned to ensure the safety of the vessel or any crew member; or

(c) the following provisions were complied with, namely,—

(i) a fishery officer or observer was present when the fish, aquatic life, or seaweed was taken; and

(ii) the fishery officer or observer authorised the return or abandonment of the fish, aquatic life, or seaweed; and

(iii) the commercial fisher returned or abandoned the fish, aquatic life, or seaweed under the supervision of the fishery officer or observer, and complied with any directions of the fishery officer or observer; and

(iv) the amount of fish, aquatic life, or seaweed was included in the returns for the appropriate period that are required to be made by the commercial fisher under this Act.

(6) Any fish, aquatic life, or seaweed returned or abandoned in accordance with subsection (5)(c) shall be included in the commercial fisher's reported catch for the purposes of section 76.

(7) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister, add or omit from Schedule 6 the name of any stock, or amend any provision in that schedule or add new provisions to that schedule.

(8) An order under subsection (7) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1983 No 14 s 28ZB; 1990 No 29 s 27(1)

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 72(8): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

73 Offence to transfer used annual catch entitlement

[Repealed]

Section 73: repealed (without coming into force), on 9 September 1999, by section 85(d) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

74 Minimum holdings of annual catch entitlement

(1) No commercial fisher may take any stock listed in Schedule 8 unless the fisher holds, at the time of the taking, the minimum amount of annual catch entitlement that is specified in that schedule in relation to that stock.

(2) If,—

(a) following the allocation of quota under section 44 or section 47 or section 52, the amount of quota owned by a commercial fisher does not generate an annual catch entitlement sufficient to satisfy the requirements of subsection (1); or

(b) following a reduction in the total allowable commercial catch, the amount of quota owned by a commercial fisher, as at the beginning of the fishing year in which the reduction takes effect, does not generate an annual catch entitlement sufficient to satisfy the requirements of subsection (1); or

(c) following an alteration of a quota management area under section 25, quota is allocated under section 26 to a commercial fisher and that quota does not generate an annual catch entitlement sufficient to satisfy the requirements of subsection (1); or

(d) following an increase in the amount of annual catch entitlement required to be held by virtue of an Order in Council under subsection (7), the amount of relevant quota owned by a commercial fisher, as at the beginning of the fishing year in which the increase takes effect, does not generate an annual catch entitlement sufficient to satisfy that requirement; or

(e) following a deduction of quota shares from any person by the chief executive under section 52, the amount of relevant quota owned by a commercial fisher, as at the beginning of the fishing year immediately following the year in which the deduction occurs, does not generate an annual catch entitlement sufficient to satisfy the requirements of subsection (1),—

then the requirements of subsection (1) shall apply as if the minimum amount of annual catch entitlement required to be held was the amount of annual catch entitlement actually generated by the commercial fisher's relevant quota, and the commercial fisher may continue to take stock in each fishing year under the authority of the lesser amount of annual catch entitlement held by the commercial fisher unless the commercial fisher, in any particular fishing year, transfers any annual catch entitlement and thereby reduces the commercial fisher's annual catch entitlement holding for that fishing year to an amount lower than the holding generated by the commercial fisher's quota at the commencement of that year.

(2A) As soon as is reasonably practicable after Te Ohu Kai Moana Trustee Limited has notified the chief executive of the entities that it has approved under section 34 of the Maori Fisheries Act 2004, the chief executive must identify the approved entities on the Annual Catch Entitlement Register.

(2B) In the case of a quota holding that includes settlement quota, if the annual catch entitlement from that quota is transferred in full to a commercial fisher that is registered as an approved entity under subsection (2A), the annual catch entitlement must be treated as if it were not less than the minimum amount required under subsection (1).

(3) Subsection (2) does not apply to a commercial fisher referred to in paragraph (b) or paragraph (c) or paragraph (d) or paragraph (e) of that subsection unless, immediately before becoming a person referred to in any of those paragraphs, the commercial fisher owned a number of quota shares that would generate an amount of annual catch entitlement sufficient to satisfy the relevant requirements of subsection (1).

(4) If any commercial fisher is or becomes subject to subsection (2), that subsection shall continue to apply for only so long as the commercial fisher does not sell any of the relevant quota, however obtained.

(5) If any commercial fisher is or becomes subject to subsection (2) and the commercial fisher subsequently purchases any relevant quota, the requirements of subsection (1) apply on and from the commencement of the next fishing year

as if the minimum amount of annual catch entitlement required to be held was the amount of annual catch entitlement actually generated by the commercial fisher's quota (including such purchased quota) unless that amount exceeds the applicable amount specified in subsection (1); and subsection (2) shall cease to apply to that commercial fisher.

(6) *[Repealed]*

(7) Subject to subsections (8) and (9), the Governor-General may from time to time, by Order in Council (*see* subsection (13)), amend Schedule 8 by—

(a) adding 1 or more stocks to that schedule:

(b) omitting 1 or more stocks from that schedule:

(c) specifying a minimum holding of annual catch entitlement for any stocks being added to that schedule:

(d) increasing or reducing a minimum holding of annual catch entitlement for any stocks listed in that schedule.

(8) An Order in Council made under subsection (7) takes effect on the commencement of the following fishing year for the stocks concerned.

(9) No Order in Council may be made under subsection (7) except on the recommendation of the Minister following consultation by the Minister with such persons or organisations as the Minister considers are representative of those classes of persons having an interest in the stocks subject to the order.

(9A) The Minister may make a recommendation under subsection (9)—

(a) on the Minister's own initiative; or

(b) on request by quota owners who hold in the aggregate at least 75 000 000 quota shares in that stock.

(9B) A request under subsection (9A)(b) must—

(a) specify the concerns (if any) of the quota owners who do not support the proposal; and

(b) specify what arrangements are in place to address those concerns.

(10) *[Repealed]*

(11) *[Repealed]*

(12) If a person contravenes subsection (1) or subsection (2), the person commits an offence and is liable to the penalty set out in section 252(5).

(13) An order under subsection (7)—

(a) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and

(b) must be confirmed by an Act (*see* subpart 3 of Part 5 of the Legislation Act 2019).

Compare: 1983 No 14 s 28S; 1991 No 149 s 15

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 74(1): substituted, on 1 October 2001, by section 25(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 74(2): amended, on 1 October 2001, by section 13(2) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 74(2)(b): amended, on 1 October 2001, by section 13(1) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 74(2A): inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 74(2B): inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 74(3): amended, on 1 October 2001, by section 25(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 74(5): amended, on 1 October 2001, by section 9 of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 74(6): repealed (without coming into force), on 1 October 2001, by section 25(3) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 74(7): substituted, on 1 October 2001, by section 25(4) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 74(7): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 74(8): substituted, on 1 October 2001, by section 25(4) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 74(9): substituted, on 1 October 2001, by section 25(4) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 74(9A): inserted, on 1 October 2001, by section 25(4) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 74(9B): inserted, on 1 October 2001, by section 25(4) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 74(10): repealed, on 1 January 2016, by section 14 of the Legislation (Confirmable Instruments) Amendment Act 2015 (2015 No 120).

Section 74(11): repealed (without coming into force), on 1 October 2001, by section 25(3) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 74(12): substituted, on 1 October 2001, by section 25(5) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 74(13): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

74A Orders under section 74(7) are confirmable instruments

[Repealed]

Section 74A: repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Deemed values

75 Minister to set deemed value rates

(1) For each quota management stock, the Minister must, by notice in the *Gazette*, set an interim deemed value rate and an annual deemed value rate for that stock, and those rates continue to apply in each fishing year for that stock unless varied under this section.

(2) In setting an interim deemed value rate or an annual deemed value rate, the Minister—

(a) must take into account the need to provide an incentive for every commercial fisher to acquire or maintain sufficient annual catch entitlement in respect of each fishing year that is not less than the total catch of that stock taken by that commercial fisher; and

(b) may have regard to—

(i) the desirability of commercial fishers landing catch for which they do not have annual catch entitlement; and

(ii) the market value of the annual catch entitlement for the stock; and

(iii) the market value of the stock; and

(iv) the economic benefits obtained by the most efficient commercial fisher, licensed fish receiver, retailer, or any other person from the taking, processing, or sale of the fish, aquatic life, or seaweed, or of any other fish, aquatic life, or seaweed that is commonly taken in association with the fish, aquatic life, or seaweed; and

(v) the extent to which catch of that stock has exceeded or is likely to exceed the total allowable commercial catch for the stock in any year; and

(vi) any other matters that the Minister considers relevant.

(3) The Minister must set annual deemed value rates for a stock that are greater than interim deemed value rates set for that stock.

(4) The Minister may set different annual deemed value rates in respect of the same stock which apply to different levels of catch in excess of annual catch entitlement.

(5) The Minister may set an interim deemed value rate and an annual deemed value rate in respect of fish, aquatic life, or seaweed landed and received by a licensed fish receiver in the Chatham Islands that is different from the deemed value rate set in respect of fish, aquatic life, or seaweed of the same stock landed and received by a licensed fish receiver elsewhere.

(6) The Minister must not—

(a) have regard to the personal circumstances of any individual or class of person liable to pay the deemed value of any fish, aquatic life, or seaweed; or

(b) set separate deemed value rates in individual cases—

when setting an interim deemed value rate or an annual deemed value rate.

(7) Any interim or annual deemed value rate set under this section may be varied by the Minister in the same manner, and any rate set or varied under this section takes effect on the first day of the next fishing year for the stock concerned.

Section 75: substituted, on 1 May 2001, by section 26 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 75(1): amended, on 1 October 2004, by section 29 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

75A Requirement to consult in relation to deemed values

Before setting any interim deemed value rate or annual deemed value rate under section 75, the Minister must, if practicable, consult persons or organisations that the Minister considers represent classes of persons who have an interest in the stock, including Maori, recreational, commercial, and environmental interests.

Section 75A: inserted, on 1 May 2001, by section 26 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

75B Limitation period for challenges to deemed values

(1) A court must not hear or determine, and no person may make or commence, an application or other proceeding in respect of a decision or purported decision of the Minister to set an interim deemed value rate or an annual deemed value rate unless the application is, or the proceedings are, made or commenced within 3 months after the date on which the decision, or purported decision, is notified in the *Gazette*.

(2) This section applies despite any other enactment or rule of law.

Section 75B: inserted, on 1 May 2001, by section 26 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

76 Catch to be counted against annual catch entitlement

(1) In this section and sections 76A, 78, 79, and 80, unless the context otherwise requires, **commercial fisher** means any person who, at any time during the relevant fishing year,—

(a) held a fishing permit or a high seas fishing permit; or

(b) was a person using a New Zealand ship who, in the judgment of the chief executive, held a valid authority to fish against New Zealand's national allocation of highly migratory species in the national fisheries jurisdiction of a foreign country.

(1A) As soon as practicable after the 15th day of each month (other than the first month) of every fishing year, the chief executive must, in accordance with regulations made for that purpose under section 297, in respect of every commercial fisher,—

(a) compare—

(i) the annual catch entitlement for each stock (if any) for the fishing year owned by that commercial fisher as at the close of the 15th day of that month; and

(ii) the reported catch for that stock (in kilogrammes) calculated in accordance with regulations made for that purpose under section 297, taken by that commercial fisher during the fishing year up to the end of the preceding month; and

(b) calculate, in respect of each stock, whether that commercial fisher's annual catch entitlement referred to in paragraph (a)(i) exceeds that commercial fisher's reported catch referred to in paragraph (a)(ii).

(1B) As soon as practicable after the 15th day after the end of the fishing year for each stock, the chief executive must, in accordance with regulations made for that purpose under section 297, in respect of every commercial fisher,—

(a) compare—

(i) the annual catch entitlement for each stock (if any) for the relevant fishing year owned by that commercial fisher as at the close of the 15th day after the end of the fishing year; and

(ii) the reported catch for that stock (in kilogrammes), calculated in accordance with regulations made for that purpose under section 297, taken by that commercial fisher during the fishing year up to the end of the fishing year; and

(b) calculate, in respect of each stock, whether that commercial fisher's annual catch entitlement referred to in paragraph (a)(i) exceeds that commercial fisher's reported catch referred to in paragraph (a)(ii).

(2) Following the calculation referred to in subsection (1A), the chief executive shall calculate the amount of interim deemed value that is to be demanded from, or remitted to, that commercial fisher in accordance with regulations made for the purpose under section 297 and thereafter shall demand or remit the amount, as the case may be.

(2A) Subject to subsection (2B), following the calculation referred to in subsection (1B), the chief executive must calculate the amount of annual deemed value (if any) that is to be demanded from the commercial fisher in accordance with regulations made for the purpose under section 297, and must demand the amount.

(2B) In calculating the amount of annual deemed value to be demanded from a commercial fisher, the chief executive must credit the commercial fisher with

interim deemed value amounts demanded in respect of the relevant stock in the relevant fishing year (other than demanded amounts that have been remitted under subsection (2)).

(2C) For the sole purpose of determining an appropriate annual deemed value under this section, if a fisher to whom subsection (1B) applies holds no annual catch entitlement for a stock in respect of which the Minister has set different deemed value rates under section 75(4), that fisher is deemed to hold 1 kilogramme of annual catch entitlement for that stock.

(3) A demand for an amount of interim deemed value made by the chief executive under this section may be satisfied by—

(a) payment of the sum of money so demanded; or

(b) acquiring, for the relevant fishing year and within the time limit specified in section 134, annual catch entitlement for the relevant stock; or

(c) *[Repealed]*

(d) any combination of those options.

(3A) A demand for an amount of annual deemed value made by the chief executive under this section must be satisfied by payment of the sum of money so demanded.

(4) Every person who is liable to satisfy any deemed value amount demanded under this section is required to satisfy the demand whether or not an offence has been committed against this Act.

(5) All deemed value amounts are to be satisfied within 20 days after the demand is made and, if being satisfied by payment of money, the amount is payable to the chief executive and shall be held by the Crown on trust for the commercial fisher until the trust ends in accordance with this section or the deemed value amount is remitted to the commercial fisher.

(6) Any deemed value amount paid to the chief executive under this section in respect of fish, aquatic life, or seaweed taken in any fishing year shall cease to be held on trust and become the property of the Crown on the later of—

(a) the close of the 15th day of the third month after the end of the fishing year; or

(ab) 5 working days after the chief executive gives written notice to a commercial fisher under section 76A(6) of the chief executive's decision to grant or refuse catch balancing relief; or

(b) 5 working days after the final determination of any request for a review by a commercial fisher of a notification under section 80.

(7) Notwithstanding section 69 of the Public Finance Act 1989, no interest is payable in respect of any amount that is held on trust under this section, whether remitted to any commercial fisher or not.

Compare: 1983 No 14 s 28ZA(4); 1990 No 29 s 26(1)

Section 76(1): substituted, on 1 October 2004, by section 30 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 76(1): amended, on 20 April 2010, by section 4(1) of the Fisheries Amendment Act 2010 (2010 No 16).

Section 76(1A): inserted, on 1 October 2001, by section 27(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 76(1B): inserted, on 1 October 2001, by section 27(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 76(2): amended, on 1 October 2001, by section 27(2)(a) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 76(2): amended, on 1 October 2001, by section 27(2)(b) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 76(2A): inserted, on 1 October 2001, by section 27(3) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 76(2B): inserted, on 1 October 2001, by section 27(3) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 76(2C): inserted, on 1 October 2001, by section 27(3) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 76(3): amended, on 1 October 2001, by section 27(4)(a) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 76(3)(b): amended, on 1 October 2001, by section 27(4)(b) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 76(3)(c): repealed (without coming into force), on 1 October 2001, by section 27(4)(c) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 76(3A): inserted, on 1 October 2001, by section 27(5) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 76(6)(ab): inserted, on 20 April 2010, by section 4(2) of the Fisheries Amendment Act 2010 (2010 No 16).

76A Application for catch balancing relief

(1) In this section and section 76B,—

close of registration, in relation to a stock, means the close of the 15th day after the end of the fishing year for the stock

original owner means the person who, at the close of registration, owned the specific amount of annual catch entitlement for which the chief executive grants catch balancing relief under this section

specific amount means the specific amount of annual catch entitlement for which the chief executive grants relief.

(2) A commercial fisher may, at any time before the close of the 15th day of the third month after the end of a fishing year, apply to the chief executive for catch balancing relief for any amount of annual catch entitlement for a stock for the fishing year.

(3) The chief executive may grant an applicant catch balancing relief for any specific amount of annual catch entitlement that is equal to or less than the amount for which the applicant applied.

(4) The chief executive may grant catch balancing relief for a specific amount of annual catch entitlement only if he or she is satisfied that—

(a) the applicant has received written notice from the chief executive that, at the close of registration, the applicant's reported catch for the stock for the fishing year exceeded the applicant's annual catch entitlement for the stock for the fishing year by at least the specific amount; and

(b) at the close of registration, the original owner owned at least the specific amount of annual catch entitlement; and

(c) either—

(i) the applicant believed on reasonable grounds that at least the specific amount of annual catch entitlement had been transferred to the applicant before the close of registration; or

(ii) at least the specific amount of annual catch entitlement would have been transferred to, or owned by, the applicant before the close of registration, if not for a mistake made by the applicant or any other person; and

(d) at the close of registration, the original owner's annual catch entitlement for the stock for the fishing year exceeded the original owner's reported catch for the stock for the fishing year by at least the specific amount; and

(e) the original owner has consented in writing to the applicant being treated as the owner of at least the specific amount of annual catch entitlement on and from the close of registration; and

(f) it would be unjust to refuse to grant the applicant catch balancing relief for the specific amount of annual catch entitlement; and

(g) if an amount of additional annual catch entitlement has been allocated to the original owner under section 67A, but would not have been allocated if the original owner had not owned the specific amount of annual catch entitlement on the close of registration, adequate arrangements have been made to transfer that amount of additional annual catch entitlement to the Crown.

(5) In considering whether to grant an applicant catch balancing relief, the chief executive may request and consider any information that he or she thinks relevant, such as—

(a) information about transfers of annual catch entitlement to or from the applicant or the original owner, or about other transactions involving the applicant or the original owner:

(b) information about the applicant's usual arrangements for acquiring annual catch entitlement to balance the applicant's reported catch:

(c) any submissions by the applicant that it would be unjust to refuse catch balancing relief.

(6) The chief executive must give written notice, to the applicant and the original owner, of the chief executive's decision to grant or refuse catch balancing relief.

(7) Any deemed value amount demanded by the chief executive that may be affected by an application for catch balancing relief remains payable despite the application having been made.

Section 76A: inserted, on 20 April 2010, by section 5 of the Fisheries Amendment Act 2010 (2010 No 16).

76B Effect of granting catch balancing relief

(1) If the chief executive decides to grant an applicant catch balancing relief for a specific amount of annual catch entitlement under section 76A, the chief executive must—

(a) recalculate the annual deemed value amount (if any) for which the applicant is liable, by performing the comparison and calculations referred to in section 76(1B) and (2A) as if the applicant had owned the specific amount of annual catch entitlement at the close of registration; and

(b) include in the written notice given to the applicant under section 76A(6) notice of the annual deemed value amount, recalculated under paragraph (a), for which the applicant is liable; and

(c) remit to the applicant the difference between the annual deemed value amount previously calculated and the amount recalculated under paragraph (a).

(2) For the purpose of section 79(1),—

(a) any reduction in the annual deemed value amount owed by an applicant that results from the recalculation under subsection (1)(a) takes effect on the date that written notice of the recalculated amount is given under subsection (1)(b); and

(b) if a fishing permit ceases to be suspended because of the recalculation, the suspension ends no earlier than the date the written notice of the recalculated amount is given.

Section 76B: inserted, on 20 April 2010, by section 5 of the Fisheries Amendment Act 2010 (2010 No 16).

77 Over-fishing thresholds

(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister,—

(a) specify quota management stocks to which over-fishing thresholds apply:

(b) set over-fishing thresholds for those stocks:

(c) specify, for each of those stocks, whether a tolerance level applies and, if so, specify the tolerance level.

(2) An over-fishing threshold for a stock—

(a) is a specified percentage in excess of the annual catch entitlement held by a commercial fisher for the stock to which it relates:

(b) takes effect on the first day of the fishing year that commences next after the relevant order under subsection (1) is made.

(3) An order made under subsection (1) may set different over-fishing thresholds for different stocks.

(4) A tolerance level for a stock—

(a) is a specified amount or an amount calculated in accordance with a formula set out in the order:

(b) takes effect on the first day of the fishing year that commences next after the relevant order under subsection (1) is made.

(5) An order made under subsection (1) may set different tolerance levels for different stocks.

(6) Before making a recommendation under subsection (1), the Minister must consult with such persons or organisations as the Minister considers are representative of those classes of persons having an interest in the over-fishing thresholds to which the recommendation relates.

(7) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 77: substituted, on 1 August 2001, by section 28(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 77(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

77A Matters to be taken into account when recommending over-fishing thresholds

Before making a recommendation under section 77(1), the Minister may have regard to—

(a) the effectiveness of deemed values in encouraging commercial fishers to acquire or maintain sufficient annual catch entitlement to cover their total catch; and

(b) the particular need, in relation to target stocks, to encourage commercial fishers to acquire or maintain sufficient annual catch entitlement to cover their total catch; and

(c) actual or potential risks to the sustainability of the stock; and

(d) any other matters that the Minister considers relevant.

Section 77A: inserted, on 1 August 2001, by section 28(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

78 Catch in excess of over-fishing thresholds

(1) This section applies where, following the calculation referred to in section 76(1A),—

(a) a commercial fisher's reported catch for a stock exceeds the commercial fisher's annual catch entitlement for the stock; and

(b) that excess is equal to or greater than the over-fishing threshold for the stock, and, where a tolerance level applies to the stock, is greater than that tolerance level.

(2) In such a case the current fishing permit of the commercial fisher and of any person included with the commercial fisher under subsection (11), and also any permit subsequently issued to the commercial fisher or included person, are each to be treated as containing a condition prohibiting the taking of any fish, aquatic life, or seaweed in the geographic area that is the quota management area for the stock concerned.

(3) The condition takes effect as from the close of the month in which the calculation referred to in section 76(1A) is done.

(4) The chief executive must—

(a) notify the imposition of the condition under subsection (2) to the commercial fisher concerned and any included person of whom the chief executive is aware; and

(b) record on the Permit Register details of the imposition of the condition,—

but any delay or failure to give that notification or make that record does not affect the imposition of the condition.

(5) A commercial fisher who has requested a review under section 80(2) or lodged an appeal under section 80(6) may, pending determination of the review or appeal, apply to the District Court for an order removing or amending a condition imposed under this section, and the court may make such an order subject to such sureties and conditions as the court may specify.

(6) Despite subsection (2), the chief executive may—

(a) approve the taking of fish, aquatic life, or seaweed in an area by a person who would otherwise be subject to the condition imposed by subsection (2); and

(b) impose as part of the approval any conditions that he or she considers necessary to reduce the risk of the person taking the stock for which the over-fishing threshold was exceeded.

(7) Conditions imposed under subsection (6) may relate to stocks, area, quantities, methods, the use or non-use of vessels, the specific vessel or types of vessels that may be used, and types and amounts of fishing gear, or otherwise.

(8) No person may take any fish, aquatic life, or seaweed in contravention of a condition imposed by subsection (2) unless—

(a) the person has obtained the prior approval of the chief executive to take fish, aquatic life, or seaweed in that area; and

(b) the taking is in accordance with any conditions imposed by the chief executive.

(9) Conditions imposed by subsection (2) or under subsection (6) cease to apply—

(a) when the commercial fisher referred to in subsection (1) owns an amount of annual catch entitlement for the stock equal to or greater than the commercial fisher's total reported catch of that stock in the fishing year; or

(b) at the close of the relevant fishing year,—

whichever happens first.

(10) If a person takes any fish, aquatic life, or seaweed in contravention of any conditions imposed by subsection (2) or under subsection (6), the person commits an offence and is liable to the penalty set out in section 252(3).

(11) For the purposes of subsection (2), a person or entity is to be treated as a person included with the commercial fisher if the person or entity is—

(a) a subsidiary of the commercial fisher within the meaning of section 5 of the Companies Act 1993; or

(b) a company of which the commercial fisher is a subsidiary within the meaning of section 5 of the Companies Act 1993; or

(c) a partnership or unincorporated joint venture that would be a subsidiary of the commercial fisher, or of which the commercial fisher would be a subsidiary, if the partnership or joint venture were incorporated as a company with shareholdings corresponding to the interests, including returns, of the partners in the partnership or participants in the joint venture.

(12) Despite subsection (11),—

(a) Te Ohu Kai Moana Trustee Limited, a mandated iwi organisation, or members of an iwi, are not to be regarded as being included with any other person, whether or not that person is a mandated iwi organisation, merely because any of them has the status of being—

(i) a beneficiary or income shareholder of Aotearoa Fisheries Limited; or

(ii) a beneficiary of—

(A) Te Putea Whakatupu Trust; or

(B) Te Wai Maori Trust; or

(C) Te Ohu Kai Moana; and

(ab) Aotearoa Fisheries Limited is not to be regarded as being included with any other person merely because the other person holds, or benefits from, income shares in Aotearoa Fisheries Limited; and

(b) no person is regarded as being included with another person merely because either or both of those persons would be included with Te Ohu Kai Moana Trustee Limited but for paragraph (a); and

(c) no bank registered under the Banking (Prudential Supervision) Act 1989 is to be regarded as being included with any other person merely because the bank has, in the ordinary course of its business as a financier, been granted any interest in quota owned by that person.

Section 78: substituted, on 1 October 2001, by section 14(1) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 78(2): amended, on 1 October 2004, by section 31 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 78(5): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 78(12)(a): substituted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 78(12)(ab): inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 78(12)(b): amended, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 78(12)(c): amended, on 1 July 2022, by section 300(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

78A Other persons may be subjected to same conditions as commercial fisher with catch in excess

(1) Where a fishing permit of a person (**person A**) is treated as being subject to a condition under section 78(2), the chief executive may impose the same condition on any fishing permit held by or subsequently issued to another person (**person B**) if the chief executive believes, on reasonable grounds specified on oath in writing, that—

(a) person B is, in respect of commercial fishing, in substance person A; or

(b) person B has, in substance, control of the commercial fishing of person A that led to the condition being imposed under section 78(2); or

(c) person B is allowing person A to conduct commercial fishing under person B's permit for the purpose of assisting person A to fish despite the condition treated as being contained in person A's permit.

(2) Without limiting subsection (1), in forming the belief referred to in that subsection, the chief executive may have regard to the following matters:

(a) shareholdings in, debentures over, or directorships of, any company that has an interest (whether direct or indirect) in person B or person A:

(b) any trust that has a relationship to person B or person A:

(c) family, domestic, and business relationships between—

(i) person B and person A; and

(ii) persons having an interest in person B or person A or in companies or trusts of the kind referred to in paragraph (a) or paragraph (b):

(d) whether person B is accustomed to following the instructions of person A:

(e) whether person B is accustomed to acting in a manner consistent with advancing the interests of person A.

(3) Whether any of paragraphs (a), (b), and (c) of subsection (1) apply may be determined without regard to the form of the persons or entities comprising persons A and B.

(4) The chief executive must—

(a) give notice to person B of the condition imposed under subsection (1) and a copy of the grounds for imposing the condition as given on oath; and

(b) record on the Permit Register details of the imposition of the condition.

(5) Any condition imposed under subsection (1) takes effect from the date of notification.

(6) Subsections (6), (7), (8), and (10) of section 78 apply to person B and person B's fishing permit as if the condition had been imposed on person B under subsection (2) of that section (and conditions imposed on person B under this section or section 78(6)(b) are not affected by decisions under section 78(6) in relation to person A).

(7) Any conditions imposed on person B under this section or section 78(6) cease to apply—

(a) when the commercial fisher referred to in section 78(1) complies with section 78(9)(a); or

(b) at the close of the relevant fishing year,—

whichever happens first.

(8) If—

(a) a person (**person B**) is, in respect of commercial fishing, in substance the same person as a person (**person A**) who has had a condition imposed on their fishing permit by section 78(2); and

(b) person B, knowing that the condition exists, conducts commercial fishing that would be a breach of the condition imposed on person A's fishing permit,—

then each of person A and person B commits an offence and is liable to the penalty set out in section 252(3).

(9) If a person (**person B**) knowingly allows another person (**person A**) to conduct commercial fishing under person B's permit for the purpose of assisting person A to fish despite the condition treated by section 78(2) as being contained in person A's permit, and person A does so, then each of person A and person B commits an offence and is liable to the penalty set out in section 252(3).

Section 78A: inserted, on 1 October 2001, by section 14(1) of the Fisheries Amendment Act 2001 (2001 No 65).

78B Removal of conditions on other persons

(1) A person who has had a condition imposed on his or her fishing permit under section 78(2) in their capacity as a person included with a commercial fisher under section 78(11), or a person who has had a condition imposed under section 78A(1), may apply to the District Court to have the condition removed either permanently or pending final determination of the application on the grounds that the situation relied upon under section 78(2) and (11) or section 78A(1) never existed or no longer exists.

(2) In determining an application under subsection (1) totally or partially in favour of the applicant, the District Court may remove or amend the condition either totally or partially and on such sureties or conditions as the court considers appropriate.

Section 78B: inserted, on 1 October 2001, by section 14(1) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 78B(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

79 Suspension of permit for non-payment of deemed value

(1) If the total amount of deemed values owed by any commercial fisher exceeds $1,000 and has not been satisfied within the time limit specified in section 76(5), the current fishing permit of the commercial fisher and any person included with the commercial fisher under subsection (5), and any permit subsequently issued to the commercial fisher or included person, are, on the expiration of that time limit, to be treated as being suspended until the total amount of all outstanding deemed values owed by the commercial fisher is $1,000 or less.

(1A) *[Repealed]*

(1B) *[Repealed]*

(2) The chief executive must—

(a) notify every suspension or cessation of suspension of a fishing permit under subsection (1) to the commercial fisher concerned and any included person of whom the chief executive is aware; and

(b) record on the Permit Register details of any suspension or cessation of suspension of a fishing permit under subsection (1);—

but any delay or failure to give that notification or make that record does not affect the suspension or cessation.

(2A) *[Repealed]*

(3) A fishing permit suspended under this section does not authorise any person to take any fish, aquatic life, or seaweed under the authority of that permit, but all other provisions of this Act continue to apply as if the fishing permit had not been suspended.

(4) A commercial fisher who has requested a review under section 80(2) or lodged an appeal under section 80(6) may, pending determination of the review or appeal, apply to the District Court for an order lifting any suspension imposed under this section, and the court may make such an order subject to such sureties and conditions as the court may specify.

(5) For the purposes of subsections (1) and (2), a person or entity is to be treated as a person included with the commercial fisher if the person or entity is—

(a) a subsidiary of the commercial fisher within the meaning of section 5 of the Companies Act 1993; or

(b) a company of which the commercial fisher is a subsidiary within the meaning of section 5 of the Companies Act 1993; or

(c) a partnership or unincorporated joint venture that would be a subsidiary of the commercial fisher, or of which the commercial fisher would be a subsidiary, if the partnership or joint venture were incorporated as a company with shareholdings corresponding to the interests, including returns, of the partners in the partnership or participants in the joint venture.

(6) Despite subsection (5),—

(a) Te Ohu Kai Moana Trustee Limited, a mandated iwi organisation, or members of an iwi are not to be regarded as being included with another person (whether or not that person is a mandated iwi organisation), merely because any of them is—

(i) a beneficiary or income shareholder of Aotearoa Fisheries Limited; or

(ii) a beneficiary of—

(A) Te Ohu Kai Moana:

(B) Te Putea Whakatupu Trust:

(C) Te Wai Maori Trust; and

(b) Aotearoa Fisheries Limited is not to be regarded as being included with another person merely because the other person holds, or benefits from, income shares in Aotearoa Fisheries Limited; and

(c) no bank registered under the Banking (Prudential Supervision) Act 1989 is to be regarded as being included with any other person merely because the bank has, in the ordinary course of its business as a financier, been granted any interest in quota owned by that person.

(7) *[Repealed]*

Section 79: substituted, on 1 October 2001, by section 14(1) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 79(1A): repealed, on 1 October 2021, by section 79(7).

Section 79(1B): repealed, on 1 October 2021, by section 79(7).

Section 79(2A): repealed, on 1 October 2021, by section 79(7).

Section 79(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 79(6)(a): substituted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 79(6)(b): substituted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 79(6)(c): amended, on 1 July 2022, by section 300(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 79(7): repealed, on 1 October 2021, by section 79(7).

79A Suspension of fishing permit of other persons

(1) Where a fishing permit of a person (**person A**) is suspended under section 79(1), the chief executive may suspend the fishing permit of another person (**person B**) if the chief executive believes, on reasonable grounds specified on oath in writing, that—

(a) person B is, in respect of commercial fishing, in substance person A; or

(b) person B has, in substance, control of person A in respect of person A's obligations under any of subsections (3), (3A), and (5) of section 76; or

(c) person B is allowing person A to conduct commercial fishing under person B's permit, for the purpose of assisting person A to fish despite the suspension of person A's fishing permit.

(2) Without limiting subsection (1), in forming the belief referred to in that subsection, the chief executive may have regard to the following matters:

(a) shareholdings in, debentures over, or directorships of, any company that has an interest (whether direct or indirect) in person B or person A:

(b) any trust that has a relationship to person B or person A:

(c) family, domestic, and business relationships between—

(i) person B and person A; and

(ii) persons having an interest in person B or person A or in companies or trusts of the kind referred to in paragraph (a) or paragraph (b):

(d) whether person B is accustomed to following the instructions of person A:

(e) whether person B is accustomed to acting in a manner consistent with advancing the interests of person A.

(3) Whether any of paragraphs (a), (b), and (c) of subsection (1) apply may be determined without regard to the form of the persons or entities comprising persons A and B.

(4) The chief executive must—

(a) give notice to person B of the suspension of a fishing permit under subsection (1), and a copy of the grounds of suspension as given on oath; and

(b) record on the Permit Register details of the suspension under subsection (1).

(5) The suspension imposed under subsection (1) takes effect from the date of notification.

(6) A fishing permit suspended under this section does not authorise any person to take any fish, aquatic life, or seaweed under the authority of that permit, but all other provisions of this Act continue to apply as if the fishing permit had not been suspended.

(7) A suspension of a fishing permit under subsection (1) ceases to be of effect once the total amount of all outstanding deemed values owed by the person who incurred the deemed value liability referred to in section 79(1) is $1,000 or less.

(7A) *[Repealed]*

(8) If—

(a) a person (**person B**) is, in respect of commercial fishing, in substance the same person as a person (**person A**) whose fishing permit is suspended under section 79(1); and

(b) person B, knowing of the suspension, is conducting commercial fishing,—

then each of person A and person B commits an offence and is liable to the penalty set out in section 252(3).

(9) If a person (**person B**) knowingly allows another person (**person A**) to conduct commercial fishing under person B's permit for the purpose of assisting person A to fish despite the suspension of person A's permit under section 79(1), and person A does so, then each of person A and person B commits an offence and is liable to the penalty set out in section 252(3).

(10) *[Repealed]*

Section 79A: inserted, on 1 October 2001, by section 14(1) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 79A(7A): repealed, on 1 October 2021, by section 79A(10).

Section 79A(10): repealed, on 1 October 2021, by section 79A(10).

79B Removal of suspension, or direction to issue permit

(1) This section applies to any person—

(a) whose permit has been suspended under section 79(1) in their capacity as a person included with a commercial fisher under section 79(5); or

(b) whose permit has been suspended under section 79A(1); or

(c) who has been refused a permit under section 91(6)(c).

(2) Such a person may apply to the District Court to—

(a) direct that the suspension be removed, either permanently or pending the final determination of the application; or

(b) direct that the permit be issued,—

on the grounds that the situation relied upon under section 79(1) and (5) or section 79A(1) never existed or no longer exists.

(3) In determining an application under subsection (1) totally or partially in favour of the applicant, the District Court may—

(a) remove the suspension either totally or partially:

(b) direct the removal of the suspension, or the issue of the permit, on such sureties or conditions as the court considers appropriate.

Section 79B: inserted, on 1 October 2001, by section 14(1) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 79B(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Conclusive notification

Heading: substituted, on 1 October 2001, by section 30(3) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

80 Conclusive notification

(1) The chief executive must, for each stock for which a commercial fisher holds an annual catch entitlement or has reported catch, notify the commercial fisher in writing of such matters as are specified for the purpose in any regulations made under section 297.

(1A) A notification under subsection (1) must be made as soon as practicable after the date specified for the purpose in regulations made under section 297.

(2) Any commercial fisher who considers that any information supplied in the notification under subsection (1) is incorrect in relation to any matter required to be specified in any notice given under that subsection may, within 20 days

after the date specified for the purpose in the notice, request a review of the matters specified in the notification, but no request under this section may be made if the notification is no different from the previous month's notification or if the grounds for such a request relate to the registration or non-registration of a transfer of annual catch entitlement for any reason and in any circumstances.

(3) Subsection (2) does not prevent any person making an application under section 164 for a correction of a register.

(4) *[Repealed]*

(5) The chief executive shall, if satisfied that a valid request for review has been received and sufficient information has been provided, conduct a review of the notification and, as soon as practicable, determine the matters that are the subject of the review and issue a new notification containing all matters specified in subsection (1) and incorporating the results of that determination.

(6) Any commercial fisher who is dissatisfied with any new notification issued by the chief executive under subsection (5) may, within 20 working days after the date specified for the purpose in the notification of the decision, appeal to the District Court against the decision (which appeal may relate to any matters that were the subject of the commercial fisher's request for review) and the following provisions apply in relation to every such appeal:

(a) the appeal shall be commenced by way of an originating application under subpart 2 of Part 20 of the District Court Rules 2014:

(b) the court—

(i) shall consider each of the matters to which the appeal relates; and

(ii) shall make a final determination in respect of each of those matters; and

(iii) shall direct the chief executive to issue a new and final notification; and

(iv) may make such orders as to costs and such other orders as it thinks fit.

(7) Subject to subsection (6), no decision or purported decision of the chief executive under subsection (5) shall be liable to be challenged, reviewed, quashed, called into question, or be subject to an appeal, but nothing in this subsection shall prevent any appeal in respect of any proceedings under subsection (6).

(8) Every notification given under this section is presumed to be conclusive for the purpose of this Act.

(9) Any deemed value amount demanded by the chief executive that may be affected by the outcome of any objection under this section shall remain payable and all provisions of this Act shall apply accordingly notwithstanding the objection under this section.

(10) Nothing in any notification referred to in subsection (8)—

(a) prevents the chief executive altering any information in a notification under subsection (1) merely because he or she has accepted any return required under this Act that is given late; or

(b) shall be conclusive against the Crown in any criminal proceedings.

(11) As soon as practicable after the close of the 15th day of each month, the chief executive shall notify the relevant Registrar of Annual Catch Entitlement of—

(a) the total catch reported by each commercial fisher for the relevant year to the end of each month; and

(b) any change to any commercial fisher's reported catch as a result of any decision in respect of a request for review made under this section.

Section 80 heading: amended, on 1 October 2001, by section 30 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 80(1): substituted, on 1 October 2001, by section 30(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 80(1A): inserted, on 1 October 2001, by section 30(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 80(4): repealed (without coming into force), on 9 September 1999, by section 86 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 80(6): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 80(6)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 80(8): substituted, on 1 October 2001, by section 30(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Part 5
Foreign licensed access

81 Calculation of foreign allowable catch

(1) The Minister shall from time to time determine—

(a) the portion of the total allowable commercial catch for a quota management stock that may be taken within the exclusive economic zone; and

(b) the portion of the total catch limit (if any) for any stock not subject to the quota management system (including any highly migratory stock) that may be taken within the exclusive economic zone; and

(c) the foreign allowable catch for a stock in the exclusive economic zone.

(2) The foreign allowable catch for any quota management stock shall be the lesser of—

(a) the portion of the total allowable commercial catch for the time being determined for the stock under subsection (1)(a):

(b) the Crown's available annual catch entitlement for the stock.

(3) For the purposes of subsection (2)(b), the Crown's available annual catch entitlement for a stock is the Crown's holding of annual catch entitlement for the stock that—

(a) is generated from unencumbered quota held by the Crown; and

(b) remains unsold after the Crown has offered the annual catch entitlement for sale to persons entitled to own quota.

(4) The foreign allowable catch for any stock not subject to the quota management system shall be the lesser of—

(a) the portion of the total catch limit (if any) for the time being determined under subsection (1)(b):

(b) a catch that is sustainable after taking into account the total catch limit (if any) for, and the domestic harvesting capacity of, the stock.

(5) For the purposes of this section, the term **domestic harvesting capacity**, in relation to any stock not subject to the quota management system, means the total domestic commercial catch reported as having been taken in the previous fishing year for the stock by New Zealand fishing vessels within New Zealand fisheries waters, with an appropriate adjustment to allow for—

(a) any changes in the harvesting capacity of the domestic commercial fishing fleet due to—

(i) recent investment in fishing vessels and fishing equipment; and

(ii) catch trends; and

(b) non-commercial take and scientific take.

(6) If the foreign allowable catch for any quota management stock has been determined under subsection (1)(c) in accordance with subsection (2), the Minister shall set aside an amount of the Crown's holding of annual catch entitlement for the stock that is equivalent to the amount of the foreign allowable catch, and such annual catch entitlement shall not be used for fishing.

(7) Nothing in this section applies in relation to any highly migratory species.

Compare: 1977 No 28 s 12

Section 81(1)(a): amended, on 1 October 2004, by section 32(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 81(1)(c): amended, on 1 October 2004, by section 32(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 81(3): substituted, on 1 October 2004, by section 32(2) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 81(7): added, on 1 October 2004, by section 32(3) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

82 Apportionment of foreign allowable catch for foreign fishing vessels

(1) The Minister may from time to time apportion, among countries other than New Zealand, the foreign allowable catch in respect of any stock (other than any highly migratory species) within the exclusive economic zone.

(2) In making an apportionment under subsection (1), the Minister shall have regard to—

(a) the degree to which fishing vessels of countries other than New Zealand have engaged in fishing within the exclusive economic zone; and

(b) the degree to which such countries have co-operated with New Zealand in fisheries research and in the identification of fish stocks within the exclusive economic zone; and

(c) the degree to which such countries have co-operated with New Zealand in the conservation and management of fisheries resources within the exclusive economic zone, and in the enforcement of New Zealand law relating to such resources; and

(d) the degree to which such countries have complied with any relevant international obligations; and

(e) such other matters as the Minister, after consultation with the Minister of Foreign Affairs and Trade, considers to be relevant.

Compare: 1977 No 28 s 13

Section 82(1): amended, on 1 October 2004, by section 33 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

83 Issue of licences

(1) The operator of any foreign fishing vessel who proposes to use that vessel for fishing within the exclusive economic zone may, in the approved form, apply for a licence for that purpose; and—

(a) the application shall be made to a place appointed for the purpose by the chief executive by notice in the *Gazette*; and

(b) the application shall be accompanied by the prescribed fee (if any) and shall contain such information as the Minister may from time to time require by notice in the *Gazette*.

(2) The Minister may issue to the operator of any foreign fishing vessel a licence to fish using that vessel within the exclusive economic zone.

(2A) In the case of an application to fish for any highly migratory species, the Minister may issue a licence under subsection (2) only if the Minister considers that to do so would be consistent with the optimum utilisation of that species within the exclusive economic zone.

(3) Before issuing a licence under this section, the Minister—

(a) must have regard to the previous offending history (if any), in relation to fishing or transportation (whether within the national fisheries jurisdic-

tion of New Zealand or another country, or on the high seas), of the vessel's owner, operator, master, or crew; and

(b) may have regard to such other matters as the Minister considers to be relevant.

(4) A licence may be issued under this section upon or subject to conditions relating to all or any of the following matters:

(a) the areas within the exclusive economic zone in which fishing is authorised:

(b) the seasons, times, and particular voyages during which fishing is authorised:

(c) the species, size, age, and quantities of fish, aquatic life, or seaweed that may be taken:

(d) the methods by which fish, aquatic life, or seaweed may be taken:

(e) the types, size, and amount of fishing gear or equipment that may be used or carried and the modes of storage of that gear or equipment when not in use:

(f) the use, transfer, transhipment, landing, receiving, and processing of fish, aquatic life, or seaweed taken:

(g) procedures or requirements, or both, enabling the verification of fish, aquatic life, or seaweed taken or being taken by the vessel, including procedures or restrictions relating to the species of, quantities of, or areas from which, fish, aquatic life, or seaweed are being or have been taken by the vessel:

(h) entry by the vessel to New Zealand ports, whether for the inspection of its catch or for other purposes:

(i) the compensation payable to New Zealand citizens or to the Crown in the event of any loss or damage caused by the vessel to other vessels or their gear, equipment or catch, or to pipelines or cables, or to other New Zealand interests:

(j) reports and information required to be given to the chief executive by the licence holder, including reports and information relating to—

(i) catch and effort:

(ii) the positions and activities of the vessel:

(k) management controls regarding fishing-related mortality of protected species:

(l) the conduct of specified programmes of fisheries research:

(m) the display on board the vessel of the licence issued in respect of the vessel:

(n) the marking of the vessel and other means for its identification:

(o) the placing of observers on the vessel and the payment of any associated prescribed fees and charges by the licence holder:

(p) the installation on the vessel and the maintenance of any automatic location communicator or other equipment for the identification and location of the vessel, and of adequate navigational equipment to enable the vessel to fix its position:

(q) the carriage on board the vessel of specified charts, publications, and instruments:

(r) such other matters as the Minister considers necessary or expedient for the purpose of this Act or any other enactment or otherwise.

(5) The Minister may at any time, by notice in writing to the licence holder,—

(a) amend or revoke any provision or condition of a licence issued under this section; or

(b) add new provisions or conditions to any such licence—

with effect on and from a date specified in the notice.

(6) In exercising powers under this section, the Minister shall ensure that the total catch authorised to be taken from any stock within the exclusive economic zone by vessels licensed under this section that are vessels of a particular country does not exceed that country's apportionment for that stock under section 82.

Compare: 1977 No 28 ss 15, 16, 17

Section 83(1)(a): amended, on 1 October 2001, by section 15 of the Fisheries Amendment Act 2001 (2001 No 65).

Section 83(2A): inserted, on 1 October 2004, by section 34 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 83(3)(a): substituted, on 1 October 2001, by section 6 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

84 Licensing offences

(1) No person may take any fish, aquatic life, or seaweed within the exclusive economic zone using a foreign fishing vessel except—

(a) under the authority of—

(i) a licence issued under section 83; or

(ii) if the vessel is used for the purposes of fisheries research or experimentation (including gear and equipment trials) or recreation, the prior written consent of the Minister; and

(b) in accordance with any conditions of that licence or consent.

(2) Consent under subsection (1)(a)(ii) may be given unconditionally or upon or subject to such conditions, including the payment of fees, as the Minister thinks fit.

(3) Every person commits an offence and is liable to the penalty set out in section 252(2) who contravenes subsection (1)(a).

(4) Every person commits an offence and is liable to the penalty set out in section 252(3) who contravenes subsection (1)(b).

Compare: 1977 No 28 ss 14, 23

Section 84(1): substituted, on 1 October 2001, by section 15 of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

85 Fees, royalties, and charges

Every person to whom a licence has been issued under this Part shall pay to the Crown, in such manner as may be prescribed, such fees, royalties, and charges as may be prescribed under section 297 or section 299.

Compare: 1977 No 28 s 18; 1980 No 146 s 2(1)

86 Suspension and revocation of licences

(1) If the Minister is satisfied that—

(a) an offence against this Act or any other New Zealand law that applies to fishing within New Zealand fisheries waters has been committed by the owner, operator, master, or crew member of a foreign fishing vessel; or

(b) any licence holder, master, or crew member of a foreign fishing vessel has failed to pay to the Crown, within the time limit set out in section 88(9), the amount of any penalty imposed on that person under that section by the Minister,—

the Minister may suspend the licence for such period as he or she shall specify or may revoke the licence.

(2) If the Minister, after consultation with the Minister of Foreign Affairs and Trade, considers that it is necessary or expedient to achieve the purpose of this Act or to recognise any international obligation relating to fishing, the Ministry may suspend any licence for such period as he or she shall specify or may revoke any licence.

(3) While suspended under this section, a licence does not authorise fishing, but the obligations and conditions imposed by the licence, or imposed by or under this Act in relation to it, shall continue to have effect.

(4) Any person may request the Minister to revoke any licence issued to that person, and, upon revocation of that licence under this subsection,—

(a) the licence holder shall ensure that the licence and any duplicates are surrendered to the Minister; and

(b) the licence shall cease to have any effect for the purpose of this Act.

(5) The Minister may revoke any licence if satisfied that any information or evidence supplied with the application was false or misleading in any material particular, and, upon revocation under this subsection,—

(a) the licence holder shall ensure that the licence and any duplicates are surrendered to the Minister; and

(b) the licence shall cease to have any effect for the purpose of this Act.

(6) Any revocation of a licence under subsection (5) shall be deemed to have effect on and from the date of issue of the licence; but nothing in that subsection requires the Minister to remit or refund any fees or charges paid or payable in respect of that licence from the date the licence was issued to the date of revocation.

87 Review by courts

No exercise or purported exercise by the Minister of any power conferred on the Minister by section 83(6) or section 86(2) shall be liable to be challenged, reviewed, quashed, or called into question in any court on the ground that the conditions for the exercise of the power by the Minister had not arisen or had ceased.

Compare: 1977 No 28 s 21

88 Administrative penalties for fisheries offences

(1) This section—

(a) applies in respect of any offence that carries a penalty of a fine not exceeding $250,000 and is an offence against this Act or against any other New Zealand law that relates to fishing; but

(b) does not apply in respect of any alleged offence if any charge has been filed in respect of the alleged offence.

(2) If the Minister has reasonable cause to believe that—

(a) an offence to which this section applies may have been committed by any person in respect of any vessel licensed or required to be licensed under this Part; and

(b) having regard to all the circumstances relating to the alleged offence it is of a minor nature and, having regard to the previous conduct of the vessel and of the person concerned in New Zealand fisheries waters, it would be appropriate to impose a penalty under this section,—

the Minister may cause a notice in writing, in the approved form, to be served on that person.

(3) A notice under subsection (2) shall contain—

(a) the date and nature of the alleged offence; and

(b) a summary of the facts on which the allegation that an offence has been committed is based (which summary shall be sufficient to fully and fairly inform the person of the allegation against the person); and

(c) any other matters (other than previous convictions) that the Minister considers relevant to the imposition of a penalty—

and shall be endorsed with a statement setting out the provisions of this section.

(4) Any person on whom a notice under subsection (2) is served may, within 28 days after the notice is served on the person, by a notice in writing in the approved form served on the chief executive, require that any proceedings in respect of the alleged offence shall be dealt with before a court, in which case the following provisions shall apply:

(a) no further proceedings shall be taken under this section by the Minister:

(b) nothing in this section shall be construed to prevent the subsequent filing of any charging document in respect of the alleged offence, or the conviction of the person of the offence by a court, or the imposition of any penalty under any enactment or forfeiture under this Act on such a conviction.

(5) Any person on whom a notice under subsection (2) is served who does not require that any proceedings in respect of the alleged offence be dealt with before a court may, by notice in writing served on the chief executive,—

(a) admit the offence; and

(b) make submissions to the Minister as to the matters the person wishes the Minister to take into account in imposing any penalty under this section.

(6) If a person on whom a notice under subsection (2) is served does not, within 28 days after the notice is served on the person,—

(a) require that any proceedings in respect of the alleged offence be dealt with before a court; or

(b) admit the offence,—

the person shall on the expiration of that period be deemed to have admitted the offence.

(7) If under this section a person admits or is deemed to have admitted an offence, the Minister may, after taking into account any submissions made by the person under subsection (5), impose on that person a monetary penalty not exceeding one-third of the maximum monetary penalty to which the person would be liable if the person were convicted of the offence by a court.

(8) If the Minister imposes a penalty on a person under this section in respect of an offence, the Minister shall cause a notice in writing in the approved form of the particulars of the penalty to be served on the person.

(9) A person on whom a penalty is imposed under this section shall pay the amount of the penalty to the Crown within 28 days after the notice of the penalty is served on the person in accordance with subsection (8).

(10) Notwithstanding the provisions of subsection (9) or section 86(1), a penalty that has been imposed under this section shall be recoverable by the Crown, from the person on whom it has been imposed, in the same manner as a fine is recoverable on conviction for any offence.

(11) Notwithstanding the provisions of this Act, or any other enactment, where any offence has been admitted or deemed to have been admitted under this section, no charging document may be filed in respect of the offence against the person by whom it is admitted.

Compare: 1977 No 28 s 26.

Section 88(1)(b): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 88(4)(b): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 88(10): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 88(11): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Part 6
Access to fishery

Fishing permits

89 All fishing to be authorised by fishing permit unless specific exemption held

(1) No person shall take any fish, aquatic life, or seaweed by any method unless the person does so under the authority of and in accordance with a current fishing permit.

(2) Subsection (1) does not apply to the taking of—

(a) fish, aquatic life, or seaweed by any natural person otherwise than for the purpose of sale and in accordance with any amateur fishing regulations made under, and any other requirements imposed by, this Act; or

(b) fish, aquatic life, or seaweed by any natural person otherwise than for the purpose of sale and in accordance with any Maori customary non-commercial fishing regulations made under, and any other requirements imposed by, this Act; or

(c) any seabirds or protected species; or

(d) any whitebait, sports fish, ornamental fish, or unwanted aquatic life; or

(e) fish, aquatic life, or seaweed by any person in accordance with an authorisation given under the Marine Reserves Act 1971; or

(f) seaweed of the class Rhodophyceae while it is unattached and cast ashore; or

(g) samples of fish, aquatic life, or seaweed under the authority of sections 304 and 312 of the Food Act 2014 by a food safety officer as defined in that Act or by a person assisting such an officer; or

(h) samples of fish, aquatic life, or seaweed under the authority of section 6 of the Meat Act 1981 by an inspector as defined in that Act or by a person assisting such an inspector; or

(ha) samples of fish, aquatic life, or seaweed under the authority of Part 7 of the Animal Products Act 1999 by an animal product officer or official assessor as defined in that Act, or by a person assisting such an officer or assessor; or

(i) fish, aquatic life, or seaweed under the authority of a foreign fishing vessel licence issued under section 83; or

(j) fish, aquatic life, or seaweed in accordance with a freshwater fish farming licence issued under the Freshwater Fish Farming Regulations 1983 or a marine farming permit or spat catching permit issued or granted under the Fisheries Act 1983 or this Act.

(2A) Despite subsection (1), a person may take fish, aquatic life, or seaweed of a stock or species listed in Schedule 4C if it is taken as the inevitable consequence of the taking of other fish, aquatic life, or seaweed under the authority of and in accordance with a current fishing permit.

(2B) *[Repealed]*

(3) For the purposes of subsection (1), no person shall take any fish, aquatic life, or seaweed under the authority of a fishing permit unless that person is—

(a) the holder of that fishing permit; or

(b) a person who is an employee or agent of the holder of that fishing permit; or

(c) the master or a member of the crew of a fishing vessel that is registered in the name of the holder of that fishing permit.

(4) For the purposes of subsection (1), no person shall take,—

(a) in the case of a fishing permit that authorises the taking of freshwater eels, any freshwater eel; or

(b) if the fishing occurs otherwise than from a vessel, any fish, aquatic life, or seaweed—

under the authority of a fishing permit unless that person is the holder of that permit or belongs to the class of persons referred to in paragraph (b) or paragraph (c) of subsection (3) and is named in an agreement approved by the chief executive under subsection (5) before the taking occurred.

(5) The chief executive may approve an agreement for the purpose of subsection (4) if—

(a) the agreement is submitted to the chief executive in the approved form and is accompanied by the prescribed fee (if any); and

(b) the agreement is signed by all persons for whom authority to take under the fishing permit is being sought, and by the holder of the fishing permit; and

(c) the number of persons for whom authority to take under the fishing permit is being sought does not exceed the total number of persons (if any) permitted in accordance with subsection (8).

(6) The chief executive may approve a variation of an agreement approved under subsection (5) that adds or deletes the name of any person to or from the agreement, if—

(a) the variation is submitted to the chief executive in the approved form and is accompanied by the prescribed fee (if any); and

(b) the variation is signed by the persons for whom new authority to take under the fishing permit is being sought, and the holder of the fishing permit; and

(c) the number of persons who will have authority to take under the fishing permit will not exceed the total number of persons (if any) permitted in accordance with subsection (8).

(7) Agreements under subsection (5) and variations under subsection (6) shall not take effect until approved by the chief executive.

(8) The chief executive may impose a condition on a fishing permit under section 92(1) that authorises the taking of freshwater eels limiting the total number of persons who may be named in any agreement under subsection (5).

(8A) Subsections (4) to (8) do not apply to the taking of freshwater eels that are subject to the quota management system.

(9) No person shall at any time hold more than 1 fishing permit.

(10) No fishing permit holder may transfer that permit to any other person.

(11) *[Repealed]*

(12) Every person commits an offence and is liable to the penalty set out in section 252(3) who takes any fish, aquatic life, or seaweed in contravention of subsection (1), or contravenes subsection (9) or subsection (10).

Compare: 1983 No 14 s 62(1), (2); 1986 No 34 s 13(1)

Section 89(2)(g): amended, on 1 March 2016, by section 447 of the Food Act 2014 (2014 No 32).

Section 89(2)(ha): inserted, on 1 November 1999, by section 8(1) of the Animal Products (Ancillary and Transitional Provisions) Act 1999 (1999 No 94).

Section 89(2A): substituted, on 1 October 2004, by section 35 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 89(2B): repealed, on 1 October 2004, by section 35 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 89(6)(c): amended, on 1 October 2001, by section 31(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 89(8): substituted, on 1 October 2001, by section 31(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 89(8A): inserted, on 1 October 2001, by section 7(1) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 89(11): repealed (without coming into force), on 1 October 2001, by section 7(2) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

89A Exemption relating to farmed fish and spat catching

Section 89(1) does not apply to the taking of farmed fish if taken in accordance with—

(a) section 186U; or

(b) an exemption granted under section 186Q.

Section 89A: inserted, on 1 January 2005, by section 6 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

89B Exemption relating to protected customary rights

Section 89(1) does not apply to the taking of fish, aquatic life, or seaweed if—

(a) the fish, aquatic life, or seaweed is taken from a site at which fish farming is being undertaken under a protected customary rights order or an agreement; and

(b) the fish, aquatic life, or seaweed has been lawfully acquired and transferred to that site and ongrown, or bred or cultivated at that site, in accordance with the protected customary rights order or an agreement.

Section 89B: inserted, on 1 January 2005, by section 6 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 89B heading: amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 89B(a): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 89B(b): amended, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

90 Application for fishing permit

[Repealed]

Section 90: repealed (without coming into force), on 9 September 1999, by section 85(e) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

91 Issue of fishing permit

(1) Subject to subsections (2) to (6) and to sections 93 and 93A, the chief executive must issue to every person who applies for a fishing permit under this Act an appropriate fishing permit in the approved form for a period not exceeding 5 years.

(2) A fishing permit may, but is not required to, be issued to any person who owes the Crown any levy payable under Part 14.

(3) A fishing permit authorises the taking of—

(a) any stocks that are subject to the quota management system; and

(b) any stocks or species that are neither subject to the quota management system nor listed in Schedule 4C; and

(c) any stocks or species listed in Schedule 4C that are listed on a fishing permit held by the commercial fisher.

(4) Despite section 93 but subject to section 306 of the Ngāi Tahu Claims Settlement Act 1998, the chief executive may issue a fishing permit under this section for any beach cast seaweed, except seaweed to which section 89(2)(f) applies.

(5) Before issuing a fishing permit to an applicant, the chief executive may require the applicant to provide a suitable third party guarantee, or bond, in an amount specified by the chief executive.

(6) No fishing permit may be issued to any person who—

(a) is a person who has unpaid deemed value amounts in excess of $1,000 that are overdue, or is a person who is treated by section 79(5) as included with that person; or

(b) is a person whose fishing permit is suspended under section 79A; or

(c) the chief executive believes, on reasonable grounds, is a person whose fishing permit, if they had one, would be suspended under section 79A(1).

Compare: 1983 No 14 s 63(2), (4), (6), (8), (9); 1986 No 34 s 13(1)

Section 91(1): substituted, on 1 October 2001, by section 32(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 91(3): substituted, on 1 October 2004, by section 36 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 91(4): substituted, on 1 October 2001, by section 32(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 91(5): substituted, on 1 October 2001, by section 32(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 91(6): substituted, on 1 October 2001, by section 17 of the Fisheries Amendment Act 2001 (2001 No 65).

92 Fishing permit may be issued subject to conditions

(1) A fishing permit must—

(a) state that it authorises the taking of—

(i) stocks that are subject to the quota management system; and

(ii) stocks or species that are neither subject to the quota management system nor listed in Schedule 4C; and

(b) list those stocks or species listed in Schedule 4C that the fishing permit holder, following application by that permit holder, is authorised to take.

(1A) A fishing permit may be subject to any conditions that the chief executive considers appropriate, including—

(a) conditions relating to—

(i) areas or methods:

(ii) the use or non-use of vessels, and the specific vessel (if any) that may be used:

(iii) types and amounts of fishing gear:

(iv) the taking or handling of fish, aquatic life, or seaweed:

(v) places where fish, aquatic life, or seaweed may be landed:

(vi) periods of time within which the permit holder may take fish, aquatic life, or seaweed:

(b) conditions that the chief executive may impose under section 78(6) as conditions of an approval to take fish, aquatic life, or seaweed despite a commercial fisher's catch having exceeded an over-fishing threshold or tolerance level.

(2) The chief executive may from time to time, by written notice to a fishing permit holder, amend, add, or revoke any conditions of the permit, to take effect from a date specified in the notice.

(3) The conditions that may be imposed on fishing permits under this section may be more restrictive or more onerous than the conditions imposed on fishing by any regulations or notice.

(4) The chief executive may, if the chief executive considers it expedient to do so, require the holder of a fishing permit to surrender the permit and may replace that fishing permit with a new fishing permit containing the new conditions.

(5) The conditions referred to in this section shall be substantially the same for all fishing permits in respect of the same stock, unless the chief executive is satisfied, on stated grounds, that different conditions are reasonable.

(6) Every person commits an offence and is liable to the penalty set out in section 252(5) who contravenes any condition placed on any fishing permit by the chief executive under this section.

Section 92(1): substituted, on 1 October 2004, by section 37(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 92(1A): inserted, on 1 October 2004, by section 37(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

93 Qualifications for holding fishing permit and moratorium

(1) Subject to section 93A, no fishing permit authorising the taking of fish, aquatic life, or seaweed of a stock or species listed in Schedule 4C shall be issued to any person unless either—

(a) all of the following apply:

(i) on 30 September 1992, that person held a current fishing permit under section 63 of the Fisheries Act 1983 in respect of stocks not subject to a quota management system under that Act; and

(ii) during the period commencing on 1 October 1990 and ending with the close of 30 September 1992, that person lawfully took fish, aquatic life, or seaweed under the authority of the fishing permit held by that person; and

(iii) the chief executive is satisfied that the fish, aquatic life, or seaweed taken by that person, during that period were—

(A) 1 or more of the stocks named in the fishing permit held by that person; and

(B) caught as a target stock (other than bycatch); or

(b) a fishing permit was issued to that person under section 2(2) of the Fisheries Amendment Act 1994.

(2) A fishing permit issued under subsection (1) shall not authorise a person to take a stock or species listed in Schedule 4C, unless either—

(a) the stock—

(i) is of the same species as 1 or more of the stocks referred to in subsection (1)(a)(iii)(A) that were caught as a target stock (other than bycatch) during the period referred to in subsection (1)(a)(ii); and

(ii) was named in the fishing permit held by that person on 30 September 1992; or

(b) in the case of a fishing permit issued to a person referred to in subsection (1)(b), the stock was named on the permit issued to that person under section 2(2) of the Fisheries Amendment Act 1994.

(3) In satisfying himself or herself on any matter under this section, the chief executive shall only have regard to information from fishing records or returns duly completed and provided before 15 October 1992 in the prescribed manner or in accordance with requirements made under section 66(3) of the Fisheries Act 1983.

(4) This section does not apply to tuna.

Compare: 1983 No 14 s 63(13); 1986 No 34 ss 10, 13(1); 1992 No 137 s 4

Section 93(1): amended, on 1 October 2004, by section 38(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 93(1): amended, on 1 October 2001, by section 34 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 93(2): amended, on 1 October 2004, by section 38(2) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

93A Fishing permits subject to moratorium issued to related persons on death of fishing permit holder

[Expired]

Section 93A: expired, on 1 October 2007, by section 93B.

93B Expiry of section 93A

Section 93A expires with the close of 30 September 2007 and, on its expiration, the chief executive must revoke all current fishing permits issued before the close of that date in accordance with that section.

Section 93B: inserted, on 1 October 2001, by section 35 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

94 Right of review against decisions made under delegated authority

If any decision in respect of a fishing permit or high seas fishing permit is made under this Part or Part 6A by any person acting under the delegated authority of the chief executive or by any person or organisation acting pursuant to an arrangement or contract with the chief executive, the applicant for the fishing permit or high seas fishing permit or the holder of the permit, as the case may be, is entitled to have the decision reviewed by the chief executive or by a person designated by the chief executive who was not involved in the making of the original decision.

Compare: 1983 No 14 s 63(11)

Section 94: amended, on 1 October 2001, by section 8(a) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 94: amended, on 1 October 2001, by section 8(b) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 94: amended, on 1 October 2001, by section 8(c) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

95 Obligations of fishing permit holder

[Repealed]

Section 95: repealed (without coming into force), on 9 September 1999, by section 85(f) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

96 Revocation of fishing permit

(1) If the chief executive revokes a fishing permit under section 305A,—

(a) the fishing permit must be immediately cancelled; and

(b) the holder must ensure that the fishing permit and any duplicates are forthwith surrendered to the chief executive; and

(c) no fish, aquatic life, or seaweed taken after the date of the supply of the false or misleading information may be regarded as eligible catch for the purposes of section 34; and

(d) no individual catch entitlement under the permit entitles the holder to an allocation of any quota.

(2) A person may request the chief executive to revoke any fishing permit issued to that person, and shall enclose the fishing permit and any duplicates with the request; and, upon revocation, the fishing permit shall cease to have any effect for the purpose of this Act.

(3) Nothing in this section shall require the chief executive to remit or refund any fees, charges, or levies paid or payable by the fishing permit holder for the period from the date of issue of the permit to the date of revocation.

Section 96(1): substituted, on 1 October 2001, by section 36 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Special permits

97 Special permits

(1) The chief executive may, on application made to the chief executive in the approved form, issue to any person named in the application a special permit—

(a) for the purposes of—

(i) education; or

(ii) investigative research; or

(iii) management or eradication of unwanted aquatic life; or

(iv) the carrying out of trials and experiments with fishing vessels or fishing gear or any other apparatus or technique that is capable of being used in connection with the taking of fish, aquatic life, or seaweed:

(b) for the purposes of sport or recreation in the case of any disabled person within the meaning of the Disabled Persons Employment Promotion Act 1960 who, in the opinion of the chief executive, would otherwise be unable, because of the person's disability, to fish by the methods permitted by this Act:

(c) for any other purpose approved by the Minister after consultation with such persons and organisations as he or she considers are representative of those classes of persons having an interest in the granting of a special permit for such a purpose, including Maori, environmental, commercial, and recreational interests.

(2) If the issuing of any special permit will have a significant effect on fisheries resources or any fishing interest in the stocks affected that are provided for or authorised by or under this Act, the chief executive shall, before issuing such a permit, consult with such persons and organisations as the chief executive considers are representative of those classes of persons having interests that would be affected if the special permit were issued.

(3) In considering any application for a special permit, other than for the purpose of the management or eradication of any unwanted aquatic life, the chief executive shall take into account the purpose of this Act and the environmental and information principles.

(4) Notwithstanding anything in any other section of this Act, the chief executive may authorise the holder of a special permit to take and dispose of fish, aquatic

life, or seaweed subject to such terms and conditions as the chief executive may set out in the permit.

(5) The chief executive may at any time, by notice in writing to the special permit holder, amend, add, or revoke any term or condition of a special permit issued under this section, which term or condition shall take effect from a date specified in the notice.

(6) It shall be deemed to be a term of every special permit that no fish, aquatic life, or seaweed taken under the authority of the permit shall be disposed of except in the manner specified in the special permit.

(7) Notwithstanding anything in section 192, it is lawful for any person to buy, or otherwise acquire, or be in possession of, any fish, aquatic life, or seaweed disposed of to that person by the holder of any special permit in the manner specified in that permit.

(8) The chief executive may at any time revoke any special permit by notice in writing to the holder, which revocation shall take effect from a date specified in the notice.

(9) The chief executive shall not issue a special permit in respect of any seabirds or protected species.

(10) *[Repealed]*

(11) Every person commits an offence and is liable to the penalty set out in section 252(5) who contravenes any term or condition placed on any special permit by or under this section.

Compare: 1983 No 14 s 64; 1986 No 34 s 13(1)

Section 97(10): repealed (without coming into force), on 9 September 1999, by section 86 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Administration

98 Registers

(1) The chief executive shall keep the following registers:

(a) a register to be called the Fishing Vessel Register:

(b) a register to be called the Permit Register:

(c) a register to be called the High Seas Permit Register.

(2) The registers may be kept in the form of information stored by means of a computer.

(3) The registers may be kept in conjunction with any other register required to be kept under this Act.

(4) The Crown owns all information contained in the Fishing Vessel Register or the Permit Register or the High Seas Permit Register that is required by this Act to be contained in that register.

(5) The chief executive shall, by notice in the *Gazette*, appoint the places at which the registers are to be located and state the hours when they are to be open for inspection by the public.

(6) Without limiting anything in section 297, regulations under that section may provide for the operation of registers under this section, including the electronic transmission of information for the purposes of this Part.

Section 98(1)(c): added, on 1 October 2001, by section 9(1) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 98(4): amended, on 1 October 2001, by section 9(2) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

99 Appointment of Registrars

[Repealed]

Section 99: repealed (without coming into force), on 9 September 1999, by section 85(g) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

100 Matters to be shown in Permit Register and Fishing Vessel Register

The Permit Register and the Fishing Vessel Register must each contain all the particulars required by regulations made under section 297.

Section 100: substituted, on 1 October 2001, by section 37 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

101 Matters to be shown in Fishing Vessel Register

[Repealed]

Section 101: repealed (without coming into force), on 1 October 2001, by section 37 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

101A Matters to be shown in High Seas Permit Register

The High Seas Permit Register must contain all the particulars required by regulations made under section 297.

Section 101A: inserted, on 1 October 2001, by section 10 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

102 Access to registers

(1) The Permit Register, the Fishing Vessel Register, and the High Seas Permit Register are open for inspection by members of the public on payment of the prescribed fee (if any) during the hours stated by notice in the *Gazette* under section 98(5).

(2) Subject to subsection (3), the chief executive shall, upon request and payment of a reasonable charge fixed by the chief executive, supply to any person copies of all or any part of a register.

(3) If the chief executive is satisfied, on the application of any person, that the disclosure of that person's address (as entered in the register) would be prejudicial to the personal safety of that person or his or her family, the chief executive

may direct that such information shall not be available for inspection or otherwise disclosed.

Compare: 1983 No 14 s 56; 1986 No 34 s 13(1)

Section 102 heading: amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

Section 102(1): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

Section 102(1): amended, on 1 October 2001, by section 11 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 102(2): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 102(3): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Fishing vessel registration

103 Fishing vessels must be registered

(1) A person must not use a fishing vessel, or any tender of that fishing vessel, to take fish, aquatic life, or seaweed for sale, in New Zealand fisheries waters, unless—

(a) the vessel is a New Zealand ship or has been exempted under section 103A(1) from that requirement; and

(b) the vessel is registered under this section in the Fishing Vessel Register as a fishing vessel; and

(c) that person complies with all conditions of registration.

(2) An application to register a fishing vessel must—

(a) be made by the operator of that fishing vessel; and

(b) be made to the chief executive in the approved form and be accompanied by the prescribed fee (if any); and

(c) be supported by evidence of the vessel's registration as a New Zealand ship or its exemption under section 103A(1), and any other evidence that may be specified in the approved form.

(3) Consent under section 103A(4) is required before a foreign-owned vessel (other than a vessel owned or operated by an overseas person who has obtained consent under the overseas investment fishing provisions or is exempt from the requirement for that consent) may be registered as a fishing vessel.

(4) If the chief executive, having received an application made in accordance with this section, is satisfied that the vessel is registered as a New Zealand ship or has been exempted under section 103A(1) from that requirement, and is otherwise eligible to be registered under this section, he or she must, as soon as practicable,—

(a) register the fishing vessel,—

(i) in the case of a New Zealand ship, for a period not exceeding 5 years; or

(ii) in the case of a vessel exempted from the requirement to be a New Zealand ship, for the relevant period under section 103A(3):

(b) issue to the operator a certificate of registration in respect of that vessel.

(5) All conditions of the chief executive's consent to the registration of a vessel in the Fishing Vessel Register are deemed for all purposes to be conditions of the registration of the vessel.

(6) This section does not require that a vessel be registered as a fishing vessel merely because it is used to take fish, aquatic life, or seaweed produced as part of a lawful fish farming operation.

(7) A person commits an offence and is liable to the penalty set out in section 252(5) if the person contravenes subsection (1).

Section 103: replaced, on 1 May 2016, by section 8 of the Fisheries (Foreign Charter Vessels and Other Matters) Amendment Act 2014 (2014 No 60).

103A Process for granting exemption from requirement to be New Zealand ship and granting consent to registration

(1) The chief executive may, on application, exempt a vessel from the requirement to be a New Zealand ship if satisfied that—

(a) the vessel will be used only for carrying out fisheries-related research commissioned or approved by the chief executive; and

(b) the operator of the vessel or, if the operator is an overseas person, the authorised agent has made reasonable efforts to find a replacement vessel that is a New Zealand ship but was unsuccessful; and

(c) the exemption will be in New Zealand's interests; and

(d) there will be sufficient New Zealand control of the operations of the vessel during the period for which it is exempted.

(2) An application under subsection (1) must—

(a) be made by the operator of the vessel or, if the operator is an overseas person, by the authorised agent; and

(b) be made in the approved form; and

(c) be accompanied by the prescribed fee and the evidence specified in the approved form.

(3) An exemption may be granted for the period specified in the special permit issued for the purposes of the fisheries-related research.

(4) For the purposes of section 103(3), the chief executive may—

(a) grant consent, either generally or particularly, to the registration of 1 or more foreign-owned vessels operated by any person; and

(b) grant consent under this section subject to any conditions that the chief executive thinks fit to impose (and such conditions may include, but are not limited to, conditions that relate to fisheries management, employment, vessel safety, or compliance with maritime rules relating to pollution and the discharge of waste material from vessels).

(5) The chief executive must have regard to the following matters before deciding whether or not to grant consent under this section:

(a) any risk associated with fisheries management, employment, vessel safety, or compliance with maritime rules relating to pollution and the discharge of waste material from vessels that the chief executive considers would be likely to result if the vessel were to be registered; and

(b) the previous offending history (if any), in relation to fishing or transportation (whether within the national fisheries jurisdiction of New Zealand or another country, or on the high seas), of the vessel's owner, operator, foreign charter party, notified user, master, or crew; and

(c) the nature of the charter or other agreement with the operator (if any); and

(d) any other matters that the chief executive considers relevant.

(6) The chief executive may, from time to time, by written notice to the operator of a vessel with effect from the date specified in the notice amend, add to, or revoke any conditions of the consent to the registration of the vessel.

(7) If the chief executive grants an exemption under subsection (1) from the requirement to be a New Zealand ship, or if a vessel is owned or operated by an overseas person who has obtained consent under the overseas investment fishing provisions or is exempt from the requirement for that consent, the following provisions apply while the vessel is in New Zealand fisheries waters:

(a) for the purposes of the Minimum Wage Act 1983, the Wages Protection Act 1983, and any provisions of any other enactments that are necessary to give full effect to those Acts, a person engaged or employed to do work on the vessel who holds a temporary entry class visa with conditions that allow the person to work under the Immigration Act 2009 is deemed to be an employee:

(b) for the purposes of the Minimum Wage Act 1983, the Wages Protection Act 1983, and any provisions of any other enactments that are necessary to give full effect to those Acts, the employer of a person referred to in paragraph (a) is deemed to be,—

(i) if the operator of the vessel is the employer or contractor of those persons, the operator:

(ii) in any other case, the person from whom the operator has, by virtue of a lease, a sublease, a charter, a subcharter, or otherwise, for the time being obtained possession and control of the vessel:

(c) for the purpose of determining whether the payment to any person engaged or employed to do work on any such vessel meets the requirements of the Minimum Wage Act 1983, the hours of work of, the payments received by, and the entitlements to payment of that person must be assessed in relation to the whole of each period of such engagement or employment in New Zealand fisheries waters:

(d) Labour Inspectors within the meaning of the Employment Relations Act 2000 may exercise their powers under that Act and under the enactments referred to in paragraph (a) within New Zealand fisheries waters in respect of any person deemed to be an employee or employer by virtue of paragraph (a) or (b):

(e) if the operator of any vessel is not the employer by virtue of paragraph (b), then, despite any responsibility that may rest with the employer, the authorised agent referred to in subsection (2) is responsible under the enactments referred to in paragraph (a) for providing any information and records to any Labour Inspector exercising powers under those Acts:

(f) the authorised agent referred to in subsection (2) may be served with any documents requiring service under any of the enactments referred to in paragraph (a), and such service is deemed to be service on the employer:

(g) the Employment Relations Authority and the Employment Court may exercise jurisdiction in respect of any employment relationship that arises by virtue of paragraph (a) or (b) as if it were a lawful employment relationship subject to New Zealand law.

Section 103A: inserted, on 1 May 2016, by section 8 of the Fisheries (Foreign Charter Vessels and Other Matters) Amendment Act 2014 (2014 No 60).

104 Provisions relating to notified users of fishing vessels

(1) Every application to become a notified user in relation to a fishing vessel shall—

(a) be made jointly by the operator in whose name the fishing vessel is registered and the person who is to be the notified user in relation to the vessel; and

(b) be made to the chief executive in the approved form and be accompanied by the prescribed fee (if any).

(2) Upon receipt of an application made in accordance with subsection (1), the chief executive shall, as soon as practicable,—

(a) note the name of the notified user on the Fishing Vessel Register; and

(b) issue to the operator and the notified user a certificate of notification in respect of the notified user.

(3) No person may be a notified user in relation to a foreign-owned New Zealand fishing vessel.

(4) No overseas person shall be a notified user in relation to a fishing vessel.

(5) *[Repealed]*

Section 104(1)(b): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 104(2): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 104(3): replaced, on 31 August 2012, by section 4(1) of the Fisheries Amendment Act 2012 (2012 No 63).

Section 104(5): repealed, on 31 August 2012, by section 4(2) of the Fisheries Amendment Act 2012 (2012 No 63).

105 Fish carriers must be registered

(1) No person shall use any vessel for the transportation of fish, aquatic life, or seaweed taken for sale within New Zealand fisheries waters unless—

(a) the vessel is registered in the Fishing Vessel Register as either a fish carrier or a fishing vessel, and—

(i) that person is named in that register as an operator or notified user of that vessel; and

(ii) that person complies with all conditions of registration (if any) and the conditions of any consent given by the chief executive under subsection (4); or

(b) the fish, aquatic life, or seaweed was lawfully landed in New Zealand and then lawfully purchased or acquired by a licensed fish receiver prior to transportation; or

(c) the fish, aquatic life, or seaweed was produced as part of a lawful fish farming operation; or

(d) the fish, aquatic life, or seaweed was lawfully taken and landed in New Zealand, and the person is transporting that fish, aquatic life, or seaweed as the agent of the commercial fisher who took the fish, aquatic life, or seaweed.

(2) Every application to register a fish carrier (other than a vessel that is registered as a fishing vessel under this Act) shall—

(a) be made by the operator of that fish carrier; and

(b) be made to the chief executive in the approved form and be accompanied by the prescribed fee (if any); and

(c) in the case of an operator who is an overseas person, specify the name and address of a person (other than an overseas person) to be the authorised agent of that person for the purpose of this Act; and

(d) be supported by such evidence as may be specified in the form.

(3) If the chief executive, having received an application made in accordance with this section, is satisfied that the vessel is eligible to be registered, he or she shall, as soon as practicable,—

(a) register the fish carrier for a specified period not exceeding 5 years; and

(b) issue to the operator a certificate of registration in respect of that vessel.

(4) No vessel shall be registered under this section unless the chief executive has consented, either generally or particularly, to registration of the vessel or vessels operated by that person; and any consent under this subsection may be granted subject to such conditions as the chief executive thinks fit to impose.

(5) In considering whether to consent to the registration of a vessel under subsection (4), the chief executive shall have regard to—

(a) the previous offending history (if any), in relation to fishing or transportation (whether within the national fisheries jurisdiction of New Zealand or another country, or on the high seas), of the vessel's owner, operator, foreign charterparty, notified user, master, or crew; and

(b) the nature of the charter or other agreement with the operator (if any); and

(c) such other matters as the chief executive considers relevant.

(6) Every person commits an offence and is liable to the penalty set out in section 252(5) who contravenes subsection (1).

(7) In proceedings for an offence relating to a contravention of subsection (1),—

(a) the prosecutor need not assert in the charging document that the exceptions set out in paragraphs (b) to (d) do not apply; and

(b) the burden of proving that any of the exceptions set out in paragraphs (b) to (d) applies lies on the defendant.

Section 105(1)(a)(i): amended, on 1 October 2001, by section 10 of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 105(2)(b): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 105(3): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 105(5)(a): substituted, on 1 October 2001, by section 13 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 105(7): inserted, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

106 Further provisions relating to registration of vessels

(1) Nothing in section 103 or section 105 applies to any foreign fishing vessel licensed under Part 5 to engage in fishing within the exclusive economic zone.

(2) Nothing in section 103 or section 105, or in any entry in the Fishing Vessel Register, confers, takes away, or in any way affects the title to, or any interest in, any vessel.

106A Suspension of consent to registration

(1) The chief executive may, after complying with subsections (4) and (5), suspend his or her consent to the registration of any foreign-owned New Zealand fishing vessel for any reasonable period determined by him or her if satisfied on reasonable grounds that there has been a breach of any condition of consent to its registration.

(2) If any person, department, or agency in the course of performing or exercising functions, duties, or powers under any Act obtains any information that is relevant for the purposes of subsection (1), the person, department, or agency may provide the information to the chief executive.

(3) For the purposes of subsection (1), the chief executive may take into account information provided by any person, department, or agency.

(4) The chief executive must notify the operator of the vessel in writing stating—

(a) that he or she is satisfied on reasonable grounds that there has been a breach of any condition of consent to registration; and

(b) the grounds on which the chief executive has based his or her belief; and

(c) the actions the chief executive requires the operator to undertake or cease; and

(d) the period within which the actions must be undertaken or cease (which must not be less than 72 hours from the date on which the operator is notified).

(5) If the actions specified in the notice given under subsection (4) have not been undertaken or have not ceased (as the case may be) within the period required by the notice, the chief executive must do the following if he or she decides to proceed with suspension of consent to the vessel's registration:

(a) give the operator not less than 7 days' notice in writing of the intention to suspend consent to registration; and

(b) give the operator a reasonable opportunity to make submissions to the chief executive; and

(c) consider any submissions made to the chief executive by the operator.

(6) The chief executive may impose conditions and requirements in respect of the implementation and operation of a suspension under this section.

(7) If the chief executive suspends consent to a vessel's registration,—

(a) he or she must notify the operator in writing that consent to the vessel's registration has been suspended; and

(b) the notification must state—

(i) the reasons for the suspension of the chief executive's consent to the vessel's registration; and

(ii) the period of the suspension; and

(iii) the conditions and requirements imposed under subsection (6) (if any); and

(iv) the rights of review and appeal available to a person directly affected under section 106B.

(8) A period of suspension may be extended by the chief executive from time to time if he or she is satisfied that any conditions and requirements referred to in subsection (7)(b)(iii) have not been met, and subsection (7) (except paragraph (b)(iv)) (with the necessary modifications) applies to any extension of the suspension.

(9) The chief executive may lift the suspension of consent if satisfied that suspension conditions and requirements referred to in subsection (7)(b)(iii) have been met.

(10) A person commits an offence and is liable to the penalty set out in section 252(5) if the person uses a fishing vessel, or any tender of that fishing vessel, to take fish, aquatic life, or seaweed for sale while the chief executive's consent to registration of the vessel is suspended.

(11) Nothing in this section requires the chief executive to remit or refund any fees, charges, or levies paid or payable by the operator under this Act for the period from the date of registration to the close of the period of suspension.

(12) For the purposes of section 103(1), a vessel must be treated as being not registered while the chief executive's consent to its registration is suspended under this section.

Section 106A: inserted, on 8 August 2014, by section 5 of the Fisheries (Foreign Charter Vessels and Other Matters) Amendment Act 2014 (2014 No 60).

106B Rights of review and appeal relating to suspension of consent to registration of vessel

(1) A person directly affected by the chief executive's decision under section 106A(1) to suspend his or her consent to a vessel's registration may, within 7 days after the date on which the decision was notified, apply to the chief executive for a review of that decision.

(2) The chief executive must, within 14 days after the date of receipt of an application under subsection (1), confirm, reverse, or modify the decision under review.

(3) If the applicant is dissatisfied with the chief executive's decision under subsection (2), the applicant may appeal to the District Court against the decision.

(4) The District Court may confirm, reverse, or modify the decision appealed against.

(5) If any party to any proceedings before the District Court under this section is dissatisfied with any determination of the court as being erroneous in point of law, the party may appeal to the High Court by way of case stated for the opinion of the court on a question of law only.

(6) On an appeal under subsection (5), the High Court may confirm, reverse, or modify the decision appealed against.

(7) Appeals under this section must be heard and determined in accordance with any applicable rules of court.

(8) The operation of a decision to suspend the chief executive's consent to a vessel's registration continues in force pending the determination of a review or appeal under this section, except where the chief executive (in the case of a review) or the court hearing the appeal (in any other case) otherwise directs.

(9) This section confers no right of review or appeal in relation to a decision under section 106A(8) to extend a suspension.

Section 106B: inserted, on 8 August 2014, by section 5 of the Fisheries (Foreign Charter Vessels and Other Matters) Amendment Act 2014 (2014 No 60).

Section 106B(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

107 Cancellation of registration of fishing vessel

(1) *[Repealed]*

(2) *[Repealed]*

(3) A person may request the chief executive to cancel the registration of any vessel registered in that person's name and shall enclose the certificate of registration and any duplicates with the request; and, upon cancellation, the registration shall cease to have any effect for the purpose of this Act.

(4) If a vessel is lost or destroyed, the operator shall immediately notify the chief executive of that occurrence and the chief executive shall immediately cancel the registration of that vessel.

(5) If,—

(a) in the case of an operator who is an individual, the operator dies; or

(b) in the case of an operator who is an incorporated company, the operator is dissolved,—

the operator's successors, representatives, or assigns shall, as soon as practicable, notify the chief executive of that occurrence and the chief executive shall immediately cancel the registration of that vessel.

(6) The chief executive must, as soon as practicable, ensure that the registration of a vessel is cancelled if—

(a) the vessel is forfeit to the Crown; or

(b) the chief executive has decided, on reasonable grounds and after receipt of advice from the Secretary of Labour, that a breach of any statutory provision referred to in section 103(5) has occurred.

(7) For the purposes of subsection (6), reasonable grounds for a belief that a breach has occurred includes—

(a) advice from the Secretary of Labour that a decision or order of the Employment Relations Authority or Employment Court has been made to that effect:

(b) advice from the Secretary of Labour to the effect that any information or records requested, whether from an authorised agent in accordance with section 103(5)(d) or from the employer, have not been provided.

(8) If the ownership of any vessel registered under this Act changes to such an extent that the consent of the chief executive under section 103 or section 105 would be required to register that vessel, the operator shall immediately notify the chief executive of that occurrence and the chief executive shall immediately cancel the registration of the vessel.

(9) Every person commits an offence and is liable to the penalty set out in section 252(5) who contravenes any requirement to notify the chief executive of any matter under subsection (4) or subsection (5) or subsection (8).

Compare: 1983 No 14 s 59; 1986 No 34 s 13(1)

Section 107(1): repealed (without coming into force), on 1 October 2001, by section 39(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 107(2): repealed (without coming into force), on 1 October 2001, by section 39(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 107(3): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 107(4): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 107(5): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 106(6): substituted, on 1 October 2001, by section 39(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 107(7)(a): amended, on 2 October 2000, by section 240 of the Employment Relations Act 2000 (2000 No 24).

Section 107(8): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 107(9): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

108 Application of this Part to tenders

(1) No tender is required to be registered under this Act if it is marked in accordance with regulations made for the purpose under section 297.

(2) A tender that complies with subsection (1) is to be treated as part of the registered fishing vessel with which it is used, or is intended to be used.

Compare: 1983 No 14 s 58; 1986 No 34 s 13(1)

Section 108(2): added, on 1 October 2001, by section 11 of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

109 Presumption that fish on registered vessel caught in New Zealand

(1) For the purpose of this Act, all fish, aquatic life, or seaweed on board, landed from, or transferred to or from, a vessel registered under this Act or a New Zealand ship is deemed to have been taken in New Zealand fisheries waters and the provisions of this Act apply accordingly.

(2) Subsection (1) applies—

(a) unless the contrary is proved; and

(b) whether the fish, aquatic life, or seaweed is found on board, or landed, or transferred within New Zealand or New Zealand fisheries waters or elsewhere.

Section 109: substituted, on 1 October 2001, by section 14 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

110 Fish taken in New Zealand fisheries waters must be landed in New Zealand

(1) No person shall land, at any place outside New Zealand, any fish, aquatic life, or seaweed taken in New Zealand fisheries waters unless the landing outside New Zealand has the prior approval of the chief executive and is in accordance with any conditions imposed by the chief executive.

(2) For the purposes of subsection (1), fish, aquatic life, or seaweed shall be deemed to have been landed at a place outside New Zealand if—

(a) it is transported beyond the outer limits of the exclusive economic zone by the vessel that took it; or

(b) it is taken (otherwise than from a vessel) and transferred to a vessel and then transported (whether in that vessel or any other vessel) beyond the outer limits of the exclusive economic zone without having been lawfully purchased or acquired by a licensed fish receiver in New Zealand before transportation; or

(c) it is transhipped, from the vessel that took the fish, aquatic life, or seaweed, to another vessel.

(3) The conditions that may be imposed on any approval granted under subsection (1) include conditions relating to 1 or more of the following:

(a) the vessel that will take the fish, aquatic life, or seaweed:

(b) any vessel which will receive the fish, aquatic life, or seaweed:

(c) the manner and conditions under which the storage, transportation, transhipment, recording, reporting, landing, and disposal of the fish, aquatic life, or seaweed will take place.

(4) *[Repealed]*

(5) Subsection (1) does not apply if the fish, aquatic life, or seaweed was lawfully taken by a person under a foreign fishing licence issued under section 83.

(6) Every person commits an offence and is liable to the penalty set out in section 252(3) who contravenes subsection (1).

Compare: 1983 No 14 s 101; 1986 No 34 s 27(1); 1990 No 29 s 47

Section 110(4): repealed (without coming into force), on 9 September 1999, by section 86 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

111 Fish on registered vessel deemed to have been taken for purpose of sale

(1) For the purposes of this Act, all fish, aquatic life, or seaweed that is on board, or landed from, or transhipped from, any fishing vessel or fish carrier registered under this Act is deemed to have been taken or possessed for the purpose of sale, unless—

(a) the taking or possession of the fish, aquatic life, or seaweed was in accordance with a general or particular approval of the chief executive and with any conditions imposed on that approval; and

(b) the taking or possession occurred after that approval was given.

(2) Subsection (1) does not apply if the fish, aquatic life, or seaweed were lawfully taken under regulations made under section 186.

Compare: 1983 No 14 s 102; 1986 No 34 s 27(1)

Section 111(1): substituted, on 1 October 2001, by section 40 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

112 Taking of fish, etc, by other than New Zealand ships

(1) No person shall use any vessel that is not a New Zealand ship to take fish, aquatic life, or seaweed in New Zealand fisheries waters (other than the exclusive economic zone), except—

(a) for fisheries research, experimental, sports, or recreational fishing purposes; and

(b) with the prior approval of the chief executive and in accordance with any conditions the chief executive may impose.

(2) If any vessel has any tender carried by, or attached to, or operated in conjunction with, the vessel, then, whether or not the vessel is within New Zealand fisheries waters (other than the exclusive economic zone), the vessel shall for the purposes of this section be deemed to be used in fishing at the time and place the tender is being so used, as well as at that time and place.

(3) *[Repealed]*

(4) If any vessel is used in fishing in contravention of this section, every person on the vessel commits an offence and is liable for the penalty set out in section 252(3).

Compare: 1983 No 14 s 60; 1986 No 34 s 13(1); 1990 No 29 s 30

Section 112(3): repealed (without coming into force), on 9 September 1999, by section 86 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

113 Possession of fish, etc, by vessels that are not New Zealand ships

(1) No person shall possess any fish, aquatic life, or seaweed in New Zealand or New Zealand fisheries waters, on any vessel that is not a New Zealand ship, unless,—

(a) in the case of fish, aquatic life, or seaweed taken outside New Zealand fisheries waters,—

(i) the fish, aquatic life, or seaweed was landed in any country other than New Zealand before being brought into New Zealand fisheries waters; or

(ii) the person has, before the entry into New Zealand fisheries waters, obtained the approval of the chief executive to possess that fish, aquatic life or seaweed, and acted in accordance with such conditions as the chief executive may think fit to impose; or

(b) the fish, aquatic life, or seaweed were lawfully taken by that vessel within New Zealand fisheries waters; or

(c) the fish, aquatic life, or seaweed were lawfully received by that vessel within New Zealand or New Zealand fisheries waters.

(2) The chief executive may impose any conditions on an approval granted under subsection (1), including conditions relating to the taking, storage, transportation, recording, reporting, landing, and disposal of the fish, aquatic life, or seaweed.

(3) Any fish, aquatic life, or seaweed landed in New Zealand with the chief executive's approval under subsection (1) and landed after that approval was given, may, in accordance with the conditions of that approval, be sold; and, notwithstanding anything in this Act, no offence of buying or selling or being in possession of any fish, aquatic life, or seaweed shall be deemed to have been committed in respect of any fish, aquatic life, or seaweed sold in accordance with that approval.

(4) Every person commits an offence and is liable to the penalty set out in section 252(3) who contravenes subsection (1).

(5) In proceedings for an offence relating to a contravention of subsection (1),—

(a) the prosecutor need not assert in the charging document that the exceptions set out in paragraphs (a) to (c) do not apply; and

(b) the burden of proving that any of the exceptions set out in paragraphs (a) to (c) applies lies on the defendant.

Compare: 1983 No 14 s 61; 1986 No 34 s 1(1)

Section 113(5): inserted, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

113A All fishing within foreign fishing jurisdiction to be authorised

(1) No New Zealand national, and no person using a ship that is registered under the Ship Registration Act 1992 or that flies the New Zealand flag, may take or transport fish, aquatic life, or seaweed in the national fisheries jurisdiction of a foreign country unless the fish, aquatic life, or seaweed is taken or transported under, and in accordance with, the laws of that jurisdiction.

(2) Every person who contravenes subsection (1) commits an offence and is liable to the penalty set out in section 252(3).

Section 113A: inserted, on 1 May 2001, by section 15 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Part 6A
High seas fishing

Part 6A: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

113B Interpretation

In this Part, unless the context otherwise requires,—

FAO Compliance Agreement means the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, done at Rome on 24 November 1993

flag State, in relation to a vessel that is not a New Zealand ship, means—

(a) the State in which the vessel is registered; or

(b) if the vessel is unregistered, the State whose flag the vessel flies

foreign high seas inspector means a person who is duly authorised, by a State that is a member of or is a participant in a global, regional, or subregional fisheries organisation or arrangement, to exercise the enforcement powers of an inspector in relation to the area covered by the organisation or arrangement under—

(a) the Fish Stocks Agreement; or

(b) the boarding and inspection procedures of the organisation or arrangement

global, regional, or subregional fisheries organisation or arrangement means an agreement or arrangement notified in the *Gazette* in accordance with section 113C

international conservation and management measures means measures to conserve or manage 1 or more species of living marine resources, which measures are—

(a) adopted by a global, regional, or subregional fisheries organisation or arrangement; and

(b) notified in the *Gazette* in accordance with section 113C

participating State means a foreign State or an organisation of foreign States that is certified by the Secretary of Foreign Affairs and Trade under section 113C as being a party to the Fish Stocks Agreement

serious violation has the meaning given to it by Article 21.11 of the Fish Stocks Agreement.

Section 113B: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

113C Notification and certification by Secretary of Foreign Affairs and Trade

(1) The Secretary of Foreign Affairs and Trade may from time to time, by notice in the *Gazette*, give notice of—

(a) a global, regional, or subregional fisheries organisation or arrangement; or

(b) international conservation and management measures.

(2) A notice given under subsection (1) must specify where a copy of the constitution of the organisation or a copy of the arrangement or international conservation and management measures, as the case may be, may be obtained.

(3) The Secretary of Foreign Affairs and Trade may sign a certificate stating that a specified State is or is not—

(a) a State that is a party to the Fish Stocks Agreement; or

(b) a State that is a party to the FAO Compliance Agreement; or

(c) a State that is a participant in, is a member of, or has accepted the obligations of, a global, regional, or sub-regional fisheries organisation or arrangement; or

(d) a State that is a signatory to the Fish Stocks Agreement, and has legislative and administrative mechanisms to control its vessels on the high seas in accordance with that agreement.

(4) A certificate referred to in subsection (3) is, for all purposes, conclusive evidence of its contents unless the contrary is proved by the production of a more recent certificate issued under that subsection.

Section 113C: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 113C(3)(d): amended, on 1 October 2001, by section 18(a) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 113C(3)(d): amended, on 1 October 2001, by section 18(b) of the Fisheries Amendment Act 2001 (2001 No 65).

Requirements as to taking of fish on high seas

Heading: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

113D Taking and transportation of fish, etc, on high seas using New Zealand ships

(1) No person may use a New Zealand ship, or a tender of that ship, to take (by any method) on the high seas any fish, aquatic life, or seaweed for sale, unless—

(a) that person does so under the authority of, and in accordance with, a current high seas fishing permit issued in respect of that ship; and

(b) the ship is registered—

(i) under the Ship Registration Act 1992; and

(ii) in the Fishing Vessel Register as a fishing vessel; and

(c) the holder of the permit is named in the Fishing Vessel Register as an operator of that vessel.

(2) No person may use a New Zealand ship, or a tender of that ship, to transport any fish, aquatic life, or seaweed on the high seas, unless—

(a) that person does so under the authority of, and in accordance with, a current high seas fishing permit issued in respect of that ship; and

(b) the fish, aquatic life, or seaweed was taken—

(i) on the high seas under the authority of, and in accordance with, a high seas fishing permit or an authorisation issued by a State to which section 113E(2) applies; or

(ii) in the national fisheries jurisdiction of a foreign State under, and in accordance with, the laws of that State; and

(c) the ship is registered—

(i) under the Ship Registration Act 1992; and

(ii) in the Fishing Vessel Register as either a fish carrier or a fishing vessel; and

(d) the holder of the permit is named in the Fishing Vessel Register as an operator of that vessel.

(3) Subsection (2) does not apply if the fish, aquatic life, or seaweed—

(a) has previously been landed in New Zealand or in any other country; or

(b) has not previously been landed in New Zealand or in any other country but was taken in New Zealand fisheries waters and—

(i) approval under section 110(1) is obtained before transportation on the high seas commences; and

(ii) the transportation is in accordance with any conditions of that approval.

(4) No person may take or transport any fish, aquatic life, or seaweed under the authority of a high seas fishing permit unless that person is—

(a) the holder of that permit; or

(b) an employee or agent of the holder of the permit; or

(c) the master, or a member of the crew, of the ship in respect of which the permit is in force.

(5) Every person who contravenes subsection (1) or subsection (2) or subsection (4) commits an offence and is liable on conviction to the penalty set out in section 252(3).

Section 113D: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 113D(2)(b)(i): amended, on 1 October 2001, by section 19(1) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 113D(3): substituted, on 1 October 2001, by section 19(2) of the Fisheries Amendment Act 2001 (2001 No 65).

113E Use of foreign vessels on high seas by New Zealand nationals

(1) No New Zealand national may use a vessel that is not registered under the Ship Registration Act 1992, or a tender of that vessel,—

(a) to take (by any method), on the high seas, any fish, aquatic life, or seaweed for sale, except in accordance with an authorisation issued by a State to which subsection (2) applies; or

(b) to transport any fish, aquatic life, or seaweed taken on the high seas, unless that fish, aquatic life, or seaweed was taken in accordance with an authorisation issued by a State to which subsection (2) applies.

(2) An authorisation may be issued—

(a) by a State that is a party to the Fish Stocks Agreement; or

(b) by a State that is a party to the FAO Compliance Agreement; or

(c) by a State that is a party to, or has accepted the obligations of, a global, regional, or subregional fisheries organisation or arrangement to which the authorisation relates; or

(d) by a State that—

(i) is a signatory to the Fish Stocks Agreement; and

(ii) has legislative and administrative mechanisms to control its vessels on the high seas in accordance with that agreement.

(3) Every person who contravenes subsection (1) commits an offence and is liable on conviction to the penalty set out in section 252(3).

Section 113E: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 113E(1): substituted, on 1 May 2001, by section 12 of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

113F Exemption from section 113E

(1) The Minister may, on receipt of an application in the approved form accompanied by the prescribed fee (if any), exempt a New Zealand national from section 113E if the Minister is satisfied that—

(a) the applicant is a citizen of another country and that country has jurisdiction over the applicant's proposed fishing activities on the high seas; and

(b) New Zealand is not a participant in, or a member of, or has not accepted the obligations of, a global, regional, or subregional fisheries organisation or arrangement that covers the area of the high seas in which the applicant proposes to take or transport fish, aquatic life, or seaweed; and

(c) the applicant has not engaged in fishing or transportation—

(i) in a manner that undermined the effectiveness of international conservation and management measures; and

(ii) that has resulted in a high seas fishing permit, or an equivalent authorisation granted by a participating State or a party to the FAO Compliance Agreement, being suspended or revoked during the 3 years immediately preceding the application (**the 3-year period**); and

(d) the applicant has not engaged in fishing or transportation on the high seas during the 3-year period—

(i) without a high seas fishing permit (or equivalent authorisation granted by a participating State), if a high seas fishing permit was required for that fishing or transportation; and

(ii) in a manner that undermined the effectiveness of international conservation and management measures.

(2) An exemption granted by the Minister must be limited to 1 or more of the following, as specified in the exemption:

(a) an area or areas of the high seas:

(b) a species of fish, aquatic life, or seaweed:

(c) a period of time.

(3) The Minister may, by notice in writing to the holder of an exemption granted under subsection (1), amend or revoke the exemption.

(4) Section 113E does not apply to a New Zealand national taking or transporting fish, aquatic life, or seaweed in accordance with an exemption granted under subsection (1).

Section 113F: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Issue of high seas fishing permits

Heading: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

113G Application for high seas fishing permit

An application for a high seas fishing permit—

(a) may be made only by the operator of a vessel that is registered in the Fishing Vessel Register as either a fish carrier or a fishing vessel; and

(b) must be made to the chief executive in the approved form.

Section 113G: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

113H Issue of high seas fishing permit

(1) The chief executive may issue a high seas fishing permit only if the chief executive is satisfied that—

(a) the vessel to which the permit relates is registered—

(i) under the Ship Registration Act 1992; and

(ii) in the Fishing Vessel Register as either a fish carrier or a fishing vessel; and

(b) the applicant has not engaged in fishing or transportation—

(i) in a manner that undermined the effectiveness of international conservation and management measures; and

(ii) that has resulted in a high seas fishing permit, or an equivalent authorisation granted by a participating State or a party to the FAO Compliance Agreement, being suspended or revoked during the 3 years immediately preceding the application (**the 3-year period**); and

(c) the applicant has not engaged in fishing or transportation on the high seas during the 3-year period—

(i) without a high seas fishing permit (or equivalent authorisation granted by a participating State), if a high seas fishing permit was required for that fishing or transportation; and

(ii) in a manner that undermined the effectiveness of international conservation and management measures.

(2) Before issuing a high seas fishing permit, the chief executive may have regard to—

(a) the previous offending history (if any), in relation to fishing or transportation (whether within the national fisheries jurisdiction of New Zealand

or another country, or on the high seas), of the vessel's owner, operator, foreign charterparty, notified user, master, or crew; and

(b) such other matters as the chief executive considers relevant.

(3) The chief executive may, but is not required to, issue a high seas fishing permit to a person even though that person may—

(a) owe the Crown a levy payable under Part 14; or

(b) have unpaid and overdue deemed value amounts of more than $1,000; or

(c) hold a fishing permit that is subject to conditions by virtue of or under section 78(1) or (2).

Section 113H: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

113I Term and content of high seas fishing permit

(1) A high seas fishing permit may be issued for a period not exceeding 5 years.

(2) A high seas fishing permit must specify—

(a) the name of the permit holder; and

(b) the fishing vessel or fish carrier to which the permit relates; and

(c) any conditions to which the permit is subject under section 113K.

Section 113I: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Compliance with conditions and regulations

Heading: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

113J Compliance with conditions and regulations

(1) A person taking fish, aquatic life, or seaweed under the authority of a high seas fishing permit must comply with—

(a) any conditions to which the permit is subject under section 113K; and

(b) any regulations made under section 297.

(2) Every person who contravenes a condition to which a high seas fishing permit is subject under section 113K commits an offence and is liable to the penalty set out in section 252(5).

Section 113J: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

113K Conditions of high seas fishing permit

(1) A high seas fishing permit may be subject to such conditions as the chief executive considers appropriate, including conditions relating to the following matters:

(a) the areas in which fishing or transportation is authorised:

(b) the seasons, times, and particular voyages during which fishing or transportation is authorised:

(c) the species, size, age, and quantities of fish, aquatic life, or seaweed that may be taken or transported:

(d) the methods by which fish, aquatic life, or seaweed may be taken:

(e) the types, size, and amount of fishing gear or equipment that may be used or carried, and the modes of storage of that gear or equipment when not in use:

(f) the use, transfer, transhipment, landing, receiving, and processing of fish, aquatic life, or seaweed taken:

(g) procedures or requirements, or both, enabling the verification of fish, aquatic life, or seaweed taken or being taken by the vessel, including procedures or restrictions relating to the species of, quantities of, or areas from which, fish, aquatic life, or seaweed are being or have been taken by the vessel:

(h) entry by the vessel to New Zealand or foreign ports, whether for the inspection of its catch or for other purposes:

(i) reports and information required to be given to the chief executive by the permit holder, and records required to be kept by the permit holder:

(j) management controls regarding fishing-related mortality of fish, aquatic life, or seaweed:

(k) the conduct of specified programmes of fisheries research:

(l) the marking of the vessel and other means for its identification:

(m) the placing of observers on the vessel and the payment of any associated prescribed fees and charges by the permit holder:

(n) the installation and maintenance of equipment to monitor fishing or transportation under the permit and the payment of any associated prescribed fees and charges by the permit holder:

(o) the installation on the vessel and the maintenance of any automatic location communicator or other equipment for the identification and location of the vessel, and of adequate navigational equipment to enable the vessel to fix its position, and the payment of any associated prescribed fees and charges by the permit holder:

(p) the carriage on board the vessel of specified charts, publications, and instruments:

(q) the disposal of fish, aquatic life, and seaweed:

(r) measures to give effect to international conservation and management measures.

(2) The chief executive may from time to time, by written notice to the holder of a high seas fishing permit, amend, add to, or revoke any conditions of the permit with effect from the date specified in the notice.

(3) If the chief executive considers it expedient to do so, the chief executive may—

(a) require the high seas fishing permit holder to surrender the permit; and

(b) replace that permit with a new permit containing new conditions.

(4) A condition imposed on a high seas fishing permit under this section is not invalid merely because the condition is more restrictive or more onerous than any conditions that are or may be imposed on fishing by any regulations made under this Act.

Section 113K: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

113L High seas fishing permit to be carried on vessel

(1) A person taking or transporting fish, aquatic life, or seaweed under the authority of a high seas fishing permit must—

(a) carry the permit (or a copy of the permit) on board the vessel to which the permit relates at all times; and

(b) show the permit to a fishery officer or high seas fishery inspector or foreign high seas inspector on demand.

(2) Every person who contravenes subsection (1) commits an offence and is liable to the penalty set out in section 252(5).

Section 113L: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

113M Notification of change of ownership of vessel

(1) The holder of a high seas fishing permit must notify the chief executive within 5 working days of any change of ownership or operator of the vessel to which the permit relates.

(2) Every person who contravenes subsection (1) commits an offence and is liable to the penalty set out in section 252(6).

Section 113M: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Suspension and revocation of high seas fishing permits

Heading: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

113N Chief executive may suspend or revoke high seas fishing permit

(1) The chief executive may revoke a high seas fishing permit if the chief executive is satisfied that any information or evidence supplied with the application for the permit was false or misleading in any material particular.

(2) The chief executive may suspend or revoke a high seas fishing permit if the chief executive is satisfied that—

(a) the vessel to which the permit relates is no longer—

(i) registered under the Ship Registration Act 1992; or

(ii) registered in the Fishing Vessel Register as either a fish carrier or a fishing vessel; or

(b) the permit holder, or any person authorised to fish under the authority of the permit, has been convicted of an offence against this Part; or

(c) the permit holder has been convicted of a fishing-related offence under the laws of a country other than New Zealand; or

(d) the permit holder is no longer the owner or operator of the vessel.

(3) A person may, in writing, request that the chief executive revoke a high seas fishing permit issued to that person.

(4) A request made under subsection (3) must be accompanied by the high seas fishing permit and any copies of the permit.

Section 113N: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

113O Procedure to be followed before suspending or revoking permit

Before suspending or revoking a high seas fishing permit under section 113N(1) or (2), the chief executive must—

(a) give the permit holder not less than 7 days' notice in writing of the chief executive's intention to suspend or revoke the permit; and

(b) include in or with the notice a statement—

(i) of the chief executive's reasons; and

(ii) of the date on which the permit will be revoked or suspended; and

(iii) in the case of suspension of the permit, of the period for which the permit will be suspended; and

(c) give the permit holder a reasonable opportunity to make submissions to the chief executive; and

(d) consider any submissions made to the chief executive by the permit holder.

Section 113O: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

113P Effect of suspension or revocation of permit

(1) Where the chief executive revokes a high seas fishing permit under section 113N,—

(a) the high seas fishing permit is cancelled immediately and ceases to have any effect for the purposes of this Act; and

(b) the permit holder must ensure that the permit and any copies of the permit are surrendered immediately to the chief executive.

(2) Where the chief executive suspends a high seas fishing permit under section 113N,—

(a) the suspension is for the period specified by the chief executive under section 113O(b); and

(b) the permit does not authorise fishing or transportation; but

(c) the obligations and conditions to which the permit is subject, or that are imposed by or under this Act in relation to the permit, continue to have effect.

(3) Nothing in this section requires the chief executive to remit or refund any fees, charges, or levies paid or payable by the permit holder for the period from the date of issue of the permit to the date of revocation.

Section 113P: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

High seas fishery inspectors

Heading: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

113Q High seas fishery inspectors

(1) Every fishery officer (other than an honorary fishery officer or an examiner) is a high seas fishery inspector.

(2) A high seas fishery inspector may direct a person under his or her command to carry out such duties of a high seas fishery inspector as he or she specifies, for such period as he or she thinks necessary.

(3) A person who receives a direction under subsection (2) has, for the purpose of carrying out the specified duties, all the powers of a high seas fishery inspector.

Section 113Q: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

113R Powers of high seas fishery inspectors in relation to New Zealand vessels

For the purposes of the administration and enforcement of this Part, a high seas fishery inspector has all of the powers of a fishery officer in relation to a vessel on the high seas that—

(a) is registered under the Ship Registration Act 1992; or

(b) flies the New Zealand flag.

Section 113R: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

113S Powers of high seas fishery inspectors in relation to foreign vessels

(1) A high seas fishery inspector may, for the purpose of ensuring compliance with international conservation and management measures adopted by a global,

regional, or subregional fisheries organisation or arrangement of which New Zealand is a member or in which New Zealand is a participant, board and inspect a vessel in an area of the high seas that is covered by that organisation or arrangement, or in New Zealand fisheries waters, if—

(a) the vessel is not registered under the Ship Registration Act 1992; and

(b) the flag State of the vessel is—

(i) a party to the Fish Stocks Agreement, whether or not the flag State is a member of, or a participant in, that organisation or arrangement; or

(ii) a member of or participant in that organisation or arrangement, and that organisation or arrangement has established boarding and inspection procedures as provided in Article 21.2 of the Fish Stocks Agreement.

(2) If the flag State in relation to a vessel to which subsection (1) applies authorises the chief executive (in accordance with Article 21.6(b) of the Fish Stocks Agreement) to investigate whether the vessel has engaged in an activity contrary to those international conservation and management measures, a high seas fishery inspector has, in relation to the vessel,—

(a) all of the powers of a fishery officer; or

(b) if the flag State specifies the powers of a fishery officer that the high seas fishery inspector may exercise, those powers.

Section 113S: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 113S(1)(b)(ii): substituted, on 1 October 2004, by section 39 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

113T Boarding and inspection procedures relating to foreign vessels

(1) A high seas fishery inspector who boards a vessel under section 113S(1) must—

(a) give the master of the vessel evidence of the inspector's identity and of the fact that he or she is a high seas fishery inspector; and

(b) provide to the master of the vessel a copy of a report on the boarding and inspection, including any objection or statement that the master has advised the high seas fishery inspector that the master wishes to have included in the report; and

(c) promptly leave the vessel after completing the inspection unless he or she finds evidence that the vessel has committed a serious violation.

(2) The chief executive must provide a copy of the report referred to in subsection (1)(b) to the authorities of the flag State of the vessel.

(3) At the time of a boarding and inspection under section 113S(1), the chief executive must initiate action to give notice of the boarding and inspection to the authorities of the flag State of a vessel that is boarded and inspected.

(4) A high seas fishery inspector must not interfere with any attempt by the master of the vessel to communicate with the authorities of the flag State of the vessel during the boarding and inspection.

(5) When undertaking a boarding and inspection under section 113S(1), a high seas fishery inspector is authorised, in order to verify compliance by the vessel with the relevant international conservation and management measures, to inspect—

(a) the vessel; and

(b) the vessel's authorisation to fish, or transport fish, aquatic life, or seaweed, in the relevant area of the high seas; and

(c) the vessel's fishing gear and equipment; and

(d) facilities; and

(e) fish and fish products; and

(f) records and other relevant documents.

Section 113T: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

113U Investigation of serious violations

(1) If, as a result of a boarding and inspection under section 113S(1), a high seas fishery inspector believes that the vessel has been used to commit a serious violation,—

(a) the high seas fishery inspector must notify the chief executive as soon as practicable; and

(b) the chief executive must advise the authorities of the flag State of the vessel as soon as practicable.

(2) A high seas fishery inspector may remain on board the vessel and may require the master to assist in further investigations for so long as the flag State—

(a) fails to respond to a notification under subsection (1); or

(b) fails to take action under its own law in respect of the serious violation.

(3) The high seas fishery inspector may require the master to bring the vessel without delay to a port specified by the high seas fishery inspector if the flag State fails, within 3 working days after receipt by the authorities of the flag State of the notification, to—

(a) respond to a notification under subsection (1); or

(b) take action under its own law in respect of the serious violation.

(4) In this section, **working day**, in relation to a flag State, means any day of the week other than—

(a) Saturday or Sunday; or

(b) a public holiday in that State.

Section 113U: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

113V Boarding and inspection procedures modified by global, regional, or subregional fisheries organisation or arrangement

(1) This section applies where—

(a) a global, regional, or subregional fisheries organisation or arrangement of which New Zealand is a member, or in which New Zealand is a participant, establishes procedures for boarding and inspection of vessels as provided in Article 21.2 of the Fish Stocks Agreement; and

(b) a high seas fishery inspector boards and inspects a foreign vessel under section 113S(1) for the purpose of ensuring compliance with international conservation and management measures established by that organisation or arrangement.

(2) To the extent that the procedures established by the organisation or arrangement are different from the requirements of section 113T or section 113U, the high seas fishery inspector and the chief executive must comply with the procedures established by the organisation or arrangement.

Section 113V: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

113W Persons on New Zealand ships to co-operate with foreign high seas inspectors

(1) The master of a ship must co-operate with a foreign high seas inspector appointed by a participating State that is a member of or participant in a global, regional, or subregional fisheries organisation or arrangement where—

(a) the ship—

(i) is registered under the Ship Registration Act 1992; or

(ii) flies the New Zealand flag; and

(b) the ship is on the high seas in an area covered by that organisation or arrangement.

(c) *[Repealed]*

(2) The master of a ship must co-operate with a foreign high seas inspector appointed in relation to an area covered by a global, regional, or subregional fisheries organisation or arrangement where—

(a) the ship—

(i) is registered under the Ship Registration Act 1992; or

(ii) flies the New Zealand flag; and

(b) the ship is on the high seas in an area covered by the organisation or arrangement; and

(ba) New Zealand is a member of the organisation or arrangement; and

(c) the organisation or arrangement has established procedures for boarding and inspecting vessels as provided in Article 21.2 of the Fish Stocks Agreement.

(3) Every person on a ship to which subsection (1) or subsection (2) applies must—

(a) accept and facilitate prompt and safe boarding of the ship by the foreign high seas inspector; and

(b) co-operate with and assist in the inspection of the vessel; and

(c) not obstruct, intimidate, or interfere with the foreign high seas inspector in the performance of his or her duties; and

(d) allow the foreign high seas inspector to communicate with the authorities of New Zealand and of the State that appointed the inspector; and

(e) provide reasonable facilities to the foreign high seas inspector, including food and accommodation (where appropriate); and

(f) facilitate safe disembarkation from the ship by the foreign high seas inspector.

(4) Every person who contravenes subsection (1), subsection (2), or subsection (3) commits an offence and is liable to the penalty set out in section 252(3).

Section 113W: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 113W(1)(b): amended, on 1 October 2004, by section 40(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 113W(1)(c): repealed, on 1 October 2004, by section 40(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 113W(2)(ba): inserted, on 1 October 2004, by section 40(2) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

113X Powers of foreign high seas inspector when requested to investigate

(1) The chief executive may authorise a foreign high seas inspector to investigate a ship that is registered under the Ship Registration Act 1992 or that flies the New Zealand flag, under Article 21.6(b) of the Fish Stocks Agreement, if—

(a) the inspector has boarded the ship under—

(i) the Agreement; or

(ii) boarding and inspection procedures established as provided in Article 21.2 of the Agreement; and

(b) the chief executive receives a report from the inspector stating that there is evidence that the ship has taken or transported fish, aquatic life, or

seaweed in contravention of international conservation and management measures.

(2) If the chief executive authorises the foreign high seas inspector to investigate under Article 21.6(b) of the Fish Stocks Agreement,—

(a) the foreign high seas inspector has the powers of a fishery officer in relation to the ship; and

(b) the chief executive must advise the master of the ship as soon as practicable.

(3) For the purposes of any proceedings for an offence under this Part, evidence obtained by a foreign high seas inspector in the exercise of powers under this section is admissible as if the evidence were obtained by a fishery officer.

Section 113X: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

113Y Chief executive may withdraw authorisation to fish under high seas fishing permit

(1) This section applies where the chief executive receives a report from a foreign high seas inspector that a person on a ship is—

(a) failing to comply with section 113W; or

(b) failing to co-operate with or obstructing the foreign high seas inspector in the exercise of his or her powers under—

(i) the Fish Stocks Agreement; or

(ii) boarding and inspection procedures established as provided in Article 21.2 of the Agreement.

(2) The chief executive may, by notice to the master of the ship (which notice may be given orally or by any form of electronic communication), suspend the high seas fishing permit under which the ship is taking or transporting fish.

Section 113Y: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Administrative penalties

Heading: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

113Z Administrative penalties for high seas fisheries offences

(1) This section—

(a) applies in respect of an offence against this Part that carries a penalty of a fine not exceeding $250,000; but

(b) does not apply in respect of an alleged offence if a charging document has been filed in respect of the alleged offence.

(2) The chief executive may cause notice in writing, in the approved form, to be served on a person if the chief executive has reasonable cause to believe that—

(a) an offence to which this section applies may have been committed by that person; and

(b) having regard to all the circumstances relating to the alleged offence, it is minor; and

(c) having regard to the previous conduct of the vessel and of that person, it would be appropriate to impose a penalty under this section.

(3) A notice given under subsection (2) must—

(a) contain—

(i) the date and nature of the alleged offence; and

(ii) a summary of the facts on which the allegation that an offence has been committed is based, which summary is sufficient to fully and fairly inform the person of the allegation against him or her; and

(iii) any other matters (other than previous convictions) that the chief executive considers relevant to the imposition of a penalty; and

(b) be endorsed with a statement setting out the provisions of this section and sections 113ZA to 113ZC.

Section 113Z: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 113Z(1)(b): amended, on 4 October 2013, by regulation 3(1) of the Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409).

113ZA Right to require that offence be dealt with by court

(1) Within 28 days after a notice under section 113Z is served on a person, the person may, by a notice in writing in the approved form served on the chief executive, require that any proceedings in respect of the alleged offence be dealt with before a court.

(2) No further proceedings may be taken under section 113ZC by the chief executive if—

(a) a person gives notice in accordance with subsection (1); or

(b) the person does not, within 28 days after a notice under section 113Z is served on him or her, admit the offence in accordance with section 113ZB.

(3) Nothing in this section prevents—

(a) the subsequent filing of a charging document in respect of the alleged offence; or

(b) the conviction of the person of the offence by a court; or

(c) the imposition of a penalty under an enactment, or forfeiture under this Act, on such a conviction.

Section 113ZA: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 113ZA(3)(a): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

113ZB Admission of offence

A person on whom a notice under section 113Z is served who does not require that any proceedings in respect of the alleged offence be dealt with before a court may, by notice in writing served on the chief executive within 28 days after the notice under section 113Z is served on him or her,—

(a) admit the offence; and

(b) make submissions to the chief executive as to the matters the person wishes the chief executive to take into account in imposing a penalty under section 113ZC.

Section 113ZB: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

113ZC Amount of administrative penalty

(1) If the person admits an offence under section 113ZB, the chief executive may, after taking into account any submissions made by the person under that section, impose on that person a monetary penalty not exceeding one-third of the maximum monetary penalty to which the person would be liable if the person were convicted of the offence by a court.

(2) If the chief executive imposes a penalty on a person under this section in respect of an offence, the chief executive must cause a notice in writing, in the approved form, of the particulars of the penalty to be served on the person.

(3) A person on whom a penalty is imposed under this section must pay the amount of the penalty to the Crown within 28 days after the notice of the penalty is served on the person in accordance with subsection (2).

(4) Despite subsection (3), a penalty that has been imposed under this section is recoverable by the Crown, from the person on whom it has been imposed, in the same manner as a fine is recoverable on conviction for an offence.

(5) Despite the provisions of this Act, or any other enactment, where a person admits an offence under section 113ZB, no charging document may be filed against that person in respect of the offence.

Section 113ZC: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 113ZC(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 113ZC(5): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Other matters

Heading: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

113ZD Visits by foreign ships

(1) The master of a fishing vessel or fish carrier that is not a New Zealand ship, a New Zealand fishing vessel, or a registered fish carrier, who intends to bring the vessel into the internal waters or a port of New Zealand, must give the chief executive at least 72 hours' notice, in the approved manner, of his or her intention to do so.

(2) If the chief executive is satisfied that a vessel has undermined international conservation and management measures, the chief executive may, by notice to the master of a vessel to which subsection (1) applies, direct the vessel—

(a) not to enter the internal waters or a port of New Zealand; or

(b) if it has entered the internal waters or a port of New Zealand, to leave those waters or that port.

(3) If the Minister is satisfied on reasonable grounds that it is necessary for the purpose of the conservation and management of fish, aquatic life, or seaweed, the Minister may, by notice, direct any class or classes of fishing vessel or fish carrier not to enter the internal waters or a port of New Zealand.

(4) The master of a vessel to which a notice under subsection (2) or subsection (3) applies, who brings the vessel into the internal waters or a port of New Zealand knowing that the notice applies to the vessel, commits an offence and is liable to the penalty set out in section 252(5).

(5) This section does not prevent a vessel from entering or remaining in the internal waters or a port of New Zealand in the case of *force majeure*, subject to any conditions set by the chief executive.

(6) A notice under subsection (3) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
	The Ministry of Foreign Affairs and Trade considers that the secondary legislation may have international transparency obligations under the CPTPP. As a result the maker may also have to comply with s 75 of the Legislation Act 2019	LA19 ss 74(2), 75
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 113ZD: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 113ZD(1): amended, on 1 October 2004, by section 41(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 113ZD(2)(a): amended, on 1 October 2004, by section 41(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 113ZD(2)(b): substituted, on 1 October 2004, by section 41(2) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 113ZD(3): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 113ZD(3): amended, on 1 October 2004, by section 41(3) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 113ZD(4): amended, on 1 October 2004, by section 41(3) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 113ZD(5): substituted, on 1 October 2004, by section 41(4) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 113ZD(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

113ZE Consent of Attorney-General required for certain proceedings

(1) This section applies to proceedings for offences under the following sections:

(a) section 113A (illegal fishing or transportation in the fisheries jurisdiction of a foreign country):

(b) section 113E (unlawful use of foreign vessel on high seas by New Zealand national).

(2) Despite anything in any other enactment, those proceedings may not be instituted in any court except with the consent of the Attorney-General and on the Attorney-General's certificate that it is expedient that the proceedings should be instituted.

Compare: 1996 No 22 s 27

Section 113ZE: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

113ZF Authorised agent

A document required to be served on the holder of a high seas fishing permit is deemed to have been duly served if it is—

(a) delivered to a representative person for the time being specified under section 103(2)(c) or section 105(2)(c) in relation to the vessel; or

(b) sent to that person by post at the address notified or last notified to the chief executive; or

(c) left for that person at that address.

Section 113ZF: inserted, on 1 May 2001, by section 16 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Part 7
Dispute resolution

114 Application of this Part

This Part—

(a) applies to disputes about the effects of fishing (excluding fish farming) on the fishing activities of any person who has a current fishing interest provided for or authorised by or under this Act; but

(b) does not apply to disputes about ensuring sustainability or about the effects of any fishing authorised under Part 9.

Section 114(a): amended, on 1 January 2005, by section 7 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Statement of procedure

115 Minister to issue statement of procedure

(1) Within 6 months after the commencement of this section, the Minister shall publicly notify the availability, at such places as he or she specifies in the notice, of a draft statement of procedure for the resolution of disputes to which this Part applies.

(2) Any person may, within 30 working days after the public notification of the availability of the draft statement of procedure under subsection (1), make a submission to the Minister about the draft statement of procedure.

(3) The Minister shall, after having due regard to the submissions (if any) received on the draft statement of procedure, and within 30 working days of the close of the period referred to in subsection (2), approve a statement of procedure for the resolution of disputes to which this Part applies.

(4) The Minister shall publicly notify the availability, at such places as he or she specifies in the notice, of the approved statement of procedure.

(5) The Minister shall from time to time, at such intervals as he or she considers appropriate, review the approved statement of procedure and may, at any time,—

(a) amend the statement; or

(b) revoke the statement and substitute a new statement;—

and subsections (2) to (4), with any necessary modifications, shall apply to every such amendment or substituted statement.

116 Content of statement of procedure

The statement of procedure under section 115 shall provide for—

(a) a process by which any interested party may identify a dispute to which this Part applies; and

(b) a process and guidelines to determine whether a dispute relates to a matter that significantly affects the fishing activities of 1 or more persons; and

(c) input and participation by tangata whenua having a non-commercial interest in the fisheries resources concerned, having particular regard to kaitiakitanga; and

(d) opportunities for parties to negotiate, take collective action (if appropriate), and resolve disputes; and

(e) the outcome of any resolution processes to be forwarded to the Minister.

Fisheries Dispute Commissioners

117 Minister may appoint Fisheries Dispute Commissioner to resolve dispute

(1) The Minister may, on the Minister's own motion or at the request of any party to the dispute, appoint a Fisheries Dispute Commissioner to inquire into a dispute, if—

(a) the parties to the dispute are unable to resolve the dispute in accordance with the approved statement of procedure under section 115; and

(b) the Minister is satisfied that—

(i) the dispute is a dispute to which this Part applies; and

(ii) there is no reasonable prospect of a negotiated solution being reached; and

(iii) the dispute relates to a matter that has a significant adverse effect on the fishing activities of 1 or more persons.

(2) Any party making a request to the Minister under this section shall, as soon as practicable after making the request, notify every other party to the dispute that such a request has been made.

(3) Subject to subsection (4), the Minister shall, within 40 working days after any party to a dispute requests the appointment of a Commissioner,—

(a) decide whether or not to appoint a Commissioner; and

(b) notify any party of either—

(i) the name of the Commissioner; or

(ii) the reasons for deciding not to appoint a Commissioner.

(4) The Minister may, at any time before the expiration of the 40-day period referred to in subsection (3), from time to time extend that period by such further period not exceeding 80 working days as he or she considers necessary; and, in such case, the Minister shall, as soon as practicable, notify the parties of the extension and of the reasons for that extension.

(5) When appointing a Commissioner, the Minister shall specify to the Commissioner the nature of the dispute that is subject to the inquiry.

118 Inquiries

(1) For each inquiry, a Commissioner shall determine the procedure that he or she considers appropriate and fair in the circumstances.

(2) The Commissioner shall seek and consider—

(a) submissions from parties to the inquiry; and

(b) submissions from such other persons or organisations as the Commissioner considers appropriate.

(3) The Commissioner may receive in evidence any statement, document, information, or matter, that may, in the Commissioner's opinion, assist the Commissioner to deal effectively with the dispute before him or her, whether or not the same would otherwise be admissible in a court of law.

(4) The Commissioner may—

(a) examine, on oath or otherwise, 1 or more of the parties, or any person whose evidence has been received by the Commissioner under subsection (3):

(b) require any person to verify by statutory declaration any statement made by that person with respect to the dispute.

(5) If the Commissioner is not satisfied that the dispute is one to which this Part applies, he or she shall refer the dispute back to the Minister and give reasons for doing so.

(6) Without limiting any other provision in this Part, every Commissioner shall have, and may exercise, such powers as are reasonably necessary or expedient to enable the Commissioner to carry out his or her functions.

(7) The parties to the dispute are the parties to the inquiry.

119 Secretarial services

(1) The chief executive shall designate an employee of the Ministry to be the secretary to a Commissioner, and shall also provide from the Ministry such secretarial, recording, accounting, and clerical services as may be necessary to enable a Commissioner to discharge his or her functions.

(2) All expenses incurred in respect of the functions of a Commissioner shall be paid out of money appropriated for that purpose by Parliament.

120 Fees and allowances of Commissioner

A Commissioner shall be paid such fees and other allowances as the Minister may from time to time approve, which fees and allowances shall be reasonable in the circumstances and be paid out of money appropriated for that purpose by Parliament.

Compare: 1993 No 95 s 63(3)

121 Protection of sensitive information

(1) A Commissioner may, on the Commissioner's own motion or on the application of a party to the inquiry, make an order prohibiting or restricting the publication or communication of any information supplied to the Commissioner, or obtained by the Commissioner, in the course of any inquiry, whether or not the information may be material to the inquiry.

(2) A Commissioner shall make an order described in subsection (1) only if satisfied that the order is necessary—

(a) to avoid serious offence to tikanga Maori or to avoid the disclosure of the location of wahi tapu; or

(b) to avoid the disclosure of a trade secret; or

(c) to avoid unreasonable prejudice to the position of the person who supplied, or is the subject of, the information,—

and is satisfied that, in the circumstances of the dispute, the importance of protecting the interests referred to in this section outweighs the public interest in making the information available.

(3) Every person commits an offence and is liable to the penalty set out in section 252(6) who contravenes or fails to comply with an order made under subsection (1).

Compare: 1991 No 69 s 42; 1993 No 95 s 66

122 Commissioner to report to Minister within 60 working days

(1) Subject to subsection (2), a Commissioner shall, within 60 working days of appointment, give the Minister a report on the dispute including recommendations for resolving the dispute (which may include taking no action) together with the reasons for such recommendations.

(2) A Commissioner shall not recommend any option that is likely to have a significant adverse effect on the fishing activities of any person who has any current fishing interests provided for or authorised by or under this Act.

(3) The Minister may from time to time extend by such period as he or she considers necessary the period referred to in subsection (1); and, if the Minister does extend that period, the Minister shall, as soon as practicable, notify the parties to the inquiry of the extension and of the reasons for that extension.

123 Minister to determine dispute

(1) If there is a dispute to which this Part applies, the Minister shall,—

(a) in the case of a dispute referred to a Commissioner, determine the dispute as soon as practicable after receiving and considering the Commissioner's report under section 122:

(b) in any other case, if the Minister is satisfied that the dispute could not be resolved in accordance with the approved statement of procedure under

section 115, determine the dispute as soon as practicable after being advised of that outcome.

(2) Without limiting the Minister's power to make a determination under subsection (1), the Minister may determine in any case that no action be taken.

(3) The Minister shall not make a determination under subsection (1) that is likely to have a significant adverse effect on the fishing activities of any person who has any current fishing interests provided for or authorised by or under this Act.

(4) The Minister shall give reasons for every determination made under subsection (1).

(5) The Minister shall—

(a) give each of the parties to the dispute notice in writing of the determination; and

(b) give notice of the determination in at least 1 newspaper circulating in the area concerned.

(6) Without limiting the generality of section 297, regulations under that section may make such provision as may be necessary or expedient for the purpose of giving effect to any determination made under this section.

Part 8
Registration of transfers, mortgages, caveats, etc

Administration

124 Registers

(1) The chief executive shall keep, in respect of each quota management stock,—

(a) a register to be called the Quota Register:

(b) a register to be called the Annual Catch Entitlement Register; and there shall be separate Annual Catch Entitlement Registers for each fishing year.

(2) The registers may be kept in the form of information stored by means of a computer.

(3) The registers may be kept in conjunction with any other register required to be kept under this Act.

(4) The Crown owns all information contained in any Quota Register or Annual Catch Entitlement Register that is required by this Act to be contained in that register.

(5) Without limiting anything in section 297, regulations under that section may provide for the operation of the registers under this section, including the elec-

tronic transmission of documents and information for the purposes of notifying any matter and inspection of the register.

125 Appointment of Registrars

[Repealed]

Section 125: repealed (without coming into force), on 9 September 1999, by section 85(g) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

126 Chief executive to have use of seal

(1) The chief executive must have and use a seal that includes the words "Registry of Quota, New Zealand" or "Registry of Annual Catch Entitlement, New Zealand", as the case may be.

(2) Every document bearing the imprint of the chief executive's seal. and purporting to be signed or issued by the chief executive or a person authorised to sign on the chief executive's behalf is, in the absence of proof to the contrary, deemed to be signed or issued by or under the direction of the chief executive.

Section 126: substituted, on 1 October 2001, by section 41 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

127 Matters to be shown in Quota Register

(1) Each Quota Register shall contain the following particulars (if applicable) for each stock to which that Quota Register relates:

(a) the total allowable catch:

(b) the total allowable commercial catch:

(c) the individual transferable quota allocated to each person:

(d) every registered transfer of individual transferable quota (whether by operation of law or otherwise) and every registered transfer of provisional individual transferable quota by operation of law, and—

(i) the names of the transferor and the transferee; and

(ii) the number of quota shares transferred; and

(iii) the time and date of the registration of the transfer:

(e) the provisional individual transferable quota allocated to each person:

(f) the provisional catch history allocated to each person:

(g) every registered transfer of provisional catch history (whether by operation of law or otherwise), and—

(i) the names of the transferor and the transferee; and

(ii) the amount in kilogrammes of provisional catch history transferred; and

(iii) the time and date of the registration of the transfer:

(h) every increase and every decrease of the number of quota shares held by any person that results from the transfer by the Crown of any quota by virtue of the operation of section 22 or section 23 or section 52:

(i) the aggregate holding of each kind of quota and provisional catch history held by each person:

(j) every caveat registered in respect of any quota shares under section 159, and—

(i) the names of the caveator and the quota owner over whose quota shares the caveat is registered; and

(ii) the time and date of the registration of the caveat; and

(iii) the number of quota shares over which the caveat is registered; and

(iv) the type of caveat being imposed; and

(v) the date (if any) on which the caveat will lapse; and

(vi) the date on which the caveat is withdrawn:

(ja) every settlement quota interest registered under section 152A, and—

(i) the name of Te Ohu Kai Moana Trustee Limited and of the quota owner over whose quota shares the settlement quota interest is registered; and

(ii) the time and date of registration of the settlement quota interest; and

(iii) the number of quota shares over which the settlement quota interest is registered:

(k) every mortgage registered under section 159, and—

(i) the names of the mortgagor and the mortgagee; and

(ii) the time and date of the registration of the mortgage; and

(iii) the number of quota shares secured by the mortgage; and

(iv) every variation of the terms of the mortgage; and

(v) every assignment of the mortgage; and

(vi) the time and date of discharge of the mortgage:

(l) every memorial registered under this Act, and the reason for the memorial:

(m) every forfeiture of quota or provisional catch history under this Act, including—

(i) the time and date of the registration of the resulting transfer to the Crown of the quota or provisional catch history; and

(ii) the number of quota shares or kilogrammes of provisional catch history transferred to the Crown; and

(iii) that any settlement quota that is forfeit is subject to a settlement quota interest registered under section 152A:

(n) such other matters as may be required by regulations made under section 297.

(2) Each Quota Register shall contain the last known postal address of the quota owner and persons having a registered interest in the quota.

(3) Each Quota Register shall contain corrections made under section 165 and the time and date of the corrections.

Section 127(1)(ja): inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 127(1)(k)(v): substituted, on 1 October 2001, by section 13 of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 127(1)(k)(vi): added, on 1 October 2001, by section 13 of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 127(1)(m)(ii): amended, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 127(1)(m)(iii): added, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

128 Matters to be shown in Annual Catch Entitlement Register

(1) Each Annual Catch Entitlement Register shall, in respect of the year to which it applies, contain the following particulars (if applicable) in respect of the stock to which it relates:

(a) every annual catch entitlement held by any person at any time:

(b) the amount of annual catch entitlement that is allocated under section 67 or section 67A, and held by any person:

(ba) the amount of annual catch entitlement that is allocated under section 68, and held by any person:

(c) every registered transfer of annual catch entitlement (whether by operation of law or otherwise), and—

(i) the names of the transferor and the transferee; and

(ii) the amount (in kilogrammes) of annual catch entitlement transferred; and

(iii) the time and date of registration:

(d) every transfer of annual catch entitlement received for registration under section 133 that is to be effective on and from the first day of the next fishing year, and—

(i) the names of the transferor and the transferee; and

(ii) the amount (in kilogrammes) of annual catch entitlement to be transferred; and

(iii) the time and date of the chief executive's receipt of the transfer document:

(e) every caveat registered in respect of the annual catch entitlement under section 159, and—

(i) the names of the caveator and the annual catch entitlement owner over whose annual catch entitlement the caveat is registered; and

(ii) the time and date of the registration of the caveat; and

(iii) the amount (in kilogrammes) of annual catch entitlement over which the caveat is registered; and

(iv) the type of caveat being imposed; and

(v) the date (if any) on which the caveat will lapse; and

(vi) the date on which the caveat is withdrawn:

(f) every forfeiture of annual catch entitlement under this Act, including—

(i) the time and date of the registration of the resulting transfer to the Crown of the annual catch entitlement; and

(ii) the amount (in kilogrammes) of annual catch entitlement transferred to the Crown:

(g) all reported catch of the stock taken in the year to which the register relates and notified by the chief executive under section 80(11):

(h) such other matters as may be required by regulations made under section 297.

(2) Each Annual Catch Entitlement Register shall contain the last known postal address of the annual catch entitlement owner and persons having a registered interest in the annual catch entitlement.

(3) Each Annual Catch Entitlement Register shall contain corrections made under section 165 and the time and date of the corrections.

Section 128(1)(b): substituted, on 1 October 2001, by section 42 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 128(1)(ba): inserted, on 1 October 2001, by section 42 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 128(1)(d)(iii): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

129 Registers to be open for inspection

(1) The registers kept under this Part must be open for inspection by members of the public on payment of the prescribed fee (if any) during ordinary office hours, and the chief executive must, on request and on payment of a reasonable charge, supply to any person copies of all or any part of a register.

(1A) Subsection (1) is subject to section 130.

(2) The Crown is not liable in damages for any loss or damage resulting from any inaccuracy in any search of a register or a correct search of an inaccurate entry in a register, including any search by, or on behalf of, the chief executive.

(3) If the chief executive is satisfied, on the application of any person, that the disclosure of that person's address (as entered in any register) would be prejudicial to the personal safety of that person or his or her family, the chief executive may direct that such information shall not be available for inspection or otherwise disclosed.

Compare: 1989 No 148 s 28

Section 129(1): replaced, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

Section 129(1A): inserted, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

Section 129(2): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 129(3): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

130 Chief executive may close register

(1) For the purpose of this Act, the chief executive may close a register established under this Partt for a period not exceeding 48 hours.

(2) Any register may be closed for a period exceeding 48 hours if the chief executive so directs after consulting such persons or organisations as the chief executive considers are representative of the classes of owners of the quota or annual catch entitlements affected by the closure.

(3) Before closing any register under subsection (1) or subsection (2), the chief executive shall, if practicable, publicly notify the proposed closure.

(4) While any register is closed during a period referred to in subsection (1) or subsection (2), the chief executive may receive documents but is not obliged to register any documents except those received for registration before the close of the register.

Section 130 heading: amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 130(1): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 130(3): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 130(4): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

131 Liability of officers

[Repealed]

Section 131: repealed (without coming into force), on 9 September 1999, by section 85(g) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Transfers of quota or annual catch entitlement

132 Transfers of individual transferable quota

(1) No transfer of individual transferable quota for any stock shall be registered under this Act unless, at the time the transfer is to be registered,—

(a) the transferor owns the individual transferable quota shares to be transferred; and

(b) the quota shares to be transferred are not subject to any caveat or mortgage registered under this Act; and

(c) in the case of quota shares subject to a settlement quota interest registered under section 152A, the transfer is authorised by Te Ohu Kai Moana Trustee Limited under section 158 of the Maori Fisheries Act 2004; and

(d) the person is not an overseas person or, if an overseas person, either has obtained consent under the overseas investment fishing provisions to acquire quota or is exempt from the requirement for that consent.

(2) A part of an individual transferable quota share is not transferable.

(3) The chief executive shall not accept for registration a transfer that is expressed to take effect on a date after the date on which it is presented for registration.

(4) Provisional individual transferable quota is not transferable except by operation of law.

Section 132(1)(b): amended, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 132(1)(c): added, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 132(1)(c): amended, on 25 August 2005, by section 75 of the Overseas Investment Act 2005 (2005 No 82).

Section 132(1)(d): added, on 25 August 2005, by section 75 of the Overseas Investment Act 2005 (2005 No 82).

Section 132(3): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 132(4): added, on 1 October 2001, by section 14 of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

133 Transfers of annual catch entitlement

(1) No transfer of annual catch entitlement for any stock shall be registered under this Act unless, at the time the transfer is to be registered,—

(a) the transferor owns the annual catch entitlement to be transferred; and

(b) the amount of annual catch entitlement to be transferred is not subject to any caveat registered under this Act; and

(c) the person is not an overseas person or, if an overseas person, either has obtained consent under the overseas investment fishing provisions to

acquire annual catch entitlement or is exempt from the requirement for that consent.

(2) Subsection (4) does not prevent the chief executive receiving in any fishing year a transfer of an annual catch entitlement that relates to the next fishing year and is intended to take effect on the commencement of the next fishing year, but no such forward transfer shall be registered until the commencement of that next fishing year.

(3) A part of a kilogramme of annual catch entitlement is not transferable.

(4) The chief executive shall not accept for registration a transfer that is expressed to take effect on a date after the date on which it is presented for registration.

Section 133(1)(b): amended, on 25 August 2005, by section 75 of the Overseas Investment Act 2005 (2005 No 82).

Section 133(1)(c): added, on 25 August 2005, by section 75 of the Overseas Investment Act 2005 (2005 No 82).

Section 133(2): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 133(4): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

134 Annual catch entitlement transferable during extended trading period

A transfer of annual catch entitlement may be registered at any time before the close of the 15th day after the end of the fishing year in which it is generated or created and shall be effective for all the purposes of this Act for that fishing year.

135 Other dealings in quota or annual catch entitlement

(1) No person may deal with quota, annual catch entitlement, or provisional catch history for the purpose of this Act otherwise than in accordance with this Act, and any dealing that is not in accordance with this Act has no effect for the purpose of this Act.

(2) Subsection (1) does not provide a defence to any proceedings for an offence against this Act nor of itself disproves any association between 2 or more persons.

Mortgages of quota

136 Mortgages of quota

(1) Except as otherwise expressly provided by this Act, any quota shares may be subject to a mortgage.

(1A) Section 167(1) and (2) of the Maori Fisheries Act 2004 prevails over subsection (1).

(2) A mortgage of quota shares prevents the registration of any transfer of quota shares owned by the mortgagor if the transfer would reduce the number of

quota shares in any stock owned by the mortgagor to a number less than the number of quota shares for that stock subject to the mortgage.

(3) Every mortgage of quota shares shall state the number of quota shares to be charged at the time of registration of the mortgage.

(4) Except as otherwise provided by this Act, the chief executive shall register under section 159 a mortgage of quota shares in any stock only if—

(a) the mortgagor owns a number of quota shares in that stock equal to or greater than the number of quota shares in that stock over which the mortgage is to be registered; and

(b) the number of quota shares to be mortgaged is not subject to any caveat or other mortgage registered under this Act.

(5) A mortgage under this Act shall have effect as a security, but shall not operate as a transfer of the quota shares charged.

Section 136(1A): inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 136(4): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

137 Mortgages of annual catch entitlement prohibited

No annual catch entitlement shall be subject to a mortgage and no mortgage over any annual catch entitlement has any effect for the purpose of this Act.

138 Variation of terms of mortgage by endorsement

The number of quota shares in any stock secured by a mortgage under this Act may be increased or reduced by a memorandum of variation in the approved form.

Compare: 1989 No 148 s 75

138A Assignment of mortgages

A mortgagee may assign to another person the mortgagee's rights, interests, and obligations under that mortgage by a memorandum of assignment in the approved form.

Section 138A: inserted, on 1 October 2001, by section 15 of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

139 Rights of mortgagee

(1) Without limiting the covenants, conditions, and powers that may, by agreement between the mortgagor and the mortgagee, be contained in a mortgage of quota shares, a mortgage of quota shares shall confer on the mortgagee, in the event of default by the mortgagor in the performance or observance of any covenant contained or implied in the mortgage, the power to sell in whole or in part the number of quota shares subject to the mortgage.

(2) A power of sale under this section is subject to the following provisions:

(a) a mortgagee's power of sale over any provisional individual transferable quota shares is not exercisable until the provisional individual transferable quota shares become individual transferable quota shares:

(b) a mortgagee's power of sale over any quota shares is not exercisable if the quota is subject to a Crown caveat under section 58 or section 61 or section 214:

(c) the restrictions on a mortgagee's power of sale defined in section 140A.

Compare: 1989 No 148 s 78

Section 139(2)(c): added, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

140 Restriction on exercise of power of sale

(1) No power conferred by any mortgage to sell any quota shares shall, subject to section 141, become or be deemed to have become exercisable because of—

(a) any default in the payment of any money secured by any mortgage of any quota shares; or

(b) any default in the performance or observance of any other covenant expressed or implied in the mortgage,—

unless and until the mortgagee serves on the mortgagor a notice that complies with the requirements of this section, and (in any case if the default complained of is capable of remedy) the mortgagor fails to remedy the default before the date stated in the notice.

(2) Every notice under subsection (1) shall inform the mortgagor of—

(a) the nature and extent of the default complained of; and

(b) the date by which the mortgagor is required to remedy the default (if it is capable of remedy); and

(c) the rights that the mortgagee will be entitled to exercise if the default is not remedied within the stated period.

(3) Any notice given under subsection (1) that does not comply with subsection (2) shall be void unless the failure does not materially prejudice the interests of the mortgagor.

(4) The date to be stated in the notice shall be not earlier than 1 month from the service of the notice.

(5) In addition to giving the notice under subsection (1), if any of the quota shares are subject to a caveat registered under this Act and the mortgagee has actual notice of the name and address of the caveator, the mortgagee shall forthwith, after serving notice on the quota owner, serve a copy of the notice on the caveator; but failure to comply with this subsection does not in itself prevent any of the powers referred to in subsection (1) from becoming or being deemed to have become exercisable and does not prevent any money secured by a mortgage from becoming or being deemed to have become payable.

(5A) In addition to giving the notice under subsection (1), if any of the quota shares are subject to a settlement quota interest registered under section 152A, the mortgagee must, after serving notice on the quota owner, immediately serve a copy of the notice on Te Ohu Kai Moana Trustee Limited; however, failure to comply with this subsection does not in itself prevent money secured by a mortgage from being payable, or being deemed to have become payable.

(6) For the purposes of subsection (1), the entering into of a contract to sell or the granting of an option to purchase quota shares shall not be regarded as the exercise of a power of sale if the contract or option is conditional (either solely or together with other conditions) on the failure by the owner to remedy a default specified in a notice under this section served either before or after the contract is entered into or the option is granted, as the case may be.

(7) A mortgagee who exercises a power of sale of quota shares owes a duty to the mortgagor to take reasonable care to obtain the best price reasonably obtainable as at the time of sale.

(8) Notwithstanding any enactment or rule of law or anything contained in any deed or instrument by or under which the power of sale is conferred,—

(a) it is not a defence to proceedings against a mortgagee for a breach of the duty imposed by subsection (7) that the mortgagee was acting as the mortgagor's agent or under a power of attorney from the mortgagor:

(b) a mortgagee is not entitled to compensation or indemnity from the mortgaged quota shares or the mortgagor in respect of any liability incurred by the mortgagee arising from a breach of the duty imposed by subsection (7).

Compare: 1952 No 51 ss 92(1AA), 103A, 103B; 1989 No 148 s 79

Section 140(5A): inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

140A Restriction on transfer by mortgagee

(1) Despite sections 139 and 140, if a mortgagee exercises a power of sale over settlement quota, the mortgagee must transfer the settlement quota in accordance with sections 161 (except subsection (2)) and 163 of the Maori Fisheries Act 2004 as if the mortgagee were a mandated iwi organisation.

(2) Despite section 145(1), the transfer of quota under subsection (1) does not remove the settlement quota interest.

Section 140A: inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

141 Court may permit mortgagee to exercise power before period expired

(1) Any court may, on the application of a mortgagee made *ex parte* or otherwise as the court thinks fit, grant leave to the mortgagee to exercise any of the powers of the owner of the quota shares concerned at any time before the date specified in the notice given under section 140.

(2) Leave may be granted under subsection (1) either unconditionally or upon and subject to such conditions as the court thinks fit.

Compare: 1952 No 51 ss 92(1AA), 103A, 103B; 1989 No 148 s 81

142 Restriction on action to recover deficiency

(1) If at any time the mortgagee exercises the power of sale and the amount realised is less than the amount owing under the covenant to repay expressed or implied in the mortgage, no action to recover the amount of the deficiency, or any part of the deficiency, shall be commenced by the mortgagee against any person (other than the mortgagor of the quota at the time of the exercise of the power of sale) unless the mortgagee, at least 1 month before the exercise of the power of sale, serves on that person notice of the mortgagee's intention to exercise the power of sale and to commence action against that person to recover the amount of the deficiency in the event of the amount realised being less than the amount owing under the covenant to repay.

(2) A court may, on the application of a mortgagee made *ex parte* or otherwise as the court thinks fit, waive wholly or in part the 1 month period referred to in subsection (1).

Compare: 1989 No 148 s 82

143 No contracting out

Sections 139 to 142 shall have effect notwithstanding any provision to the contrary in any mortgage or other agreement.

Compare: 1989 No 148 s 83

144 Application of purchase money

The purchase money from the sale by the mortgagee of any quota shares shall be applied as follows:

(a) first, in payment of the expenses occasioned by the sale:

(b) secondly, in payment of the money then due or owing to the mortgagee:

(c) thirdly, to the Crown in payment of any levies under Part 14 that are the subject of a caveat registered over the quota:

(d) fourthly, the surplus (if any) shall be paid to the mortgagor.

Compare: 1989 No 148 s 84

145 Transfer by mortgagee

(1) Notwithstanding section 148, upon the registration of any transfer executed by a mortgagee for the purpose of the sale of any quota shares by the mortgagee, ownership of the quota shares passes to and vests in the purchaser, freed and discharged from all liability on account of the mortgage.

(1A) Subsection (1) does not limit section 152B(3) and (4).

(2) Upon registration of such a transfer, every caveat over the quota shares being transferred lapses in respect of those shares, and the interests of the mortgagor expressed in that transfer to be transferred pass to and vest in the purchaser, freed and discharged of the interest claimed by the caveator.

(3) The chief executive shall make on the register any entry necessary to show that the mortgage has been discharged and that all caveats over the quota have lapsed, in respect of the shares so transferred.

(4) If a mortgagee gives a receipt in writing in respect of any money arising under an exercise of the power of sale conferred by this Part, or any money or securities comprised in the mortgagee's mortgage or arising under the mortgage, the receipt is a sufficient discharge for that money or those securities, and a person paying or transferring the money or securities to the mortgagee shall not be concerned to inquire whether any money remains due under the mortgage or to see to the application of the money or securities so paid or transferred.

Compare: 1952 No 51 s 98(1); 1989 No 148 s 85

Section 145(1A): inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 145(3): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

146 Discharge of mortgage

(1) If the sum secured by a mortgage has been paid off either wholly or in part, or if for any other reason the mortgagee has become bound to discharge the mortgage, the mortgagee must execute a memorandum of discharge in the approved form.

(2) A memorandum of discharge, when registered under this Act, discharges the quota shares from the mortgage to the extent specified in that memorandum.

Compare: 1989 No 148 s 86

Section 146(1): amended, on 1 October 2001, by section 16 of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Caveats

147 Types of caveats

A caveat may, subject to section 149(2), be registered over any quota shares or any annual catch entitlement—

(a) at the request of any person with the consent of the owner of those quota shares or that annual catch entitlement:

(b) at the direction of the chief executive under section 58 or section 61 or section 214 or section 268:

(c) at the direction or order of a court in any civil proceedings.

Section 147(b): amended, on 1 October 2001, by section 43 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

148 Effect of caveat

(1) While a caveat remains in force, the chief executive shall not make any entry on a register having the effect of mortgaging or transferring the quota shares, or transferring the annual catch entitlement, to which the caveat relates.

(2) Subsection (1) does not prevent the chief executive from making any entry if the caveator consents to the making of that entry, and the consent is in the approved form and relates to—

(a) a transfer of the caveated quota shares or annual catch entitlement, and constitutes a withdrawal of the caveat in respect of the quota shares or annual catch entitlement transferred; or

(b) a mortgage of the caveated quota shares.

Compare: 1989 No 148 s 91

Section 148(1): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 148(2): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

149 Caveat against transfer of quota or annual catch entitlement

(1) If—

(a) the owner of the quota shares or annual catch entitlement concerned and any other person jointly lodge a caveat in the approved form with the chief executive; or

(b) a court directs or orders that a caveat be lodged; or

(c) the chief executive directs that a caveat be lodged under section 58 or section 61 or section 214 or section 268,—

the chief executive shall register under section 159 that caveat against the quota or annual catch entitlement if the caveat meets all the requirements of this Act for registration.

(2) Except as otherwise provided by this Act, the chief executive shall register under section 159 a caveat over quota shares or annual catch entitlement, as the case may be, only if—

(a) the person whose quota shares or annual catch entitlement is being caveated owns a number of quota shares or an amount of annual catch entitlement, as the case may be, in the relevant stock equal to or greater than the number of quota shares or amount of annual catch entitlement over which the caveat is to be registered; and

(b) in the case of a caveat lodged under subsection (1)(a), the quota shares or annual catch entitlement to be the subject of the caveat are not already subject to any other caveat registered under this Act.

Compare: 1989 No 148 s 89

Section 149(1): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 149(1)(a): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 149(1)(c): amended, on 1 October 2001, by section 44 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 149(2): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

150 Caveat may be withdrawn

(1) Any caveat may, either as to the whole or any part of the quota or annual catch entitlement protected by the caveat, be withdrawn by the person whose interests are protected by the caveat or by the person's attorney or agent under a written authority.

(2) Every withdrawal of a caveat shall be in the approved form.

(3) If a caveat has been registered for a stated period, the caveat shall lapse at the close of that period.

Compare: 1989 No 148 ss 94, 96

151 Procedure for removal of caveat

(1) The owner of quota or annual catch entitlement against which a caveat has been lodged may apply to any court for an order that the caveat be removed.

(2) The court, upon proof that notice of the application has been served on the caveator or the person on whose behalf the caveat has been lodged, may—

(a) order that the caveat be removed entirely:

(b) order that the caveat be removed in part or in respect of any particular transaction:

(c) impose such sureties and conditions as it thinks fit:

(d) make such other orders in respect of the caveat as it thinks fit.

(3) This section does not apply to caveats imposed under section 58 or section 61 or section 214.

Compare: 1989 No 148 s 93

152 Person entering or maintaining caveat without due cause liable for damages

Any person who lodges a caveat and who, when that caveat is no longer needed to protect any interest of the caveator, fails, without reasonable cause, to withdraw that caveat as soon as reasonably practicable after having been requested to do so by any person prejudicially affected by the caveat, is liable in damages for any loss or damage suffered by any person as a result of the failure to withdraw the caveat.

Compare: 1989 No 148 s 95

Settlement quota interests

Heading: inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

152A Registration

The chief executive must register a settlement quota interest against the quota shares notified by Te Ohu Kai Moana Trustee Limited as soon as reasonably practicable after receiving—

(a) a request in accordance with section 160(2) of the Maori Fisheries Act 2004; and

(b) payment by Te Ohu Kai Moana Trustee Limited of the prescribed fee.

Section 152A: inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

152B Effect of registering settlement quota interest against quota shares

(1) Between the appointed day and the time when a settlement quota interest is registered against the quota specified by Te Ohu Kai Moana Trustee Limited, there must be no dealings with the quota shares listed in Schedule 1 of the Maori Fisheries Act 2004, except for their transfer to Te Ohu Kai Moana Trustee Limited.

(2) While there is a settlement quota interest registered against quota, no transfer of that quota may be registered unless—

(a) the transfer is—

(i) authorised by Te Ohu Kai Moana Trustee Limited and the owner under section 160 of the Maori Fisheries Act 2004; or

(ii) ordered by the court; or

(b) the settlement quota is forfeit to the Crown under section 61 or sections 255 to 255E.

(3) To avoid doubt, a settlement quota interest remains in force if settlement quota is transferred, unless the settlement quota interest is removed in accordance with section 160 of the Maori Fisheries Act 2004.

(4) However, the fact that a settlement quota interest is registered against the quota does not exclude the quota from being subject to a mortgage or caveat under this Act.

(5) Subsection (2) overrides section 145(1).

Section 152B: inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Effect of decrease in or cancellation of quota

153 Effect of decrease in quota shares

(1) This section applies where—

(a) either—

(i) a transfer of quota shares in any stock to any person holding preferential allocation rights under section 23 necessitates a deduction of quota shares under that section from any quota owner; or

(ii) any determination of an appeal under section 51 necessitates a deduction of quota shares under section 52 from any quota owner (other than the quota owner involved in the appeal); and

(b) as a result of the deduction, the number of quota shares in that stock held by the owner is less than the total number of quota shares in that stock subject to a mortgage or caveat immediately before the deduction.

(2) Where a deduction referred to in subsection (1)(a)(i) is required and there are 1 or more mortgages or caveats registered over the quota shares owned by the quota owner, then the number of shares secured by any 1 or more of those mortgages or caveats must be reduced in the manner prescribed by regulations made under this Act in accordance with the quota share reduction principles set out in subsection (4).

(3) If any quota owner, or the chief executive, has appealed under section 51 in relation to any stock, then, when the appeal is finally determined,—

(a) all provisional individual transferable quota for the relevant stock owned by that quota owner must, at the chief executive's direction, be transferred to the Crown in accordance with section 52; and

(b) if any provisional individual transferable quota shares so transferred were subject to a mortgage or caveat, the mortgage or caveat ceases to apply to the transferred provisional individual transferable quota shares, and instead applies to the same number of individual transferable quota shares transferred to that quota owner under section 52 (if possible); and

(c) if, as a result of such transfers, the number of individual transferable quota shares in the relevant stock owned by the quota owner is less than the number of provisional individual transferable quota shares that were subject to the mortgage or caveat and there are 1 or more mortgages or caveats registered over the provisional individual transferable quota shares owned by the quota owner, then the number of shares secured by any 1 or more of those mortgages or caveats must be reduced in the manner prescribed by regulations made under this Act in accordance with the quota share reduction principles set out in subsection (4).

(4) The quota share reduction principles referred to in subsections (2) and (3)(c) are as follows:

(a) the total number of shares subject to any individual caveat may not exceed the total number of shares owned by the quota owner concerned:

(b) the total number of shares subject to all caveats may exceed the total number of shares owned by the quota owner:

(c) where quota shares subject to caveats must be reduced, they must be reduced to equal the number of shares owned by the quota owner:

(d) the total number of shares subject to all mortgages may not exceed the total number of shares owned by the quota owner concerned:

(e) the total number of shares subject to all mortgages and caveats that were registered prior to the last registered mortgage may not exceed the total number of shares owned by the quota owner:

(f) where quota shares subject to mortgages must be reduced, the shares subject to the most recently registered mortgage must be reduced first, and the shares subject to any earlier registered mortgage may only be reduced after the first-mentioned mortgage has had its security eliminated completely by the reduction.

(5) The chief executive must make on the register any entry necessary to show that the quota has been transferred in accordance with section 23 or section 52, and alter any relevant mortgage or caveat accordingly.

Section 153: substituted, on 1 October 2004, by section 42 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

154 Effect of alteration of quota management area

(1) If 1 or more quota management areas are altered under section 25,—

(a) any mortgage or caveat over any quota that is cancelled as a result of the alteration shall cease to apply to the cancelled quota and shall instead apply to the new quota allocated to the quota owner concerned as a result of that alteration; and

(b) the number of new quota shares to be charged or caveated shall bear the same proportion to the quota owner's total shareholding of those shares as the number of shares charged or caveated immediately before the alteration bore to the quota owner's total shareholding for the areas affected by the alteration.

(2) The chief executive shall make on the register any entry necessary to show that the quota has been transferred in accordance with section 26, and alter any relevant mortgage or caveat accordingly.

(3) Subject to subsections (1) and (2), an alteration of 1 or more quota management areas does not affect any rights under a caveat or mortgage of quota shares.

Section 154(2): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Registration procedure

155 Transactions not effectual until registered

No transaction has any effect for the purpose of this Act until it is registered in accordance with this Part.

Compare: 1989 No 148 s 27

156 When transactions deemed registered

Every transaction registered under this Act shall be deemed to have been registered for the purpose of this Act at the time recorded in the register as the time at which the transaction was registered.

Compare: 1989 No 148 s 13

157 Application for registration

Every application to register a transaction shall—

(a) be made by presenting to the chief executive an instrument in the approved form (if any); and

(b) contain such particulars as are specified in the approved form (if any); and

(c) be executed in the manner specified in the approved form (if any); and

(d) be accompanied by the prescribed fee (if any).

Compare: 1989 No 148 s 64

Section 157(a): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

158 Priority according to time of registration

(1) Instruments presented for registration under this Act shall be registered in the chronological order in which they are received by the chief executive; and, for the purposes of determining the chronological order of instruments received at the same or different places, the time recorded by the chief executive as having received the instrument is conclusive as to the order in which an instrument was received.

(2) Regulations under section 297 may prescribe when an instrument is to be treated as received for registration.

Compare: 1989 No 148 s 15

Section 158(1): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 158(2): substituted, on 1 October 2001, by section 17 of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

159 Registration procedure

(1) On receipt of an application that complies with section 157 and is completed to the satisfaction of the chief executive, the chief executive shall—

(a) record in the appropriate register the particulars set out in the instrument required by this Act to be registered and the time at which the particulars are so recorded; and

(b) issue a registration notice as to the particulars recorded under paragraph (a); and

(c) forward the registration notice to the person who presented the instrument for registration and forward duplicates of the notice to each of the other parties to the transaction; and

(d) if a caveat is registered over any quota shares, give notice of the registration of the caveat to the owner (if not otherwise notified) and any mortgagee of those shares and to any other caveator of those shares; and

(e) if a caveat is registered over any annual catch entitlement, give notice of the registration of the caveat to the owner (if not otherwise notified) and any other caveator of that annual catch entitlement.

(2) For the purposes of subsection (1)(c), the mortgagor is treated as a party to a transaction that is an assignment.

Compare: 1989 No 148 s 17

Section 159(1): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 159(1)(b): amended, on 1 October 2001, by section 45 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 159(2): added, on 1 October 2001, by section 18 of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

160 Provisions relating to defective applications for registration

(1) If—

(a) any document relating to a transaction lodged for registration; or

(b) any document presented for registration together with any other documents—

is found not to be in order for the purposes of registration, the chief executive may return that document or those other documents to the person by whom they were lodged or, if that person is not available, to such other person as may, in the opinion of the chief executive, be entitled to receive them.

(2) Before returning any documents in accordance with subsection (1),—

(a) the chief executive shall make a copy of every document returned; and

(b) shall file the copy in the chief executive's office.

(3) If any documents are returned as provided in subsection (1), those documents shall be deemed not to have been presented for registration but the fee (if any) paid to the chief executive in respect of them shall be forfeit.

Compare: 1989 No 148 ss 18, 20(2), 21(a), (b), 22

Section 160(1): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 160(2)(a): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 160(2)(b): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 160(3): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Acquisitions by operation of law

161 Person claiming under operation of law may apply to have interest registered

(1) Any person claiming to be entitled by operation of law to be registered as the owner, mortgagee, or caveator of any quota shares, or the holder of any provisional catch history, or the owner or caveator of any annual catch entitlement, may make an application to the chief executive in the approved form to be so registered.

(2) Every application under subsection (1) shall be accompanied by such evidence in support of the application as may be necessary to satisfy the chief executive that the applicant is entitled to be registered as the owner, mortgagee, or caveator of the quota shares, or the holder of any provisional catch history, or as the owner or caveator of any annual catch entitlement, as the case may be.

(3) Every application in relation to provisional catch history must be submitted within the transfer period referred to in section 37(2).

Compare: 1989 No 148 s 87(1), (2)

Section 161(1): amended, on 1 October 2001, by section 46(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 161(1): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 161(2): amended, on 1 October 2001, by section 46(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 161(2): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 161(3): added, on 1 October 2001, by section 46(3) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

162 Procedure on application

(1) If, on any application under section 161, the chief executive is satisfied that the requirements of this Act for registration are met, the chief executive shall register under section 159 the applicant as the owner, mortgagee, or caveator of any quota, or as the holder of any provisional catch history, or as the owner or caveator of any annual catch entitlement, as the case may be.

(2) After registration under subsection (1), the quota or annual catch entitlement remains subject to any registered caveat or mortgage.

(3) This section overrides sections 132(1)(b), 133(1)(b), 136(2), and 148(1).

Compare: 1989 No 148 s 88

Section 162(1): amended, on 1 October 2001, by section 47 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 162(1): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 162(2): added, on 1 October 2001, by section 19 of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 162(3): added, on 1 October 2001, by section 19 of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

163 Chief executive may transfer quota or annual catch entitlement

(1) The power of the chief executive to transfer any quota shares or annual catch entitlement to the Crown or any other person as a consequence of—

(a) a reduction in the total allowable commercial catch under section 22 or an increase in the total allowable commercial catch under section 23; or

(b) the determination of any appeal under section 51; or

(c) any forfeiture to the Crown of any quota shares or annual catch entitlement—

may be exercised notwithstanding the existence of any mortgage or caveat or settlement quota interest over any quota shares or annual catch entitlement.

(2) The chief executive shall make on the register any entry necessary to show that any quota shares or annual catch entitlement have been transferred in accordance with this section, and alter any relevant mortgage or caveat or settlement quota interest accordingly.

Section 163(1): amended, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 163(1)(b): amended, on 1 October 2004, by section 43 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 163(2): amended, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 163(2): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Correction of registers

164 Application for correction of register

(1) A person who presents an instrument for registration under section 157 and any other person having a registered interest in the quota shares or annual catch entitlement to which the instrument applies may apply to the chief executive to correct the record on the register of the particulars set out in the instrument on the grounds that the register does not record accurately those particulars or is incorrect for any other reason specified for the purpose in any regulations made under section 297.

(2) Every application made under subsection (1) shall—

(a) be made within 14 days after the registration notice issued under section 159(b) is forwarded to that person; and

(b) be in the approved form (if any); and

(c) include a copy of the registration notice issued under section 159(1)(b) that relates to the record on the register to which the application relates.

Compare: 1989 No 148 s 23

Section 164(1): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

165 Correction of register

(1) If, upon receipt of an application under section 164, the chief executive is satisfied that the register does not record accurately the particulars set out in the instrument to which the application relates or is incorrect for any other reason specified for the purpose in any regulations made under section 297, the chief executive shall correct the register accordingly and—

(a) record on the register the nature of the correction and the time at which the correction was made; and

(b) notify the person who made the application under section 164, and any other person whom the chief executive considers will be affected, of the correction.

(2) If the chief executive is satisfied that the register does not record accurately the particulars set out in the instrument to which the record on the register relates or, subject to any regulations made under section 297, is for any other reason incorrect, the chief executive may, of the chief executive's own motion, after notifying those persons whom the chief executive considers will be affected, correct the register accordingly and record on the register the nature of the correction and the time at which the correction was made.

(3) Without limiting the generality of subsection (2), the power conferred by that subsection is exercisable if—

(a) a registration notice has been issued in error or an entry or endorsement has been made in error:

(b) a misdescription has occurred in any entry in the register or any registration notice issued under section 159(1)(b):

(c) an instrument has been obtained fraudulently or wrongfully, or retained fraudulently or wrongfully.

(4) No correction may be made under this section to the extent that the correction prejudices any bona fide purchaser for value, or any mortgagee for valuable consideration, unless that person makes a statutory declaration confirming his or her consent to the correction of the register.

Compare: 1989 No 148 s 24

Section 165(1): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 165(1)(b): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 165(2): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

166 Certified copies of register to be evidence

(1) The chief executive shall, upon application and payment of the prescribed fee (if any), provide to any person a certified copy of any record in the register.

(2) Every such certified copy in hard copy form signed by or on behalf of the chief executive, and sealed with the chief executive's seal, shall be received in evidence for all purposes as conclusive evidence that the particulars shown on the certified copy have been duly registered.

(3) This section does not apply to any record entered on a register in accordance with section 128(1)(g).

Compare: 1989 No 148 s 30

Section 166(1): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 166(2): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

167 Registrar not bound to attend court or produce register without court order

[Repealed]

Section 167: repealed (without coming into force), on 9 September 1999, by section 85(h) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Guarantee of ownership rights

168 Guarantee of ownership rights

(1) The production of a certified copy in hard copy form signed by or on behalf of the chief executive, and sealed with the chief executive's seal, of a record in any register kept under this Part as to the ownership of any individual transferable quota, shall be held in every court of law or equity and for all purposes to be conclusive proof that the owner shown in the certified copy was, as at the time of the issue of the certified copy, owner of the quota to which the certified copy relates.

(2) Subsection (1) does not apply in respect of any action brought by any person deprived of rights in relation to any quota or of any rights as mortgagee of any quota, by fraud, as against—

(a) the person registered as owner of the quota through fraud; or

(b) a person deriving otherwise than as a transferee bona fide for value from, or through, a person registered as owner of the quota through fraud.

(3) Subsection (1) does not apply in respect of provisional individual transferable quota, annual catch entitlement, or provisional catch history.

Compare: 1989 No 148 s 58(1), (3)

Section 168(1): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Protection of purchasers

169 Purchasers and mortgagees not affected by notice

(1) Notwithstanding any rule of law or equity, except in the case of fraud, no purchaser or mortgagee of any individual transferable quota, and no person proposing to purchase or be a mortgagee of any such quota,—

(a) is required—

(i) to inquire into or ascertain the circumstances in which or the consideration for which that owner or any previous owner is or was registered; or

(ii) to see to the application of the purchase money, or of any part of it; or

(b) is affected by notice, direct or constructive, of any trust or unregistered interest, and the knowledge that any such trust or unregistered interest is in existence is not of itself to be imputed as fraud.

(2) This section does not apply in respect of provisional individual transferable quota, annual catch entitlement, or provisional catch history.

Compare: 1989 No 148 s 59

170 No liability on bona fide purchaser or mortgagee

(1) This section applies to—

(a) any person who has acquired ownership of any individual transferable quota as a bona fide purchaser for value and is registered as owner under this Act; and

(b) any person to whom a mortgage of any individual transferable quota has been granted in accordance with this Act, as a mortgagee bona fide for value, and who is registered as a mortgagee under this Act.

(2) No person to whom this section applies shall be subject to any action for recovery of damages, or be deprived of the rights as registered owner of the quota, or, as the case may be, of that person's interest as mortgagee, on the ground that the vendor from whom the registered owner so acquired the quota or, as the case may require, the mortgagor of the quota—

(a) may have been registered as owner through fraud or error, or under any void or voidable instrument; or

(b) may have derived from a person registered as owner through fraud or error, or under any void or voidable instrument.

(3) This section does not apply in respect of provisional individual transferable quota, annual catch entitlement, or provisional catch history.

Compare: 1989 No 148 s 60

Compensation

171 Compensation for mistake or wrongdoing in keeping Quota Register

(1) This section applies to any person who—

(a) sustains loss or damage through any omission, mistake, or wrongdoing of the chief executive or, as the case may be, an approved service delivery organisation who is responsible under this Act for keeping the Quota Register, in the exercise of functions connected with the keeping of the Quota Register; or

(b) is deprived of the rights in respect of which the person is registered as owner or mortgagee of any individual transferable quota—

(i) by the registration of any other person as the owner or as mortgagee, as the case may be; or

(ii) by any error, omission, or misdescription in any record in respect of such quota kept by the chief executive or, as the case may be, an approved service delivery organisation who is responsible for keeping the Quota Register, or in any entry or memorial in the Quota Register; or

(c) sustains any loss or damage by the wrongful inclusion in any such record of a statement about ownership or any mortgage of quota,—

and who, by virtue of section 168 or section 170, is unable to bring an action in respect of that quota or that interest as owner or mortgagee, as the case may be.

(1A) A person to whom this section applies may bring an action for recovery of damages against—

(a) the Crown, if the register was kept by the chief executive at the relevant time; or

(b) the approved service delivery organisation, if the functions, duties, and powers connected with the keeping of the register were performed or exercised by that organisation under section 296B at the relevant time.

(2) This section does not apply in respect of any transfer of individual transferable quota, or entry or record, effected before the commencement of this section.

(3) This section does not apply in respect of provisional individual transferable quota, annual catch entitlement, or provisional catch history.

Compare: 1989 No 148 s 61

Section 171 heading: amended, on 1 October 2001, by section 20(1) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 171(1): substituted, on 1 October 2001, by section 48 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 171(1)(a): amended, on 1 October 2001, by section 20(2) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 171(1A): inserted, on 1 October 2001, by section 48 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 171(1A)(a): substituted, on 1 October 2001, by section 20(3) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 171(1A)(b): substituted, on 1 October 2001, by section 20(3) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

172 Notice of action to be served on Attorney-General and Registrar

(1) Notice in writing of—

(a) every action against the Crown under section 171(1A)(a); and

(b) the cause of the action; and

(c) the amount claimed—

shall be served upon the Attorney-General, and also upon the Registrar, at least 20 working days before the commencement of the action, and the Registrar shall notify the chief executive of any such action served on the Registrar.

(2) If those officers concur that the claim ought to be admitted, as to the whole or any part of the claim, without suit or action, and jointly certify to that effect, the amount of the claim may, without further appropriation than this section, be paid, out of public money appropriated by Parliament, in whole or in part to the person entitled to that amount in accordance with the certificate.

(3) If, after notice of the admission has been served on the claimant, or the solicitor or agent of the claimant, the claimant proceeds with the action, and recovers no more than the amount admitted, the claimant—

(a) shall not be entitled to recover any costs as against the Crown; and

(b) shall be liable to the Crown for the costs of defending the action in the same manner as if judgment had been given for the defendant in the action.

Compare: 1989 No 148 s 63

Section 172(1)(a): amended, on 1 October 2001, by section 49 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

173 Recovery of compensation paid and costs in case of fraud

(1) If any sum of money has been lawfully paid out of public money as compensation for any loss occasioned by fraud on the part of any person causing or pro-

curing that person to be registered as the owner of any individual transferable quota or as mortgagee of such quota, as the case may be, by virtue of any dealing with or transmission from a registered owner, the amount of that compensation, together with all costs incurred in testing or defending any claim or action in relation to that compensation, shall be deemed to be a statutory debt due to the Crown from the person legally responsible for that fraud and may be recovered from that person, or from that person's personal representatives, by action at law, in the name of the chief executive, or, in the case of bankruptcy, may be proved as a debt due from that person's estate.

(2) In any action under subsection (1), the court may, for the purposes of that action, determine on the balance of probabilities who is legally responsible for the fraud.

(3) A certificate signed by the Minister of Finance, verifying the fact of the payment of compensation out of public money, shall be prima facie proof that such payment was made.

(4) All money recovered in any action under subsection (1) shall be paid to the credit of a Crown Bank Account.

Compare: 1989 No 148 s 64

Section 173(1): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Part 9
Taiapure-local fisheries and customary fishing

174 Object

The object of sections 175 to 185 is to make, in relation to areas of New Zealand fisheries waters (being estuarine or littoral coastal waters) that have customarily been of special significance to any iwi or hapu either—

(a) as a source of food; or

(b) for spiritual or cultural reasons,—

better provision for the recognition of rangatiratanga and of the right secured in relation to fisheries by Article II of the Treaty of Waitangi.

Compare: 1983 No 14 s 54A; 1989 No 159 s 74

175 Declaration of taiapure-local fisheries

Subject to section 176, the Governor-General may from time to time, by Order in Council, declare any area of New Zealand fisheries waters (which waters are estuarine waters or littoral coastal waters) to be a taiapure-local fishery.

Compare: 1983 No 14 s 54B(1); 1989 No 159 s 74

176 Provisions relating to order under section 175

(1) An order under section 175 may be made only on a recommendation made by the Minister in accordance with sections 177 to 185.

(2) The Minister shall not recommend the making of an order under section 175 unless the Minister is satisfied both—

(a) that the order will further the object set out in section 174; and

(b) that the making of the order is appropriate having regard to—

(i) the size of the area of New Zealand fisheries waters that would be declared by the order to be a taiapure-local fishery; and

(ii) the impact of the order on the general welfare of the community in the vicinity of the area that would be declared by the order to be a taiapure-local fishery; and

(iii) the impact of the order on those persons having a special interest in the area that would be declared by the order to be a taiapure-local fishery; and

(iv) the impact of the order on fisheries management.

Compare: 1983 No 14 s 54B(2), (3); 1989 No 159 s 74

177 Proposal for establishment of taiapure-local fishery

(1) Any person may submit to the chief executive a proposal for the establishment of a taiapure-local fishery.

(2) The proposal shall—

(a) contain a description of the proposed taiapure-local fishery, which description shall include particulars of the location, area, and boundaries of the proposed taiapure-local fishery; and

(b) describe—

(i) Maori, traditional, recreational, commercial, and other interests in the proposed taiapure-local fishery; and

(ii) the species of fish, aquatic life, or seaweed in the proposed taiapure-local fishery that are of particular importance or interest.

(3) The proposal shall—

(a) state why the area to which the proposal relates has customarily been of special significance to an iwi or hapu either—

(i) as a source of food; or

(ii) for spiritual or cultural reasons:

(b) set out the policies and objectives of the proposal:

(c) contain such other particulars as the chief executive considers appropriate.

Compare: 1983 No 14 s 54C; 1989 No 159 s 74

178 Initial consideration of proposal

(1) The chief executive shall refer to the Minister every proposal submitted to the chief executive in accordance with section 177.

(2) If the Minister, after consultation with the Minister of Maori Affairs and after having regard to the provisions of section 176(2), agrees in principle with the proposal, the Minister shall authorise the chief executive to publish notice of the proposal in the *Gazette*.

(3) The proposal shall be available for public inspection for a period of not less than 2 months after the date of the publication in the *Gazette* of the notice of the proposal.

(4) The notice shall specify the office of the Maori Land Court in which objections to the proposal may be lodged.

(5) If the Minister, after consultation with the Minister of Maori Affairs and after having regard to the provisions of section 176(2), does not agree in principle with the proposal, the chief executive shall inform the person who made the proposal that the proposal will not be proceeding further as the Minister does not agree with it in principle.

Compare: 1983 No 14 s 54D; 1989 No 159 s 74

179 Notice of proposal

(1) The notice authorised under section 178(2) shall be published at least twice, with an interval of not less than 7 days between each notification of the proposal, in the metropolitan newspapers and in a newspaper circulating in the locality of the area to which the proposal relates.

(2) A copy of the proposal shall be deposited in—

(a) the office of the Maori Land Court nearest to the locality of the area to which the proposal relates; and

(b) the Ministry's head office; and

(c) the office of the territorial authority for the area to which the proposal relates; and

(d) the office of the regional council for the area to which the proposal relates.

Compare: 1983 No 14 s 54E; 1989 No 159 s 74

180 Objections to, and submissions on, proposal

(1) Any person or any public authority, local authority, or body specifically constituted by or under any Act, and any Minister of the Crown, which or who has any function, power, or duty which relates to, or which or who is or could be affected by, any aspect of the proposed taiapure-local fishery may, within 2 months of the publication in the *Gazette* of the proposal, lodge at the office of the Maori Land Court specified under section 178(4)—

(a) an objection to the proposal; or

(b) submissions in relation to the proposal; or

(c) both.

(2) Any such objection and any such submissions shall—

(a) identify the grounds on which the objections or submissions are made; and

(b) be supplemented by such particulars and information as the Registrar of the Maori Land Court notifies the applicant the Registrar of the Maori Land Court considers necessary to sufficiently identify the grounds of the objection or the submissions.

Compare: 1983 No 14 s 54F; 1989 No 159 s 74

181 Inquiry by tribunal

(1) A public inquiry shall be conducted into all objections and submissions received under section 180.

(2) The inquiry shall be conducted by a tribunal consisting of a Judge of the Maori Land Court appointed by the Chief Judge of the Maori Land Court.

(3) The Chief Judge of the Maori Land Court may direct that the tribunal conducting the inquiry conduct it with the assistance of 1 or more assessors to be appointed by the Chief Judge for the purpose of the inquiry.

(4) In considering the suitability of any person for appointment as an assessor, the Chief Judge of the Maori Land Court shall have regard not only to that person's personal attributes but also to that person's knowledge of and experience in the different aspects of matters likely to be the subject matter of the inquiry.

(5) The tribunal shall be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908 and, subject to the provisions of this Act, all the provisions of that Act, except sections 10 to 12, shall apply accordingly.

(6) The person who submitted the proposal to the chief executive, the Minister, any regional council or local authority whose region or district is affected by the proposal, and every body and person which or who made submissions on or objected to the proposal under section 180, shall have the right to be present and be heard at every inquiry conducted by the tribunal under this section, and may be represented by counsel or other duly authorised representative.

(7) A tribunal appointed under this section may, if the Chief Judge of the Maori Land Court so directs, conduct any 2 or more inquiries together notwithstanding that they relate to different areas or different parts of any area.

(8) On completion of the inquiry, the tribunal shall, having regard to the provisions of section 176(2),—

(a) make a report and recommendations to the Minister on the objections and submissions made to it, which report and recommendations may include recommended amendments to the proposal; or

(b) recommend to the Minister that no action be taken as a result of the objections and submissions made to it.

(9) The Minister, after taking into account the report and recommendations of the tribunal and after having regard to the provisions of section 176(2), and after consultation with the Minister of Maori Affairs,—

(a) may—

(i) accept those recommendations; or

(ii) decline to accept all or any of those recommendations; and

(b) shall publish in the *Gazette*—

(i) the report and recommendations of the tribunal; and

(ii) the decision of the Minister on the report and recommendations of the tribunal.

(10) Subject to section 182, no appeal shall lie from any report or recommendation or decision made under this section.

Compare: 1983 No 14 s 54G; 1989 No 159 s 74

182 Appeal on question of law

If any party to any proceedings under section 181 before a tribunal appointed under that section is dissatisfied with the report or any recommendation of the tribunal as being erroneous in point of law, that party may appeal to the High Court by way of case stated for the opinion of the court on a question of law only, and the provisions of sections 299 and 308 of the Resource Management Act 1991 shall, with any necessary modifications, apply in respect of the report or recommendation in the same manner as they apply in respect of a decision of the Environment Court under that Act.

Compare: 1983 No 14 s 54H; 1989 No 159 s 74; 1991 No 169 s 362

Section 182: amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

183 Power of Minister to recommend declaration of taiapure-local fishery

If a proposal for the establishment of a taiapure-local fishery has been made under section 177 and either any proceedings in relation to that proposal (including any proceedings taken under sections 180 to 182 in relation to that proposal) have been disposed of or the time for taking any such proceedings has expired, the Minister shall, if satisfied that a recommendation should be made under section 176(1), make that recommendation accordingly.

Compare: 1983 No 14 s 54I; 1989 No 159 s 74

184 Management of taiapure-local fishery

(1) The Minister, after consultation with the Minister of Maori Affairs, shall appoint a committee of management for each taiapure-local fishery.

(2) The committee of management may be any existing body corporate.

(3) The committee of management shall be appointed on the nomination of persons who appear to the Minister to be representative of the local Maori community.

(4) The committee of management shall hold office at the pleasure of the Minister.

Compare: 1983 No 14 s 54J; 1989 No 159 s 74

185 Power to recommend making of regulations

(1) A committee of management appointed for a taiapure-local fishery may recommend to the Minister the making of regulations under section 186 or section 297 or section 298 for the conservation and management of the fish, aquatic life, or seaweed in the taiapure-local fishery.

(2) Regulations made under any section referred to in subsection (1) (other than section 186), and made pursuant to a recommendation under that subsection, may override the provisions of any other regulations made under section 297 or section 298.

(3) Except to the extent that any regulations made under any section referred to in subsection (1), and made pursuant to a recommendation under that subsection, override or are otherwise inconsistent with the provisions of any other regulations made under that section, those provisions shall apply in relation to every taiapure-local fishery.

(4) Any provision of regulations made under any section referred to in subsection (1), and made pursuant to a recommendation under that subsection, that relates only to a taiapure-local fishery may be made only in accordance with subsection (1).

(5) No regulations made under any section referred to in subsection (1), and made pursuant to a recommendation under that subsection, shall provide for any person—

(a) to be refused access to, or the use of, any taiapure-local fishery; or

(b) to be required to leave or cease to use any taiapure-local fishery,—

because of the colour, race, or ethnic or national origins of that person or of any relative or associate of that person.

Compare: 1983 No 14 s 54K; 1989 No 159 s 74

Customary fishing

186 Regulations relating to customary fishing

(1) The Governor-General may from time to time, by Order in Council, make regulations recognising and providing for customary food gathering by Maori and the special relationship between tangata whenua and places of importance for customary food gathering (including tauranga ika and mahinga mataitai), to the extent that such food gathering is neither commercial in any way nor for pecuniary gain or trade.

(2) Without limiting the generality of subsection (1), regulations made under that subsection may—

(a) declare the relationship between such regulations and general fishing regulations and regulations relating to taiapure-local fisheries; and declare that the first-mentioned regulations are to prevail over the other regulations:

(b) empower the Minister to declare, by notice in the *Gazette*, any part of New Zealand fisheries waters to be a mataitai reserve; and any such regulations shall require that, before any such notice is given, the Minister and the tangata whenua shall consult with the local community and the Minister shall have regard to the need to ensure sustainability in relation to the reserve:

(c) provide for such matters as may be necessary or desirable to achieve the purpose of this Act in relation to mataitai reserves, including general restrictions and prohibitions in respect of the taking of fish, aquatic life, or seaweed:

(d) empower any Maori Committee constituted by or under the Maori Community Development Act 1962, any marae committee, or any kaitiaki of the tangata whenua to make bylaws restricting or prohibiting the taking of fish, aquatic life, or seaweed:

(e) empower any such Maori Committee, marae committee, or kaitiaki to allow the taking of fish, aquatic life, or seaweed to continue for purposes which sustain the functions of the marae concerned, notwithstanding any such bylaws.

(3) The following provisions apply in relation to bylaws made under regulations made under subsection (2)(d):

(a) every restriction and every prohibition imposed on individuals by such bylaws shall apply generally to all individuals:

(b) the bylaws must be submitted to the Minister for approval:

(c) publication of the bylaws in accordance with subsection (5)(a) shall be conclusive evidence that the bylaws have been duly made and approved under this section.

(4) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(5) If the regulations empower the making of bylaws (whether under subsection (2)(d) or other legislation),—

(a) the bylaws are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and

(b) the regulations must contain a statement to that effect.

(6) The Legislation Act 2019 applies to bylaws of the kind described in subsection (2)(d) as if—

(a) the Minister were the maker of the bylaws; and

(b) the bylaws were made by the Minister approving them.

Compare: 1983 No 14 s 89(1)(mb), (1C), (3)(b), (3A), (3B); 1992 No 121 s 34

Legislation Act 2019 requirements for secondary legislation referred to in subsection (4)		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (5)(a)		
Publication **Presentation** **Disallowance**	See the relevant publication, presentation, and disallowance table in the secondary legislation referred to in subsection (4)	LA19 ss 73, 74, 114, 115, Sch 1 cl 14, 32, and Sch 3

This note is not part of the Act.

Section 186(2)(a): substituted, on 23 June 1998, by section 16 of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 186(3)(b): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 186(3)(c): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 186(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 186(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 186(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

186A Temporary closure of fishing area or restriction on fishing methods

(1) The Minister may from time to time, by notice,—

(a) temporarily close any area of New Zealand fisheries waters (other than South Island fisheries waters as defined in section 186B(9)) in respect of any species of fish, aquatic life, or seaweed; or

(b) temporarily restrict or prohibit the use of any fishing method in respect of any area of New Zealand fisheries waters (other than South Island fisheries waters as defined in section 186B(9)) and any species of fish, aquatic life, or seaweed.

(2) The Minister may impose such a closure, restriction, or prohibition only if he or she is satisfied that it will recognise and make provision for the use and management practices of tangata whenua in the exercise of non-commercial fishing rights by—

(a) improving the availability or size (or both) of a species of fish, aquatic life, or seaweed in the area subject to the closure, restriction, or prohibition; or

(b) recognising a customary fishing practice in that area.

(3) Before imposing a fishing method restriction or prohibition under subsection (1)(b), the Minister must be satisfied that the method is having an adverse effect on the use and management practices of tangata whenua in the exercise of non-commercial fishing rights.

(4) *[Repealed]*

(5) A notice given under subsection (1)—

(a) may be in force for a period of not more than 2 years and, unless sooner revoked, is revoked at the end of that 2-year period:

(b) subject to paragraph (a), may be expressed to be in force for any particular year or period, or for any particular date or dates, or for any particular month or months of the year, week or weeks of the month, or day or days of the week.

(6) Nothing in subsection (5)(a) prevents a further notice being given under subsection (1) in respect of any species and area before or on or about the expiry of an existing notice that relates to that species and area.

(7) Before giving a notice under subsection (1), the Minister must—

(a) consult such persons as the Minister considers are representative of persons having an interest in the species concerned or in the effects of fishing in the area concerned, including tangata whenua, environmental, commercial, recreational, and local community interests; and

(b) provide for the input and participation in the decision-making process of tangata whenua with a non-commercial interest in the species or the effects of fishing in the area concerned, having particular regard to kaitiakitanga.

(8) A person commits an offence who, in contravention of a notice given under subsection (1),—

(a) takes any fish, aquatic life, or seaweed from a closed area; or

(b) takes any fish, aquatic life, or seaweed using a prohibited fishing method.

(9) A person who commits an offence against subsection (8)—

(a) is liable to the penalty specified in section 252(6) if—

(i) the person is an individual other than a commercial fisher; and

(ii) the person satisfies the court that the fish, aquatic life, or seaweed was taken otherwise than for the purpose of sale:

(b) is liable to the penalty specified in section 252(5) in every other case.

(10) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must: • publish it in the *Gazette* • publicly notify it (see definition in section 2)	LA19 ss 73, 74(1)(a), Sch 1 cl 14
	The Ministry of Foreign Affairs and Trade considers that the secondary legislation may have international transparency obligations under the CPTPP. As a result the maker may also have to comply with s 75 of the Legislation Act 2019	LA19 ss 74(2), 75
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 186A: inserted, on 23 June 1998, by section 17 of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 186A(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 186A(1)(a): amended, on 1 October 1998, by section 310 of the Ngāi Tahu Claims Settlement Act 1998 (1998 No 97).

Section 186A(1)(b): amended, on 1 October 1998, by section 310 of the Ngāi Tahu Claims Settlement Act 1998 (1998 No 97).

Section 186A(4): repealed, on 28 October 2021, by regulation 23 of the Legislation Act (Amendments to Legislation) Regulations 2021 (LI 2021/247).

Section 186A(5)(a): replaced, on 17 December 2016, by section 47 of the Statutes Amendment Act 2016 (2016 No 104).

Section 186A(10): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

186B Temporary closure of fisheries

(1) The chief executive may from time to time, by notice,—

(a) temporarily close any area of South Island fisheries waters in respect of any species of fish, aquatic life, or seaweed; or

(b) temporarily restrict or prohibit the use of any fishing method in respect of any area of South Island fisheries waters and any species of fish, aquatic life, or seaweed.

(2) The chief executive may impose such a closure, restriction, or prohibition only if the chief executive considers that—

(a) it is likely to assist in replenishing the stock of the species of fish, aquatic life, or seaweed in the area concerned; or

(b) it is likely to assist in recognising and making provision for the use and management practices of tāngata whenua in the exercise of non-commercial fishing rights.

(3) *[Repealed]*

(4) A notice given under subsection (1)—

(a) may be in force for a period of not more than 2 years and, unless sooner revoked, is revoked at the end of that 2-year period:

(b) subject to paragraph (a), may be expressed to be in force for any particular year or period, or for any particular date or dates, or for any particular month or months of the year, week or weeks of the month, or day or days of the week.

(5) Nothing in subsection (4)(a) prevents a further notice being given under subsection (1) in respect of any stock and area before or on or about the expiry of an existing notice that relates to that stock and area.

(6) Before giving a notice under subsection (1), the chief executive must—

(a) consult such persons as the chief executive considers are representative of persons having an interest in the stock concerned or in the effects of fishing in the area concerned, including tāngata whenua, environmental, commercial, recreational, and local community interests; and

(b) provide for the participation in the decision-making process of tāngata whenua with a non-commercial interest in the stock or the effects of fishing in the area concerned, having regard to kaitiakitanga.

(7) Every person commits an offence who, in contravention of a notice given under subsection (1),—

(a) takes any fish, aquatic life, or seaweed from a closed area; or

(b) takes any fish, aquatic life, or seaweed using a prohibited fishing method.

(8) A person who commits an offence against subsection (7) is liable,—

(a) in the case of a commercial fisher, to the penalty specified in section 252(5):

(b) Iin any other case, to the penalty specified in section 252(6).

(9) In this section, the term **South Island fisheries waters** has the same meaning as in the Ngāi Tahu Claims Settlement Act 1998.

(10) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must: • publish it in the *Gazette* • publicly notify it (see definition in section 2)	LA19 ss 73, 74(1)(a), Sch 1 cl 14
	The Ministry of Foreign Affairs and Trade considers that the secondary legislation may have international transparency obligations under the CPTPP. As a result the maker may also have to comply with s 75 of the Legislation Act 2019	LA19 ss 74(2), 75
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 186B: inserted, on 1 October 1998, by section 311 of the Ngāi Tahu Claims Settlement Act 1998 (1998 No 97).

Section 186B(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 186B(3): repealed, on 28 October 2021, by regulation 24 of the Legislation Act (Amendments to Legislation) Regulations 2021 (LI 2021/247).

Section 186B(4)(a): replaced, on 17 December 2016, by section 48 of the Statutes Amendment Act 2016 (2016 No 104).

Section 186B(10): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Part 9A
Aquaculture

Part 9A: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

186C Interpretation

In this Part,—

adverse effect, in relation to fishing, means to restrict access for fishing or to displace fishing

application for a coastal permit—

(a) means an application for a coastal permit under section 88 of the Resource Management Act 1991; and

(b) includes—

(i) an application for a change or cancellation of condition of a coastal permit under section 127 of that Act; and

(ii) a notice of intention to review conditions under section 128 of that Act

aquaculture decision means a determination or a reservation

coastal permit means a coastal permit granted under the Resource Management Act 1991 that authorises aquaculture activities to be undertaken in the coastal marine area

determination, in relation to a coastal permit, means a decision by the chief executive that he or she is satisfied that the aquaculture activities authorised by the coastal permit will not have an undue adverse effect on fishing

regional council means a regional council acting as a consent authority under the Resource Management Act 1991

reservation, in relation to a coastal permit, means a decision by the chief executive that he or she is not satisfied that the aquaculture activities authorised by the coastal permit will not have an undue adverse effect on fishing.

Section 186C: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 186C **application for a coastal permit**: inserted, on 1 October 2011, by section 7(2) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 186C **coastal permit**: inserted, on 1 October 2011, by section 7(2) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 186C **determination**: substituted, on 1 October 2011, by section 7(2) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 186C **regional council**: inserted, on 1 October 2011, by section 7(2) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 186C **reservation**: substituted, on 1 October 2011, by section 7(2) of the Fisheries Amendment Act 2011 (2011 No 68).

Subpart 1—Aquaculture decisions in relation to coastal permits

Subpart 1: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Subpart 1 heading: amended, on 1 October 2011, by section 6 of the Fisheries Amendment Act 2011 (2011 No 68).

186D Chief executive may seek information or consult certain persons for purposes of making aquaculture decision

(1) After receiving a copy of an application for a coastal permit forwarded by a regional council to the chief executive under section 107F of the Resource Management Act 1991, the chief executive may, for the purpose of making an aquaculture decision that may be requested under that Act seek information relevant to the application from—

(a) the applicant for or the holder of the coastal permit:

(b) any fisher whose interests may be affected:

(c) persons and organisations that the chief executive considers represent the classes of persons who have customary, commercial, or recreational fishing interests that may be affected by the granting of the coastal permit or change to, or cancellation of, the conditions of the coastal permit.

(2) For the purposes of subsection (1), the chief executive—

(a) may set a date by which information must be provided and may grant 1 or more extensions of that date if he or she considers it necessary to do so; and

(b) is not required to consider or take into account any information received after that date or extended date (as the case may be).

(3) Before making an aquaculture decision under section 186E, the chief executive may consult any of the persons or organisations specified in subsection (1).

(4) For the purposes of subsection (3), the chief executive—

(a) may set a date by which the consultation is to be completed and may grant 1 or more extensions of that date if he or she considers it necessary to do so; and

(b) is not required to consider or take into account any submissions made for the purposes of the consultation received after that date or extended date (as the case may be).

Section 186D: substituted, on 1 October 2011, by section 8 of the Fisheries Amendment Act 2011 (2011 No 68).

186E Chief executive to make aquaculture decision

(1) Within 20 working days after receiving a request for an aquaculture decision from a regional council under section 114 of the Resource Management Act 1991, the chief executive must—

(a) make a determination; or

(b) make a reservation; or

(c) make 1 or more determinations or reservations or both in relation to different parts of the area to which the request relates.

(2) One or both of the following periods are excluded from the period of 20 working days specified in subsection (1) to the extent that the periods could otherwise fall within the period of 20 working days:

(a) a period during which the chief executive is undertaking consultation under section 186D(3):

(b) a period during which the chief executive is, in compliance with section 186F(1), making an aquaculture decision in relation to a prior request.

(3) In making an aquaculture decision, the chief executive must have regard to—

(a) information held by the Ministry of Fisheries; and

(b) information supplied, or submissions made, to the chief executive under section 186D(1) or (3); and

(c) information that is forwarded by the regional council; and

(d) any other information that the chief executive has requested and obtained.

(4) For the purposes of this section, the chief executive is not required to consider or take into account any information received after receiving the request for an aquaculture decision.

(5) Subsection (4) applies subject to section 186D(2) and (4).

Section 186E: substituted, on 1 October 2011, by section 8 of the Fisheries Amendment Act 2011 (2011 No 68).

186F Order in which requests for aquaculture decisions to be processed

(1) The chief executive must make aquaculture decisions in the same order in which the requests for the decisions are received.

(2) For the purposes of subsection (1), the order in which aquaculture decisions must be made in relation to requests for aquaculture decisions received on the same day is determined according to the time when the requests are received.

(3) If 2 or more requests for aquaculture decisions are received at the same time from the same regional council, the chief executive must make aquaculture decisions in the order specified by the regional council under section 114(5) of the Resource Management Act 1991.

(4) For the purposes of subsections (1) to (3), the chief executive's aquaculture decision is not to be treated as made until any judicial review of the decision is finally disposed of.

(5) The chief executive may make aquaculture decisions in a different order from that required by subsections (1) to (3), but the chief executive may do so only if satisfied that in making an aquaculture decision out of order it will not have an adverse effect on any other aquaculture decision that the chief executive has been requested to make.

Section 186F: substituted, on 1 October 2011, by section 8 of the Fisheries Amendment Act 2011 (2011 No 68).

186G Provision of fisheries information relating to stock

For the purposes of this subpart and subpart 4, the chief executive may, by notice in the *Gazette*, specify the manner and form in which fisheries information relating to stocks is to be made publicly available by the Ministry of Fisheries.

Section 186G: substituted, on 1 October 2011, by section 8 of the Fisheries Amendment Act 2011 (2011 No 68).

186GA Aquaculture decisions must not be made in relation to certain areas

The chief executive must not make an aquaculture decision in relation to—

(a) an area—

(i) that is or was subject to a lease, licence, marine farming permit, or spat catching permit that was deemed under section 10, 20, or 21 of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 to be a coastal permit granted under the Resource Management Act 1991; and

(ii) where, since the date on which the lease, licence, marine farming permit, or spat catching permit was deemed to be a coastal permit, aquaculture activities have been continuously authorised under that permit or another permit granted under the Resource Management Act 1991; or

(b) an area that is or was subject to the coastal permit referred to in section 20A of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 and where, since the date the coastal permit was deemed to be granted, aquaculture activities have been continuously authorised under

the permit or another permit granted under the Resource Management Act 1991; or

(c) an area that is in a gazetted aquaculture area within the meaning of section 35 of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004; or

(d) an area that is subject to a coastal permit to which section 114(6) of the Resource Management Act 1991 applies.

Section 186GA: inserted, on 1 October 2011, by section 8 of the Fisheries Amendment Act 2011 (2011 No 68).

186GB Matters to be considered before aquaculture decision made

(1) In making an aquaculture decision, the chief executive must have regard only to the following matters:

(a) the location of the area that the coastal permit relates to in relation to areas in which fishing is carried out:

(b) the likely effect of the aquaculture activities in the area that the coastal permit relates to on fishing of any fishery, including the proportion of any fishery likely to become affected:

(c) the degree to which the aquaculture activities in the area that the coastal permit relates to will lead to the exclusion of fishing:

(d) the extent to which fishing for a species in the area that the coastal permit relates to can be carried out in other areas:

(e) the extent to which the occupation of the coastal marine area authorised by the coastal permit will increase the cost of fishing:

(f) the cumulative effect on fishing of any authorised aquaculture activities, including any structures authorised before the introduction of any relevant stock to the quota management system.

(2) If a pre-request aquaculture agreement has been registered under section 186ZH in relation to the area that the coastal permit relates to, the chief executive must not have regard to the undue adverse effects on commercial fishing in respect of any stocks covered by the pre-request aquaculture agreement when having regard to the matters specified in subsection (1).

Section 186GB: inserted, on 1 October 2011, by section 8 of the Fisheries Amendment Act 2011 (2011 No 68).

186H Requirements for aquaculture decision

(1) An aquaculture decision must—

(a) be in writing; and

(b) define the areas that are subject to the decision; and

(c) provide reasons for the decision; and

(d) be notified to—

(i) the regional council that requested the decision; and

(ii) the holder of the coastal permit that the decision relates to; and

(iii) the persons and organisations who supplied information to the chief executive under section 186D(1); and

(iv) the persons and organisations consulted by the chief executive under section 186D(3).

(2) The fact that an aquaculture decision has been made and where a copy can be obtained must be—

(a) notified in the *Gazette*; and

(b) made accessible via the Internet.

(3) If the chief executive makes a determination, the determination may—

(a) specify any condition of the coastal permit that is material to the decision and that relates to the character, intensity, or scale of the aquaculture activities; and

(b) state that the condition may not be changed or cancelled until the chief executive makes a further aquaculture decision in relation to the area affected by the change or cancellation.

(4) If the chief executive makes a reservation, the reservation must also include—

(a) whether the reservation relates to customary, recreational, or commercial fishing, or a combination of them; and

(b) if the reservation relates to commercial fishing, the stocks and areas concerned, specifying any stocks subject to the quota management system and any other stock not subject to the quota management system; and

(c) any other matters required by regulations to be included.

(5) The chief executive must include, in the notification under subsection (1)(d),—

(a) the information specified in subsections (1)(b) and (c), (3), and (4), as appropriate; and

(b) information about where a copy of the determination or reservation can be obtained.

Section 186H: substituted, on 1 October 2011, by section 9 of the Fisheries Amendment Act 2011 (2011 No 68).

186I Appeal against aquaculture decision

[Repealed]

Section 186I: repealed, on 1 October 2011, by section 10 of the Fisheries Amendment Act 2011 (2011 No 68).

186J Judicial review of aquaculture decision

(1) Any person wishing to seek, under the Judicial Review Procedure Act 2016, judicial review of an aquaculture decision must do so within 30 working days after the notification of the decision under section 186H(2)(a).

(2) The chief executive must notify the relevant regional council of—

(a) any proceedings brought to seek judicial review of an aquaculture decision; and

(b) the result of those proceedings, including any appeals.

Section 186J: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 186J(1): amended, on 1 March 2017, by section 24 of the Judicial Review Procedure Act 2016 (2016 No 50).

Section 186J(1): amended, on 1 October 2011, by section 11(1) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 186J(2): added, on 1 October 2011, by section 11(2) of the Fisheries Amendment Act 2011 (2011 No 68).

Subpart 2—Fish farmers

Subpart 2: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

186K Fish Farmer Register

(1) The chief executive must keep a Fish Farmer Register.

(2) The register may be kept in the form of information stored by means of a computer.

(3) The register may be kept in conjunction with any other register required to be kept under this Act.

(4) The Crown owns all the information in the register that is required by this Act to be contained in the register.

(5) The chief executive must, by notice in the *Gazette*, appoint the place at which the register is to be located and state the hours when the register is open for inspection by the public.

(6) Without limiting section 297, regulations made under that section may provide for the operation of the register under this section, including the electronic transmission of information for the purposes of this subpart.

Section 186K: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

186L Information to be shown in Fish Farmer Register

The Fish Farmer Register must contain the information required by regulations made under section 297.

Section 186L: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

186M Access to Fish Farmer Register

(1) *[Repealed]*

(2) The Fish Farmer Register must be open for inspection by members of the public on payment of the prescribed fee (if any) during the hours stated by notice in the *Gazette* under section 186K(5).

(3) The Crown is not liable in damages for any loss or damage resulting from—

(a) any error in or omission from the Fish Farmer Register; or

(b) any inaccuracy in a search of the Fish Farmer Register.

(4) The chief executive must, on request and payment of a reasonable charge fixed by the chief executive, supply to any person copies of all or any part of the Fish Farmer Register.

(5) If the chief executive is satisfied, on the application of any person, that the disclosure of the person's address (as entered in the register) would be prejudicial to the personal safety of the person or his or her family, the chief executive may direct that the information must not be made available for inspection or otherwise disclosed.

Section 186M: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 186M(1): repealed, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

186N Fish farmer must advise chief executive of certain changes

(1) A fish farmer must apply to the chief executive under section 186W to correct information in the Fish Farmer Register relating to the fish farmer as soon as practicable after becoming aware that the information is incorrect or incomplete.

(2) To avoid doubt, subsection (1) applies to a change to a resource consent or certificate of compliance under the Resource Management Act 1991 that relates to the fish farmer's aquaculture activities.

(3) Every fish farmer who contravenes subsection (1) commits an offence and is liable to the penalty set out in section 252(6).

Section 186N: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

186O Limitations on holding and dealing with fish farmer registration

A fish farmer may not transfer, lease, or assign his or her registration as a fish farmer.

Section 186O: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

186P Restriction on fish farming

(1) A person must not undertake fish farming except in accordance with—

(a) the person's registration as a fish farmer; or

(b) an exemption granted by the chief executive under section 186Q.

(2) Every person who contravenes subsection (1) commits an offence and is liable to the penalty set out in section 252(5).

Section 186P: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

186Q Exemptions

(1) The chief executive may grant an exemption for the purposes of section 186P(1)(b) as follows:

(a) for an exemption granted only to 1 or more named persons, by notice in the *Gazette*:

(b) for any other exemption, by notice published in accordance with subsection (9).

(2) In deciding whether to grant an exemption, the chief executive must have regard to—

(a) the scale of the fish farmer's proposed fish farming operations, including the number of sites and the quantity of fish, aquatic life, or seaweed involved; and

(b) the species of the fish, aquatic life, or seaweed proposed to be farmed; and

(c) the use to which the farmed fish, aquatic life, or seaweed is to be put; and

(d) any other fishing related operations carried out or proposed to be carried out by the fish farmer; and

(e) any other matter that the chief executive considers relevant.

(3) An exemption may be granted on such terms and conditions as the chief executive thinks fit.

(4) An exemption may be granted—

(a) to 1 or more persons or classes of persons; and

(b) for fish farming generally or 1 or more different types of fish farming.

(5) However, the chief executive may grant an exemption to a specified fish farmer only if the fish farmer has—

(a) applied to the chief executive on the approved form for the exemption; and

(b) paid to the chief executive the prescribed fee (if any).

(6) The chief executive may amend, add, or revoke any term or condition in the exemption, or revoke the exemption, as follows:

(a) for an exemption granted only to 1 or more named persons, by notice in the *Gazette*:

(b) for any other exemption, by notice published in accordance with subsection (9).

(7) The chief executive must not do anything under subsection (6) unless the chief executive has provided the holders of the exemption with a reasonable opportunity to make submissions on the matter.

(8) Anything done under subsection (6) takes effect on and from the date specified for that purpose in the notice.

(9) A notice under subsection (1)(b) or (6)(b) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 186Q: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 186Q(1): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 186Q(6): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 186Q(9): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

186R Applications to register as fish farmer

(1) A person wishing to register as a fish farmer must apply to the chief executive on the approved form and pay the prescribed fee.

(2) The application must be accompanied by a copy of the appropriate resource consent or certificate of compliance under the Resource Management Act 1991 that applies to the area and premises specified in the application.

(3) The chief executive may—

(a) request an applicant to provide further information to enable the chief executive to make a decision on the application; and

(b) defer making a decision on the application until the further information is provided.

Section 186R: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

186S Decision on application

(1) The chief executive must grant or decline an application to register a fish farmer.

(2) The chief executive must decline an application if—

(a) the chief executive is not satisfied that—

(i) the applicant has a resource consent or certificate of compliance under the Resource Management Act 1991 to use the space concerned for aquaculture activities; or

(ii) the applicant has the consent of a person who has a resource consent or certificate of compliance under the Resource Management Act 1991 to use the space concerned for aquaculture activities; or

(b) the applicant does have a resource consent or certificate of compliance under the Resource Management Act 1991, but the species of fish authorised to be farmed under the consent or certificate is different from the species of fish that the application relates to; or

(c) the applicant proposes to farm a species and the farming of the species would contravene another enactment.

(3) The chief executive may decline an application if the applicant has been convicted within the 5 years immediately preceding the application of an offence involving fish, aquatic life, or seaweed.

(4) The chief executive may grant an application from an applicant specified in subsection (3), but only if the registration of the fish farmer is made subject to conditions that the chief executive considers necessary or desirable to ensure that the requirements of this Act are complied with.

(5) Without limiting the conditions that may be imposed under subsection (4), the chief executive may impose conditions relating to 1 or more of the following:

(a) the species of fish, aquatic life, or seaweed that may be farmed:

(b) the processes and systems (including recordkeeping, reporting, storage, and labelling) that the applicant must use in operating the fish farm:

(c) the involvement in the operations of the fish farm of any person convicted of a fisheries offence.

Section 186S: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

186T Section 186S subject to sections 30 and 31 of Aquaculture Reform (Repeals and Transitional Provisions) Act 2004

Section 186S applies subject to sections 30 and 31 of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004.

Section 186T: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

186U Effect of registration

While a fish farmer's registration is current, the fish farmer and any employee or agent of the fish farmer may do any of the following things to the extent authorised by, and in accordance with terms and conditions of, the registration:

(a) take farmed fish from a site specified in the registration; and

(b) possess, sell, or otherwise dispose of farmed fish.

Section 186U: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

186V Registration of fish farmer

If the chief executive grants an application to register a fish farmer, the chief executive must—

(a) enter in the Fish Farmer Register—

(i) the date on which the application was granted; and

(ii) the name of the fish farmer; and

(iii) the location and boundaries of the fish farm in relation to which the fish farmer is registered; and

(iv) the species of fish, aquatic life, or seaweed that may be farmed at the fish farm; and

(v) any other information specified in regulations under this Act; and

(b) issue a notice of registration to the fish farmer setting out—

(i) the details entered in the register in relation to the fish farmer; and

(ii) any conditions imposed under section 186S.

Section 186V: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

186W Variation of registration

(1) The chief executive may, on his or her own initiative or on the application of a fish farmer, vary the registration of the fish farmer to ensure that the information in the Fish Farmer Register is correct and complete.

(2) If the chief executive proposes to vary the registration of a fish farmer on his or her own initiative, the chief executive must, before doing so,—

(a) give the fish farmer concerned notice in writing of the proposed variation; and

(b) give the fish farmer a reasonable opportunity to make submissions to the chief executive about the proposed variation; and

(c) consider any submissions made by the fish farmer.

(3) If the chief executive varies the Fish Farmer Register, the chief executive must record in the register the date on which the variation is made and the date on which the variation takes effect.

(4) After varying the Fish Farmer Register, the chief executive must give the fish farmer a notice in writing of the variation and of the date on which the variation takes effect.

(5) The chief executive must not vary the registration of a fish farmer if the proposed variation were treated as an application to register as a fish farmer and the chief executive would have had to decline the application under section 186S(2).

Section 186W: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

186X Appeal against suspension of fish farmer registration

The District Court may at any time on application by a fish farmer whose registration is suspended under section 269 make an order lifting the suspension subject to any sureties and conditions specified by the court.

Section 186X: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 186X: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

186Y Revocation of registration

(1) The chief executive must revoke the registration of a fish farmer if—

(a) the fish farmer concerned requests the chief executive to do so; or

(b) the chief executive is satisfied that the fish farmer has ceased to be entitled to be registered.

(2) The chief executive must not revoke the registration of a fish farmer under subsection (1)(b) unless the chief executive has—

(a) given the fish farmer concerned notice in writing of the proposed revocation and the grounds on which it is based; and

(b) given the fish farmer a reasonable opportunity to make submissions to the chief executive.

(3) If the chief executive revokes the registration of a fish farmer under this section, the chief executive must give the fish farmer a notice in writing of the revocation and the date on which the revocation takes effect.

(4) This section does not require the chief executive to remit or refund any fees, charges, or levies paid or payable by the fish farmer for the period from the date of registration to the date of revocation.

Section 186Y: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

186Z Appeal against revocation of fish farmer registration

(1) A fish farmer whose registration is revoked under section 186Y may appeal to the District Court against the revocation.

(2) The District Court may—

(a) confirm the revocation; or

(b) revoke the revocation.

(3) After the appeal is filed and pending its decision on the appeal, the District Court may make an order suspending the revocation subject to any terms and conditions it considers appropriate.

Section 186Z: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 186Z(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

186ZA Subpart does not affect Freshwater Fish Farming Regulations 1983

This subpart does not—

(a) affect the application of the Freshwater Fish Farming Regulations 1983; and

(b) require a person undertaking fish farming under a licence granted under those regulations to register as a fish farmer under this subpart.

Section 186ZA: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

186ZB Subpart does not apply to fish farming under protected customary rights order or agreement

This subpart does not apply to fish farming undertaken in accordance with a protected customary rights order or an agreement.

Section 186ZB: substituted, on 1 April 2011, by section 128 of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Subpart 3—Spat catching

Subpart 3: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Harvestable spat

Heading: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

186ZC Alteration of Schedule 8A

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, alter Schedule 8A to omit, amend, or include any species of fish, aquatic life, or seaweed as harvestable spat.

(2) An Order in Council made under subsection (1) that declares any species of fish, aquatic life, or seaweed to be harvestable spat may do so with reference to—

(a) its size, biological characteristics, season, or location; and

(b) any other relevant matters.

(3) The Minister may make a recommendation under subsection (1) to include a species of fish, aquatic life, or seaweed in Schedule 8A only if he or she is satisfied that including the species in Schedule 8A is not likely to have an adverse effect on recruitment to the adult population of the species concerned.

(4) Before making a recommendation under subsection (1) to include a species of fish, aquatic life, or seaweed in Schedule 8A, the Minister must consult the persons or organisations that the Minister considers are representative of the classes of persons having an interest in the species concerned, including Māori, environmental, commercial, and recreational interests.

(5) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 186ZC: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 186ZC(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Subpart 4—Aquaculture agreements and compensation declarations

Subpart 4: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Subpart 4 heading: amended, on 1 October 2011, by section 12 of the Fisheries Amendment Act 2011 (2011 No 68).

186ZD Interpretation

In this subpart, unless the context otherwise requires,—

aquaculture agreement means 1 or more documents, in the approved form, containing the consents required under section 186ZF

compensation declaration means a statutory declaration to the effect that compensation has been provided, in accordance with sections 186ZN and 186ZQ, to all affected quota owners

pre-request aquaculture agreement means 1 or more documents, in the approved form, containing the consents required under section 186ZM.

Section 186ZD: substituted, on 1 October 2011, by section 13 of the Fisheries Amendment Act 2011 (2011 No 68).

186ZE Registers of aquaculture agreements, pre-request aquaculture agreements, and compensation declarations

(1) The chief executive must keep—

(a) a register of aquaculture agreements; and

(b) a register of pre-request aquaculture agreements; and

(c) a register of compensation declarations.

(2) Sections 186K(2) to (6), 186L, and 186M apply, with all necessary modifications, to each register.

Section 186ZE: substituted, on 1 October 2011, by section 14 of the Fisheries Amendment Act 2011 (2011 No 68).

186ZF Quota owners whose consent is necessary for aquaculture agreement

(1) An aquaculture agreement lodged with the chief executive for registration must—

(a) contain the consents required under subsection (2) to the aquaculture activities being undertaken in the area concerned; and

(b) be accompanied by information showing that each registered quota owner has had a reasonable opportunity to consider whether to consent.

(2) The consents required are, for each stock specified in a reservation in relation to commercial fishing for stocks subject to the quota management system,—

(a) the consents of the registered quota owners of the stock holding not less than 75% of the quota shares for the stock; and

(b) to the extent that the consents referred to in paragraph (a) are given by persons holding 75% or more but less than 100% of the quota shares for the stock, the consent of the High Court in relation to the persons who did not consent.

(3) After an aquaculture agreement is registered, no person whose consent is contained in the agreement may revoke the consent, but the consent and the aquaculture agreement itself come to an end when the coastal permit to which they relate comes to an end, unless the coastal permit is replaced by a new permit in accordance with section 165ZH of the Resource Management Act 1991.

(4) For the purposes of this section, subsection (2) applies to the persons specified in that subsection as at 5 pm on the date on which the chief executive gives notice of a reservation under section 186H(2)(a) in relation to the coastal permit concerned.

Section 186ZF: substituted, on 1 October 2011, by section 15 of the Fisheries Amendment Act 2011 (2011 No 68).

186ZG High Court may consent to aquaculture agreement on behalf of non-consenting persons

(1) A person wishing to lodge an aquaculture agreement with the chief executive may, for the purposes of section 186ZF(2), apply to the High Court for its consent to the lodging of the agreement.

(2) The High Court must not give its consent unless it is satisfied that the applicant has offered sufficient compensation to each person who has not consented to the lodging of the aquaculture agreement,—

(a) in the case of persons holding quota shares, for the effect on their rights, as holders of the quota shares, of the proposed aquaculture activity:

(b) *[Repealed]*

(3) If the High Court gives its consent under subsection (2), the High Court may (with the agreement of the applicant) make such ancillary orders or give such directions as it thinks fit relating to the payment of compensation.

(4) However, to avoid doubt, any order for the purposes of subsections (2) and (3) may not—

(a) require the payment of compensation that exceeds the compensation offered by the applicant; or

(b) require the applicant to lodge an aquaculture agreement; or

(c) require the applicant to continue with proceedings to obtain the consent of the High Court.

(5) A person who makes an application to the High Court under subsection (1) must, as soon as practicable after making the application, give a copy of the application to the chief executive.

Section 186ZG: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 186ZG(1): amended, on 1 October 2011, by section 16(1) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 186ZG(2) paragraph (b): repealed, on 1 October 2011, by section 16(2) of the Fisheries Amendment Act 2011 (2011 No 68).

186ZH Lodging aquaculture agreements with chief executive for registration

(1) If an aquaculture agreement lodged with the chief executive for registration does not comply with this subpart, the chief executive must—

(a) return the agreement to the person who lodged it or another person whom the chief executive considers is entitled to receive it; and

(b) provide reasons to the person to whom the agreement is returned as to why the agreement has not been registered.

(2) If an aquaculture agreement lodged with the chief executive for registration complies with this subpart, the chief executive must—

(a) register the agreement in the register of aquaculture agreements kept by the chief executive; and

(b) notify the person who lodged it, or another person whom the chief executive considers is entitled to receive notification, that the agreement has been registered.

(3) In deciding whether to register an aquaculture agreement, the chief executive—

(a) is entitled to rely on the information in the agreement as sufficient evidence that a quota owner has consented under section 186ZF, unless the chief executive has notice of evidence to the contrary; and

(b) is not required to verify the identity of a quota owner appearing to consent in the agreement.

Section 186ZH: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 186ZH(3)(a): amended, on 1 October 2011, by section 17 of the Fisheries Amendment Act 2011 (2011 No 68).

Section 186ZH(3)(b): amended, on 1 October 2011, by section 17 of the Fisheries Amendment Act 2011 (2011 No 68).

186ZHA Lodging compensation declarations with chief executive for registration

(1) If a compensation declaration lodged with the chief executive for registration does not comply with this subpart, the chief executive must—

(a) return the declaration to the person who lodged it or another person whom the chief executive considers is entitled to receive it; and

(b) provide reasons to the person to whom the declaration is returned as to why the declaration has not been registered.

(2) If a compensation declaration lodged with the chief executive for registration complies with this subpart, the chief executive must—

(a) register the declaration in the register of compensation declarations kept by the chief executive; and

(b) notify the person who lodged it, or another person whom the chief executive considers is entitled to receive notification, that the declaration has been registered.

(3) In deciding whether to register a compensation declaration, the chief executive is entitled to rely on the information in the declaration as sufficient evidence that compensation has been provided to quota owners in accordance with sections 186ZN and 186ZQ, unless the chief executive has notice of evidence to the contrary.

Section 186ZHA: inserted, on 1 October 2011, by section 18 of the Fisheries Amendment Act 2011 (2011 No 68).

186ZI Period within which aquaculture agreements must be lodged for registration

(1) An aquaculture agreement must be lodged with the chief executive for registration—

(a) on the approved form and be accompanied by the prescribed fee; and

(b) within 6 months after the notification of the reservation under section 186H(2)(a) in relation to the coastal permit concerned.

(2) However, the chief executive may give a person a further 3 months to lodge an aquaculture agreement if the chief executive is satisfied that—

(a) the person has taken reasonable steps to obtain the consents required; and

(b) the person requires further time to obtain all the consents.

(3) An extension of time may be granted under subsection (2) only—

(a) once to a person in respect of aquaculture activities in the same area; and

(b) if the person concerned applies in writing to the chief executive not later than 1 month before the expiry of the 6-month period specified in subsection (1)(b).

(4) The period of 6 months referred to in subsection (1)(b) does not include—

(a) any extension of the time granted under subsection (2); and

(b) the period beginning with the day on which an application to the High Court is made under section 186ZG(1) and ending on the day on which the High Court gives its decision; and

(c) the period beginning with the day on which proceedings are brought seeking judicial review of the chief executive's aquaculture decision and ending on the day on which the proceedings are finally disposed of.

(5) *[Repealed]*

Section 186ZI(1)(a): amended, on 1 October 2011, by section 19(1) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 186ZI(1)(b): substituted, on 1 October 2011, by section 19(2) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 186ZI(2)(a): amended, on 1 October 2011, by section 19(3) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 186ZI(4)(c): added, on 1 October 2011, by section 19(4) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 186ZI(5): repealed, on 1 October 2011, by section 19(5) of the Fisheries Amendment Act 2011 (2011 No 68).

186ZIA Period within which compensation declaration must be lodged for registration

(1) A compensation declaration must be lodged with the chief executive for registration—

(a) on the approved form and be accompanied by the prescribed fees; and

(b) within 6 months after the date of the notification of the reservation under section 186H(2)(a) in relation to the coastal permit concerned.

(2) However, the chief executive may give a person a further 3 months to lodge a compensation declaration if the chief executive is satisfied that—

(a) the person has taken reasonable steps to provide compensation to quota owners in accordance with sections 186ZN and 186ZQ; and

(b) the person requires further time to provide the compensation.

(3) An extension of time may be granted under subsection (2) only—

(a) once to a person in respect of aquaculture activities in the same area; and

(b) if the person concerned applies in writing to the chief executive not later than 1 month before the expiry of the 6-month period specified in subsection (1)(b).

(4) The period of 6 months referred to in subsection (1)(b) does not include—

(a) any extension of time granted under subsection (2); and

(b) the period beginning on the day on which arbitration proceedings are commenced and ending on the day on which the arbitrator makes a determination under section 186ZP(5) or, if the arbitrator does not make a determination under that provision, the day on which the arbitrator makes a determination or decision under section 186ZP(6)(a) or (b); and

(c) the period beginning with the day on which proceedings are brought seeking judicial review of the chief executive's aquaculture decision and ending on the day on which the proceedings are finally disposed of.

Section 186ZIA: inserted, on 1 October 2011, by section 20 of the Fisheries Amendment Act 2011 (2011 No 68).

186ZJ No proceedings to be taken against chief executive

(1) No civil or criminal proceedings are to be brought against the chief executive in respect of any decision of the chief executive under section 186ZH, 186ZHA, 186ZI, 186ZIA, or 186ZM.

(2) However, subsection (1) does not apply in relation to proceedings seeking, under the Judicial Review Procedure Act 2016, judicial review of a decision by the chief executive.

Section 186ZJ: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 186ZJ(1): amended, on 1 October 2011, by section 21 of the Fisheries Amendment Act 2011 (2011 No 68).

Section 186ZJ(2): amended, on 1 March 2017, by section 24 of the Judicial Review Procedure Act 2016 (2016 No 50).

186ZK Chief executive must notify regional council of certain matters

(1) The chief executive must notify the regional council concerned of a matter specified in subsection (2) as soon as practicable after the matter has occurred.

(2) The matters are—

(a) the name of the holder of an aquaculture agreement registered by the chief executive and the area that the agreement relates to:

(b) an application made under section 186ZG:

(c) an extension of time given under section 186ZI or section 186ZIA:

(d) when the period for lodging aquaculture agreements or compensation declarations has expired, including any period extended under section 186ZI or section 186ZIA, as the case may be:

(e) that no aquaculture agreements or compensation declarations have been lodged at the expiry of the period for lodging them, if that is the case:

(f) any application for judicial review of a decision of the chief executive in relation to aquaculture agreements or compensation declarations:

(g) the name of the person who made a compensation declaration registered by the chief executive and the area the declaration relates to.

Section 186ZK: inserted, on 1 January 2005, by section 8 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 186ZK(2)(c): amended, on 1 October 2011, by section 22(1) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 186ZK(2)(d): amended, on 1 October 2011, by section 22(2) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 186ZK(2)(d): amended, on 1 October 2011, by section 22(3) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 186ZK(2)(e): amended, on 1 October 2011, by section 22(4) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 186ZK(2)(f): amended, on 1 October 2011, by section 22(5) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 186ZK(2)(g): added, on 1 October 2011, by section 22(6) of the Fisheries Amendment Act 2011 (2011 No 68).

186ZL Memorials

(1) Subsection (2) applies if the chief executive makes a reservation in relation to commercial fishing for stocks subject to the quota management system under section 186E or section 38 of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004.

(2) The chief executive must ensure that a memorial is recorded in the appropriate register against all quota for the stocks specified in a notice given by the chief executive under section 186H or section 41 of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 in relation to the reservation on the date of the notification under section 186H(2)(a).

(3) A memorial must be to the effect that—

(a) the chief executive has made a reservation in relation to commercial fishing for stocks subject to the quota management system under section 186E or section 38 of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004; and

(b) as a result, an aquaculture agreement, or compensation declaration, can be registered under this Part; and

(c) if an agreement or a declaration is registered, fishing may be affected by aquaculture activities being undertaken in the area subject to the reservation.

(4) A memorial recorded in a register under subsection (2) must be cancelled on the expiry of the period specified in section 186ZI(1)(b) or 186ZIA(1)(b) or any extension of those periods under section 186ZI(4) or 186ZIA(4).

(5) *[Repealed]*

Section 186ZL: substituted, on 28 September 2008, by section 8 of the Fisheries Amendment Act (No 2) 2008 (2008 No 93).

Section 186ZL(1): substituted, on 1 October 2011, by section 23(1) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 186ZL(2): amended, on 1 October 2011, by section 23(2) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 186ZL(3)(a): amended, on 1 October 2011, by section 23(3) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 186ZL(3)(b): amended, on 1 October 2011, by section 23(4) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 186ZL(3)(c): amended, on 1 October 2011, by section 23(5) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 186ZL(3)(c): amended, on 1 October 2011, by section 23(6) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 186ZL(4): substituted, on 1 October 2011, by section 23(7) of the Fisheries Amendment Act 2011 (2011 No 68).

Section 186ZL(5): repealed, on 1 October 2011, by section 23(8) of the Fisheries Amendment Act 2011 (2011 No 68).

Pre-request aquaculture agreements

Heading: inserted, on 1 October 2011, by section 24 of the Fisheries Amendment Act 2011 (2011 No 68).

186ZM Pre-request aquaculture agreements

(1) A person who has applied for a coastal permit to undertake aquaculture activities in the coastal marine area may, before a regional council makes a request under section 114 of the Resource Management Act 1991 for an aquaculture decision in relation to the coastal permit, lodge a pre-request aquaculture agreement in relation to the area covered by the application with the chief executive for registration.

(2) The pre-request aquaculture agreement must be in the approved form, be accompanied by the prescribed fee, and—

(a) relate to 1 or more stocks subject to the quota management system; and

(b) contain the consents required under subsection (3) to the exclusion of the stock from consideration by the chief executive when making an aquaculture decision in relation to the area covered by the application if the coastal permit is granted; and

(c) be accompanied by information showing that each registered quota owner had a reasonable opportunity to consider whether to consent.

(3) A pre-request aquaculture agreement must contain, as at 5 pm on the day before the date on which the agreement is lodged for registration, the consent, for each stock included in the agreement, of the registered quota owners of the stock holding not less than 75% of the quota shares for the stock.

(4) A person who wishes to lodge a pre-request aquaculture agreement with the chief executive for registration must, at least 20 working days before lodging the agreement, give notice of the person's intention to lodge the agreement—

(a) to each quota owner of stock that is included in the agreement; and

(b) by a notice published in a newspaper circulating in the locality of the proposed coastal permit the agreement relates to.

(5) After a pre-request aquaculture agreement is registered, no person whose consent is contained in the agreement may revoke the consent, but the consent and the aquaculture agreement itself come to an end—

(a) if the application for the coastal permit they relate to is declined or withdrawn; or

(b) if the application is granted, when the coastal permit to which they relate comes to an end, unless the coastal permit is replaced by a new permit in accordance with section 165ZH of the Resource Management Act 1991.

(6) Sections 186ZH and 186ZK apply with any necessary modifications as if references to an aquaculture agreement were references to a pre-request aquaculture agreement and references to section 186ZF were references to section 186ZM.

(7) A quota holder for a stock, which is the subject of a registered pre-request aquaculture agreement, who did not consent to the agreement is entitled to receive from the applicant in proportion to the quota holder's shareholding of the stock equivalent entitlements and benefits (whether financial or otherwise), to those that were agreed between the applicant and the persons who consented to the agreement.

(8) The High Court may make such orders or give such directions as it thinks fit for the purposes of subsection (7).

(9) An order or direction under subsection (8) must not prevent or delay the chief executive making an aquaculture decision.

Section 186ZM: inserted, on 1 October 2011, by section 24 of the Fisheries Amendment Act 2011 (2011 No 68).

Compensation

Heading: inserted, on 1 October 2011, by section 24 of the Fisheries Amendment Act 2011 (2011 No 68).

186ZN Compensation to be provided by coastal permit holder to affected quota owners if aquaculture agreement not lodged

(1) This section applies if—

(a) the chief executive has, in relation to a coastal permit, made a reservation in relation to commercial fishing of quota management stock; and

(b) the holder of the coastal permit has not lodged an aquaculture agreement in respect of the stock before the expiry of the period specified in section 186ZI(1)(b) or any extension of that period under section 186ZI(2), subject in either case to section 186ZI(4).

(2) If the holder of the permit wishes to undertake aquaculture activities authorised by the permit, the holder must provide to each affected quota owner compensation for the loss of value of the owner's affected quota as determined by an arbitrator appointed in accordance with section 186ZO.

(3) In subsection (2), **quota owner** means a person who is a registered quota owner as at 5 pm on the date on which the relevant reservation is notified in the *Gazette* under section 186H(2)(a).

Section 186ZN: inserted, on 1 October 2011, by section 24 of the Fisheries Amendment Act 2011 (2011 No 68).

186ZO Submission to arbitration

(1) The holder of a coastal permit may submit to an arbitrator a request to determine the amount of compensation to be provided under section 186ZN and the provisions of the Arbitration Act 1996 (other than those relating to the appointment of an arbitrator) apply as if this section were an arbitration agreement.

(2) For the purposes of the arbitration, an arbitrator is to be appointed—

(a) by agreement between the holder of the coastal permit and all the quota owners; but

(b) if they cannot agree, then by the President of the Arbitrators and Mediators Institute of New Zealand Incorporated or a person authorised by the President.

Section 186ZO: inserted, on 1 October 2011, by section 24 of the Fisheries Amendment Act 2011 (2011 No 68).

186ZP Arbitrator to determine preliminary question about economic value of proposed aquaculture activities

(1) Before determining the compensation to be provided to quota owners or a class of quota owners, an arbitrator must first determine the question in subsection (2).

(2) The question is: which of the following is of materially greater economic value to New Zealand:

(a) the proposed aquaculture activities; or

(b) the fishing in relation to which the chief executive has made a reservation.

(3) The arbitrator must determine the question on the basis of data and analysis provided by—

(a) the holder of the coastal permit; and

(b) the quota owners concerned.

(4) In determining the question, the arbitrator must follow the methodology specified in any regulations made under section 186ZR(1)(a).

(5) The arbitrator must determine the compensation payable to quota owners if the arbitrator determines the question in favour of the proposed aquaculture activities.

(6) The arbitrator must not determine the compensation payable to quota owners if the arbitrator—

(a) determines the question in favour of the fishing in relation to which the chief executive has made a reservation; or

(b) decides that the question cannot be determined one way or the other.

Section 186ZP: inserted, on 1 October 2011, by section 24 of the Fisheries Amendment Act 2011 (2011 No 68).

186ZQ Determination of compensation

(1) In determining the compensation to be awarded to quota owners, an arbitrator must follow the methodology specified in any regulations made under section 186ZR(1)(b).

(2) For the purposes of section 186ZR(3)(a)(ii), the holder of the coastal permit and quota owners may submit proposals to the arbitrator that set out the maximum extent to which complementary use may be made of the site concerned for particular quota stocks and aquaculture activities.

(3) The level of compensation provided under subsection (1) must be the same for each quota share for each quota stock.

(4) The compensation awarded under subsection (1) must—

(a) be provided to the persons holding quota for the fish stock subject to the reservation; and

(b) be provided only to quota owners as defined in section 186ZN(3).

(5) If, after the arbitrator has made an award, the holder of the coastal permit decides not to proceed with the aquaculture activities, then the holder of the permit must pay the quota owners' reasonable costs and expenses, as determined by the arbitrator, for participating in the arbitration.

Section 186ZQ: inserted, on 1 October 2011, by section 24 of the Fisheries Amendment Act 2011 (2011 No 68).

186ZR Regulations relating to compensation

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing—

(a) a methodology for determining the question in section 186ZP(2); and

(b) for the purposes of section 186ZQ, a methodology for calculating the loss in value of affected quota due to the aquaculture activities authorised by a coastal permit.

(2) The methodology prescribed under subsection (1)(a) must set out the type of data and analysis required for determining whether the proposed aquaculture activities or the fishing in respect of which the chief executive has made a reservation is of greater economic value to New Zealand.

(3) The methodology prescribed under subsection (1)(b) must—

(a) provide for compensation to be calculated in proportion to the impact on fishing, including—

(i) increased fishing costs and any consequential disruption costs as a result of the proposed aquaculture activities, including a sum by way of solatium to fishing interests for any adjustments required as a result of the impact of the aquaculture activities; and

(ii) any complementary uses that might exist for the site in accordance with any submissions made under section 186ZQ(2); and

(iii) the loss in value of affected quota, but only in relation to that part of the relevant average annual catch that is estimated would be reduced if the proposed aquaculture activities were to proceed; and

(b) provide for the calculation of compensation to be based on the size of the affected quota holding and the corresponding loss of quota value, including by reference to any recent transfers of the quota or associated annual catch entitlement.

(4) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)

Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 186ZR: inserted, on 1 October 2011, by section 24 of the Fisheries Amendment Act 2011 (2011 No 68).

Section 186ZR(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Part 10
Recordkeeping, reporting, disposal of fish, and provisions relating to taking and possession of fish for purpose of sale

187 References to weight of fish, aquatic life, or seaweed to be references to greenweight

(1) Subject to subsections (2) and (3) and except as otherwise expressly provided, every reference in this Act to the weight of fish, aquatic life, or seaweed shall be construed as a reference to the greenweight of the fish, aquatic life, or seaweed.

(2) If a declaration in respect of any stock under section 18 so provides, every reference to the weight of that stock shall, except as otherwise expressly provided, be construed as a reference to meatweight.

(3) Every reference in this Act to the weight of any quota management stock that was, immediately before the commencement of this section, subject to Part 2A of the Fisheries Act 1983 and specified in meatweight under that Act, shall, except as otherwise expressly provided, be construed as a reference to meatweight.

188 Conversion factors

(1) The chief executive may, by notice in the *Gazette*, after consultation with such bodies or persons as the chief executive considers appropriate in the circumstances, including Maori, environmental, commercial, and recreational interests, set conversion factors which shall, subject to subsection (2), for all purposes (including any proceedings for an offence against this Act) be used to determine the weight of any fish, aquatic life, or seaweed, and such conversion factors shall be used to translate—

(a) the weight of the fish, aquatic life, or seaweed in the state to which it has been processed to the greenweight, or meatweight, as the case may be; or

(b) the weight of the fish, aquatic life, or seaweed, when taken, to the meatweight.

(2) The chief executive may, in respect of any vessel on which fish, aquatic life, or seaweed is processed, having regard to the method of processing or the pro-

cessing history of the vessel and after consultation with the owner, operator, or master of the vessel, issue a certificate specifying conversion factors for that vessel which shall for all purposes (including any proceedings for an offence against this Act) be used to determine the weight of any fish, aquatic life, or seaweed processed by that vessel within the terms of the certificate.

(3) Every certificate issued under subsection (2)—

(a) shall apply in respect of fish, aquatic life, or seaweed processed during the currency of the certificate:

(b) may be subject to such conditions, including conditions relating to methods of taking, processing, packing, and labelling of fish, aquatic life, or seaweed, the presence of observers or fishery officers, or the recording of catches, as the chief executive thinks fit to impose:

(c) may at any time be revoked by the chief executive by notice in writing, or may be amended or replaced by a further certificate issued by the chief executive under subsection (2).

(4) Any certificate issued under subsection (2) may be issued for such term as the chief executive thinks fit, and the certificate, or any revocation of the certificate, shall take effect on the date specified for the purpose by the chief executive, which date shall be not earlier than the earliest of the following dates or occasions:

(a) the commencement of the fishing year following that in which the owner, operator, or master of the vessel is issued with the certificate or notified of the revocation:

(b) the next departure of the vessel from any New Zealand port following the issue of the certificate or notification of the revocation:

(c) the day on which any observer who is present on the vessel concerned, after the owner, operator, or master is issued with the certificate or notified of the revocation, certifies that the current catch of the vessel has been recorded by that observer:

(d) such earlier date as may be agreed between the chief executive and the owner, operator, or master of the vessel.

(5) The chief executive may, for any purpose referred to in section 59(6A) or section 368A(11) of this Act or section 28W(10) of the Fisheries Act 1983, by notice in the *Gazette* or where appropriate by notice to an individual fisher or other person affected,—

(a) set conversion factors for translating numbers of Foveaux Strait dredge oysters into weights, or vice versa:

(b) specify the circumstances in which or purpose for which any such Foveaux Strait dredge oyster conversion factors may or must be used, including the making of returns and records.

(6) Any conversion factors specified under subsection (5) are to be used for determining the weight or number (as the case may require) of Foveaux Strait dredge oysters only for the purposes specified in the *Gazette* notice or the notice to the individual fisher or other person affected.

Compare: 1983 No 14 s 3A; 1986 No 34 s 4; 1990 No 29 s 3

Section 188(1): amended, on 23 June 1998, by section 18 of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 188(5): added, on 1 April 1998, by section 7 of the Fisheries (Foveaux Strait Dredge Oyster Fishery) Amendment Act 1998 (1998 No 6).

Section 188(6): added, on 1 April 1998, by section 7 of the Fisheries (Foveaux Strait Dredge Oyster Fishery) Amendment Act 1998 (1998 No 6).

188A Spat ratio

(1) For the purpose of determining spat catch in circumstances where spat can only practically be harvested when attached to another species or kind of fish, aquatic life, or seaweed, the chief executive may, by notice in the *Gazette*, set a ratio of spat to the other species or kind of fish, aquatic life, or seaweed that translates the weight or quantity of material taken, when taken or landed or at any other stage specified in the notice, to a weight or quantity of spat and a weight or quantity of the other species or kind of fish, aquatic life, or seaweed.

(2) Before setting a spat ratio, the chief executive must consult with such bodies or persons as the chief executive considers appropriate in the circumstances.

(3) Except as otherwise provided in the notice, the ratio set by the notice must for all purposes (including any proceedings for an offence against this Act or any regulations made under this Act) be used to determine—

(a) the weight or quantity of spat taken or landed with the other species or kind of fish, aquatic life, or seaweed; and

(b) if appropriate, the weight or quantity of the other species or kind of fish, aquatic life, or seaweed.

Section 188A: inserted, on 1 October 2004, by section 44 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

189 Persons who are required to keep records and returns

The following persons shall keep such accounts and records, and provide to the chief executive such returns and information, as may be required by or under regulations made under this Act:

(a) holders of fishing permits, special permits, licences, or other authorities or approvals issued or granted under this Act entitling the holder to take fish, aquatic life, or seaweed by any method for any purpose:

(b) owners, caveators, and mortgagees of quota, and owners and caveators of annual catch entitlements:

(c) owners, operators, notified users, and masters of vessels registered under this Act:

(d) owners and persons in charge of any premises where fish, aquatic life, or seaweed are received, purchased, stored, transported, processed, sold, or otherwise disposed of:

(e) persons engaged in the receiving, purchasing, transporting, processing, storage, sale, or disposal of fish, aquatic life, or seaweed:

(f) fish farmers and holders of spat catching permits:

(g) persons who provide vessels for hire for the purpose of enabling persons to take fish, aquatic life, or seaweed:

(h) persons who take fish, aquatic life, or seaweed otherwise than for the purpose of sale.

(i) holders of high seas fishing permits issued under section 113H:

(j) holders of exemptions granted under section 113F.

Section 189(b): substituted, on 26 May 2001, by section 21 of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 189(i): added, on 1 May 2001, by section 17 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 189(j): added, on 1 May 2001, by section 17 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

190 Accounts, records, returns, and other information

(1) For the purpose of this Act, the chief executive may, in any particular case or class of cases,—

(a) require accounts, records, returns, and other information additional to those specified in regulations made under this Act to be kept and provided to the chief executive, by any person referred to in section 189; and

(b) specify the manner and form in which such accounts, records, returns, and other information are to be kept and provided.

(2) Every person who fails to comply with a specification of the chief executive under subsection (1)(b) commits an offence and is liable to the penalty specified in section 252(3).

Compare: 1983 No 14 s 66; 1986 No 34 s 13(1); 1990 No 29 s 33

Section 190(2): added, on 23 June 1998, by section 19 of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Disposal of fish

191 Disposal of fish by commercial fishers

(1A) In this section and section 192, **commercial fisher** includes a person who holds a high seas fishing permit issued under section 113H.

(1) No commercial fisher may sell or otherwise dispose of fish, aquatic life, or seaweed, taken by the commercial fisher in that capacity, except to a licensed fish receiver or as provided in subsection (2) or subsection (5).

(2) Any commercial fisher may sell or otherwise dispose of, in any one transaction, not more than—

(a) 10 kilogrammes of finfish; or

(b) 6 kilogrammes of shellfish (other than Foveaux Strait dredge oysters or shellfish of class Crustacea); or

(ba) 60 Foveaux Strait dredge oysters; or

(c) 3 kilogrammes of shellfish of class Crustacea; or

(d) any combination of such finfish or shellfish within those limits—

taken by the commercial fisher to any person who is not a licensed fish receiver if the transaction takes place on, or in the vicinity of, the vessel used by the commercial fisher to take the fish, aquatic life, or seaweed, or at some other place approved by the chief executive.

(3) A commercial fisher shall not enter into more than 1 transaction referred to in subsection (2) with the same person within any 24-hour period.

(4) Every commercial fisher who sells or otherwise disposes of any finfish or shellfish under subsection (2) shall, at the time of the transaction, make such records of the transaction as the commercial fisher is required to make under regulations made under this Act.

(5) Subsection (1) does not apply in respect of fish, aquatic life, or seaweed—

(a) landed outside New Zealand in accordance with any approval granted by the chief executive under section 110; or

(b) lawfully abandoned or returned, in accordance with section 72, to the sea or waters from which the fish, aquatic life, or seaweed was taken; or

(c) lawfully used by the commercial fisher who took the fish, aquatic life, or seaweed as bait, or consumed on board the vessel from which the fish, aquatic life, or seaweed was taken; or

(d) lawfully taken on the high seas and landed in any country other than New Zealand; or

(e) lawfully taken on the high seas and transhipped in accordance with a high seas fishing permit issued under section 113H.

(6) Every commercial fisher commits an offence and is liable to the penalty set out in section 252(3) who contravenes any provision of this section.

(7) In proceedings for an offence relating to a contravention of subsection (1),—

(a) the prosecutor need not assert in the charging document that any exception or excuse in subsection (2) or (5) does not apply; and

(b) the burden of proving that the exception set out in subsection (5)(d) applies lies on the defendant.

Compare: 1983 No 14 s 67; 1986 No 34 s 13(1); 1990 No 29 s 34

Section 191(1A): inserted, on 1 October 2001, by section 18(1) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 191(2)(b): substituted, on 1 April 1998, by section 8 of the Fisheries (Foveaux Strait Dredge Oyster Fishery) Amendment Act 1998 (1998 No 6).

Section 191(2)(ba): inserted, on 1 April 1998, by section 8 of the Fisheries (Foveaux Strait Dredge Oyster Fishery) Amendment Act 1998 (1998 No 6).

Section 191(5)(c): amended, on 1 October 2001, by section 18(2) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 191(5)(d): added, on 1 October 2001, by section 18(3) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 191(5)(d): amended, on 1 October 2001, by section 22 of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 191(5)(e): added, on 1 October 2001, by section 18(3) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 191(7): inserted, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

192 Restrictions on purchase or acquisition of fish by certain persons

(1) No commercial fisher shall purchase, acquire, or be in possession of any fish, aquatic life, or seaweed for the purpose of sale, unless the fish, aquatic life, or seaweed was—

(a) taken in that person's capacity as a commercial fisher; or

(b) purchased or acquired by that person from a licensed fish receiver for use as bait in that person's commercial fishing activities.

(2) No licensed fish receiver shall purchase or otherwise acquire or be in possession of any fish, aquatic life, or seaweed for the purpose of sale, unless the fish, aquatic life, or seaweed was—

(a) purchased or acquired for the purpose of sale from—

(i) a commercial fisher; or

(ii) another licensed fish receiver; or

(iii) a fish farmer; or

(iv) the operator of a foreign fishing vessel, if the fish, aquatic life, or seaweed was landed under the authority and in accordance with the conditions of a licence issued under section 83; or

(v) the operator of a foreign vessel, if the fish, aquatic life, or seaweed was landed and disposed of in accordance with the conditions of an approval granted under section 113; or

(b) lawfully taken by that person for the purpose of sale in the person's capacity as a commercial fisher, where that person has lawfully kept and completed all records, returns, and other documents required under this Act as if the commercial fisher and the licensed fish receiver had been separate persons; or

(c) acquired or possessed by the licensed fish receiver otherwise than for the purpose of sale by the licensed fish receiver in accordance with subsection (7).

(3) *[Repealed]*

(4) No spat catching permit holder shall be in possession of any fish, aquatic life, or seaweed for the purpose of sale, unless the fish, aquatic life, or seaweed was taken by that person in that person's capacity as a spat catching permit holder.

(5) No person (other than a person who at the relevant time is acting in the person's capacity as a commercial fisher, licensed fish receiver, fish farmer, or spat catching permit holder) shall purchase, otherwise acquire, or be in possession of any fish, aquatic life, or seaweed for the purpose of sale, unless the fish, aquatic life, or seaweed was purchased or acquired from—

(a) a commercial fisher in a transaction referred to in section 191(2); or

(b) a licensed fish receiver; or

(c) a fish farmer.

(6) Every person commits an offence and is liable to the penalty set out in section 252(3) who contravenes any provision of subsections (1) to (5).

(6A) In proceedings for an offence relating to a contravention of any of subsections (1) to (5),—

(a) the prosecutor need not assert in the charging document that any exception or excuse in those subsections does not apply; and

(b) the burden of proving that any exception or excuse applies lies on the defendant.

(7) For the purposes of subsection (2)(c), fish, aquatic life, or seaweed is acquired or possessed by a licensed fish receiver in accordance with this subsection if the fish, aquatic life, or seaweed—

(a) is held by the licensed fish receiver for a person for storage or processing; and

(b) was taken by that person in accordance with any relevant amateur or Maori customary non-commercial fishing regulations made under this Act; and

(c) is held by the licensed fish receiver with the approval in writing of the chief executive (which approval may be granted either generally or particularly) but was not so held before that approval was granted; and

(d) is stored and processed in accordance with the conditions imposed by the chief executive (which conditions may relate to records and returns and such other conditions as the chief executive thinks fit to impose).

(8) Subsection (5) does not apply in respect of fish, aquatic life, or seaweed if—

(a) the fish, aquatic life, or seaweed was lawfully purchased or acquired from an approved person; and

(b) that approved person has lawfully acquired or purchased the fish, aquatic life, or seaweed from a licensed fish receiver; and

(c) the purchase or acquisition, and the storage and disposal, of the fish, aquatic life, or seaweed, and the keeping of records in relation to it, was in accordance with the conditions of the approval granted by the chief executive.

(9) Subsection (5) does not apply in respect of any fish, aquatic life, or seaweed produced in the course of a lawful fish farming operation and subsequently traded.

(10) This section does not apply in respect of—

(a) whitebait, seaweed of the class Rhodophyceae taken while it is unattached and cast ashore, unwanted aquatic life, ornamental fish, seabirds, or protected species; or

(b) any fish, aquatic life, or seaweed lawfully taken outside New Zealand fisheries waters that has been landed in any country other than New Zealand; or

(c) any transaction with the Crown; or

(d) any fish, aquatic life, or seaweed lawfully taken otherwise than for the purpose of sale and served as part of a meal to the person who took the fish, aquatic life, or seaweed and the person's immediate guests.

Compare: 1983 No 14 s 67A; 1986 No 34 s 13(1); 1991 No 149 s 22

Section 192(3): repealed, on 1 January 2005, by section 9 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 192(6A): inserted, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 192(10)(b): amended, on 1 October 2001, by section 23 of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

192A Restriction on acquisition of fish, aquatic life, and seaweed by fish farmers

(1) No fish farmer may acquire or be in possession of any fish, aquatic life, or seaweed unless the fish, aquatic life, or seaweed was—

(a) purchased or acquired from another fish farmer or a licensed fish receiver; or

(b) lawfully bred or cultivated by the fish farmer; or

(c) harvestable spat that settled on fish farm structures if—

(i) the structures were lawfully placed or erected in the fish farm; and

(ii) the spat was of a species specified in the fish farmer's registration for the fish farm.

(2) The chief executive may, by notice, grant exemptions from subsection (1)—

(a) in respect of a specified fish farmer, class of fish farmers, or fish farmers generally:

(b) in respect of 1 or more species or states of fish, aquatic life, or seaweed.

(3) In deciding whether to grant an exemption, the chief executive must have regard to—

(a) the origin of the fish, aquatic life, or seaweed; and

(b) the species life cycle and state of the fish, aquatic life, or seaweed; and

(c) the quantities of the fish, aquatic life, or seaweed; and

(d) any other matter that the chief executive considers relevant.

(4) The chief executive may grant an exemption to a specified fish farmer only if the fish farmer has—

(a) applied, on an approved form, to the chief executive for the exemption; and

(b) paid the prescribed fee (if any).

(5) Every person who contravenes subsection (1) commits an offence and is liable to the penalty set out in section 252(3).

(6) In proceedings for an offence relating to a contravention of subsection (1),—

(a) the prosecutor need not assert in the charging document that the exceptions set out in paragraphs (a) to (c) do not apply; and

(b) the burden of proving that any of the exceptions set out in paragraphs (a) to (c) applies lies on the defendant.

(7) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 192A: inserted, on 1 January 2005, by section 10 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 192A(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 192A(6): inserted, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 192A(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

When fish deemed to be taken or possessed for purposes of sale

193 Fish in licensed premises or premises where food sold deemed to have been taken for purpose of sale

(1) For the purpose of this Act, all fish, aquatic life, or seaweed in any premises owned or operated by any licensed fish receiver, shall, in the absence of proof to the contrary, be deemed to have been taken, and to be possessed, for the purpose of sale.

(2) For the purpose of this Act, all fish, aquatic life, or seaweed in any premises where food is sold, prepared for sale, stored, or processed shall, in the absence of proof to the contrary, be deemed to have been taken, and to be possessed, for the purpose of sale.

Compare: 1983 No 14 s 103; 1986 No 34 s 27(1)

194 Fish in fish farm deemed to be farmed and possessed for sale

For the purpose of this Act, all fish, aquatic life, or seaweed in, on, or transferred from any fish farm shall, in the absence of proof to the contrary, be deemed to be farmed, and to be possessed, for the purpose of sale.

195 Fish in excess of certain quantities deemed to have been acquired or possessed for purpose of sale

For the purpose of this Act, any person in possession of any fish, aquatic life, or seaweed of an amount or quantity exceeding 3 times the amateur individual daily limit (if any) prescribed in respect of that fish, aquatic life, or seaweed, shall, in the absence of proof to the contrary, be deemed to have acquired, or to possess, the fish, aquatic life, or seaweed for the purpose of sale unless the fish, aquatic life, or seaweed was lawfully taken by a person under regulations made under section 186.

Compare: 1983 No 14 s 103A; 1990 No 29 s 49; 1992 No 121 s 35

Part 11
Appointment and powers of fishery officers

Appointment of fishery officers

196 Appointment of fishery officers

(1) Such fishery officers and other officers as may be required for the purposes of the enforcement and administration of this Act shall be appointed under the Public Service Act 2020.

(2) For the purpose of this Act—

(a) every officer in command of any vessel or aircraft of the New Zealand Defence Force; and

(b) every constable—

shall be deemed to be a fishery officer and may, without warrant, exercise the powers conferred on fishery officers under this Act.

(3) Where any person referred to in paragraph (a) or paragraph (b) of subsection (2) has directed any person under his or her command to carry out such of the duties of a fishery officer as he or she may specify, for such period as he or she thinks necessary, the person so directed shall, for the purpose of carrying out those duties, have all the powers of a fishery officer.

Compare: 1983 No 14 s 76

Section 196(1): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 196(2)(b): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

197 Appointment of honorary fishery officers

(1) The chief executive may, from time to time, appoint as honorary fishery officers for a specified area or areas such persons as the chief executive considers fit and proper.

(2) Every person appointed as an honorary fishery officer under this section—

(a) shall be appointed for such term, not exceeding 3 years, as the chief executive thinks fit, and may be reappointed:

(b) may, at any time, be removed from office by the chief executive if the chief executive no longer considers him or her to be a fit and proper person for reasons of incapacity, neglect of office, misconduct, or otherwise:

(c) may at any time resign his or her office, and notification of such resignation shall be given to the chief executive.

(3) There may be paid to any honorary fishery officer out of money appropriated by Parliament for the purpose—

(a) an honorarium at a rate determined by the chief executive; and

(b) reimbursement of actual and reasonable expenses incurred in the course of carrying out his or her powers and duties, where the chief executive has given prior authorisation and has subsequently approved the expenses.

(4) No person appointed as an honorary fishery officer under this section shall be deemed to be employed by the Crown by reason of the appointment or any money paid to the person under this section.

Compare: 1983 No 14 s 77; 1987 No 65 s 65(1)

Section 197(3)(a): amended, on 17 December 2016, by section 49 of the Statutes Amendment Act 2016 (2016 No 104).

198 Issue of warrants and conferral of powers

(1) The chief executive may, from time to time, issue—

(a) to any person appointed in accordance with section 196 to be a fishery officer a warrant authorising the person to exercise the powers conferred on fishery officers under this Act:

(b) to any person appointed under section 197 to be an honorary fishery officer a warrant that shall specify—

(i) such of those powers conferred on fishery officers under this Act as the person may exercise:

(ii) the area or areas to which the warrant relates:

(iii) if appropriate, the species or stock of fish, aquatic life, or seaweed to which the warrant relates:

(c) to any person appointed under section 222 to be an examiner a warrant specifying such of the powers conferred on fishery officers under this Act as the person may exercise.

(1A) Except as otherwise specified in the warrant, a warrant issued to an honorary fishery officer under subsection (1)(b) applies to all species or stocks of fish, aquatic life, or seaweed.

(2) On the termination of a person's appointment as a fishery officer, honorary fishery officer, or examiner under this Act, the person shall surrender to the chief executive any warrant issued to the person in respect of that appointment.

Compare: 1983 No 14 s 78; 1987 No 65 s 65(1); 1990 No 31 s 137

Section 198(1)b)(iii): amended, on 1 October 2004, by section 45(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 198(1A): inserted, on 1 October 2004, by section 45(2) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

198A Powers may be exercised outside New Zealand fisheries waters

To avoid doubt, the powers of a fishery officer conferred by or under this Part may be exercised in relation to any conduct, whether or not the conduct occurred in New Zealand fisheries waters.

Section 198A: inserted, on 1 October 2001, by section 19 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Powers of entry, search, and questioning

199 Powers of entry and examination for regulatory purposes

(1) In the course of the enforcement and administration of this Act, a fishery officer may, at any reasonable time,—

(a) examine any vessel, vehicle, premises, or other place (by stopping or opening the thing or place, as the case requires, where necessary) and—

(i) examine any fish, aquatic life, or seaweed in that thing or at that place; or

(ii) examine any accounts, records, returns, or other documents in that thing or at that place that may be relevant to monitoring compliance with this Act or any regulations made under this Act; or

(iii) examine any record, authority, approval, permission, licence, or authority in that thing or at that place that may be relevant to monitoring compliance with this Act or any regulations made under this Act; or

(iv) examine any article, gear, container, apparatus, device, or thing relating to the taking, sale, purchase, farming, or possession of any fish, aquatic life, or seaweed that is in that thing or at that place:

(b) enter, pass across, or remain upon any land for the purpose of observing any public place, including by the use of a visual surveillance device:

(c) stop any person and examine any thing referred to in paragraph (a)(i) to (iv) that is in the possession of that person:

(d) for the purposes of any examination under paragraph (a) or (c),—

(i) open, or direct any person to open, any thing that may be examined; and

(ii) take any sample of a thing that may be examined, for forensic or other scientific testing:

(e) for the purposes of exercising any power conferred by paragraph (a), enter or pass across any land.

(2) A fishery officer may detain any vessel, vehicle, conveyance of any kind, parcel, package, record, document, article, gear, apparatus, device, container, fish, aquatic life, seaweed, or thing for any period that is reasonably necessary to enable the fishery officer to carry out an examination under this section.

(3) In this section and in section 199A, **visual surveillance device** means any electronic, mechanical, electromagnetic, optical, or electro-optical instrument, apparatus, equipment, or other device that is used or is capable of being used to observe, or to observe and record, any object or activity.

Section 199: replaced, on 18 April 2012, by section 248 of the Search and Surveillance Act 2012 (2012 No 24).

199A Powers of entry and search for law enforcement purposes

(1) Subsection (2) applies to a fishery officer if he or she believes, on reasonable grounds, that—

(a) an offence is being or has been committed against this Act; and

(b) there may be concealed or located or held in any vessel, vehicle, conveyance of any kind, premises, place, parcel, package, record, or thing—

(i) any fish, aquatic life, or seaweed taken or thing used or intended to be used in contravention of this Act; or

(ii) any article, record, document, or thing that will be evidence as to the commission of an offence against this Act.

(2) If this subsection applies to a fishery officer, then, for the purpose of enforcing this Act, that officer may—

(a) enter, examine, and search any such premises or place, or any such vessel, vehicle, or conveyance of any kind (by stopping or opening the thing or place, as the case requires, where necessary); and

(b) enter, pass across, or remain upon any land for the purpose of observing any public place, including by the use of a visual surveillance device; and

(c) examine and search (by opening the thing where necessary) any such parcel, package, record, or thing; and

(d) for the purposes of exercising any power conferred by paragraph (a), enter or pass across any land.

(3) A fishery officer may detain any vessel, vehicle, conveyance of any kind, parcel, package, record, document, article, gear, apparatus, device, container, fish, aquatic life, seaweed, or thing for such period as is reasonably necessary to enable the fishery officer to carry out an examination or a search under this section.

Section 199A: inserted, on 18 April 2012, by section 248 of the Search and Surveillance Act 2012 (2012 No 24).

199B Application of Part 4 of Search and Surveillance Act 2012

(1) The provisions of Part 4 of the Search and Surveillance Act 2012 (other than subparts 2 and 3, section 119, and subpart 8) apply in respect of the powers conferred by section 199(1).

(2) The provisions of Part 4 of the Search and Surveillance Act 2012 (other than subparts 3 and 8) apply in respect of the powers conferred by section 199A.

Section 199B: inserted, on 1 October 2012, by section 249 of the Search and Surveillance Act 2012 (2012 No 24).

200 Conditions relating to exercise of powers of entry, etc

(1) A fishery officer shall not exercise any power under this Act to enter a place that is a private dwelling place, or the enclosed garden or curtilage of a private dwelling place, or any Maori reservation constituted by or under the Maori Affairs Act 1953 or Part 17 of Te Ture Whenua Maori Act 1993, unless he or she is authorised in writing by an issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012).

(2) An application for authorisation must be made by a fishery officer in the manner provided for an application for a search warrant under subpart 3 of Part 4 of the Search and Surveillance Act 2012.

(3) An issuing officer shall not grant such authority unless he or she is satisfied that the fishery officer has reasonable grounds for requiring entry into the private dwelling place, garden or curtilage, or Maori reservation.

(4) The provisions of subparts 1, 3, 7, 9, and 10 of Part 4 of the Search and Surveillance Act 2012 apply.

(5) For the purposes of this section, a place is a private dwelling if private dwelling is the dominant purpose for which the place is used.

Compare: 1983 No 14 s 79(2), (2A); 1991 No 14 s 23

Section 200(1): amended, on 1 October 2012, by section 250(1) of the Search and Surveillance Act 2012 (2012 No 24).

Section 200(2): replaced, on 1 October 2012, by section 250(2) of the Search and Surveillance Act 2012 (2012 No 24).

Section 200(3): amended, on 1 October 2012, by section 250(3) of the Search and Surveillance Act 2012 (2012 No 24).

Section 200(4): replaced, on 1 October 2012, by section 250(4) of the Search and Surveillance Act 2012 (2012 No 24).

201 Power to question persons and require production of documents

For the purpose of the enforcement of this Act, if a fishery officer believes on reasonable grounds that—

(a) a person is or has been engaged in the taking or selling of fish, aquatic life, or seaweed; or

(b) a person has purchased or is or has been in possession of fish, aquatic life, or seaweed; or

(c) a person is committing or has committed an offence against this Act,—

the fishery officer may, at any reasonable time,—

(d) question that person or any other person; and

(e) require the person being questioned to provide an answer, including any explanation or information concerning any vessel, or any place or thing, or any fish, aquatic life, or seaweed, or fishing method, gear, apparatus, record, document, article, device, or thing relating to the taking, sale, purchase, or possession of any fish, aquatic life, or seaweed; and

(f) require that person or any other person to produce any permit, authority, approval, permission, licence, or certificate issued in respect of any vessel or person.

Compare: 1983 No 14 s 79(1)(c)

202 Powers for purpose of ascertaining financial status or interest in forfeit property of certain persons

In order to ascertain—

(a) a person's financial status, for the purpose of assisting the Crown to make submissions on sentencing in respect of offences against this Act; or

(aa) whether any quota is associated quota as defined in section 255; or

(b) the nature of any person's interest in forfeit property, for the purpose of assisting the court to make any determination or order in respect of such property under section 256,—

a fishery officer may, with the leave of the court, exercise all or any of the fishery officer powers exercisable under other provisions of this Act as if those powers were each expressed to be exercisable in the circumstances referred to in this section.

Section 202(aa): inserted, on 1 October 2001, by section 20 of the Fisheries Amendment Act 2001 (2001 No 65).

Power of arrest

203 Power of arrest

(1) For the purpose of the enforcement of this Act, a fishery officer may, if he or she believes on reasonable grounds that any person is offending against this Act, order that person to forthwith desist from offending.

(2) For the purpose of the enforcement of this Act, a fishery officer may, at any reasonable time, if he or she believes on reasonable grounds that any person is offending or has committed an offence against this Act, request that person to supply to that fishery officer the person's full legal name, any other name by which the person is commonly known, and the person's date of birth, actual place of residence, and occupation.

(3) If the fishery officer believes on reasonable grounds that any of the details supplied under subsection (2) are false or misleading, the fishery officer may request that person to supply to that fishery officer such verification of those details as it is reasonable in the circumstances to require the person to provide.

(4) If any person continues to offend after being required under subsection (1) to desist, or refuses to comply with a request under subsection (2) or subsection (3), the fishery officer may arrest that person without warrant.

(5) If a fishery officer arrests a person under subsection (4),—

(a) the fishery officer shall cause the person to be delivered into the custody of a constable as soon as practicable; and

(b) if the person so delivered into custody is issued with a summons pursuant to sections 28 and 30 of the Criminal Procedure Act 2011, the duties under section 31 of that Act must be carried out by a fishery officer and not a constable.

Compare: 1983 No 14 s 79(1)(d), (5A); 1990 No 29 s 37(4)

Section 203(2): amended, on 1 October 2004, by section 46 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 203(5)(a): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 203(5)(b): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Power to give directions

204 Power to give directions to master

(1) For the purpose of the enforcement of this Act, a fishery officer may, if he or she believes that a vessel is being or has been used in contravention of the provisions of this Act or of the conditions of any permit, authority, approval, permission, licence, registration, or certificate issued under this Act, require the master to take the vessel, as soon as reasonably practicable, to the nearest available port, or such other port as is agreed between the master and the fishery officer.

(2) If a fishery officer has given a direction under subsection (1), he or she may also give to the master or any person on board the vessel any reasonable directions in respect of any activity, method, procedure, item, gear, document, fish, aquatic life, seaweed, property, or thing while the vessel is proceeding to port.

Compare: 1983 No 14 s 79(1)(e)

Power to use reasonable force

205 Power to use reasonable force in exercise of certain powers

For the purpose of the enforcement of this Act, other than the exercise of any power under section 201, a fishery officer is justified in using such force as is necessary to enable the exercise of his or her powers under this Act.

Section 205: amended, on 1 October 2012, by section 250(5) of the Search and Surveillance Act 2012 (2012 No 24).

Power to take copies of documents

206 Power to take copies of documents

(1) In exercising powers under this Act, a fishery officer may—

(a) make or take copies of any record or document, and for this purpose may take possession of and remove from the place where they are kept any such record or document, for such period of time as is reasonable in the circumstances:

(b) if necessary, require a person to reproduce, or assist the fishery officer to reproduce, in a useable form, information recorded or stored in a document.

(2) Any documents to which section 137 of the Search and Surveillance Act 2012 applies that are copied by a fishery officer under this section shall be dealt with

in accordance with section 137 of that Act, and the provisions of that section, with any necessary modifications, shall apply accordingly.

Compare: 1983 No 14 s 79(4)

Section 206(2): amended, on 1 October 2012, by section 250(6)(a) of the Search and Surveillance Act 2012 (2012 No 24).

Section 206(2): amended, on 1 October 2012, by section 250(6)(b) of the Search and Surveillance Act 2012 (2012 No 24).

Provisions relating to seizure

207 Powers of seizure

(1) A fishery officer may seize—

(a) any vessel, vehicle or other conveyance, fishing gear, implement, appliance, material, container, goods, equipment, or thing which he or she believes on reasonable grounds is being or has been or is intended to be used in the commission of an offence against this Act:

(b) any fish, aquatic life, or seaweed which he or she believes on reasonable grounds are being, or have been, taken, killed, transported, bought, sold, or found in the possession of any person, in contravention of this Act; or any fish, aquatic life, or seaweed with which such fish, aquatic life, or seaweed have been intermixed:

(c) any article, record, document, or thing which he or she believes on reasonable grounds is evidence of the commission of an offence against this Act.

(2) Subparts 1, 5, 6, 7, 9, and 10 of Part 4 of the Search and Surveillance Act 2012 apply.

(3) *[Repealed]*

(4) *[Repealed]*

Compare: 1983 No 14 s 80(1), (2); 1990 No 29 s 38(1)

Section 207(2): replaced, on 1 October 2012, by section 250(7) of the Search and Surveillance Act 2012 (2012 No 24).

Section 207(3): repealed, on 1 October 2012, by section 250(7) of the Search and Surveillance Act 2012 (2012 No 24).

Section 207(4): repealed, on 1 October 2012, by section 250(7) of the Search and Surveillance Act 2012 (2012 No 24).

Provisions relating to seized property

208 Chief executive may release seized property under bond

[Repealed]

Section 208: repealed, on 1 October 2012, by section 251(1) of the Search and Surveillance Act 2012 (2012 No 24).

209 Seized property to be held by the Crown if not released

[Repealed]

Section 209: repealed, on 1 October 2012, by section 251(1) of the Search and Surveillance Act 2012 (2012 No 24).

210 Crown to release seized property in certain circumstances

[Repealed]

Section 210: repealed, on 1 October 2012, by section 251(1) of the Search and Surveillance Act 2012 (2012 No 24).

211 Seized property forfeited to the Crown if ownership not established

[Repealed]

Section 211: repealed, on 1 October 2012, by section 251(1) of the Search and Surveillance Act 2012 (2012 No 24).

212 Chief executive may sell perishable seized property

If, in the opinion of the chief executive, any fish, aquatic life, seaweed, or other thing seized under section 207 may rot, spoil, deteriorate, or otherwise perish, and the thing is liable to be forfeited under this Act if the owner is convicted, the chief executive may dispose of it in such manner and for such price (if any) as the chief executive may determine.

Compare: 1983 No 14 s 80(4)

Section 212: amended, on 1 October 2012, by section 251(2) of the Search and Surveillance Act 2012 (2012 No 24).

213 Protection of the Crown

(1) The Crown shall not be liable to any person for any spoilage or deterioration in the quality of any fish, aquatic life, seaweed, or other thing detained under section 199 or 199A, or seized under section 207, or for any loss caused by its disposal under section 212.

(2) Notwithstanding any other provisions in this Part, a fishery officer who at the time of seizure returns to the water any fish, aquatic life, or seaweed seized under section 207 that he or she believes to be alive, shall not be under any civil or criminal liability to the person from whom the fish, aquatic life, or seaweed was seized, or to any other person, in the event of a decision being made not to file a charging document in respect of the fish, aquatic life, or seaweed or of the person being acquitted of the charge.

Compare: 1983 No 14 s 80(8), (10)

Section 213(1): amended, on 18 April 2012, by section 251(3) of the Search and Surveillance Act 2012 (2012 No 24).

Section 213(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Crown caveats

214 Crown caveats preventing registration of transactions

(1) If—

(a) any person has been charged with an offence under this Act and conviction for that offence may result in forfeiture of quota under section 255C or section 255D; or

(b) a fishery officer believes on reasonable grounds that any person has committed such an offence,—

the chief executive may direct that a caveat be registered under this Act in respect of any quota owned by that person or associated quota (as defined in section 255) owned by any other person, at the time of registration of the caveat, and the caveat may apply to a number of quota shares not exceeding the number of quota shares held at the time the offence was committed.

(2) A court may at any time, on application by the owner of any quota or the owner of any quota alleged to be associated quota, order that any caveat registered in respect of quota in accordance with a direction under subsection (1) shall not apply in respect of the quota or any part of the quota, whether generally or in respect of any specified dealing in the quota, and any such order may be subject to such sureties and conditions as the court may specify.

(3) A caveat registered in respect of quota in accordance with a direction to which subsection (1)(a) applies shall have effect until all proceedings in respect of the relevant offence have been finally determined.

(4) A caveat registered in respect of quota in accordance with a direction to which subsection (1)(b) applies shall lapse on the expiry of the 30th day after the date of its registration, or at such earlier date as may, at the direction of the chief executive, be specified in the caveat.

(5) Upon application to a court by the chief executive, or any fishery officer, the court may extend the duration of any caveat, registered in respect of quota in accordance with a direction to which subsection (1)(b) applies, for a period of up to 60 days from the date on which the caveat would otherwise expire, and upon such conditions as the court may specify.

(6) Any application under subsection (5) shall be made before the expiry of the current caveat and the application shall have the effect of extending the duration of the current caveat until the court makes an order determining the application.

(7) No application under subsection (5) shall be heard by the court unless it is satisfied that notice of the application has been served on any owner of quota, in respect of which quota a caveat has been registered in accordance with a direction to which subsection (1)(b) applies, at least 7 days before the hearing of the application.

(8) On any decision being made not to file a charging document against the person, the chief executive must immediately arrange for any caveat registered in accordance with a direction under subsection (1) to be cancelled.

(9) In this section, except for subsection (1), the terms **quota** and **quota shares** include associated quota as defined in section 255.

Compare: 1983 No 14 ss 28Q(7), (8), 80A; 1986 No 34 s 10; 1990 No 29 ss 17(5), 39(1); 1991 No 149 s 24

Section 214(1): amended, on 1 October 2001, by section 21(1) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 214(1): amended, on 1 October 2001, by section 50(1)(b) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 214(1)(a): amended, on 1 October 2001, by section 50(1)(a) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 214(2): amended, on 1 October 2001, by section 21(2) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 214(8): substituted, on 1 October 2001, by section 50(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 214(8): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 214(9): added, on 1 October 2001, by section 21(3) of the Fisheries Amendment Act 2001 (2001 No 65).

General powers

215 General powers

(1) A fishery officer may do all such acts and things and give such directives as are reasonably necessary for the purposes of exercising any of his or her powers under this Act.

(2) The powers of a fishery officer under this Act are exercisable—

(a) within New Zealand:

(b) in New Zealand fisheries waters:

(c) beyond New Zealand fisheries waters.

(3) Subsection (2)(c) does not authorise a fishery officer to exercise any powers under this Act in respect of any foreign vessel or any person aboard any such vessel unless the fishery officer—

(a) believes on reasonable grounds that any person on board the vessel has committed an offence in New Zealand fisheries waters; and

(b) is in fresh pursuit of, or has freshly pursued, the vessel; and

(c) commenced that pursuit in New Zealand fisheries waters.

(4) In this section, **freshly pursued** has the same meaning as **pursued without interruption** in section 6 of the Maritime Powers Act 2022, and **fresh pursuit** has a corresponding meaning.

Compare: 1983 No 14 s 79(1)(f)

Section 215(2)(c): amended, on 1 October 2001, by section 20 of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 215(4): inserted, on 21 May 2022, by section 54 of the Maritime Powers Act 2022 (2022 No 23).

Provisions relating to exercise of powers

216 Protection against self-incrimination

Nothing in this Part shall be construed so as to require any person to answer any question tending to incriminate himself or herself.

Compare: 1983 No 14 s 79(3)

217 Fishery officer to provide identification

A fishery officer or high seas fishery inspector exercising any power conferred by this Act shall identify himself or herself and produce evidence that he or she is a fishery officer or high seas fishery inspector to any person on or in the land, vehicle, vessel, premises, or place, or claiming an interest in the things on or in or in respect of which the power is exercised, who questions the right of the fishery officer or high seas fishery inspector to exercise that power.

Compare: 1983 No 14 s 79(5)

Section 217: amended, on 1 October 2001, by section 20 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

218 Production of warrant to be sufficient authority to act

The production by a fishery officer, honorary fishery officer, or examiner of a warrant issued to him or her under section 198, or the production by a high seas fishery inspector of evidence of his or her identity and of the fact that he or she is a high seas fishery inspector, is, until the contrary is proved, sufficient authority for the officer, examiner, or inspector to do any thing that he or she is authorised by this Act to do.

Section 218: substituted, on 1 October 2001, by section 21 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

219 Persons to assist fishery officer or high seas fishery inspector

(1) Any fishery officer or high seas fishery inspector exercising any of the powers conferred on him or her by this Act may do so with the aid of such assistants as he or she considers necessary for the purpose.

(2) All persons called upon to assist any fishery officer or high seas fishery inspector in the exercise of any of the powers conferred on him or her by this Act are hereby authorised to render such assistance.

Compare: 1983 No 14 s 81

Section 219 heading: amended, on 1 October 2001, by section 22 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 219(1): amended, on 1 October 2001, by section 22 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 219(2): amended, on 1 October 2001, by section 22 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

220 Protection of fishery officer or high seas fishery inspector from liability

(1) No fishery officer or high seas fishery inspector who does any act under this Act, or omits to do any act required by this Act, shall be under any civil or criminal liability as a result of that act or omission on the ground of want of jurisdiction or mistake of law or fact, or any other ground, unless he or she has acted, or omitted to act, in bad faith or without reasonable cause.

(2) A person who, in acting under the directions of a fishery officer in accordance with section 196(3) or under the directions of a high seas fishery inspector under section 113Q(3), does any act under this Act, or omits to do any act required by this Act, shall not be under any civil or criminal liability as a result of that act or omission on the ground of want of jurisdiction or mistake of law or fact, or any other ground, unless he or she has acted or omitted to act in bad faith or without reasonable cause.

(3) A person who, while assisting a fishery officer or high seas fishery inspector under section 219, does any act under this Act, or omits to do any act required by this Act, shall not be under any civil or criminal liability as a result of that act or omission on the ground of want of jurisdiction or mistake of law or fact, or any other ground, unless he or she has acted or omitted to act in bad faith.

(4) The Crown may not be held directly or indirectly liable for an act or omission of any such fishery officer, high seas fishery inspector, or person, unless the officer, inspector, or person would himself or herself incur liability for the act or omission.

(5) This section is subject to sections 164 to 168 of the Search and Surveillance Act 2012 (where applied by this Act).

Compare: 1983 No 14 s 83

Section 220 heading: amended, on 1 October 2001, pursuant to section 23 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 220(1): amended, on 1 October 2001, by section 23(1) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 220(2): amended, on 1 October 2001, by section 23(2) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 220(3): amended, on 1 October 2001, by section 23(3) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 220(4): substituted, on 1 October 2001, by section 23(4) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 220(5): inserted, on 1 October 2012, by section 251(4) of the Search and Surveillance Act 2012 (2012 No 24).

221 Complaints against fishery officers or high seas fishery inspectors

(1) A person may lodge a complaint in writing with the chief executive if the person believes that a fishery officer or a high seas fishery inspector is guilty of misconduct or neglect of duty in the exercise, or alleged exercise, of—

(a) a power conferred on fishery officers by this Part; or

(b) any other powers conferred on high seas fishery inspectors by Part 6A.

(2) Every such complaint shall contain details of the alleged misconduct or neglect of duty and the chief executive may, in order to satisfy himself or herself as to the nature of the complaint, require further particulars from the complainant.

(3) The chief executive shall, after receiving a complaint made in accordance with this section and further particulars (if any),—

(a) notify the fishery officer or high seas fishery inspector who is the subject of the complaint; and

(b) subject to subsection (6), appoint an investigator to investigate the complaint in accordance with this section.

(4) The investigator shall notify the fishery officer or high seas fishery inspector of the investigation and shall, after making inquiries and obtaining the information he or she considers necessary in the circumstances, make a report to the chief executive, which report shall make recommendations as to whether the complaint should be upheld in whole or part.

(5) The chief executive must, after receiving the investigator's report and after giving the fishery officer or high seas fishery inspector concerned the opportunity to comment on it,—

(a) decide whether the complaint should be upheld in whole or in part; and

(b) notify the fishery officer, or high seas fishery inspector, and the complainant of the chief executive's decision.

(6) If the chief executive is satisfied that a complaint may, if proven, amount to serious misconduct or serious neglect of duty, the investigator appointed under subsection (3)(b) to inquire into the complaint and report in accordance with subsection (4) shall be a person who—

(a) is not an employee of the Ministry; and

(b) has held a practising certificate as a barrister or solicitor for at least 7 years.

(7) The investigator referred to in subsection (6) has the same powers as are conferred on a Commission of Inquiry by the Commissions of Inquiry Act 1908, and all the provisions of that Act, except sections 11 and 12 (which relate to costs), shall apply accordingly.

(8) Nothing in this section requires the chief executive to investigate any complaint which he or she considers is frivolous or vexatious.

Section 221 heading: substituted, on 1 October 2001, pursuant to section 24 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 221(1): substituted, on 1 October 2001, by section 24(1) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 221(3)(a): amended, on 1 October 2001, by section 24(2) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 221(4): amended, on 1 October 2001, by section 24(2) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 221(5): substituted, on 1 October 2001, by section 24(3) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Examiners

222 Examiners

(1) The chief executive may appoint any person to be an examiner to assist in the enforcement and administration of Part 10, and of regulations referred to in that Part, by examining and verifying the keeping and contents of accounts, records, returns, and information required to be kept, or made, under that Part or regulations.

(2) Any appointment under subsection (1) may, but is not required to, be made under the Public Service Act 2020.

(3) Each examiner appointed under this section shall be issued with a warrant under section 198.

Compare: 1983 No 14 s 67B; 1986 No 34 s 13(1); 1990 No 29 s 33

Section 222(2): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Part 12
Observer programme

223 Observer programme established

(1) The observer programme is established for the purposes of—

(a) collecting reliable and accurate information for fisheries research, fisheries management, and fisheries enforcement:

(b) collecting reliable and accurate information about vessel safety and employment on fishing vessels:

(c) collecting reliable and accurate information about compliance with maritime rules relating to pollution and the discharge of waste material from vessels.

(2) The chief executive may appoint any person to be an observer for the purposes of the observer programme under subsection (1), and an observer so appointed has all the powers of an observer under sections 225 and 227.

(3) The chief executive may place any observer appointed under this section on any vessel to—

(a) observe fishing and the transhipment, transportation, and landing of fish, aquatic life, or seaweed; and

(b) collect reliable and accurate information specified in subsection (1).

(4) An observer may collect any information on fisheries resources, fishing (including catch and effort information), the effect of fishing on the aquatic environment, and the transportation of fish, aquatic life, or seaweed, or on any other matter, including—

(a) the species, quantity, size, age, and condition of fish, aquatic life, or seaweed taken:

(b) the methods by which, the areas in which, and the depths at which, fish, aquatic life, or seaweed are taken:

(c) the effects of fishing methods on fish, aquatic life, seaweed, and the aquatic environment (including seabirds and protected species):

(d) all aspects of the operation of any vessel (including any matter relating to vessel safety, the employment of any person on the vessel, or maritime rules relating to pollution and the discharge of waste material from vessels):

(e) processing, transportation, transhipment, storage, or disposal of any fish, aquatic life, seaweed, waste, or any other matter:

(f) any other matter that may assist the chief executive or the Minister to obtain, analyse, or verify information for the purposes of fisheries research, fisheries management, and fisheries enforcement:

(g) any other matter that may assist any person, department, or agency with statutory responsibilities for vessel safety, employment matters, or maritime rules relating to pollution and the discharge of waste material from vessels to obtain, analyse, or verify information relevant to those responsibilities.

(5) No fishery officer or any person with the powers of a fishery officer shall be appointed under subsection (2).

(6) No person shall be deemed to be employed in the service of the Crown by reason of that person having been appointed as an observer.

Compare: 1983 No 14 ss 67C, 67D; 1986 No 34 s 13(1)

Section 223(1): replaced, on 8 August 2014, by section 11(1) of the Fisheries (Foreign Charter Vessels and Other Matters) Amendment Act 2014 (2014 No 60).

Section 223(3): replaced, on 8 August 2014, by section 11(2) of the Fisheries (Foreign Charter Vessels and Other Matters) Amendment Act 2014 (2014 No 60).

Section 223(4): amended, on 8 August 2014, by section 11(3) of the Fisheries (Foreign Charter Vessels and Other Matters) Amendment Act 2014 (2014 No 60).

Section 223(4)(d): amended, on 8 August 2014, by section 11(4) of the Fisheries (Foreign Charter Vessels and Other Matters) Amendment Act 2014 (2014 No 60).

Section 223(4)(e): amended, on 8 August 2014, by section 11(5) of the Fisheries (Foreign Charter Vessels and Other Matters) Amendment Act 2014 (2014 No 60).

Section 223(4)(g): inserted, on 8 August 2014, by section 11(6) of the Fisheries (Foreign Charter Vessels and Other Matters) Amendment Act 2014 (2014 No 60).

224 Chief executive to give notice of intention to place observer on vessel

(1) Before placing any observer on a vessel, the chief executive shall give the owner, master, operator, or licence holder, of or in respect of the vessel, reasonable notice of his or her intention to place observers on the vessel.

(2) Upon receipt of a notice given under subsection (1), no person shall cause or allow the vessel to which the notice relates to put to sea without having on board the number of observers specified in the notice given under that subsection.

(3) Every person commits an offence and is liable to the penalty set out in section 252(3) who contravenes subsection (2).

(4) For the purposes of this section, the term **reasonable notice** means a notice in writing that specifies a date, not earlier than 5 days after the date of service of the notice, on or after which the vessel is not to be put to sea without having on board the specified number of observers; or such other period or type of notice as may be agreed between the chief executive and the owner, master, operator, or licence holder.

Compare: 1983 No 14 s 67E; 1986 No 34 s 13(1)

225 Powers of observers and obligations of persons on vessels carrying observers

(1) The owner, master, or operator of any vessel, or licence holder in respect of any vessel, on which an observer is placed under this Part shall allow the observer, at any reasonable time, having regard to the operations of the vessel, to—

(a) have access to the fishing gear and the storage and processing facilities on the vessel:

(b) have access to any fish, aquatic life, or seaweed (including seabirds and protected species) on board the vessel:

(c) have access to the bridge and the navigation and communications equipment of the vessel:

(d) have access to the logs and records of the vessel, whether required to be carried and maintained by or under this Act or otherwise:

(da) have access to any safety equipment and to any document concerning the manufacture or operation of the equipment:

(db) have access to any person engaged or employed to do work on the vessel so that, if the observer so wishes, the observer may discuss with that person any matter concerning his or her engagement or employment on the vessel:

(e) receive and transmit messages and communicate with the shore and other vessels:

(f) take, measure, and retain samples or whole specimens of any fish, aquatic life, seaweed, or any seabird or protected species caught:

(g) store samples and whole specimens on the vessel, including samples and whole specimens held in the vessel's freezing facilities.

(2) Every person on board a vessel on which there is an observer commits an offence, and is liable to the penalty set out in section 252(3), who—

(a) fails to provide reasonable assistance to enable the observer to exercise powers under subsection (1); or

(b) hinders or prevents the observer exercising those powers.

Compare: 1983 No 14 s 67F; 1986 No 34 s 13(1)

Section 225(1)(da): inserted, on 8 August 2014, by section 12 of the Fisheries (Foreign Charter Vessels and Other Matters) Amendment Act 2014 (2014 No 60).

Section 225(1)(db): inserted, on 8 August 2014, by section 12 of the Fisheries (Foreign Charter Vessels and Other Matters) Amendment Act 2014 (2014 No 60).

226 Food and accommodation to be provided for observers

(1) The owner, master, or operator of any vessel, or licence holder in respect of any vessel, on which an observer is placed under this Part shall provide food, accommodation, and access to any cooking and toilet facilities and amenities to an approved standard and free of charge.

(2) Every person commits an offence and is liable to the penalty set out in section 252(5) who contravenes or fails to comply with subsection (1).

Compare: 1983 No 14 s 67G(1); 1986 No 34 s 13(1)

227 Supervision by observers of transhipments, dumping of fish, and operation of conversion factors

(1) If an observer is on board a vessel—

(a) from which, or to which, any fish, aquatic life, or seaweed are transhipped; or

(b) from which any fish, aquatic life, or seaweed subject to the quota management system are returned to or abandoned in the sea; or

(c) in respect of which any conversion factor certificate may be or has been given under section 188(2); or

(d) which is taking or has taken fish, aquatic life, or seaweed outside New Zealand fisheries waters,—

the master of the vessel or, in the case of transhipment, the master of each vessel, shall provide such information, and shall allow the observer to carry out such inspections (including sampling and measuring) of the vessel, any fish, aquatic life, or seaweed, taken, processed, transhipped, or landed, and documents, as the observer may require for the purpose of—

(e) observing the transhipment, abandonment, or return to sea; or

(f) collecting information on the method of processing, and performance of the vessel in undertaking such processing, in order to determine or monitor any conversion factor; or

(g) observing the fishing activities of the vessel and the landing and disposal of its catch; or

(h) taking, measuring, and retaining samples or whole specimens of any fish, aquatic life, seaweed, seabirds, or protected species caught.

(2) An observer may take and make copies of such records, documents, or information as the observer may require for the purposes of subsection (1).

(3) An observer may store in the vessel's freezing facilities such samples and whole specimens of any fish, aquatic life, seaweed, seabirds, or protected species as the observer may require for the purposes of subsection (1).

(4) Every person commits an offence and is liable to the penalty set out in section 252(3) who contravenes or fails to comply with subsection (1).

Compare: 1983 No 14 s 67H; 1990 No 29 s 36

227A Installation and maintenance of equipment on vessels may be required

The chief executive may require, in relation to any vessel, that specified equipment to observe fishing and transportation be installed and maintained on the vessel in accordance with regulations made under section 297(1)(ca).

Section 227A: inserted, on 8 August 2014, by section 13 of the Fisheries (Foreign Charter Vessels and Other Matters) Amendment Act 2014 (2014 No 60).

Part 13
Offences and penalties

228 Breach of conditions or requirements

(1) Every person commits an offence who contravenes, or fails to comply with,—

(a) any sustainability measure implemented by notice in the *Gazette* under section 11(4)(b)(i); or

(b) any condition or requirement imposed by the chief executive in respect of any consent, approval, authority, permission, or certificate issued or granted under this Act (other than a requirement to pay a sum of money).

(2) Every person who commits an offence against subsection (1) is liable to the penalty set out in section 252(5).

Compare: 1983 No 14 ss 93, 107; 1986 No 34 s 27(1); 1990 No 29 s 51

Section 228(1): substituted, on 1 October 2000, by section 51 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

229 Obstructing fishery officers

(1) Every person commits an offence who—

(a) resists or obstructs, or aids, abets, incites, or encourages any other person to resist or obstruct,—

(i) any fishery officer executing his or her powers or duties; or

(ii) any person assisting a fishery officer in accordance with section 219; or

(iii) any person acting under the directions of a fishery officer in accordance with section 196(3); or

(b) uses threatening language or behaves in a threatening manner towards—

(i) any fishery officer executing his or her powers or duties; or

(ii) any person assisting a fishery officer in accordance with section 219; or

(iii) any person acting under the directions of a fishery officer in accordance with section 196(3); or

(c) fails to comply with any lawful requirement of any fishery officer; or

(d) provides to any fishery officer any particulars that are false or misleading in any material respect; or

(e) personates or falsely claims to be a fishery officer or a person lawfully assisting a fishery officer.

(2) Every person who refuses to allow any fishery officer, any person assisting a fishery officer in accordance with section 219, or any person acting under the directions of a fishery officer in accordance with section 196(3), to exercise any of the powers conferred on that fishery officer or person by this Act shall be deemed to be obstructing that fishery officer or person.

(3) For the avoidance of doubt, this section applies whenever a fishery officer exercises powers under section 215, even if such powers are exercised extra-territorially.

(4) Every person who commits an offence against subsection (1) is liable to the penalty set out in section 252(3).

Compare: 1983 No 14 ss 95, 107; 1986 No 34 s 27(1); 1990 No 29 s 51

230 Neglect or refusal to supply particulars, and improper divulging of information

(1) Every person commits an offence who—

(a) fails to keep, or provide, any accounts or records, or who neglects or refuses to provide any records, return, or information, when lawfully requested or required to do so under this Act; or

(b) makes any false or misleading statement, or omits any material information, in any communication, application, record, or return prescribed by or in accordance with this Act, or required for its administration.

(2) Every person who commits an offence against subsection (1) is liable to the penalty set out in section 252(3).

Compare: 1983 No 14 ss 96, 107; 1986 No 34 s 27(1)

231 Knowingly making false statement or using false document to obtain benefit

(1) A person commits an offence if the person knowingly, for the purpose of obtaining any benefit under this Act,—

(a) makes any false or misleading statement; or

(b) omits any information—

in any communication, application, record, or return prescribed by or in accordance with this Act, or required for its administration.

(2) Every person commits an offence who knowingly, for the purpose of obtaining any benefit under this Act,—

(a) uses, deals with, or acts upon; or

(b) causes any other person to use, deal with, or act upon—

any false communication, application, record, or return prescribed by or in accordance with this Act, or required for its administration.

(3) Every person who commits an offence against subsection (1) or subsection (2) is liable to the penalty set out in section 252(1).

Section 231 heading: amended, on 1 October 2001, by section 52 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 231(1): substituted, on 1 October 2001, by section 52 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

232 Buying, selling, or possessing fish contrary to Act

(1) Every person commits an offence who buys, sells, or possesses any fish, aquatic life, or seaweed taken in contravention of this Act.

(2) Every person commits an offence who buys, sells, or possesses any fish, aquatic life, or seaweed the taking or landing of which has not been recorded or reported in accordance with this Act.

(3) For the purposes of subsections (1) and (2), fish, aquatic life, or seaweed shall be deemed to be sold if it forms part of a meal and either—

(a) payment is made for that meal or any part of the meal; or

(b) the meal is supplied to any person who is employed by the person by whom the meal is supplied (whether in accordance with the terms of a contract of service or otherwise).

(4) Every person who commits an offence against subsection (1) or subsection (2) is liable to the penalty set out in section 252(3), except that if, in the case of an individual defendant, the defendant establishes that the fish, aquatic life, or sea-

weed was purchased or possessed otherwise than for the purpose of sale, the penalty shall be as set out in subsection (5) of that section.

Compare: 1983 No 14 ss 97, 107; 1986 No 34 s 27(1)

233 Knowingly acting in contravention of Act to obtain a benefit

(1) Every person commits an offence who obtains any benefit by knowingly taking, possessing, receiving, procuring, processing, conveying, selling, or otherwise dealing with any fish, aquatic life, or seaweed otherwise than in accordance with this Act.

(2) Every person commits an offence who, with the intention of obtaining any benefit, knowingly takes, possesses, receives, procures, processes, conveys, sells, or otherwise deals with any fish, aquatic life, or seaweed otherwise than in accordance with this Act.

(3) For the purposes of this section, **benefit** includes any privilege, property, pecuniary advantage, or valuable consideration of any kind whether for that person or any other person.

(4) Every person who commits an offence against subsection (1) or subsection (2) is liable to the penalty set out in section 252(1).

Section 233: substituted, on 19 March 2004, by section 6 of the Fisheries Amendment Act 2004 (2004 No 6).

234 Using hazardous substance to catch or destroy fish

(1) Every person commits an offence who uses, in any New Zealand fisheries waters, any narcotic or hazardous substance or electric fishing device for the purpose of taking any fish, aquatic life, or seaweed.

(2) Every person who commits an offence against subsection (1) is liable to the penalty set out in section 252(5).

Compare: 1983 No 14 ss 98, 107; 1986 No 34 s 27(1)

235 Knowingly permitting premises to be used for offence against Act

(1) Every person commits an offence who knowingly permits any premises to be used for the commission of an offence against this Act.

(2) Every person convicted of an offence against subsection (1) is liable to the same penalty as that set out in section 252 for the offence for which the premises were used.

Compare: 1983 No 14 ss 98A, 107; 1990 No 29 s 45

Proceedings, defences, etc

236 Proceedings for offences

(1) Any offence against this Act shall be deemed to have been committed in New Zealand.

(2) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, the limitation period in respect of an offence against this Act—

(a) ends on the date that is 12 months after the date on which the offence was committed if the offence is one for which the maximum fine does not exceed $10,000:

(b) ends on the date that is 2 years after the date on which the offence was committed if the offence is one for which the maximum fine exceeds $10,000.

(3) No prosecution for an offence against this Act may be commenced except by—

(a) the chief executive; or

(b) the chief executive of the department for the time being responsible for the administration of the Conservation Act 1987; or

(c) any fishery officer; or

(d) the Fish and Game Council in any district in which an offence has been committed or an offender is found.

Section 236(2): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 236(3): added, on 1 October 2001, by section 53 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

237 Summons may be served on agent of foreign vessel

(1) Any summons in respect of an offence against this Act that relates to any foreign fishing vessel or foreign-owned New Zealand fishing vessel or foreign-operated fish carrier shall be deemed to have been served on the defendant in accordance with rules made under the Criminal Procedure Act 2011 if the summons is served, in any one of the ways permitted by those rules, on the authorised agent of—

(a) the operator of any foreign-owned New Zealand fishing vessel or any foreign-operated fish carrier; or

(b) the foreign charterparty of any foreign-owned New Zealand fishing vessel; or

(c) the operator of any foreign fishing vessel.

(2) For the purposes of subsection (1), the authorised agent shall be the person nominated as authorised agent at the time of registration or licensing of the vessel, as the case may be, whether or not the vessel is currently registered or licensed under this Act.

Compare: 1983 No 14 s 104(1), (2), (3), (6); 1987 No 117 s 11(1)

Section 237(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

238 Charges relating to certain offences may be heard together

(1) If 2 or more charging documents charging a defendant with any offence against this Act have been filed, the court may, despite any other enactment or rule of law, order that any specified charges be tried together, if satisfied that—

(a) either—

(i) the offences are founded on the same set of facts; or

(ii) the offences form, or are part of, a series of offences of the same character or similar character; and

(b) it is in the interests of justice that the charges be tried together.

(2) If the court has made an order under subsection (1), the court may, at any subsequent time, direct that any charge subject to that order be heard separately if satisfied that to do so is in the interests of justice.

(3) For the purposes of this section, in considering whether it is in the interests of justice to hear any charges together or separately, the court shall have regard to the likelihood of prejudice to the defendant if any particular charge, or combination of charges, is heard together with any other charge or combination of charges.

Compare: 1983 No 14 s 104A; 1992 No 90 s 17

Section 238 heading: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 238(1): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 238(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 238(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

239 Charging document may charge defendant with any number of offences

(1) Any charging document may, notwithstanding section 17 of the Criminal Procedure Act 2011, charge the defendant with any number of offences against this Act, if the offences are founded on the same set of facts, or form, or are part of, a series of offences of the same or similar character.

(2) If any charging document charges more than 1 such offence, particulars of each offence charged shall be set out in the charging document.

(3) All such charges shall be heard together unless the court, either before or at any time during the hearing, considers it just that any charge should be heard separately and makes an order to that effect.

Compare: 1992 No 13 s 166(5)–(7)

Section 239 heading: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 239(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 239(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

240 Strict liability

In any proceedings for an offence against this Act it is not necessary for the prosecution to prove that the defendant intended to commit the offence, except in the case of an offence against any of sections 78A(8) and (9), 79A(8) and (9), 231, 233, 235, 257(2), 296B(5), and 296ZC(3)(b) and (c).

Section 240: substituted, on 1 October 2001, by section 22 of the Fisheries Amendment Act 2001 (2001 No 65).

241 Defence available under this Act

(1) Subject to this section, it is a defence in any proceedings for an offence against this Act (other than an offence against section 231 or section 233 or section 235 or section 257(2) or section 296B(5) or section 296ZC(3)(b) or (c)), if the defendant proves—

(a) that—

(i) the contravention was due to the act or default of another person, or to an accident or to some other cause beyond the defendant's control; and

(ii) the defendant took reasonable precautions and exercised due diligence to avoid the contravention; and

(b) in the case of an offence concerning the taking of any fish, aquatic life, or seaweed in contravention of any provision of this Act prohibiting the taking, or requiring the taking to be under the authority of a licence, permit, or other authorisation issued under this Act, that—

(i) the defendant immediately returned the fish, aquatic life, or seaweed to the waters from which they were taken except where such return was prohibited by this Act; and

(ii) the defendant complied with all the material requirements of this Act in respect of the recording and reporting of the taking, return, or landing of the fish, aquatic life, or seaweed.

(2) *[Repealed]*

(3) A defendant is not, without leave of the court, entitled as part of a defence provided by this section to rely on any of the matters specified in subsection (1)(a) unless the defendant has, not later than 7 days before the date on which the hearing of the proceedings commences, served on the prosecutor a notice in writing identifying the person or the nature of the accident or cause relied on by the defendant.

Section 241(1): amended, on 1 October 2001, by section 55(1)(a) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 241(1)(b): amended, on 1 October 2001, by section 55(1)(b) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 241(1)(b)(ii): amended, on 1 October 2001, by section 55(1)(c) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 241(2): repealed, on 1 October 2001, by section 55(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 241(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

242 Defence for all quota management stocks

[Repealed]

Section 242: repealed (without coming into force), on 9 September 1999, by section 85(i) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

243 Defence for specified quota management stocks

[Repealed]

Section 243: repealed (without coming into force), on 9 September 1999, by section 85(i) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

244 Liability of body corporate

If, in the course of any proceedings against a body corporate for an offence against this Act, it is necessary to establish the state of mind of the body corporate, it is sufficient to show that a director, employee, or agent of the body corporate, acting within the scope of that person's actual or apparent authority, had that state of mind.

245 Liability of companies and persons for actions of agent or employees

(1) Any act or omission on behalf of a person other than a body corporate by—

(a) an agent or employee of that person, or the master or any member of the crew of a vessel registered in the name of that person (whether as operator or notified user); or

(b) any person at the direction or with the consent or agreement, whether express or implied, of any person referred to in paragraph (a),—

shall be deemed, for the purpose of this Act, also to be the act or omission of the first-mentioned person.

(2) Any act or omission on behalf of a body corporate by—

(a) a director, agent, or employee of that body corporate, or the master or any member of the crew of a vessel registered in the name of that body corporate (whether as operator or notified user); or

(b) any other person at the direction or with the consent or agreement, whether express or implied, of any person referred to in paragraph (a)—

shall be deemed, for the purpose of this Act, to also be the act or omission of the body corporate.

(3) If any person or body corporate is charged in relation to the act or omission of a person referred to in paragraph (a) or paragraph (b) of subsection (1) or para-

graph (a) or paragraph (b) of subsection (2), any defence available under section 241 in relation to an offence against this Act is available to that person or body corporate only to the extent that it can be proved in relation to the act or omission of the relevant person referred to in paragraph (a) or paragraph (b) of subsection (1) or paragraph (a) or paragraph (b) of subsection (2), unless the court is satisfied that it would be repugnant to justice for that defence to be so limited having regard to—

(a) any likely or possible benefit accruing to, or detriment suffered by, the person or body corporate from the act or omission in respect of which the proceedings are brought, had the alleged offence remained undetected; and

(b) the purpose or motive of the relevant person referred to in paragraph (a) or paragraph (b) of subsection (1) or paragraph (a) or paragraph (b) of subsection (2); and

(c) the relationship between the person or body corporate and the relevant person referred to in paragraph (a) or paragraph (b) of subsection (1) or paragraph (a) or paragraph (b) of subsection (2), or between the person or body corporate and any person appearing or likely to benefit from the alleged offence; and

(d) in the case of a body corporate, whether or not any person responsible for, or closely associated with, the management of the body corporate appears to have benefited from the act or omission, or would have been likely to benefit if the alleged offence had remained undetected; and

(e) whether or not the person or body corporate had taken all reasonable steps and exercised due diligence to control the activities of the relevant person referred to in subsection (1)(a) or (b) or subsection (2)(a) or (b), to ensure that the act or omission did not occur.

(4) For the purposes of this section,—

(a) a person may act as an agent of another person or body corporate whether or not the first-mentioned person is employed by the other person or body corporate and whether or not acting for reward:

(b) any agent or employee of a person acting as an agent shall be deemed to be also acting as an agent for the other person or body corporate referred to in paragraph (a).

Compare: 1983 No 14 s 105C; 1990 No 29 s 51

Section 245(3)(d): amended, on 1 October 2001, by section 56(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 245(3)(e): added, on 1 October 2001, by section 56(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

246 Liability of directors and managers

(1) If a body corporate commits an offence against this Act, every director, and every person concerned in the management of the body corporate, also commits an offence if it is proved that—

(a) the act or omission that constituted the offence took place with the director's or person's authority, permission, or consent; or

(b) the director or person knew or should have known that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

(2) Every person to whom subsection (1) applies is liable on conviction to the appropriate penalty specified by this Act in respect of the provision creating the offence.

(3) A person may be convicted of an offence against this section even though the body corporate has not been charged with that offence or a similar offence.

Section 246: substituted, on 1 October 2001, by section 57 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

247 Presumption as to authority

A return, record, transaction, form, application, or other information purporting to be completed, kept, or provided by or on behalf of any person shall, for the purpose of this Act, be deemed to have been completed, kept, or provided by that person unless the contrary is proved.

Compare: 1983 No 14 s 105E; 1990 No 29 s 51

Evidence in proceedings

248 Certificates and official documents

(1) Subject to subsection (8), in any proceedings for an offence against this Act—

(a) any certificate signed by any person holding a public office or exercising a function of a public nature under the law of New Zealand or of a foreign country, stating any matter contained or not contained in a public document; or

(b) a public document; or

(c) a certified copy of a public document, which copy contains on its face a statement signed by or under the seal of any of the persons specified in paragraph (a) certifying that the document is a true copy of the relevant public document—

shall be admissible in evidence and shall, in the absence of proof to the contrary, be sufficient evidence of its contents.

(2) For the purposes of this Part, the term **public document** means a document that—

(a) forms part of the records of the legislative, executive, or judicial branch of the Government of New Zealand, or of a person or body holding a public office or exercising a function of a public nature under the law of New Zealand; or

(b) forms part of the records of the legislative, executive, or judicial branch of the Government of a foreign country, or of a person or body holding a public office or exercising a function of a public nature under the law of a foreign country; or

(c) forms part of the records of an international organisation whose membership is primarily composed of sovereign States; or

(d) is being kept by or on behalf of a branch of Government, person, body, or organisation referred to in paragraph (a) or paragraph (b) or paragraph (c).

(3) The imprint of a seal that appears on a public document or certificate and purports to be the imprint of the Seal of New Zealand, or the former Public Seal of New Zealand, or one of the seals of the United Kingdom on a public document or certificate relating to New Zealand, is presumed, unless the contrary is proved, to have been sealed as it purports to have been sealed.

(4) The imprint of a seal that appears on a public document or certificate and purports to be the imprint of the seal of a body (including a court or tribunal) exercising a function of a public nature under the law of New Zealand is presumed, unless the contrary is proved, to be the imprint of that seal, and the public document or certificate is presumed, unless the contrary is proved, to have been sealed as it purports to have been sealed.

(5) The imprint of a seal that appears on a public document or certificate and purports to be the imprint of the seal of a person holding a public office or exercising a function of a public nature under the law of New Zealand is presumed, unless the contrary is proved, to be the imprint of that seal, and the public document or certificate is presumed, unless the contrary is proved, to have been sealed as it purports to have been sealed.

(6) A public document, certified copy of a public document, or certificate that purports to have been signed by a person as the holder of a public office or in the exercise of a function of a public nature under the law of New Zealand is presumed, unless the contrary is proved, to have been signed by that person acting in his or her official capacity.

(7) Subject to subsection (8), if, in any proceedings for an offence against this Act, the prosecution tenders evidence that has been produced wholly or partly by a machine, device, or technical process, and the machine, device, or technical process is of a kind that ordinarily does what the prosecution asserts the machine, device, or technical process has done, then, in the absence of proof to the contrary, the evidence shall be admissible and sufficient proof that, on the

relevant occasion, the machine, device, or technical process operated in the way asserted by the prosecution.

(8) Any certificate referred to in subsection (1) or evidence referred to in subsection (7) shall be admissible only if—

(a) at least 20 working days before the hearing at which the certificate or evidence is to be tendered, a copy of that certificate or summary of that evidence is served, by or on behalf of the prosecutor, on the defendant or the defendant's agent or counsel, and that person is at the same time informed in writing that the prosecutor does not propose to call the person who signed the certificate or summary as a witness at the hearing; and

(b) the court has not, on the application of the defendant made within 10 working days after receipt of the certificate or evidence referred to in paragraph (a), ordered, not less than 5 working days before the hearing (or such lesser period as the court in the special circumstances of the case thinks fit), that the certificate or evidence is inadmissible as evidence in the proceedings.

(9) The court shall not make an order under subsection (8) unless it is satisfied that there is reasonable doubt as to—

(a) the accuracy of the information contained or referred to in the certificate or summary of evidence; or

(b) the validity of the certificate or summary of evidence.

Compare: 1983 No 14 s 106; 1990 No 29 s 51; 1991 No 149 s 28; 1992 No 90 s 19

Section 248(1)(a): amended, on 1 October 2001, by section 24 of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

249 Copies of accounts, records, returns, etc

(1) A copy of any account, record, return, or information required to be kept, completed, or provided under this Act that purports to be certified by the chief executive as having been kept, completed, or provided (as the case may require), at or within or in relation to any specified time, date, period, or place, shall be sufficient evidence, in the absence of proof to the contrary, of the fact that the account, record, return, or information was so kept, completed, or provided.

(2) Any copy of a record or other document taken by a fishery officer, or any copy of such a copy, shall, subject to subsection (3), be admissible, to the same extent as the original record or document would itself be admissible, as evidence of the record or document and of any transactions, dealings, amounts, or other matters contained in the record or the document.

(3) A copy of any account, record, return, or other document referred to in subsection (1) or subsection (2) (including a copy of such a copy) shall be admissible in evidence only if—

(a) the prosecutor or an agent of the prosecutor serves on the defendant, or the defendant's agent or counsel, not less than 20 working days before the hearing at which it is proposed to tender the copy in evidence,—

(i) notice of the prosecutor's intention to tender the copy in evidence; and

(ii) a copy of the copy which is to be so tendered; and

(b) the court has not, on the application of the defendant made not less than 10 working days after receipt of the copy referred to in paragraph (a), ordered, not less than 5 working days before the hearing (or such lesser period as the court in the special circumstances of the case thinks fit), that the copy is inadmissible as evidence in the proceedings.

(4) The court shall not make an order under subsection (3) unless it is satisfied that there is reasonable doubt as to—

(a) the accuracy of the information contained or referred to in the document; or

(b) the validity of the document.

Compare: 1983 No 14 s 106A; 1990 No 29 s 51

Section 249(1): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

250 Presumption as to master of vessel

In any proceedings for an offence against this Act, an allegation made in a charge about the identity of the master of any vessel, at any specified time, shall be presumed to be true in the absence of proof to the contrary.

Compare: 1983 No 14 s 106B; 1990 No 29 s 51

Section 250: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

251 Presumptions to apply whether or not separate or further evidence adduced in support

If it is provided in this Act that any presumption is to apply in respect of any matter, the presumption shall apply, whether or not separate or further evidence is adduced by or on behalf of the prosecutor in support of the relevant presumption.

Compare: 1983 No 14 s 106C; 1990 No 29 s 51

Section 251: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Penalties

252 Penalties

(1) Every person convicted of an offence against any of the following provisions of this Act is liable to imprisonment for a term not exceeding 5 years or to a fine not exceeding $250,000, or to both:

(a) section 231(1) (knowingly making a false or misleading statement, etc):

(b) section 231(2) (using a false communication, etc to obtain a benefit):

(c) section 233(1) and (2) (knowingly acting in contravention of Act to obtain a benefit):

(d) section 296B(5) (approved service delivery organisation knowingly falsifying information):

(e) section 296ZC(3)(b) (approved service delivery organisation knowingly supplying false or misleading information to the Minister):

(f) section 296ZC(3)(c) (approved service delivery organisation knowingly omitting material particular in information supplied to the Minister).

(2) Every person convicted of an offence against section 84(3) (licensing offences by foreign vessels) is liable to a fine not exceeding $500,000.

(3) Every person convicted of an offence against any of the following provisions of this Act is liable to a fine not exceeding $250,000:

(a) *[Repealed]*

(b) section 72(4) (unlawfully dumping fish):

(c) section 78(10) (fishing in breach of condition of permit or condition imposed by chief executive):

(ca) section 78A(8) (fishing in breach of condition imposed on person who is in substance the same person):

(cb) section 78A(9) (fishing under permit of different person in order to avoid conditions imposed on own permit):

(cc) section 79A(8) (fishing under permit of person who is in substance the same person):

(cd) section 79A(9) (fishing under permit of different person where own permit suspended):

(d) section 84(4) (breach of condition of foreign fishing licence):

(e) section 89(12) (taking other than under the authority of a fishing permit):

(f) section 110(6) (landing fish outside New Zealand):

(g) section 112(4) (fishing unlawfully in the territorial sea):

(h) section 113(4) (possession of fish by vessels other than New Zealand ships):

(ha) section 113A(2) (unlawfully taking fish in foreign fishing jurisdiction):

(hb) section 113D(5) (unlawfully taking fish on high seas):

(hc) section 113E(3) (unlawful use of foreign vessel on high seas by New Zealand national):

(hd) section 113W(4) (failing to co-operate with foreign high seas inspector):

(he) section 190(2) (failure to comply with specification of chief executive in relation to records, returns, etc):

(i) section 191(6) (unlawfully disposing of fish, etc):

(j) section 192(6) (unlawfully receiving fish, etc):

(ja) section 192A(5) (unlawful acquisition or possession of fish, aquatic life, or seaweed):

(k) sections 224(3), 225(2), 227(4) (contravening provisions relating to observers):

(l) section 229(1) (obstructing fishery officers):

(m) section 230(1) (neglecting or refusing to supply particulars or improperly disclosing information):

(n) section 232(1) and (2) (buying, selling, or possessing fish contrary to this Act):

(o) section 271(2) (failure to keep or provide records or returns):

(p) section 296ZC(3)(a) (failure by an approved service delivery organisation to supply information to the Minister):

(q) section 296ZD(2) (failure by an approved service delivery organisation to have information audited).

(4) Every person convicted of an offence against section 257(2) (prohibition of fishing activity in case of reoffending) is liable to imprisonment for a term not exceeding 1 year or to a fine not exceeding $100,000.

(5) Every person convicted of an offence against any of the following provisions of this Act is liable to a fine not exceeding $100,000:

(a) section 15(6) (fishing in contravention of a fishing-related mortality measures notice):

(b) section 16(6) (fishing in contravention of emergency measures):

(c) section 74(12) (fishing without a minimum holding of annual catch entitlement):

(d) section 92(6) (breach of condition on fishing permit):

(e) section 97(11) (breach of condition on special permit):

(f) section 103(7) (using unregistered vessel):

(g) section 105(6) (using unregistered vessel for transporting fish):

(ga) section 106A(10) (using vessel while consent to registration suspended):

(h) section 107(9) (failure to notify chief executive):

(ha) section 186A(8) or section 186B(7) (contravention, other than by individual for purposes other than sale, of notice closing area or prohibiting or restricting fishing methods):

(hb) section 113J(2) (breach of condition on high seas fishing permit):

(hc) section 113L(2) (failing to carry high seas fishing permit on vessel):

(hd) section 113ZD(4) (bringing a foreign ship into internal waters of New Zealand when prohibited):

(he) section 186P(2) (fish farming other than in accordance with registration or exemption):

(i) section 226(2) (provisions relating to food and accommodation for observers):

(j) section 228(1) (contravening conditions or requirements):

(k) section 232(1) and (2) (individuals buying, selling, or possessing fish contrary to Act where section 232(4) applies):

(l) section 234(1) (using hazardous substance to catch or destroy fish):

(la) sections 312 and 313 (taking scallops outside of season or fishery, or when fishery closed):

(m) section 368A (taking Foveaux Strait dredge oyster outside season or from prohibited area):

(o) section 369 (taking Northland scallops outside fishery season).

(6) Every person convicted of an offence against any of the following provisions is liable to a fine not exceeding $5,000:

(a) section 113M(2) (failure by holder of high seas fishing permit to notify chief executive of change of vessel's ownership or operator):

(b) section 121(3) (unlawfully releasing sensitive information):

(c) section 186A(8) or section 186B(7) (contravention by individual, for purposes other than sale, of notice closing area, or prohibiting or restricting fishing methods):

(ca) section 186N(3) (failing to notify change of information in Fish Farmer Register):

(d) section 288(5) (contravening provisions relating to public meetings).

(7) Notwithstanding anything in the Sentencing Act 2002, if any person is convicted of an offence against this Act, the court may, in addition to any other sentence it may impose, sentence the defendant to serve such specified community-based sentence (as defined in section 4(1) of that Act) as the court in the circumstances of the case considers appropriate.

Compare: 1983 No 14 s 107; 1990 No 29 s 51

Section 252(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 252(1)(c): substituted, on 19 March 2004, by section 7 of the Fisheries Amendment Act 2004 (2004 No 6).

Section 252(1)(d): added, on 1 October 2001, by section 58(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 252(1)(e): added, on 1 October 2001, by section 58(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 252(1)(f): added, on 1 October 2001, by section 58(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 252(3)(a): repealed, on 1 October 2001, by section 58(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 252(3)(c): substituted, on 1 October 2001, by section 23(1) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 252(3)(ca): substituted, on 1 October 2001, by section 23(1) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 252(3)(cb): inserted, on 1 October 2001, by section 23(1) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 252(3)(cc): inserted, on 1 October 2001, by section 23(1) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 252(3)(cd): inserted, on 1 October 2001, by section 23(1) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 252(3)(ha): inserted, on 1 October 2001, by section 25(1) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 252(3)(hb): inserted, on 1 October 2001, by section 25(1) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 252(3)(hc): inserted, on 1 October 2001, by section 25(1) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 252(3)(hd): inserted, on 1 October 2001, by section 25(1) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 252(3)(he): inserted as (ha), on 23 June 1998, by section 21(1) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 252(3)(he) number: substituted, on 1 October 2001, by section 23(2) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 252(3)(ja): inserted, on 1 January 2005, by section 11(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 252(3)(o): added on 1 October 2001, by section 58(4) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 252(3)(p): added on 1 October 2001, by section 58(4) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 252(3)(q): added on 1 October 2001, by section 58(4) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 252(5)(ga): inserted, on 8 August 2014, by section 6 of the Fisheries (Foreign Charter Vessels and Other Matters) Amendment Act 2014 (2014 No 60).

Section 252(5)(h): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 252(5)(ha): inserted, on 1 October 2001, by section 21(2) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 252(5)(ha): amended, on 1 October 2004, by section 47(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 252(5)(hb): inserted, on 1 October 2001, by section 25(2) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 252(5)(hc): inserted, on 1 October 2001, by section 25(2) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 252(5)(hd): inserted, on 1 October 2001, by section 25(2) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 252(5)(he): inserted, on 1 January 2005, by section 11(2) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 252(5)(j): amended, on 1 October 2001, by section 58(5) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 252(5)(la): inserted, on 1 October 2001, by section 21(3) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 252(5)(m): added, on 1 April 1998, by section 9 of the Fisheries (Foveaux Strait Dredge Oyster Fishery) Amendment Act 1998 (1998 No 6).

Section 252(5)(o): added, on 1 October 2001, by section 21(4) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 252(6): substituted, on 1 October 2001, by section 23(3) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 252(6)(c): amended, on 1 October 2004, by section 47(2) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 252(6)(ca): inserted, on 1 January 2005, by section 11(3) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 252(7): amended, on 30 June 2002, by section 186 of the Sentencing Act 2002 (2002 No 9).

253 Imprisonment of foreign persons

(1) In the absence of an agreement to the contrary made between the Government of New Zealand and the Government of another country, nothing in this Act shall be construed as authorising the imposition of a term of imprisonment on any person (other than a New Zealand citizen or a person entitled to reside in New Zealand indefinitely) who is convicted of an offence against this Act in respect of a foreign fishing vessel.

(2) If, but for subsection (1), a person would be liable to suffer imprisonment for the commission of any offence, the person shall instead of such imprisonment be liable on conviction to a fine not exceeding $500,000.

Section 253(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

254 Matters to be taken into account by court in sentencing

If any person is convicted of an offence against this Act, the court shall, in imposing sentence, take into account the purpose of this Act and shall have regard to—

(a) the difficulties inherent in detecting fisheries offences; and

(b) the need to maintain adequate deterrents against the commission of such offences.

255 Interpretation—forfeiture provisions

(1) In sections 255A to 256, unless the context otherwise requires,—

associated quota, in relation to a person convicted of an offence (the **offender**), means—

(a) all quota owned by any person that is a subsidiary of the offender within the meaning of section 5 of the Companies Act 1993:

(b) if the offender has, in the fishing year in which the offence was committed or the immediately preceding fishing year,—

(i) gained any benefit from any quota of a stock (**stock A**), including annual catch entitlement generated from that quota; and

(ii) that quota is owned by any company of which the offender is a subsidiary (the **holding company**) or any other subsidiary of the holding company,—

all quota of every stock of the species or group of species comprised in stock A owned by the holding company or any subsidiary of the holding company at the date the offence was committed:

(c) any other quota not owned by the holding company or any subsidiary of the offender or any subsidiary of the holding company, but over which the offender had effective control at the date the offence was committed

fish and any proceeds from the sale of such fish means any fish, aquatic life, or seaweed in respect of which the offence was committed (whether or not seized under section 207) and any proceeds from the sale of such fish, aquatic life, or seaweed under section 212

property used in the commission of the offence—

(a) means any vessel, vehicle or other conveyance, fishing gear, implement, appliance, material, container, goods, equipment, or thing used in respect of the commission of the offence (whether or not seized under section 207); but

(b) does not include any quota, associated quota, or annual catch entitlement

quota—

(a) in relation to a person convicted of an offence (the **offender**), means the number of quota shares or amount of provisional catch history for each stock that is equivalent to the number or amount owned by the offender for the stock at the date of the commission of the offence; and

(b) in relation to any other person, means the number of quota shares for each stock that is equivalent to the number owned by the person for the stock at the date the offender committed the offence

serious non-commercial offence means any offence specified as such in regulations made under section 297.

(2) For the purposes of paragraph (c) of the definition of associated quota, a person may have had effective control of quota whether or not the person had—

(a) any legal or equitable interest in the quota; or

(b) any right, power, or privilege in connection with the quota,—

and those interests, rights, powers, or privileges may be determined without regard to the form of any entities in which they are owned or held.

(3) Without limiting the generality of paragraph (c) of the definition of associated quota, in determining whether an offender had effective control over quota, regard may be had to the following matters:

(a) shareholdings in, debentures over, or directorships of, any company that had an interest (whether direct or indirect) in the quota:

(b) any trust that had a relationship to the quota:

(c) family, domestic, and business relationships between persons who had an interest in quota, or in companies of the kind referred to in paragraphs (a) and (b) of the definition of associated quota, and any other persons:

(d) whether one person was accustomed to following the instructions of the other person in respect of the quota they own:

(e) whether one person was accustomed to acting in a manner consistent with advancing the interests of the other person in respect of the quota they own.

(4) No quota owned by Te Ohu Kai Moana Trustee Limited is associated quota for the purposes of this Act.

(5) No quota owned by any person is associated quota merely because of any relationship between that person and Te Ohu Kai Moana Trustee Limited or any other person and Te Ohu Kai Moana Trustee Limited.

(6) No quota owned by any bank registered under the Banking (Prudential Supervision) Act 1989 is to be regarded as associated quota merely because the bank has in the ordinary course of its business as a financier become the owner of that quota.

(7) No quota owned by any licensed NBDT (within the meaning of section 4(1) of the Non-bank Deposit Takers Act 2013) is to be regarded as associated quota merely because the licensed NBDT has in the ordinary course of its business as a financier become the owner of that quota.

Section 255: substituted, on 1 October 2001, by section 24 of the Fisheries Amendment Act 2001 (2001 No 65).

Section 255(4): amended, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 255(5): amended, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 255(6): amended, on 1 July 2022, by section 300(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 255(7): inserted, on 8 September 2018, by section 55 of the Statutes Amendment Act 2018 (2018 No 27).

255A Forfeiture for infringement offence

(1) Subsection (2) applies if an infringement notice is issued to a person in respect of an infringement offence against this Act and any of the following occurs:

(a) the infringement fee for the offence is paid; or

(b) a copy of a reminder notice in respect of the infringement offence is filed or a reminder notice is deemed to have been filed in a court under section 21 of the Summary Proceedings Act 1957, as the case requires, within 6 months from the time when the offence is alleged to have been committed; or

(c) the informant and the defendant, in respect of the infringement notice, enter into an arrangement under section 21(3A) of the Summary Proceedings Act 1957 allowing the defendant to pay the relevant infringement fee by instalments; or

(d) the person is found guilty, or admits the commission, of the infringement offence.

(2) The following are forfeit to the Crown unless (if subsection (1)(d) applies) the court for special reasons relating to the offence orders otherwise:

(a) any fish of an amount or quantity not exceeding 3 times the amateur individual daily prescribed limit; and

(b) any proceeds from the sale of that fish.

Section 255A: inserted, on 1 October 2001, by section 59 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 255A(1)(b): substituted, on 1 March 2007, by section 33 of the Summary Proceedings Amendment Act 2006 (2006 No 13).

255B Forfeiture where person liable to fine exceeding $10,000 but less than $100,000

(1) Subsection (2) applies in the following cases:

(a) *[Repealed]*

(b) where—

(i) a person is charged with an infringement offence against this Act and proceedings in respect of that offence are commenced under the Criminal Procedure Act 2011 (not by way of an infringement notice); and

(ii) the person is found guilty of, or pleads guilty to, that offence:

(c) on conviction for an offence against this Act for which the person is liable to a fine not exceeding $10,000 (other than an offence referred to in section 255C):

(d) on conviction for an offence against this Act (other than an offence referred to in section 255C) for which the person is liable to a maximum fine exceeding $10,000 but less than $100,000.

(2) The following are forfeit to the Crown unless the court for special reasons relating to the offence orders otherwise:

(a) any fish and any proceeds from the sale of such fish; and

(b) any illegal fishing gear in respect of which the offence was committed (whether or not seized under section 207).

(3) On conviction of a person for an offence referred to in subsection (1)(d), the court may order that any property used in the commission of the offence is forfeit to the Crown.

Section 255B: inserted, on 1 October 2001, by section 59 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 255B heading: amended, on 1 October 2004, by section 48(a) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 255B heading: amended, on 30 June 2002, by section 186 of the Sentencing Act 2002 (2002 No 9).

Section 255B(1)(a): repealed, on 30 June 2002, by section 186 of the Sentencing Act 2002 (2002 No 9).

Section 255B(1)(b): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 255B(1)(d): amended, on 1 October 2004, by section 48(b) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

255C Forfeiture for section 252(2), (3), and (5) offences, offences carrying fine of $100,000, repeat offences, and serious non-commercial offences

(1) Subsection (2) applies in the following cases:

(a) on conviction for an offence referred to in section 252(2) or (3) or (5):

(b) on conviction for an offence against this Act for which the person is liable to a maximum fine of $100,000:

(c) on conviction for a serious non-commercial offence:

(d) where a person has been convicted of 2 or more offences against this Act and—

(i) the offences were committed on more than 1 occasion within a period of 3 years; and

(ii) the offences were offences for which the person was liable to a fine exceeding $5,000.

(2) The following are forfeit to the Crown unless the court for special reasons relating to the offence orders otherwise:

(a) any fish and any proceeds from the sale of such fish; and

(b) any illegal fishing gear in respect of which the offence was committed (whether or not seized under section 207); and

(c) any property used in the commission of the offence; and.

(d) in the case of a conviction for an offence under section 186P, any property (excluding fish farm structures) used in the fish farm concerned.

(3) On conviction of a person for an offence referred to in section 252(2) or (3), the court may order that—

(a) any quota is forfeit to the Crown; and

(b) any associated quota is forfeit to the Crown, unless the court is satisfied that section 255E(3B) applies to preclude forfeiture.

(4) Subsection (2) does not apply to require the forfeiture of—

(a) any foreign flagged vessel in respect of an offence committed outside New Zealand fisheries waters; or

(b) any fish on board or property associated with such a vessel in respect of such an offence.

Section 255C: inserted, on 1 October 2001, by section 59 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 255C(1)(b): amended, on 1 October 2004, by section 49(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 255C(2)(c): amended, on 1 January 2005, by section 12 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 255C(2)(d): added, on 1 January 2005, by section 12 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 255C(3): substituted, on 1 October 2001, by section 25 of the Fisheries Amendment Act 2001 (2001 No 65).

Section 255C(4): added, on 1 October 2004, by section 49(2) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

255D Forfeiture for section 252(1) or (4) offence

(1) Subsection (2) applies on conviction for an offence referred to in section 252(1) or (4).

(2) The following are forfeit to the Crown unless the court for special reasons relating to the offence orders otherwise:

(a) any fish and any proceeds from the sale of such fish; and

(b) any illegal fishing gear in respect of which the offence was committed (whether or not seized under section 207); and

(c) any property used in the commission of the offence; and

(d) any quota; and

(e) any associated quota, unless the court is satisfied that section 255E(3B) applies to preclude forfeiture.

Section 255D: inserted, on 1 October 2001, by section 59 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 255D(2)(d): substituted, on 1 October 2001, by section 26 of the Fisheries Amendment Act 2001 (2001 No 65).

Section 255D(2)(e): added, on 1 October 2001, by section 26 of the Fisheries Amendment Act 2001 (2001 No 65).

255E General provisions relating to forfeiture

(1) If any property, fish, aquatic life, seaweed, or quota is forfeited to the Crown under this Act, such property, fish, aquatic life, seaweed, or quota, despite section 168, vests in the Crown absolutely and free of all encumbrances.

(1A) Despite subsection (1), if settlement quota is forfeit to the Crown under this Act, the quota continues to be subject to a settlement quota interest.

(2) For the avoidance of doubt, any vessel used by the offender to take or transport fish, aquatic life, or seaweed must be treated as property used in the commission of the offence if the fish, aquatic life, or seaweed is the subject of an offence against—

(a) section 230 or section 231; or

(b) regulations made under section 297 or section 298 or section 299, which regulations relate to—

(i) making any false or misleading statements in any return; or

(ii) omitting any information in any return; or

(iii) completing, keeping, or providing any return.

(3) At the time of conviction of any offence against this Act, the court must determine what, if any, of the following is forfeit under any of sections 255A to 255D:

(a) fish and any proceeds from the sale of such fish:

(b) illegal fishing gear:

(c) property used in the commission of the offence:

(d) quota:

(e) associated quota, unless the court is satisfied that subsection (3B) applies to preclude forfeiture.

(3A) Where the court is considering the forfeiture of any quota alleged to be associated quota, the court must give any person who owns that quota a reasonable opportunity to make submissions and be heard on the questions of whether—

(a) the quota is associated quota; and

(b) if so, whether or not the court should find in favour of the owner under subsection (3B).

(3B) Where the court is satisfied that associated quota exists, forfeiture must be considered in accordance with sections 255C(3) and 255D(2) unless the court is satisfied that the associated quota is associated quota, rather than quota owned by the offender, for reasons principally other than avoiding the consequences of the application of this Act in respect of that forfeiture.

(4) No person may be discharged without conviction in respect of an offence referred to in any of sections 255A to 255D unless the court for special reasons relating to the offence considers that the property, illegal fishing gear, fish, any proceeds from the sale of such fish, and quota should not be forfeit.

(5) Nothing in any of sections 255A to 255D applies to any offence against a provision in Part 15A.

Section 255E: inserted, on 1 October 2001, by section 59 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 255E(1A): inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 255E(3)(e): added, on 1 October 2001, by section 27(1) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 255E(3A): inserted, on 1 October 2001, by section 27(2) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 255E(3B): inserted, on 1 October 2001, by section 27(2) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 255E(4): substituted, on 30 June 2002, by section 186 of the Sentencing Act 2002 (2002 No 9).

256 Provisions relating to forfeit property

(1) In this section, unless the context otherwise requires,—

forfeit property means any—

(a) fish and any proceeds from the sale of such fish; or

(b) property used in the commission of the offence; or

(c) quota—

forfeit to the Crown under any of sections 255A to 255D

interest means,—

(a) in the case of quota, an interest in the quota that is recorded on the Quota Register at the time of the forfeiture:

(b) in the case of a foreign vessel, a foreign-owned New Zealand fishing vessel, or a foreign-operated fish carrier,—

(i) ownership; and

(ii) an interest, as determined by the Employment Relations Authority or any court, that any fishing crew have in unpaid wages; and

(iii) an interest in costs incurred by a third party (other than the employer) to provide for the support and repatriation of foreign crew employed on the vessel:

(c) in the case of other forfeit property, a legal or equitable interest in that forfeit property that existed at the time of the forfeiture; but does not include any interest (other than an interest referred to in paragraph (b)) in a foreign vessel, a foreign-owned New Zealand fishing vessel, or a foreign-operated fish carrier.

(2) Where—

(a) the forfeiture occurs under any of sections 255B to 255D; and

(b) the forfeit property has a total estimated value of $200 or more,—

the chief executive must, within 10 working days after the date of the forfeiture, publicly notify the details of the forfeit property, and the right of any person to apply to the court for relief from the effects of forfeiture.

(3) Any person claiming an interest in any forfeit property may, within 35 working days after the date of the forfeiture or within such further period before the property is disposed of as the court may allow, apply to the court for relief from the effect of forfeiture on that interest.

(4) Every application under subsection (3) shall contain sufficient information to identify the interest and the property in which it is claimed, and shall include—

(a) a full description of the forfeit property in which the interest is claimed, including reference to any registration or serial number; and

(b) full details of the interest or interests claimed, including—

(i) whether the interest is legal or equitable; and

(ii) whether the interest is by way of security or otherwise; and

(iii) if the interest is by way of security, details of the security arrangement and any other property included in that arrangement; and

(iv) whether the interest is noted on any register maintained pursuant to statute; and

(v) any other interests in the property known to the applicant; and

(c) *[Repealed]*

(d) the applicant's estimate of the value of the forfeit property and of the value of the claimed interest.

(5) The court shall hear all applications in respect of the same property together, unless it considers that it would not be in the interests of justice to do so.

(6) The court shall, in respect of every application made under subsection (3),—

(a) determine the value of the forfeit property, being the amount the property would realise if sold at public auction in New Zealand; and

(b) determine the nature, extent, and, if possible, the value of any applicant's interest in the property; and

(c) *[Repealed]*

(d) determine the cost to the Ministry of the prosecution of the offence which resulted in the forfeiture, and the seizure, holding, and anticipated cost of disposal of the forfeit property, including the court proceedings in respect of that seizure, holding, and disposal.

(7) Having determined the matters specified in subsection (6), the court may, after having regard to—

(a) the purpose of this Act; and

(b) the effect of the offence from which the forfeiture arose on the aquatic environment from which the fish, aquatic life, or seaweed was taken or in which the vessel was operating; and

(c) the effect of the offence from which the forfeiture arose on other fishers (whether commercial or otherwise) fishing in the area or for the stock in respect of which the offence occurred; and

(d) the effect of offending of the type from which the forfeiture arose on the relevant aquatic environment; and

(e) the effect of offending of the type from which the forfeiture arose on other fishers (whether commercial or otherwise) fishing in the area or for the stock in respect of which the offence occurred; and

(f) the social and economic effects on the person who owned the property or quota, and on persons employed by that person, of non-release of the property or quota; and

(g) the effect of offending of the type from which the forfeiture arose on fisheries management and administration systems (including the keeping of records and the providing of returns); and

(h) the previous offending history (if any) of the person from whose conviction the forfeiture arose; and

(i) the economic benefits that accrued or might have accrued to the owners of the property or quota through the commission of the offence; and

(j) the prevalence of offending of the type from which the forfeiture arose; and

(k) the cost to the Ministry of the prosecution of the offence which resulted in the forfeiture, and the seizure, holding, and anticipated cost of disposal of the property or quota, including the court proceedings in respect of that seizure, holding, and disposal,—

and, subject to subsection (8), make an order or orders providing relief (either in whole or part) from the effect of forfeiture on any of the interests determined under subsection (6).

(8) No order shall be made under subsection (7) unless—

(a) it is necessary to avoid manifest injustice or to satisfy an interest referred to in paragraph (b)(ii) or (iii) of the definition of interest in subsection (1).

(b) *[Repealed]*

(9) *[Repealed]*

(10) *[Repealed]*

(11) Without limiting subsection (7), any order under that subsection may order 1 or more of the following:

(a) the retention of the forfeit property by the Crown:

(b) the return of some or all of the forfeit property to the owner at the time of forfeiture, with or without the prior payment to the Crown of a sum of money:

(c) the sale of some or all of the forfeit property, with directions as to the manner of sale and dispersal of proceeds:

(d) the delivery of some or all of the forfeit property to a person with an interest in the property, with or without directions as to payment of a sum of money to specified persons (including the Crown) prior to such delivery:

(e) the reinstatement (notwithstanding the forfeiture) of any interest that was forfeit or cancelled as a result of a forfeiture.

(11A) If the court makes an order under subsection (11) that relates to settlement quota, the person taking possession of that quota by order of the court may only dispose of the quota in accordance with sections 161 (except subsection (2)) and 163 of the Maori Fisheries Act 2004, as if he or she were a mandated iwi organisation.

(12) This section does not require the Crown to pay, or secure the payment of, any sum of money to any person claiming an interest in forfeit property, other than the net proceeds of sale of forfeit property under a court order made under subsection (7).

(13) For the purpose of assisting the court in determining any application for relief, the chief executive and any employee or agent of the Ministry is entitled to appear before the court and be heard.

(14) Any forfeiture under any of sections 255A to 255D, or any payment of a sum of money or delivery of property under subsection (7), to persons claiming an interest, shall be in addition to, and not in substitution for, any other penalty that may be imposed by the court or by this Act.

Compare: 1983 No 14 s 107C; 1990 No 29 s 52(1)

Section 256(1) **forfeit property**: amended, on 1 October 2001, by section 60(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 256(1) **forfeit property** paragraph (b): substituted, on 1 October 2001, by section 60(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 256(1) **interest**: substituted, on 18 September 2002, by section 3(1) of the Fisheries (Foreign Fishing Crew) Amendment Act 2002 (2002 No 27).

Section 256(2): substituted, on 1 October 2004, by section 50 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 256(3): amended, on 1 October 2001, by section 60(4) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 256(4): amended, on 1 October 2001, by section 60(5) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 256(4)(c): repealed, on 1 October 2001, by section 28(a) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 256(6)(c): repealed, on 1 October 2001, by section 28(a) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 256(7): amended, on 1 October 2001, by section 60(7) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 256(8)(a): amended, on 18 September 2002, by section 3(2) of the Fisheries (Foreign Fishing Crew) Amendment Act 2002 (2002 No 27).

Section 256(8)(a): amended, on 1 October 2001, by section 28(b) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 256(8)(b): repealed, on 1 October 2001, by section 28(c) of the Fisheries Amendment Act 2001 (2001 No 65).

Section 256(9): repealed, on 1 October 2001, by section 60(8) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 256(10): repealed, on 1 October 2001, by section 60(8) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 256(11A): inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 256(14): amended, on 1 October 2001, by section 60(9) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

257 Prohibition of fishing activity in case of reoffending

(1) If any person is convicted of—

(a) 2 or more offences against this Act that are offences referred to in subsection (1) or subsection (2) or subsection (3) of section 252, and are offences committed on different occasions; or

(b) 3 or more offences that are offences referred to in subsection (1) or subsection (2) or subsection (3) or subsection (5) of section 252, and are offences committed on different occasions,—

within a period of 7 years, the court shall, in addition to any other penalty imposed, order—

(c) that the person forfeit any licence, approval, permission, or fishing permit obtained under this Act; and

(d) that the person be prohibited, for a period of 3 years commencing on the date of the most recent conviction, from doing any of the following:

(i) holding any licence, approval, permission, or fishing permit obtained under this Act:

(ii) engaging in fishing or any activity associated with the taking of fish, aquatic life, or seaweed:

(iii) deriving any beneficial income from activities associated with the taking of fish, aquatic life, or seaweed.

(2) Every person commits an offence and is liable to the penalty set out in section 252(4) who knowingly contravenes or fails to comply with an order made under subsection (1).

(3) Notwithstanding subsection (1), the court may, in the circumstances of any particular case, and upon application being made to it by the person concerned within 30 days after the date of conviction or such extended period as the court may allow, direct that any particular licence, approval, permission, or fishing permit shall not be forfeit, or that the person shall not be prohibited from engaging in fishing or in any activity associated with the taking of fish, aquatic life, or seaweed or deriving any beneficial income from fishing or any activity associated with the taking of fish, aquatic life, or seaweed.

(4) For the purposes of this section, every conviction in respect of an offence against the Fisheries Act 1983 shall be deemed to be a conviction in respect of an offence against this Act that is referred to in section 252(3).

(5) For the purposes of this section, if—

(a) a person is convicted of assault or of any other offence of which an assault constitutes an element, and the conviction relates to an offence committed on or after 1 April 1990; and

(b) the assault was on a person who was at the time carrying out the duties of a fishery officer under this Act,—

that conviction shall be deemed to be a conviction in respect of an offence against this Act that is referred to in section 252(3).

(6) Subsections (1) and (4) do not apply to any offence committed by a person in respect of which—

(a) a conviction was entered on or after 1 November 1990; and

(b) the maximum fine on conviction for a first offence does not (or did not at the time) exceed $5,000.

Compare: 1983 No 14 s 107D; 1986 No 34 s 27(1); 1990 No 29 s 53

Section 257(2): amended, on 1 October 2001, by section 61 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

258 Sum equal to deemed value payable if catch returns not completed or provided, or false returns provided

(1) Every person convicted of an offence against—

(a) section 230 or section 231; or

(b) any regulations made under this Act relating to—

(i) making any false or misleading statements in any record or return; or

(ii) omitting any information in any record or return; or

(iii) completing, keeping, or providing any record or return,—

in respect of the taking of any fish, aquatic life, or seaweed subject to the quota management system, shall, in addition to any fine that may be imposed by the court, be liable to pay to the Crown, within 20 days after demand is made by

the chief executive, a sum of money equal to the deemed value amount that would have been payable if the fish, aquatic life, or seaweed had been included in the reported catch of that person under section 76 at the time of the offence, and, if that person is not a commercial fisher, that section shall be read as if the person were a commercial fisher.

(2) Any sum demanded under this section shall be recoverable in the same manner as a sum assessed and payable under section 76.

259 Rewards to informants

(1) The chief executive may make such payments as the chief executive thinks fit to any person who has supplied information that has assisted in the detection of offences against this Act.

(2) All payments under subsection (1) shall be made from money from time to time appropriated by Parliament for the purpose.

Compare: 1983 No 14 s 107E; 1986 No 34 s 27(1)

Minor offence procedure

[Repealed]

Heading: repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

260 Minor offences

[Repealed]

Section 260: repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Infringement offences

Heading: inserted, on 1 October 2001, by section 62 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

260A Infringement offences

(1) If a fishery officer has reason to believe that a person has committed an infringement offence, the fishery officer may—

(a) commence proceedings against the person for the alleged offence by filing a charging document under section 14 of the Criminal Procedure Act 2011; or

(b) issue an infringement notice in respect of the alleged offence.

(2) Despite section 21 of the Summary Proceedings Act 1957, leave of a District Court Judge or Registrar to file a charging document is not necessary if a fishery officer proceeds with an infringement offence by filing a charging document under section 14 of the Criminal Procedure Act 2011.

(3) If an infringement notice is issued, a fishery officer may do 1 or more of the following with the infringement notice:

(a) deliver it (or a copy of it) to the person:

(b) fix it (or a copy of it) to a conspicuous part of a fishing vessel relating to the commission of the offence:

(c) send it (or a copy of it) to the person by post addressed to the person's last known place of residence or business.

(4) If the notice was fixed or sent in accordance with subsection (3), it is deemed to have been served on the person.

Section 260A: inserted, on 1 October 2001, by section 62 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 260A(1)(a): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 260A(2): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 260A(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

260B Infringement notices

(1) Every infringement notice must be in an approved form and must include the following particulars:

(a) sufficient detail to inform the person of the time, place, and nature of the alleged offence:

(b) the infringement fee for the offence:

(c) the address at which the infringement fee may be paid:

(d) the time within which the infringement fee may be paid:

(e) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957:

(f) a statement that the person has a right to request a hearing:

(g) a statement of the consequences if the person does not pay the infringement fee or request a hearing:

(h) any other matters prescribed for that purpose.

(1A) Every infringement offence reminder notice must be in an approved form, and must include the same particulars, or substantially the same particulars, as the infringement notice.

(2) There may be different approved forms for different kinds of infringement offences.

Section 260B: inserted, on 1 October 2001, by section 62 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 260B(1A): inserted, on 1 October 2004, by section 51 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

260C Infringement fees

All infringement fees are payable to the chief executive, and the chief executive must pay all infringement fees received into a Crown Bank Account.

Section 260C: inserted, on 1 October 2001, by section 62 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 260C: amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

Part 14
Cost recovery

Part 14: substituted, on 1 February 2001, by section 63 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

261 Purpose of Part

The purpose of this Part is to enable the Crown to recover its costs in respect of the provision of conservation services and fisheries services.

Section 261: substituted, on 1 February 2001, by section 63 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

262 Cost recovery principles

The cost recovery principles under this Part are as follows:

(a) if a conservation service or fisheries service is provided at the request of an identifiable person, that person must pay a fee for the service:

(b) costs of conservation services or fisheries services provided in the general public interest, rather than in the interest of an identifiable person or class of person, may not be recovered:

(c) costs of conservation services or fisheries services provided to manage or administer the harvesting or farming of fisheries resources must, so far as practicable, be attributed to the persons who benefit from harvesting or farming the resources:

(ca) costs of fisheries services relating to any observer performing or exercising a function, duty, or power in accordance with the observer programme must, so far as practicable, be attributed to the persons who benefit from those services:

(d) costs of conservation services or fisheries services provided to avoid, remedy, or mitigate a risk to, or an adverse effect on, the aquatic environment or the biological diversity of the aquatic environment must, so far as practicable, be attributed to the persons who caused the risk or adverse effect:

(e) the Crown may not recover under this Part the costs of services provided by an approved service delivery organisation under Part 15A.

Section 262: substituted, on 1 February 2001, by section 63 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 262(ca): inserted, on 8 August 2014, by section 14 of the Fisheries (Foreign Charter Vessels and Other Matters) Amendment Act 2014 (2014 No 60).

263 Cost recovery rules

(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister, make rules relating to the imposition of levies under this Part.

(2) The rules may—

(a) prescribe the proportion of costs of conservation services and fisheries services to be recovered as levies:

(b) prescribe who must pay levies:

(c) prescribe how the costs are to be apportioned between the persons who must pay the levies.

(3) Without limiting anything in subsections (1) and (2), different rules may apply in respect of different classes of persons, stocks, quota management areas, fishery management areas, conservation services, fisheries services, or any combination of them.

(4) Before making a recommendation under subsection (1), the Minister must—

(a) be satisfied that the rules to which the recommendation relates comply with the cost recovery principles in section 262; and

(b) have regard to the extent to which conservation services or fisheries services are wholly or partly purchased or provided by persons other than the Crown.

(5) No order made under this section is invalid because it leaves any matter to the discretion of any person.

(6) A rule under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 263: substituted, on 1 February 2001, by section 63 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 263(5): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 263(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

264 Levies

(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister,—

(a) impose levies for the purpose of this Part:

(b) amend or revoke an order made under this section.

(2) Subject to section 265A, the Minister must not make a recommendation under subsection (1) unless the Minister is satisfied that the proposed order to which the recommendation relates is consistent with rules in force under section 263.

(3) Without limiting the generality of subsection (1), an order may—

(a) prescribe, or provide for the fixing of, different rates of levy in respect of different classes of persons, species or kinds of fish or aquatic life or seaweed, quantities of fish or aquatic life or seaweed, quota management areas, fishery management areas, or any combination of them:

(b) prescribe, or provide for the fixing of, different rates of levy based on the value of quota or annual catch entitlement, the port price of fish or aquatic life or seaweed landed, or on any other differential basis relating to commercial fishing or fish farming:

(c) specify that a levy is payable on the basis of the amount of fish, aquatic life, or seaweed processed or taken, or quota, annual catch entitlement, or individual catch entitlement held, during a specified period or on a specified day; or specify any other method for assessing that amount:

(d) prescribe a date by which, and the place at which, a levy is payable:

(e) prescribe different dates for the payment of different levies:

(f) authorise the chief executive to prescribe or provide for such matters as may be necessary or expedient to administer the collection of a levy imposed under subsection (1).

(4) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 264: substituted, on 1 February 2001, by section 63 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 264(2): amended, on 19 March 2004, by section 8 of the Fisheries Amendment Act 2004 (2004 No 6).

Section 264(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

265 Under-recovery and over-recovery of costs

Without limiting anything in section 264, but subject to section 265A, the Minister must, in recommending the making of an order under section 264, have

regard to the costs of any conservation services or fisheries services incurred by the Crown in a previous financial year that—

(a) were either—

(i) not recovered or not recoverable, in whole or in part, by a fee, charge, or levy relating to such services that was previously imposed under this Act or the Fisheries Act 1983; or

(ii) over-recovered or over-recoverable, in whole or in part, by a fee, charge, or levy relating to such services that was previously imposed under this Act or the Fisheries Act 1983; and

(b) the Minister has not previously had regard to under this section.

Section 265: substituted, on 19 March 2004, by section 9 of the Fisheries Amendment Act 2004 (2004 No 6).

265A Recommendation for levies payable in year commencing 1 October 2003 and subsequent years

(1) In making a recommendation under section 264 in respect of levies payable in the year commencing on 1 October 2003, the Minister must—

(a) first calculate the amount for each stock or other grouping that it would be appropriate to recover by way of levy as if there had been no under-recovery or over-recovery of costs in respect of the period 1 October 1994 to 30 September 2002 (both dates inclusive); and

(b) then—

(i) in the case of a stock or other grouping listed in Part 1 of Schedule 9A, reduce that amount by the relevant settlement sum allocated to that stock or other grouping in that schedule (or by so much of that settlement sum as would reduce the amount to zero):

(ii) in the case of a stock listed in Part 2 of Schedule 9A, increase that amount by the relevant settlement sum allocated to that stock in that schedule.

(2) In making a recommendation under section 264 in respect of levies payable in the year commencing on 1 October 2004 or in any subsequent year, the Minister must, after calculating the amount that it would be appropriate to recover by way of levy under this Part for any stock or other grouping listed in Part 1 of Schedule 9A, reduce that amount by the remaining balance (if any) of the relevant settlement sum allocated to that stock or other grouping in that schedule (or by so much of the remaining balance as would reduce the amount to zero).

(3) Where the Minister makes a recommendation under section 264 that results in an order amending a levy already fixed for any stock or other grouping for the relevant year, the Minister must, where appropriate,—

(a) adjust the remaining balance of the settlement sum for the stock or other grouping to reflect the effect of the amendment when taken together with the effect of the original levy order; and

(b) notify the adjusted remaining balance in accordance with subsection (5).

(4) For the purposes of subsections (2) and (3) and section 265, in determining the amount that it would be appropriate to recover by way of levy under this Part before the need (if any) to reduce that amount by any settlement sum,—

(a) no regard is to be had to the costs of any conservation services or fisheries services incurred by the Crown in any financial year ending on or before 30 September 2002, except where those costs arise from conservation services or fisheries services initiated but not completed on or before 30 September 2002; and

(b) any previous reduction in the amount of costs recovered or recoverable by virtue of the application of any settlement sum under this section must be disregarded.

(5) The Minister must, as soon as practicable after making any recommendation under section 264 that has required an adjustment under subsection (1)(b)(i) or subsection (2) or subsection (3), state the remaining balance for each affected stock or grouping by notice in the *Gazette*.

(6) In this section, **remaining balance** means the relevant settlement sum allocated to a stock or grouping under Part 1 of Schedule 9A less all previous adjustments made by the Minister under subsection (1)(b)(i) or subsection (2), and less or plus (as the case may require) any adjustments made by the Minister under subsection (3).

Section 265A: substituted, on 19 March 2004, by section 10(1) of the Fisheries Amendment Act 2004 (2004 No 6).

266 Other fees, charges, or levies

(1) This part does not—

(a) limit any other provision in this Act that requires the payment, or empowers the imposition, of a fee, charge, or levy relating to conservation services or fisheries services; or

(b) limit the recovery of costs in respect of conservation services or fisheries services by any means other than a levy under section 264.

(2) This part does not require the Minister to have regard to the circumstances of any person when recommending the imposition of a fee, charge, or levy relating to conservation services or fisheries services.

(3) The Minister may not have regard to any deemed value payable or paid when recommending the imposition of a fee, charge, or levy relating to conservation services or fisheries services.

Section 266: substituted, on 1 February 2001, by section 63 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

267 Payment of levies

(1) Levies imposed by an order under section 264 are payable in accordance with the order or, if the order does not make such provision, within 20 days after the receipt of a demand from the chief executive.

(2) The chief executive may remit, waive, or defer the payment of a levy, in whole or in part, to correct an administrative error made in calculating the amount due.

(3) The chief executive and a person liable to pay a levy may enter into an arrangement for repayment of the amount of levy due.

Section 267: substituted, on 1 February 2001, by section 63 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

268 Caveats on quota

(1) The chief executive may, after giving a person notice in writing of the chief executive's intention to do so, direct that a caveat be registered over quota held by that person if—

(a) the person is liable to pay a levy imposed under section 264; and

(b) the person does not pay the levy in full within 2 months after the date on which payment of the levy is due, or within the time allowed under an arrangement with the chief executive, as the case may be; and

(c) payment of the outstanding levy has not been waived under section 267(2).

(2) The chief executive may direct that a caveat be registered under subsection (1) regardless of whether or not the levy has been imposed on the person as a quota owner.

(3) The chief executive—

(a) must direct that a caveat entered in a register under this section be withdrawn if the outstanding levy is paid in full to the chief executive:

(b) may direct that a caveat entered in a register under this section be withdrawn if the chief executive and the person liable to pay the outstanding amount enter into an arrangement for repayment of the amount.

Section 268: substituted, on 1 February 2001, by section 63 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 268(1)(a): substituted, on 20 April 2010, by section 6(2) of the Ministry of Agriculture and Fisheries (Restructuring) Amendment Act 2010 (2010 No 19).

Section 268(1)(b): amended, on 20 April 2010, by section 6(3) of the Ministry of Agriculture and Fisheries (Restructuring) Amendment Act 2010 (2010 No 19).

Section 268(1)(c): substituted, on 20 April 2010, by section 6(4) of the Ministry of Agriculture and Fisheries (Restructuring) Amendment Act 2010 (2010 No 19).

Section 268(3)(a): amended, on 20 April 2010, by section 6(5) of the Ministry of Agriculture and Fisheries (Restructuring) Amendment Act 2010 (2010 No 19).

269 Suspension of permit, licence, or registration where levies unpaid

(1) The chief executive may, by notice in writing, after giving a person notice in writing of the chief executive's intention to do so, suspend a fishing permit or special permit or licensed fish receiver's licence or controlled fishery licence or fish farmer's registration held by the person if—

(a) the person is liable to pay a levy imposed under section 264; and

(b) the person does not pay the levy in full within 2 months after the date on which payment of the levy is due, or within the time allowed under an arrangement with the chief executive, as the case may be; and

(c) payment of the outstanding levy has not been waived under section 267(2).

(2) The chief executive may suspend a permit, licence, or registration under subsection (1) regardless of whether or not the levy has been imposed on the person as a holder of a permit, licence, or registration.

(3) If the person holds 2 or more fishing permits or special permits or licensed fish receiver's licences or controlled fishery licences, or holds any combination of 2 or more of them, the chief executive may suspend such of the permits or licences, as he or she considers appropriate.

(4) A fishing permit or special permit or licensed fish receiver's licence or controlled fishery licence suspended under this section has no effect during the period of the suspension.

(5) While a fish farmer registration is suspended under this section, no fish, aquatic life, or seaweed is to be transferred onto or off the fish farm specified in the registration.

(6) The chief executive—

(a) must lift a suspension under this section if the outstanding levy is paid to the chief executive:

(b) may, conditionally or unconditionally, lift a suspension under this section if the chief executive and the person liable to pay the outstanding amount of the levy enter into an arrangement for repayment of that amount.

(7) A court may at any time, on application by the holder of a fishing permit, special permit, licensed fish receiver's licence, controlled fishery licence, or fish farmer registration that has been suspended under this section, make an order lifting the suspension subject to any sureties and conditions specified by the court.

Section 269: substituted, on 1 January 2005, by section 13 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 269(1)(a): substituted, on 20 April 2010, by section 6(6) of the Ministry of Agriculture and Fisheries (Restructuring) Amendment Act 2010 (2010 No 19).

Section 269(1)(b): amended, on 20 April 2010, by section 6(7) of the Ministry of Agriculture and Fisheries (Restructuring) Amendment Act 2010 (2010 No 19).

Section 269(1)(c): substituted, on 20 April 2010, by section 6(8) of the Ministry of Agriculture and Fisheries (Restructuring) Amendment Act 2010 (2010 No 19).

Section 269(6)(a): amended, on 20 April 2010, by section 6(9) of the Ministry of Agriculture and Fisheries (Restructuring) Amendment Act 2010 (2010 No 19).

270 Priority of debts

[Repealed]

Section 270: repealed, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

271 Records and returns

(1) The chief executive may, by notice,—

(a) require records and returns to be kept and provided by a person who must pay a levy:

(b) prescribe conditions relating to the keeping and provision of those records and returns.

(2) A person commits an offence if the person fails to comply with a requirement imposed by the chief executive under subsection (1), and is liable to the penalty set out in section 252(3).

(3) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 271: substituted, on 1 February 2001, by section 63 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 271(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 271(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

272 Levies to be separately accounted for

[Repealed]

Section 272: repealed (without coming into force), on 1 February 2001, by section 63 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

273 Caveats on quota

[Repealed]

Section 273: repealed (without coming into force), on 1 February 2001, by section 63 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

274 Priority of debts

[Repealed]

Section 274: repealed (without coming into force), on 1 February 2001, by section 63 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

275 Suspension of permit or fish receiver's licence where levies unpaid

[Repealed]

Section 275: repealed (without coming into force), on 1 February 2001, by section 63 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Part 15
Fisheries administration

National Fisheries Advisory Council

276 Minister may establish National Fisheries Advisory Council

(1) The Minister may from time to time establish an advisory committee, to be known as the National Fisheries Advisory Council, to advise the Minister on any matter from time to time determined by the Minister for the purpose of this Act.

(2) The Minister may authorise the Council to make such inquiries, conduct such research, and make such reports, as may assist the Council in advising the Minister.

(3) Without limiting subsection (1) or subsection (2), the Minister may require the Council to advise him or her on—

(a) ensuring sustainability, including the setting of total allowable catches and other sustainability measures:

(b) the utilisation of New Zealand's fisheries resources, including the setting of total allowable commercial catches and the introduction of new species into the quota management system:

(c) fisheries research, including the establishment of priorities, standards, and specifications for such research:

(d) fisheries administration services, including planning and the establishment of priorities, standards, and specifications for such services:

(e) enforcement issues, including the establishment of standards and specifications for enforcement.

277 Members

(1) The Minister may from time to time appoint to be members of the National Fisheries Advisory Council—

(a) if appropriate, a representative of Chatham Islanders; and

(b) such other members from time to time determined by the Minister after consultation with—

(i) the Minister of Maori Affairs, the Minister of Conservation, the Minister of Research, Science, and Technology, and the Minister for the Environment; and

(ii) such persons or organisations as the Minister considers are representative of classes of persons having an interest in the particular matter for which the Council is being established, including Maori, environmental, commercial, and recreational interests.

(2) Every member of the Council shall hold office during the pleasure of the Minister.

(3) Any member of the Council may resign his or her office at any time by notice in writing to the Minister.

(4) The Minister may make any appointment of a member subject to the condition that the member assist and provide advice only in respect of a specified matter and, in that case, the member shall comply with that condition.

278 Chairperson

(1) The Minister shall appoint one of the members of the National Fisheries Advisory Council to be chairperson of the Council.

(2) The chairperson shall be responsible for supervising and directing the work of the Council.

279 Remuneration of members

(1) The National Fisheries Advisory Council is hereby declared to be a statutory board within the meaning of the Fees and Travelling Allowances Act 1951.

(2) Members of the Council shall be paid, out of money appropriated by Parliament for the purpose, remuneration by way of fees, salary, or allowances, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

(3) No person shall be deemed to be employed in the service of the Crown by reason of being a member of the Council.

280 Secretarial services

(1) The chief executive shall provide such secretarial, recording, accounting, and clerical services as may be necessary to enable the National Fisheries Advisory Council to discharge its functions.

(2) All expenses incurred in respect of the functions of the Council shall be paid out of money appropriated for that purpose by Parliament.

281 Certain powers of Minister not to be delegated

The Minister shall not delegate to any person the power—

(a) to appoint or renew the appointment of members of the National Fisheries Advisory Council under section 277; or

(b) to remove any member of the Council from office under that section.

282 Reports

(1) The National Fisheries Advisory Council, when from time to time directed by the Minister, shall provide the Minister and the chief executive with a general report of the operations of the Council.

(2) As soon as practicable after receiving any general report referred to in subsection (1), the Minister shall lay before the House of Representatives a copy of that report.

Catch History Review Committee

283 Catch History Review Committee established

(1) There is hereby established the Catch History Review Committee.

(2) After consultation with such persons as the Minister considers are representative of those classes of persons having an interest in the matters dealt with by section 284, the Minister shall, by notice in the *Gazette*, appoint persons who—

(a) have held a practising certificate as a barrister and solicitor for at least 7 years; and

(b) are not employees of the Ministry—

to be members of the Catch History Review Committee, and appoint one of them to be chairperson of the Committee responsible for supervising and directing the work of the Committee.

(3) An appointment under subsection (2) shall be for a term not exceeding 5 years.

Compare: 1983 No 14 s 28A(1)–(4); 1986 No 34 s 9; 1990 No 29 s 4

284 Functions of Committee

(1) The Catch History Review Committee shall hear and determine appeals made under section 51, except that if the chief executive—

(a) has decided that a person is ineligible to receive provisional catch history because the chief executive believes the person to be an overseas person; and

(b) has advised the Committee of that decision,—

the Committee shall not hear any appeal made by that person unless the High Court declares the person not to be an overseas person.

(2) All appeals to the Committee shall be heard by a member sitting alone unless the chairperson of the Committee otherwise directs, and a member of the Committee sitting alone in such a case has such powers and functions of the Committee as may be necessary for that purpose.

(3) The Committee shall not create or allocate provisional catch history in respect of fish, aquatic life, or seaweed unless it was actually taken and reported by a commercial fisher.

(4) The Committee shall not order the allocation or transfer of any quota.

(5) The Committee has all such powers as are necessary or expedient to enable it to carry out its functions.

285 Members

(1) Any member of the Catch History Review Committee may resign his or her office at any time by notice in writing to the Minister.

(2) Any member of the Committee may be removed from office at any time by the Minister on the ground of inability to perform the functions of the office, bankruptcy, neglect of duty, or misconduct of the member proved to the satisfaction of the Minister.

Compare: 1983 No 14 ss 13(4)–(6), 28A(5); 1986 No 34 s 9

Section 285(2): amended, on 1 January 2002, by section 70(1) of the Human Rights Amendment Act 2001 (2001 No 96).

286 Defect in appointment

The proceedings of the Catch History Review Committee shall not be invalidated merely because of the subsequent discovery that some defect existed in the appointment of any member.

Compare: 1983 No 14 ss 17, 28A(5); 1986 No 34 s 9

287 Committee may regulate its own procedure

Except as expressly otherwise provided in this Act, the Catch History Review Committee may regulate its procedure in such manner as it thinks fit.

288 Hearings to be held in public except in certain circumstances

(1) Except as provided by subsections (2) to (4), hearings of the Catch History Review Committee shall be held in public.

(2) The Committee may deliberate in private as to its decision in any matter or as to any question arising in the course of any proceedings before it.

(3) If the Committee is satisfied that it is desirable to do so by reason of the confidential nature of any evidence or matter (including details of the private financial circumstances of any person), or that the interests of any party to the hear-

ing in having the whole or any part of the proceedings conducted in private outweigh the public interest in having the hearing conducted in public, the Committee may, on the application of any party to the proceedings, order that the whole or any part of the hearing shall be in private and that all persons present shall keep confidential any evidence, document, or information provided in relation to that hearing.

(4) In any case where a hearing is conducted in private, the Committee may allow any particular person to attend the private hearing if it is satisfied that the person has a proper interest in the matter to be heard.

(5) Every person commits an offence and is liable to the penalty set out in section 252(6) who contravenes an order made under subsection (3).

Compare: 1983 No 14 ss 18(1), (2), (3), (5), 28A(5); 1986 No 34 s 9

289 Fees and travelling allowances

(1) The Catch History Review Committee is hereby declared to be a statutory board within the meaning of the Fees and Travelling Allowances Act 1951.

(2) Members of the Catch History Review Committee shall be paid, out of money appropriated by Parliament for the purpose, remuneration by way of fees, salary, or allowances, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

(3) No person shall be deemed to be employed in the service of the Crown by reason of the person's appointment under section 283 as a member of the Committee.

Compare: 1983 No 14 ss 19, 28A(5); 1986 No 34 s 9

290 Administration of Committee

(1) The chief executive shall provide such secretarial, recording, accounting, and clerical services as may be necessary to enable the Catch History Review Committee to discharge its functions.

(2) All expenses incurred in respect of the functions of the Catch History Review Committee shall be paid out of money appropriated for that purpose by Parliament.

Compare: 1983 No 14 ss 20, 28A(5); 1986 No 34 s 9

291 Representation of parties

(1) The chief executive shall be a party to all proceedings before the Catch History Review Committee and shall be entitled to appear and be heard either in person or by counsel or agent, and shall have the right to produce evidence and cross-examine witnesses.

(2) Every person who lodges an appeal under section 51 shall be a party to those proceedings before the Catch History Review Committee and shall be entitled

to appear and be heard either in person or by counsel or agent, and shall have the right to produce evidence and cross-examine witnesses.

(3) Any person may make a written submission about any appeal made under section 51 if the submission is about any matter that is relevant and may assist the Committee in making a decision.

(4) Any person who makes a written submission under subsection (3) and wishes to appear at the hearing may do all or any of the following with the permission of the Committee, namely, appear either by counsel or agent, produce and examine evidence, cross-examine witnesses, and present a submission.

(5) The Committee shall grant permission under subsection (4) only if it considers that any appearance is necessary in the interests of justice, and any person to whom such permission is granted shall be a party to the proceedings.

Compare: 1983 No 14 ss 22, 28A(8), (9); 1986 No 34 s 9

292 Evidence before Committee

(1) The Catch History Review Committee may receive in evidence any statement, document, information, or matter that may, in its opinion, assist it to deal effectively with the matter before it, whether or not the same would otherwise be admissible in a court but, unless expressly otherwise provided in this Act, the Committee shall not receive in evidence any records or returns required to be provided under this Act or the Fisheries Act 1983 that either have not been provided to the chief executive or were provided to the chief executive after the date by which they were required to be provided.

(2) The Committee may, if it thinks fit, in respect of any matter before it,—

(a) examine on oath or otherwise all or any of the following:

(i) the appellant:

(ii) any other party (including any person granted permission under section 291(4)):

(iii) any person whose evidence has been received by the Committee under subsection (1):

(b) require any person to verify by statutory declaration any statement made by him or her with respect to the proceedings.

(3) Any proceedings (including any application made or information filed before the commencement of any proceedings) before the Committee shall be judicial proceedings for the purposes of this Act or any other Act (including the Crimes Act 1961).

Compare: 1983 No 14 ss 23, 28A(5); 1986 No 34 s 9

293 Decision of Committee

(1) In considering any matter before it, the Catch History Review Committee shall—

(a) confine itself to the evidence, written submissions received under section 291(3), submissions presented by the parties, and its own expertise and knowledge; and

(b) exclude any member's personal knowledge of the matter gained otherwise than through the hearing of the matter before the Committee.

(2) Every decision of the Committee shall—

(a) be in writing; and

(b) state the reasons for the decision; and

(c) be notified to the parties, and the chief executive; and

(d) be available to the public, except that the Committee may—

(i) delete information that it considers commercially sensitive:

(ii) make copies of the decision available on payment of a reasonable charge.

(3) The Committee shall record its decisions in a register.

(4) Every decision of the Committee shall be final unless challenged by an application for review under the Judicial Review Procedure Act 2016.

(5) Notwithstanding any other enactment or rule of law, a court shall not hear or determine, and no person shall make or commence, any application or other proceedings whatever in respect of a decision or purported decision of the Committee unless the application is, or the proceedings are, made or commenced within 90 days after the date of the decision or purported decision.

(6) Every decision of the Committee shall contain a statement as to the effect of subsections (4) and (5).

Compare: 1983 No 14 s 28I; 1986 No 34 s 10; 1989 No 159 s 55; 1992 No 137 s 2

Section 293(2)(c): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 293(4): amended, on 1 March 2017, by section 24 of the Judicial Review Procedure Act 2016 (2016 No 50).

Section 293(5): amended, on 1 October 2001, by section 29 of the Fisheries Amendment Act 2001 (2001 No 65).

Administration generally

294 Use of outside agencies in performance of functions under Act

(1) The chief executive may perform his or her functions, duties, and powers,—

(a) by his or her own employees; or

(b) by entering into an arrangement or contract with any other agency or any other instrument of the Crown or any corporation sole, body of persons (whether corporate or unincorporate), or individual.

(2) Before deciding to perform any function, duty, or power by an arrangement or contract under subsection (1), the chief executive shall take into account the following matters:

(a) whether the function, duty, or power might be more efficiently provided by the chief executive's own employees:

(b) the desirability of retaining institutional knowledge within the Ministry:

(c) whether entering into such an arrangement or contract will limit the chief executive's ability to adequately meet his or her statutory obligations.

(3) In deciding how to perform any function, duty, or power under subsection (1)(b), the chief executive shall give due consideration to the advantages and disadvantages of different options.

(4) Before entering into any arrangement or contract under subsection (1)(b), the chief executive may, after consultation with the Minister, set contract standards and contract specifications or both which shall be complied with by the other party to the arrangement or contract.

(4A) The chief executive may, after consultation with the Minister and the other party to the arrangement or contract, amend or revoke contract standards and contract specifications set under subsection (4).

(5) No arrangement or contract under subsection (1)(b) between the chief executive and any other party (other than an agency of the Crown or other instrument of the Crown) may provide for that other party (or person acting on behalf of that other party) to perform or exercise any power that is conferred or imposed on fishery officers (other than honorary fishery officers or examiners) by or under Part 6 of the Fisheries Act 1983 or by or under this Act.

(6) Nothing in this section or in any arrangement or contract entered into under the authority of this section relieves the chief executive of the obligation to perform or ensure the performance of any function, duty, or power imposed on the chief executive by this Act or any other Act.

Section 294(4): amended, on 9 September 1999, by section 64(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 294(4A): inserted, on 1 October 2004, by section 52 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 294(5): substituted, on 9 September 1999, by section 64(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

295 Notification of appointments and places for provision of information

(1) The chief executive may, by notice in the *Gazette*,—

(a) notify the appointment of any person or organisation to any position under this Act; and

(b) notify that any person or organisation shall perform any of the powers, functions, and duties of the chief executive under any arrangement or contract under section 294(1)(b); and

(c) appoint places where notices, objections, requests, applications, accounts, records, returns, and other information and documents shall be provided or received under this Act, including places for the purpose of the electronic transmission of accounts, records, returns, transactions, information, notices, objections, requests, applications, and other documents.

(2) Notwithstanding anything to the contrary in this Act, any notice, objection, request, application, account, record, return, or any other information or document that is required by or under this Act to be provided at any particular place appointed by a notice under subsection (1) shall be deemed not to have been provided until it has been received at that place.

(3) Notwithstanding anything to the contrary in this Act, any notice, objection, request, application, account, record, return, or any other information or document that is required by or under this Act to be provided in a prescribed or approved manner or form, or accompanied by a prescribed fee, shall be deemed not to have been provided until it has been completed and provided in the prescribed or approved manner or form, or accompanied by the prescribed fee.

(4) Subject to subsection (4) of section 294, if the chief executive enters into any arrangement or contract under subsection (1)(b) of that section,—

(a) any function, duty, or power of the chief executive that forms the subject of the arrangement or contract, and is required by any enactment, regulation, instrument, or document to be performed by the chief executive, may, subject to the terms and conditions of that arrangement, be carried out at such place and by such person with whom the chief executive has entered into the arrangement or contract as the chief executive may specify by notice in the *Gazette* under subsection (1):

(b) any person with whom the chief executive has entered into the arrangement or contract may, subject to the terms and conditions of the arrangement or contract, give, provide, or demand any notice, account, record, return, information, demand, or any other thing in relation to any function, duty, or power of the chief executive that forms the subject of the arrangement or contract, and is required by any enactment, regulation, instrument, or document to be given, provided, or demanded by the chief executive.

Section 295(2): amended, on 1 October 2004, by section 53 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 295(3): amended, on 1 October 2004, by section 53 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

296 Electronic transmission

(1) For the purpose of this Act, the chief executive may approve the transmission of accounts, records, returns, transactions, information, notices, objections, requests, applications, or other documents provided for under this Act by means of electronic transmission.

(2) An approval under subsection (1)—

(a) may relate to any person or any 1 or more classes of person:

(b) may relate to any 1 or more classes of accounts, records, returns, transactions, information, notices, objections, requests, applications, or other documents:

(c) may specify the person or organisation to whom the accounts, records, returns, transactions, information, notices, objections, requests, applications, or other documents shall be transmitted:

(d) may specify the method of transmission that may be used:

(e) shall be subject to such conditions and other provisions (if any)—

(i) as may be set out for the purposes of this section in regulations made under section 297; or

(ii) determined by the chief executive.

(3) The chief executive may alter or revoke any approval given under subsection (1).

Part 15A
Performance of services by approved organisations

Part 15A: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296A Interpretation

In this Part, unless the context otherwise requires, **specified functions, duties, or powers**—

(a) means any functions, duties, or powers of the chief executive, whether statutory or non-statutory in nature, that are—

(i) exclusively associated with the administration of quota; or

(ii) primarily associated with the administration of commercial fisheries; or

(iii) principally associated with the administration of fish farming; and

(b) includes the keeping of registers under sections 98, 124, and 186K; but

(c) does not include—

(i) any functions, duties, or powers of the Minister; or

(ii) any power conferred on fishery officers, honorary fishery officers, or examiners by or under the Fisheries Act 1983 or by or under this Act.

Section 296A: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 296A(a)(ii): amended, on 1 January 2005, by section 14(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 296A(a)(iii): added, on 1 January 2005, by section 14(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 296A(b): amended, on 1 January 2005, by section 14(2) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

296B Transfer of specified functions, duties, or powers to approved service delivery organisations

(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister after consultation with the Minister responsible for the administration of the Environment Act 1986, transfer any specified function, duty, or power to an approved service delivery organisation.

(2) An order transferring specified functions, duties, or powers to an approved service delivery organisation must—

(a) declare a person to be an approved service delivery organisation for such period as may be specified in the order; and

(b) state which functions, duties, or powers are transferred to the approved service delivery organisation.

(3) The Minister must not make a recommendation under subsection (1) unless the Minister is satisfied that—

(a) the proposed approved service delivery organisation is representative of quota owners who have an interest in those functions, duties, or powers; and

(ab) if the recommendation relates to a function, duty, or power associated with the administration of fish farming, the proposed approved service delivery organisation is representative of fish farmers who have an interest in the function, duty, or power; and

(b) the proposed approved service delivery organisation is a company incorporated under the Companies Act 1993; and

(c) the proposed approved service delivery organisation has the financial, management, and other resources to enable it to—

(i) assume responsibility for the carrying out of the functions, duties, or powers that are specified in the order; and

(ii) ensure that those functions, duties, or powers are carried out; and

(d) the proposed approved service delivery organisation—

(i) has provided the chief executive with a monetary deposit or bond in accordance with section 296D; or

(ii) has established and is maintaining an alternative arrangement in accordance with section 296D; and

(e) standards and specifications have been issued in relation to the functions, duties, or powers.

(4) An order under subsection (1) may—

(a) specify the rights of the Crown in relation to information and data received, held, or generated in relation to the performance or exercise of the functions, duties, or powers; and

(b) provide that the information and data specified in the order is the property of the Crown.

(5) An approved service delivery organisation or other person who knowingly falsifies information or data to which an order under subsection (4) relates commits an offence and is liable on conviction to the penalty set out in section 252(1).

(6) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 296B: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 296B(3)(ab): inserted, on 1 January 2005, by section 15 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 296B(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

296C Effect of transfer of specified functions, duties, or powers

(1) On and from the date specified for the purpose in the relevant order under section 296B,—

(a) an approved service delivery organisation has the specified functions, duties, and powers under the relevant provisions of this Act or the Fisheries Act 1983 specified in the order, and may perform or exercise those functions, duties, or powers as if they had been conferred or imposed on the organisation directly by the relevant enactment; and

(b) references to the chief executive (however expressed) in the provisions of this Act or the Fisheries Act 1983 specified in the order must be read as references to the approved service delivery organisation.

(2) An approved service delivery organisation is responsible to the Minister for ensuring that the specified functions, duties, or powers transferred to the organisation are performed or exercised in accordance with—

(a) all applicable standards and specifications; and

(b) all applicable directions given by the Minister under section 296Q.

(3) The chief executive must not perform or exercise, and is not responsible for the performance or exercise of, any specified function, duty, or power that is transferred to an approved service delivery organisation by an order made under section 296B while the order is in force.

(4) Subsections (1) to (3) apply despite anything in the Commerce Act 1986.

(5) An approved service delivery organisation may perform or exercise its functions, duties, and powers—

(a) by its own employees; or

(b) by entering into an agreement or arrangement with any other agency or any other instrument of the Crown or any corporation sole, body of persons (whether corporate or unincorporated), or individual.

Section 296C: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296D Minister must require payment of bond

(1) The Minister must require each approved service delivery organisation—

(a) to provide the chief executive with a monetary deposit or bond; or

(b) to establish and maintain an alternative arrangement that satisfies the Minister that the specified functions, duties, or powers to be performed or exercised by the approved service delivery organisation can be transferred, at no cost to the Crown, to the Crown or an approved service delivery organisation on the expiry or earlier revocation of an order made under section 296B.

(2) If a monetary deposit or bond is required under subsection (1), it must be sufficient, in the opinion of the Minister, to meet the Crown's transfer costs.

(3) If a monetary deposit or bond is provided by an approved service delivery organisation under subsection (1) and the Minister is satisfied, during the period for which the order under section 296B is in force, that the amount of that deposit or bond is no longer sufficient to meet the Crown's transfer costs, the Minister may require the organisation to increase the amount of the monetary deposit or bond accordingly; and the organisation must comply with that requirement.

(4) If a monetary deposit or bond is provided by an approved service delivery organisation under subsection (1) and the Minister is satisfied, during the period for which the order under section 296B is in force, that the amount required to meet the Crown's transfer costs is less than the amount of the monetary deposit or bond, the Minister may remit the amount of the monetary deposit or reduce the amount of bond accordingly.

(5) Part 7 of the Public Finance Act 1989 applies to any money paid to the chief executive by an approved service delivery organisation under this section.

(6) Any money paid to the chief executive under this section must be applied by the chief executive towards the payment of the Crown's transfer costs.

(7) The approved service delivery organisation is entitled to receive all interest from time to time earned on the money while it is held by the chief executive.

(8) The chief executive must pay the balance remaining, after applying the money in accordance with subsection (6), to the approved service delivery organisation or the surety under the bond, as the case may be.

(9) In this section, **the Crown's transfer costs**—

(a) means any costs to the Crown arising from the transfer of specified functions, duties, or powers from the approved service delivery organisation to the chief executive or to another approved service delivery organisation on the expiry or earlier revocation of an order made under section 296B; but

(b) does not include the value to the Crown of any property, rights, or obligations transferred under section 296H.

Section 296D: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Termination of orders transferring functions, duties, or powers

Heading: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296E Revocation of order transferring functions, duties, or powers to approved service delivery organisation

(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister, revoke or amend an order made under section 296B.

(2) The Minister may not make a recommendation under subsection (1) unless—

(a) the approved service delivery organisation named in the order has agreed to the recommendation by notice in writing to the Minister; or

(b) the requirements of subsection (3) have been satisfied and the Minister has complied with the requirements set out in subsection (4).

(3) The requirements of this subsection are that the Minister must be satisfied that—

(a) the approved service delivery organisation has—

(i) failed to comply with any applicable standards and specifications; or

(ii) failed to comply with an applicable direction under section 296Q; or

(iii) failed to maintain an alternative arrangement under section 296D(1)(b); or

(iv) failed to comply with a requirement under section 296D(3) to increase the amount of a monetary deposit or bond; or

(b) there is a serious problem with the organisation within the meaning of section 296ZE(2).

(4) The Minister must—

(a) give the approved service delivery organisation notice in writing of the Minister's intention to make the recommendation, accompanied by a statement of the Minister's reasons for the proposed recommendation; and

(b) give the approved service delivery organisation a reasonable opportunity to make submissions to the Minister in relation to the proposed recommendation; and

(c) consider any submissions made by the approved service delivery organisation.

(5) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 296E: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 296E(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

296F Effect of termination of transfer

If an order made under section 296B expires or is revoked by the Governor-General under section 296E, and the functions, duties, or powers specified in the order are not immediately transferred to the same approved service delivery organisation, then—

(a) the monetary deposit or bond (if any) held by the chief executive in relation to the approved service delivery organisation is forfeit to the chief executive, and must be applied in accordance with section 296D; and

(b) responsibility for the functions, duties, or powers is resumed by the chief executive.

Section 296F: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Transfer of property, rights, and obligations to chief executive

Heading: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296G Purpose of sections 296H to 296N

The purpose of sections 296H to 296N is to ensure that the chief executive is able to resume responsibility for any specified function, duty, or power on the expiry or revocation of an order made under section 296B.

Section 296G: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296H Minister may transfer property, rights, and obligations to chief executive

(1) If an order made under section 296B expires or is revoked by an order under section 296E (whether or not that order has come into force), the Minister may transfer to the chief executive,—

(a) by notice in writing to an approved service delivery organisation or any other person, any property of that organisation or person (including intellectual property) that is necessary for the performance or exercise of the functions, duties, and powers for which the organisation is or was responsible under the order made under section 296B; and

(b) by notice in writing to any person other than an approved service delivery organisation, any rights and obligations of an approved service delivery organisation under any agreement or arrangement (including an employment contract) with that person that relate to the performance or exercise of those functions, duties, or powers.

(2) The Minister must send a copy of a notice given under subsection (1)(b) to the approved service delivery organisation.

(3) In this section and sections 296I to 296N,—

intellectual property—

(a) has the meaning provided for in Article 2 of the Convention establishing the World Intellectual Property Organisation done at Stockholm on 14 July 1967 and in the World Trade Organisation Agreement on the Trade Related Aspects of Intellectual Property Rights done at Marrakesh on 15 April 1994; and

(b) includes all intellectual property rights, including (without limitation) rights relating to circuit layouts and semiconductor chip products, confidential information, copyright, geographical indications, patents, plant varieties, registered designs, registered and unregistered trade marks, and service marks

specified person means a person to whom a notice is given under subsection (1)(a) or (b) or subsection (2).

Section 296H: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296I Minister to give notice before transferring property, etc

The Minister may not give a notice under section 296H unless the Minister—

(a) gives the specified person notice in writing of the Minister's intention to transfer any property, rights, or obligations to the chief executive under that section, including a statement of—

(i) the property, rights, and obligations that the Minister proposes to transfer:

(ii) the amount of compensation, if any, that the Minister proposes will be payable to the specified person; and

(b) gives the specified person a reasonable opportunity to make submissions to the Minister in relation to the proposed transfer; and

(c) considers any submissions made by the specified person.

Section 296I: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296J Content of notice to transfer property, rights, and obligations

A notice given under section 296H must state—

(a) the date on which it takes effect, being a date no earlier than 30 days from the date on which the notice is given to the specified person; and

(b) that the specified person may, within the period specified in the notice, apply to the District Court for an order revoking the notice; and

(c) that the notice will take effect—

(i) if the person does not apply to the District Court, on the date specified in the notice; or

(ii) if the person applies to the District Court and the application is dismissed, on the date the application is dismissed.

Section 296J: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 296J(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 296J(c)(i): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 296J(c)(ii): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

296K Right of appeal to District Court

(1) A specified person may, within the period specified in a notice given under section 296H, apply to the District Court for an order revoking the notice.

(2) On an application under this section, if a District Court Judge is not satisfied that the transfer of any property, rights, or obligations to the chief executive is necessary for the performance or exercise of the functions, duties, or powers for which the approved service delivery organisation is or was responsible, the District Court Judge must—

(a) revoke the notice; or

(b) revoke that part of the notice that relates to that property, or to those rights or obligations.

Section 296K: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 296K(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

296L Date on which transfer of property takes effect

(1) A notice under section 296H takes effect,—

(a) if the specified person does not apply to the District Court under section 296K, on the date stated in the notice as the date on which it takes effect; or

(b) if the specified person applies to the District Court and the person's application is dismissed, on the date the application is dismissed.

(2) On the date that the notice takes effect—

(a) the property specified in the notice becomes the property of the chief executive; and

(b) the rights and obligations of the approved service delivery organisation under any agreement or arrangement specified in the notice become rights and obligations of the chief executive as if the chief executive, and not the organisation, had entered into the agreement or arrangement with the specified person.

(3) This section applies despite anything in any agreement or arrangement.

Section 296L: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 296L(1)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 296L(1)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

296M Compensation for transfer of property

(1) If property is transferred to the chief executive under section 296H, the Crown is liable to pay to the specified person the market value of the property transferred, as determined by a registered valuer at the request of the chief executive.

(2) No compensation payable by the Crown under this section may be paid out of the monetary deposit or bond held by the chief executive in respect of the approved service delivery organisation.

Section 296M: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296N Resolution of disputes regarding compensation

(1) If there is any dispute or difference between the Minister and a specified person as to the amount of compensation payable to the person under section 296M, the matter must be referred to arbitration, and the Arbitration Act 1996 applies accordingly.

(2) For the purposes of any such arbitration, this section is a submission to arbitration within the meaning of the Arbitration Act 1996, and the reference is to 1 arbitrator, who is to be appointed—

(a) by agreement between the Minister and the specified person; or

(b) if the Minister and the specified person fail to agree, by the President of the New Zealand Institute of Valuers Incorporated.

(3) Despite subsection (1), the parties may resolve the dispute or difference either before or after the matter is submitted to arbitration, and, if the agreement is made after the date of any award of arbitration, the award is cancelled.

Section 296N: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Powers of Minister in relation to approved service delivery organisations

Heading: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296O Minister may issue standards and specifications

(1) The Minister may, from time to time, issue standards and specifications relating to the performance or exercise of specified functions, duties, or powers by approved service delivery organisations, and may amend or revoke any standards and specifications issued.

(2) Standards and specifications issued under this section may, without limitation, specify or provide for all or any of the following:

(a) descriptions of the specified functions, duties, or powers to be performed or exercised by each approved service delivery organisation to which those functions, duties, or powers apply:

(b) quantitative measures that each approved service delivery organisation is required to meet in respect of the functions, duties, or powers:

(c) performance standards that each approved service delivery organisation is required to meet in respect of the functions, duties, or powers:

(d) measures that an approved service delivery organisation is required to take to avoid conflicts of interest in the performance or exercise of the functions, duties, or powers specified in the relevant order under section 296B:

(e) records that each approved service delivery organisation is required to keep in relation to the performance or exercise of those functions, duties, or powers:

(f) reports that each approved service delivery organisation is required to provide to the Minister in relation to the performance or exercise of those functions, duties, or powers:

(g) requirements as to the auditing of the operations of—

(i) each approved service delivery organisation; and

(ii) any person with whom the approved service delivery organisation has an arrangement under section 296C(5) in relation to the performance or exercise of those functions, duties, or powers:

(h) constraints on the performance or exercise of any functions, duties, or powers by each approved service delivery organisation.

(3) Standards and specifications issued under this section may apply to any 1 or more approved service delivery organisations, or to any class or classes of approved service delivery organisation.

(4) An approved service delivery organisation must comply with the standards and specifications that apply to the functions, duties, or powers for which it is responsible.

Section 296O: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296P Procedure for issuing standards and specifications

(1) Before issuing or amending standards and specifications under section 296O, the Minister must consult—

(a) the Minister responsible for the administration of the Environment Act 1986; and

(b) those classes of persons or those approved service delivery organisations that, in the opinion of the first-mentioned Minister, have an interest in the standards and specifications.

(2) Despite subsection (1), the Minister is not required to consult anyone if the Minister is satisfied that—

(a) the standards and specifications need to be issued or amended urgently; or

(b) the amendment is minor and will not adversely affect the substantial interests of any person.

(3) When the Minister issues or amends standards and specifications, the Minister must—

(a) give a copy of the standards and specifications to each approved service delivery organisation to which they relate; and

(b) publish a notice in the *Gazette* that complies with subsection (4).

(4) The notice published in the *Gazette* must—

(a) give a general indication of the nature of the standards and specifications; and

(b) specify where copies of the standards and specifications may be obtained.

Section 296P: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296Q Approved service delivery organisations must comply with directions

(1) The Minister may give a written direction to any approved service delivery organisation in respect of the performance or exercise by it of any specified functions, duties, or powers.

(2) The Minister may not give a direction in respect of—

(a) a specific application to the approved service delivery organisation; or

(b) a specific person.

(3) The Minister must—

(a) give a copy of the direction to each approved service delivery organisation to which the direction relates; and

(b) as soon as practicable after giving the written notice,—

(i) publish the direction in the *Gazette*; and

(ii) present a copy of it to the House of Representatives.

(4) When performing or exercising any specified functions, duties, or powers an approved service delivery organisation must comply with any direction given to it by the Minister in accordance with this section.

Section 296Q: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Sanctions for breach of standards and specifications or directions

Heading: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296R Sanctions for failing to comply with standards and specifications

(1) If an approved service delivery organisation fails to comply with any applicable standards and specifications, or with an applicable direction under section 296Q, the organisation is subject to sanctions under section 296W.

(2) Sanctions are civil penalties prescribed in regulations made under section 296ZI.

Section 296R: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296S Demerit points to be recorded by Minister

(1) This section applies if, in the opinion of the Minister, an approved service delivery organisation fails to comply with—

(a) any applicable standards or specifications; or

(b) any applicable direction under section 296Q.

(2) The Minister may record in respect of an approved service delivery organisation such number of demerit points for each failure referred to in subsection (1) as may be prescribed in regulations made under section 296ZI.

(3) If 2 or more such failures by an approved service delivery organisation occur in respect of the same set of circumstances,—

(a) the Minister must record demerit points in relation to 1 failure only; and

(b) if the failures do not carry the same number of demerit points, the Minister must record demerit points for the failure or one of the failures that carries the greatest number of points.

(4) Demerit points recorded under subsection (2) have effect on and from the date of the failure in respect of which the demerit points are recorded.

Section 296S: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296T Procedure for recording demerit points

(1) Before recording any demerit points in respect of an approved service delivery organisation, the Minister must give written notice to the organisation.

(2) The notice must state—

(a) the failure that makes the approved service delivery organisation liable to have the demerit points recorded against the organisation; and

(b) the number of demerit points specified in respect of that failure that the Minister proposes to record against the organisation; and

(c) the right of the organisation to object to the Minister's decision by giving written notice to the Minister within 20 working days after the date of the Minister's notice (**the stated 20-day period**); and

(d) that an objection must include a statement of the organisation's reasons for objecting; and

(e) the Minister's right to record the demerit points if—

(i) no objection is made within the stated 20-day period; or

(ii) an objection is made without a statement of reasons; and

(f) the consequences of further demerit points being recorded against the organisation.

(3) The Minister may withdraw a notice at any time, in which case demerit points will not be recorded against the organisation in respect of the failure specified in the notice.

Section 296T: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296U Demerit points recorded where no objection made

The Minister must record the prescribed demerit points under section 296S—

(a) if no objection is made within the stated 20-day period; or

(b) if an objection is made by an approved service delivery organisation that is not accompanied by a statement of reasons.

Section 296U: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296V Demerit points recorded where objection made

(1) This section applies if—

(a) an objection to the recording of demerit points, accompanied by a statement of reasons, is received from the approved service delivery organisation within the stated 20-day period; and

(b) the Minister does not accept the objection.

(2) The Minister may apply to the District Court for an order that the Minister may record the demerit points.

(3) The District Court must order the Minister to record the demerit points under section 296S if the Minister establishes on the balance of probabilities that the organisation has not complied with the standards and specifications or the direction to which the notice under section 296T relates.

(4) The court may award costs as if the matter were a criminal matter.

Section 296V: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 296V(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

296W Civil penalty imposed where demerit points recorded

(1) As soon as practicable after the end of each financial year, the Minister must calculate the total number of demerit points recorded under section 296S(2) against an approved service delivery organisation during that year.

(2) The Minister must advise the organisation as soon as reasonably practicable of the amount of civil penalty payable in respect of the total number of demerit points.

(3) The amount of civil penalty payable in respect of specified failures is prescribed in regulations made under section 296ZI.

(4) As soon as practicable after the end of each financial year, the Minister must cancel the demerit points recorded against an approved service delivery organisation in respect of that financial year, but the applicable civil penalty is payable despite the cancellation of those demerit points.

Section 296W: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296X Collection of civil penalty

(1) The Minister may recover a civil penalty in a court of competent jurisdiction, as if the penalty were a debt due to the Crown.

(2) In this case, the penalty includes the costs of the court and, if ordered, the Minister's costs relating to the application.

Section 296X: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296Y Penalties payable into Crown Bank Account

Every civil penalty under section 296W must be paid into a Crown Bank Account.

Section 296Y: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 296Y: amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

Fees

Heading: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296Z Fees

(1) An approved service delivery organisation may set fees and charges in respect of functions, duties, and powers performed or exercised by the organisation under an order made under section 296B.

(2) Fees may be set at any level as specified by the organisation.

(3) This section applies despite anything in this Act or in the Fisheries Act 1983, but does not limit the application of the Commerce Act 1986.

Section 296Z: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296ZAA Suspension of permit and refusal of services for non-payment of fees

(1) The chief executive may, by notice in writing, after giving a person prior notice in writing of the chief executive's intention to do so, suspend a fishing permit or licence or fish farmer's registration held by the person or refuse to accept for registration any caveat, mortgage, transfer of annual catch entitlement, or transfer of quota shares, or refuse to accept any application for vessel registration or application for the registration of an automatic location communicator, if—

(a) the person is liable to pay any fee charged under section 296Z; and

(b) the person has not paid the fee in full within 2 months after the date on which payment of the fee became due, or within the time allowed under an arrangement with the chief executive, as the case may be.

(2) The chief executive may suspend a fishing permit or licence or fish farmer's registration or refuse to provide the services specified in subsection (1) regardless of whether or not the fee has been charged on the person as a holder of the permit or licence or registration.

(3) If the person holds 2 or more fishing permits or licences, the chief executive may suspend such of the permits or licences as he or she considers appropriate.

(4) A fishing permit or licence or a fish farmer's registration suspended under this section has no effect during the period of the suspension.

(5) Any application for registration of a caveat, mortgage, transfer of annual catch entitlement, or transfer of quota shares, and any application for vessel registration or for the registration of an automatic location communicator is not effective during the period of suspension.

(6) The chief executive must lift a suspension imposed under this section or provide the services that have been refused under this section—

(a) if the outstanding fee is paid to the chief executive; or

(b) the chief executive and the person liable to pay the outstanding amount of the fee enter into an arrangement for repayment of that amount.

(7) A court may at any time, on application by the holder of a fishing permit or licence or a fish farmer's registration that has been suspended under this section or a person to whom the services specified in subsection (1) have been refused, make an order lifting the suspension subject to any sureties and conditions specified by the court.

Section 296ZAA: inserted, on 1 October 2004, by section 54 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 296ZAA(1): amended, on 1 January 2005, by section 16(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 296ZAA(2): amended, on 1 January 2005, by section 16(2)(a) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 296ZAA(2): amended, on 1 January 2005, by section 16(2)(b) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 296ZAA(4): amended, on 1 January 2005, by section 16(3) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 296ZAA(7): amended, on 1 January 2005, by section 16(4) of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Information disclosure requirements

Heading: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296ZA Regulations relating to information disclosure

(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) requiring approved service delivery organisations to make publicly available prescribed financial statements that follow generally accepted accounting principles, including profit and loss statements, balance sheets, and statements of accounting principles:

(b) requiring approved service delivery organisations to publish, in the prescribed manner, information in relation to the performance and exercise of specified functions, duties, and powers, and prescribing the information that the organisations must make available, which information must include—

(i) prices, terms, and conditions; and

(ii) pricing policies and methodologies; and

(iii) costs; and

(iv) cost allocation policies and methodologies; and

(v) performance measures, or information from which performance measures may be derived, or both:

(c) prescribing the form and manner in which the financial statements required by any regulations made under paragraph (a) must be made available:

(d) prescribing the form of statutory declaration, and the persons by whom a statutory declaration must be made, for the purposes of section 296ZB(3):

(e) prescribing the time limits within which the information disclosure required by any regulations made under this section must be made to the public:

(f) exempting or providing for the exemption of any person or class of persons from all or any of the requirements of any regulations made under this section:

(g) providing for the revocation of an exemption of any person or class of persons from all or any of the requirements of any regulations made under this section.

(2) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(3) If the regulations provide for the exemption of any class of persons under subsection (1)(f), or for the revocation of an exemption of any class of persons under subsection (1)(g),—

(a) the instrument granting or revoking the exemption is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and

(b) the regulations must contain a statement to that effect.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (2)		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (3)(a)		
Publication	See the relevant publication, presentation, and disallowance table in the secondary legislation referred to in subsection (2)	LA19 ss 73, 74, Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives, unless a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 296ZA: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 296ZA(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 296ZA(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

296ZB Information to be supplied to chief executive

(1) Every approved service delivery organisation must supply to the chief executive,—

(a) within 5 working days after the statements and information are first made available, a copy of all statements and information made available to the public under regulations made under section 296ZA; and

(b) any further statements, reports, agreements, particulars, or other information requested in writing by the chief executive that are reasonably

necessary for the purpose of monitoring the organisation's compliance with those regulations.

(2) Every approved service delivery organisation to whom a request is made under subsection (1)(b) must comply with the request within 30 days after receiving it, or within such further period as the chief executive may, in any particular case, allow.

(3) All statements, reports, agreements, particulars, or information supplied to the chief executive under subsection (1) must be verified by statutory declaration by the persons and in the form prescribed by regulations made under section 296ZA(d).

Section 296ZB: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296ZC Supply of information relating to business of approved service delivery organisation

(1) For the purpose of monitoring an approved service delivery organisation's compliance with regulations made under section 296ZA, standards and specifications, and directions under section 296Q, the Minister may, by notice in writing to the organisation, require the organisation to supply to the Minister specified information, data, and forecasts relating to the business, operation, or management of the organisation, and may require that information to be supplied for specified periods and in a specified form.

(2) The Minister may revoke, vary, or amend a notice by giving a subsequent notice to the organisation.

(3) An approved service delivery organisation commits an offence against this Act if it—

(a) fails to comply with any requirements of the Minister under this section; or

(b) supplies information or data that the organisation is required to supply under this section knowing that it is false or misleading in a material particular; or

(c) knowingly omits any material particular in any information or data that the organisation is required to supply under this section.

(4) The penalty on conviction for an offence against subsection (3)(a) is set out in section 252(3).

(5) The penalty on conviction for an offence against subsection (3)(b) or (c) is set out in section 252(1).

Section 296ZC: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296ZD Requirement that information be audited

(1) The Minister may, by notice in writing to an approved service delivery organisation, require any information or data that the organisation is required to supply under section 296ZC to be audited by an auditor approved by the Minister.

(2) An approved service delivery organisation commits an offence against this Act if it fails to comply with this section.

(3) The penalty on conviction for an offence against subsection (2) is set out in section 252(3).

Section 296ZD: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296ZE Disclosure of information to Minister

(1) Any person must disclose to the Minister information relating to the affairs of an approved service delivery organisation if, in the course of or in connection with performing the role of auditor of the organisation, the person forms an opinion that there is a serious problem with the organisation.

(2) For the purposes of this Part, **a serious problem** means the organisation—

(a) is not operating, or is likely not to operate, in any material respect in accordance with—

(i) the provisions of this Act or the Fisheries Act 1983 under which the organisation performs or exercises its functions, duties, or powers; or

(ii) any applicable standards and specifications; or

(iii) an applicable direction under section 296Q; or

(b) is insolvent or likely to become insolvent.

(3) For the avoidance of doubt, subsection (1) does not require a person who is an auditor of an approved service delivery organisation to perform or exercise functions, duties, or powers additional to those functions, duties, or powers that the person would ordinarily perform or exercise in the course of performing that role, other than to make disclosure to the Minister as required by subsection (1).

(4) This section applies despite any enactment or rule of law, or anything in a contract.

Section 296ZE: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296ZF Auditor to inform approved service delivery organisation of intention to disclose

An auditor must, before disclosing information to the Minister under section 296ZE, take reasonable steps to inform the approved service delivery organisation of—

(a) the auditor's intention to disclose the information; and

(b) the nature of the information.

Section 296ZF: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296ZG Protection of auditors

(1) No civil, criminal, or disciplinary proceedings lie against an auditor arising from the disclosure in good faith of information to the Minister under section 296ZE.

(2) No person may remove from office, or terminate the contract of appointment of, an auditor merely because of the disclosure in good faith of information to the Minister under section 296ZE.

(3) A tribunal, body, or authority having jurisdiction in respect of the professional conduct of an auditor must not make an order against, or do an act in relation to, that auditor in respect of the disclosure.

(4) Information received by the Minister under section 296ZE is not admissible in evidence in proceedings against the auditor concerned.

(5) Nothing in subsection (4) limits the admissibility of information obtained in any other way.

Section 296ZG: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

296ZH Unique identifiers

(1) The purpose of this section is—

(a) to enable approved service delivery organisations to assign to any person specified in section 189 unique identifiers that have been assigned by the chief executive; and

(b) to restrict approved service delivery organisations from using such unique identifiers for purposes other than carrying out the specified functions, duties, or powers transferred to them under section 296B.

(2) Despite information privacy principle 13(2) set out in section 22 of the Privacy Act 2020, an approved service delivery organisation may assign to any person specified in section 189 any unique identifier assigned to that person by the chief executive.

(3) This section does not authorise an approved service delivery organisation to use a unique identifier assigned by the chief executive, except for the purpose of carrying out the specified functions, duties, or powers that have been transferred to that approved service delivery organisation under section 296B.

Section 296ZH: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 296ZH(2): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

296ZI Regulations

(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) specifying those failures to comply with specified standards or specifications, or directions under section 296Q, in respect of which the Minister may record demerit points against an approved service delivery organisation:

(b) prescribing the number of demerit points to be recorded in respect of specified failures:

(c) prescribing the amount of civil penalties payable in respect of different amounts or levels of demerit points incurred by an approved service delivery organisation in any financial year.

(2) Without limiting subsection (1), regulations made under this section may provide for graduated scales of demerit points and civil penalties.

(3) The total amount of civil penalties that may be incurred by an organisation in any financial year, as prescribed by regulations made under this section, may not exceed $500,000.

(4) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 296ZI: inserted, on 9 September 1999, by section 65 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 296ZI(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Part 16
Miscellaneous provisions

297 General regulations

(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) regulating or controlling fishing and the possession, processing, and disposal of fish, aquatic life, or seaweed including any of the following:

(i) regulating, authorising, or prohibiting the taking or possession of any fish, aquatic life, or seaweed of any stock or species:

(ii) regulating, authorising, or prohibiting the taking or possession of fish, aquatic life, or seaweed from any area:

(iii) regulating or prohibiting the taking or possession of fish, aquatic life, or seaweed at any time, or for any period:

(iv) regulating or prohibiting the taking or possession of fish, aquatic life, or seaweed smaller, or larger, than a specified size:

(v) regulating or prohibiting the taking, possession, or disposal of any fish, aquatic life, or seaweed that is in any specified condition or exhibits specified physical characteristics:

(vi) regulating or prohibiting the return of fish, aquatic life, or seaweed to any waters:

(vii) regulating or prohibiting any method of fishing:

(viii) regulating or prohibiting the possession or use of any kind of gear, equipment, or device used for, or related to, fishing:

(ix) regulating or prohibiting the use of fishing vessels or fish carriers:

(x) regulating the number or weight of any fish, aquatic life, or seaweed that may be taken or possessed, whether by reference to any period or on any other basis whatever; and prohibiting the taking or possession of any number or weight of fish, aquatic life, or seaweed that exceeds the specified maximum number or weight:

(xi) regulating the methods, equipment, and devices to be used for determining the size or weight of any fish, aquatic life, or seaweed:

(xii) regulating the methods, equipment, and devices that may be used to process fish, aquatic life, or seaweed; and prohibiting the processing of fish, aquatic life, or seaweed otherwise than by that method or by use of such equipment or devices:

(xiii) regulating the methods by, or the circumstances under which, fish, aquatic life, or seaweed may be held, stored, conveyed, or identified, including the use of any containers, marks, or labels:

(b) *[Repealed]*

(c) providing for the issue, refusal, renewal, suspension, revocation, surrender, or modification of licences to receive fish, aquatic life, or seaweed by the chief executive, and the imposing of conditions on such licences, whether by the chief executive or otherwise, for persons who wish to act as fish receivers and to purchase or otherwise acquire or be in possession, in prescribed circumstances, of fish, aquatic life, or seaweed taken for the purpose of sale:

(ca) prescribing requirements or matters relating to the installation and maintenance of equipment (including electronic equipment) to observe fish-

ing or transportation, and to the payment of any associated prescribed fees and charges:

(d) requiring, or authorising the chief executive to require,—

(i) any applicant for any licence, permit, approval, or other authority under this Act; or

(ii) the holder of any such authority—

to provide to the chief executive such information as the chief executive may reasonably require for the purpose of this Act:

(e) defining the vessels or classes or types of vessels to which any regulations are to apply:

(f) conferring, and making any provisions with respect to, rights of appeal or review against decisions made under the regulations:

(g) prescribing details and conditions relating to the registration of fishing vessels and fish carriers and related matters, the method or methods of identifying fishing vessels and fish carriers, the identification marks or symbols or distinguishing flags to be carried by such vessels and by tenders and similar vessels carried by or attached to or used in conjunction with registered vessels, and the identification marks on sails, nets or seines, and other gear used in fishing, by vessels or otherwise:

(ga) requiring notified users and registered operators of vessels to notify the chief executive of the user of the vessel from time to time:

(h) prescribing the accounts, records, returns, and information that any person or class of persons may be required to keep or provide under Part 10 or any other provision of this Act, and providing for—

(i) the manner and form in which such accounts, records, returns, and information are to be kept or provided:

(ii) the time for or within which such accounts, records, returns, and information are to be kept or provided:

(iii) the person by or to whom such accounts, records, returns, and information are to be kept or provided:

(iv) the places where such accounts, records, returns, and information are to be kept or provided:

(ha) recognising, for the purposes of section 32(2)(b), any form of return or evidence of highly migratory species catch taken in an area outside New Zealand fisheries waters, and specifying any relevant date for the delivery of such return or evidence to the chief executive:

(hb) providing for the method of calculating provisional catch history for any highly migratory species to ensure consistency with the method used by an international fisheries organisation in determining New Zealand's national allocation for that species:

(i) making, for the purpose of this Act, rules and other provisions with respect to the manner and order in which catch is to be balanced against annual catch entitlements or individual catch entitlements, including rules—

(i) prescribing the manner of calculating reported catch and the information or evidence to be used as the basis for calculating such catch:

(ii) to be applied in the balancing of annual catch entitlements or individual catch entitlements against reported catch:

(iii) providing for remissions or refunds of deemed value amounts:

(j) prescribing for the auditing of licensed fish receivers, including regulations—

(i) requiring every licensed fish receiver to provide 1 or more certificates of system audit in respect of the receiving, accounting, and other systems required by this Act to be maintained by the licensed fish receiver, and requiring every licensed fish receiver to provide a description and details of such systems operated by that person:

(ii) specifying the frequency with which certificates of system audit and other documentation should be provided to the chief executive:

(iii) specifying the type or class of persons who may be approved by the chief executive to conduct audits and issue certificates of system audit:

(iv) providing for the issuing of circulars and notices by the chief executive in relation to the processes and methods of system audit to be applied by approved persons:

(k) making such provision as may be necessary or expedient for the purpose of giving effect to any determination in relation to any dispute made under section 123:

(l) prescribing forms and other documents required for the purpose of this Act:

(m) prescribing—

(i) the matters in respect of which fees or charges are payable under this Act, which may include, in relation to any application, an application fee and an additional processing charge:

(ii) the amounts of the fees or charges, or the method or rates (including hourly rates) by which they are to be assessed, which may differ depending on whether or not an application is processed on an urgent basis:

(iii) the persons liable to pay the fees or charges:

(iv) the circumstances in which the Minister or the chief executive may remit or waive payment of the whole or any part of the fees or charges:

(ma) without limiting paragraph (m), prescribing fees and charges payable under this Act in respect of the functions of the chief executive in relation to aquaculture activities or proposed aquaculture activities in the coastal marine area:

(mb) without limiting paragraph (m), prescribing fees and charges payable under this Act in respect of the functions of observers, including regulations—

(i) authorising the chief executive to determine the amount payable in individual cases within the minimum and maximum amounts or rates prescribed in the regulations:

(ii) prescribing different amounts or rates in respect of different areas or classes of vessels:

(iii) specifying the period in respect of which fees and charges are payable, which period may begin when the observer is available to board the vessel concerned while it is waiting in port:

(iv) specifying the method by which the amount payable in any case is to be determined:

(n) creating offences in respect of the contravention of, or non-compliance with, any regulations made under this Act; and providing for the imposition of fines not exceeding $100,000, including the imposition of different fines in respect of a first offence, a second offence, and subsequent offences:

(na) prescribing infringement offences against this Act (which offences may not be offences of taking or possession of fish by a commercial fisher):

(nb) prescribing the form of infringement notices and infringement offence reminder notices:

(nc) setting the infringement fee payable in respect of an infringement offence, which fee may not exceed $3,000; and setting different infringement fees for different infringement offences:

(nd) specifying serious non-commercial offences for the purposes of this Act, which offences must be offences against regulations made under this Act or the Fisheries Act 1983:

(o) implementing any provisions of, or giving effect to, any bilateral or multilateral treaty, convention, or agreement to which New Zealand is a signatory or a party, or any understanding concluded by the Government of New Zealand and the Government of any other country; and declaring any such regulations to apply beyond the outer limits of New Zealand

fisheries waters in respect of any New Zealand citizen, person entitled to reside in New Zealand indefinitely, body incorporated in New Zealand, or any New Zealand ship or vessel registered under this Act:

(oa) implementing or giving effect to provisional measures of an international court or tribunal:

(p) *[Repealed]*

(q) providing for the operation of registers under sections 98, 124, 186K, and 186ZE, including the electronic transmission of information:

(qa) prescribing, for the purposes of section 158(1), when an instrument (including an application) is to be treated as having been received for registration, and different rules may be prescribed for different types of instruments and for instruments presented by different means:

(r) *[Repealed]*

(s) prescribing such particulars and matters as are required to be shown in the Permit Register, the High Seas Permit Register, the Fishing Vessel Register, a Quota Register, and an Annual Catch Entitlement Register:

(sa) specifying the order in which the chief executive is to action transactions specified in the regulations for the purposes of section 63:

(t) specifying reasons on the basis of which applications to correct a register may be made under section 164, and on the basis of which the chief executive may correct a register under section 165:

(u) setting out conditions and other provisions that apply to approvals given under section 296 for the electronic transmission of accounts, records, returns, transactions, information, notices, objections, requests, applications, or other documents:

(v) prescribing circumstances in which, and times and places at which, a commercial fisher or a person authorised to fish in New Zealand fisheries waters under Part 5 is to notify the Ministry that the commercial fisher or person is intending to land any fish, aquatic life, or seaweed:

(w) closing an area or areas to commercial fishing, or prohibiting a method or methods of commercial fishing within an area or areas, for the purpose of better providing for recreational fishing for a stock under section 311:

(x) prescribing the matters required to be notified to commercial fishers under section 80(1):

(y) providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

(2) Without limiting anything in subsection (1), any such regulations may—

(a) authorise the Minister or the chief executive to issue or impose, as the case may be, any authority, approval, requirement, prohibition, restriction, condition, direction, instruction, order, permit, notice, or circular:

(b) exempt from compliance with or the application of any provisions of the regulations any person or species or vessel, or authorise the Minister or the chief executive to grant such exemptions as the regulations may specify.

(3) Without limiting anything in this section or section 299(1), regulations made under this section may apply in respect of—

(a) fishing to which Part 5 applies; and

(b) New Zealand nationals and New Zealand ships when they are outside New Zealand fisheries waters.

(4) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(5) Subsection (6) applies if regulations made under this section authorise any of the following:

(a) the chief executive to require information referred to in subsection (1)(d):

(b) the Minister or chief executive to remit or waive fees or charges referred to in subsection (1)(m)(iv):

(c) the Minister or chief executive to issue or impose an authority, approval, requirement, prohibition, restriction, condition, direction, instruction, order, permit, notice, or circular referred to in subsection (2)(a):

(d) the Minister or chief executive to grant exemptions referred to in subsection (2)(b).

(6) If this subsection applies,—

(a) an instrument exercising that authority is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements), unless it applies only to—

(i) 1 or more named persons; or

(ii) in the case of an exemption referred to in subsection (2)(b), 1 or more identified vessels; and

(b) the regulations must contain a statement to that effect.

(7) *[Repealed]*

Legislation Act 2019 requirements for secondary legislation referred to in subsection (4)		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (6)(a)		
Publication	See the relevant publication, presentation, and disallowance table in the secondary legislation referred to in subsection (4)	LA19 ss 73, 74, Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives, unless a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 297(1)(b): repealed, on 1 October 2004, by section 55(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 297(1)(ca): replaced, on 8 August 2014, by section 15(1) of the Fisheries (Foreign Charter Vessels and Other Matters) Amendment Act 2014 (2014 No 60).

Section 297(1)(ga): inserted, on 9 September 1999, by section 66(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 297(1)(ha): inserted, on 1 October 2004, by section 55(2) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 297(1)(hb): inserted, on 1 October 2004, by section 55(2) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 297(1)(i)(iii): substituted, on 9 September 1999, by section 66(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 297(1)(m): substituted, on 9 September 1999, by section 66(3) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 297(1)(ma): inserted, on 1 October 2011, by section 25 of the Fisheries Amendment Act 2011 (2011 No 68).

Section 297(1)(mb): inserted, on 8 August 2014, by section 15(2) of the Fisheries (Foreign Charter Vessels and Other Matters) Amendment Act 2014 (2014 No 60).

Section 297(1)(na): inserted, on 9 September 1999, by section 66(4) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 297(1)(nb): inserted, on 9 September 1999, by section 66(4) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 297(1)(nb): amended, on 1 October 2004, by section 55(3) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 297(1)(nc): inserted, on 9 September 1999, by section 66(4) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 297(1)(nd): inserted, on 9 September 1999, by section 66(4) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 297(1)(o): amended, on 1 October 2001, by section 30 of the Fisheries Amendment Act 2001 (2001 No 65).

Section 297(1)(oa): inserted, on 1 May 2001, by section 26(2) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 297(1)(p): repealed, on 25 August 2005, by section 75 of the Overseas Investment Act 2005 (2005 No 82).

Section 297(1)(q): amended, on 1 January 2005, by section 17 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 297(1)(qa): inserted, on 26 May 2001, by section 25 of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 297(1)(r): repealed, on 9 September 1999, by section 66(5) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 297(1)(s): amended, on 1 May 2001, by section 26(3) of the Fisheries Act 1996 Amendment Act (No 2) Act 1999 (1999 No 103).

Section 297(1)(sa): inserted, on 9 September 1999, by section 66(6) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 297(1)(t): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 297(3): substituted, on 1 May 2001, by section 26(4) of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 297(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 297(5): replaced, on 28 October 2021 (immediately after being inserted by section 3 of the Secondary Legislation Act 2021), by regulation 25 of the Legislation Act (Amendments to Legislation) Regulations 2021 (LI 2021/247).

Section 297(6): replaced, on 28 October 2021 (immediately after being inserted by section 3 of the Secondary Legislation Act 2021), by regulation 25 of the Legislation Act (Amendments to Legislation) Regulations 2021 (LI 2021/247).

Section 297(7): repealed, on 28 October 2021 (immediately after being inserted by section 3 of the Secondary Legislation Act 2021), by regulation 25 of the Legislation Act (Amendments to Legislation) Regulations 2021 (LI 2021/247).

298 Regulations relating to sustainability measures

(1) Without limiting the generality of section 297, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) implementing any sustainability measure or the variation of any sustainability measure set or varied under section 11, and such regulations may be made for all or any of the purposes referred to in that section:

(b) if there is no applicable approved population management plan for the time being in force under section 14F of the Wildlife Act 1953 or section 3E of the Marine Mammals Protection Act 1978, imposing such measures as may be necessary or expedient to avoid, remedy, or mitigate the effect of fishing-related mortality on any protected species, which measures may include setting a limit on fishing-related mortality:

(c) if there is an applicable approved population management plan for the time being in force under section 14F of the Wildlife Act 1953 or section 3E of the Marine Mammals Protection Act 1978, imposing such measures as may be necessary or expedient—

(i) to ensure that the maximum allowable fishing-related mortality level set by the relevant population management plan is not exceeded:

(ii) to further avoid, remedy, or mitigate any adverse effects of fishing on the relevant protected species:

(d) requiring, or authorising the Minister or the chief executive to require, any person or class of persons specified in section 189 to provide the Minister or the chief executive with such information relating to fishing-related mortality as the Minister or the chief executive may require for the purpose of this Act, including regulations requiring the information to be provided in a specified manner.

(2) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(3) If the regulations authorise the Minister or chief executive under subsection (1)(d) to require a class of persons to provide information relating to fishing-related mortality,—

(a) the instrument by which that requirement is imposed is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and

(b) the regulations must contain a statement to that effect.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (2)		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (3)(a)		
Publication	See the relevant publication, presentation, and disallowance table in the secondary legislation referred to in subsection (2)	LA19 ss 73, 74, Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives, unless a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 298(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 298(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

299 Regulations relating to foreign licensed access

(1) Without limiting the generality of section 297, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) prescribing, in relation to licences under section 83,—

(i) the manner of applying for licences:

(ii) the form of applications for licences:

(iii) the terms for which licences may be granted:

(b) providing for the production of such licences by licensees to specified New Zealand authorities when required to do so, and the inspection of licences by such authorities:

(c) requiring applicants for licences, and licensees, to designate authorised agents in New Zealand in respect of foreign fishing vessels:

(d) making such other provision as may be necessary or expedient to ensure that foreign fishing vessels are used for fishing within the exclusive economic zone only in accordance with the terms and conditions of their licences:

(e) prescribing the amount of the fees, charges, and royalties payable to the Crown under Part 5 or the method by which they are to be assessed, including different fees, royalties, or charges for different classes of foreign fishing vessels (whether by reference to size, catch, method of fishing, function, or otherwise), and their method of payment; and prescribing the circumstances in which any such fee, charge, or royalty, or any part of any fee, charge, or royalty may be refunded:

(f) prescribing particular types of highly migratory stock, and regulating, in a manner not inconsistent with Part 5, fishing for that stock within the zone:

(g) creating offences for breaches of any such regulations; and imposing in respect of such offences—

(i) in the case of an owner or operator of a foreign fishing vessel, fines not exceeding $500,000:

(ii) in the case of a licensee or master of a foreign fishing vessel, fines not exceeding $250,000:

(h) prescribing the forms of notices and the procedures (including procedures and approval methods for the service of notices) to be followed for the purposes of Part 5.

(2) Regulations made under this section may make different provision for different parts of the exclusive economic zone and for different stocks.

(3) Regulations made under subsection (1)(e) shall be made on the recommendation of the Minister and, in recommending the making of such regulations, the Minister may take into account the cost of implementing the provisions of this Act with respect to foreign fishing vessels within the exclusive economic zone, including the cost of managing fisheries resources, fisheries research, and the administration and enforcement of this Act and other relevant enactments.

(4) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1977 No 28 s 22; 1980 No 146 s 2(2)

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 299(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

299A Amendments to update Schedule 1A

(1) The Governor-General may from time to time, by Order in Council,—

(a) amend Schedule 1A by making amendments to the text of the Fish Stocks Agreement set out in that schedule that are required to bring the text up to date:

(b) revoke Schedule 1A, and substitute a new schedule setting out, in an up-to-date form, the text of the Fish Stocks Agreement.

(2) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 299A: inserted, on 1 May 2001, by section 27 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 299A(2): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

300 Dockside monitoring

(1) Without limiting the generality of section 297, the Governor-General may, by Order in Council, make regulations for all or any of the following purposes:

(a) requiring that fish, aquatic life, or seaweed be landed at designated landing sites or designated weighing stations, at specified times, with an appointed person present:

(b) providing for the designation of sites by the chief executive as landing sites or weighing stations, and providing for different sites to be so designated for different classes of vessels, stocks, or commercial fishers:

(c) requiring any owners, operators, or masters of vessels, or any permit holders, or any of them, to notify appointed persons of the intention to land fish, aquatic life, or seaweed:

(d) providing for the appointment of persons to inspect catch, and to monitor and verify the accuracy of any information recorded in the catch, effort, and landing returns (or other prescribed returns), and for the resignation or removal of such persons:

(e) empowering appointed persons to give directions as to the manner in which fish, aquatic life, or seaweed, or any prescribed returns, are to be presented for inspection:

(f) prescribing the form of documents to be completed, the time and manner in which such documents are to be completed, and the persons to whom completed documents are to be sent.

(2) The Crown, the chief executive, and appointed persons shall not be liable for any loss or damage caused as a result of any person lawfully carrying out functions or duties conferred or imposed by regulations made for any purpose referred to in subsection (1).

(3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 300(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

301 Regulations relating to freshwater fish farming

(1) Without limiting the generality of section 297, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) authorising persons, to be registered for the purpose, to construct and maintain ponds as fish farms for breeding and rearing fish (other than trout), aquatic life, or seaweed for sale subject to such conditions as are specified in the regulations:

(b) regulating the operation of fish farms subject to such conditions as are specified in the regulations, and prohibiting the operation of any such fish farm, and the sale, disposal, transport, or export of any fish, aquatic life, or seaweed from such a fish farm without a licence:

(c) providing for the registration of persons who may hold licences to operate fish farms and for the qualifications those persons are required to hold and the conditions with which they are required to comply before being granted registration and in order to remain registered:

(d) providing for the appointment of officers, including any class of officers with specialist qualifications, to inspect such fish farms and ensure that any regulations made under this section are enforced, and for the inspection of any such fish farm or facilities for processing or storing any fish, aquatic life, or seaweed reared on the farm:

(e) providing for the application for, issue, revocation, renewal, variation, and transfer of licences in respect of any such operation, and the form and contents of any such licence; and prescribing the fees payable in advance in respect of any such matter relating to any such licence and the fees payable annually or 6-monthly in advance for the continued validity of any such licence:

(f) specifying the species, subspecies, varieties, or hybrids of fish, aquatic life, or seaweed that may be bred or reared in any such farm; and regulating the types and quantities of food that may be fed to any such fish, aquatic life, or seaweed, and the methods of feeding:

(g) regulating or prohibiting the sale, possession, disposal, or processing of any such fish, aquatic life, or seaweed:

(h) providing for the keeping by the licensee of any fish farm of records of fish, aquatic life, or seaweed acquired, kept, and disposed of, and for the keeping of records relating to those fish, aquatic life, or seaweed by any other licensee or other person:

(i) prescribing the measures to be taken to avoid the outbreak, or on an outbreak, of any disease among the fish, aquatic life, or seaweed, and authorising or requiring the taking of any specimen, the testing of any thing, or the sampling of any substance present on any fish farm, and authorising or requiring the removal of any specimen or sample, or the destruction of diseased fish, aquatic life, or seaweed, whether with or without payment of compensation.

(2) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1983 No 14 s 91; 1991 No 149 s 26(1)

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 301(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

302 General provisions as to regulations

(1) Any regulations made under this Act may apply generally throughout New Zealand fisheries waters, generally throughout the high seas, or be made to apply only within such area or areas as may be defined for the purpose by the regulations.

(2) All authorities, approvals, requirements, conditions, directions, instructions, orders, permits, notices, and circulars issued or imposed under regulations made under this Act shall have effect according to their tenor and shall be complied with by all persons affected thereby.

Section 302(1): amended, on 1 May 2001, by section 28 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

302A *Gazette* notices may be consolidated

(1) The Minister may publish a notice in the *Gazette*—

(a) that revokes 1 or more notices that were given under this Act by the Minister and were required to be published in the *Gazette* and that are not secondary legislation; and

(b) that otherwise has the same effect as the revoked notices had immediately before they were revoked.

(2) The chief executive may publish a notice in the *Gazette*—

(a) that revokes 1 or more notices that were given under this Act by the chief executive and were required to be published in the *Gazette* and that are not secondary legislation; and

(b) that otherwise has the same effect as the revoked notices had immediately before they were revoked.

(3) Each part of the new notice that has the same effect as a part of a revoked notice that was given under a particular provision of this Act must be treated as having been given under that provision.

(4) Any prerequisites for publication of the new notice must be treated as having been satisfied, but only to the extent that the prerequisites for publication of the revoked notices were satisfied when they were published.

(5) A revoked notice continues to have effect, as if it had not been revoked, on any matter in a period to which the revoked notice applied.

(5A) *[Repealed]*

(6) In this section, in any particular case,—

new notice means—

(a) the notice published by the Minister under subsection (1) to replace the revoked notices; or

(b) the notice published by the chief executive under subsection (2) to replace the revoked notices

revoked notices means—

(a) the 1 or more notices revoked by the Minister's new notice under subsection (1)(a); or

(b) the 1 or more notices revoked by the chief executive's new notice under subsection (2)(a).

Section 302A: inserted, on 31 August 2012, by section 5 of the Fisheries Amendment Act 2012 (2012 No 63).

Section 302A(1)(a): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 302A(2)(a): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 302A(5A): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

303 Certain secondary legislation may be consolidated

(1) The Minister may make a notice under section 11(4)(b)(i), 15(5), 16(1), 17B(5)(b), 18, 19(5)(a) or (c), 19(5A), 33(1)(b), 113ZD(3), 186A, 312(3), 368(6), 368A(5) or (8), or 369(6)—

(a) that revokes 1 or more notices that were made under those sections by the Minister; and

(b) that otherwise has the same effect as the revoked notices had immediately before they were revoked.

(2) The chief executive may make a notice under section 186B, 186Q(1), 186Q(6)(b), 192A, 271, 313, or 368A(11)—

(a) that revokes 1 or more notices that were made under those sections by the chief executive; and

(b) that otherwise has the same effect as the revoked notices had immediately before they were revoked.

(3) Each part of the new notice that has the same effect as a part of a revoked notice that was made under a particular provision of this Act must be treated as having been made under that provision.

(4) Any prerequisites for making the new notice must be treated as having been satisfied, but only to the extent that the prerequisites for making the revoked notices were satisfied when they were made.

(5) A revoked notice continues to have effect, as if it had not been revoked, on any matter in a period to which the revoked notice applied.

(6) A new notice is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(7) In this section, in any particular case,—

new notice means—

(a) the notice made by the Minister under subsection (1) to replace the revoked notices; or

(b) the notice made by the chief executive under subsection (2) to replace the revoked notices

revoked notice means—

(a) a notice revoked by the Minister's new notice under subsection (1)(a); or

(b) a notice revoked by the chief executive's new notice under subsection (2)(a).

Legislation Act 2019 requirements for secondary legislation referred to in subsection (6)		
Publication	It must be published in the same way as the notices it revokes	LA19 ss 73, 74(1)(a), Sch 1 cl 14
	If it revokes a notice that had international transparency obligations under the CPTPP, it may also have those obligations. As a result the maker may also have to comply with s 75 of the Legislation Act 2019	LA19 ss 74(2), 75
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 303: replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 303(1): amended, on 28 October 2021, by regulation 26(2)(a) of the Legislation Act (Amendments to Legislation) Regulations 2021 (LI 2021/247).

Section 303(1)(a): amended, on 28 October 2021, by regulation 26(2)(b) of the Legislation Act (Amendments to Legislation) Regulations 2021 (LI 2021/247).

Section 303(2): amended, on 28 October 2021, by regulation 26(2)(a) of the Legislation Act (Amendments to Legislation) Regulations 2021 (LI 2021/247).

Section 303(2)(a): amended, on 28 October 2021, by regulation 26(2)(b) of the Legislation Act (Amendments to Legislation) Regulations 2021 (LI 2021/247).

Section 303(3): amended, on 28 October 2021, by regulation 26(3) of the Legislation Act (Amendments to Legislation) Regulations 2021 (LI 2021/247).

Section 303(4): amended, on 28 October 2021, by regulation 26(4)(a) of the Legislation Act (Amendments to Legislation) Regulations 2021 (LI 2021/247).

Section 303(4): amended, on 28 October 2021, by regulation 26(4)(b) of the Legislation Act (Amendments to Legislation) Regulations 2021 (LI 2021/247).

Section 303(7) **new notice** paragraph (a): amended, on 28 October 2021, by regulation 26(5) of the Legislation Act (Amendments to Legislation) Regulations 2021 (LI 2021/247).

Section 303(7) **new notice** paragraph (b): amended, on 28 October 2021, by regulation 26(5) of the Legislation Act (Amendments to Legislation) Regulations 2021 (LI 2021/247).

304 Circulars

(1) Regulations under this Act may provide for the promulgation from time to time by the chief executive of circulars specifying general criteria for the drawing up, accomplishment, demonstration, carrying on, or provision for any act, plan, proposal, matter, system, process, or thing.

(2) Where any act, plan, proposal, matter, system, process, or thing must be—

(a) approved by the chief executive or a fishery officer, it shall be deemed so to have been approved if it is in conformity with general criteria relating to it specified in a circular or circulars for the time being in force:

(b) accomplished, demonstrated, carried on, or provided for to the satisfaction of the chief executive or a fishery officer, it shall be deemed so to have been accomplished, demonstrated, carried on, or provided for if it is in conformity with general criteria relating to it specified in a circular or circulars for the time being in force:

(c) accomplished, demonstrated, carried on, or provided for to an extent that, in the opinion of the chief executive or a fishery officer, meets or tends to meet some particular result, it shall be deemed so to have been accomplished, demonstrated, carried on, or provided for if it is in conformity with general criteria relating to it specified in a circular or circulars for the time being in force.

(3) The powers of the chief executive or a fishery officer to approve or be satisfied of, or to take any action in relation to (a prerequisite to the taking of which action is that he or she may have a particular opinion about), any act, plan, proposal, matter, system, process, or thing shall not be limited or affected by any matter contained in a circular.

Compare: 1983 No 14 s 92

Section 304(2): amended, on 9 September 1999, by section 68(1)(a) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 304(2)(a): amended, on 9 September 1999, by section 68(1)(b) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 304(2)(b): amended, on 9 September 1999, by section 68(1)(b) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 304(2)(c): amended, on 9 September 1999, by section 68(1)(b) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 304(3): amended, on 9 September 1999, by section 68(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

305 Application of Commodity Levies Act 1990

Notwithstanding anything in the Commodity Levies Act 1990, that Act shall apply to any fish, aquatic life, or seaweed, and any other commodity (as defined in that Act) to which this Act applies with the following modifications:

(a) it shall be sufficient compliance with section 5(2)(ac) of that Act if the ballot paper described the proposal clearly, specifying in relation to it all the matters required by section 6(1) of that Act to be specified in a levy order, and the Minister is satisfied that the ballot paper indicated that the imposition of the levy was proposed to be on the basis of 1 or more of the following:

(i) quota shares in respect of the commodity:

(ii) the landed value of the commodity:

(iii) the greenweight or meatweight of the commodity:

(aa) if it is proposed that the levy will be imposed on the basis of 2 or more of the units of measurement in paragraphs (a)(i) to (iii), the Minister may approve the conversion of 1 or more of those units into another unit, being one of the units in paragraph (a)(i) to (iii) or another unit, if—

(i) the Minister is satisfied that it is reasonable to convert to another unit of measurement; and

(ii) the Minister is satisfied that the method of conversion is reasonable; and

(iii) the method of conversion is stated in the ballot paper:

(b) section 5(2)(af), and (ah) to (ak) of that Act is complied with if the Minister is satisfied that, during any period before the support referendum that the Minister thinks fit, supporters held or landed (as the case may be) more than half of whichever of the following is specified in the ballot paper:

(i) the quota shares:

(ii) the value of the commodity:

(iii) the greenweight or meatweight of the commodity:

(iv) 1 or more units of measurement in paragraphs (i) to (iii) converted into another unit of measurement under paragraph (aa).

(c) the enhancement of fisheries resources shall be a purpose for which a levy may be spent under section 10(2) of that Act.

Section 305(a): amended, on 9 September 1999, by section 69 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 305(aa): inserted, on 26 May 2001, by section 26 of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 305(b): substituted, on 26 May 2001, by section 26 of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

305A Powers of chief executive when false or misleading information given

(1) The chief executive may amend or revoke all or any part of an approval, authority, licence, permission, or permit given under this Act, or a decision made under this Act, or a registration completed under this Act, (the **specified action**) if—

(a) the chief executive is satisfied that the specified action was given, made, or completed on the basis of false or misleading information; and

(b) the false or misleading information was material to the giving, making, or completion of the specified action; and

(c) the chief executive gives notice in writing of his or her intention to amend or revoke the specified action to the appropriate one of the following:

(i) the holder of the approval, authority, licence, permission, or permit; or

(ii) the person in relation to whom the decision was made or the registration was completed; and

(d) the notice is accompanied by a statement of the chief executive's reasons for the proposed revocation or amendment; and

(e) the chief executive gives the person to whom the notice is given a reasonable opportunity to make submissions in relation to the proposed revocation or amendment; and

(f) the chief executive considers any submissions made by that person.

(2) An amendment or revocation under subsection (1) is made by giving notice in writing to the appropriate one of the following:

(a) the holder of the approval, authority, licence, permission, or permit; or

(b) the person in relation to whom the decision was made or the registration was completed.

Section 305A: inserted, on 9 September 1999, by section 70 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Provisions relating to applications

Heading: inserted, on 9 September 1999, by section 70 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

305B Requirements applying generally to applications and requests under this Act

(1) An application or a request made under this Act to the chief executive must comply with the following requirements:

(a) the application or request must be in the approved form (if any):

(b) the application or request must be supported by such evidence or information as may be specified in the approved form:

(c) the prescribed fee or charge (if any) must be paid in respect of the application or request.

(2) The chief executive may, but does not have to, accept an application or request if it does not comply with subsection (1).

(3) The lodging of an aquaculture agreement for registration under section 186ZH or a pre-request aquaculture agreement for registration under section 186ZM is to be treated as a request for the purposes of this section.

Section 305B: inserted, on 9 September 1999, by section 70 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 305B(3): added, on 1 January 2005, by section 19 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

Section 305B(3): amended, on 1 October 2011, by section 26 of the Fisheries Amendment Act 2011 (2011 No 68).

305C Chief executive may require additional information

(1) The chief executive may require an applicant or a person who makes a request under this Act to provide such relevant additional information or evidence as the chief executive considers necessary on reasonable grounds to enable the chief executive to consider the applicant's application or request.

(2) The chief executive may require any such information or evidence to be given by way of a statutory declaration.

Section 305C: inserted, on 9 September 1999, by section 70 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Provisions relating to notices

306 Giving of notices, etc

(1) Except as otherwise specified in this Act, if under this Act any notice or other document is to be given, served on, or furnished to any person, that notice or other document may be—

(a) given to the person personally; or

(b) sent by registered post to the person at the person's usual or last known place of business or abode; or

(c) given personally to any other person authorised to act on behalf of the person; or

(d) sent by registered post to that other person at that other person's usual or last known place of business or abode; or

(e) except in the case of any notice or document to be given or served in the course of or for the purpose of any proceedings for an offence against this Act, sent by post to the person, or any other person authorised to act on the person's behalf, at that person's or other person's usual or last known place of business or abode; or

(f) except in the case of any notice or document to be given or served in the course of or for the purpose of any proceedings for an offence against this Act, sent by electronic transmission to the person, or any other person authorised to act on the person's behalf, at that person's or other person's usual or last known address; and, for the purposes of this paragraph,—

(i) the term **electronic transmission** means any transmission of information sent electronically; and includes any transmission sent by facsimile, electronic mail, or electronic data transfer:

(ii) the term **address** means a facsimile number or an electronic mail address.

(2) Any notice or other document so sent by post or registered post shall be deemed to have been given, served, or received 7 days after the date on which it was posted, unless the person to whom it was posted proves that, otherwise than through that person's fault, the notice or document was not received.

Compare: 1983 No 14 s 88A; 1990 No 29 s 41

307 Ornamental fish

(1) For the purpose of this Act, the chief executive may from time to time, by notice, declare any species of fish, aquatic life, or seaweed to be or to no longer be ornamental fish.

(2) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 307(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 307(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

308 Protection of the Crown, etc

(1) No transfer of quota or annual catch entitlement by the chief executive under any of sections 22, 23, 26, 52, 67, 67A, and 347A—

(a) shall be regarded as placing the Crown or any other person in breach of, or default under, any contract or arrangement relating to quota or annual catch entitlements, except to the extent that specific provision to the contrary is made in the relevant contract or other arrangement; or

(b) shall invalidate any contract or other arrangement in relation to quota or annual catch entitlements, or be regarded as giving rise to a right for any person to terminate or cancel any such contract or other arrangement, except to the extent that specific provision to the contrary is made in the relevant contract or other arrangement; or

(c) shall be regarded as otherwise making the Crown guilty of a civil wrong.

(2) Nothing effected or authorised by—

(a) any provision of this Act that contains or provides for measures to ensure sustainability (including sustainability measures, conditions on permits, special permits, or licences for the purpose of ensuring sustainability, and the varying of any total allowable commercial catch as a direct consequence of a variation in the corresponding total allowable catch); or

(b) any provision of this Act that contains or provides for measures relating to the introduction of a stock to the quota management system (including the setting of the total allowable commercial catch and transitional provisions for bringing under this Act any species or classes of fish, aquatic life, or seaweed that were, immediately before the commencement of Part 4, subject to Part 2A of the Fisheries Act 1983); or

(ba) any provision of this Act providing or having the effect that catch history ceases to be the basis for quota allocation for any stock or species; or

(c) any of sections 11, 13, 14, 15, 16, 19, 22, 23, 25, 26, 29A, 45, 47, 52, 53, 54, 56 to 58B, 67, 67A, 81, 82, 147, 148, 163, 289, 319, 320, 321, 329, 338, 339, 340, 347A, 352, 362, 367, 368, 369, 369A, 369B, 369C, 369D, 369E, 369F, and 369T; or

(d) any provision of the Fisheries Act 1983 that is amended or enacted by this Act—

shall be regarded as making the Crown liable to pay compensation or damages to any person.

Section 308(1): amended, on 9 September 1999, by section 71(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 308(2)(ba): inserted, on 1 October 2004, by section 57(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 308(2)(c): amended, on 25 August 2005, by section 75 of the Overseas Investment Act 2005 (2005 No 82).

Section 308(2)(c): amended, on 1 October 2004, by section 57(2)(a) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 308(2)(c): amended, on 1 October 2004, by section 57(2)(b) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 308(2)(c): amended, on 1 October 2004, by section 57(2)(c) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 308(2)(c): amended, on 9 September 1999, by section 71(2)(a) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 308(2)(c): amended, on 9 September 1999, by section 71(2)(b) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 308(2)(c): amended, on 9 September 1999, by section 71(2)(c) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 308(2)(c): amended, on 9 September 1999, by section 71(2)(d) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

309 Power to withhold compensation where amounts owing to Crown

(1) Notwithstanding anything in section 28OL of the Fisheries Act 1983 but subject to subsection (2) of this section, if any person has failed to pay any fee or other amount (other than a fine) due by that person to the Crown under or in respect of any matter under this Act or the Fisheries Act 1983, the Crown may defer payment of any compensation payable to that person under Part 2A of that Act until the amount so due is paid.

(2) The amount of any compensation payment deferred under subsection (1) shall not exceed the amount so due.

310 Southern scallop enhancement programmes

(1) Any person or organisation may develop an enhancement programme for the southern scallop fishery, after consultation with the Minister and such other persons or organisations as the Minister considers to be representative of the classes of persons having an interest in the southern scallop fishery, including Maori, environmental, commercial, and recreational interests.

(2) No enhancement programme developed under subsection (1) shall be implemented in the southern scallop fishery, or varied, without the prior written approval of the Minister of Fisheries, which approval may be given subject to such conditions as the Minister may specify, and the payment of such fee (if any) as the Minister may impose for the purpose of approving the enhancement programme, and shall specify the person or organisation who shall be responsible for the implementation of the enhancement programme.

(3) Any enhancement programme approved under this section may be reviewed by the Minister and varied, from time to time, with the further approval of the Minister granted under subsection (2).

(4) Where the person or organisation responsible for implementation of the enhancement programme fails to implement the approved enhancement programme in accordance with any conditions the Minister has specified in giving his or her approval under subsection (2), or where, in the opinion of the Minister, the enhancement programme, once implemented, fails to enhance the fishery, the Minister may cancel the enhancement programme, in whole or in part, and, upon cancellation in whole, the Minister may recommend the removal of the stock from Schedule 3 in accordance with section 14.

(5) Nothing in any enhancement programme prevents the Minister from taking any sustainability measure under Part 3 in respect of the southern scallop fishery.

311 Areas closed to commercial fishing methods

(1) The Minister may, where—

(a) catch rates by recreational fishers for a stock are low; and

(b) such low catch rates have a significant adverse effect on the ability of recreational fishers to take their allowance for that stock; and

(c) the low catch rates are due to the effect of commercial fishing for the stock in the area or areas where recreational fishing for the stock commonly occurs; and

(d) a dispute regarding the matter has been considered under Part 7 and the Minister is satisfied that all parties to the dispute have used their best endeavours in good faith to settle the dispute but have failed to do so,—

after consulting with such persons or organisations as the Minister considers are representative of those classes of persons who have an interest in the matter, recommend the making of regulations under section 297 that close an area or areas to commercial fishing for that stock, or prohibit a method or methods of commercial fishing in an area or areas for that stock for the purpose of better providing for recreational fishing for that stock, provided that such regulations are not inconsistent with the Maori Fisheries Act 1989, the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, or Part 9.

(2) After determining to recommend the making of regulations under subsection (1), the Minister shall, as soon as practicable, give to the parties consulted in accordance with that subsection reasons in writing for his or her decision.

312 Prohibition on taking southern scallops for sale outside scallop season

(1) No person shall take any scallops from the southern scallop fishery, for the purpose of sale, except during the southern scallop season.

(2) No person shall take any scallops, for the purpose of sale, from any part of fishery management area 7 that is outside the southern scallop fishery.

(3) For the purposes of this Part, the Minister may from time to time, by notice,—

(a) specify any southern scallop season before the season commences:

(b) vary any southern scallop season while it is current.

(4) Every person commits an offence and is liable to the penalty set out in section 252(5) who contravenes subsection (1) or subsection (2).

(5) A notice under subsection (3) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 312(3): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 312(4): added, on 1 October 1998, by section 25 of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 312(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

313 Closure of southern scallop fishery

(1) If the chief executive is satisfied that, for the purpose of enhancing the southern scallop fishery or ensuring that scallop stocks are harvested efficiently, any part or parts of the fishery ought to be closed to commercial fishing, he or she may from time to time, by notice, prohibit commercial fishers from taking scallops from such part or parts of the fishery as may be specified in the notice.

(2) Every prohibition under subsection (1) shall have effect for the remainder of the southern scallop season to which it applies.

(3) Every commercial fisher commits an offence and is liable to the penalty set out in section 252(5) who takes any scallop in contravention of a prohibition made under subsection (1).

(4) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 313(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 313(3): added, on 1 October 1998, by section 26 of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 313(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Part 17
Repeals, amendments, validations, savings, and transitional provisions

Repeals and amendments

314 Repeals of provisions of Fisheries Act 1983

(1) The following provisions of the Fisheries Act 1983 are hereby repealed:

(a) *[Repealed]*

(b) *[Repealed]*

(c) *[Repealed]*

(d)–(zo) *Amendment(s) incorporated in the Act(s)*.

(2) The following enactments are hereby consequentially repealed:

(a) *Amendment(s) incorporated in the Act(s)*:

(b) the Territorial Sea and Exclusive Economic Zone Amendment Act 1980:

(c) the Territorial Sea and Exclusive Economic Zone Amendment Act 1985:

(d) *Amendment(s) incorporated in the Act(s)*:

(e) the Fisheries Amendment Act 1986:

(f) *Amendment(s) incorporated in the Act(s)*:

(g) *Amendment(s) incorporated in the Act(s)*:

(h) *Amendment(s) incorporated in the Act(s)*:

(i) *Amendment(s) incorporated in the Act(s)*:

(j) *Amendment(s) incorporated in the Act(s)*:

(k) *Amendment(s) incorporated in the Act(s)*:

(l) the Fisheries Amendment Act (No 2) 1990:

(m) *Amendment(s) incorporated in the Act(s)*:

(n) the Fisheries Amendment Act 1991:

(o) the Fisheries Amendment Act (No 2) 1992:

(p) *Amendment(s) incorporated in the Act(s)*:

(q) the Fisheries Amendment Act (No 3) 1992:

(r) the Fisheries Amendment Act 1993:

(s) the Fisheries Amendment Act 1994:

(t) *Amendment(s) incorporated in the Act(s)*:

(u) the Fisheries Amendment Act (No 2) 1994:

(v) *Amendment(s) incorporated in the Act(s)*:

(w) the Fisheries Amendment Act 1995.

(3) The Fisheries (Crown Contribution) Order 1995 (SR 1995/205) is hereby consequentially revoked.

(4) Without limiting anything in the Interpretation Act 1999, the repeal of any enactment by this section does not affect any amendment made to any enactment by any of the following enactments:

(a) section 108(5) of the Fisheries Act 1983:

(b) section 30 of the Fisheries Amendment Act 1986:

(c) sections 57 and 58 of the Fisheries Amendment Act 1990:

(d) section 31 of the Fisheries Amendment Act 1991:

(e) Part 2 of the Fisheries Amendment Act (No 2) 1992:

(f) section 37 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.

Section 314(1)(a): repealed (without coming into force), on 3 June 2017, by section 3(2) of the Statutes Repeal Act 2017 (2017 No 23).

Section 314(1)(b): repealed (without coming into force), on 3 June 2017, by section 3(2) of the Statutes Repeal Act 2017 (2017 No 23).

Section 314(1)(c): repealed (without coming into force), on 3 June 2017, by section 3(2) of the Statutes Repeal Act 2017 (2017 No 23).

Section 314(1)(x): repealed (without coming into force), on 1 January 2005, by section 19(2) of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 (2004 No 109).

Section 314(4): amended, on 1 November 1999, pursuant to section 38(1) of the Interpretation Act 1999 (1999 No 85).

315 Change of name of Fishing Industry Board Act 1963

[Repealed]

Section 315: repealed (without coming into force), on 26 May 2001, by section 5(2) of the Fishing Industry Board Repeal Act 2001 (2001 No 34).

316 Amendments to other enactments

(1) The Acts specified in Schedule 12 are hereby amended in the manner indicated in that schedule.

(2) The amendments set out in Part 1 of Schedule 12 shall be deemed to have come into force on 1 July 1995.

(3) The amendments set out in Part 2 of Schedule 12 shall be deemed to have come into force on 1 October 1995.

(4) The remaining parts of Schedule 12 shall come into force on 1 or more dates appointed under section 1(2).

317 Amendments to Fisheries (Catch Against Quota) Regulations 1993

[Repealed]

Section 317: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

318 Amendments to Fisheries (Cost Recovery Levies) Order 1995

(1)–(4) *Amendment(s) incorporated in the order(s).*

(5) Nothing in this section shall affect the liability of any person to pay the levies imposed by the Fisheries (Cost Recovery Levies) Order 1995 before its revocation.

(6) The Fisheries (Cost Recovery Levies) Order 1995 may hereafter be amended as if the amendments effected by this section had been effected by regulation and not by this section.

(7) Subsections (1) to (5) shall be deemed to have come into force on 1 December 1995.

319 Amendments to Fisheries (Quota Management Areas, Total Allowable Catches, and Catch Histories) Notice 1986

(1)–(3) *Amendment(s) incorporated in the notice(s).*

(4) Nothing in this section shall be regarded as conferring any new rights in respect of any species or classes of fish, aquatic life, or seaweed.

(5) The Fisheries (Quota Management Areas, Total Allowable Catches, and Catch Histories) Notice 1986 may hereafter be amended as if the amendments effected by this section had been effected by notice and not by this section.

320 Amendment to Fisheries (Jack Mackerel Quota Management Areas, Total Allowable Catches, and Catch Histories) Notice (No 2) 1987

(1) *Amendment(s) incorporated in the notice(s).*

(2) The Fisheries (Jack Mackerel Quota Management Areas, Total Allowable Catches, and Catch Histories) Notice (No 2) 1987 may hereafter be amended as if the amendments effected by this section had been effected by notice and not by this section.

321 Amendment to Fisheries (Squid Quota Management Areas, Total Allowable Catches, and Catch Histories) Notice 1987

(1) *Amendment(s) incorporated in the notice(s).*

(2) The Fisheries (Squid Quota Management Areas, Total Allowable Catches, and Catch Histories) Notice 1987 may hereafter be amended as if the amendments effected by this section had been effected by notice and not by this section.

Savings and transitional provisions

322 Relationship between offence provisions of Fisheries Act 1983 and this Act

(1) If there is any inconsistency between any provision of the Fisheries Act 1983 or the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977 (whether the provision has effect by virtue only of this Act or otherwise) and any provision of this Act (in so far as the provisions of this Act are in force), the provision of this Act shall prevail to the extent of the inconsistency.

(2) Until the repeal of sections 76 to 80, sections 81 to 83, and section 95 of the Fisheries Act 1983, the provisions of those sections shall—

(a) continue to apply; and

(b) apply in relation to the enforcement and administration of the provisions of this Act as if the provisions of this Act were provisions of the Fisheries Act 1983.

(3) On the commencement of Part 11, that Part shall apply in relation to the provisions of the Fisheries Act 1983 as if those provisions were provisions of this Act.

(4) Without limiting anything in the Interpretation Act 1999, the provisions of the Fisheries Act 1983 shall, notwithstanding their repeal by section 314, continue to apply to proceedings in respect of any offence against the Fisheries Act 1983 committed before the commencement of section 252.

(5) On the commencement of section 252, sections 254 and 256 shall apply in respect of offences against the Fisheries Act 1983 that are committed on or after the commencement of that section 252, as if the offences against the Fisheries Act 1983 were offences against this Act, save that any person convicted of such an offence shall be liable to the penalty applicable to that offence on the date of the commission of that offence.

(6) For the purposes of subsection (5), section 256 shall apply in respect of all property, fish, proceeds, quota, or interest in quota, forfeit or ordered to be forfeit to the Crown under section 107B of the Fisheries Act 1983.

Section 322(1): amended, on 1 August 1996, pursuant to section 5(4) of the Territorial Sea and Exclusive Economic Zone Amendment Act 1996 (1996 No 74).

Section 322(4): amended, on 1 November 1999, pursuant to section 38(1) of the Interpretation Act 1999 (1999 No 85).

323 Savings relating to regulations, etc

All regulations made under section 89 of the Fisheries Act 1983 (whether or not made exclusively under that section) and in force immediately before the commencement of this section are hereby deemed to be validly made under section 297 if validly made under the Fisheries Act 1983.

324 Savings relating to rock lobster regulations

The Fisheries (Rock Lobster Total Allowable Commercial Catch) Order 1996 (SR 1996/23) shall, until amended or revoked, continue in force and apply as if it were a valid notice made under section 28OB of the Fisheries Act 1983 varying a total allowable commercial catch; and any notice made under that section of that Act or under section 20 of this Act may revoke the Fisheries (Rock Lobster Total Allowable Commercial Catch) Order 1996.

325 Savings related to fish farming regulations

All regulations made under section 91 of the Fisheries Act 1983 (whether or not made exclusively under that section) and in force immediately before the commencement of this section are hereby deemed to be validly made under section 301 if validly made under the Fisheries Act 1983.

326 Savings related to territorial sea and exclusive economic zone

All regulations made under section 22 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977 (whether or not made exclusively under that section) and in force immediately before the commencement of this section are hereby deemed to be validly made under section 299 if validly made under that Act.

Section 326: amended, on 1 August 1996, pursuant to section 5(4) of the Territorial Sea and Exclusive Economic Zone Amendment Act 1996 (1996 No 74).

327 Savings related to commodity levy orders

On the date of commencement of section 305, all commodity levy orders made under the Commodity Levies Act 1990 in accordance with section 107EH of the Fisheries Act 1983, and in force immediately before that date, shall continue in force as if made in accordance with that section.

328 Savings relating to licences, approvals, and authorisations

Every licence, permit, approval, authority, notice, certificate, circular, direction, instrument, or other thing that—

(a) was issued, granted, given, or otherwise made under any provision of the Fisheries Act 1983, or any regulations made under that Act, that continues to apply by virtue of this Act; and

(b) had effect or purported to have effect immediately before the commencement of this section—

shall be deemed to be valid and to have been issued, granted, given, or otherwise made under the corresponding provision of this Act or of regulations made under this Act.

329 Validation of certain decisions relating to permits

(1) Every decision and every purported decision of the Director-General of Agriculture and Fisheries—

(a) made in respect of the issue, variation, refusal, revocation, or cancellation of any fishing permit under section 63 or any special permit under section 64 of the Fisheries Act 1983; and

(b) made before 1 October 1992—

is hereby declared to be and always to have been valid.

(2) Every decision and every purported decision of the chief executive (whether made by the chief executive or the Director-General of Agriculture and Fisheries)—

(a) made in respect of the issue, variation, refusal, revocation, or cancellation of any fishing permit under section 63 or special permit under section 64 of the Fisheries Act 1983; and

(b) made on or after 1 October 1992 but before the commencement of this section—

is hereby declared to be and always to have been valid.

(3) Subsection (1) does not apply to a decision or purported decision referred to in that subsection if the decision or purported decision is being challenged in or is otherwise subject to any court proceedings commenced before the date of commencement of this section.

(4) Subsection (2) does not apply to a decision or purported decision referred to in that subsection if—

(a) the decision or purported decision is being challenged in or is otherwise subject to any court proceedings commenced before the date of commencement of this section; or

(b) the applicant for the permit which was the subject of a decision or purported decision referred to in that subsection—

(i) has, before the commencement of this section, lodged with the chief executive; or

(ii) within 12 months after the commencement of this section, lodges with the chief executive—

a notice requesting the chief executive to review that decision or purported decision.

(5) Notwithstanding anything in section 93 of this Act or in section 63(13) of the Fisheries Act 1983, if a person has been or is granted a special permit under section 64(1)(c) of that Act or section 97(1)(c) of this Act, being a special permit granted to rectify an administrative error, the following provisions shall apply:

(a) the chief executive may from time to time, but is not obliged to, issue to the person an appropriate fishing permit in place of the special permit:

(b) upon the commencement of a fishing permit issued to any person under this subsection, the special permit held by that person shall be deemed to be revoked.

330 Certain fishing restrictions may affect quota management areas

A provision of any regulation made under this Act, or of any notice made under section 15 or section 16 or under regulations made under section 186, is not invalid merely because it conflicts with section 28B(5) of the Fisheries Act 1983.

331 Savings relating to fishery officers, examiners, and observers

(1) Every person who, immediately before the commencement of section 196, held office as a fishery officer appointed under the Public Service Act 2020 pursuant to section 76(1) of the Fisheries Act 1983 is hereby deemed to be a fishery officer appointed under the Public Service Act 2020 pursuant to section 196(1).

(2) Every person who, immediately before the commencement of section 197, held office as an honorary fishery officer under section 77 of the Fisheries Act 1983 is hereby deemed to be appointed as an honorary fishery officer under section 197.

(3) Every person who, immediately before the commencement of section 222, held office as an examiner under section 67B of the Fisheries Act 1983 is hereby deemed to be appointed as an examiner under section 222.

(4) Every person who, immediately before the commencement of section 223, held office as a scientific observer under section 67D of the Fisheries Act 1983 is hereby deemed to be appointed as an observer under section 223.

Section 331(1): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

332 Transitional provisions relating to registration of vessels where consent required under section 57(8) of Fisheries Act 1983

[Repealed]

Section 332: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

333 Cancellation of registration to which section 332 applies

[Repealed]

Section 333: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

333A Transitional provisions relating to foreign ownership

[Repealed]

Section 333A: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

334 Conversion of transferable term quota (rock lobster)

[Repealed]

Section 334: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

335 Savings relating to quota appeals

[Repealed]

Section 335: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

336 Savings relating to quota appeals after commencement of section 66

[Repealed]

Section 336: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

337 Transitional provisions relating to decisions of Catch History Review Committee

[Repealed]

Section 337: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

338 Transitional fishing year for packhorse rock lobster

[Repealed]

Section 338: repealed (without coming into force), on 3 June 2017, by section 3(2) of the Statutes Repeal Act 2017 (2017 No 23).

339 Transitional provisions relating to monthly and opening balances

[Repealed]

Section 339: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

340 Transitional provisions relating to allocation of annual catch entitlement

[Repealed]

Section 340: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

340AA Exceptions to minimum holdings of annual catch entitlement for certain paua stocks

[Repealed]

Section 340AA: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

340A Transitional provisions relating to underfishing

[Repealed]

Section 340A: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

341 Confirmation of quota

(1) On or before the commencement of Part 8, the chief executive shall give written notice to—

(a) each quota holder of all the details shown in respect of the holder in any register kept under section 28P of the Fisheries Act 1983, as at a date specified for the purpose in the notice; and

(b) every person who has been allocated guaranteed minimum individual transferable quota or guaranteed minimum transferable term quota under the Fisheries Act 1983 of the amount of the guaranteed minimum individual transferable quota or guaranteed minimum transferable term quota held by that person as at a date specified in the notice; and

(c) the persons referred to in paragraph (a) or paragraph (b), of their right to apply to the chief executive, before a date specified by the chief executive in the notice for the purpose, for a review of the details notified to that person under that paragraph.

(2) Where a person applies to the chief executive for a review of the details notified to that person under subsection (1), in accordance with the notice referred

to in paragraph (c) of that subsection, the chief executive shall review those details as soon as reasonably practicable and confirm or modify the details.

(3) If a person has been notified under subsection (1) of details referred to in that section, but does not seek a review of those details before the close of the date specified in the notice for the purposes of the review, the details notified to the person shall, as from the date specified in the notice under subsection (1)(a), be deemed to be correct.

(4) For the purposes of subsection (1), the chief executive may notify details to the same person on 1 or more occasions and may state details as shown on the relevant register at different dates, but,—

(a) if those details are deemed under subsection (3) to be correct; or

(b) if the person applies for a review of those details in accordance with this section and the chief executive confirms those details,—

then the details which formed the subject of the relevant notification under subsection (1)—

(c) shall not be reviewed under that subsection to the extent that the details relate to any period before the date specified in the notice under subsection (1)(a); and

(d) shall not be the subject of any review under the Fisheries (Catch Against Quota) Regulations 1993.

(5) On and from a date to be notified by the chief executive by notice in the *Gazette*, the chief executive shall refuse to receive for registration—

(a) any notifications of the transfer or lease of quota (other than a lease of quota for the purposes of section 28ZF or section 28ZG or section 105A(2) of the Fisheries Act 1983, expressed to take effect in the fishing year in which the notice is published, for those stocks in respect of which the fishing year begins on 1 October); and

(b) documents relating to such transactions or leases.

(5A) The chief executive must also refuse to receive for registration (whether before or after the date notified under subsection (5)) any notification of the transfer or lease of quota, and any related document, if the transfer, or lease, or related document is expressed to take effect on or after 1 October in the year in which Part 8 comes into force.

(6) After the date notified in the *Gazette* under subsection (5), the chief executive may make such entries in the relevant register kept under section 28P of the Fisheries Act 1983 and do such other things as may be necessary for the purposes of—

(a) giving effect to any decision under subsection (2) relating to any detail referred to in subsection (1)(a); or

(b) giving effect to any translation of guaranteed maximum individual transferable quota or guaranteed maximum transferable term quota into individual transferable quota under section 342; or

(c) registering any transaction received by the chief executive before the date notified in the *Gazette* under subsection (5).

(7) Notwithstanding anything in this section, if in any year, on or after a date to be notified by the chief executive by notice in the *Gazette*, the chief executive receives any transfers of annual catch entitlements which are expressed to take effect on 1 October in that year, the chief executive shall forward those transfers to the relevant Registrar of Annual Catch Entitlements on 1 October in that year, in the order in which they were received, as if those transfers were forward transfers under section 133.

(8) No notice referred to in subsection (7) shall be made before the date of the making of the Order in Council bringing section 66 into effect.

(9) Notwithstanding anything in the Fisheries Act 1983 or this Act, no transaction or lease referred to in subsection (5)(a) that was entered into at any time after the date specified by notice in the *Gazette* under subsection (5) shall have any effect under this Act.

Section 341(5A): inserted, on 26 May 2001, by section 31 of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

342 Guaranteed minimum individual transferable quota

[Repealed]

Section 342: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

343 Conversion of holdings from old register to new register

[Repealed]

Section 343: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

344 Savings relating to balancing

[Repealed]

Section 344: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

345 Transitional Register

(1) For the purposes of this Part, notwithstanding the repeal of Part 2A of the Fisheries Act 1983 by section 314, the register established under section 28P of that Act shall continue to have effect in respect of—

(a) transfers of individual transferable quota that take effect on or after 1 October in the year in which Part 8 comes into force and are notified to the chief executive before the date notified in the *Gazette* under section 341(5); and

(b) every lease of individual transferable quota that begins or ends on or after that 1 October in the year in which Part 8 comes into force and is notified to the chief executive before the date notified in the *Gazette* under section 341(5).

(2) The register established under section 28P of the Fisheries Act 1983 shall hereafter be known as the Transitional Register of Leases and Forward Transfers of Quota (or the Transitional Register).

(3) Any party to any lease recorded in the Transitional Register of Leases and Forward Transfers of Quota may, with the consent of the other parties to that lease, reduce the term of that lease.

(4) A lease recorded in the Transitional Register, or any rights, interests, or obligations in respect of that lease, cannot be assigned.

(5) A reduction of term under subsection (3) has no effect until it is registered by the chief executive on the Transitional Register.

(6) A reduction of term under subsection (3) must not be registered on the Transitional Register unless a party to the lease applies in the approved form (if any) to the chief executive and the application is accompanied by the prescribed fee (if any).

(7) In the case of any transfer or lease registered on the Transitional Register,—

(a) if the total allowable commercial catch for the stock concerned is reduced under section 20, the amount of quota to which the transfer or lease relates shall be reduced in the same proportion as the reduction in the total allowable commercial catch for the stock bears to the total allowable catch for the stock immediately before the reduction; but

(b) no transferee or lessee of the individual transferable quota for the stock that is subject to the transfer or lease is entitled to any additional individual transferable quota or annual catch entitlements under this Act merely because the total allowable commercial catch for that stock has been increased under section 20.

(7A) A transfer or lease registered on the Transitional Register is cancelled if—

(a) the total allowable commercial catch for the stock concerned is reduced to zero under section 20; or

(b) the quota for the stock concerned is cancelled because of an alteration of a quota management area under section 25.

(7B) The chief executive must notify the parties to a transfer or lease registered on the Transitional Register if the lease or transfer is cancelled under this Part.

(8) If—

(a) any determination of an appeal under section 336 necessitates a deduction of quota shares from any person in accordance with subsection (1)(d) of that section; and

(b) that person has entered into any lease or any other arrangement in relation to quota that is recorded on the Transitional Register whereby any other person is or may become entitled to acquire from that person any amount of quota shares under section 348 or annual catch entitlement under section 347,—

the amount of quota or annual catch entitlement which that other person is entitled to acquire, as recorded on that register, shall be reduced in the same proportion that the deduction of quota shares of the holder of the quota bears to the total quota shares of the holder immediately before the deduction.

(8A) The amount of quota or annual catch entitlement to which a lease or other arrangement relates must be reduced in the same proportion as the reduction in the quota holder's quota bears to the total quota shares of the holder immediately before the reduction.

(8B) Subsection (8A) applies if—

(a) a quota holder's quota is reduced under section 52; and

(b) that person has entered into a lease or other arrangement recorded on the Transitional Register in relation to that quota; and

(c) by virtue of that lease or other arrangement, another person is, or may become, entitled to acquire an amount of quota shares outright under section 348 or annual catch entitlement under section 347.

(9) For the purposes of this section, the term **lease** includes a sublease.

Section 345(4): substituted, on 1 October 2001, by section 33(1) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 345(5): substituted, on 1 October 2001, by section 33(2) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 345(6): substituted, on 1 October 2001, by section 33(2) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 345(7A): inserted, on 1 October 2001, by section 33(3) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 345(7B): inserted, on 1 October 2001, by section 33(3) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 345(8A): inserted, on 1 October 2001, by section 33(4) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 345(8B): inserted, on 1 October 2001, by section 33(4) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

346 Provisions relating to registration of caveats in respect of leases

[Repealed]

Section 346: repealed (without coming into force), on 26 May 2001, by section 34 of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

347 Provisions relating to registration of leases

(1) If any lease recorded in the Transitional Register of Leases and Forward Transfers of Quota under this Act has a commencement date that is on or after the

commencement of Part 8, the chief executive shall direct the Registrar of Annual Catch Entitlement to transfer from the lessor to the lessee under that lease,—

(a) on the commencement date of the lease, an amount of annual catch entitlement equivalent to the amount of the individual transferable quota for the stock that is subject to the lease as recorded in the Transitional Register; and

(b) if the lease is still in force, on the first day of the fishing year following the fishing year in which the lease commenced, and on the first day of every subsequent fishing year while the lease remains in force, an amount of annual catch entitlement equivalent to the amount of the individual transferable quota for the stock that is subject to the lease as recorded in the Transitional Register.

(2) If any lease recorded in the Transitional Register under this Act—

(a) has a commencement date that is before 1 October in the year in which Part 8 comes into force; and

(b) has a termination date that is on or after that 1 October,—

the chief executive shall direct the Registrar of Annual Catch Entitlement to transfer, subject to section 67, from the lessor to the lessee under that lease,—

(c) on that 1 October, an amount of annual catch entitlement equivalent to the amount of the individual transferable quota that is subject to the lease (as recorded in the Transitional Register); and

(d) if the lease is still in force, on the first day of the fishing year following that 1 October, and on the first day of every subsequent fishing year while the lease remains in force, an amount of annual catch entitlement equivalent to the amount of the individual transferable quota that is subject to the lease (as recorded in the Transitional Register).

(3) The chief executive must cancel registration of the lease and any sublease and not transfer any annual catch entitlement if—

(a) the lessor does not own an amount of annual catch entitlement equal to, or in excess of, the amount of quota that is subject to the lease or sublease (as recorded in the Transitional Register); or

(b) a caveat is registered over an amount of the lessor's annual catch entitlement preventing the transfer of an amount of annual catch entitlement equal to, or in excess of, the amount of quota that is subject to the lease or sublease (as recorded in the Transitional Register).

(4) If a lease registered on the Transitional Register under section 345 expires or otherwise ceases to have effect, the lessor is not entitled to receive a transfer back of any annual catch entitlement transferred to the lessee under subsection (1) or subsection (2).

(5) A transfer of annual catch entitlement under this section must be actioned in the order specified in regulations made under section 297(1)(sa).

(6) *[Repealed]*

Section 347(3): substituted, on 1 October 2001, by section 35(1) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 347(4): amended, on 1 October 2001, by section 35(2) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 347(5): substituted, on 1 October 2001, by section 35(3) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 347(6): repealed, on 1 October 2001, by section 35(3) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

347A Provisions relating to transfer of annual catch entitlement under leases in first fishing year

[Repealed]

Section 347A: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

348 Provisions relating to the registration of forward transfers of quota

(1) All forward transfers of quota recorded on the Transitional Register of Leases and Forward Transfers of Quota shall, for the purposes of section 132, be regarded as having been presented for registration on the day on which they are intended to take effect, and, for the purposes of section 158, shall be actioned in the order in which they were notified to the Ministry under section 28Q of the Fisheries Act 1983 and, except as otherwise provided in subsection (2) of this section, the chief executive shall action those transactions before any other quota transactions presented for registration on the day the forward transfer is intended to take effect.

(2) If the forward transfer of quota is intended to take effect at the beginning of a fishing year, the chief executive shall, for the purposes of section 64, action the transaction after any variations of the total allowable commercial catch are actioned but before the generation of annual catch entitlements is actioned.

(3) If insufficient unsecured quota for the relevant stock is available to cover the forward transfer, or the application fails to comply with section 132, the application shall be regarded as a defective application and shall have no effect under this Act.

(4) For the purposes of this section, the number of quota shares to be transferred under this section shall be calculated in accordance with the following formula:

$$(a \div b) \times 100\,000\,000 = c$$

where—

a is the amount of individual transferable quota (expressed in kilogrammes) for the stock subject to the transfer (as shown in the Transitional Register); and

b is the total allowable commercial catch for the stock (expressed in kilogrammes); and

c is the number of quota shares for the stock that are the subject of the transfer.

Section 348(1): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 348(2): amended, on 9 September 1999, pursuant to section 90(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

349 Provisions relating to caveats, etc, over converted quota

[Repealed]

Section 349: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

350 Transitional period for registration of mortgages

[Repealed]

Section 350: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

351 Special provisions relating to stocks with a fishing year beginning on 1 April

[Repealed]

Section 351: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

352 Existing agreements to fish against another person's quota

[Repealed]

Section 352: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

353 Statutory debts under Fisheries Act 1983

Notwithstanding the repeal of any provision of the Fisheries Act 1983 by section 314, all fees, charges, levies, and other amounts payable under the repealed provision or any regulation, order, notice, direction, or other instrument made or issued under that provision, and unpaid as at the repeal of that provision, shall continue to be due and payable as if that provision had not been repealed and, for the purposes of the provisions of this Act relating to the non-payment or recovery of any amount payable under this Act, are hereby deemed to be amounts payable under this Act.

354 Regulations in respect of transitional provisions

[Repealed]

Section 354: repealed, on 2 October 2002, by section 355.

355 Expiry of section 354

[Repealed]

Section 355: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

356 Dispute resolution

[Repealed]

Section 356: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

357 Provision relating to minimum quota holdings

(1) Every person who, immediately before the repeal of section 28S of the Fisheries Act 1983 by section 314, was entitled to take under quota or a lease of quota under the Fisheries Act 1983 an amount of fish, aquatic life, or seaweed less than the applicable minimum holding set out in section 28S(1) of that Act, shall be subject to section 74 as if that amount of quota had been allocated to that person under this Act.

(2) Every person who—

(a) immediately before the repeal of section 28S of the Fisheries Act 1983 by section 314 of this Act owned or held quota in excess of any minimum holding specified in section 28S(1)(a) or section 28S(1)(b) of the Fisheries Act 1983; and

(b) at the beginning of the fishing year in which this section comes into force is allocated, or has transferred to them under section 347 or section 347A, less annual catch entitlement for a stock listed in Schedule 8 than is specified in section 74(1),—

is subject to section 74 as if the amount of quota owned or held by that person immediately prior to the repeal of section 28S of the Fisheries Act 1983 had been allocated to that person under this Act.

(3) Where a lease was the basis for a person's allocation of annual catch entitlement for any stock referred to in subsection (2)(b), whether in whole or in part, subsection (2) ceases to apply in respect of that person and that stock when the lease expires or otherwise ends.

(4) This section is subject to section 340AA.

Section 357(2): added, on 1 October 2001, by section 31 of the Fisheries Amendment Act 2001 (2001 No 65).

Section 357(3): added, on 1 October 2001, by section 31 of the Fisheries Amendment Act 2001 (2001 No 65).

Section 357(4): added, on 1 October 2001, by section 31 of the Fisheries Amendment Act 2001 (2001 No 65).

358 Provisions relating to permissions granted to overseas quota owners under section 28Z of Fisheries Act 1983

[Repealed]

Section 358: repealed, on 25 August 2005, by section 75 of the Overseas Investment Act 2005 (2005 No 82).

358A Transitional provisions relating to sections 56 to 58 and 62

[Repealed]

Section 358A: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

359 Provision relating to aggregation limit consents granted under section 28W of Fisheries Act 1983

Every consent granted under section 28W(3) of the Fisheries Act 1983 and in force immediately before the date of the repeal of that section shall have effect, to the extent necessary, on and from that date as if it were a consent granted under section 60(1).

360 Provisions relating to taiapure-local fisheries

(1) Every taiapure-local fishery established under Part 3A of the Fisheries Act 1983 and in force immediately before the commencement of Part 9 of this Act shall be deemed to have been established under Part 9.

(2) Every proposal for, notice of, or inquiry into, any taiapure-local fishery that was commenced under Part 3A of the Fisheries Act 1983, and was pending or in progress immediately before the commencement of Part 9 of this Act, shall be deemed to have been commenced and to be pending or in progress, as the case may require, under Part 9.

361 Transitional offences and penalties

[Repealed]

Section 361: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

362 Allocation of quota for bait

[Repealed]

Section 362: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

363 Allocation of quota

(1) Subject to this Act, sections 30, 31, 32, 33, 34, 35, 36, 37, 39, 40, 41, 44, 45, 46, 47, 48, 49, 50A to 50G, 51, 52, 53, 54, and 55 and sections 283 to 296 shall apply to the allocation of quota declared by notice in the *Gazette* under section 28B of the Fisheries Act 1983 to be subject to the quota management system

under Part 2A of that Act on and from a date specified in the notice, being a date on or after 1 October 1996.

(2) For the purposes of this section,—

(a) any reference in the sections referred to in subsection (1) to a notice made under section 18 shall be read as a reference to the notice under section 28B of the Fisheries Act 1983:

(b) *[Repealed]*

(c) any reference in the sections referred to in subsection (1) to quota shares shall be read as referring to individual transferable quota, provisional individual transferable quota, or both, as the case may be:

(d) any reference in the sections referred to in subsection (1) to the Registrar of Quota shall be read as a reference to the chief executive, and every reference to the Register of Quota shall be read as a reference to the registers maintained under section 28P of the Fisheries Act 1983, in each case until Part 8 comes into force:

(e) the references in sections 35(6) and 39(2) to the quota weight equivalent of 80 000 000 shares shall be read as references to 80% of the total allowable commercial catch:

(f) the reference in section 44(1) to 20 000 000 shares of individual transferable quota shall be read as a reference to an amount of individual transferable quota equivalent to 20% of the total allowable commercial catch:

(fa) the reference in section 44(3)(a) to 80 000 000 quota shares must be read as a reference to an amount of quota equivalent to 80% of the total allowable commercial catch:

(g) the reference in section 46 to levies payable under Part 14 or to deemed value amounts shall be read as references to levies payable under the Fisheries Act 1983 and to deemed values demanded under section 28ZD of the Fisheries Act 1983, respectively, until the commencement of Part 14 or Part 4, as the case may be:

(h) section 47(1)(a) shall be read as if the words "the number of shares the quota weight equivalent of" were omitted, and there were substituted the words "an amount of individual transferable quota":

(i) section 47(1)(b) shall be read as if the words "the number of shares that bears the same proportion to the 80 000 000 shares of quota" were omitted, and there were substituted the words "an amount of individual transferable quota that bears the same proportion to the 80% of the total allowable commercial catch":

(j) section 50B(2)(b)(i) must be read as if the words "the number of shares the quota weight equivalent of" were omitted, and there were substituted the words "an amount of quota":

(k) the reference in section 50B(2)(b)(ii) to 100 000 000 quota shares must be read as a reference to an amount of quota equivalent to 100% of the total allowable commercial catch:

(l) the reference in section 50D(2)(a) to a rate per quota share must be read as a reference to a rate per tonne:

(m) the reference in section 50D(2)(b) to 20 000 000 quota shares must be read as a reference to an amount of quota equivalent to 20% of the total allowable commercial catch:

(n) the references in sections 50E and 50F(1) to 80 000 000 quota shares must be read as references to an amount of quota equivalent to 80% of the total allowable commercial catch:

(o) the reference in section 50F(2) to 80 000 000 must be read as a reference to the number of tonnes that is 80% of the total allowable commercial catch:

(p) the reference in section 50G to the rate per quota share must be read as a reference to the rate per tonne:

(q) section 53(3)(a) must be read as if the words "the number of shares the quota weight equivalent of" were omitted, and there were substituted the words "an amount of quota":

(r) the reference in section 53(3)(b) to 80 000 000 must be read as a reference to the number of tonnes that is 80% of the current total allowable commercial catch:

(s) the reference in paragraph (a) of the definition of encumbered in section 2(1)—

(i) to forfeiture under this Act must be read as if it were a reference to forfeiture under section 107B of the Fisheries Act 1983:

(ii) to the period of 35 working days referred to in section 62(3) or section 256(3) must be read as a reference to the 30-day period referred to in section 107C of the Fisheries Act 1983.

(3) The chief executive shall not notify any person of the matters specified in paragraphs (c) and (d) of section 48(1), but instead shall notify each person of the amount of individual transferable quota or provisional individual transferable quota allocated to that person, as the case may be.

(4) Despite section 53(1), in relation to every person to whom this section applies and is entitled to receive a transfer of individual transferable quota under section 52, the chief executive must—

(a) calculate the percentage of the total allowable commercial catch the person would have received under section 47 if he or she (and all other persons whose provisional catch history has since been altered) had owned the revised amount of provisional catch history on the date on which quota was allocated for that stock under section 47; and

(b) allocate the quota weight equivalent of the percentage calculated under paragraph (a) based on the total allowable commercial catch notified for that stock at the close of the last day of the fishing year in which section 52 applies.

Section 363(1): amended, on 1 October 2004, by section 58 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Section 363(1): amended, on 1 July 2000, by section 14(1) of the Fisheries Amendment Act 2000 (2000 No 20).

Section 363(2)(b): repealed, on 1 October 1999, by section 31(3) of the Fisheries Amendment Act 2000 (2000 No 20).

Section 363(2)(fa): inserted, on 1 July 2000, by section 14(2) of the Fisheries Amendment Act 2000 (2000 No 20).

Section 363(2)(j): added, on 1 July 2000, by section 14(3) of the Fisheries Amendment Act 2000 (2000 No 20).

Section 363(2)(k): added, on 1 July 2000, by section 14(3) of the Fisheries Amendment Act 2000 (2000 No 20).

Section 363(2)(l): added, on 1 July 2000, by section 14(3) of the Fisheries Amendment Act 2000 (2000 No 20).

Section 363(2)(m): added, on 1 July 2000, by section 14(3) of the Fisheries Amendment Act 2000 (2000 No 20).

Section 363(2)(n): added, on 1 July 2000, by section 14(3) of the Fisheries Amendment Act 2000 (2000 No 20).

Section 363(2)(o): added, on 1 July 2000, by section 14(3) of the Fisheries Amendment Act 2000 (2000 No 20).

Section 363(2)(p): added, on 1 July 2000, by section 14(3) of the Fisheries Amendment Act 2000 (2000 No 20).

Section 363(2)(q): added, on 1 July 2000, by section 14(3) of the Fisheries Amendment Act 2000 (2000 No 20).

Section 363(2)(r): added, on 1 July 2000, by section 14(3) of the Fisheries Amendment Act 2000 (2000 No 20).

Section 363(2)(s): added, on 1 July 2000, by section 14(3) of the Fisheries Amendment Act 2000 (2000 No 20).

Section 363(4): added, on 29 September 2000, by section 32 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

364 Further provisions relating to allocation of quota

(1) Any provisional individual transferable quota allocated under this Act while Part 2A of the Fisheries Act 1983 is in force has all the characteristics of, and is to be treated for all purposes of that Act as if it were, individual transferable quota except that it is not transferable.

(2) The provisions of sections 28S, 28W, and 28Z of the Fisheries Act 1983 shall apply to quota allocated under section 47 of this Act in accordance with section 363 of this Act as if it were quota allocated under section 28O of the Fisheries Act 1983.

(2A) On and from 30 September 1999, the provisions of sections 28S and 28W of the Fisheries Act 1983 apply to quota variations made in accordance with sec-

tions 52 and 53 of this Act as if those variations were variations to which sections 28OD and 28OE of the Fisheries Act 1983 related.

(3) Section 28V of the Fisheries Act 1983 shall not apply to any quota allocated under section 47 of this Act in accordance with section 363.

(3A) Despite subsection (3), section 28V of the Fisheries Act 1983 applies to any stock that becomes subject to the quota management system after the commencement of this subsection.

(4) The reference to "fishery management area" in section 28B(3) of the Fisheries Act 1983 shall be read as a reference to a fishery management area set out in Schedule 1.

(5) If the holder of any individual transferable quota that is subject to a reduction under section 52 has leased that quota to any person,—

(a) the right to take fish conferred on that person by that quota is reduced proportionately to the reduction in the quota of the holder of the quota; and

(b) any right to take fish conferred on any person under any sublease of the quota is reduced proportionately to the reduction in the quota of the person granting the sublease.

(6) If the holder of any quota that is reduced under section 52 has entered into any lease or any other arrangement in relation to quota, and that lease or other arrangement provides that any other person is or may become entitled to acquire any amount of quota outright, the amount of quota to which that entitlement relates is reduced proportionately to the reduction in the quota of the holder of the quota.

(7) The provisions of section 28OD(6), (7), and (8) of the Fisheries Act 1983 apply as if the quota reduction referred to in subsections (5) and (6) were a reduction of a total allowable commercial catch under section 28OB or section 28OC of that Act.

Section 364(2A): inserted, on 29 September 2000, by section 33 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

Section 364(3A): inserted, on 9 September 1999, by section 80 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 364(5): added, on 1 July 2000, by section 15 of the Fisheries Amendment Act 2000 (2000 No 20).

Section 364(6): added, on 1 July 2000, by section 15 of the Fisheries Amendment Act 2000 (2000 No 20).

Section 364(7): added, on 1 July 2000, by section 15 of the Fisheries Amendment Act 2000 (2000 No 20).

365 Cost recovery

[Repealed]

Section 365: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

366 Southern scallop enhancement programme

(1) Any enhancement programme determined by the Minister and having effect under section 28ZZE of the Fisheries Act 1983 immediately before the commencement of this section shall be deemed to be an enhancement programme approved by the Minister for the purposes of section 310, but section 28ZZE shall continue to apply to that enhancement programme.

(2) The enhancement programme referred to in subsection (1) may hereafter be varied in accordance with section 310.

Section 366(1): amended, on 23 June 1998, by section 31 of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

367 Allocation of jack mackerel quota

(1) Each person named in the first column of Part 1 of Schedule 9 is hereby allocated the amount of individual transferable quota for jack mackerel stated in the third column of that schedule opposite that person's name.

(2) Each person named in the first column of Part 2 of Schedule 9 is hereby allocated the amount of individual transferable quota for jack mackerel stated in the third column of that schedule opposite that person's name.

(3) The allocations referred to in subsection (1) relate to a quota management area comprising the areas described as fishery management areas 1 and 2 in Part 1 of Schedule 1.

(4) The allocations referred to in subsection (2) relate to a quota management area comprising the areas described as fishery management areas 3, 4, 5, and 6 in Part 1 of Schedule 1.

(5) Notwithstanding the Fisheries (Jack Mackerel Quota Management Areas, Total Allowable Catches, and Catch Histories) Notice (No 2) 1987 or any entitlement that, immediately before the commencement of this section, existed in respect of jack mackerel quota to which that notice related, no person is entitled to be allocated individual transferable quota for jack mackerel quota in any quota management area referred to in subsection (3) or subsection (4) unless the allocation is authorised by this section.

368 Allocation of Nelson-Marlborough dredge oyster quota

(1) On the commencement of this section, Nelson-Marlborough dredge oysters shall become subject to the quota management system under Part 2A of the Fisheries Act 1983.

(2) Each person named in the first column of Part 3 of Schedule 9 is hereby allocated the amount of individual transferable quota for dredge oysters stated in the third column of that schedule opposite that person's name.

(3) The initial total allowable commercial catch for Nelson-Marlborough dredge oysters shall be 505 tonnes.

(4) For the avoidance of doubt, the initial total allowable commercial catch referred to in subsection (3) may be altered from time to time under section 20 of this Act or section 28OB of the Fisheries Act 1983.

(5) No person shall take any Nelson-Marlborough dredge oysters for the purpose of sale except during the Nelson-Marlborough dredge oyster season.

(6) The Minister may, by notice,—

(a) specify any Nelson-Marlborough dredge oyster season before the season commences; and

(b) extend or shorten any Nelson-Marlborough dredge oyster season while it is current.

(7) A notice under subsection (6) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 368(6): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 368(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

368A Foveaux Strait dredge oyster fishery subject to quota system

(1) On 1 April 1998, Foveaux Strait dredge oysters become subject to the quota management system under Part 2A of the Fisheries Act 1983.

(2) Each person named in the first column of Part 5 of Schedule 9 is allocated the amount of individual transferable quota for dredge oysters stated in the third column of that schedule opposite that person's name.

(3) The initial total allowable catch for the Foveaux Strait dredge oyster fishery is 26 000 000 oysters.

(4) The initial total allowable commercial catch for the fishery is 14 950 000 oysters.

(5) The Minister may, by notice,—

(a) specify any Foveaux Strait dredge oyster season before the season commences:

(b) extend or shorten any Foveaux Strait dredge oyster season while it is current.

(6) Notwithstanding anything in section 13 or section 20 of this Act or section 28OB of the Fisheries Act 1983,—

(a) the Minister may, at any time after the commencement of a fishing year but before the commencement of the Foveaux Strait dredge oyster season in that year, increase the total allowable catch or the total allowable commercial catch (or both) for Foveaux Strait dredge oysters; and

(b) where the Minister does so, the increased total allowable catch or total allowable commercial catch has effect on and from the first day of that Foveaux Strait dredge oyster season.

(7) The fishing year ending immediately before 1 October 1998 is deemed to be the period 1 April 1998 to 30 September 1998 (both dates inclusive).

(8) The Minister may, by notice, prohibit the taking of Foveaux Strait dredge oysters from any specified area.

(9) Every person commits an offence and is liable to the penalty set out in section 252(5) who, for the purpose of sale,—

(a) takes any Foveaux Strait dredge oyster at any time other than during the Foveaux Strait dredge oyster season; or

(b) takes any Foveaux Strait dredge oyster from any prohibited area specified in a notice under subsection (8).

(10) For the purposes of the application of this Act in relation to the Foveaux Strait dredge oyster fishery,—

(a) the references to kilogrammes in this Act must be read as references to oyster numbers; and

(b) the references to greenweight or meatweight in section 305(a)(iii) must be read as references to oyster numbers.

(11) Notwithstanding anything in this Act or in any regulations made under this Act or under the Fisheries Act 1983, where any such regulations or any records, returns, or other documents prescribed by or referred to in such regulations contain a weight-related reference or requirement the chief executive may, by notice, specify that any such reference or requirement is to be treated in any specified situation or for any specified purpose (and requiring the application, if appropriate, of any conversion factor specified under section 188(5) of this Act or section 3A(6) of the Fisheries Act 1983) as a reference to oyster numbers in the case of matters affecting the Foveaux Strait dredge oyster fishery, and the regulations, records, returns, or other documents are to have effect accordingly.

(12) In this section the term **Foveaux Strait dredge oyster season** means a season fixed by the Minister under subsection (5).

(13) The following are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements):

(a) a notice under subsection (5) or (8):

(b) a notice under subsection (11), unless it applies only to 1 or more named persons.

(14) If a notice under subsection (11) is not secondary legislation, the chief executive must give the notice to the persons to whom it applies.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (13)		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 368A: inserted, on 1 April 1998, by section 10 of the Fisheries (Foveaux Strait Dredge Oyster Fishery) Amendment Act 1998 (1998 No 6).

Section 368A(5): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 368A(6)(a): amended, on 26 May 2001, by section 40(1) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 368A(6)(b): amended, on 26 May 2001, by section 40(2) of the Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

Section 368A(8): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 368A(10): substituted, on 9 September 1999, by section 82 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Section 368A(11): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 368A(13): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 368A(14): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

369 Allocation of Northland scallop quota

(1) On the commencement of this section, Northland scallops shall become subject to the quota management system under Part 2A of the Fisheries Act 1983.

(2) Each person named in the first column of Part 4 of Schedule 9 is hereby allocated the amount of individual transferable quota for Northland scallops stated in the third column of that schedule opposite that person's name.

(3) The initial total allowable commercial catch for Northland scallops shall be 188.561 tonnes.

(4) For the avoidance of doubt, the initial total allowable commercial catch referred to in subsection (3) may be altered from time to time under section 20 of this Act or section 28OB of the Fisheries Act 1983.

(5) No person shall take any Northland scallops for the purpose of sale except during the Northland scallop fishery season.

(6) The Minister may, by notice,—

(a) specify any Northland scallop fishery season before the season commences; and

(b) extend or shorten any Northland scallop fishery season while it is current.

(7) Every person commits an offence and is liable to the penalty specified in section 252(5) who contravenes subsection (5) of this section.

(8) A notice under subsection (6) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 369(6): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 369(7): added, on 23 June 1998, by section 32 of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 369(8): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

369A Pale ghost shark subject to quota management system

(1) On 1 October 1999, pale ghost shark becomes subject to the quota management system under Part 2A of the Fisheries Act 1983.

(2) Each person named in column 1 of Part 6 of Schedule 9 is allocated the amount of individual transferable quota for pale ghost shark set out in column 3 of that schedule opposite that person's name, and those allocations apply to pale ghost shark in quota management area GSP1 (which comprises the areas described as Fishery Management Areas 1, 2, 3, 4, and 10 in Part 1 of Schedule 1).

(3) Each person named in column 1 of Part 7 of Schedule 9 is allocated the amount of individual transferable quota for pale ghost shark set out in column 3 of that schedule opposite that person's name, and those allocations apply to pale ghost shark in quota management area GSP5 (which comprises the areas described as fishery management areas 5 and 6 in Part 1 of Schedule 1).

(4) Each person named in column 1 of Part 8 of Schedule 9 is allocated the amount of individual transferable quota for pale ghost shark set out in column 3 of that schedule opposite that person's name, and those allocations apply to pale ghost shark in quota management area GSP7 (which comprises the areas described as fishery management areas 7, 8, and 9 in Part 1 of Schedule 1).

(5) Despite any other enactment, no person is entitled to be allocated individual transferable quota for pale ghost shark unless the allocation is authorised by this section.

Section 369A: inserted, on 9 September 1999, by section 83 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

369B Southern blue whiting subject to quota management system

(1) On 1 November 1999, southern blue whiting in fishery management area 6 becomes subject to the quota management system under Part 2A of the Fisheries Act 1983.

(2) *Amendment(s) incorporated in the regulation(s).*

Section 369B: inserted, on 9 September 1999, by section 83 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

369C Allocation of quota for southern blue whiting in quota management areas SBW6A, SBW6B, SBW6I, and SBW6R

(1) Each person named in column 1 of Part 9 of Schedule 9 is allocated the amount of individual transferable quota for southern blue whiting set out in column 3 of that schedule opposite that person's name, and those allocations apply to southern blue whiting in quota management area SBW6A.

(2) Each person named in column 1 of Part 10 of Schedule 9 is allocated the amount of individual transferable quota for southern blue whiting set out in column 3 of that schedule opposite that person's name, and those allocations apply to southern blue whiting in quota management area SBW6B.

(3) Each person named in column 1 of Part 11 of Schedule 9 is allocated the amount of individual transferable quota for southern blue whiting set out in column 3 of that schedule opposite that person's name, and those allocations apply to southern blue whiting in quota management area SBW6I.

(4) Each person named in column 1 of Part 12 of Schedule 9 is allocated the amount of individual transferable quota for southern blue whiting set out in column 3 of that schedule opposite that person's name, and those allocations apply to southern blue whiting in quota management area SBW6R.

(5) Despite any other enactment, no person is entitled to be allocated individual transferable quota for southern blue whiting in any of quota management areas SBW6A, SBW6B, SBW6I, and SBW6R unless the allocation is authorised by this section.

Section 369C: inserted, on 9 September 1999, by section 83 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

369D Allocation of quota for southern blue whiting in quota management area SBW1

(1) On 1 November 1999, all provisional catch history allocated before that date in respect of southern blue whiting in any of fishery management areas 1, 2, 3, 4, 5, 7, 8, 9, and 10 becomes provisional catch history for southern blue whiting in quota management area SBW1.

(2) This section does not create a right to appeal under section 51(1).

(3) Subsection (2) is for the avoidance of doubt.

Section 369D: inserted, on 9 September 1999, by section 83 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

369E Southern blue whiting taken from 1 April 1999 to 31 October 1999

If a commercial fisher has quota allocated to the fisher under section 369C, any southern blue whiting taken by the commercial fisher in any of quota management areas SBW6A, SBW6B, SBW6I, and SBW6R, during the period commencing on 1 April 1999 and ending with the close of 31 October 1999, is deemed to have been taken under the quota for the quota management area in which it was taken for the purposes of—

(a) sections 28ZA, 28ZD, and 28ZF of the Fisheries Act 1983; and

(b) the Fisheries (Catch Against Quota) Regulations 1993.

Section 369E: inserted, on 9 September 1999, by section 83 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

369F Initial total allowable commercial catch and total allowable catch for southern blue whiting in quota management areas SBW6A, SBW6B, SBW6I, and SBW6R

(1) The initial total allowable commercial catch and total allowable catch, respectively, for southern blue whiting in quota management area SBW6A are each 1 640 tonnes.

(2) The initial total allowable commercial catch and total allowable catch, respectively, for southern blue whiting in quota management area SBW6B are each 15 400 tonnes.

(3) The initial total allowable commercial catch and total allowable catch, respectively, for southern blue whiting in quota management area SBW6I are each 35 460 tonnes.

(4) The initial total allowable commercial catch and total allowable catch, respectively, for southern blue whiting in quota management area SBW6R are each 5 500 tonnes.

(5) The following provisions are for the avoidance of doubt:

(a) any initial total allowable commercial catch referred to in this section may be altered from time to time under section 20 of this Act or section 28OB of the Fisheries Act 1983:

(b) any initial total allowable catch referred to in this section may be altered from time to time under section 13.

Section 369F: inserted, on 9 September 1999, by section 83 of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

369G Transitional provision relating to Chatham Islands fishers

[Expired]

Section 369G: expired, on 1 October 2003, by section 369H.

369H Expiry of section 369G

[Repealed]

Section 369H: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

369I South Island freshwater eel subject to quota management system

(1) On 1 October 2000, freshwater eel in quota management areas ANG11 to ANG16 becomes subject to the quota management system under Part 2A of the Fisheries Act 1983.

(2) Quota for freshwater eel in those quota management areas must be allocated in accordance with Part 2 of the Fisheries Amendment Act 2000.

(3) Subject to Part 2 of the Fisheries Amendment Act 2000, Part 4 of this Act (except sections 30 to 55) applies to freshwater eel in those quota management areas as if that stock were declared to be subject to the quota management system by notice in the *Gazette* under section 18.

(4) The fishing year for freshwater eel in those quota management areas is the year commencing on 1 October and ending with 30 September.

(5) The total allowable commercial catch and annual catch entitlements for freshwater eel in those quota management areas are to be expressed in greenweight.

Section 369I: inserted, on 1 July 2000, by section 16 of the Fisheries Amendment Act 2000 (2000 No 20).

369J Transitional provision relating to increase of total allowable catch for freshwater eel

[Expired]

Section 369J: expired, on 1 October 2001, by section 369K.

369K Expiry of section 369J

[Repealed]

Section 369K: repealed, on 1 October 2004, by section 60 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

369L Change to fishing year for ANG13

(1) Despite section 369I(4), the Governor-General may, by Order in Council, specify a period of 12 months commencing on each 1 February to be the fishing year for freshwater eel in quota management area ANG13.

(2) No order under subsection (1) may—

(a) provide for the proposed new fishing year to start before 1 February 2002; or

(b) be made during the period of 4 months immediately preceding the start of the proposed new fishing year.

(3) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(3) *[Expired]*

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 369L: inserted, on 1 July 2000, by section 16 of the Fisheries Amendment Act 2000 (2000 No 20).

Section 369L(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 369L(3): expired, on 1 February 2007, by section 369M.

369M Expiry of section 369L(3)

Section 369L(3) expires with the close of 31 January 2007.

Section 369M: inserted, on 1 July 2000, by section 16 of the Fisheries Amendment Act 2000 (2000 No 20).

Introduction of scampi into quota management system

Heading: inserted, on 13 August 2004, by section 5 of the Fisheries Amendment Act (No 2) 2004 (2004 No 71).

369N Scampi subject to quota management system

(1) On 1 October 2004 scampi in quota management areas SCI1, SCI2, SCI3, SCI4A, SCI5, SCI6A, SCI6B, SCI7, SCI8, SCI9, and SCI10 become subject to the quota management system under Part 4.

(2) In this section and sections 369O to 369R,—

(a) the references to quota management areas SCI1, SCI2, SCI5, SCI7, SCI8, SCI9, and SCI10 are references to the fishery management areas described by reference to the same numbers in Schedule 1:

(b) the references to SCI3, SCI4A, SCI6A, and SCI6B are references to the scampi quota management areas described by reference to those numbers in Schedule 13.

(3) The fishing year for scampi is the 12-month period commencing on 1 October.

(4) The total allowable commercial catch and annual catch entitlement for scampi in the quota management areas referred to in subsection (1) are to be expressed in greenweight.

Section 369N: inserted, on 13 August 2004, by section 5 of the Fisheries Amendment Act (No 2) 2004 (2004 No 71).

369O Allocation of provisional catch history

(1) Each person named in column 1 of Part 1 of Schedule 14 is allocated the amount of provisional catch history for scampi set out in column 3 of that part of that schedule opposite that person's name, and those allocations apply to scampi in quota management area SCI1.

(2) Each person named in column 1 of Part 2 of Schedule 14 is allocated the amount of provisional catch history for scampi set out in column 3 of that part of that schedule opposite that person's name, and those allocations apply to scampi in quota management area SCI2.

(3) Each person named in column 1 of Part 3 of Schedule 14 is allocated the amount of provisional catch history for scampi set out in column 3 of that part of that schedule opposite that person's name, and those allocations apply to scampi in quota management area SCI3.

(4) Each person named in column 1 of Part 4 of Schedule 14 is allocated the amount of provisional catch history for scampi set out in column 3 of that part of that schedule opposite that person's name, and those allocations apply to scampi in quota management area SCI4A.

(5) Each person named in column 1 of Part 5 of Schedule 14 is allocated the amount of provisional catch history for scampi set out in column 3 of that part of that schedule opposite that person's name, and those allocations apply to scampi in quota management area SCI5.

(6) Each person named in column 1 of Part 6 of Schedule 14 is allocated the amount of provisional catch history for scampi set out in column 3 of that part of that schedule opposite that person's name, and those allocations apply to scampi in quota management area SCI6A.

(7) Each person named in column 1 of Part 7 of Schedule 14 is allocated the amount of provisional catch history for scampi set out in column 3 of that part of that schedule opposite that person's name, and those allocations apply to scampi in quota management area SCI9.

Section 369O: inserted, on 13 August 2004, by section 5 of the Fisheries Amendment Act (No 2) 2004 (2004 No 71).

369P Notification of fishers allocated provisional catch history

(1) As soon as practicable after the date on which the Fisheries Amendment Act (No 2) 2004 comes into force, the chief executive must notify every person named in Schedule 14 of—

(a) the amount of provisional catch history allocated to the person under section 369O for each of the quota management areas SCI1, SCI2, SCI3, SCI4A, SCI5, SCI6A, and SCI9; and

(b) the person's right to appeal under section 51(1) (as read in accordance with section 369R(4); and

(c) the requirement that any appeal to the Catch History Review Committee must be lodged not later than the date specified for that purpose in the notification.

(2) The date referred to in subsection (1)(c) and specified in the notification must be not less than 20 working days after the date of the notification.

Section 369P: inserted, on 13 August 2004, by section 5 of the Fisheries Amendment Act (No 2) 2004 (2004 No 71).

369Q Public notification of provisional catch history allocation

(1) As soon as practicable after the date on which the Fisheries Amendment Act (No 2) 2004 comes into force, the chief executive must publicly notify—

(a) that provisional catch history for scampi has been allocated under section 369O; and

(b) that a person may appeal to the Catch History Review Committee under section 51(1) (as read in accordance with section 369R(4)) if the person—

(i) has not been allocated provisional catch history for scampi; and

(ii) believes that he or she is or will be entitled to receive provisional catch history on the grounds specified in that section or is entitled to receive quota for scampi; and

(c) that the appeal must be lodged no later than the date specified for that purpose in the notification.

(2) The date referred to in subsection (1)(c) and specified in the notification must be not less than 20 working days after the date of the notification.

Section 369Q: inserted, on 13 August 2004, by section 5 of the Fisheries Amendment Act (No 2) 2004 (2004 No 71).

369R Application of certain provisions to scampi

(1) Sections 36 and 37 apply in relation to scampi as if the references to "20 working days" in sections 36(2)(b) and 37(2)(b) were instead references to "10 working days".

(2) Sections 42 to 44, 46 to 49, 51 to 53, 54(1)(a), (2), and (3), 55, and 283 to 293 apply to the allocation of individual transferable quota for scampi.

(3) Section 45 applies to scampi as if the declaration in section 369N(1) were a notice in the *Gazette* under section 18.

(4) For the purposes of subsection (2), section 51 must be read as if, for subsection (1) of that section, there were substituted the following subsection:

(1) Any person, including the chief executive, may, subject to subsection (3) and on or before the date specified in the notification referred to in section

369P(1)(c) or section 396Q(1)(c) appeal to the Catch History Review Committee against the allocation of provisional catch history under section 369O on the ground that the information used to calculate the provisional catch history—

(a) was incorrectly recorded by the chief executive; or

(b) excluded scampi that were lawfully taken and lawfully reported as landed or otherwise lawfully disposed of in eligible returns from the person's eligible catch during the period commencing with 1 October 1990 and ending with 30 September 1992.

(5) For the purposes of this section,—

(a) **eligible catch** has the meaning given it by section 34(2), as if—

(i) the provisional catch history for scampi allocated under section 369O were calculated in a manner consistent with section 34(1)(c); and

(ii) the applicable qualifying years were the period commencing with 1 October 1990 and ending with 30 September 1992; and

(b) **eligible return** has the meaning given it by section 32(2).

Section 369R: inserted, on 13 August 2004, by section 5 of the Fisheries Amendment Act (No 2) 2004 (2004 No 71).

Introduction of green-lipped mussel in quota management area 9 into quota management system

Heading: inserted, on 6 September 2004, by section 59(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

369S Green-lipped mussel in quota management area 9 subject to quota management system

(1) On 1 October 2004 green-lipped mussel in quota management area 9 become subject to the quota management system under Part 4.

(2) The fishing year for green-lipped mussel in quota management area 9 is the 12-month period commencing on 1 October.

(3) The total allowable commercial catch and annual catch entitlement for green-lipped mussel in quota management area 9 are to be expressed in greenweight.

(4) In this section, the reference to quota management area 9 is a reference to the fishery management area 9 described in Part 1 of Schedule 1.

(5) Each person named in the first column of Schedule 15 is allocated the amount of quota shares for green-lipped mussel in quota management area 9 set out in the third column of that schedule opposite that person's name.

Section 369S: inserted, on 6 September 2004, by section 59(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Allocation of quota for pipi in quota management area 1A

Heading: inserted, on 6 September 2004, by section 59(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

369T Allocation of quota for pipi in quota management area 1A

(1) In this section, the reference to pipi in quota management area 1A is a reference to pipi in the quota management area described in Schedule 4 of the Fisheries (Declaration of New Stocks Subject to Quota Management System) Notice (No 2) 2003.

(2) Each person named in the first column of Schedule 16 is allocated the amount of quota shares for pipi in quota management area 1A set out in the third column of that schedule opposite that person's name.

(3) Despite any other enactment, no person is entitled to be allocated individual transferable quota for pipi in quota management area 1A unless the allocation is authorised by this section.

(4) Notwithstanding anything in this Act, any—

(a) allocation of provisional catch history of pipi in quota management area 1A; or

(b) transfer of provisional catch history of pipi in quota management area 1A; or

(c) decision on eligibility to receive provisional catch history or eligibility to receive quota of pipi in quota management area 1A; or

(d) appeal to the Catch History Review Committee of pipi in respect of quota management area 1A—

made or done before the commencement of the section is deemed to be of no effect.

Section 369T: inserted, on 6 September 2004, by section 59(1) of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

370 Transitional provision relating to performance of functions by outside agencies

(1) Subject to subsection (2), for the purposes of section 294, powers, duties, and functions conferred by or under the Fisheries Act 1983 on persons other than the chief executive shall be deemed to be powers, duties, and functions of the chief executive.

(2) Subsection (1) does not apply to powers, duties, and functions of—

(a) the Governor-General; or

(b) the Minister; or

(c) a fishery officer; or

(d) the Fisheries Authority.

Schedule 1AA
Transitional, savings, and related provisions

s 6A

Schedule 1AA: inserted, on 17 December 2016, by section 50 of the Statutes Amendment Act 2016 (2016 No 104).

Part 1
Provision relating to Part 12 of Statutes Amendment Act 2016

Part 12 of Statutes Amendment Act 2016 has no effect in relation to notices made under section 186A or 186B before its commencement

This Act continues to apply, as if Part 12 of the Statutes Amendment Act 2016 were not in force, to a notice made under section 186A or 186B before the commencement of that Act.

Part 2
Provision relating to COVID-19 Response (Further Management Measures) Legislation Act 2020

Schedule 1AA Part 2: inserted, on 16 May 2020, by section 3 of the COVID-19 Response (Further Management Measures) Legislation Act 2020 (2020 No 13).

2 Continuation of certain amendments to section 79 while repayment agreements remain in effect

(1) This clause applies if any amount for which there is a repayment agreement under section 79(1A)(b) has not been paid by 1 October 2021.

(2) For the purpose of section 79(1), and until the amount is paid, the amount does not count towards the total amount of deemed values owed by a commercial fisher, unless there has been a failure to pay the amount within the time limit specified in the agreement.

Schedule 1AA clause 2: inserted, on 16 May 2020, by section 3 of the COVID-19 Response (Further Management Measures) Legislation Act 2020 (2020 No 13).

Schedule 1A
Agreement for the implementation of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling fish stocks and highly migratory fish stocks

s 2(1)

Schedule 1A: inserted, on 1 May 2001, by section 34 of the Fisheries Act 1996 Amendment Act (No 2) 1999 (1999 No 103).

The States Parties to this Agreement,

Recalling the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982,

Determined to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks,

Resolved to improve cooperation between States to that end,

Calling for more effective enforcement by flag States, port States and coastal States of the conservation and management measures adopted for such stocks,

Seeking to address in particular the problems identified in chapter 17, programme area C, of Agenda 21 adopted by the United Nations Conference on Environment and Development, namely, that the management of high seas fisheries is inadequate in many areas and that some resources are overutilized; noting that there are problems of unregulated fishing, over-capitalization, excessive fleet size, vessel reflagging to escape controls, insufficiently selective gear, unreliable databases and lack of sufficient cooperation between States,

Committing themselves to responsible fisheries,

Conscious of the need to avoid adverse impacts on the marine environment, preserve biodiversity, maintain the integrity of marine ecosystems and minimize the risk of long-term or irreversible effects of fishing operations,

Recognizing the need for specific assistance, including financial, scientific and technological assistance, in order that developing States can participate effectively in the conservation, management and sustainable use of straddling fish stocks and highly migratory fish stocks,

Convinced that an agreement for the implementation of the relevant provisions of the Convention would best serve these purposes and contribute to the maintenance of international peace and security,

Affirming that matters not regulated by the Convention or by this Agreement continue to be governed by the rules and principles of general international law,

Have agreed as follows:

Part I
General provisions

Article 1—Use of terms and scope

1. For the purposes of this Agreement:

   (a) "Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982;

   (b) "conservation and management measures" means measures to conserve and manage one or more species of living marine resources that are adopted and applied consistent with the relevant rules of international law as reflected in the Convention and this Agreement;

   (c) "fish" includes molluscs and crustaceans except those belonging to sedentary species as defined in article 77 of the Convention; and

   (d) "arrangement" means a cooperative mechanism established in accordance with the Convention and this Agreement by two or more States for the purpose, inter alia, of establishing conservation and management measures in a subregion or region for one or more straddling fish stocks or highly migratory fish stocks.

2.

   (a) "States Parties" means States which have consented to be bound by this Agreement and for which the Agreement is in force.

   (b) This Agreement applies mutatis mutandis:

      (i) to any entity referred to in article 305, paragraph 1(c), (d) and (e), of the Convention and

      (ii) subject to article 47, to any entity referred to as an "international organization" in Annex IX, article 1, of the Convention

   which becomes a Party to this Agreement, and to that extent "States Parties" refers to those entities.

3. This Agreement applies mutatis mutandis to other fishing entities whose vessels fish on the high seas.

Article 2—Objective

The objective of this Agreement is to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks through effective implementation of the relevant provisions of the Convention.

Article 3—Application

1. Unless otherwise provided, this Agreement applies to the conservation and management of straddling fish stocks and highly migratory fish stocks beyond areas under national jurisdiction, except that articles 6 and 7 apply also to the

conservation and management of such stocks within areas under national jurisdiction, subject to the different legal regimes that apply within areas under national jurisdiction and in areas beyond national jurisdiction as provided for in the Convention.

2. In the exercise of its sovereign rights for the purpose of exploring and exploiting, conserving and managing straddling fish stocks and highly migratory fish stocks within areas under national jurisdiction, the coastal State shall apply mutatis mutandis the general principles enumerated in article 5.

3. States shall give due consideration to the respective capacities of developing States to apply articles 5, 6 and 7 within areas under national jurisdiction and their need for assistance as provided for in this Agreement. To this end, Part VII applies mutatis mutandis in respect of areas under national jurisdiction.

Article 4—Relationship between this Agreement and the Convention

Nothing in this Agreement shall prejudice the rights, jurisdiction and duties of States under the Convention. This Agreement shall be interpreted and applied in the context of and in a manner consistent with the Convention.

Part II
Conservation and management of straddling fish stocks and highly migratory fish stocks

Article 5—General principles

In order to conserve and manage straddling fish stocks and highly migratory fish stocks, coastal States and States fishing on the high seas shall, in giving effect to their duty to cooperate in accordance with the Convention:

(a) adopt measures to ensure long-term sustainability of straddling fish stocks and highly migratory fish stocks and promote the objective of their optimum utilization;

(b) ensure that such measures are based on the best scientific evidence available and are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global;

(c) apply the precautionary approach in accordance with article 6;

(d) assess the impacts of fishing, other human activities and environmental factors on target stocks and species belonging to the same ecosystem or associated with or dependent upon the target stocks;

(e) adopt, where necessary, conservation and management measures for species belonging to the same ecosystem or associated with or dependent upon the target stocks, with a view to maintaining or restoring populations of such species above levels at which their reproduction may become seriously threatened;

(f) minimize pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, (hereinafter referred to as non-target species) and impacts on associated or dependent species, in particular endangered species, through measures including, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques;

(g) protect biodiversity in the marine environment;

(h) take measures to prevent or eliminate overfishing and excess fishing capacity and to ensure that levels of fishing effort do not exceed those commensurate with the sustainable use of fishery resources;

(i) take into account the interests of artisanal and subsistence fishers;

(j) collect and share, in a timely manner, complete and accurate data concerning fishing activities on, inter alia, vessel position, catch of target and non-target species and fishing effort, as set out in Annex I, as well as information from national and international research programmes;

(k) promote and conduct scientific research and develop appropriate technologies in support of fishery conservation and management; and

(l) implement and enforce conservation and management measures through effective monitoring, control and surveillance.

Article 6—Application of the precautionary approach

1. States shall apply the precautionary approach widely to conservation, management and exploitation of straddling fish stocks and highly migratory fish stocks in order to protect the living marine resources and preserve the marine environment.

2. States shall be more cautious when information is uncertain, unreliable or inadequate. The absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures.

3. In implementing the precautionary approach, States shall:

   (a) improve decision-making for fishery resource conservation and management by obtaining and sharing the best scientific information available and implementing improved techniques for dealing with risk and uncertainty;

   (b) apply the guidelines set out in Annex II and determine, on the basis of the best scientific information available, stock-specific reference points and the action to be taken if they are exceeded;

(c) take into account, inter alia, uncertainties relating to the size and productivity of the stocks, reference points, stock condition in relation to such reference points, levels and distribution of fishing mortality and the impact of fishing activities on non-target and associated or dependent species, as well as existing and predicted oceanic, environmental and socio-economic conditions; and

(d) develop data collection and research programmes to assess the impact of fishing on non-target and associated or dependent species and their environment, and adopt plans which are necessary to ensure the conservation of such species and to protect habitats of special concern.

4. States shall take measures to ensure that, when reference points are approached, they will not be exceeded. In the event that they are exceeded, States shall, without delay, take the action determined under paragraph 3(b) to restore the stocks.

5. Where the status of target stocks or non-target or associated or dependent species is of concern, States shall subject such stocks and species to enhanced monitoring in order to review their status and the efficacy of conservation and management measures. They shall revise those measures regularly in the light of new information.

6. For new or exploratory fisheries, States shall adopt as soon as possible cautious conservation and management measures, including, inter alia, catch limits and effort limits. Such measures shall remain in force until there are sufficient data to allow assessment of the impact of the fisheries on the long-term sustainability of the stocks, whereupon conservation and management measures based on that assessment shall be implemented. The latter measures shall, if appropriate, allow for the gradual development of the fisheries.

7. If a natural phenomenon has a significant adverse impact on the status of straddling fish stocks or highly migratory fish stocks, States shall adopt conservation and management measures on an emergency basis to ensure that fishing activity does not exacerbate such adverse impact. States shall also adopt such measures on an emergency basis where fishing activity presents a serious threat to the sustainability of such stocks. Measures taken on an emergency basis shall be temporary and shall be based on the best scientific evidence available.

Article 7—Compatibility of conservation and management measures

1. Without prejudice to the sovereign rights of coastal States for the purpose of exploring and exploiting, conserving and managing the living marine resources within areas under national jurisdiction as provided for in the Convention, and the right of all States for their nationals to engage in fishing on the high seas in accordance with the Convention:

(a) with respect to straddling fish stocks, the relevant coastal States and the States whose nationals fish for such stocks in the adjacent high seas area shall seek, either directly or through the appropriate mechanisms for

cooperation provided for in Part III, to agree upon the measures necessary for the conservation of these stocks in the adjacent high seas area;

(b) with respect to highly migratory fish stocks, the relevant coastal States and other States whose nationals fish for such stocks in the region shall cooperate, either directly or through the appropriate mechanisms for cooperation provided for in Part III, with a view to ensuring conservation and promoting the objective of optimum utilization of such stocks throughout the region, both within and beyond the areas under national jurisdiction.

2. Conservation and management measures established for the high seas and those adopted for areas under national jurisdiction shall be compatible in order to ensure conservation and management of the straddling fish stocks and highly migratory fish stocks in their entirety. To this end, coastal States and States fishing on the high seas have a duty to cooperate for the purpose of achieving compatible measures in respect of such stocks. In determining compatible conservation and management measures, States shall:

(a) take into account the conservation and management measures adopted and applied in accordance with article 61 of the Convention in respect of the same stocks by coastal States within areas under national jurisdiction and ensure that measures established in respect of such stocks for the high seas do not undermine the effectiveness of such measures;

(b) take into account previously agreed measures established and applied for the high seas in accordance with the Convention in respect of the same stocks by relevant coastal States and States fishing on the high seas;

(c) take into account previously agreed measures established and applied in accordance with the Convention in respect of the same stocks by a subregional or regional fisheries management organization or arrangement;

(d) take into account the biological unity and other biological characteristics of the stocks and the relationships between the distribution of the stocks, the fisheries and the geographical particularities of the region concerned, including the extent to which the stocks occur and are fished in areas under national jurisdiction;

(e) take into account the respective dependence of the coastal States and States fishing on the high seas on the stocks concerned; and

(f) ensure that such measures do not result in harmful impact on the living marine resources as a whole.

3. In giving effect to their duty to cooperate, States shall make every effort to agree on compatible conservation and management measures within a reasonable period of time.

4. If no agreement can be reached within a reasonable period of time, any of the States concerned may invoke the procedures for the settlement of disputes provided for in Part VIII.

5. Pending agreement on compatible conservation and management measures, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature. In the event that they are unable to agree on such arrangements, any of the States concerned may, for the purpose of obtaining provisional measures, submit the dispute to a court or tribunal in accordance with the procedures for the settlement of disputes provided for in Part VIII.

6. Provisional arrangements or measures entered into or prescribed pursuant to paragraph 5 shall take into account the provisions of this Part, shall have due regard to the rights and obligations of all States concerned, shall not jeopardize or hamper the reaching of final agreement on compatible conservation and management measures and shall be without prejudice to the final outcome of any dispute settlement procedure.

7. Coastal States shall regularly inform States fishing on the high seas in the subregion or region, either directly or through appropriate subregional or regional fisheries management organizations or arrangements, or through other appropriate means, of the measures they have adopted for straddling fish stocks and highly migratory fish stocks within areas under their national jurisdiction.

8. States fishing on the high seas shall regularly inform other interested States, either directly or though appropriate subregional or regional fisheries management organizations or arrangements, or through other appropriate means, of the measures they have adopted for regulating the activities of vessels flying their flag which fish for such stocks on the high seas.

Part III
Mechanisms for international cooperation concerning straddling fish stocks and highly migratory fish stocks

Article 8—Cooperation for conservation and management

1. Coastal States and States fishing on the high seas shall, in accordance with the Convention, pursue cooperation in relation to straddling fish stocks and highly migratory fish stocks either directly or through appropriate subregional or regional fisheries management organizations or arrangements, taking into account the specific characteristics of the subregion or region, to ensure effective conservation and management of such stocks.

2. States shall enter into consultations in good faith and without delay, particularly where there is evidence that the straddling fish stocks and highly migratory fish stocks concerned may be under threat of over-exploitation or where a new fishery is being developed for such stocks. To this end, consultations may be initiated at the request of any interested State with a view to establishing appropriate arrangements to ensure conservation and management of the stocks. Pending agreement on such arrangements, States shall observe the pro-

visions of this Agreement and shall act in good faith and with due regard to the rights, interests and duties of other States.

3. Where a subregional or regional fisheries management organization or arrangement has the competence to establish conservation and management measures for particular straddling fish stocks or highly migratory fish stocks, States fishing for the stocks on the high seas and relevant coastal States shall give effect to their duty to cooperate by becoming members of such organization or participants in such arrangement, or by agreeing to apply the conservation and management measures established by such organization or arrangement. States having a real interest in the fisheries concerned may become members of such organization or participants in such arrangement. The terms of participation in such organization or arrangement shall not preclude such States from membership or participation; nor shall they be applied in a manner which discriminates against any State or group of States having a real interest in the fisheries concerned.

4. Only those States which are members of such an organization or participants in such an arrangement, or which agree to apply the conservation and management measures established by such organization or arrangement, shall have access to the fishery resources to which those measures apply.

5. Where there is no subregional or regional fisheries management organization or arrangement to establish conservation and management measures for a particular straddling fish stock or highly migratory fish stock, relevant coastal States and States fishing on the high seas for such stock in the subregion or region shall cooperate to establish such an organization or enter into other appropriate arrangements to ensure conservation and management for such stock and shall participate in the work of the organization or arrangement.

6. Any State intending to propose that action be taken by an intergovernmental organization having competence with respect to living resources should, where such action would have a significant effect on conservation and management measures already established by a competent subregional or regional fisheries management organization or arrangement, consult through that organization or arrangement with its members or participants. To the extent practicable, such consultation should take place prior to the submission of the proposal to the intergovernmental organization.

Article 9—Subregional and regional fisheries management organizations and arrangements

1. In establishing subregional or regional fisheries management organizations or in entering into subregional or regional fisheries management arrangements for straddling fish stocks and highly migratory fish stocks, States shall agree, inter alia, on:

(a) the stocks to which conservation and management measures apply, taking into account the biological characteristics of the stocks concerned and the nature of the fisheries involved;

(b) the area of application, taking into account article 7, paragraph 1, and the characteristics of the subregion or region, including socio-economic, geographical and environmental factors;

(c) the relationship between the work of the new organization or arrangement and the role, objectives and operations of any relevant existing fisheries management organizations or arrangements; and

(d) the mechanisms by which the organization or arrangement will obtain scientific advice and review the status of the stocks, including, where appropriate, the establishment of a scientific advisory body.

2. States cooperating in the formation of a subregional or regional fisheries management organization or arrangement shall inform other States which they are aware have a real interest in the work of the proposed organization or arrangement of such cooperation.

Article 10—Functions of subregional and regional fisheries management organizations and arrangements

In fulfilling their obligation to cooperate through subregional or regional fisheries management organizations or arrangements, States shall:

(a) agree on and comply with conservation and management measures to ensure the long-term sustainability of straddling fish stocks and highly migratory fish stocks;

(b) agree, as appropriate, on participatory rights such as allocations of allowable catch or levels of fishing effort;

(c) adopt and apply any generally recommended international minimum standards for the responsible conduct of fishing operations;

(d) obtain and evaluate scientific advice, review the status of the stocks and assess the impact of fishing on non-target and associated or dependent species;

(e) agree on standards for collection, reporting, verification and exchange of data on fisheries for the stocks;

(f) compile and disseminate accurate and complete statistical data, as described in Annex I, to ensure that the best scientific evidence is available, while maintaining confidentiality where appropriate;

(g) promote and conduct scientific assessments of the stocks and relevant research and disseminate the results thereof;

(h) establish appropriate cooperative mechanisms for effective monitoring, control, surveillance and enforcement;

(i) agree on means by which the fishing interests of new members of the organization or new participants in the arrangement will be accommodated;

(j) agree on decision-making procedures which facilitate the adoption of conservation and management measures in a timely and effective manner;

(k) promote the peaceful settlement of disputes in accordance with Part VIII;

(l) ensure the full cooperation of their relevant national agencies and industries in implementing the recommendations and decisions of the organization or arrangement; and

(m) give due publicity to the conservation and management measures established by the organization or arrangement.

Article 11—New members or participants

In determining the nature and extent of participatory rights for new members of a subregional or regional fisheries management organization, or for new participants in a subregional or regional fisheries management arrangement, States shall take into account, inter alia:

(a) the status of the straddling fish stocks and highly migratory fish stocks and the existing level of fishing effort in the fishery;

(b) the respective interests, fishing patterns and fishing practices of new and existing members or participants;

(c) the respective contributions of new and existing members or participants to conservation and management of the stocks, to the collection and provision of accurate data and to the conduct of scientific research on the stocks;

(d) the needs of coastal fishing communities which are dependent mainly on fishing for the stocks;

(e) the needs of coastal States whose economies are overwhelmingly dependent on the exploitation of living marine resources; and

(f) the interests of developing States from the subregion or region in whose areas of national jurisdiction the stocks also occur.

Article 12—Transparency in activities of subregional and regional fisheries management organizations and arrangements

1. States shall provide for transparency in the decision-making process and other activities of subregional and regional fisheries management organizations and arrangements.

2. Representatives from other intergovernmental organizations and representatives from non-governmental organizations concerned with straddling fish stocks and highly migratory fish stocks shall be afforded the opportunity to take part in meetings of subregional and regional fisheries management organizations and arrangements as observers or otherwise, as appropriate, in accordance with the procedures of the organization or arrangement concerned. Such

procedures shall not be unduly restrictive in this respect. Such intergovernmental organizations and non-governmental organizations shall have timely access to the records and reports of such organizations and arrangements, subject to the procedural rules on access to them.

Article 13—Strengthening of existing organizations and arrangements

States shall cooperate to strengthen existing subregional and regional fisheries management organizations and arrangements in order to improve their effectiveness in establishing and implementing conservation and management measures for straddling fish stocks and highly migratory fish stocks.

Article 14—Collection and provision of information and cooperation in scientific research

1. States shall ensure that fishing vessels flying their flag provide such information as may be necessary in order to fulfil their obligations under this Agreement. To this end, States shall in accordance with Annex I:

   (a) collect and exchange scientific, technical and statistical data with respect to fisheries for straddling fish stocks, and highly migratory fish stocks;

   (b) ensure that data are collected in sufficient detail to facilitate effective stock assessment and are provided in a timely manner to fulfil the requirements of subregional or regional fisheries management organizations or arrangements; and

   (c) take appropriate measures to verify the accuracy of such data.

2. States shall cooperate, either directly or through subregional or regional fisheries management organizations or arrangements:

   (a) to agree on the specification of data and the format in which they are to be provided to such organizations or arrangements, taking into account the nature of the stocks and the fisheries for those stocks; and

   (b) to develop and share analytical techniques and stock assessment methodologies to improve measures for the conservation and management of straddling fish stocks and highly migratory fish stocks.

3. Consistent with Part XIII of the Convention, States shall cooperate, either directly or through competent international organizations, to strengthen scientific research capacity in the field of fisheries and promote scientific research related to the conservation and management of straddling fish stocks and highly migratory fish stocks for the benefit of all. To this end, a State or the competent international organization conducting such research beyond areas under national jurisdiction shall actively promote the publication and dissemination to any interested States of the results of that research and information relating to its objectives and methods and, to the extent practicable, shall facilitate the participation of scientists from those States in such research.

Article 15—Enclosed and semi-enclosed seas

In implementing this Agreement in an enclosed or semi-enclosed sea, States shall take into account the natural characteristics of that sea and shall also act in a manner consistent with Part IX of the Convention and other relevant provisions thereof.

Article 16—Areas of high seas surrounded entirely by an area under the national jurisdiction of a single State

1. States fishing for straddling fish stocks and highly migratory fish stocks in an area of the high seas surrounded entirely by an area under the national jurisdiction of a single State and the latter State shall cooperate to establish conservation and management measures in respect of those stocks in the high seas area. Having regard to the natural characteristics of the area, States shall pay special attention to the establishment of compatible conservation and management measures for such stocks pursuant to article 7. Measures taken in respect of the high seas shall take into account the rights, duties and interests of the coastal State under the Convention, shall be based on the best scientific evidence available and shall also take into account any conservation and management measures adopted and applied in respect of the same stocks in accordance with article 61 of the Convention by the coastal State in the area under national jurisdiction. States shall also agree on measures for monitoring, control, surveillance and enforcement to ensure compliance with the conservation and management measures in respect of the high seas.

2. Pursuant to article 8, States shall act in good faith and make every effort to agree without delay on conservation and management measures to be applied in the carrying out of fishing operations in the area referred to in paragraph 1. If, within a reasonable period of time, the fishing States concerned and the coastal State are unable to agree on such measures, they shall, having regard to paragraph 1, apply article 7, paragraphs 4, 5 and 6, relating to provisional arrangements or measures. Pending the establishment of such provisional arrangements or measures, the States concerned shall take measures in respect of vessels flying their flag in order that they not engage in fisheries which could undermine the stocks concerned.

Part IV
Non-members and non-participants

Article 17—Non-members of organizations and non-participants in arrangements

1. A State which is not a member of a subregional or regional fisheries management organization or is not a participant in a subregional or regional fisheries management arrangement, and which does not otherwise agree to apply the conservation and management measures established by such organization or

arrangement, is not discharged from the obligation to cooperate, in accordance with the Convention and this Agreement, in the conservation and management of the relevant straddling fish stocks and highly migratory fish stocks.

2. Such State shall not authorize vessels flying its flag to engage in fishing operations for the straddling fish stocks or highly migratory fish stocks which are subject to the conservation and management measures established by such organization or arrangement.

3. States which are members of a subregional or regional fisheries management organization or participants in a subregional or regional fisheries management arrangement shall, individually or jointly, request the fishing entities referred to in article 1, paragraph 3, which have fishing vessels in the relevant area to cooperate fully with such organization or arrangement in implementing the conservation and management measures it has established, with a view to having such measures applied de facto as extensively as possible to fishing activities in the relevant area. Such fishing entities shall enjoy benefits from participation in the fishery commensurate with their commitment to comply with conservation and management measures in respect of the stocks.

4. States which are members of such organization or participants in such arrangement shall exchange information with respect to the activities of fishing vessels flying the flags of States which are neither members of the organization nor participants in the arrangement and which are engaged in fishing operations for the relevant stocks. They shall take measures consistent with this Agreement and international law to deter activities of such vessels which undermine the effectiveness of subregional or regional conservation and management measures.

Part V
Duties of the flag State

Article 18—Duties of the flag State

1. A State whose vessels fish on the high seas shall take such measures as may be necessary to ensure that vessels flying its flag comply with subregional and regional conservation and management measures and that such vessels do not engage in any activity which undermines the effectiveness of such measures.

2. A State shall authorize the use of vessels flying its flag for fishing on the high seas only where it is able to exercise effectively its responsibilities in respect of such vessels under the Convention and this Agreement.

3. Measures to be taken by a State in respect of vessels flying its flag shall include:

   (a) control of such vessels on the high seas by means of fishing licences, authorizations or permits, in accordance with any applicable procedures agreed at the subregional, regional or global level;

(b) establishment of regulations:

(i) to apply terms and conditions to the licence, authorization or permit sufficient to fulfil any subregional, regional or global obligations of the flag State;

(ii) to prohibit fishing on the high seas by vessels which are not duly licensed or authorized to fish, or fishing on the high seas by vessels otherwise than in accordance with the terms and conditions of a licence, authorization or permit;

(iii) to require vessels fishing on the high seas to carry the licence, authorization or permit on board at all times and to produce it on demand for inspection by a duly authorized person; and

(iv) to ensure that vessels flying its flag do not conduct unauthorized fishing within areas under the national jurisdiction of other States;

(c) establishment of national record of fishing vessels authorized to fish on the high seas and provision of access to the information contained in that record on request by directly interested States, taking into account any national laws of the flag State regarding the release of such information;

(d) requirements for marking of fishing vessels and fishing gear for identification in accordance with uniform and internationally recognizable vessel and gear marking systems, such as the Food and Agriculture Organization of the United Nations Standard Specifications for the Marking and Identification of Fishing Vessels;

(e) requirements for recording and timely reporting of vessel position, catch of target and non-target species, fishing effort and other relevant fisheries data in accordance with subregional, regional and global standards for collection of such data;

(f) requirements for verifying the catch of target and non-target species through such means as observer programmes, inspection schemes, unloading reports, supervision of transshipment and monitoring of landed catches and market statistics;

(g) monitoring, control and surveillance of such vessels, their fishing operations and related activities by, inter alia:

(i) the implementation of national inspection schemes and subregional and regional schemes for cooperation in enforcement pursuant to articles 21 and 22, including requirements for such vessels to permit access by duly authorized inspectors from other States;

(ii) the implementation of national observer programmes and subregional and regional observer programmes in which the flag State is a participant, including requirements for such vessels to permit

access by observers from other States to carry out the functions agreed under the programmes; and

(iii) the development and implementation of vessel monitoring systems, including, as appropriate, satellite transmitter systems, in accordance with any national programmes and those which have been subregionally, regionally or globally agreed among the States concerned;

(h) regulation of transshipment on the high seas to ensure that the effectiveness of conservation and management measures is not undermined; and

(i) regulation of fishing activities to ensure compliance with subregional, regional or global measures, including those aimed at minimizing catches of non-target species.

4. Where there is a subregionally, regionally or globally agreed system of monitoring, control and surveillance in effect, States shall ensure that the measures they impose on vessels flying their flag are compatible with that system.

Part VI
Compliance and enforcement

Article 19—Compliance and enforcement by the flag State

1. A State shall ensure compliance by vessels flying its flag with subregional and regional conservation and management measures for straddling fish stocks and highly migratory fish stocks. To this end, that State shall:

(a) enforce such measures irrespective of where violations occur;

(b) investigate immediately and fully any alleged violation of subregional or regional conservation and management measures, which may include the physical inspection of the vessels concerned, and report promptly to the State alleging the violation and the relevant subregional or regional organization or arrangement on the progress and outcome of the investigation;

(c) require any vessel flying its flag to give information to the investigating authority regarding vessel position, catches, fishing gear, fishing operations and related activities in the area of an alleged violation;

(d) if satisfied that sufficient evidence is available in respect of an alleged violation, refer the case to its authorities with a view to instituting proceedings without delay in accordance with its laws and, where appropriate, detain the vessel concerned; and

(e) ensure that, where it has been established, in accordance with its laws, a vessel has been involved in the commission of a serious violation of such measures, the vessel does not engage in fishing operations on the

high seas until such time as all outstanding sanctions imposed by the flag State in respect of the violation have been complied with.

2. All investigations and judicial proceedings shall be carried out expeditiously. Sanctions applicable in respect of violations shall be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and shall deprive offenders of the benefits accruing from their illegal activities. Measures applicable in respect of masters and other officers of fishing vessels shall include provisions which may permit, inter alia, refusal, withdrawal or suspension of authorizations to serve as masters or officers on such vessels.

Article 20—International cooperation in enforcement

1. States shall cooperate, either directly or through subregional or regional fisheries management organizations or arrangements, to ensure compliance with and enforcement of subregional and regional conservation and management measures for straddling fish stocks and highly migratory fish stocks.
2. A flag State conducting an investigation of an alleged violation of conservation and management measures for straddling fish stocks or highly migratory fish stocks may request the assistance of any other State whose cooperation may be useful in the conduct of that investigation. All States shall endeavour to meet reasonable requests made by a flag State in connection with such investigations.
3. A flag State may undertake such investigations directly, in cooperation with other interested States or through the relevant subregional or regional fisheries management organization or arrangement. Information on the progress and outcome of the investigations shall be provided to all States having an interest in, or affected by, the alleged violation.
4. States shall assist each other in identifying vessels reported to have engaged in activities undermining the effectiveness of subregional, regional or global conservation and management measures.
5. States shall, to the extent permitted by national laws and regulations, establish arrangements for making available to prosecuting authorities in other States evidence relating to alleged violations of such measures.
6. Where there are reasonable grounds for believing that a vessel on the high seas has been engaged in unauthorized fishing within an area under the jurisdiction of a coastal State, the flag State of that vessel, at the request of the coastal State concerned, shall immediately and fully investigate the matter. The flag State shall cooperate with the coastal State in taking appropriate enforcement action in such cases and may authorize the relevant authorities of the coastal State to board and inspect the vessel on the high seas. This paragraph is without prejudice to article 111 of the Convention.

7. States Parties which are members of a subregional or regional fisheries management organization or participants in a subregional or regional fisheries management arrangement may take action in accordance with international law, including through recourse to subregional or regional procedures established for this purpose, to deter vessels which have engaged in activities which undermine the effectiveness of or otherwise violate the conservation and management measures established by that organization or arrangement from fishing on the high seas in the subregion or region until such time as appropriate action is taken by the flag State.

Article 21—Subregional and regional cooperation in enforcement

1. In any high seas area covered by a subregional or regional fisheries management organization or arrangement, a State Party which is a member of such organization or a participant in such arrangement may, through its duly authorized inspectors, board and inspect, in accordance with paragraph 2, fishing vessels flying the flag of another State Party to this Agreement, whether or not such State Party is also a member of the organization or a participant in the arrangement, for the purpose of ensuring compliance with conservation and management measures for straddling fish stocks and highly migratory fish stocks established by that organization or arrangement.
2. States shall establish, through subregional or regional fisheries management organizations or arrangements, procedures for boarding and inspection pursuant to paragraph 1, as well as procedures to implement other provisions of this article. Such procedures shall be consistent with this article and the basic procedures set out in article 22 and shall not discriminate against non-members of the organization or non-participants in the arrangement. Boarding and inspection as well as any subsequent enforcement action shall be conducted in accordance with such procedures. States shall give due publicity to procedures established pursuant to this paragraph.
3. If, within two years of the adoption of this Agreement, any organization or arrangement has not established such procedures, boarding and inspection pursuant to paragraph 1, as well as any subsequent enforcement action, shall, pending the establishment of such procedures, be conducted in accordance with this article and the basic procedures set out in article 22.
4. Prior to taking action under this article, inspecting States shall, either directly or through the relevant subregional or regional fisheries management organization or arrangement, inform all States whose vessels fish on the high seas in the subregion or region of the form of identification issued to their duly authorized inspectors. The vessels used for boarding and inspection shall be clearly marked and identifiable as being on government service. At the time of becoming a Party to this Agreement, a State shall designate an appropriate authority to receive notifications pursuant to this article and shall give due publicity of

such designation through the relevant subregional or regional fisheries management organization or arrangement.

5. Where, following a boarding and inspection, there are clear grounds for believing that a vessel has engaged in any activity contrary to the conservation and management measures referred to in paragraph 1, the inspecting State shall, where appropriate, secure evidence and shall promptly notify the flag State of the alleged violation.

6. The flag State shall respond to the notification referred to in paragraph 5 within three working days of its receipt, or such other period as may be prescribed in procedures established in accordance with paragraph 2, and shall either:

   (a) fulfil, without delay, its obligations under article 19 to investigate and, if evidence so warrants, take enforcement action with respect to the vessel, in which case it shall promptly inform the inspecting State of the results of the investigation and of any enforcement action taken; or

   (b) authorize the inspecting State to investigate.

7. Where the flag State authorizes the inspecting State to investigate an alleged violation, the inspecting State shall, without delay, communicate the results of that investigation to the flag State. The flag State shall, if evidence so warrants, fulfil its obligations to take enforcement action with respect to the vessel. Alternatively, the flag State may authorize the inspecting State to take such enforcement action as the flag State may specify with respect to the vessel, consistent with the rights and obligations of the flag State under this Agreement.

8. Where, following boarding and inspection, there are clear grounds for believing that a vessel has committed a serious violation, and the flag State has either failed to respond or failed to take action as required under paragraphs 6 or 7, the inspectors may remain on board and secure evidence and may require the master to assist in further investigation including, where appropriate, by bringing the vessel without delay to the nearest appropriate port, or to such other port as may be specified in procedures established in accordance with paragraph 2. The inspecting State shall immediately inform the flag State of the name of the port to which the vessel is to proceed. The inspecting State and the flag State and, as appropriate, the port State shall take all necessary steps to ensure the wellbeing of the crew regardless of their nationality.

9. The inspecting State shall inform the flag State and the relevant organization or the participants in the relevant arrangement of the results of any further investigation.

10. The inspecting State shall require its inspectors to observe generally accepted international regulations, procedures and practices relating to the safety of the vessel and the crew, minimize interference with fishing operations and, to the extent practicable, avoid action which would adversely affect the quality of the catch on board. The inspecting State shall ensure that boarding and inspection

is not conducted in a manner that would constitute harassment of any fishing vessel.

11. For the purposes of this article, a serious violation means:

(a) fishing without a valid licence, authorization or permit issued by the flag State in accordance with article 18, paragraph 3(a);

(b) failing to maintain accurate records of catch and catch-related data, as required by the relevant subregional or regional fisheries management organization or arrangement, or serious misreporting of catch, contrary to the catch reporting requirements of such organization or arrangement;

(c) fishing in a closed area, fishing during a closed season or fishing without, or after attainment of, a quota established by the relevant subregional or regional fisheries management organization or arrangement;

(d) directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited;

(e) using prohibited fishing gear;

(f) falsifying or concealing the markings, identity or registration of a fishing vessel;

(g) concealing, tampering with or disposing of evidence relating to an investigation;

(h) multiple violations which together constitute a serious disregard of conservation and management measures; or

(i) such other violations as may be specified in procedures established by the relevant subregional or regional fisheries management organization or arrangement.

12. Notwithstanding the other provisions of this article, the flag State may, at any time, take action to fulfil its obligations under article 19 with respect to an alleged violation. Where the vessel is under the direction of the inspecting State, the inspecting State shall, at the request of the flag State, release the vessel to the flag State along with full information on the progress and outcome of its investigation.

13. This article is without prejudice to the right of the flag State to take any measures, including proceedings to impose penalties, according to its laws.

14. This article applies mutatis mutandis to boarding and inspection by a State Party which is a member of a subregional or regional fisheries management organization or a participant in a subregional or regional fisheries management arrangement and which has clear grounds for believing that a fishing vessel flying the flag of another State Party has engaged in any activity contrary to relevant conservation and management measures referred to in paragraph 1 in the high seas area covered by such organization or arrangement, and such vessel has subsequently, during the same fishing trip, entered into an area under the national jurisdiction of the inspecting State.

15. Where a subregional or regional fisheries management organization or arrangement has established an alternative mechanism which effectively discharges the obligation under this Agreement of its members or participants to ensure compliance with the conservation and management measures established by the organization or arrangement, members of such organization or participants in such arrangement may agree to limit the application of paragraph 1 as between themselves in respect of the conservation and management measures which have been established in the relevant high seas area.

16. Action taken by States other than the flag State in respect of vessels having engaged in activities contrary to subregional or regional conservation and management measures shall be proportionate to the seriousness of the violation.

17. Where there are reasonable grounds for suspecting that a fishing vessel on the high seas is without nationality, a State may board and inspect the vessel. Where evidence so warrants, the State may take such action as may be appropriate in accordance with international law.

18. States shall be liable for damage or loss attributable to them arising from action taken pursuant to this article when such action is unlawful or exceeds that reasonably required in the light of available information to implement the provisions of this article.

Article 22—Basic procedures for boarding and inspection pursuant to article 21

1. The inspecting State shall ensure that its duly authorized inspectors:

   (a) present credentials to the master of the vessel and produce a copy of the text of the relevant conservation and management measures or rules and regulations in force in the high seas area in question pursuant to those measures;

   (b) initiate notice to the flag State at the time of the boarding and inspection;

   (c) do not interfere with the master's ability to communicate with the authorities of the flag State during the boarding and inspection;

   (d) provide a copy of a report on the boarding and inspection to the master and to the authorities of the flag State, noting therein any objection or statement which the master wishes to have included in the report;

   (e) promptly leave the vessel following completion of the inspection if they find no evidence of a serious violation; and

   (f) avoid the use of force except when and to the degree necessary to ensure the safety of the inspectors and where the inspectors are obstructed in the execution of their duties. The degree of force used shall not exceed that reasonably required in the circumstances.

2. The duly authorized inspectors of an inspecting State shall have the authority to inspect the vessel, its licence, gear, equipment, records, facilities, fish and fish

products and any relevant documents necessary to verify compliance with the relevant conservation and management measures.

3. The flag State shall ensure that vessel masters:

   (a) accept and facilitate prompt and safe boarding by the inspectors;

   (b) cooperate with and assist in the inspection of the vessel conducted pursuant to these procedures;

   (c) do not obstruct, intimidate or interfere with the inspectors in the performance of their duties;

   (d) allow the inspectors to communicate with the authorities of the flag State and the inspecting State during the boarding and inspection;

   (e) provide reasonable facilities, including, where appropriate, food and accommodation, to the inspectors; and

   (f) facilitate safe disembarkation by the inspectors.

4. In the event that the master of a vessel refuses to accept boarding and inspection in accordance with this article and article 21, the flag State shall, except in circumstances where, in accordance with generally accepted international regulations, procedures and practices relating to safety at sea, it is necessary to delay the boarding and inspection, direct the master of the vessel to submit immediately to boarding and inspection and, if the master does not comply with such direction, shall suspend the vessel's authorization to fish and order the vessel to return immediately to port. The flag State shall advise the inspecting State of the action it has taken when the circumstances referred to in this paragraph arise.

Article 23—Measures taken by a port State

1. A port State has the right and the duty to take measures, in accordance with the international law, to promote the effectiveness of subregional, regional and global conservation and management measures. When taking such measures a port State shall not discriminate in form or in fact against the vessels of any State.

2. A port State may, inter alia, inspect documents, fishing gear and catch on board fishing vessels, when such vessels are voluntarily in its ports or at its offshore terminals.

3. States may adopt regulations empowering the relevant national authorities to prohibit landings and transshipments where it has been established that the catch has been taken in a manner which undermines the effectiveness of subregional, regional or global conservation and management measures on the high seas.

4. Nothing in this article affects the exercise by States of their sovereignty over ports in their territory in accordance with international law.

Part VII
Requirements of developing States

Article 24—Recognition of the special requirements of developing States

1. States shall give full recognition to the special requirements of developing States in relation to conservation and management of straddling fish stocks and highly migratory fish stocks and development of fisheries for such stocks. To this end, States shall, either directly or through the United Nations Development Programme, the Food and Agriculture Organization of the United Nations and other specialized agencies, the Global Environment Facility, the Commission on Sustainable Development and other appropriate international and regional organizations and bodies, provide assistance to developing States.

2. In giving effect to the duty to cooperate in the establishment of conservation and management measures for straddling fish stocks and highly migratory fish stocks, States shall take into account the special requirements of developing States, in particular:

   (a) the vulnerability of developing States which are dependent on the exploitation of living marine resources, including for meeting the nutritional requirements of their populations or parts thereof;

   (b) the need to avoid adverse impacts on, and ensure access to fisheries by, subsistence, small-scale and artisanal fishers and women fishworkers, as well as indigenous people in developing States, particularly small island developing States; and

   (c) the need to ensure that such measures do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States.

Article 25—Forms of cooperation with developing States

1. States shall cooperate, either directly or through subregional, regional or global organizations:

   (a) to enhance the ability of developing States, in particular the least-developed among them and small island developing States, to conserve and manage straddling fish stocks and highly migratory fish stocks and to develop their own fisheries for such stocks;

   (b) to assist developing States, in particular the least-developed among them and small island developing States, to enable them to participate in high seas fisheries for such stocks, including facilitating access to such fisheries subject to articles 5 and 11; and

   (c) to facilitate the participation of developing States in subregional and regional fisheries management organizations and arrangements.

2. Cooperation with developing States for the purposes set out in this article shall include the provision of financial assistance, assistance relating to human resources development, technical assistance, transfer of technology, including through joint venture arrangements, and advisory and consultative services.

3. Such assistance shall, inter alia, be directed specifically towards:

   (a) improved conservation and management of straddling fish stocks and highly migratory fish stocks through collection, reporting, verification, exchange and analysis of fisheries data and related information;

   (b) stock assessment and scientific research; and

   (c) monitoring, control, surveillance, compliance and enforcement, including training and capacity-building at the local level, development and funding of national and regional observer programmes and access to technology and equipment.

Article 26—Special assistance in the implementation of this Agreement

1. States shall cooperate to establish special funds to assist developing States in the implementation of this Agreement, including assisting developing States to meet the costs involved in any proceedings for the settlement of disputes to which they may be parties.

2. States and international organizations should assist developing States in establishing new subregional or regional fisheries management organizations or arrangements, or in strengthening existing organizations or arrangements, for the conservation and management of straddling fish stocks and highly migratory fish stocks.

Part VIII
Peaceful settlement of disputes

Article 27—Obligation to settle disputes by peaceful means

States have the obligation to settle their disputes by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

Article 28—Prevention of disputes

States shall cooperate in order to prevent disputes. To this end, States shall agree on efficient and expeditious decision-making procedures within subregional and regional fisheries management organizations and arrangements and shall strengthen existing decision-making procedures as necessary.

Article 29—Disputes of a technical nature

Where a dispute concerns a matter of a technical nature, the States concerned may refer the dispute to an ad hoc expert panel established by them. The panel shall confer

with the States concerned and shall endeavour to resolve the dispute expeditiously without recourse to binding procedures for the settlement of disputes.

Article 30—Procedures for the settlement of disputes

1. The provisions relating to the settlement of disputes set out in Part XV of the Convention apply mutatis mutandis to any dispute between States Parties to this Agreement concerning the interpretation or application of this Agreement, whether or not they are also Parties to the Convention.

2. The provisions relating to the settlement of disputes set out in Part XV of the Convention apply mutatis mutandis to any dispute between States Parties to this Agreement concerning the interpretation or application of a subregional, regional or global fisheries agreement relating to straddling fish stocks or highly migratory fish stocks to which they are parties, including any dispute concerning the conservation and management of such stocks, whether or not they are also Parties to the Convention.

3. Any procedure accepted by a State Party to this Agreement and the Convention pursuant to article 287 of the Convention shall apply to the settlement of disputes under this Part, unless that State Party, when signing, ratifying or acceding to this Agreement, or at any time thereafter, has accepted another procedure pursuant to article 287 for the settlement of disputes under this Part.

4. A State Party to this Agreement which is not a Party to the Convention, when signing, ratifying or acceding to this Agreement, or at any time thereafter, shall be free to choose, by means of a written declaration, one or more of the means set out in article 287, paragraph 1, of the Convention for the settlement of disputes under this Part. Article 287 shall apply to such a declaration, as well as to any dispute to which such State is a party which is not covered by a declaration in force. For the purposes of conciliation and arbitration in accordance with Annexes V, VII and VIII to the Convention, such State shall be entitled to nominate conciliators, arbitrators and experts to be included in the lists referred to in Annex V, article 2, Annex VII, article 2, and Annex VIII, article 2, for the settlement of disputes under this Part.

5. Any court or tribunal to which a dispute has been submitted under this Part shall apply the relevant provisions of the Convention, of this Agreement and of any relevant subregional, regional or global fisheries agreement, as well as generally accepted standards for the conservation and management of living marine resources and other rules of international law not incompatible with the Convention, with a view to ensuring the conservation of the straddling fish stocks and highly migratory fish stocks concerned.

Article 31—Provisional measures

1. Pending the settlement of a dispute in accordance with this Part, the parties to the dispute shall make every effort to enter into provisional arrangements of a practical nature.

2. Without prejudice to article 290 of the Convention, the court or tribunal to which the dispute has been submitted under this Part may prescribe any provisional measures which it considers appropriate under the circumstances to preserve the respective rights of the parties to the dispute or to prevent damage to the stocks in question, as well as in the circumstances referred to in article 7, paragraph 5, and article 16, paragraph 2.

3. A State Party to this Agreement which is not a Party to the Convention may declare that, notwithstanding article 290, paragraph 5, of the Convention, the International Tribunal for the Law of the Sea shall not be entitled to prescribe, modify or revoke provisional measures without the agreement of such State.

Article 32—Limitations on applicability of procedures for the settlement of disputes

Article 297, paragraph 3, of the Convention applies also to this Agreement.

Part IX
Non-parties to this Agreement

Article 33—Non-parties to this Agreement

1. States Parties shall encourage non-parties to this Agreement to become parties thereto and to adopt laws and regulations consistent with its provisions.

2. States Parties shall take measures consistent with this Agreement and international law to deter the activities of vessels flying the flag of non-parties which undermine the effective implementation of this Agreement.

Part X
Good faith and abuse of rights

Article 34—Good faith and abuse of rights

States Parties shall fulfil in good faith the obligations assumed under this Agreement and shall exercise the rights recognized in this Agreement in a manner which would not constitute an abuse of right.

Part XI
Responsibility and liability

Article 35—Responsibility and liability

States Parties are liable in accordance with international law for damage or loss attributable to them in regard to this Agreement.

Part XII
Review conference

Article 36—Review conference

1. Four years after the date of entry into force of this Agreement, the Secretary-General of the United Nations shall convene a conference with a view to assessing the effectiveness of this Agreement in securing the conservation and management of straddling fish stocks and highly migratory fish stocks. The Secretary-General shall invite to the conference all States Parties and those States and entities which are entitled to become parties to this Agreement as well as those intergovernmental and non-governmental organizations entitled to participate as observers.

2. The conference shall review and assess the adequacy of the provisions of this Agreement and, if necessary, propose means of strengthening the substance and methods of implementation of those provisions in order better to address any continuing problems in the conservation and management of straddling fish stocks and highly migratory fish stocks.

Part XIII
Final provisions

Article 37—Signature

This Agreement shall be open for signature by all States and the other entities referred to in article 1, paragraph 2(b), and shall remain open for signature at United Nations Headquarters for twelve months from the fourth of December 1995.

Article 38—Ratification

This Agreement is subject to ratification by States and the other entities referred to in article 1, paragraph 2(b). The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 39—Accession

This Agreement shall remain open for accession by States and the other entities referred to in article 1, paragraph 2(b). The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 40—Entry into force

1. This Agreement shall enter into force 30 days after the date of deposit of the thirtieth instrument of ratification or accession.

2. For each State or entity which ratifies the Agreement or accedes thereto after the deposit of the thirtieth instrument of ratification or accession, this Agree-

ment shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession.

Article 41—Provisional application

1. This Agreement shall be applied provisionally by a State or entity which consents to its provisional application by so notifying the depositary in writing. Such provisional application shall become effective from the date of receipt of the notification.
2. Provisional application by a State or entity shall terminate upon the entry into force of this Agreement for that State or entity or upon notification by that State or entity to the depositary in writing of its intention to terminate provisional application.

Article 42—Reservations and exceptions

No reservations or exceptions may be made to this Agreement.

Article 43—Declarations and statements

Article 42 does not preclude a State or entity, when signing, ratifying or acceding to this Agreement, from making declarations or statements, however phrased or named, with a view, inter alia, to the harmonization of its laws and regulations with the provisions of this Agreement, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of this Agreement in their application to that State or entity.

Article 44—Relation to other agreements

1. This Agreement shall not alter the rights and obligations of States Parties which arise from other agreements compatible with this Agreement and which do not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Agreement.
2. Two or more States Parties may conclude agreements modifying or suspending the operation of provisions of this Agreement, applicable solely to the relations between them, provided that such agreements do not relate to a provision derogation from which is incompatible with the effective execution of the object and purpose of this Agreement, and provided further that such agreements shall not affect the application of the basic principles embodied herein, and that the provisions of such agreements do not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Agreement.
3. States Parties intending to conclude an agreement referred to in paragraph 2 shall notify the other States Parties through the depositary of this Agreement of their intention to conclude the agreement and of the modification or suspension for which it provides.

Article 45—Amendment

1. A State Party may, by written communication addressed to the Secretary-General of the United Nations, propose amendments to this Agreement and request the convening of a conference to consider such proposed amendments. The Secretary-General shall circulate such communication to all States Parties. If, within six months from the date of the circulation of the communication, not less than one half of the States Parties reply favourably to the request, the Secretary-General shall convene the conference.

2. The decision-making procedure applicable at the amendment conference convened pursuant to paragraph 1 shall be the same as that applicable at the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, unless otherwise decided by the conference. The conference should make every effort to reach agreement on any amendments by way of consensus and there should be no voting on them until all efforts at consensus have been exhausted.

3. Once adopted, amendments to this Agreement shall be open for signature at United Nations Headquarters by States Parties for twelve months from the date of adoption, unless otherwise provided in the amendment itself.

4. Articles 38, 39, 47 and 50 apply to all amendments to this Agreement.

5. Amendments to this Agreement shall enter into force for the States Parties ratifying or acceding to them on the thirtieth day following the deposit of instruments of ratification or accession by two thirds of the States Parties. Thereafter, for each State Party ratifying or acceding to an amendment after the deposit of the required number of such instruments, the amendment shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession.

6. An amendment may provide that a smaller or a larger number of ratifications or accessions shall be required for its entry into force than are required by this article.

7. A State which becomes a Party to this Agreement after the entry into force of amendments in accordance with paragraph 5 shall, failing an expression of a different intention by that State:

   (a) be considered as a Party to this Agreement as so amended; and

   (b) be considered as a Party to the unamended Agreement in relation to any State Party not bound by the amendment.

Article 46—Denunciation

1. A State Party may, by written notification addressed to the Secretary-General of the United Nations, denounce this Agreement and may indicate its reasons. Failure to indicate reasons shall not affect the validity of the denunciation. The denunciation shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

2. The denunciation shall not in any way affect the duty of any State Party to fulfil any obligation embodied in this Agreement to which it would be subject under international law independently of this Agreement.

Article 47—Participation by international organizations

1. In cases where an international organization referred to in Annex IX, article 1, of the Convention does not have competence over all the matters governed by this Agreement, Annex IX to the Convention shall apply mutatis mutandis to participation by such international organization in this Agreement, except that the following provisions of that Annex shall not apply:
   (a) article 2, first sentence; and
   (b) article 3, paragraph 1.
2. In cases where an international organization referred to in Annex IX, article 1, of the Convention has competence over all the matters governed by this Agreement, the following provisions shall apply to participation by such international organization in this Agreement:
   (a) at the time of signature or accession, such international organization shall make a declaration stating:
      (i) that it has competence over all the matters governed by this Agreement;
      (ii) that, for this reason, its member States shall not become States Parties, except in respect of their territories for which the international organization has no responsibility; and
      (iii) that it accepts the rights and obligations of States under this Agreement;
   (b) participation of such an international organization shall in no case confer any rights under this Agreement on member States of the international organization;
   (c) in the event of a conflict between the obligations of an international organization under this Agreement and its obligations under the agreement establishing the international organization or any acts relating to it, the obligations under this Agreement shall prevail.

Article 48—Annexes

1. The Annexes form an integral part of this Agreement and, unless expressly provided otherwise, a reference to this Agreement or to one of its Parts includes a reference to the Annexes relating thereto.
2. The Annexes may be revised from time to time by States Parties. Such revisions shall be based on scientific and technical considerations. Notwithstanding the provisions of article 45, if a revision to an Annex is adopted by consensus at a meeting of States Parties, it shall be incorporated in this Agreement and

shall take effect from the date of its adoption or from such other date as may be specified in the revision. If a revision to an Annex is not adopted by consensus at such a meeting, the amendment procedures set out in article 45 shall apply.

Article 49—Depositary

The Secretary-General of the United Nations shall be the depositary of this Agreement and any amendments or revisions thereto.

Article 50—Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of this Agreement are equally authentic.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorized thereto, have signed this Agreement.

OPENED FOR SIGNATURE at New York, this fourth day of December, one thousand nine hundred and ninety-five, in a single original, in the Arabic, Chinese, English, French, Russian and Spanish languages.

Annex I
Standard requirements for the collection and sharing of data

Article 1— General principles

1. The timely collection, compilation and analysis of data are fundamental to the effective conservation and management of straddling fish stocks and highly migratory fish stocks. To this end, data from fisheries for these stocks on the high seas and those in areas under national jurisdiction are required and should be collected and compiled in such a way as to enable statistically meaningful analysis for the purposes of fishery resource conservation and management. These data include catch and fishing effort statistics and other fishery-related information, such as vessel-related and other data for standardizing fishing effort. Data collected should also include information on non-target and associated or dependent species. All data should be verified to ensure accuracy. Confidentiality of nonaggregated data shall be maintained. The dissemination of such data shall be subject to the terms on which they have been provided.

2. Assistance, including training as well as financial and technical assistance, shall be provided to developing States in order to build capacity in the field of conservation and management of living marine resources. Assistance should focus on enhancing capacity to implement data collection and verification, observer programmes, data analysis and research projects supporting stock assessments. The fullest possible involvement of developing State scientists and managers in conservation and management of straddling fish stocks and highly migratory fish stocks should be promoted.

Article 2— Principles of data collection, compilation and exchange

The following general principles should be considered in defining the parameters for collection, compilation and exchange of data from fishing operations for straddling fish stocks and highly migratory fish stocks:

(a) States should ensure that data are collected from vessels flying their flag on fishing activities according to the operational characteristics of each fishing method (e.g., each individual tow for trawl, each set for long-line and purse-seine, each school fished for pole-and-line and each day fished for troll) and in sufficient detail to facilitate effective stock assessment;

(b) States should ensure that fishery data are verified through an appropriate system;

(c) States should compile fishery-related and other supporting scientific data and provide them in an agreed format and in a timely manner to the relevant subregional or regional fisheries management organization or arrangement where one exists. Otherwise, States should cooperate to exchange data either directly or through such other cooperative mechanisms as may be agreed among them;

(d) States should agree, within the framework of subregional or regional fisheries management organizations or arrangements, or otherwise, on the specification of data and the format in which they are to be provided, in accordance with this Annex and taking into account the nature of the stocks and the fisheries for those stocks in the region. Such organizations or arrangements should request non-members or non-participants to provide data concerning relevant fishing activities by vessels flying their flag;

(e) such organizations or arrangements shall compile data and make them available in a timely manner and in an agreed format to all interested States under the terms and conditions established by the organization or arrangement; and

(f) scientists of the flag State and from the relevant subregional or regional fisheries management organization or arrangement should analyse the data separately or jointly, as appropriate.

Article 3— Basic fishery data

1. States shall collect and make available to the relevant subregional or regional fisheries management organization or arrangement the following types of data in sufficient detail to facilitate effective stock assessment in accordance with agreed procedures:

   (a) time series of catch and effort statistics by fishery and fleet;

   (b) total catch in number, nominal weight, or both, by species (both target and non-target) as is appropriate to each fishery. [Nominal weight is defined by the Food and Agriculture Organization of the United Nations as the live-weight equivalent of the landings];

(c) discard statistics, including estimates where necessary, reported as a number or nominal weight by species, as is appropriate to each fishery;

(d) effort statistics appropriate to each fishing method; and

(e) fishing location, date and time fished and other statistics on fishing operations as appropriate.

2. States shall also collect where appropriate and provide to the relevant subregional or regional fisheries management organization or arrangement information to support stock assessment, including:

(a) composition of the catch according to length, weight and sex;

(b) other biological information supporting stock assessments, such as information on age, growth, recruitment, distribution and stock identity; and

(c) other relevant research, including surveys of abundance, biomass surveys, hydro-acoustic surveys, research on environmental factors affecting stock abundance, and oceanographic and ecological studies.

Article 4— Vessel data and information

1. States should collect the following types of vessel-related data for standardizing fleet composition and vessel fishing power and for converting between different measures of effort in the analysis of catch and effort data:

(a) vessel identification, flag and port of registry;

(b) vessel type;

(c) vessel specifications (e.g., material of construction, date built, registered length, gross registered tonnage, power of main engines, hold capacity and catch storage methods); and

(d) fishing gear description (e.g., types, gear specifications and quantity).

2. The flag State will collect the following information:

(a) navigation and position fixing aids;

(b) communication equipment and international radio call sign; and

(c) crew size.

Article 5— Reporting

A State shall ensure that vessels flying its flag send to its national fisheries administration and, where agreed, to the relevant subregional or regional fisheries management organization or arrangement, logbook data on catch and effort, including data on fishing operations on the high seas, at sufficiently frequent intervals to meet national requirements and regional and international obligations. Such data shall be transmitted, where necessary, by radio, telex, facsimile or satellite transmission or by other means.

Article 6— Data verification

States or, as appropriate, subregional or regional fisheries management organizations or arrangements should establish mechanisms for verifying fishery data, such as:

(a) position verification through vessel monitoring systems;

(b) scientific observer programmes to monitor catch, effort, catch composition (target and non-target) and other details of fishing operations;

(c) vessel trip, landing and transshipment reports; and

(d) port sampling.

Article 7— Data exchange

1. Data collected by flag States must be shared with other flag States and relevant coastal States through appropriate subregional or regional fisheries management organizations or arrangements. Such organizations or arrangements shall compile data and make them available in a timely manner and in an agreed format to all interested States under the terms and conditions established by the organization or arrangement, while maintaining confidentiality of non-aggregated data, and should, to the extent feasible, develop database systems which provide efficient access to data.

2. At the global level, collection and dissemination of data should be effected through the Food and Agriculture Organization of the United Nations. Where a subregional or regional fisheries management organization or arrangement does not exist, that organization may also do the same at the subregional or regional level by arrangement with the States concerned.

Annex II

Guidelines for the application of precautionary reference points in conservation and management of straddling fish stocks and highly migratory fish stocks

1. A precautionary reference point is an estimated value derived through an agreed scientific procedure, which corresponds to the state of the resource and of the fishery, and which can be used as a guide for fisheries management.

2. Two types of precautionary reference points should be used: conservation, or limit, reference points and management, or target, reference points. Limit reference points set boundaries which are intended to constrain harvesting within safe biological limits within which the stocks can produce maximum sustainable yield. Target reference points are intended to meet management objectives.

3. Precautionary reference points should be stock-specific to account, inter alia, for the reproductive capacity, the resilience of each stock and the characteristics of fisheries exploiting the stock, as well as other sources of mortality and major sources of uncertainty.

4. Management strategies shall seek to maintain or restore populations of harvested stocks, and where necessary associated or dependent species, at levels consistent with previously agreed precautionary reference points. Such reference points shall be used to trigger pre-agreed conservation and management action. Management strategies shall include measures which can be implemented when precautionary reference points are approached.

5. Fishery management strategies shall ensure that the risk of exceeding limit reference points is very low. If a stock falls below a limit reference point or is at risk of falling below such a reference point, conservation and management action should be initiated to facilitate stock recovery. Fishery management strategies shall ensure that target reference points are not exceeded on average.

6. When information for determining reference points for a fishery is poor or absent, provisional reference points shall be set. Provisional reference points may be established by analogy to similar and better-known stocks. In such situations, the fishery shall be subject to enhanced monitoring so as to enable revision of provisional reference points as improved information becomes available.

7. The fishing mortality rate which generates maximum sustainable yield should be regarded as a minimum standard for limit reference points. For stocks which are not overfished, fishery management strategies shall ensure that fishing mortality does not exceed that which corresponds to maximum sustainable yield, and that the biomass does not fall below a predefined threshold. For overfished stocks, the biomass which would produce maximum sustainable yield can serve as a rebuilding target.

Schedule 1

s 19(1)(a)

Notes

1 The mean high-water coastline used in this schedule is based on the 1:50 000 topographic map series maintained by Land Information New Zealand.

2 The boundary of the exclusive economic zone is based on that described in the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977 and maintained by Land Information New Zealand.

3 For the purposes of this Act, all waters inland from the defined coastline will be considered as part of the quota management area or fishery management area with which they are contiguous and into which they flow directly.

4 All positions and directions described in this schedule are based on a geographic latitude/longitude co-ordinate system, using a Mercator projection and the World Geodetic Standard 1984 spheroid.

Schedule 1 Notes: inserted, on 23 June 1998, by section 33(1) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Part 1
Fishery management areas defined

Fishery management area 1—Auckland (East)

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the North Island at the northernmost point of Cape Runaway (approximately 37°32.3′S and approximately 177°59.0′E); then

(b) proceeding north along the line of this longitude to the exclusive economic zone boundary (approximately 33°27.7′S and approximately 177°59.0′E); then

(c) proceeding in a generally north-westerly direction along the exclusive economic zone boundary to a point on the line of longitude of the easternmost point of North Cape on the mean high-water mark of the North Island (approximately 30°53.1′S and approximately 173°02.8′E); then

(d) proceeding south along the line of this longitude to the mean high-water mark of the North Island at the easternmost point of North Cape (approximately 34°24.8′S and approximately 173°02.8′E); then

(e) proceeding in a generally south-easterly direction along the mean high-water mark of the North Island to the point of commencement.

Fishery management area 2—Central (East)

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the North Island at the northernmost point of Cape Runaway (approximately 37°32.3′S and approximately 177°59.0′E); then

(b) proceeding north along the line of this longitude to the exclusive economic zone boundary (approximately 33°27.7′S and approximately 177°59.0′E); then

(c) proceeding in a generally south-easterly direction along the exclusive economic zone boundary to the easternmost point of the exclusive economic zone boundary nearest 34°22.1′S and 179°29.6′E; then

(d) proceeding in a generally easterly direction directly to the westernmost point of the exclusive economic zone boundary nearest 34°34.2′S and 179°51.2′W; then

(e) proceeding in a generally south-easterly direction along the exclusive economic zone boundary to latitude 42°10.0′S (longitude approximately 171°59.1′W); then

(f) proceeding west along the 42°10.0′S line of latitude to longitude 174°42.0′E; then

(g) proceeding in a generally north-westerly direction directly to the Brothers Island light (approximately 41°06.2′S and 174°26.5′E); then

(h) proceeding in a generally easterly direction directly to the mean high-water mark of the North Island at the westernmost point of Te Paokapo at the northern end of Titahi Bay (approximately 41°06.0′S and approximately 174°50.0′E); then

(i) proceeding in generally southerly, easterly, and north-easterly directions along the mean high-water mark along the western, southern, and eastern coasts of the North Island to the point of commencement.

Fishery management area 3—South East (Coast)

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing at a point 42°10.0′S and 176°00.0′E; then

(b) proceeding south along the 176°00.0′E line of longitude to latitude 46°00.0′S; then

(c) proceeding in a generally south-westerly direction directly to a point 48°19.0′S and 170°31.0′E; then

(d) proceeding in a generally north-westerly direction directly to the mean high-water mark of the South Island at the southernmost point of Slope Point (approximately 46°40.5′S and approximately 169°00.0′E); then

(e) proceeding in a generally north-easterly direction along the mean high-water mark of the South Island to latitude 42°10.0′S (approximately 173°56.5′E, near Clarence Point); then

(f) proceeding east along the 42°10.0′S line of latitude until reaching the point of commencement.

Fishery management area 4—South East (Chatham Rise)

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing at a point 42°10.0′S and 176°00.0′E; then

(b) proceeding south along the 176°00.0′E line of longitude to latitude 46°00.0′S; then

(c) proceeding east along the 46°00.0′S line of latitude to the exclusive economic zone boundary (longitude approximately 171°46.7′W); then

(d) proceeding in a generally northerly direction along the exclusive economic zone boundary to latitude 42°10.0′S (longitude approximately 171°59.1′W); then

(e) proceeding west along the line of latitude 42°10.0′S to the point of commencement.

Fishery management area 5—Southland

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the west coast of the South Island at the westernmost point of Awarua Point (approximately 44°15.6′S and approximately 168°03.1′E); then

(b) proceeding along the mean high-water mark of the South Island in generally south-westerly and easterly directions to the southernmost point of Slope Point (approximately 46°40.5′S and approximately 169°00.0′E); then

(c) proceeding in a generally south-easterly direction directly to a point 48°19.0′S and 170°31.0′E; then

(d) proceeding in a generally south-westerly direction directly to a point 49°00.0′S and 169°00.0′E; then

(e) proceeding west along the 49°00.0′S line of latitude to the exclusive economic zone boundary (at longitude approximately 161°26.2′E); then

(f) proceeding in a generally northerly direction along the exclusive economic zone boundary to the same latitude as the point of commencement (approximately 44°15.6′S and approximately 162°12.9′E); then

(g) proceeding east along the line of this latitude to the point of commencement.

Fishery management area 6—Sub-Antarctic

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing at a point 46°00.0′S and 176°00.0′E; then

(b) proceeding in a generally south-westerly direction directly to a point 48°19.0′S and 170°31.0′E; then

(c) proceeding in a generally south-westerly direction directly to a point 49°00.0′S and 169°00.0′E; then

(d) proceeding west along the 49°00.0′S line of latitude to the exclusive economic zone boundary (longitude approximately 161°26.2′E); then

(e) proceeding in generally southerly, easterly, and north-easterly directions along the exclusive economic zone boundary to latitude 46°00.0′S east of the South Island (approximate longitude 171°46.7′W); then

(f) proceeding west along the 46°00.0′S line of latitude to the point of commencement.

Fishery management area 7—Challenger/Central (Plateau)

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the west coast of the South Island at the westernmost point of Awarua Point (approximately 44°15.6′S and approximately 168°03.1′E); then

(b) proceeding west along the line of this latitude to the exclusive economic zone boundary (approximate longitude 162°12.9′E); then

(c) proceeding in a generally north-easterly direction along the exclusive economic zone boundary to the easternmost point of the exclusive economic zone boundary nearest 37°35.6′S and 170°05.7′E; then

(d) proceeding in a generally south-easterly direction directly to a point 40°32.0′S and 174°20.0′E; then

(e) proceeding in a generally southerly direction directly to the Brothers Island light (approximately 41°06.2′S and approximately 174°26.5′E); then

(f) proceeding in a generally southerly direction directly to a point 42°10.0′S and 174°42.0′E; then

(g) proceeding west along the 42°10.0′S line of latitude to the mean high-water mark of the South Island near Clarence Point (approximate longitude 173°56.5′E); then

(h) proceeding along the mean high-water mark of the South Island in generally northerly, westerly, and south-westerly directions to the point of commencement.

Fishery management area 8—Central (Egmont)

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the west coast of the North Island at the westernmost point of Tirua Point (approximately 38°23.3′S and approximately 174°38.0′E); then

(b) proceeding in a generally north-westerly direction directly to the easternmost point of the exclusive economic zone boundary near 37°35.6′S and 170°05.7′E; then

(c) proceeding in a generally south-easterly direction directly to a point at 40°32.0′S and 174°20.0′E; then

(d) proceeding in a generally south-easterly direction directly to the Brothers Island light (approximately 41°06.2′S and approximately 174°26.5′E); then

(e) proceeding in an easterly direction directly to the mean high-water mark of the west coast of the North Island at the westernmost point of Te Paokapo at the northern end of Titahi Bay (approximately 41°06.0′S and approximately 174°50.0′E); then

(f) proceeding in a generally northerly direction along the mean high-water mark of the North Island to the point of commencement.

Fishery management area 9—Auckland (West)

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the west coast of the North Island at the westernmost point of Tirua Point (approximately 38°23.3′S and 174°38.0′E); then

(b) proceeding in a generally westerly direction directly to the easternmost point of the exclusive economic zone boundary nearest 37°35.6′S and 170°05.7′E; then

(c) proceeding in a generally northerly direction along the exclusive economic zone boundary to a point on the line of longitude of the easternmost point of North Cape on the mean high-water mark of the North Island (approximately 30°53.1′S and approximately 173°02.8′E); then

(d) proceeding south along the line of this longitude to the mean high-water mark of the North Island at the easternmost point of North Cape (approximately 34°24.8′S and 173°02.8′E); then

(e) proceeding in generally westerly and south-easterly and southerly directions along the mean high-water mark along the north and west coasts of the North Island to the point of commencement.

Fishery management area 10—Kermadec

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing at the easternmost point of the exclusive economic zone boundary nearest 34°22.1′S and 179°29.6′E; then

(b) proceeding in generally north-westerly, northerly, easterly, and southerly directions along the exclusive economic zone boundary to the westernmost point of the exclusive economic zone boundary nearest 34°34.2′S and 179°51.2′W; then

(c) proceeding in a generally westerly direction directly to the point of commencement.

Schedule 1 Part 1: amended, on 23 June 1998, by section 33(2)(a) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Part 2
Additional fishery management areas defined

Fishery management area 2A—Central (Gisborne)

All that area of New Zealand fisheries waters within fishery management area 2—Central (East) lying north of the 40°30.0′S line of latitude.

Fishery management area 2B—Central (Wairarapa)

All that area of New Zealand fisheries waters within fishery management area 2—Central (East) enclosed by a line—

(a) commencing at a point on the mean high-water mark of the east coast of the North Island at latitude 40°30.0′S, near Herbertville (longitude approximately 176°33.3′E); then

(b) proceeding east along latitude 40°30.0′S to the exclusive economic zone boundary (longitude approximately 175°04.0′W); then

(c) proceeding in a generally south-easterly direction along the exclusive economic zone boundary to a point at latitude 42°10.0′S (longitude approximately 171°59.1′W); then

(d) proceeding west along the line of latitude 42°10.0′S to a point on a line drawn between the mean high-water mark of the North Island at the southernmost point of Cape Palliser (at approximately 41°36.8′S and approximately 175°16.4′E) and a point at 43°08.0′S and 173°57.0′E, joining this line at approximately 174°47.7′E; then

(e) proceeding in a generally north-easterly direction directly to the mean high-water mark of the North Island at the southernmost point of Cape Palliser (at approximately 41°36.8′S and approximately 175°16.4′E); then

(f) proceeding in a generally north-westerly direction along the mean high-water mark of the North Island to the point of commencement.

Fishery management area 3A—Central/Challenger/South-East (Cook Strait/Kaikoura)

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the west coast of the North Island at the westernmost point of Te Paokapo at the northern end of Titahi Bay (approximately 41°06.0′S and approximately 174°50.0′E); then

(b) proceeding in generally southerly and easterly directions along the mean high-water mark of the North Island to the southernmost point of Cape Palliser (approximately 41°36.8′S and approximately 175°16.4′E); then

(c) proceeding in a generally southerly direction directly to a point 43°08.0′S and 173°57.0′E; then

(d) proceeding in a generally south-westerly direction directly to the mean high-water mark of the east coast of the South Island at the easternmost point of Steep Head (approximately 43°44.3′S and approximately 173°07.5′E); then

(e) proceeding in a generally northerly direction along the mean high-water mark of the South Island to West Head (approximately 41°13.0′S and approximately 174°19.4′E); then

(f) proceeding in a generally easterly direction directly to the mean high-water mark of Arapawa Island at East Head (approximately 41°12.8′S and approximately 174°19.0′E); then

(g) proceeding along the eastern mean high-water mark of Arapawa Island in a generally northerly direction to the northernmost point of Cape Koamaru (approximately 41°05.4′S and approximately 174°23.0′E); then

(h) proceeding in a generally easterly direction directly to the Brothers Island light (approximately 41°06.2′S and approximately 174°26.5′E); then

(i) proceeding in a generally easterly direction directly to the point of commencement.

Fishery management area 3B—South-East (Strathallan)

All that area of New Zealand fisheries waters within fishery management area 3—South-East enclosed by a line—

(a) commencing on the mean high-water mark of the east coast of the South Island at the easternmost point of Steep Head (approximately 43°44.3′S and approximately 173°07.5′E); then

(b) proceeding in a generally north-easterly direction directly to a point 43°08.0′S and 173°57.0′E; then

(c) proceeding in a generally north-easterly direction directly to a point 42°10.0′S and 174°47.7′E; then

(d) proceeding east along the 42°10.0′S line of latitude to longitude 176°00.0′E; then

(e) proceeding south along the 176°00.0′E line of longitude to latitude 46°00.0′S; then

(f) proceeding west along the 46°00.0′S line of latitude to the mean high-water mark of the east coast of the South Island (approximate longitude 170°15.8′E, approximately 3.5 miles north of Taieri Mouth); then

(g) proceeding in a generally north-easterly direction along the mean high-water mark of the South Island to the point of commencement.

Fishery management area 5A—South-East (Otago/Southland)

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing at a point on the mean high-water mark of the east coast of the South Island at 46°00.0′S (approximately 170°15.8′E, approximately 3.5 miles north of Taieri Mouth); then

(b) proceeding east along the line of latitude 46°00.0′S to longitude 176°00.0′E; then

(c) proceeding in a generally south-westerly direction directly to a point 48°19.0′S and 170°31.0′E; then

(d) proceeding in a generally south-westerly direction directly to a point 49°00.0′S and 169°00.0′E; then

(e) proceeding west along the line of latitude 49°00.0′S to the exclusive economic zone boundary (approximate longitude 161°26.2′E); then

(f) proceeding in a generally northerly direction along the exclusive economic zone boundary to a point due west of the westernmost point of Awarua Point on the mean high-water mark of the west coast of the South Island (approximately 44°15.6′S and approximately 162°12.9′E); then

(g) proceeding east along the line of this latitude to the mean high-water mark of the west coast of the South Island at the westernmost point of Awarua Point (approximately 44°15.6′S and approximately 168°03.1′E); then

(h) proceeding in generally south-westerly, easterly, and north-easterly directions along the mean high-water mark of the South Island to the point of commencement.

Fishery management area 7A—Challenger (North)

All that area of New Zealand fisheries waters within fishery management area 7—Challenger/Central (Plateau) enclosed by a line—

(a) commencing on the mean high-water mark of the west coast of the South Island at latitude 42°00.0′S, near the mouth of Belfast Creek (approximate longitude 171°24.0′E); then

(b) proceeding west along the 42°00.0′S line of latitude to the exclusive economic zone boundary (approximate longitude 164°42.5′E); then

(c) proceeding in a generally north-easterly direction along the exclusive economic zone boundary to the easternmost point of the exclusive economic zone boundary nearest 37°35.6′S and 170°05.7′E; then

(d) proceeding in a generally south-easterly direction directly to a point 40°32.0′S and 174°20.0′E; then

(e) proceeding in a generally southerly direction directly to the Brothers Island light (approximately 41°06.2′S and approximately 174°26.5′E); then

(f) proceeding in a generally westerly direction directly to the mean high-water mark of Arapawa Island at the northernmost point of Cape Koamaru (approximately 41°05.4′S and approximately 174°23.0′E); then

(g) proceeding along the eastern high-water mark of Arapawa Island in a generally southerly direction to East Head (approximately 41°12.8′S and approximately 174°19.4′E); then

(h) proceeding in a generally westerly direction directly to the mean high-water mark of the South Island at West Head (approximately 41°13.0′S and approximately 174°19.4′E); then

(i) proceeding along the mean high-water mark of the South Island in generally westerly and south-westerly directions to the point of commencement.

Fishery management area 7B—Challenger (South)

All that area of New Zealand fisheries waters within fishery management area 7—Challenger/Central (Plateau) lying south of the 42°00.0′S line of latitude.

Schedule 1 Part 2: amended, on 23 June 1998, by section 33(2)(b) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Part 3
Quota management areas

Freshwater eel (ANG), long-finned freshwater eel (LFE), and short-finned freshwater eel (SFE) management areas

Quota management area ANG11, LFE11, or SFE11—Nelson/Marlborough

All New Zealand fisheries waters enclosed by a line—

(1) commencing at the mean high-water mark at Kahurangi Point, being a point at 40°46.6′S and 172°13.0′E; then

(2) proceeding in a generally south-easterly direction along the summit of Saxon Ridge, Mackay Downs, Gouland Downs, Tubman Range, and Gouland Range to Mt Gouland; then

(3) proceeding in a generally south-easterly direction along the summit of Gouland Range, Domett Range, traversing the Aorere Saddle, and continuing along the Domett Range to Aorere Peak; then

(4) proceeding in a generally south-easterly direction along the summit of Peel Range and Pyramid Ridge to Mt Arthur; then

(5) proceeding in a generally south-westerly direction along the summit of Arthur Range to Kiwi Saddle; then

(6) proceeding in a generally south-westerly direction along the watershed of the Wangapeka River and its tributaries, passing through Mt Luna and traversing

the Wangapeka Saddle, and proceeding along the summit of the Matiri Range to Nugget Knob; then

(7) proceeding in a generally south-easterly direction along the watershed of the Wangapeka River and its tributaries, the Rolling River and its tributaries, passing through Replica Hill and Sentinel Hill, to a point on the summit of Lookout Range; then

(8) proceeding in a generally south-easterly direction along the watershed of the Dart River to a point on the Hope Range, being the starting point of the watershed between the Tadmor and Hope Rivers; then

(9) proceeding in a generally south-easterly direction along the watershed between the Tadmor and Hope Rivers and their tributaries, traversing the Tadmor Saddle, and continuing along the watershed to the Hope Saddle; then

(10) proceeding in a generally south-easterly direction along the watershed between the Rainy and Buller Rivers and their tributaries to a point on the watershed at 41°46.4′S and 172°49.2′E; then

(11) proceeding south by right line to the source of the Buller River from Lake Rotoiti; then

(12) proceeding in a generally southerly direction along the watershed of Lake Rotoiti and its tributaries to Mt Robert; then

(13) proceeding in a generally south-westerly direction along the summit of Robert Ridge to the point on that ridge at 41°53.9′S and 172°43.9′E; then

(14) proceeding in a generally north-westerly direction along the watershed of Lake Rotoroa and its tributaries, also being the summit of Muntz Range, to Trig H; then

(15) proceeding south-west by right line to the source of the Gowan River from Lake Rotoroa, and proceeding again south by right line to Mt Pickering; then

(16) proceeding in a generally southerly direction along the summit of the Braeburn Range, traversing the Tiraumea Saddle, Mole Saddle, and along the summit of Ella Range to Mt Dorothy; then

(17) proceeding in a generally south-easterly direction along the summit of the ridge traversing David Saddle to the point on the summit of the Spenser Mountains at 42°08.8′S and 172°37.3′E; then

(18) proceeding in a generally north-easterly direction along the summit of the Spenser Mountains, traversing Thompson Pass and Waiau Pass, to Belvedere Peak; then

(19) proceeding in a generally easterly direction along the summit of the Crimea Range, traversing Island Saddle and Island Pass, along the summit of Balaclava Ridge and the watershed of the Wairau River and its tributaries to Trig F; then

(20) proceeding in a generally north-easterly direction along the watershed of the Wairau River and its tributaries, the summit of Raglan Range, the watersheds

of the Branch and Leatham Rivers and their tributaries, traversing the Severn Saddle, to Saxton Saddle; then

(21) proceeding in a generally north-easterly direction along the watersheds of the Leatham and Waihopai Rivers and their tributaries, traversing Acheron Saddle, and passing through Blue Mountain and The Pinnacles to Pudding Hill; then

(22) proceeding in a generally north-easterly direction along the watershed of the Avon River and its tributaries, traversing Avon Saddle, and passing through Mt Abrupt, Mt Hall, and Glenlee North to Ferny Gair; then

(23) proceeding in a generally north-easterly direction along the watersheds of the Avon and Omaka Rivers and their tributaries, passing through Mt Horrible, Mt Harkness, Blairich, and Newport Knob to Blairich Pass; then

(24) proceeding in a generally north-easterly direction along the watershed of the Taylor River and its tributaries, passing through Little Ned and traversing Taylor Pass, and passing through Dumgree to Maxwell Pass; then

(25) proceeding in a generally north-easterly direction along the watersheds of Upper Lagoon and Big Lagoon and their tributaries, traversing Dashwood Pass and Redwood Pass, and passing through Jamies Knob to the mean high-water mark at Whites Bluff, being a point at 41°33.5′S and 174°08.9′E; then

(26) proceeding north-east by right line to a point at 41°26.0′S and 174°23.0′E; then

(27) proceeding north-east by right line to a point at 41°13.0′S and 174°31.0′E; then

(28) proceeding north-east by right line to a point at 40°42.0′S and 174°40.0′E; then

(29) proceeding north-west by right line to a point at 40°02.0′S and 173°00.0′E; then

(30) proceeding north-west by right line to a point at 38°09.0′S and 169°32.0′E; then

(31) proceeding south-east by right line to the point of commencement at Kahurangi Point.

Quota management area ANG12, LFE12, or SFE12—North Canterbury

All New Zealand fisheries waters enclosed by a line—

(1) commencing at a point on the mean high-water mark in line with the north-east boundary of Section 6 Buckley Settlement (SO 5504), being a point at 43°58.2′S and 172°00.3′E; then

(2) proceeding by right lines to the easternmost points of RS 38559 SO 9323 and Lot 3 DP 19564, the northernmost point of Lot 1 DP 27460, the westernmost point of RS 5041 SO 9407, the northernmost point of Section 1 SO 7412, the easternmost point of Section 3C Grange Settlement (SO 6657), the southernmost point of Lot 1 DP 6984, the northernmost points of RS 41562 SO 15810 and RS 38090 SO 9115, and to a point being the easternmost point on the eastern boundary of RS 42160 SO 16641 (all being plans in Canterbury Land District); then

(3) proceeding in a generally northerly direction along the watershed between the Rakaia River and Pudding Hill Stream and their tributaries to Mt Hutt; then

(4) proceeding in a generally northerly direction along the summit of Mount Hutt Range to Steepface Hill; then

(5) proceeding in a generally westerly direction along the watershed between the Swift River and Redcliffe Stream and their tributaries, traversing Redcliffe Saddle to Shingle Hill; then

(6) proceeding in a generally westerly direction along the watershed between Middle Creek and Cascade Glen and their tributaries to a point on the summit of Black Hill Range; then

(7) proceeding in a generally northerly direction along the summit of Black Hill Range to Donald Hill; then

(8) proceeding in a generally south-westerly direction along the watershed of the North Branch Ashburton River and its tributaries, traversing Turtons Saddle, passing through Godley Peak to Mt Catherine; then

(9) proceeding south-west by right line to the source of the Lake Stream from Lake Heron, and proceeding again south-west by right line to Pyramid; then

(10) proceeding in a generally north-easterly direction along the summit of Wild Mans Brother Range to Mt Arrowsmith; then

(11) proceeding in a generally northerly direction along the summit of Arrowsmith Range to North Peak; then

(12) proceeding in a generally south-westerly direction along the summit of Jollie Range to Outlaw Peak; then

(13) proceeding in a generally westerly direction along the summit of the ridge traversing Crossbow Saddle to Amazon Peak; then

(14) proceeding in a generally north-westerly direction along the watershed of the McCoy Stream and its tributaries, passing through Mt Goethe to Mt Nicholson; then

(15) proceeding in a generally northerly direction along the summit of the ridge traversing Rangitata Col to a point on the summit of Main Divide of the Southern Alps, being a point at 43°18.4′S and 170°48.3′E; then

(16) proceeding in a generally north-easterly direction along the summit of Main Divide of the Southern Alps passing through Mt Westland, Mt Whitcombe, Mt Warner, Mt Bryce, Mt Marion, and Mt Rolleston to Arthur's Pass; then

(17) proceeding in a generally north-easterly direction along the summit of Main Divide of the Southern Alps, traversing Worsley Pass, Harper Pass, Hope Pass, and Amuri Pass to Lucretia; then

(18) proceeding in a generally north-easterly direction along the watershed of the Maruia River and its tributaries, traversing Lewis Pass, passing through Trovatore, and traversing Henry Saddle to Zampa; then

(19) proceeding in a generally north-easterly direction along the summit of the Spenser Mountains, traversing Ada Pass to a point on the summit of the Spenser Mountains, being a point at 42°08.8′S and 172°37.3′E; then

(20) proceeding in a generally north-easterly direction along the summit of the Spenser Mountains, traversing Thompson Pass and Waiau Pass to Belvedere Peak; then

(21) proceeding in a generally easterly direction along the summit of the Crimea Range, traversing Island Saddle and Island Pass, along the summit of Balaclava Ridge and the watershed of the Wairau River and its tributaries to Trig F; then

(22) proceeding in a generally north-easterly direction along the watershed of the Wairau River and its tributaries, the summit of Raglan Range, the watersheds of the Branch and Leatham Rivers and their tributaries, traversing the Severn Saddle to Saxton Saddle; then

(23) proceeding in a generally north-easterly direction along the watersheds of the Leatham and Waihopai Rivers and their tributaries, traversing Acheron Saddle and passing through Blue Mountain and The Pinnacles to Pudding Hill; then

(24) proceeding in a generally north-easterly direction along the watershed of the Avon River and its tributaries, traversing Avon Saddle, and passing through Mt Abrupt, Mt Hall, and Glenlee North to Ferny Gair; then

(25) proceeding in a generally north-easterly direction along the watersheds of the Avon River and Omaka River and their tributaries, passing through Mt Horrible, Mt Harkness, Blairich, and Newport Knob to Blairich Pass; then

(26) proceeding in a generally north-easterly direction along the watershed of Taylor River and its tributaries, passing through Little Ned and traversing Taylor Pass, and passing through Dumgree to Maxwell Pass; then

(27) proceeding in a generally north-easterly direction along the watersheds of Upper Lagoon and Big Lagoon and their tributaries, traversing Dashwood Pass and Redwood Pass, and passing through Jamies Knob to the mean high-water mark at Whites Bluff, being a point at 41°33.5′S and 174°08.9′E; then

(28) proceeding south-east by right line to a point at 42°10.0′S and 174°42.0′E; then

(29) proceeding east by right line to a point at 42°10.0′S and 176°00.0′E; then

(30) proceeding south by right line to a point at 46°00.0′S and 176°00.0′E; then

(31) proceeding north-west by right line to the point of commencement.

This quota management area does not include the area contained within quota management area ANG13, LFE13, or SFE13.

Quota management area ANG13, LFE13, or SFE13—Lake Ellesmere

All New Zealand fisheries waters enclosed by a line—

(1) commencing at a point on the mean high-water mark in line with the north-east boundary of Lot 2 DP 74178, being a point at 43°53.3′S and 172°15.1′E; then

(2) proceeding by right lines to the easternmost points of Lot 2 DP 74178, Lot 1 DP 19592, RS 10368 SO 368, and Lot 1 DP 13507, the northernmost point of RS 33633 SO 2648, the southernmost points of Lot 3 DP 66187, RS 33577 SO 2871, and Lot 1 DP 68557, the easternmost points of Section 20 Block IX Selwyn Survey District (SO 1508), Lot 2 DP 59218, Lot 4 DP 60698, Lot 1 DP 17908, and RS 36763 SO 5324, the northernmost points of Lot 3 DP 3588 and Lot 1 DP 60996 (all being plans in Canterbury Land District); then

(3) proceeding in a generally northerly direction along the summit of Rockwood Range until its intersection with the watershed between the Selwyn River and Boundary Stream and their tributaries; then

(4) proceeding in a generally north-westerly direction along the watershed between the Selwyn and Rakaia Rivers and their tributaries, passing through Haycock to Big Ben; then

(5) proceeding in a generally north-easterly direction along the watershed of the Selwyn River and its tributaries, also being the summit of Big Ben Range and Russell Range, to Trig H; then

(6) proceeding in a generally north-easterly direction along the summit of Russell Range to Trig F No 2; then

(7) proceeding in a generally north-easterly direction along the watershed of the Hawkins River and its tributaries to Trig E; then

(8) proceeding by right lines to the southernmost point of Lot 1 DP 23878, the northernmost point of Lot 83 DP 15, the easternmost point of Section 1 Darfield Village Settlement (SO 1209), and the northernmost point of Lot 1 DP 9497 (all being plans in the Canterbury Land District); then

(9) proceeding east by right line to Trig U and then Trig Y, both situated near Westmorland; then

(10) proceeding in a generally south-easterly direction along the summit of the ridge to Marleys Hill; then

(11) proceeding in a generally south-easterly direction along the watershed of Lyttelton Harbour and its tributaries, passing through Cass Peak, Coopers Knob, traversing Gebbies Pass and McQueens Pass, passing through Remarkable Dykes, Mt Bradley, and Mt Herbert, to Trig ZZ; then

(12) proceeding in a generally southerly direction along the watersheds of the Kaituna River, Prices Stream, and Waikoko Stream and their tributaries, passing through Trig QQ, Trig SS, and High Bare Peak to Trig D; then

(13) proceeding by right line to the easternmost point of Lot 1 DP 19343; then

(14) proceeding by right line to a point on the mean high-water mark in line with the eastern boundary of Lot 1 DP 19343, being a point at 43°49.7′S and 172°42.5′E; then

(15) proceeding in a generally south-westerly direction along the mean high-water mark to the point of commencement.

Quota management area ANG14, LFE14, or SFE14—South Canterbury/ Waitaki

All New Zealand fisheries waters enclosed by a line—

(1) commencing at a point on the mean high-water mark in line with the north-east boundary of Section 6 Buckley Settlement (SO 5504), being a point at 43°58.2′S and 172°00.3′E; then

(2) proceeding by right lines to the easternmost points of RS 38559 SO 9323 and Lot 3 DP 19564, the northernmost point of Lot 1 DP 27460, the westernmost point RS 5041 SO 9407, the northernmost point of Section 1 SO 7412, the easternmost point of Section 3C Grange Settlement (SO 6657), the southernmost point of Lot 1 DP 6984, the northernmost points of RS 41562 SO 15810 and RS 38090 SO 9115, and to a point being the easternmost point on the eastern boundary of RS 42160 SO 16641 (all being plans in the Canterbury Land District); then

(3) proceeding in a generally northerly direction along the watershed between the Rakaia River and Pudding Hill Stream and their tributaries to Mt Hutt; then

(4) proceeding in a generally northerly direction along the summit of Mount Hutt Range to Steepface Hill; then

(5) proceeding in a generally westerly direction along the watershed between the Swift River and Redcliffe Stream and their tributaries, traversing Redcliffe Saddle to Shingle Hill; then

(6) proceeding in a generally westerly direction along the watershed between Middle Creek and Cascade Glen and their tributaries to a point on the summit of Black Hill Range; then

(7) proceeding in a generally northerly direction along the summit of Black Hill Range to Donald Hill; then

(8) proceeding in a generally south-westerly direction along the watershed of the North Branch Ashburton River and its tributaries, traversing Turtons Saddle, passing through Godley Peak to Mt Catherine; then

(9) proceeding south-west by right line to the source of the Lake Stream from Lake Heron, and proceeding again south-west by right line to Pyramid; then

(10) proceeding in a generally north-easterly direction along the summit of Wild Mans Brother Range to Mt Arrowsmith; then

(11) proceeding in a generally northerly direction along the summit of Arrowsmith Range to North Peak; then

(12) proceeding in a generally south-westerly direction along the summit of Jollie Range to Outlaw Peak; then

(13) proceeding in a generally westerly direction along the summit of the ridge traversing Crossbow Saddle to Amazon Peak; then

(14) proceeding in a generally north-westerly direction along the watershed of the McCoy Stream and its tributaries, passing through Mt Goethe to Mt Nicholson; then

(15) proceeding in a generally northerly direction along the summit of the ridge traversing Rangitata Col to a point on the summit of Main Divide of the Southern Alps, being a point at 43°18.4′S and 170°48.3′E; then

(16) proceeding in a generally south-westerly direction along the summit of Main Divide of the Southern Alps, passing through Mt Tyndall, Mt Edison, McClure Peak, Mt Moffat, Mt Elie De Beaumont, Mt Tasman, Mt Sefton, Mt Hopkins, and Mt Ward to Mt Strauchon; then

(17) proceeding in a generally southerly direction along the watershed between the Hunter and Huxley Rivers and their tributaries to Mt Huxley; then

(18) proceeding in a generally southerly direction along the watershed between the Hunter and Ahuriri Rivers and their tributaries, and again along the watershed between the Dingle Burn and Ahuriri Rivers and their tributaries to Mt Martha; then

(19) proceeding along the watershed of the Ahuriri River and its tributaries, traversing Lindis Pass to Double Peak; then

(20) proceeding along the watershed between Dip Creek and Longslip Creek and their tributaries to the summit of Dunstan Range; then

(21) proceeding in a generally north-easterly direction along the summit of Dunstan Range to its junction with Wether Range; then

(22) proceeding in a generally southerly direction along the summit of Wether Range to its junction with St Bathans Range; then

(23) proceeding in a generally south-easterly direction along the watershed of the Omarama Stream and its tributaries, traversing Omarama Saddle to the junction of Ewe Range and Hawkdun Range; then

(24) proceeding in a generally south-easterly direction along the summit of the Hawkdun Range to Mt Ida; then

(25) proceeding in a generally easterly direction along the summit of Ida Range to Mt Buster; then

(26) proceeding in a generally south-easterly direction along the watershed of Kye Burn and its tributaries, traversing Danseys Pass to Mt Alexander; then

(27) proceeding in a generally south-easterly direction along the summit of the Kakanui Mountains to Mt Pisgah; then

(28) proceeding in a generally north-easterly direction along the summit of Pisgah Spur and the watershed of the Kakanui River and its tributaries to Trig C No 2; then

(29) proceeding in a generally easterly direction along the northern watershed of Waiareka Creek and its tributaries, passing through Trigs P, D, and Big Hill to Trig 13631; then

(30) proceeding in a generally south-easterly direction along the northern watersheds of Landon Creek, Spring Gully, and Shepherds Gully and their tributaries to Trig G; then

(31) proceeding south-east by right line to Trig F and a continuation of this line to a point on the mean high-water mark, being a point at 45°02.8′S and 171°03.0′E; then

(32) proceeding south-east by right line to a point at 46°00.0′S and 176°00.0′E; then

(33) proceeding north-west by right line to the point of commencement.

Quota management area ANG15, LFE15, or SFE15—Otago/Southland

All New Zealand fisheries waters enclosed by a line—

(1) commencing at the mean high-water mark at St Anne Point, being a point at 44°34.4′S and 167°46.9′E; then

(2) proceeding in a generally south-easterly direction along the watersheds of Milford Sound and Arthur River and their tributaries, passing through Mt Danger, Twin Sisters, Aiguille Rouge, Mt Balloon, Mt Kepka, Mt Mitchelson, and Mt Gendarme to Mt Moir; then

(3) proceeding in a generally south-easterly direction along the watershed of the Hollyford River and its tributaries, passing through Mt Charlton and Pyramid Peak and traversing The Divide to Greenstone Saddle; then

(4) proceeding in a generally northerly direction along the watershed and the summit of Ailsa Mountains, traversing Emily Pass, and along the summit of Serpentine Range to Nereus Peak; then

(5) proceeding in a generally north-easterly direction along the watershed of the Dart River and its tributaries to Mt Liverpool; then

(6) proceeding in a generally north-easterly direction along the watershed of the Matukituki River and its tributaries to Popes Nose; then

(7) proceeding in a generally north-easterly direction along the summit of Main Divide of the Southern Alps, passing through Mt Castor, Mt Alba, Mt Actor, and Lindsay Peak to Haast Pass; then

(8) proceeding in a generally north-easterly direction along the summit of Main Divide of the Southern Alps, passing through Mt Brewster and Mt Holdsworth to Mt Strauchon; then

(9) proceeding in a generally southerly direction along the watershed between the Hunter and Huxley Rivers and their tributaries to Mt Huxley; then

(10) proceeding in a generally southerly direction along the watershed between the Hunter and Ahuriri Rivers and their tributaries, and again along the watershed

between the Dingle Burn and Ahuriri River and their tributaries to Mt Martha; then

(11) proceeding along the watershed of the Ahuriri River and its tributaries, traversing Lindis Pass to Double Peak; then

(12) proceeding along the watershed between Dip Creek and Longslip Creek and their tributaries to the summit of Dunstan Range; then

(13) proceeding in a generally north-easterly direction along the summit of Dunstan Range to its junction with Wether Range; then

(14) proceeding in a generally southerly direction along the summit of Wether Range to its junction with St Bathans Range; then

(15) proceeding in a generally south-easterly direction along the watershed of the Omarama Stream and its tributaries, traversing Omarama Saddle to the junction of Ewe Range and Hawkdun Range; then

(16) proceeding in a generally south-easterly direction along the summit of the Hawkdun Range to Mt Ida; then

(17) proceeding in a generally easterly direction along the summit of Ida Range to Mt Buster; then

(18) proceeding in a generally south-easterly direction along the watershed of Kye Burn and its tributaries, traversing Danseys Pass to Mt Alexander; then

(19) proceeding in a generally south-easterly direction along the summit of the Kakanui Mountains to Mt Pisgah; then

(20) proceeding in a generally north-easterly direction along the summit of Pisgah Spur and the watershed of the Kakanui River and its tributaries to Trig C No 2; then

(21) proceeding in a generally easterly direction along the northern watershed of Waiareka Creek and its tributaries and passing through Trigs P, D, and Big Hill to Trig 13631; then

(22) proceeding in a generally south-easterly direction along the northern watersheds of Landon Creek, Spring Gully, and Shepherds Gully and their tributaries to Trig G; then

(23) proceeding south-east by right line to Trig F and a continuation of this line to a point on the mean high-water mark, being a point at 45°02.8′S and 171°03.0′E; then

(24) proceeding south-east by right line to a point at 46°00.0′S and 176°00.0′E; then

(25) proceeding south-west by right line to a point at 48°19.0′S and 170°31.0′E; then

(26) proceeding south-west by right line to a point at 49°00.0′S and 169°00.0′E; then

(27) proceeding due west by right line to a point at 49°00.0′S and 161°26.2′E; then

(28) proceeding in a generally northerly direction following the western boundary of the exclusive economic zone of New Zealand to 44°15.6′S and 162°12.9′E; then

(29) proceeding by right line to the point of commencement at St Anne Point.

Quota management area ANG16, LFE16, or SFE16—West Coast

All New Zealand fisheries waters enclosed by a line—

(1) commencing at the mean high-water mark at Kahurangi Point at 40°46.6′S and 172°13.0′E; then

(2) proceeding in a generally south-easterly direction along the summit of Saxon Ridge, Mackay Downs, Gouland Downs, Tubman Range, and Gouland Range to Mt Gouland; then

(3) proceeding in a generally south-easterly direction along the summit of Gouland Range, Domett Range, traversing the Aorere Saddle and continuing along the Domett Range to Aorere Peak; then

(4) proceeding in a generally south-easterly direction along the summit of Peel Range and Pyramid Ridge to Mt Arthur; then

(5) proceeding in a generally south-westerly direction along the summit of Arthur Range to Kiwi Saddle; then

(6) proceeding in a generally south-westerly direction along the watershed of the Wangapeka River and its tributaries, passing through Mt Luna and traversing the Wangapeka Saddle, and along the summit of the Matiri Range to Nugget Knob; then

(7) proceeding in a generally south-easterly direction along the watershed of the Wangapeka River and its tributaries, the Rolling River and its tributaries, passing through Replica Hill and Sentinel Hill to a point on the summit of Lookout Range; then

(8) proceeding in a generally south-easterly direction along the watershed of the Dart River to a point on the Hope Range, being the starting point of the watershed between the Tadmor and Hope Rivers; then

(9) proceeding in a generally south-easterly direction along the watershed between the Tadmor and Hope Rivers and their tributaries, traversing the Tadmor Saddle and continuing along the watershed to the Hope Saddle; then

(10) proceeding in a generally south-easterly direction along the watershed between the Rainy and Buller Rivers and their tributaries to a point on the watershed at 41°46.4′S and 172°49.2′E; then

(11) proceeding south by right line to the source of the Buller River from Lake Rotoiti; then

(12) proceeding in a generally southerly direction along the watershed of Lake Rotoiti and its tributaries to Mt Robert; then

(13) proceeding in a generally south-westerly direction along the summit of Robert Ridge to a point on the ridge at 41°53.9′S and 172°43.9′E; then

(14) proceeding in a generally north-westerly direction along the watershed of Lake Rotoroa and its tributaries, also being the summit of Muntz Range, to Trig H; then

(15) proceeding south-west by right line to the source of the Gowan River from Lake Rotoroa, and again south by right line to Mt Pickering; then

(16) proceeding in a generally southerly direction along the summit of the Braeburn Range, traversing the Tiraumea Saddle and along the summit of Ella Range to Mt Dorothy; then

(17) proceeding in a generally south-easterly direction along the ridge traversing David Saddle to a point on the summit of the Spenser Mountains, being a point at 42°08.8′S and 172°37.3′E; then

(18) proceeding in a generally south-westerly direction along the summit of the Spenser Mountains, traversing Ada Pass to Zampa; then

(19) proceeding in a generally south-westerly direction along the watershed of the Maruia River and its tributaries, traversing Henry Saddle, passing through Trovatore and traversing Lewis Pass to Lucretia; then

(20) proceeding in a generally south-easterly direction along the summit of Main Divide of the Southern Alps, traversing Amuri Pass, Hope Pass, Harper Pass, and Worsley Pass to Arthur's Pass; then

(21) proceeding in a generally south-westerly direction along the summit of Main Divide of the Southern Alps, passing through Mt Rolleston, Mt Marion, Mt Bryce, Mt Warner, Mt Whitcombe, and Mt Westland to a point on the summit of Main Divide of the Southern Alps, being a point at 43°18.4′S and 170°48.3′E; then

(22) proceeding in a generally south-westerly direction along the summit of Main Divide of the Southern Alps, passing through Mt Tyndall, Mt Edison, McClure Peak, Mt Moffat, Mt Elie De Beaumont, Mt Tasman, Mt Sefton, Mt Hopkins, and Mt Ward to Mt Strauchon; then

(23) proceeding in a generally south-westerly direction along the summit of Main Divide of the Southern Alps, passing through Mt Holdsworth and Mt Brewster to Haast Pass; then

(24) proceeding in a generally south-westerly direction along the summit of Main Divide of the Southern Alps, passing through Lindsay Peak, Mt Actor, Mt Alba, and Mt Castor to Popes Nose; then

(25) proceeding in a generally south-westerly direction along the watershed of the Matukituki River and its tributaries to Mt Liverpool; then

(26) proceeding in a generally south-westerly direction along the watershed of the Dart River and its tributaries to Nereus Peak; then

(27) proceeding in a generally southerly direction along the summit of Serpentine Range, traversing Emily Pass, and along the summit of Ailsa Mountains and the watershed of the Hollyford River and its tributaries to Greenstone Saddle; then

(28) proceeding in a generally north-westerly direction along the watershed of the Hollyford River and its tributaries, traversing The Divide and passing through Pyramid and Mt Charlton to Mt Moir; then

(29) proceeding in a generally north-westerly direction along the watershed of Arthur River and Milford Sound and their tributaries, passing through Mt Gendarme, Mt Mitchelson, Mt Kepka, Mt Balloon, Aiguille Rouge, Twin Sisters, and Mt Danger to the mean high-water mark at St Anne Point, being a point at 44°34.4′S and 167°46.9′E; then

(30) proceeding west by right line to a point at 44°15.6′S and 162°12.9′E; then

(31) proceeding in a generally north-easterly direction following the western boundary of the exclusive economic zone of New Zealand to a point at 38°09.0′S and 169°32.0′E; then

(32) proceeding south-east by right line to the point of commencement at Kahurangi Point.

Spiny rock lobster (CRA) management areas

Quota management area CRA1—Northland

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the North Island at the north-easternmost point of Te Arai Point (approximately 36°09.5′S and 174°39.1′E); then

(b) proceeding in a generally northerly then south-easterly direction along the mean high-water mark of the North Island to the south-westernmost point of North Head (approximately 36°23.9′S and 174°02.7′E) of Kaipara Harbour; then

(c) proceeding west along the line of this latitude to the exclusive economic zone boundary (longitude approximately 168°59.4′E); then

(d) proceeding in generally north-westerly then south-easterly directions along the exclusive economic zone boundary to latitude 33°20.0′S off the north-east coast of the North Island (longitude approximately 177°51.0′E); then

(e) proceeding in a generally south-westerly direction directly to the point of commencement.

Quota management area CRA2—Bay of Plenty

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the North Island at the north-easternmost point of Te Arai Point (approximately 36°09.5′S and 174°39.1′E); then

(b) proceeding in a generally south-easterly direction along the mean high-water mark of the North Island to the latitude of the East Cape Lighthouse (approximately 37°41.4′S and approximately 178°32.8′E); then

(c) proceeding in a generally north-easterly direction directly to the exclusive economic zone boundary at latitude 35°00.0′ S (longitude approximately 178°58.2′W); then

(d) proceeding in a generally north-westerly direction along the exclusive economic zone boundary to the westernmost point of the exclusive economic zone boundary nearest 34°34.2′S and 179°51.2′W; then

(e) proceeding in a generally north-westerly direction directly to the easternmost point of the exclusive economic zone boundary nearest 34°22.1′S and 179°29.6′E; then

(f) proceeding in a generally westerly direction along the exclusive economic zone boundary to latitude 33°20.0′S (longitude approximately 177°51.0′E); then

(g) proceeding in a generally south-westerly direction directly to the point of commencement.

Quota management area CRA3—Gisborne

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the east coast of the North Island on the latitude of the East Cape Lighthouse (approximately 37°41.4′S and approximately 178°32.8′E); then

(b) proceeding in a generally southerly direction along the mean high-water mark of the North Island to the westernmost point of the eastern river bank of the Wairoa River mouth (approximately 39°04.0′ S and approximately 177°24.2′E); then

(c) proceeding in a generally south-easterly direction directly to a point 44°00.0′S 178°30.0′E; then

(d) proceeding in a north-easterly direction to the westernmost point on the exclusive economic zone boundary nearest 40°21.0′S and 177°57.0′W; then

(e) proceeding along the exclusive economic zone boundary in a generally northerly direction to latitude 35°00.0′S (longitude approximately 178°58.2′W); then

(f) proceeding in a generally south-westerly direction directly to the point of commencement.

Quota management area CRA4—Wellington/Hawkes Bay

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the east coast of the North Island at the southwesternmost point of the eastern river bank at the Wairoa River mouth (approximately 39°04.0′S and approximately 177°24.2′E); then

(b) proceeding in generally southerly, westerly, then northerly directions along the mean high-water mark of the North Island to the westernmost point of the southern bank of the Manawatu River mouth (at approximately 40°28.5′S and approximately 175°12.2′E); then

(c) proceeding in a westerly direction along the line of this latitude to longitude 174°30.0′E; then

(d) proceeding south along the 174°30.0′E line of longitude to latitude 41°30.0′S; then

(e) proceeding in a generally south-easterly direction directly to a point 44°00.0′S and 178°30.0′E; then

(f) proceeding in a generally northerly direction directly to the point of commencement.

Quota management area CRA5—Canterbury/Marlborough

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the South Island at the easternmost point of Bush End Point (approximately 40°32.9′S and approximately 173°00.6′E); then

(b) proceeding in generally south-easterly then south-westerly directions along the mean high-water mark of the South Island to the latitude of the Waitaki River South Head Aero Beacon (approximately 44°57.3′S and 171°07.8′E); then

(c) proceeding in a generally south-easterly direction directly to a point at 47°30.0′S and 175°00.0′E; then

(d) proceeding in a generally north-easterly direction directly to a point 44°00.0′S and 178°30.0′E; then

(e) proceeding in a generally north-westerly direction directly to a point 41°30.0′S and 174°30.0′E; then

(f) proceeding north along the 174°30.0′E line of longitude to the latitude of the westernmost point of the southern bank of the Manawatu River mouth on the mean high-water mark of the North Island (approximately 40°28.5′S); then

(g) proceeding in a generally westerly direction directly to the point of commencement.

Quota management area CRA6—Chatham Islands

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing at the westernmost point of the exclusive economic zone boundary nearest 40°21.0′S and 177°57.0′W; then

(b) proceeding along the exclusive economic zone boundary in generally easterly, southerly and westerly directions to the northernmost point on the exclusive economic zone boundary nearest 51°41.4′S and 174°31.7′E; then

(c) proceeding in a generally north-westerly direction directly to a point 49°00.0′S and 173°00.0′E; then

(d) proceeding in a generally north-easterly direction directly to a point 47°30.0′S and 175°00.0′E; then

(e) proceeding in a generally north-easterly direction directly to a point 44°00.0′S and 178°30.0′E; then

(f) proceeding in a generally north-easterly direction directly to the point of commencement.

Quota management area CRA7—Otago

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the South Island at the latitude of the Waitaki River South Head Aero Beacon (approximately 44°57.3′S and approximately 171°07.8′E); then

(b) proceeding in a generally southerly direction along the mean high-water mark of the South Island to the southernmost point of Long Point (approximately 46°34.8′S and approximately 169°34.7′E); then

(c) proceeding in a generally south-easterly direction directly to a point 49°00.0′S and 173°00.0′E; then

(d) proceeding in a generally north-easterly direction directly to a point 47°30.0′S and 175°00.0′E; then

(e) proceeding in a generally north-westerly direction directly to the point of commencement.

Quota management area CRA8—Southern

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the South Island at the southernmost point of Long Point (approximately 46°34.8′S and approximately 169°34.7′E); then

(b) proceeding in generally southerly, westerly, then northerly directions along the mean high-water mark of the South Island to the north-westernmost point of Abut Head (approximately 43°06.4′S and approximately 170°15.5′E); then

(c) proceeding in a north-westerly direction directly to the exclusive economic zone boundary at latitude 40°30.0′S (longitude approximately 167°23.1′E); then

(d) proceeding in generally southerly, easterly, then northerly directions along the exclusive economic zone boundary until reaching the northernmost point of the exclusive economic zone boundary nearest 51°41.4′S and 174°31.7′E; then

(e) proceeding in a generally north-westerly direction directly to a point 49°00.0′S and 173°00.0′E; then

(f) proceeding in a north-westerly direction directly to the point of commencement.

Quota management area CRA9—Westland/Taranaki

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the South Island at the north-westernmost point of Abut Head (approximately 43°06.4′S and approximately 170°15.5′E); then

(b) proceeding in a generally northerly direction along the mean high-water mark of the South Island to the easternmost point of Bush End Point (approximately 40°32.9′S and approximately 173°00.6′E); then

(c) proceeding in a generally easterly direction directly to a point at the latitude of the westernmost point of the southern bank of the Manawatu River (approximately 40°28.5′S) at longitude 174°30.0′E; then

(d) proceeding in an easterly direction directly to the mean high-water mark of the North Island at the westernmost point of the southern bank of the Manawatu River mouth (at approximately 40°28.5′S and approximately 175°12.2′E); then

(e) proceeding in a generally northerly direction along the mean high-water mark of the North Island to the south-westernmost point of North Head of Kaipara Harbour (approximately 36°23.9′S and approximately 174°02.7′E); then

(f) proceeding west along the line of this latitude to the exclusive economic zone boundary (longitude approximately 168°59.4′E); then

(g) proceeding in a generally southerly direction along the exclusive economic zone boundary to latitude 40°30.0′S (longitude approximately 167°23.1′E); then

(h) proceeding in a generally south-easterly direction directly to the point of commencement.

Quota management area CRA10—Kermadec

All that area of New Zealand fisheries waters lying within fishery management area 10.

Dredge oyster (OYS) management areas

Quota management area OYU5—Foveaux Strait

All that area of New Zealand fisheries waters that is bounded—

(a) to the west, by a straight line drawn from Oraki Point in Block 2, Longwood Survey District (approximately 46°23.6′S and 167°52.52′E) to the easternmost point of Centre Island (approximately 46°27.7′S and 167°51.3′E); then by

mean high-water mark to Centre Island Lighthouse (approximately 46°27.8′S and 167°50.6′E); then by a straight line to the northernmost point of Codfish Island (approximately 46°45.2′S and 167°36.6′E); then by a straight line to North Red Head on the northwest coast of Stewart Island (approximately 46°44.8′S and 167°42.4′E); and

(b) to the east, by a straight line drawn from Slope Point in Block 9, Waikawa Survey District (approximately 46°40.5′S and 169°0′E) to the East Cape on Stewart Island (approximately 47°0.9′S and 168°13.8′E).

Quota management area OYS7—Nelson/Marlborough

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the South Island at the northernmost point of Cape Farewell (approximately 40°30.0′S and approximately 172°41.0′E); then

(b) proceeding in a generally easterly direction directly to a point 40°30.0′S and 174°30.0′E; then

(c) proceeding south along the 174°30.0′E line of longitude to the latitude of the easternmost point of West Head on the mean high-water mark of the South Island (approximately 41°13.0′S); then

(d) proceeding in a westerly direction to the mean high-water mark of the South Island at the easternmost point of West Head (approximately 41°13.0′S and approximately 174°19.4′E); then

(e) proceeding in a generally north-westerly direction along the mean high-water mark of the South Island to the point of commencement.

Paua (PAU) management areas

Quota management area PAU1—Auckland

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the east coast of the North Island at the northernmost point of Cape Runaway (approximately 37°32.3′S and approximately 177°59.0′E); then

(b) proceeding north along the line of this longitude to join the exclusive economic zone boundary (approximately 33°27.7′S and approximately 177°59.0′E); then

(c) proceeding in generally north-westerly then southerly directions along the exclusive economic zone boundary to the easternmost point of the exclusive economic zone boundary nearest 37°35.6′S and 170°05.7′E; then

(d) proceeding in a generally easterly direction directly to the mean high-water mark of the North Island at the westernmost point of Tirua Point (approximately 38°23.3′S and approximately 174°38.0′E); then

(e) proceeding in generally northerly, easterly, and south-westerly directions along the mean high-water mark of the North Island to the point of commencement.

Quota management area PAU2—Central

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the east coast of the North Island at the northernmost point of Cape Runaway (approximately 37°32.3′S and approximately 177°59.0′E); then

(b) proceeding north along the line of this longitude to the exclusive economic zone boundary (approximately 33°27.7′S and approximately 177°59.0′E); then

(c) proceeding in a generally south-easterly direction along the exclusive economic zone boundary to the easternmost point of the exclusive economic zone boundary nearest 34°22.1′S and 179°29.6′E; then

(d) proceeding in a generally easterly direction directly to the westernmost point of the exclusive economic zone boundary nearest 34°34.2′S and 179°51.2′W; then

(e) proceeding in a generally south-easterly direction along the exclusive economic zone boundary to latitude 42°10.0′S (longitude approximately 171°59.1′W); then

(f) proceeding west along latitude 42°10.0′S to longitude 174°42.0′E; then

(g) proceeding in a generally northerly direction directly to a point 40°32.0′S and 174°20.0′E; then

(h) proceeding in a generally north-westerly direction directly to the easternmost point of the exclusive economic zone boundary nearest 37°35.6′S and 170°05.7′E; then

(i) proceeding in a generally easterly direction directly to the mean high-water mark of the North Island at the westernmost point of Tirua Point (approximately 38°23.3′S and 174°38.0′E); then

(j) proceeding in generally southerly, easterly, then northerly directions along the mean high-water mark of the North Island to the point of commencement.

Quota management area PAU3A—Kaikōura

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the east coast of the South Island at a point south of the Conway River mouth at 42°37.061′S and 173°27.937′E; then

(b) proceeding by a straight line in a south-easterly direction to the point of intersection with the 176°00.000′E line of longitude; then

(c) proceeding north along the 176°00.000′E line of longitude to latitude 42°10.000′S; then

(d) proceeding west along the 42°10.000′S line of latitude to a point on the mean high-water mark of the east coast of the South Island near Clarence Point at 42°10.000′S and 173°56.225′E; then

(e) proceeding in a generally south-westerly direction along the mean high-water mark of the South Island until reaching the point of commencement.

Quota management area PAU3B—Canterbury

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the east coast of the South Island at a point south of the Conway River mouth at 42°37.061′S and 173°27.937′E; then

(b) proceeding by a straight line in a south-easterly direction to the point of intersection with the 176°00.000′E line of longitude; then

(c) proceeding south along the 176°00.000′E line of longitude to latitude 46°00.000′S; then

(d) proceeding by a straight line in a generally south-westerly direction to a point at 46°55.100′S and 173°57.000′E; then

(e) proceeding by a straight line in a generally north-westerly direction to the mean high-water mark of the east coast of the South Island at the latitude of the Waitaki River South Head Aero Beacon at approximately 44°57.300′S and 171°07.800′E; then

(f) proceeding in a generally north-easterly direction along the mean high-water mark of the South Island until reaching the point of commencement.

Quota management area PAU4—South-East (Chatham Rise)

All that area of New Zealand fisheries waters lying within fishery management area 4.

Quota management area PAU5A—Fiordland

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the South Island at the westernmost point of Awarua Point (approximately 44°15.6′S and approximately 168°03.1′E); then

(b) proceeding west along the line of this latitude to the exclusive economic zone boundary (approximately 44°15.6′S and approximately 162°12.9′E); then

(c) proceeding in a generally southerly direction along the exclusive economic zone boundary to latitude 49°00.0′S (longitude approximately 161°26.2′E); then

(d) proceeding east along the 49°00.0′S line of latitude to longitude 166°05.0′E; then

(e) proceeding in a generally north-easterly direction directly to a point at 46°25.7′S and 167°29.0′E in Foveaux Strait; then

(f) proceeding in a generally north-easterly direction directly to the mean high-water mark of the South Island at the southernmost point of the western bank of the Waiau River mouth (approximately 46°11.6′S and approximately 167°36.9′E); then

(g) proceeding in generally westerly and north-easterly directions along the mean high-water mark of the South Island to the point of commencement.

Quota management area PAU5B—Stewart Island

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing at a point at 46°25.7′S and 167°29.0′E in Foveaux Strait; then

(b) proceeding in a generally south-easterly direction directly to a point 47°41.8′S and 172°09.5′E; then

(c) proceeding in a generally south-westerly direction directly to a point 49°00.0′S and 169°00.0′E; then

(d) proceeding west along the 49°00.0′S line of latitude to longitude 166°05.0′E; then

(e) proceeding in a generally north-easterly direction directly to the point of commencement.

Quota management area PAU5D—Southland and Otago

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the east coast of the South Island at the latitude of the Waitaki River South Head Aero Beacon (approximately 44°57.3′S and approximately 171°07.8′E); then

(b) proceeding in a generally south-easterly direction directly to a point 46°55.1′S and 173°57.0′E; then

(c) proceeding in a generally south-westerly direction directly to a point 47°41.8′S and 172°09.5′E; then

(d) proceeding in a generally north-westerly direction directly to a point 46°25.7′S and 167°29.0′E in Foveaux Strait; then

(e) proceeding in a generally northerly direction directly to the mean high-water mark of the South Island at the southernmost point of the western bank of the Waiau River mouth (approximately 46°11.6′S and approximately 167°36.9′E); then

(f) proceeding in a generally easterly then north-easterly direction along the mean high-water mark of the South Island to the point of commencement.

Quota management area PAU6—Challenger (Westland)

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the west coast of the South Island at the westernmost point of Kahurangi Point (approximately 40°47.0′S and approximately 172°13.0′E); then

(b) proceeding west along the line of this latitude to the exclusive economic zone boundary (longitude approximately 167°04.2′E); then

(c) proceeding in a generally south-westerly direction along the exclusive economic zone boundary to a point on the latitude of the westernmost point of Awarua Point (approximately 44°15.6′S and 162°12.9′E); then

(d) proceeding east along the line of this latitude to the mean high-water mark of the west coast of the South Island at the westernmost point of Awarua Point (approximately 44°15.6′S and 168°03.1′E); then

(e) proceeding in a generally north-easterly direction along the mean high-water mark of the South Island until reaching the point of commencement.

Quota management area PAU6A—Southern

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing at a point 46°00.0′S and 176°00.0′E; then

(b) proceeding east along the 46°00.0′S line of latitude to the exclusive economic zone boundary (approximately 171°46.7′W); then

(c) proceeding in generally southerly, westerly, then north-westerly directions along the exclusive economic zone boundary to lie generally south-west of the South Island at latitude 49°00.0′S (approximately 161°26.2′E); then

(d) proceeding east along the 49°00.0′S line of latitude to longitude 166°05.0′E; then

(e) proceeding east along the line of latitude 49°00.0′S to longitude 169°00.0′E; then

(f) proceeding in a generally north-easterly direction directly to a point 47°41.8′S and 172°09.5′E; then

(g) proceeding in a generally north-easterly direction directly to a point 46°55.1′S and 173°57.0′E; then

(h) proceeding in a generally north-easterly direction directly to the point of commencement.

Quota management area PAU7—Challenger (Nelson/Marlborough)

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the west coast of the South Island at the westernmost point of Kahurangi Point (approximately 40°47.0′S and 172°13.0′E); then

(b) proceeding west along the line of this latitude to the exclusive economic zone boundary (longitude approximately 167°05.0′E); then

(c) proceeding in a generally north-easterly direction along the exclusive economic zone boundary to the easternmost point of the exclusive economic zone boundary nearest 37°35.6′S and 170°05.7′E; then

(d) proceeding in a generally south-easterly direction directly to a point 40°32.0′S and 174°20.0′E; then

(e) proceeding in a generally south-easterly direction directly to a point 42°10.0′S and 174°42.0′E; then

(f) proceeding west along latitude 42°10.0′S to the mean high-water mark of the east coast of the South Island near Clarence Point (longitude approximately 173°56.5′E); then

(g) proceeding in generally northerly, westerly, then south-westerly directions along the mean high-water mark of the South Island to the point of commencement.

Quota management area PAU10—Kermadec

All that area of New Zealand fisheries waters lying within fishery management area 10.

Packhorse rock lobster (PHC) management area

Quota management area PHC1—New Zealand

All New Zealand fisheries waters.

Southern blue whiting (SBW) management areas

Quota management area SBW1—New Zealand (excluding Sub-Antarctic)

All that area of New Zealand waters lying within fishery management areas 1, 2, 3, 4, 5, 7, 8, 9, and 10.

Quota management area SBW6A—Auckland Islands

All that area of New Zealand fisheries waters within fishery management area 6 west of 168°30.0′E.

Quota management area SBW6B—Bounty Platform

All that area of New Zealand fisheries waters within fishery management area 6 east of 176°E.

Quota management area SBW6I—Campbell Island Rise

All that area of New Zealand fisheries waters within fishery management area 6 south of a line at 50°30.0′S, such a line extending in the west to 168°30.0′E, and in the east

to 176°E. This area is bounded in the west by a line extending due south from a point at 168°30.0′E, and in the east by a line extending due south from a point at 176°E.

Quota management area SBW6R—Pukaki Rise

All that area of New Zealand fisheries waters within fishery management area 6 north of a line at 50°30.0′S, such a line extending in the west to 168°30.0′E, and in the east to 176°E. This area is bounded in the west by a line extending due north from a point at 168°30.0′E, and in the east by a line extending due north from a point at 176°E.

Scallops (SCA) management areas

Quota management area SCA1—Northland scallop fishery

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the North Island at the easternmost point of Cape Rodney (approximately 36°16.8′S and approximately 174°49.3′E); then

(b) proceeding in a generally north-easterly direction to the mean high-water mark of Great Barrier Island at the northernmost point of Great Barrier Island (approximately 36°03.1′S and approximately 175°23.8′E); then

(c) proceeding east along the line of this latitude to the exclusive economic zone boundary (approximate longitude 177°48.2′W); then

(d) proceeding in a generally northerly, westerly then southerly directions along the exclusive economic zone boundary to the latitude of the northernmost point of Tauroa Point on the mean high-water mark of the North Island (approximately 35°09.8′S and approximately 168°10.4′E); then

(e) proceeding east along the line of this latitude to the mean high-water mark of the North Island at the northernmost point of Tauroa Point (approximately 35°09.8′S and approximately 173°04.3′E); then

(f) proceeding in generally northerly, easterly, then southerly directions along the mean high-water mark of the North Island to the point of commencement.

Quota management area SCA7—Southern scallop fishery

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing on the mean high-water mark of the South Island at the northernmost point of Cape Farewell (approximately 40°30.0′S and approximately 172°41.0′E); then

(b) proceeding in a generally easterly direction directly to a point 40°30.0′S and 174°30.0′E; then

(c) proceeding south along the 174°30.0′E line of longitude to the latitude of the easternmost point of West Head on the mean high-water mark of the South Island (approximately 41°13.0′S); then

(d) proceeding in a westerly direction to the mean high-water mark of the South Island at the easternmost point of West Head (approximately 41°13.0′S and approximately 174°19.4′E); then

(e) proceeding in a generally north-westerly direction along the mean high-water mark of the South Island to the point of commencement.

Squid (SQU) management areas

Quota management area SQU1—Auckland

All New Zealand fisheries waters other than those—

(a) lying within SQU6 (Southern Islands); or

(b) lying within SQU10 (Kermadec).

Quota management area SQU6—Southern Islands

All that area of New Zealand fisheries waters enclosed either—

(a) by a line commencing at a point 49°30.0′S and 165°00.0′E; then

  (i) proceeding east along the 49°30.0′S line of latitude to 168°00.0′E; then

  (ii) proceeding south along the 168°00.0′E line of longitude to latitude 51°30.0′S; then

  (iii) proceeding west along the 51°30.0′S line of latitude to longitude 165°00.0′E; then

  (iv) proceeding north along the 165°00.0′E line of longitude to the point of commencement; or

(b) by a line commencing at a point 51°30.0′S and 168°00.0′E; then

  (i) proceeding east along the 51°30.0′S line of latitude to 171°00.0′E; then

  (ii) proceeding south along the 171°00.0′E line of longitude to latitude 53°30.0′S; then

  (iii) proceeding west along the 53°30.0′S line of latitude to longitude 168°00.0′E; then

  (iv) proceeding north along the 168°00.0′E line of longitude to the point of commencement.

Quota management area SQU10—Kermadec

All that area of New Zealand fisheries waters lying within fishery management area 10.

White warehou (WWA) management area

Quota management area WWA5B—Southland/Sub-Antarctic

All that area of New Zealand fisheries waters lying within fishery management areas 5 and 6.

Schedule 1 Part 3: amended, on 1 October 2021, by clause 5 (and see clause 3 for application) of the Fisheries (Alteration of Quota Management Area—Paua Kaikōura Coast) Order 2021 (LI 2021/153).

Schedule 1 Part 3: amended, on 1 February 2017 (applies on and from 1 February 2017), by clause 11(2) of the Fisheries (Alteration of Quota Management Areas—Freshwater Eel) Order 2016 (LI 2016/144).

Schedule 1 Part 3: amended, on 1 February 2017 (applies on and from 1 February 2017), by clause 11(3) of the Fisheries (Alteration of Quota Management Areas—Freshwater Eel) Order 2016 (LI 2016/144).

Schedule 1 Part 3: amended, on 1 October 2016 (applies on and from 1 October 2016), by clause 6(2) of the Fisheries (Alteration of Quota Management Areas—Freshwater Eel) Order 2016 (LI 2016/144).

Schedule 1 Part 3: amended, on 1 October 2016 (applies on and from 1 October 2016), by clause 6(3) of the Fisheries (Alteration of Quota Management Areas—Freshwater Eel) Order 2016 (LI 2016/144).

Schedule 1 Part 3: amended, on 1 October 2016 (applies on and from 1 October 2016), by clause 6(4) of the Fisheries (Alteration of Quota Management Areas—Freshwater Eel) Order 2016 (LI 2016/144).

Schedule 1 Part 3: amended, on 1 October 2016 (applies on and from 1 October 2016), by clause 6(5) of the Fisheries (Alteration of Quota Management Areas—Freshwater Eel) Order 2016 (LI 2016/144).

Schedule 1 Part 3: amended, on 1 October 2016 (applies on and from 1 October 2016), by clause 6(6) of the Fisheries (Alteration of Quota Management Areas—Freshwater Eel) Order 2016 (LI 2016/144).

Schedule 1 Part 3: amended, on 1 October 2016 (applies on and from 1 October 2016), by clause 6(7) of the Fisheries (Alteration of Quota Management Areas—Freshwater Eel) Order 2016 (LI 2016/144).

Schedule 1 Part 3: amended, on 1 October 2007, by clause 4 of the Fisheries (Amalgamation of Quota Management Areas) Order 2007 (SR 2007/175).

Schedule 1 Part 3: amended, on 1 July 2000, by section 17(1) of the Fisheries Amendment Act 2000 (2000 No 20).

Schedule 1 Part 3: amended, on 9 September 1999, by section 88(1) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Schedule 1 Part 3: amended, on 23 June 1998, by section 33(2)(c) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Schedule 1 Part 3: amended, on 23 June 1998, by section 33(2)(d)(i) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Schedule 1 Part 3: amended, on 23 June 1998, by section 33(2)(d)(ii) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Schedule 1 Part 3: amended, on 23 June 1998, by section 33(2)(d)(iii) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Schedule 1 Part 3: amended, on 23 June 1998, by section 33(2)(e) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Schedule 1 Part 3: amended, on 1 April 1998, by section 11 of the Fisheries (Foveaux Strait Dredge Oyster Fishery) Amendment Act 1998 (1998 No 6).

Schedule 2
Stocks whose abundance is highly variable

s 13

Flatfishes (*Rhombosolea plebeia*; *Pelotretis flavilatus*; *Peltorhamphus novaezeelandiae*; *Rhombosolea leporina*; *Colistium guntheri*; *Colistium nudipinnis*; *Rhombosolea retiaria*; *Rhombosolea tapirina*)	All quota management areas
Long-finned freshwater eel (*Anguilla dieffenbachii*)	LFE13
Red cod (*Pseudophycis bachus*)	All quota management areas
Scallop (*Pecten novaezelandiae*)	All quota management areas other than SCA7
Short-finned freshwater eel (*Anguilla australis* and *Anguilla reinhardtii*)	SFE13

Schedule 2: amended, on 1 February 2017 (applies on and from 1 February 2017), by clause 12(2) of the Fisheries (Alteration of Quota Management Areas—Freshwater Eel) Order 2016 (LI 2016/144).

Schedule 2: amended, on 1 February 2017 (applies on and from 1 February 2017), by clause 12(3) of the Fisheries (Alteration of Quota Management Areas—Freshwater Eel) Order 2016 (LI 2016/144).

Schedule 2: amended, on 5 January 2006, by clause 3(1) of the Fisheries (Schedules 2 and 6) Order 2005 (SR 2005/317).

Schedule 2: amended, on 5 January 2006, by clause 3(2) of the Fisheries (Schedules 2 and 6) Order 2005 (SR 2005/317).

Schedule 3
Stocks managed with an alternative total allowable catch

s 14

Bigeye tuna (*Thunnus obesus*)	All quota management areas
Blue shark (*Prionace glauca*)	All quota management areas
Green-lipped mussel (*Perna canaliculus*)	GLM7A and GLM9
Long-finned freshwater eel (*Anguilla dieffenbachii*)	LFE11, LFE12, LFE13, LFE14, LFE15, LFE16, LFE20, LFE21, LFE22, LFE23
Mako shark (*Isurus oxyrinchus*)	All quota management areas
Moonfish (*Lampris guttatus*)	All quota management areas
Pacific bluefin tuna (*Thunnus orientalis*)	All quota management areas
Porbeagle shark (*Lamna nasus*)	All quota management areas
Ray's bream (*Brama brama*)	All quota management areas
Short-finned freshwater eel (*Anguilla australis* and *Anguilla reinhardtii*)	SFE11, SFE12, SFE13, SFE14, SFE15, SFE16, SFE20, SFE21, SFE22, SFE23
Southern bluefin tuna (*Thunnus maccoyii*)	All quota management areas
Southern scallops (*Pecten novaezelandiae*)	Southern scallop fishery
Squid (*Nototodarus sloani*; *Nototodarus gouldi*)	All quota management areas
Swordfish (*Xiphias gladius*)	All quota management areas
Yellowfin tuna (*Thunnus albacares*)	All quota management areas

Schedule 3: amended, on 1 February 2017 (applies on and from 1 February 2017), by clause 13(2) of the Fisheries (Alteration of Quota Management Areas—Freshwater Eel) Order 2016 (LI 2016/144).

Schedule 3: amended, on 1 February 2017 (applies on and from 1 February 2017), by clause 13(3) of the Fisheries (Alteration of Quota Management Areas—Freshwater Eel) Order 2016 (LI 2016/144).

Schedule 3: amended, on 1 February 2017 (applies on and from 1 February 2017), by clause 13(4) of the Fisheries (Alteration of Quota Management Areas—Freshwater Eel) Order 2016 (LI 2016/144).

Schedule 3: amended, on 1 October 2016 (applies on and from 1 October 2016), by clause 7(3) of the Fisheries (Alteration of Quota Management Areas—Freshwater Eel) Order 2016 (LI 2016/144).

Schedule 3: amended, on 1 October 2016 (applies on and from 1 October 2016), by clause 7(4) of the Fisheries (Alteration of Quota Management Areas—Freshwater Eel) Order 2016 (LI 2016/144).

Schedule 3: amended, on 1 October 2004, by clause 3 of the Fisheries (Schedules 3 and 6) Order 2004 (SR 2004/337).

Schedule 3: amended, on 1 October 2004, by clause 3 of the Fisheries (Schedules 3, 5A, and 6) Order 2004 (SR 2004/278).

Schedule 4
Stocks for which provisional catch history not prorated

[Repealed]

ss 35, 39

Schedule 4: repealed, on 1 October 2004, by section 61 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Schedule 4A
Compensation for certain Schedule 4 stocks transferred to the Crown

[Repealed]

ss 50D(2)(a), 50G(1)

Schedule 4A: repealed, on 1 October 2004, by section 61 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Schedule 4B
Highly migratory species

s 2(1), (4)

Schedule 4B: inserted, on 1 October 2004, by section 61 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Frigate mackerel (*Auxis thazard*)

Mahi mahi (*Coryphaena hippurus*, *Coryphaena equiselis*)

Marlin, sailfish, and spearfish:

- Atlantic sailfish (*Istiophorus albicans*)
- black marlin (*Makaira indica*)
- blue marlin (*Makaira nigricans*)
- Indo-Pacific sailfish (*Istiophorus platypterus*)
- striped marlin (*Tetrapturus audax*)
- white marlin (*Tetrapturus albidus*)
- longbill spearfish (*Tetrapturus pfluegeri*)
- Mediterranean spearfish (*Tetrapturus belone*)
- roundscale spearfish (*Tetrapturus georgei*)
- short billed spearfish (*Tetrapturus angustirostris*)

Ray's bream (*Brama brama*)

Sharks:

- bigeye thresher (*Alopias superciliosus*)
- blue shark (*Prionace glauca*)
- bronze whaler (*Carcharhinus brachyurus*)
- Galapagos shark (*Carcharhinus galapagensis*)
- longfin mako (*Isurus paucus*)
- oceanic white tip (*Carcharhinus longimanus*)
- Porbeagle shark (*Lamna nasus*)
- shortfin mako (*Isurus oxyrinchus*)
- silky shark (*Carcharhinus falciformis*)
- smooth hammerhead (*Sphyrna zygaena*)
- tiger shark (*Galeocerdo cuvier*)
- Family Alopiidae
- Family Carcharhinidae

Swordfish (*Xiphias gladius*)

Tuna:

- albacore tuna (*Thunnus alalunga*)
- Atlantic bluefin tuna (*Thunnus thynnus*)
- bigeye tuna (*Thunnus obesus*)
- blackfin tuna (*Thunnus atlanticus*)
- kawakawa (*Euthynnus affinis*)
- little tuna (*Euthynnus alletteratus*)
- Pacific bluefin tuna (*Thunnus orientalis*)
- skipjack tuna (*Katsuwonus pelamis*)

southern bluefin tuna (*Thunnus maccoyii*)
yellowfin tuna (*Thunnus albacares*)

Schedule 4C
Stocks and species subject to section 93 permit moratorium

ss 17B(5), 19(2A), 29A(2), 89(2A), 91(3), 92(1), 93

Schedule 4C: inserted, on 1 October 2004, by section 61 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Species	Fisheries management area
Vertebrates (fish):	
basking shark (*Cetorhinus maximus*)	1 to 10
hammerhead shark (*Sphyrna zygaena*)	1 to 10
lamprey (*Geotria australis*)	3, 5, 7
seahorse (*Hippocampus abdominalis*)	1 to 10
sharpnose sevengill shark (*Heptranchias perlo*)	1 to 10
whale shark (*Rhincodon typus*)	1 to 10
Invertebrates:	
black mussel (*Xenostrobus pulex*)	1 to 10
blue mussel (*Mytilus galloprovincialis*)	1 to 10
catseye (*Turbo smaragdus*)	1 to 10
crabs—members of the Family Grapsidae, namely:	1 to 10
common rock crab (*Hemigrapsus edwardsi*)	
hairy-handed crab (*Hemigrapsus crenulatus*)	
northern smooth shore crab (*Cyclograpsus insularum*)	
purple rock crab (*Leptograpsus variegatus*)	
red rock crab (*Plagusia chabrus*)	
smooth shore crab (*Cyclograpsus lavauxi*)	
tunnelling mud crab (*Helice crassa*)	
freshwater mussel (*Hyridella menziesii*)	3, 5, 7
koura (*Paranephrops planifrons*, *Paranephrops zealandicus*)	3, 5, 7
limpets (*Cellana ornata*, *Cellana radians*, *Notoacmea scopulina*)	1 to 10
mudsnail (*Amphibola crenata*)	1 to 10
sea anemone (*Actinia* spp.)	8
sponges (Phylum Porifera)	1 to 10
topshells—members of the Family Trochidae, namely:	1 to 10
Melagraphia aethiops	
Diloma zelandica	
Diloma arida	
Diloma subrostrata	
Diloma bicanaliculata	
whelks (*Thais orbita, Lepsiella scobina scobina, Haustrum haustorium, Cominella adspersa, Cominella maculosa, Cominella glandiformis, Penion dilatatus, Struthiolaria papulosa*)	1 to 10
Seaweeds:	
agar weed (*Pterocladia lucida*, *Pterocladia capillacea*)	1 to 10

Species	Fisheries management area
bladder kelp (*Macrocystis pyrifera*)	1, 2, 5 to 10
brown kelp (*Ecklonia radiata*)	1 to 10
bull kelp (*Durvillea* spp.)	1 to 10
gracilaria weed (*Gracilaria chilensis*)	1 to 10
lessonia (*Lessonia variegata*)	1 to 10
porphyra (*Porphyra* spp.)	1 to 10
sea lettuce (*Ulva* spp.)	1 to 10

Schedule 4C: amended, on 1 October 2010, by clause 8 of the Fisheries (Declaration of New Stocks Subject to and Stocks Determined Not to be Subject to Quota Management System) Notice 2009 (SR 2009/325).

Schedule 4C: amended, on 1 October 2006, by clause 7(1) of the Fisheries (Declaration of New Stocks Subject to Quota Management System) Notice (No 2) 2005 (SR 2005/347).

Schedule 4C: amended, on 1 April 2006, by clause 7(1)(b) of the Fisheries (Declaration of New Stocks Subject to Quota Management System) Notice 2005 (SR 2005/15).

Schedule 4C: amended, on 23 December 2005, by clause 5(a) of the Fisheries (Stocks Determined Not to be Subject to Quota Management System) Notice 2005 (SR 2005/349).

Schedule 4C: amended, on 23 December 2005, by clause 5(c) of the Fisheries (Stocks Determined Not to be Subject to Quota Management System) Notice 2005 (SR 2005/349).

Schedule 4D
Species for which quota to be allocated on basis of provisional catch history, if brought into quota management system on or before 1 October 2009

s 29A(2)(b)

Schedule 4D: inserted, on 1 October 2004, by section 61 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Javelinfish (*Lepidorhynchus denticulatus*)

Octopus (*Pinnoctopus cordiformis*, *Octopus maorum*)

Orange perch (*Lepidoperca aurantia*)

Prawn killer (*Ibacus alticrenatus*)

Rattails—Family Macrouridae

Redbait (*Emmelichthys nitidus*)

Seal shark (*Dalatias licha*)

Silver dory (*Cyttus novaezealandiae*)

Schedule 5
Species in respect of which any person may own no more than 45% of combined total allowable commercial catches for New Zealand fisheries waters

s 59

Alfonsino (*Beryx splendens; Beryx decadactylus*)

Anchovy (*Engraulis australis*)

Barracouta (*Thyrsites atun*)

Blue (English) mackerel (*Scomber australasicus*)

Blue warehou (*Seriolella brama*)

Cardinalfish (*Epigonus telescopus*)

Deepwater clam (*Panopea zelandica*)

Deepwater tuatua (*Paphies donacina*)

Frilled venus shell (*Bassina yatei*)

Frostfish (*Lepidopus caudatus*)

Gemfish (*Rexea* spp.)

Ghost shark (*Hydrolagus novaezelandiae*)

Giant spider crab (*Jacquinotia edwardsii*)

Hake (*Merluccius australis*)

Hoki (*Macruronus novaezelandiae*)

Horse mussel (*Atrina zelandica*)

Jack mackerel (*Trachurus* spp.)

King crab (*Lithodes murrayi*; *Neolithodes brodiei*)

Knobbed whelk (*Austrofusus glans*)

Large trough shell (*Mactra murchisoni*)

Ling (*Genypterus blacodes*)

Lookdown dory (*Cyttus traversi*)

Orange roughy (*Hoplostethus atlanticus*)

Oreos (*Allocyttus* spp.; *Pseudocyttus maculatus; Neocyttus rhomboidalis*)

Packhorse rock lobster (*Jasus verreauxi*)

Pale ghost shark (*Hydrolagus bemisi*)

Patagonian toothfish (*Dissostichus eleginoides*)

Pilchard (*Sardinops sagax*)

Queen scallop (*Zygochlamys delicatula*)

Red cod (*Pseudophycis bachus*)

Red crab (*Chaceon bicolor*)

Redbait (*Emmelichthys nitidus*)

Ribaldo (*Mora moro*)

Ringed dosinia (*Dosinia anus*)

Rubyfish (*Plagiogeneion rubiginosum*)

Scampi (*Metanephrops challengeri*)

Silky dosinia (*Dosinia subrosea*)

Silver warehou (*Seriolella punctata*)

Smooth skate (*Dipturus innominatus*)

Southern blue whiting (*Micromesistius australis*)

Sprat (*Sprattus antipodum*; *Sprattus muelleri*)

Squid (*Nototodarus sloani; Nototodarus gouldi*)

Triangle shell (*Spisula aequilatera*)

Trough shell (*Mactra discors*)

White warehou (*Seriolella caerulea*)

Schedule 5: amended, on 1 October 2010, by clause 3 of the Fisheries (Schedules 5, 5A, and 6) Order 2010 (SR 2010/297).

Schedule 5: amended, on 1 October 2009, by clause 3 of the Fisheries (Schedule 5) Order 2009 (SR 2009/248).

Schedule 5: amended, on 1 April 2007, by clause 4 of the Fisheries (Schedules 2, 5, 6, and 8) Order 2007 (SR 2007/31).

Schedule 5A
Stocks to which sections 67A and 340A do not apply

ss 67A, 340A

Schedule 5A: inserted, on 9 September 1999, by section 88(2) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

COC1A

COC7A

COC7B

CRA1

CRA2

CRA3

CRA4

CRA5

CRA6

CRA7

CRA8

CRA9

CRA10

LFE11

LFE12

LFE13

LFE14

LFE15

LFE16

LFE17

OYS7

OYU5

PHC1

PPI1A

QSC3

SCA1

SCA4

SCA7

SCACS

SFE11

SFE12

SFE13

SFE14

SFE15

SFE16

SFE17

Schedule 5A: amended, on 1 April 2021, by clause 4 of the Fisheries (Schedule 5A—Rock Lobster) Order 2020 (LI 2020/37).

Schedule 5A: amended, on 1 February 2017 (applies on and from 1 February 2017), by clause 14(2) of the Fisheries (Alteration of Quota Management Areas—Freshwater Eel) Order 2016 (LI 2016/144).

Schedule 5A: amended, on 1 February 2017 (applies on and from 1 February 2017), by clause 14(3) of the Fisheries (Alteration of Quota Management Areas—Freshwater Eel) Order 2016 (LI 2016/144).

Schedule 5A: amended, on 1 October 2016 (applies on and from 1 October 2016), by clause 8(2) of the Fisheries (Alteration of Quota Management Areas—Freshwater Eel) Order 2016 (LI 2016/144).

Schedule 5A: amended, on 1 October 2016 (applies on and from 1 October 2016), by clause 8(3) of the Fisheries (Alteration of Quota Management Areas—Freshwater Eel) Order 2016 (LI 2016/144).

Schedule 5A: amended, on 1 October 2013, by clause 3 of the Fisheries (Schedules 5A and 6) Order 2012 (SR 2012/353).

Schedule 5A: amended, on 1 October 2011, by clause 3 of the Fisheries (Schedule 5A) Order 2011 (SR 2011/293).

Schedule 5A: amended, on 1 October 2004, by clause 4 of the Fisheries (Schedules 3, 5A, and 6) Order 2004 (SR 2004/278).

Schedule 5A: amended, on 1 October 2003, by clause 3(a) of the Fisheries (Schedules 5A and 6) Order 2003 (SR 2003/231).

Schedule 5A: amended, on 1 October 2003, by clause 3(b) of the Fisheries (Schedules 5A and 6) Order 2003 (SR 2003/231).

Schedule 5A: amended, on 1 April 2003, by clause 4 of the Fisheries (Schedules 2, 5A, and 6) Order 2003 (SR 2003/48).

Schedule 5A: amended, on 1 April 2003, by clause 4 of the Fisheries (Schedules 2, 5A, and 6) Order 2002 (SR 2002/154).

Schedule 5A: amended, on 1 October 2002, by clause 3 of the Fisheries (Schedules 5A and 6) Order 2002 (SR 2002/279).

Schedule 6
Stocks which may be returned to the sea or other waters in accordance with stated requirements

s 72

Stock	Area	Requirements
Bladder kelp (*Macrocystis pyrifera*)	All New Zealand fisheries waters	A commercial fisher may return bladder kelp to the waters from which it was taken if it was taken as the inevitable consequence of the taking of other fish, aquatic life, or seaweed in accordance with a current fishing permit.
Blue shark (*Prionace glauca*)	All New Zealand fisheries waters	A commercial fisher may return any blue shark to the waters from which it was taken— (a) live, if the blue shark is likely to survive on return and the return takes place as soon as practicable after the blue shark was taken; or (b) dead or near-dead, if paragraph (a) does not apply. For the purposes of paragraph (b) of this requirement, **near-dead** means unlikely to survive on return.
Chatham Islands scallops (*Pecten novaezelandiae*)	Chatham Islands scallop fishery	A commercial fisher must immediately return a Chatham Islands scallop to the waters from which it was taken if the scallop is taken— (a) during any closed season in the Chatham Islands scallop fishery; or (b) in any area in which the taking of Chatham Islands scallops is, at that time, prohibited.
Cockle (*Austrovenus stutchburyi*)	All New Zealand fisheries waters except fisheries management area 10	A commercial fisher may return any cockle to the waters from which it is taken if— (a) the cockle is likely to survive the return; and (b) the return takes place as soon as practicable after the cockle is taken.
Coromandel scallops (*Pecten novaezelandiae*)	Coromandel scallop fishery	A commercial fisher must immediately return a Coromandel scallop to the waters from which it was taken if the scallop is taken— (a) during any closed season in the Coromandel scallop fishery; or (b) in any area in which the taking of Coromandel scallops is, at that time, prohibited.
Deepwater crab (*Chaceon bicolor*, *Lithodes murrayi*, *Neolithodes brodiei*, and *Jacquinotia edwardsii*)	All New Zealand fisheries waters	A commercial fisher may return any deepwater crab to the waters from which it was taken if that deepwater crab— (a) is taken using potting gear; and (b) is likely to survive; and

Stock	Area	Requirements
		(c) the return takes place as soon as practicable after the deepwater crab is taken.
Dredge oyster (*Ostrea chilensis*)	All New Zealand fisheries waters except quota management area OYU5 and fisheries management area 10	A commercial fisher may return a dredge oyster of legal size to the waters from which it was taken if the oyster is likely to survive on return.
Freshwater eel (*Anguilla australis*, *Anguilla dieffenbachii*, and *Anguilla reinhardtii)*	All New Zealand fisheries waters	A commercial fisher may return any freshwater eel of legal size to the waters from which it is taken if— (a) that eel is likely to survive on return; and (b) the return takes place as soon as practicable after the eel is taken.
Green-lipped mussel (*Perna canaliculus*)	Quota management areas GLM1, GLM2, GLM3, GLM7A, GLM7B, GLM8, and GLM10	A commercial fisher may return any green-lipped mussel to the sea if that green-lipped mussel is likely to survive on return.
Green-lipped mussel (*Perna canaliculus*)	Quota management area GLM9	A commercial fisher may return any green-lipped mussel to the sea.
Kina (*Evechinus chloroticus*)	All New Zealand fisheries waters	A commercial fisher may return kina to the waters from which it was taken if the kina— (a) is taken by hand-gathering; and (b) is likely to survive on return.
Kingfish (*Seriola lalandi*)	All New Zealand fisheries waters	A commercial fisher may return a kingfish of legal size to the waters from which it was taken if that fish— (a) is not taken by the method of set netting; and (b) is likely to survive; and (c) is returned to the same waters from which it was taken; and (d) is returned as soon as practicable; and (e) is recorded and reported on catch effort landing returns using an appropriate code.
Knobbed whelk (*Austrofusus glans*)	Quota management areas KWH1, KWH2, KWH3, KWH4, KWH5, KWH6, KWH7A, KWH7B, KWH8, and KWH9	A commercial fisher may return any knobbed whelk to the waters from which it was taken if— (a) the knobbed whelk is likely to survive on return; and (b) the return takes place as soon as practicable after the knobbed whelk is taken.
Mako shark (*Isurus oxyrinchus*)	All New Zealand fisheries waters	A commercial fisher may return any mako shark to the waters from which it was taken—

Stock	Area	Requirements
		(a) live, if the mako shark is likely to survive on return and the return takes place as soon as practicable after the mako shark was taken; or (b) dead or near-dead, if paragraph (a) does not apply. For the purposes of paragraph (b) of this requirement, **near-dead** means unlikely to survive on return.
Northern scallops (*Pecten novaezelandiae*)	Northland scallop fishery	A commercial fisher shall immediately return any Northland scallop to the waters from which it was taken if the scallop is taken— (a) during any closed season in the Northland scallop fishery; or (b) in any area in which the taking of northern scallops is, at the time, prohibited.
Paddle crab (*Ovalipes catharus*)	All New Zealand fisheries waters	A commercial fisher may return any paddle crab to the waters from which it was taken if that paddle crab— (a) is taken using potting gear; and (b) is likely to survive; and (c) the return takes place as soon as practicable after the paddle crab is taken.
Patagonian toothfish (*Dissostichus eleginoides*)	All New Zealand fisheries waters	A commercial fisher may return any Patagonian toothfish to the waters from which it was taken if— (a) the Patagonian toothfish is likely to survive on return; and (b) the return takes place as soon as practicable after the Patagonian toothfish is taken; and (c) in the case of a trawl-caught Patagonian toothfish, it is released only in the presence of an observer.
Pipi (*Paphies australis*)	All New Zealand fisheries waters except fisheries management area 10	A commercial fisher may return any pipi to the seabed from which it was taken if— (a) that pipi is likely to survive on return; and (b) the return takes place as soon as practicable after the pipi is taken.
Porbeagle shark (*Lamna nasus*)	All New Zealand fisheries waters	A commercial fisher may return any porbeagle shark to the waters from which it was taken— (a) live, if the porbeagle shark is likely to survive on return and the return takes place as soon as practicable after the porbeagle shark was taken; or (b) dead or near-dead, if paragraph (a) does not apply.

Stock	Area	Requirements
		For the purposes of paragraph (b) of this requirement, **near-dead** means unlikely to survive on return.
Prawn killer (*Ibacus alticrenatus*)	All New Zealand fisheries waters	A commercial fisher may return any prawn killer to the waters from which it was taken if— (a) that prawn killer is likely to survive on return; and (b) the return takes place as soon as practicable after the prawn killer is taken.
Queen scallop (*Zygochlamys delicatula*)	All New Zealand fisheries waters	A commercial fisher may return any queen scallop to the waters from which it is taken if— (a) the queen scallop is likely to survive the return; and (b) the return takes place as soon as practicable after the queen scallop is taken.
Rig (*Mustelus lenticulatus*)	All New Zealand fisheries waters	A commercial fisher may return any rig to the waters from which it was taken if— (a) the rig is likely to survive on return; and (b) the return takes place as soon as practicable after the rig is taken.
Rock lobster (*Jasus verreauxi*, *Jasus edwardsii*)	All New Zealand fisheries waters	1 A commercial fisher may return any rock lobster of legal size to the waters from which it is taken if— (a) that rock lobster is likely to survive on return; and (b) the return takes place as soon as practicable after the rock lobster is taken. 2 *[Repealed]* 3 A commercial fisher shall immediately return any rock lobster to the waters from which it was taken if— (a) the lobster is carrying external eggs; or (b) the lobster is in the soft-shell stage, being the stage following moulting when the exoskeleton of the lobster has not reached full hardness; or (c) the calcified bar or any part of the exoskeleton (the outer shell of the tail) of the first abdominal segment of the tail is in such a state that its tail cannot properly be measured in the manner required under

Stock	Area	Requirements
		regulations made under section 297; or (d) in the case of spiny rock lobster, the calcified bar or any part of the exoskeleton (the outer shell of the tail) of the second abdominal segment of the tail is fractured; or any part of any pleural spine of the second abdominal segment is broken.
Rough skate (*Dipturus nasutus*)	All New Zealand fisheries waters	A commercial fisher may return any rough skate to the waters from which it was taken if— (a) that rough skate is likely to survive on return; and (b) the return takes place as soon as practicable after the rough skate is taken.
Scallop (*Pecten novaezelandiae*)	SCA1A, SCA2A, SCA3, SCA5, SCA7A, SCA7B, SCA7C, SCA8A, SCA9A	A commercial fisher may return a scallop of legal size to the waters from which it was taken if the scallop is likely to survive on return.
School shark (*Galeorhinus galeus*)	All New Zealand fisheries waters	A commercial fisher may return any school shark to the waters from which it was taken if— (a) the school shark is likely to survive on return; and (b) the return takes place as soon as practicable after the school shark is taken.
Sea cucumber (*Stichopus mollis*)	All New Zealand fisheries waters	A commercial fisher may return any sea cucumber to the waters from which it was taken if— (a) that sea cucumber is likely to survive on return; and (b) the return takes place as soon as practicable after the sea cucumber is taken.
Smooth skate (*Dipturus innominatus*)	All New Zealand fisheries waters	A commercial fisher may return any smooth skate to the waters from which it was taken if— (a) that smooth skate is likely to survive on return; and (b) the return takes place as soon as practicable after the smooth skate is taken.
Southern bluefin tuna (*Thunnus maccoyii*)	All New Zealand fisheries waters and all waters outside the outer boundary of the exclusive economic zone	A person who is a New Zealand national fishing against New Zealand's national allocation of southern bluefin tuna may return any southern bluefin tuna to the waters from which it was taken if—

Stock	Area	Requirements
		(a) that southern bluefin tuna is likely to survive on return; and (b) the return takes place as soon as practicable after the southern bluefin tuna is taken.
Southern scallops (*Pecten novaezelandiae*)	Southern scallop fishery	A commercial fisher may return a southern scallop of legal size to the waters from which it was taken if the scallop is likely to survive on return.
Spiny dogfish (*Squalus acanthias*)	All New Zealand fisheries waters	A commercial fisher may return any spiny dogfish (whether live or dead) to the waters from which it was taken.
Surf clams (*Bassina yatei*, *Dosinia anus*, *Dosinia subrosea*, *Mactra discors*, *Mactra murchisoni*, *Paphies donacina*, *Spisula aequilatera*)	All New Zealand fisheries waters except fisheries management areas 6 and 10	A commercial fisher may return any surf clam to the waters from which it was taken if— (a) the surf clam is likely to survive on return; and (b) the return takes place as soon as practicable after the surf clam is taken.
Swordfish (*Xiphias gladius*)	All New Zealand fisheries waters	A commercial fisher may return any swordfish to the waters from which it was taken if— (a) that swordfish is likely to survive on return; and (b) the return takes place as soon as practicable after the swordfish is taken; and (c) that swordfish has a lower jaw to fork length of less than 1.25 m. For the purposes of this requirement, **lower jaw to fork length** means the projected straight line distance from the foremost point of the lower jaw to the rear centre edge of the tail (caudal fin).

Schedule 6: amended, on 1 October 2014, by clause 3 of the Fisheries (Schedule 6) Order 2014 (LI 2014/281).

Schedule 6: amended, on 3 January 2013, by regulation 4 of the Fisheries (Schedules 5A and 6) Order 2012 (SR 2012/353).

Schedule 6: amended, on 1 May 2012, by clause 3 of the Fisheries (Schedule 6) Order 2012 (SR 2012/53).

Schedule 6: amended, on 16 December 2010, by clause 3 of the Fisheries (Schedule 6) Order 2010 (SR 2010/408).

Schedule 6: amended, on 1 October 2010, by clause 5 of the Fisheries (Schedules 5, 5A, and 6) Order 2010 (SR 2010/297).

Schedule 6: amended, on 1 October 2008, by clause 3 of the Fisheries (Schedule 6) Order (No 2) 2008 (SR 2008/275).

Schedule 6: amended, on 1 April 2008, by clause 3 of the Fisheries (Schedule 6) Order 2008 (SR 2008/33).

Schedule 6: amended, on 1 April 2007, by clause 5(1) of the Fisheries (Schedules 2, 5, 6, and 8) Order 2007 (SR 2007/31).

Schedule 6: amended, on 1 April 2007, by clause 5(2) of the Fisheries (Schedules 2, 5, 6, and 8) Order 2007 (SR 2007/31).

Schedule 6: amended, on 1 October 2006, by clause 3 of the Fisheries (Schedule 6) Order 2006 (SR 2006/242).

Schedule 6: amended, on 5 January 2006, by clause 4(1)(a) of the Fisheries (Schedules 2 and 6) Order 2005 (SR 2005/317).

Schedule 6: amended, on 5 January 2006, by clause 4(1)(b) of the Fisheries (Schedules 2 and 6) Order 2005 (SR 2005/317).

Schedule 6: amended, on 5 January 2006, by clause 4(2) of the Fisheries (Schedules 2 and 6) Order 2005 (SR 2005/317).

Schedule 6: amended, on 5 January 2006, by clause 4(3) of the Fisheries (Schedules 2 and 6) Order 2005 (SR 2005/317).

Schedule 6: amended, on 5 January 2006, by clause 4(4) of the Fisheries (Schedules 2 and 6) Order 2005 (SR 2005/317).

Schedule 6: amended, on 5 January 2006, by clause 4(5) of the Fisheries (Schedules 2 and 6) Order 2005 (SR 2005/317).

Schedule 6: amended, on 5 January 2006, by clause 4(6) of the Fisheries (Schedules 2 and 6) Order 2005 (SR 2005/317).

Schedule 6: amended, on 1 October 2004, by clause 4 of the Fisheries (Schedules 3 and 6) Order 2004 (SR 2004/337).

Schedule 6: amended, on 1 October 2004, by clause 5 of the Fisheries (Schedules 3, 5A, and 6) Order 2004 (SR 2004/278).

Schedule 6: amended, on 1 April 2004, by clause 3 of the Fisheries (Sixth Schedule) Order 2004 (SR 2004/67).

Schedule 6: amended, on 1 October 2003, by clause 4 of the Fisheries (Schedules 5A and 6) Order 2003 (SR 2003/231).

Schedule 6: amended, on 1 April 2003, by clause 5 of the Fisheries (Schedules 2, 5A, and 6) Order 2003 (SR 2003/48).

Schedule 6: amended, on 1 October 2002, by clause 4 of the Fisheries (Schedules 5A and 6) Order 2002 (SR 2002/279).

Schedule 6: amended, on 11 July 2002, by clause 5(a) of the Fisheries (Schedules 2, 5A, and 6) Order 2002 (SR 2002/154).

Schedule 6: amended, on 9 September 1999, by section 35 of the Fisheries Act 1996 Amendment Act (No 2) Act 1999 (1999 No 103).

Schedule 6: amended, on 9 September 1999, by section 88(3) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Schedule 7
Authority to enter private dwelling house, enclosed garden, or curtilage, or Maori reservation

[Repealed]

s 200

Schedule 7: repealed, on 1 October 2012, by section 252 of the Search and Surveillance Act 2012 (2012 No 24).

Schedule 8
Minimum annual holdings of annual catch entitlement for specified stocks

s 74

Schedule 8: substituted, on 9 September 1999, by section 88(4) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Part 1

Stock	Minimum holding (tonnes)
CRA1	3
CRA2	3
CRA3	3
CRA4	3
CRA5	3
CRA6	3
CRA7	3
CRA8	3
CRA9	3
CRA10	3
OYS7	3
PAU1	1
PAU2	1
PAU3A	1
PAU3B	1
PAU4	1
PAU5A	1
PAU5B	1
PAU5D	1
PAU6	0.1
PAU6A	1
PAU7	1
PAU10	1
SCA1	3
SCA7	3

Schedule 8 Part 1: amended, on 1 October 2021, by clause 6 (and see clause 3 for application) of the Fisheries (Alteration of Quota Management Area—Paua Kaikōura Coast) Order 2021 (LI 2021/153).

Schedule 8 Part 1: amended, on 30 September 2018, by clause 4(2)(a) (and see clause 3 for application) of the Fisheries (Schedule 8) Order 2018 (LI 2018/145).

Schedule 8 Part 1: amended, on 30 September 2018, by clause 4(2)(b) (and see clause 3 for application) of the Fisheries (Schedule 8) Order 2018 (LI 2018/145).

Schedule 8 Part 1: amended, on 1 February 2017 (applies on and from 1 February 2017), by clause 5(2) of the Fisheries (Schedule 8) Order 2016 (LI 2016/145).

Schedule 8 Part 1: amended, on 1 October 2016 (applies on and from 1 October 2016), by clause 4(2) of the Fisheries (Schedule 8) Order 2016 (LI 2016/145).

Schedule 8 Part 1: amended, on 1 October 2007, by clause 6 of the Fisheries (Schedules 2, 5, 6, and 8) Order 2007 (SR 2007/31).

Schedule 8 Part 1: amended, on 31 March 2003, by clause 3 of the Fisheries (Removal of Packhorse Rock Lobster from Eighth Schedule) Order 2003 (SR 2003/28).

Part 2

Stock	Minimum holding (oysters)
OYU5	29 000

Schedule 8A
Harvestable spat

ss 2(1), 186ZC

Schedule 8A: inserted, on 1 January 2005, by section 20 of the Fisheries Amendment Act (No 3) 2004 (2004 No 104).

The planktonic stage of the following species:

Echinoderms

Kina (*Evechinus chloroticus*)

Molluscs

Blue mussel (*Mytilus galloprovincialis*)

Cockle (*Austrovenus stutchburyi*)

Dredge oysters (*Tiostrea chilensis*)

Green-lipped mussel or green shell mussel (*Perna canaliculus)*

Pacific oyster (*Crassostrea gigas*)

Scallops (*Pecten novaezelandiae*)

Seaweed

Bladder kelp (*Macrocystis pyrifera*)

Bull kelp (*Durvillaea* spp.)

Karengo (*Porphyra* spp.)

Lessonia (*Lessonia variegata*)

Pterocladia (*Pterocladia* spp.)

Sea lettuce (*Ulva* spp.)

Sea moss (*Gracilaria* spp.)

Schedule 9
Quota allocations for jack mackerel, dredge oysters, and Northland scallops

ss 367, 368, 369

Schedule 9 heading: amended, on 1 April 1998, by section 14(1) of the Fisheries (Foveaux Strait Dredge Oyster Fishery) Amendment Act 1998 (1998 No 6).

Part 1
Jack mackerel quota allocations

Quota management areas 1 and 2

Legal name	Client number	Quota allocation (tonnes)
Amaltal Fishing Co Limited	8460042	2.20
Ashby, Ray John	8420078	1.00
Aston Trawling Company Partnership, being Michael Sclanders Taylor Trust, Denis Michael Lander Family Trust, and Bevan Howard de Berry Family Trust	8840010	7.00
Aston, Adrian Phillip and Aston Maxine Denise	8960108	.30
Avery, Richard John	8430102	.50
Barker, David Edward	8430131	.90
Bay Fisheries Limited	8420156	1.20
Bithell, Keith Owen	8430207	.15
Blackwell, Graham Edwin	8420208	.40
Boskovic, Mara & Boskovic, Milidan and Cobb, Robert Bruce	8820077	1.00
Bradnock, John Wilfred	8452904	1.00
Bridgeman, Frederick Harold and Bridgeman, Juanita	8820017	1.00
Brockelsby, Roger Arnold	8630038	.25
Browne, Dale Ken	8720002	.75
Carlisle, Edward Karora and Carlisle, Pamela Marjorie	8810047	.70
Cook Strait Seafoods being Fastforward Limited	9140014	.50
Cross, Peter Charles	8410526	.40
D'Ath, Errol Maurice	8430540	1.60
Dalgety, Neil John	8830076	.30
Davidson, Nigel Peter	8430550	.15
Deadman, Brian Sydney and Lees, Robert Whitelaw	8630094	600.00
Denison, Robert Leslie	8410585	.15
Donker Marine (1988) Limited	9060030	.40
Driver, Samuel	8430634	.15
Dyer, Raymond Mark	8410653	.10
Edwards, Bailey	9110008	.40
Edwards, Phillip George	8930005	.60

Legal name	Client number	Quota allocation (tonnes)
Eileen Walker Limited	9220022	.10
Esperance Fishing Co Limited	8430685	7.50
Fisher, James Stuart	8413043	9.00
Ford, Gary	8420775	.15
Fraser, Anthony Gordon	8440794	.15
Frear, Trevor Vincent	8410801	.45
Gibbs, Craig William	8423481	1.00
Gisborne Fisheries 1955 Limited	8440865	5.50
Goodall, Danny George	8920018	.30
Hanmore, Nigel Don	8430974	.40
Harbour Inn Restaurant Limited	9140006	13.00
Hartstone (Raglan) Limited	8421016	2.00
Harvey, Stephen Graham	9140048	.50
Hassan, Kevin John	9110046	.10
Heath, Gavin John	8433384	.15
Hikurangi Fisheries Limited	8411099	.30
Honda, Fumio	9030056	.15
Howell, Wayne Terrence	8810054	1.10
Humphries, Mark Clifton	8720113	.15
Humphries, Robert Clifton	8421164	1.60
Hunt, Thomas Stephen	8411167	.70
Hunter, Ronald John and Hunter, Latita	8720001	.80
Imlach, Jack Noel and Imlach, Gary Allen	8453310	4.10
Jackison, Paul George	8820105	.20
Jenssen, Jens Rydher	8443473	2.50
Jones, Robert Stanley	8710089	.15
Jones, Robert Stanley and Jones, John William	8610108	.15
Kellian, David Arthur	8421288	.10
Kellian, David Arthur and Galvin, Roger Ronald	9120016	2.00
King, Arthur Edward	8431312	.15
King, Edward John	8620133	.20
Lomas, Warren Ernest	8421439	2.00
Lowe, Colin George and Lowe, Toni Anne	8610026	.15
Maclardy, William John	8431488	.60
Mason, William Arthur	8940041	.10
Melling, Peter Clement	8720132	.25
Menary, Brian Murray Glen	8720075	.15
Merrie, Glenn	8421653	.10
Mikaere, Ken	8431664	.25
Moana Fishing Limited	8920069	10.00
Munro, Michael William	8441730	.15

Legal name	Client number	Quota allocation (tonnes)
Neeley, Warren Roderick	8411754	.15
Nelson Fisheries Limited	8461758	600.00
O A McRae Fishing Limited	8640038	7.50
O'Callaghan, Raymond Eroll	8451809	.20
O'Gorman, David Brent	8411819	.15
Okey, Graham Leslie	8461827	11.50
Olsen, Terrence Lyall	8433012	.10
Pacific Trawling Limited	9240029	21.50
Papakura Trawling and Fishing Co Limited	8431862	.80
Parrott, William Harry Boyd	8431877	.10
Plews, David Frederick	8630079	.15
Price, Thomas William	8431966	1.30
Pulford, Douglas Basil	8431976	.40
Pulford, Maurice Ronald	8431977	.20
R L Dyer and Sons Limited	8411985	.15
Rawlinson, William Patrick	8630114	.20
Roberts, Daniel	8920023	.15
San Antonio Fishing Company	8452120	8.00
Sanford Limited	8422125	6 431.50
Saunders, Alfred John	8452132	.30
Scampi Corp Limited	8840059	1.50
Scott, Rodney John	8422158	.15
Lim Family Holdings Limited	8650062	2.00
Sealord Products Limited	8462165	185.50
Shoreline Fisheries Limited	8412191	.15
Simunovich Fisheries Limited	8422209	20.00
Solo Fisheries Limited	8920096	.15
South Pacific (HB) Fisheries Limited	8640020	.50
Star Fish Limited	8640051	.40
Staunton Investments Limited	8470000	.10
Stevenson, James Scott	8630041	2.00
Stock, Rodney Grant	8432305	2.20
Sveistrup, Hugh Kay	8620021	.50
Sveistrup, Maurice Wayne	8432334	1.00
Te Runanga O Wharekauri Rekohu	8940117	.30
Terry, Peter	8640007	.10
Tomski, Michael John	8820062	.10
Treaty of Waitangi Fisheries Commission	8600300	2 000.00
Trio Trawling Partnership	9240005	.50
Turnball, Raymond Walter	8412468	.60
Van der Voorn, Anthony Adrianus	8422488	.10

Legal name	Client number	Quota allocation (tonnes)
Veal, Paul Martin	8432495	.40
Viskovich, Alan Ivan	8820088	.15
Walker, Christopher Desmond	9220007	.30
Walton, John Lewis and Low, David	8432547	2.80
Wells, Dennis Andrew	8660017	1.50
Wilkinson, Desmond Ross	8412640	.10
William Rose Trawling Company Limited	8940141	.40
Yardley, Kenneth Laurie and Yardley, Irene May	8710141	.65
	Total	10 000.00

Part 2
Jack mackerel quota allocations

Quota management areas 3, 4, 5, and 6

Legal name	Client number	Quota allocation (tonnes)
Amalgamated Marketing Limited	8820078	400.00
Amaltal Fishing Co Limited	8460042	940.50
Aston Trawling Company Partnership, being Michael Sclanders Taylor Trust, Denis Michael Lander Family Trust, and Bevan Howard de Berry Family Trust	8840010	.50
Aurora Fisheries Limited	8960136	1.70
Brown, Edwin Lewin	8480296	.35
Chatton Enterprises Limited	9220013	.70
Cleall, Richard James	8470453	.50
Deepcove Fisheries Limited	8680024	15.0
Esplanade No 1 Limited	8650036	.50
Explorer Douglas Fishing Co	8460698	76.00
Fearnley, Brent Mervyn and Fearnley, Ann	8473465	.25
Fearnley, Roydon Garth	8470716	39.00
Forbes, Alexander Edmund	8470772	15.00
Foster, Victor Paul	8470784	54.00
Goodyer, Timothy Mark	8470888	1.00
Graham, Robert Brian	8470902	.50
Hardwick, Peter Brian	8480986	.15
Heineman, Ate and Colleen Lynne	8483479	.10
Kiely, Murray Douglas	8481311	.40
Low, Bryon Robert	8481449	.20
Lyttelton Trawling Co Limited	8471464	7.00
McCutcheon, Graeme Victor	8481576	.40
MacDonald, Allan Charles and MacDonald, Karen Joy	8870106	.15

Legal name	Client number	Quota allocation (tonnes)
Mitchell, Brent John and Mitchell, Raymond Douglas	8481684	.70
Mountfort Fishing Company Limited	8491719	.25
Ngai Tahu Pacific Fishing Limited	9270012	50.00
Ocean Fisheries Limited	8471824	1.00
Odey Fishing Company Limited	9080001	1.50
Otakou Fisheries Limited	8481840	.25
Pacifica Fishing (Dunedin) Limited	9080002	.30
Pacifica Fishing being Skeggs, Clifford George, Skeggs, Bruce and Skeggs, Brian John and Skeggs, David George	8860084	.80
Pegasus Bay Fishing Co Limited	8471897	10.00
Pioneer Fisheries Co Limited	8483445	176.00
Rodokal, Stavros George	8472072	.25
Sanford South Island Limited	8480726	4 044.649
Lim Family Holdings Limited	8650062	8.00
Sealord Products Limited	8462165	4 500.501
South Island Deepwater Fisheries Limited	8472269	17.00
South Pacific Fishing Company Limited	9060092	.80
Southern Ocean Trawlers Limited	9080009	105.00
Southfish Limited	8492272	150.00
Staunton Investments Limited	8470000	1 672.70
Summerton, Gregory Mark	8472325	.40
Takaroa Fisheries Limited	9170023	6.00
Treaty of Waitangi Fisheries Commission	8600300	3 600.00
United Fisheries Limited	8472481	1 400.00
Vela Fishing Limited	8640050	700.00
	Total	18 000.00

Schedule 9 Part 2: amended, on 23 June 1998, by section 34 of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Part 3
Nelson/Marlborough dredge oyster quota allocations

Nelson/Marlborough dredge oyster fishery

Legal name	Client number	Quota allocation (Greenweight tonnes)
Aston, Craig Anthony	8460082	12.110
Aurora Fishing Partnership being Hosie, Brian Ernest and Hosie, Teressa Joan	8760284	15.224
Bloomfield, Alexander Thomas	8460218	16.715
Brace, Malcolm Jack and Arthur Jack	8460249	9.373

Legal name	Client number	Quota allocation (Greenweight tonnes)
Cameron, Sandra Beryl	9460038	5.600
Campey, Michael Frederick	8460379	13.092
Clifton Fishing Company being O'Connor, Michael Paul and O'Connor, Angela Joan	8463303	3.000
Climo, Lawrence Wilfred	8460458	15.377
Dawber, Robert McCallum	8460560	3.000
Douglas, Edward Bruce	8460625	3.000
Eric Johnson and Sons Limited	8460683	3.182
Golden Bay Fisheries Limited	8460705	9.073
Guard, Stephen Godfrey	8460940	11.440
Guards Fisheries Nelson Limited	8460941	24.700
Harvey, Neil Wilfred	8461022	3.000
Holmwood, Peter Ashley	8461129	9.263
Hunt, Phillip Francis and Murray Cecil	8463443	5.785
Lash Fisheries Ltd	8560002	3.000
Lash, Alistair Robert	8461377	18.456
McBride, Kenneth Craig	8461560	3.000
McCauley, Colin Patrick	8461564	3.000
McLaren, Michael John	8463389	24.179
O'Connor, Patrick John	8461813	11.153
Persson, Peter John	8463428	3.088
Phillipson, Rex	8960064	23.513
Rhodes, David Leonard	8462028	3.000
Roach, Graham Phillip and Mark Phillip	8462046	9.021
Roach, Raymond Peter and Donald Peter	8760004	10.212
Ron Bennett Fishing Limited	8760285	18.698
Rongo Marie Limited	8462080	36.947
Scott, Hughie	8462153	3.000
Sellers, Rex Samuel	8462172	7.753
Southern Trawlers Limited	8660077	15.942
Thompson, William Allan	8462421	3.000
Treaty of Waitangi Fisheries Commission	8600300	101.000
Turner, John Charles	8462473	9.169
Vlaming, Gerrit	8462504	3.131
Waitapu Fishing Co Limited	8462523	3.000
Weiss, Thomas	8560011	5.601
Wells, Bernard William and Barry Alexander	8462589	9.707
Whalan, Patrick Albert	8462608	7.496
Whiting, George Albert	8462625	3.000

Legal name	Client number	Quota allocation (Greenweight tonnes)
Wratt, Margaret as executrix of the Estate of Gerald Bruce Wratt	9160096	3.000
	Total	505.000

Part 4
Northland scallops quota allocations

Northland scallop fishery

Legal name	Client number	Quota allocation (Meatweight tonnes)
Wedding, Patrick Hugh and Wedding, Marguerita Bernadette	8412585	2.50
Keyte, Dennis Austin	8411307	2.50
Kendall, Betty Margaret	9010066	2.50
Sanderson and Sons Fishing Co Limited	8413213	2.50
Perry, John Lionel	8710147	2.50
Civil, Richard Edward	8410426	2.714
Olsen, David Charles	8610017	2.737
Janelle Fisheries Ltd	8411215	2.886
Watts, Edward Alexander	8422575	2.916
Russell, Bernard John Charles Antony	8710003	2.940
Douglas, Barry Wayne	8420623	3.038
Fisher, David John	8420748	3.177
Walker, Frederick Bruce	8412533	3.210
Watson, Walter Woolcott and Watson, Peter Cecil and Watson, Nancy Elle	8412573	3.234
Chaplin, Angela Jeanette	9210058	3.407
Bartlett, John Stephen	8410144	3.542
Lopes, Kenneth McLean	8411443	3.630
Garrett, Campbell Douglas Hayward	8410835	3.792
Semmens, Mark Alen	8412175	4.131
Wells, Michael	8412594	4.163
Leith, Hilton James	8411403	4.274
Subritzky, Dennis Gordon & Subritzky, Eileen	8412324	4.278
Murphy, John Kevin	8411737	4.534
Fisher, Bevan Ian	8710156	4.583
Hunt, Thomas Stephen	8411167	4.587
Dyer, Raymond Mark	8410653	4.715
White, Phillip Henry	8610098	4.932
Marshall, Gordan Duncan	8413200	4.965

Legal name	Client number	Quota allocation (Meatweight tonnes)
Tucker, Grant Walter	8412465	5.092
Wyatt, Ross Richard	8412699	5.119
Mason, Jonathan Paul	8610115	5.212
Farrow, Terence Leslie	8410711	5.326
Normandale, David and Normandale, Janet Lynn	8610116	5.508
Wyatt, Max Terrance	8412698	6.056
Chaplin, Patrick Maurice	8410409	6.111
R L Dyer and Sons Limited	8411985	6.657
Blake, Colin John and Blake, Patricia Mary	8610110	6.889
Treaty of Waitangi Fisheries Commission	8600300	37.712
	Total	188.561

Part 5
Foveaux Strait dredge oyster quota allocations

Schedule 9 Part 5: added, on 1 April 1998, by section 14(2) of the Fisheries (Foveaux Strait Dredge Oyster Fishery) Amendment Act 1998 (1998 No 6).

Legal name	Client number	Quota allocation (oyster numbers)
Calder, William Ernest	8890037	650 000
Cowan, Kay Ravine	8890036	650 000
Enterprise Fishing Co Ltd	8490681	650 000
Fisheries South Island Ltd	8490755	650 000
Foveaux Strait Oyster and Fish Supply Co Ltd	8490785	650 000
Fowler Oysters Ltd	8490786	910 000
Johnson, William Edward Myth	8890021	650 000
Mead, Jane Marjorie	8890038	650 000
Mountfort Fishing Co Ltd	8491719	650 000
Otakou Fisheries Ltd	8481840	1 300 000
Robert Russell Ltd	8492049	650 000
Skeggs Investments Ltd	8482214	2 600 000
Stewart Island Canneries Ltd	8492302	650 000
Treaty of Waitangi Fisheries Commission	8600300	2 990 000
Urwin and Co Ltd	8492485	650 000
	Total	14 950 000

Part 6
Pale ghost shark quota allocations

Schedule 9 Part 6: added, on 9 September 1999, by section 88(5) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Quota management area GSP1

Legal name	Client number	Quota allocation (tonnes)
Sanford Ltd	8422125	4.620
Simunovich Fisheries Ltd	8422209	5.932
Adam, John Russel	8430006	.005
Moys, Barry Robert	8431721	.043
Stella Fisheries Ltd	8442292	.001
Jenssen, Jens Rydher	8443473	.377
Greco, Glen Raphael	8450915	.013
O'Callaghan, Raymond Eroll	8451809	.360
Palmer, Stanley Dennis Roy	8451859	.116
Saunders, Alfred John	8452132	3.216
Saunders, Robert William	8452133	.243
Imlach, Jack Noel & Imlach, Gary Allan	8453310	4.332
Amaltal Fishing Co Ltd	8460042	.814
Fishburn, Thomas Albert	8460745	.493
McDonald & Brown Ltd	8461577	.014
Westbay Seafoods Ltd	8461835	1.821
Sealord Group Limited	8462165	6.940
Staunton Investments Ltd	8470000	5.617
Beggs, Robert McClean	8470171	.168
Bolton, Stephen Paul	8470226	.020
Cleall, Richard James	8470453	.744
Fearnley, Royden Garth	8470716	.074
Forbes, Ross Leslie	8470773	.002
Freestone, John	8470807	.322
Goodyer, Timothy Mark	8470888	.075
Harmon, Geoffrey Charles	8470994	.071
Hill, Craig Raoul	8471103	.061
Independent Fisheries Ltd	8471188	.250
Austro Fishing Limited	8471196	7.833
Lyttelton Trawling Co Ltd	8471464	2.309
Ocean Fisheries Ltd	8471824	.164
Pegasus Bay Fishing Co Ltd	8471897	6.808
Summerton, Gregory Mark	8472325	.088
Tissiman Bros Ltd	8472439	.149

Legal name	Client number	Quota allocation (tonnes)
United Fisheries Ltd	8472481	19.675
Virgo Fisheries Ltd	8472500	.891
Dobbie, Simon William	8472915	.005
Serene Fishing Co. Ltd	8472918	3.098
Thain, Roger Owen & Thain, Phyllis Anne	8473462	.001
Fearnley, Brent Mervyn & Fearnley, Ann	8473465	.025
Barber, Barrie Anthony	8480125	.235
Brown, Edwin Lewin	8480296	1.568
Chaplin, John Macintosh	8480408	.074
Sanford South Island Ltd	8480726	153.983
Hyland, Francis Lancelot	8481177	.017
Low, Bryon Robert	8481449	1.288
Mitchell, Brent John & Mitchell, Raymond Douglas	8481684	.854
Olsen, David Herbert	8481831	.002
Otakou Fisheries Ltd	8481840	.170
Tubb, Malcolm Leslie	8482463	.001
Pioneer Fisheries Co Ltd	8483445	6.681
Dobson, John Alan	8570001	.006
The Minister of Fisheries	8600000	.372
Treaty of Waitangi Fisheries Commission	8600300	101.800
Deadman, Brian Sydney and Lees, Robert Whitelaw, Trading as Mount Fish Market	8630094	.008
Vela Fishing Limited	8640050	26.399
Harbour Inn Holdings Ltd	8650036	.496
Lim Family Holdings Limited	8650062	1.103
Wellington Trawling Co Ltd	8650071	.053
Amaltal Corporation Limited	8660047	5.583
Canterbury Bight Fisheries Limited	8670050	11.266
Talasa Fishing Company Limited	8670072	34.775
Globe Export Fisheries Limited	8680023	.050
Deepcove Fisheries Limited	8680024	4.942
Rambler Fishing Co Ltd	8680027	.473
McGregor, Duncan Eugene	8730079	.001
Barron Fishing Limited	8740070	1.133
Howell, Wayne Terrence	8810054	.045
Aston Trawling Company Partnership being Michael Sclanders Taylor Trust, Denis Michael Lander Family Trust and Bevan Howard de Berry Family Trust	8840010	.273
Scampi Corp Ltd	8840059	1.115
Boote, Craig Robert and Boote, Diane Wendy	8860075	.124
Pacifica Seafoods (Christchurch) Limited	8870021	.983

Legal name	Client number	Quota allocation (tonnes)
Waghorn, Allan Derek	8870093	1.672
Harris, Kenneth Charles	8880026	.187
Moana Fishing Limited	8920069	.029
Moana Pacific Quota Holdings Ltd	8920089	.256
Kiwi Coast Seafoods Limited	8930024	.030
Greco, David Graeme	8940048	.012
Aurora Fisheries Limited	8960136	3.100
Jones, Derek Leonard	8970058	.021
Ngai Tahu Fisheries Limited	8970117	.035
Wilson, Ivan Lewis & Wilson, Murray Steven	9030058	.089
Palmer, Dennis & Brent	9040115	.067
Donker Marine (1988) Limited	9060030	.266
South Pacific Fishing Company Limited	9060092	5.394
Claridge, Adrian Owen	9070002	.331
Stavefield Holdings No 63 Limited	9070117	3.597
Odey Fishing Company Limited	9080001	13.060
Pacifica Seafoods (Dunedin) Limited	9080002	.813
Hunter, Peter McKinlay & Pauline Gwennyth	9080008	.012
Southern Ocean Trawlers Limited	9080009	15.167
Antons Trawling Company Limited	9120022	.108
Kiddie, Brian George	9130059	.003
Thurlow, Warren Keith & Thurlow, Bridget	9160081	.002
Te Whakaru Holding Company Limited	9170030	.022
Pile, Colin John	9180009	.099
Bartlett, Roger Owen & Allison, Trevor Robert trading as M.V. Tiki Partnership	9180024	.117
Te Ika Paewai Ltd	9260029	27.212
Jenkins, Ross Harley & Moir, Laryanne Pearl	9280036	.033
Straight Arrow Holdings Ltd	9440078	.249
D’urville Fishing Co Ltd	9440079	3.276
Physalie Marine Services Ltd	9460073	.014
Amos, Cushla May	9510053	.064
	Total	509.000

Part 7
Pale ghost shark quota allocations

Schedule 9 Part 7: added, on 9 September 1999, by section 88(5) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Quota management area GSP5

Legal name	Client number	Quota allocation (tonnes)
Sanford Ltd	8422125	2.588
Amaltal Fishing Co Ltd	8460042	.351
Sealord Group Limited	8462165	9.748
Staunton Investments Ltd	8170000	.084
Independent Fisheries Ltd	8471188	.120
United Fisheries Ltd	8472481	1.204
Sanford South Island Ltd	8480726	7.831
Low, Bryon Robert	8481449	.042
Otakou Fisheries Ltd	8481840	.249
Fisheries (South Island) Limited	8490755	.417
Urwin & Company Limited	8492485	.102
Treaty of Waitangi Fisheries Commission	8600300	23.600
Vela Fishing Limited	8640050	41.929
Amaltal Corporation Limited	8660047	1.624
Canterbury Bight Fisheries Limited	8670050	.092
Talasa Fishing Company Limited	8670072	.048
Deepcove Fisheries Limited	8680024	.190
Young, Trevor	8690020	.064
Amalgamated Marketing Ltd	8820078	10.450
Aurora Fisheries Limited	8960136	.718
Young, John Charles	8990004	.208
South Pacific Fishing Company Limited	9060092	.462
Stavefield Holdings No 63 Limited	9070117	.254
Pacifica Seafoods (Dunedin) Limited	9080002	.043
Southern Ocean Trawlers Limited	9080009	.317
Paulin, Ronald William	9090086	.007
Te Ika Paewai Ltd	9260029	15.258
	Total	118.000

Part 8
Pale ghost shark quota allocations

Schedule 9 Part 8: added, on 9 September 1999, by section 88(5) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Quota management area GSP7

Legal name	Client number	Quota allocation (tonnes)
Douglass, Adrian	8410627	.001
Sanford Ltd	8422125	.053
Simunovich Fisheries Ltd	8422209	3.788
Hayman, David McKay & Brown, David Boyd	8451047	.068
O'Callaghan, Raymond Eroll	8451809	.173
Saunders, Alfred John	8452132	6.958
Saunders, Robert William	8452133	5.955
Imlach, Jack Noel & Imlach, Gary Allan	8453310	.713
Amaltal Fishing Co Ltd	8460042	.195
Brace, Malcolm Jack & Brace, Arthur Jack	8460249	.002
Briggs, Kelly Dominc	8460271	.023
Collins, Edward Laurence	8460470	6.650
Fishburn, Robert Alfred	8460744	13.568
Fishburn, Thomas Albert	8460 745	25.619
Horncastle, Leslie Henry	8461141	1.179
Jowers, Lyndon Neil	8461265	.001
Kelly, Leigh	8461291	.024
King-Turner, Victor Robert	8461326	.001
McDonald & Brown Ltd	8461577	1.297
Westbay Seafoods Ltd	8461835	1.422
R J & J E Butts Ltd	8462044	.296
Roach, Graham Philip	8462045	6.618
Sealord Group Limited	8462165	.902
Taylor, Quinton George	8462377	.101
Waikawa Fishing Co Ltd	8462516	.159
Waterman, Graeme Arthur	8462563	.003
Webb, Graham Francis & Webb, Janice Lorraine	8462579	.005
Winchester, Kevin George	8462677	.086
Talleys Fisheries Ltd	8462926	.637
Winchester, Stephen John	8462928	.110
Pegasus Bay Fishing Co Ltd	8471897	.043
United Fisheries Ltd	8472481	1.105
Sanford South Island Ltd	8480726	13.053
Urwin & Company Limited	8492485	.661

Legal name	Client number	Quota allocation (tonnes)
Weiss, Thomas	8560011	9.338
The Minister of Fisheries	8600000	.008
Treaty of Waitangi Fisheries Commission	8600300	35.200
Vela Fishing Limiited	8640050	1.811
Egmont Seafoods Ltd	8650034	.038
Lim Family Holdings Limited	8650062	1.068
Rooney, Allan John	8660025	.001
Amaltal Corporation Limited	8660047	1.015
Moles, Trevor	8660067	.400
Seaqueen Fisheries Ltd	8660072	.568
Eden, Grant	8660084	.015
Talasa Fishing Company Limited	8670072	2.609
Deepcove Fisheries Limited	8680024	.006
McKenzie, Ian Robert	8760007	.003
Coppell, Ross Steven	8760008	.630
Aston Trawling Company Partnership being Michael Sclanders Taylor Trust, Denis Michael Lander Family Trust and Bevan Howard de Berry Family Trust	8840010	.219
Scampi Corp Ltd	8840059	.016
Boote, Craig Robert and Boote, Diane Wendy	8860075	3.583
Prendergast, Philip James & Prendergast, Patricia Eileen	8860129	.025
Waghorn, Allan Derek	8870093	10.594
Moana Fishing Limited	8920069	.125
Moana Pacific Quota Holdings Ltd	8920089	.059
Bamford, Mark Douglas	8940119	.001
Aurora Fisheries Limited	8960136	.065
Ngai Tahu Fisheries Limited	8970117	.015
Young, John Charles	8990004	.065
Palmer, Dennis & Brent	9040115	.012
Donker Marine (1988) Limited	9060030	2.320
Pursuit Fishing Limited	9060076	4.821
South Pacific Fishing Company Limited	9060092	.289
Bloomfield, Patrick William	9060098	1.018
Stavefield Holdings No 63 Limited	9070117	1.938
Southern Ocean Trawlers Limited	9080009	.219
Ganymede Enterprises Limited	9160090	.347
Te Ika Paewai Ltd	9260029	1.460
Straight Arrow Holdings Ltd	9440078	.328
D’urville Fishing Co Ltd	9440079	.056
Physalie Marine Services Ltd	9460073	1.322
Valliant Fishing Limited	9660005	1.939

Legal name	Client number	Quota allocation (tonnes)
J. S. Fishing Ltd	9660039	.985
	Total	176.000

Part 9
Southern blue whiting quota allocations

Schedule 9 Part 9: added, on 9 September 1999, by section 88(5) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Quota management area SBW6A

Legal name	Client number	Quota allocation (tonnes)
Amalgamated Marketing Limited	8820078	92.321
Independent Fisheries Limited	8471188	278.913
Greben Fishing Limited	8770045	50.388
Vela Fishing Limited	8640050	60.341
Sanford SI Limited	8480726	189.731
Amaltal Fishing Co. Limited	8460042	146.299
Aurora Fisheries Limited	8960136	59.181
Sealord Charters Limited	9260031	413.619
South Island Deep Water Fisheries Limited	8472269	21.207
Treaty of Waitangi Fisheries Commission	8600300	328.000

Part 10
Southern blue whiting quota allocations

Schedule 9 Part 10: added, on 9 September 1999, by section 88(5) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Quota management area SBW6B

Legal name	Client number	Quota allocation (tonnes)
Amalgamated Marketing Limited	8820078	866.914
Independent Fisheries Limited	8471188	2 619.062
Greben Fishing Limited	8770045	473.151
Vela Fishing Limited	8640050	566.614
Sanford SI Limited	8480726	1 781.621
Amaltal Fishing Co. Limited	8460042	1 373.786
Aurora Fisheries Limited	8960136	555.728
Sealord Charters Limited	9260031	3 883.986
South Island Deep Water Fisheries Limited	8472269	199.138
Treaty of Waitangi Fisheries Commission	8600300	3 080.000

Part 11
Southern blue whiting quota allocations

Schedule 9 Part 11: added, on 9 September 1999, by section 88(5) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Quota management area SBW6I

Legal name	Client number	Quota allocation (tonnes)
Amalgamated Marketing Limited	8820078	1 996.153
Independent Fisheries Limited	8471188	6 030.646
Greben Fishing Limited	8770045	1 089.478
Vela Fishing Limited	8640050	1 304.683
Sanford SI Limited	8480726	4 102.355
Amaltal Fishing Co. Limited	8460042	3 163.277
Aurora Fisheries Limited	8960136	1 279.617
Sealord Charters Limited	9260031	8 943.257
South Island Deep Water Fisheries Limited	8472269	458.534
Treaty of Waitangi Fisheries Commission	8600300	7 092.000

Part 12
Southern blue whiting quota allocations

Schedule 9 Part 12: added, on 9 September 1999, by section 88(5) of the Fisheries Act 1996 Amendment Act 1999 (1999 No 101).

Quota management area SBW6R

Legal name	Client number	Quota allocation (tonnes)
Amalgamated Marketing Limited	8820078	309.612
Independent Fisheries Limited	8471188	935.379
Greben Fishing Limited	8770045	168.983
Vela Fishing Limited	8640050	202.362
Sanford SI Limited	8480726	636.293
Amaltal Fishing Co. Limited	8460042	490.638
Aurora Fisheries Limited	8960136	198.474
Sealord Charters Limited	9260031	1 387.138
South Island Deep Water Fisheries Limited	8472269	71.121
Treaty of Waitang Fisheries Commission	8600300	1 100.000

Schedule 9A
Allocation of cost recovery settlement sum to each stock

s 265A

Schedule 9A: inserted, on 19 March 2004, by section 12(1) of the Fisheries Amendment Act 2004 (2004 No 6).

Part 1
Amounts of settlement sum to be credited to stock

Species or other grouping	Stock or species code	Settlement sum allocated $
Albacore tuna	ALB	598,273
Short and long-finned freshwater eels (South Island)	ANG11	3,135
Short and long-finned freshwater eels (South Island)	ANG12	2,740
Short and long-finned freshwater eels (South Island)	ANG13	9,129
Short and long-finned freshwater eels (South Island)	ANG14	2,415
Short and long-finned freshwater eels (South Island)	ANG15	6,494
Short and long-finned freshwater eels (South Island)	ANG16	4,895
Barracouta	BAR1	131,984
Barracouta	BAR4	34,602
Barracouta	BAR5	96,685
Barracouta	BAR7	137,167
Blue cod	BCO1	5,960
Blue cod	BCO2	1,522
Blue cod	BCO3	11,259
Blue cod	BCO4	28,991
Blue cod	BCO5	90,547
Blue cod	BCO7	4,741
Blue cod	BCO8	4,746
Bigeye tuna	BIG1	791,530
Bluenose	BNS1	78,928
Bluenose	BNS2	49,244
Bluenose	BNS3	24,330
Bluenose	BNS7	10,166
Bluenose	BNS8	6,416
Seal shark	BSH	5,186
Butterfish	BUT1	33
Butterfish	BUT2	643
Butterfish	BUT3	33
Butterfish	BUT4	109
Butterfish	BUT5	459
Butterfish	BUT6	0

Species or other grouping	Stock or species code	Settlement sum allocated $
Butterfish	BUT7	388
Alfonsino	BYX1	1,594
Alfonsino	BYX2	91,656
Alfonsino	BYX3	81,979
Alfonsino	BYX7	4,306
Alfonsino	BYX8	2,742
Cardinal fish	CDL1	8,914
Cardinal fish	CDL2	0
Cardinal fish	CDL3	277
Cardinal fish	CDL4	0
Cardinal fish	CDL5	49
Cardinal fish	CDL6	0
Cardinal fish	CDL7	429
Cardinal fish	CDL9	0
Cockle	COC1A	13,800
Cockle	COC3	39,586
Cockle	COC5	0
Cockle	COC7A	15,329
Rock lobster, spiny red	CRA1	78,131
Rock lobster, spiny red	CRA2	64,893
Rock lobster, spiny red	CRA3	198,417
Rock lobster, spiny red	CRA4	310,143
Rock lobster, spiny red	CRA5	110,513
Rock lobster, spiny red	CRA6	64,772
Rock lobster, spiny red	CRA7	51,224
Rock lobster, spiny red	CRA8	238,591
Rock lobster, spiny red	CRA9	9,989
Elephant fish	ELE1	381
Elephant fish	ELE2	924
Elephant fish	ELE3	98,561
Elephant fish	ELE5	3,779
Elephant fish	ELE7	5,569
Blue (English) mackerel	EMA1	48,662
Blue (English) mackerel	EMA2	1,160
Blue (English) mackerel	EMA3	2,516
Blue (English) mackerel	EMA7	21,348
Flatfish	FLA1	68,958
Flatfish	FLA2	41,854
Flatfish	FLA3	211,273
Flatfish	FLA7	117,372

Species or other grouping	Stock or species code	Settlement sum allocated $
Frostfish	FRO1	2,258
Frostfish	FRO2	0
Frostfish	FRO3	426
Frostfish	FRO4	0
Frostfish	FRO5	307
Frostfish	FRO6	4
Frostfish	FRO7	23,395
Frostfish	FRO8	3,657
Frostfish	FRO9	1,596
Grey mullet	GMU1	181,094
Grey mullet	GMU2	1,189
Grey mullet	GMU3	1,527
Grey mullet	GMU7	1,061
Ghost shark	GSH1	415
Ghost shark	GSH2	676
Ghost shark	GSH3	22,567
Ghost shark	GSH4	4,071
Ghost shark	GSH5	2,349
Ghost shark	GSH6	3,020
Ghost shark	GSH7	12,061
Ghost shark	GSH8	157
Ghost shark	GSH9	197
Ghost shark pale	GSP1	0
Ghost shark pale	GSP5	410
Ghost shark pale	GSP7	70
Red gurnard	GUR1	137,185
Red gurnard	GUR2	38,208
Red gurnard	GUR3	50,602
Red gurnard	GUR7	22,391
Red gurnard	GUR8	22,142
Hake	HAK1	457,661
Hake	HAK4	77,376
Hake	HAK7	252,660
Hoki	HOK1	2,361,747
Hapuku and bass	HPB1	50,559
Hapuku and bass	HPB2	29,784
Hapuku and bass	HPB3	27,214
Hapuku and bass	HPB4	17,497
Hapuku and bass	HPB5	34,074
Hapuku and bass	HPB7	18,333

Species or other grouping	Stock or species code	Settlement sum allocated $
Hapuku and bass	HPB8	6,372
John dory	JDO1	63,924
John dory	JDO2	26,131
John dory	JDO3	3,074
John dory	JDO7	8,009
Jack mackerel	JMA1	47,480
Jack mackerel	JMA3	270,921
Jack mackerel	JMA7	188,720
Kahawai	KAH	12,161
Kahawai	KAH1	0
Kahawai	KAH2	0
Kahawai	KAH3	0
Lookdown dory	LDO	9,009
Leatherjacket	LEA1	2,891
Leatherjacket	LEA2	17,468
Leatherjacket	LEA3	1,538
Leatherjacket	LEA4	108
Leatherjacket	LEA10	0
Long-finned freshwater eel	LFE1	6,132
Long-finned freshwater eel	LFE2	2,638
Long-finned freshwater eel	LFE17	642
Long-finned freshwater eel	LFE8	2,816
Long-finned freshwater eel	LFE9	606
Ling	LIN1	5,425
Ling	LIN2	18,516
Ling	LIN3	62,154
Ling	LIN4	178,151
Ling	LIN5	423,384
Ling	LIN6	606,805
Ling	LIN7	43,386
Trough shell	MDI	0
Large trough shell	MMI	0
Blue moki	MOK1	35,568
Blue moki	MOK3	3,523
Blue moki	MOK4	560
Blue moki	MOK5	1,182
Octopus	OCT	5
Oreo dories	OEO1	323,030
Oreo dories	OEO3A	562,510
Oreo dories	0EO4	625,055

Species or other grouping	Stock or species code	Settlement sum allocated $
Oreo dories	0EO6	343,891
Orange roughy	ORH1	85,542
Orange roughy	ORH2A	139,594
Orange roughy	ORH2B	25,568
Orange roughy	ORH3A	74,974
Orange roughy	ORH3B	1,648,364
Orange roughy	ORH7A	40,136
Orange roughy	ORH7B	32,377
Oyster, dredge (except Foveaux Strait)	OYS	0
Oyster, dredge (except Foveaux Strait)	OYS4	0
Oyster, dredge (except Foveaux Strait)	OYS5B	0
Oyster, dredge (except Foveaux Strait)	OYS7	47,564
Oyster, dredge (Foveaux Strait)	OYU5	133,107
Paddle crab	PAD	0
Paddle crab	PAD1	2,254
Paddle crab	PAD2	1,129
Paddle crab	PAD3	1,027
Paddle crab	PAD4	257
Paddle crab	PAD5	513
Paddle crab	PAD6	0
Paddle crab	PAD7	1,025
Paddle crab	PAD8	615
Paddle crab	PAD9	1,025
Paua	PAU1	4,912
Paua	PAU2	65,097
Paua	PAU3	36,644
Paua	PAU4	130,173
Paua	PAU5A	89,016
Paua	PAU5B	92,098
Paua	PAU5D	89,718
Paua	PAU6	0
Paua	PAU7	53,803
Deepwater tuatua	PDO	0
Packhorse rock lobster	PHC1	2,734
Pipi	PPI	1,560
Patagonian toothfish	PTO	434
Queen scallop	QSC3	8,044
Ray’s bream	RBM	15,062
Rubyfish	RBY1	1,081
Rubyfish	RBY2	0

Species or other grouping	Stock or species code	Settlement sum allocated $
Rubyfish	RBY3	2
Rubyfish	RBY4	0
Rubyfish	RBY7	12
Rubyfish	RBY8	0
Rubyfish	RBY9	101
Red cod	RCO1	2,115
Red cod	RCO2	13,619
Red cod	RCO3	324,699
Red cod	RCO7	43,316
Ribaldo	RIB1	3,946
Ribaldo	RIB2	5,566
Ribaldo	RIB3	10,709
Ribaldo	RIB4	15,258
Ribaldo	RIB5	2,945
Ribaldo	RIB6	9,153
Ribaldo	RIB7	4,079
Ribaldo	RIB8	49
Ribaldo	RIB9	96
Rough skate	RSK1	104
Rough skate	RSK3	1,553
Rough skate	RSK7	189
Rough skate	RSK8	20
Rough skate	RSK10	0
Red (golden) snapper	RSN	11,380
Triangle shell	SAE	0
Southern blue whiting	SBW1	13
Southern blue whiting	SBW3	0
Southern blue whiting	SBW4	0
Southern blue whiting	SBW5	0
Southern blue whiting	SBW6A	0
Southern blue whiting	SBW6B	124,702
Southern blue whiting	SBW6I	554,427
Southern blue whiting	SBW6R	5,806
Scallop	SCA1	509,388
Scallop	SCA4	0
Scallop	SCA7	150,362
Scallop	SCA9	0
Scallop	SCACS	184,799
School shark	SCH1	30,637
School shark	SCH2	9,688

Species or other grouping	Stock or species code	Settlement sum allocated $
School shark	SCH3	33,195
School shark	SCH4	7,012
School shark	SCH5	29,870
School shark	SCH7	22,907
School shark	SCH8	18,399
Scampi	SCI1	51,573
Scampi	SCI2	45,786
Scampi	SCI3	42,188
Scampi	SCI4	42,391
Scampi	SCI5	0
Scampi	SCI6A	9,938
Scampi	SCI6B	16,823
Scampi	SCI7	0
Scampi	SCI8	483
Scampi	SCI9	0
Short-finned freshwater eel	SFE1	19,279
Short-finned freshwater eel	SFE2	4,071
Short-finned freshwater eel	SFE17	966
Short-finned freshwater eel	SFE8	3,525
Short-finned freshwater eel	SFE9	1,217
Gemfish, southern kingfish	SKI1	41,508
Gemfish, southern kingfish	SKI2	42,984
Gemfish, southern kingfish	SKI3	22,654
Gemfish, southern kingfish	SKI7	19,810
Skipjack tuna	SKJ	400,510
Snapper	SNA1	1,717,023
Snapper	SNA2	50,819
Snapper	SNA3	2,585
Snapper	SNA7	53,791
Snapper	SNA8	187,209
Spiny dogfish	SPD1	4,297
Spiny dogfish	SPD3	62,229
Spiny dogfish	SPD4	17,160
Spiny dogfish	SPD5	56,634
Spiny dogfish	SPD7	20,341
Spiny dogfish	SPD8	3,284
Sea perch, Jock Stewart	SPE1	2,387
Sea perch, Jock Stewart	SPE2	5,100
Sea perch, Jock Stewart	SPE3	63,135
Sea perch, Jock Stewart	SPE4	38,719

Species or other grouping	Stock or species code	Settlement sum allocated $
Sea perch, Jock Stewart	SPE5	2,562
Sea perch, Jock Stewart	SPE6	286
Sea perch, Jock Stewart	SPE7	7,292
Sea perch, Jock Stewart	SPE8	1,134
Sea perch, Jock Stewart	SPE9	517
Rig, spotted dogfish	SPO1	52,073
Rig, spotted dogfish	SPO2	6,243
Rig, spotted dogfish	SPO3	76,348
Rig, spotted dogfish	SPO7	24,678
Rig, spotted dogfish	SPO8	21,318
Arrow squid	SQU1J	570,624
Arrow squid	SQU1T	643,213
Arrow squid	SQU6T	889,637
Smooth skate	SSK1	35
Smooth skate	SSK3	544
Smooth skate	SSK4	0
Smooth skate	SSK5	0
Smooth skate	SSK6	0
Smooth skate	SSK7	200
Smooth skate	SSK8	19
Smooth skate	SSK9	0
Giant stargazer	STA1	1,537
Giant stargazer	STA2	2,282
Giant stargazer	STA3	53,274
Giant stargazer	STA4	110,180
Giant stargazer	STA5	106,479
Giant stargazer	STA7	25,124
Giant stargazer	STA8	1,454
Southern bluefin tuna	STN	109,289
Sea urchin, kina, sea egg	SUR	7,770
Sea urchin, kina, sea egg	SUR3	800
Sea urchin, king, sea egg	SUR4	8,256
Sea urchin, kina, sea egg	SUR5	9,011
Sea urchin, kina, sea egg	SUR7A	4,980
Sea urchin, kina, sea egg	SUR7B	381
Sea urchin, kina, sea egg	SUR8	0
Silver warehou	SWA1	37,737
Silver warehou	SWA3	57,766
Silver warehou	SWA4	64,234
Swordfish	SWO1	914,221

Species or other grouping	Stock or species code	Settlement sum allocated $
Tarakihi	TAR1	91,030
Tarakihi	TAR2	96,411
Tarakihi	TAR3	44,927
Tarakihi	TAR4	10,691
Tarakihi	TAR5	5,723
Tarakihi	TAR7	32,760
Tarakihi	TAR8	13,952
Trevally	TRE1	79,366
Trevally	TRE2	10,699
Trevally	TRE3	585
Trevally	TRE7	61,635
Trumpeter	TRU1	3
Trumpeter	TRU2	57
Trumpeter	TRU3	636
Trumpeter	TRU4	184
Trumpeter	TRU5	40
Trumpeter	TRU7	15
Trumpeter	TRU8	0
Tuatua	TUA	0
Common (blue) warehou	WAR1	1,759
Common (blue) warehou	WAR2	14,432
Common (blue) warehou	WAR3	43,896
Common (blue) warehou	WAR7	18,398
Common (blue) warehou	WAR8	5,633
White warehou	WWA1	43
White warehou	WWA2	988
White warehou	WWA3	12,980
White warehou	WWA4	4,163
White warehou	WWA5	35,837
White warehou	WWA6	4,363
White warehou	WWA7	2,083
White warehou	WWA8	0
Yellow-eyed mullet	YEM1	146
Yellow-eyed mullet	YEM2	5
Yellow-eyed mullet	YEM3	0
Yellow-eyed mullet	YEM7	0
Yellow-eyed mullet	YEM8	0
Yellow-eyed mullet	YEM9	0
Yellowfin tuna	YFN1	101,078
Aquaculture		172,360

Schedule 9A Part 1: amended, on 1 October 2004, by section 62 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Schedule 9A Part 1: amended, on 1 July 2004 (applying on and after 1 October 2004), by clause 3(1)(a) of the Fisheries (Schedule 9A) Order 2004 (SR 2004/171).

Schedule 9A Part 1: amended, on 1 July 2004, by clause 3(1)(b) of the Fisheries (Schedule 9A) Order 2004 (SR 2004/171).

Schedule 9A Part 1: amended, on 1 July 2004, by clause 3(1)(c) of the Fisheries (Schedule 9A) Order 2004 (SR 2004/171).

Schedule 9A Part 1: amended, on 1 July 2004 (applying on and after 1 October 2004), by clause 3(1)(d) of the Fisheries (Schedule 9A) Order 2004 (SR 2004/171).

Schedule 9A Part 1: amended, on 1 July 2004 (applying on and after 1 October 2004), by clause 3(1)(e) of the Fisheries (Schedule 9A) Order 2004 (SR 2004/171).

Part 2
Amounts of settlement sum to be charged to stock

Species	Stock or species code	Settlement sum allocated ($)
Cardinal fish	CDL2	5,789
Ghost shark pale	GSP1	166
Kingfish	KIN1	241
Kingfish	KIN2	167
Kingfish	KIN3	3
Kingfish	KIN4	3
Kingfish	KIN7	19
Kingfish	KIN8	95
Kingfish	KIN10	3
Paua	PAU6	8
Rubyfish	RBY2	555
Southern blue whiting	SBW6A	1,912
Scampi	SCI5	13,966
Scampi	SCI7	312
Tuatua	TUA	657
Yellow-eyed mullet	YEM3	2
Yellow-eyed mullet	YEM7	2
Yellow-eyed mullet	YEM8	1
Yellow-eyed mullet	YEM9	9

Schedule 10
Levies

s 318

Part A
Levies on quota holders

Fisheries management services

Fishstock	Levy ($/tonne)	Fishstock	Levy ($/tonne)
BAR1	2.96	OEO3A	9.04
BAR4	1.54	OEO4	9.04
BAR5	5.40	OEO6	1.84
BAR7	1.54	ORH1	2.61
BCO1	5.39	ORH2A	4.88
BCO2	4.98	ORH2B	4.88
BCO3	4.90	ORH3A	4.94
BCO4	3.48	ORH3B	16.36
BCO5	5.06	ORH7A	3.67
BCO7	9.11	ORH7B	2.61
BCO8	4.98	PAU1	58.20
BNS1	5.55	PAU2	65.21
BNS2	5.14	PAU3	57.75
BNS3	9.80	PAU4	57.75
BNS7	5.19	PAU5A	73.65
BNS8	5.14	PAU5B	72.86
BYX1	3.50	PAU5D	72.86
BYX2	3.43	PAU6	1,385.60
BYX3	3.38	PAU7	57.89
BYX7	3.42	PHC1	47.16
BYX8	3.37	RCO1	2.69
CRA1	60.20	RCO2	6.21
CRA2	60.20	RCO3	2.99
CRA3	64.62	RCO7	2.65
CRA4	59.85	SCA7	20.08
CRA5	64.96	SCH1	5.03
CRA6	80.15	SCH2	4.62
CRA7	59.75	SCH3	4.54
CRA8	60.40	SCH4	3.65
CRA9	59.85	SCH5	8.32
ELE1	5.01	SCH7	4.67
ELE2	4.61	SCH8	4.74

Fishstock	Levy ($/tonne)	Fishstock	Levy ($/tonne)
ELE3	5.27	SKI1	6.46
ELE5	4.44	SKI2	10.37
ELE7	4.65	SKI3	5.23
FLA1	5.03	SKI7	1.37
FLA2	4.63	SNA1	26.93
FLA3	4.54	SNA2	9.79
FLA7	4.67	SNA3	4.65
GMU1	4.07	SNA7	68.05
GMU2	3.67	SNA8	10.37
GMU3	3.55	SPO1	6.48
GMU7	3.71	SPO2	5.05
GUR1	5.00	SPO3	6.74
GUR2	6.70	SPO7	6.12
GUR3	3.45	SPO8	5.05
GUR7	3.15	SQU1J	1.37
GUR8	2.72	SQU1T	1.55
HAK1	2.37	SQU6T	1.55
HAK4	2.30	STA1	3.13
HAK7	2.06	STA2	6.92
HOK1	2.76	STA3	3.84
HPB1	8.62	STA4	2.64
HPB2	6.96	STA5	6.86
HPB3	6.88	STA7	3.32
HPB4	4.91	STA8	3.01
HPB5	6.80	SWA1	1.37
HPB7	7.01	SWA3	1.41
HPB8	6.96	SWA4	5.23
JDO1	8.09	TAR1	6.83
JDO2	5.88	TAR2	8.32
JDO3	5.76	TAR3	3.82
JDO7	5.92	TAR4	2.99
JMA7	1.95	TAR5	2.99
LIN1	2.17	TAR7	3.52
LIN2	1.82	TAR8	3.15
LIN3	2.38	TRE1	3.81
LIN4	1.83	TRE2	2.93
LIN5	5.77	TRE3	2.81
LIN6	1.91	TRE7	3.10
LIN7	1.82	WAR1	1.54
MOK1	3.09	WAR2	1.54
MOK3	2.66	WAR3	5.50

Fishstock	Levy ($/tonne)	Fishstock	Levy ($/tonne)
MOK4	2.62	WAR7	1.54
MOK5	2.62	WAR8	1.54
OEO1	1.84		

Conservation services

Fishstock	Levy ($/tonne)	Fishstock	Levy ($/tonne)
HAK1	0.18	SQU1T	0.17
HAK7	0.18	SQU6T	0.22
HOK1	0.04	JMA7	0.09

Part B
Non-ITQ levies

Fisheries management services

Fishstock	Levy ($/tonne)	Fishstock	Levy ($/tonne)
ALB	6.41	PPI	5.47
BIG	6.06	QSC	6.07
BSH	1.29	RBM	1.29
BUT	4.42	RBY	1.29
CDL	1.75	RIB	2.58
COC1	9.30	RSK	1.88
COC2	5.63	SAE	8.35
COC3	6.13	SCA1	80.13
COC4	5.63	SCI1	42.69
COC5	6.13	SCI2	42.69
COC7	6.13	SCI3	27.79
COC8	5.63	SCI4	27.79
COC9	5.63	SCI5	27.79
EMA	1.58	SCI6A	27.79
FRO	1.75	SCI6B	27.79
GSH	3.07	SCI7	27.78
JMA1	1.72	SCI8	27.78
JMA3	1.72	SCI9	27.78
KAH1	6.34	SFE	11.94
KAH2	5.99	SKA	1.88
KAH3	6.36	SKJ	6.15
KIN	1.29	SPD	2.79
LDO	1.29	SPE	3.09
LEA	2.26	SSK	1.88

Fishstock	Levy ($/tonne)	Fishstock	Levy ($/tonne)
LFE	11.94	STN	5.48
MDI	8.35	SUR1	5.00
MMI	8.35	SUR2	5.00
OCT	3.29	SUR3	5.00
OYS7	5.94	SUR4	5.00
PAD1	3.20	SUR5	5.66
PAD2	3.20	SUR7	5.60
PAD3	3.20	SUR8	5.00
PAD4	3.02	SUR9	4.63
PAD5	3.02	SWO	6.06
PAD7	3.20	TUA	6.25
PAD8	3.20	WWA	1.75
PAD9	3.20	YFN	6.06
PDO	8.35		

Conservation services

Fishstock	Levy ($/tonne)	Fishstock	Levy ($/tonne)
SBW	0.14	YFN	31.26
STN	66.51	SWO	31.26
BIG	31.26		

Part C
Levies on individual catch limits

Fishery	Levy ($/tonne)
SBW	2.33
Coromandel scallops	80.13

Part D
Controlled fishery licence levy

Fishery	Levy ($ per boat authority)
Foveaux Strait dredge oyster	485.70
Lake Ellesmere eels	31.38
Coromandel scallops	31.38

Part E
Levies on permits

Permit/Activity	Levy ($ per annum)
Permit authorising taking of SCA4	50.59
Permit authorising taking of OYS4	50.59
Use of set nets/drift nets in quota management area 3	6.63

Part F
Aquaculture levies

Permit or interest held	Levy ($ per each permit, lease, or licence)
Marine farm permit	86.59
Spat catching permit	86.59
Marine farm lease	86.59
Marine farm licence	86.59
Freshwater fish farm licence	86.59

Part G
Compliance audit levy

Fish stock	Levy ($ per licence/certificate)
Deep water	
OEO1	0.50
OEO3A	0.50
OEO4	0.50
OEO6	0.50
ORH1	2.92
ORH2A	2.92
ORH2B	2.92
ORH3A	2.92
ORH3B	2.92
ORH7A	2.92
ORH7B	2.92
Middle depth	
BAR1	0.27
BAR4	0.27
BAR5	0.27
BAR7	0.27
HAK1	1.00

Fish stock	Levy ($ per licence/certificate)
HAK4	1.00
HAK7	1.00
HOK1	0.42
LIN1	1.25
LIN2	1.25
LIN3	1.25
LIN4	1.25
LIN5	1.25
LIN6	1.25
LIN7	1.25
SKI1	1.67
SKI2	1.67
SKI3	1.00
SKI7	1.00
SQU1J	0.83
SQU1T	0.83
SQU6T	0.83
SWA1	0.83
SWA3	0.83
SWA4	0.83
WAR1	1.33
WAR2	1.33
WAR3	0.67
WAR7	0.67
WAR8	1.33
Inshore	
BCO1	1.52
BCO2	1.52
BCO3	1.52
BCO4	0.77
BCO5	1.52
BCO7	1.52
BCO8	1.52
BNS1	2.08
BNS2	2.08
BNS3	2.08
BNS7	2.08
BNS8	2.08
BYX1	1.25
BYX2	1.25

Fish stock	Levy ($ per licence/certificate)
BYX3	1.25
BYX7	1.25
BYX8	1.25
ELE1	1.25
ELE2	1.25
ELE3	1.25
ELE5	1.25
ELE7	1.25
FLA1	1.79
FLA2	1.79
FLA3	1.79
FLA7	1.79
GMU1	1.25
GMU2	1.25
GMU3	1.25
GMU7	1.25
GUR1	0.75
GUR2	0.75
GUR3	0.75
GUR7	0.75
GUR8	0.75
HPB1	2.92
HPB2	2.21
HPB3	2.21
HPB4	1.14
HPB5	2.21
HPB7	2.21
HPB8	2.21
JDO1	2.50
JDO2	2.50
JDO3	2.50
JDO7	2.50
MOK1	0.75
MOK3	0.75
MOK4	0.75
MOK5	0.75
RCO1	0.37
RCO2	0.37
RCO3	0.37
RCO7	0.37
SCH1	1.00

Fish stock	Levy ($ per licence/certificate)
SCH2	1.00
SCH3	1.00
SCH4	0.54
SCH5	1.00
SCH7	1.00
SCH8	1.00
SNA1	3.33
SNA2	2.50
SNA3	1.87
SNA7	1.87
SNA8	1.87
SPO1	2.08
SPO2	1.50
SPO3	2.08
SPO7	2.08
SPO8	1.50
STA1	1.04
STA2	1.04
STA3	1.04
STA4	0.83
STA5	1.04
STA7	1.04
STA8	1.04
TAR1	1.87
TAR2	1.67
TAR3	0.96
TAR4	0.96
TAR5	0.96
TAR7	0.96
TAR8	0.96
TRE1	1.17
TRE2	0.83
TRE3	0.83
TRE7	0.83
Shellfish	
CRA1	25.00
CRA2	25.00
CRA3	25.00
CRA4	25.00
CRA5	25.00

Fish stock	Levy ($ per licence/certificate)
CRA6	25.00
CRA7	25.00
CRA8	25.00
CRA9	25.00
PAU1	13.33
PAU2	13.33
PAU3	13.33
PAU4	13.33
PAU5A	13.33
PAU5B	13.33
PAU5D	13.33
PAU6	13.33
PAU7	13.33
PHC1	16.67
SCA7	10.83
Pelagic	
JMA7	0.08

Part H
Offshore fishing vessel levy

Description	Levy ($ per vessel)
Owner of fishing vessel carrying automatic location communicator	111.23

Schedule 11
Bait

s 362

Common name	QMS code	Scientific name
Barracouta	BAR	*Thyrsites atun*
Blue cod	BCO	*Parapercis colias*
Blue moki	MOK	*Latridopsis ciliaris*
Common (blue) warehou	WAR	*Seriolella brama*
Gemfish	SKI	*Rexea solandri*
Grey mullet	GMU	*Mugil cephalus*
Jack mackerel	JMA	*Trachurus declivis*
Red cod	RCO	*Pseudophycis bachus*
Red gurnard	GUR	*Chelidonichthys kumu*
Rig, spotted dogfish	SPO	*Mustelus lenticulatus*
School shark	SCH	*Galeorhinus galeus*
Squid	SQU	*Nototodarus gouldi*; *Nototodarus sloanii*
Tarakihi	TAR	*Nemadactylus macropterus*
Trevally	TRE	*Pseudocaranx dentex*

Schedule 12
Enactments amended

s 316

Part 1
Amendments deemed to have come into force on 1 July 1995

Ministry of Agriculture and Fisheries (Restructuring) Act 1995 (1995 No 31)

Amendment(s) incorporated in the Act(s).

Part 2
Amendments to Fisheries Act 1983 deemed to have come into force on 1 October 1995

Fisheries Act 1983 (1983 No 14) (RS Vol 27, p 137)

Amendment(s) incorporated in the Act(s).

Part 3
Amendments coming into force on appointed date

Marine Mammals Protection Act 1978 (1978 No 80) (RS Vol 34, p 709)

Amendment(s) incorporated in the Act(s).

Marine Reserves Act 1971 (1971 No 15) (RS Vol 22, p 751)

Amendment(s) incorporated in the Act(s).

Maritime Transport Act 1994 (1994 No 104)

Amendment(s) incorporated in the Act(s).

Resource Management Act 1991 (1991 No 69) (RS Vol 32, p 131)

Amendment(s) incorporated in the Act(s).

Wildlife Act 1953 (1953 No 31) (RS Vol 7, p 819)

Amendment(s) incorporated in the Act(s).

Part 4
Amendments to Privacy Act 1993

Privacy Act 1993 (1993 No 28)

Amendment(s) incorporated in the Act(s).

Part 5
Amendments to Territorial Sea and Exclusive Economic Zone Act 1977

Territorial Sea and Exclusive Economic Zone Act 1977 (1977 No 28) (RS Vol 27, p 877)

Amendment(s) incorporated in the Act(s).

Part 6
Amendments to Summary Proceedings Act 1957

Summary Proceedings Act 1957 (1957 No 87) (RS Vol 9, p 583)

Amendment(s) incorporated in the Act(s).

Part 7
Amendments to Fisheries Act 1983 and other Acts

Fisheries Act 1983 (1983 No 14) (RS Vol 27, p 137)

Amendment(s) incorporated in the Act(s).

Fisheries Amendment Act 1995 (1995 No 51)

Amendment(s) incorporated in the Act(s).

Maori Fisheries Act 1989 (1989 No 159) (RS Vol 27, p 677)

Amendment(s) incorporated in the Act(s).

Part 8
Amendments to Fisheries Act 1983

Fisheries Act 1983 (1983 No 14) (RS Vol 27, p 137)

Amendment(s) incorporated in the Act(s).

Part 9
Amendments to Fisheries Act 1983

Fisheries Act 1983 (1983 No 14) (RS Vol 27, p 137)

Amendment(s) incorporated in the Act(s).

Schedule 13
Quota management areas for particular scampi stocks

s 369N

Schedule 13: added, on 13 August 2004, by section 6 of the Fisheries Amendment Act (No 2) 2004 (2004 No 71).

Scampi quota management area 3—South East Coast and Western Chatham Islands combined

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing at a point 42°10.0′S and 180°00.0′; then

(b) proceeding south along the 180°00.0′ line of longitude to latitude 46°00.0′S; then

(c) proceeding west along the 46°00.0′S line of latitude to longitude 176°00.0′E; then

(d) proceeding in a generally south-westerly direction directly to a point 48°19.0′S and 170°31.0′E; then

(e) proceeding in a generally north-westerly direction directly to the mean high-water mark of the South Island at the southernmost point of Slope Point (approximately 46°40.5′S and 169°00.0′E); then

(f) proceeding in a generally north-easterly direction along the mean high-water mark of the South Island to latitude 42°10.0′S (approximately 173°56.5′E, near Clarence Point); then

(g) proceeding east along the 42°10.0′S line of latitude until reaching the point of commencement.

Scampi quota management area 4A—Chatham Islands East

All that area of New Zealand fisheries waters enclosed by a line—

(a) commencing at point 42°10.0′S and 180°00.0′; then

(b) proceeding south along the 180°00.0′ line of longitude to latitude 46°00.0′S; then

(c) proceeding east along the 46°00.0′S line of latitude to the exclusive economic zone boundary (longitude approximately 171°46.7′W); then

(d) proceeding in a generally northerly direction along the exclusive economic zone boundary to latitude 42°10.0′S (longitude approximately 171°59.1′W); then

(e) proceeding west along the line of latitude 42°10.0′S until reaching the point of commencement.

Scampi quota management area 6A—Auckland Islands

All that area of New Zealand fisheries waters within fishery management area 6—Sub-Antarctic in Part 1 of Schedule 1 of the Fisheries Act 1996 that surround the Auckland Islands within an area bounded by latitude 49°00′S in the north, and a line from 52°00′S and 164°30′E to 51°30′S and 168°30′E in the south and by line of longitude at 164°30′E in the west and 168°30′E in the east.

Scampi quota management area 6B—Part Sub-Antarctic

All that area of New Zealand fisheries waters within fishery management area 6—Sub-Antarctic in Part 1 of Schedule 1 of the Fisheries Act 1996, excluding scampi quota management area 6A.

Schedule 14
Scampi provisional catch history allocations

s 369O

Schedule 14: added, on 13 August 2004, by section 6 of the Fisheries Amendment Act (No 2) 2004 (2004 No 71).

Part 1
Quota management area SCI1

Legal name	Client number	Provisional catch history allocation (kgs)
Barine Developments Limited	8920034	1 707
Deadman, Brian Sydney & Lees, Robert Whitelaw trading as Mount Fish Market	8630094	14 280
Howell, Wayne Terrence	8810054	21
Montgomery, Robert Johnstone	8720123	12 793
Petromont Holdings Limited	9120012	696
Simunovich Fisheries Limited	8422209	187 989

Part 2
Quota management area SCI2

Legal name	Client number	Provisional catch history allocation (kgs)
Barine Developments Limited	8920034	69 350
Montgomery, Robert Johnstone	8720123	1 684
Petromont Holdings Limited	9120012	420
Sanford Limited	8422125	90 717
Simunovich Fisheries Limited	8422209	151 798
Vautier Shelf Company No 14 Limited	9040015	38 509

Part 3
Quota management area SCI3

Legal name	Client number	Provisional catch history allocation (kgs)
Amaltal Fishing Co. Limited	8460042	11 530
Barine Developments Limited	8920034	7 881
Deadman, Brian Sydney & Lees, Robert Whitelaw trading as Mount Fish Market	8630094	9 250
Petromont Holdings Limited	9120012	6 884
Sanford Limited	8422125	4 894

Legal name	Client number	Provisional catch history allocation (kgs)
Simunovich Fisheries Limited	8422209	106 727
Vautier Shelf Company No 14 Limited	9040015	21 213

Part 4
Quota management area SCI4A

Legal name	Client number	Provisional catch history allocation (kgs)
Deadman, Brian Sydney & Lees, Robert Whitelaw trading as Mount Fish Market	8630094	1 669
Petromont Holdings Limited	9120012	4 106
Sanford Limited	8422125	5 860
Simunovich Fisheries Limited	8422209	98 412
Vautier Shelf Company No 14 Limited	9040015	155

Part 5
Quota management area SCI5

Legal name	Client number	Provisional catch history allocation (kgs)
Deadman, Brian Sydney & Lees, Robert Whitelaw trading as Mount Fish Market	8630094	258

Part 6
Quota management area SCI6A

Legal name	Client number	Provisional catch history allocation (kgs)
Amaltal Fishing Co. Limited	8460042	18 350
Barine Developments Limited	8920034	32 675
Deadman, Brian Sydney & Lees, Robert Whitelaw trading as Mount Fish Market	8630094	35 700
Petromont Holdings Limited	9120012	18 884
Sanford Limited	8422125	60 033
Simunovich Fisheries Limited	8422209	130 385
Vautier Shelf Company No 14 Limited	9040015	15 797

Part 7
Quota management area SCI9

Legal name	Client number	Provisional catch history allocation (kgs)
Deadman, Brian Sydney & Lees, Robert Whitelaw trading as Mount Fish Market	8630094	1

Schedule 15
Green-lipped mussel quota share allocations for quota management area 9 (GLM9)

s 369S(5)

Schedule 15: added, on 1 October 2004, by section 63 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Legal name	Client number	Quota shares allocated
Christopher Allen Hensley	8411074	27 000 000
Kevin Ross Bellingham	8410178	9 000 000
Anthony Terrence Wedding	8413323	9 000 000
Diane Margaret Wedding	9410014	9 000 000
Martin Patrick Doody	8610114	5 000 000
Robert Leslie Denison	8410585	5 000 000
Kirk Walter Denison	8710002	5 000 000
Houhora Bay Marine Farms Limited	9510021	964 000
Robert Lovell Garden	8420824	36 000
Patrick Hugh Wedding	8413324	330 000
Treaty of Waitangi Fisheries Commission	8600300	20 000 000
The Crown in right of New Zealand acting by and through the Minister of Fisheries or the Ministry of Fisheries, either individually or collectively	8600000	9 670 000

Schedule 16
Allocation of quota for pipi in quota management area 1A

s 369T(2)

Schedule 16: added, on 1 October 2004, by section 63 of the Fisheries Amendment Act (No 3) 2004 (2004 No 76).

Client	Client number	Quota shares
Estate of George Henare	8421067	12 031 245
Thane Donald Colquhoun	8610002	15 722 533
Robin Leonard Beardsell	8610016	7 035 096
Grant Henare Fraser	8920093	306 475
Crete Milner Ltd	9310013	16 585 254
Cliff Gregory Ltd	9310014	2 506 158
J Gregory Ltd	9310015	8 922 447
Emma Jo Gregory Ltd	9310016	4 936 869
P Hape Ltd	9310028	11 953 923
Te Ohu Kai Moana Trustee Limited		20 000 000

Schedule 16: amended, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Fisheries Act 1996 Amendment Act 1999

Public Act	1999 No 101
Date of assent	8 September 1999
Commencement	see section 1(2)–(4)

1 Short Title and commencement

(1) This Act may be cited as the Fisheries Act 1996 Amendment Act 1999, and is part of the Fisheries Act 1996 ("the principal Act").

(2) This section and sections 2 to 8, 11 to 16, 64 to 72, 77 to 83, and 85 to 90, and the schedules, come into force on the day after the date on which this Act receives the Royal assent.

(3) Sections 17 to 21 come into force on 1 October 1999.

(4) The other provisions of this Act come into force on a date to be appointed by the Governor-General by Order in Council; and 1 or more Orders in Council may be made appointing different dates for different provisions and for different purposes.

(5) *Amendment(s) incorporated in the principal Act(s)*.

Part 2
Repeals, consequential amendments, and transitional provisions

90 Statutory references to Registrars and Deputy Registrars

(1) This section applies to every reference in the principal Act to—

(a) the Registrar of Fishing Vessels; or

(b) the Registrar of Permits; or

(c) a Registrar of Quota; or

(d) a Registrar of Annual Catch Entitlement; or

(e) any of those registrars generally.

(2) Every reference to which this section applies must be read as a reference to the chief executive.

(3) Every reference in the principal Act to the chief executive being required to notify a registrar of a matter, or a registrar being required to notify the chief executive of a matter, must be disregarded.

91 Fisheries (Cost Recovery Levies) Order

Despite the repeal of section 262 of the principal Act by this Act, any order under that section in force immediately before its repeal continues in force and has the same effect as if it had been made under section 264 of the principal Act (as substituted by this Act) until revoked under the principal Act.

Fisheries Amendment Act (No 3) 2004

Public Act	2004 No 76
Date of assent	6 September 2004
Commencement	see section 2

1 Title

(1) This Act is the Fisheries Amendment Act (No 3) 2004.

(2) In this Act, other than Part 2, the Fisheries Act 1996 is called "the principal Act".

2 Commencement

(1) This Act comes into force on 1 October 2004, except for sections 37(3) and 59.

(2) Sections 37(3) and 59 come into force on the day on which this Act receives the Royal assent.

Part 1
Amendments to principal Act

23 Sections relating to Schedule 4 stocks repealed

(1) Sections 50A to 50G of the principal Act, and the heading immediately above section 50A, are repealed.

(2) Despite subsection (1), sections 50A to 50G of the principal Act continue to apply on and after 1 October 2004 in respect of freshwater eels in the North Island, kahawai, and southern bluefin tuna, to the extent necessary to complete any processes required or envisaged by those sections in respect of making those stocks subject to the quota management system.

Saving of individual catch entitlement as basis for allocation of provisional catch history for certain seaweed stocks

67 Retention of individual catch entitlement provisions for certain seaweeds

(1) This section applies in respect of the following seaweed stocks (the **relevant stocks**):

- (a) bull kelp (*Durvillea* spp.) with fishstock code KBL2:
- (b) bladder kelp (*Macrocystis pyrifera*) with fishstock code KBB4:
- (c) porphyra (*Porphyra* spp.) with fishstock code PRP3.

(2) Despite anything in Part 1, if and when any of the relevant stocks are brought into the quota management system the allocation of provisional catch history for those stocks must be made on the basis of individual catch entitlements.

(3) For this purpose, the principal Act must be read as if—

(a) the definition of individual catch entitlement in section 2(1) of that Act had not been repealed by section 3(5) of this Act:

(b) section 31 of the principal Act had not been repealed by section 8 of this Act, and section 29A of that Act (as inserted by section 7 of this Act) did not apply:

(c) section 32(1) of the principal Ac had not been amended in the manner set out in section 10(1) of this Act:

(d) sections 39 to 41 of the principal Act had not been repealed by section 15 of this Act:

(e) section 51 of the principal Act had not been amended in the manner set out in section 24of this Act:

(f) section 92(1A)(a)(i) of the principal Act (as substituted by section 37 of this Act) read as if it referred to quantities, as well as to areas or methods.

(4) The fishstock codes used in subsection (1) have the same meanings as in Parts 1 and 2 of Schedule 3 of the Fisheries (Reporting) Regulations 2001.

Overseas Investment Act 2005

Public Act	2005 No 82
Date of assent	21 June 2005
Commencement	see section 2

1 Title

This Act is the Overseas Investment Act 2005.

2 Commencement

(1) This Act comes into force on a date to be appointed by the Governor-General by Order in Council.

(2) One or more Orders in Council may be made appointing different dates for the commencement of different provisions.

Section 2: Overseas Investment Act 2005 brought into force, on 25 August 2005, by the Overseas Investment Act Commencement Order 2005 (SR 2005/219).

Part 2
Consent and conditions regime

Subpart 7—Transitional provisions and amendments to other enactments

Transitional provisions

76 Repeal and revocations

(1) In this section and in the rest of this subpart,—

1973 Act means the Overseas Investment Act 1973

Regulations means the Overseas Investment Regulations 1995.

(2) The 1973 Act is repealed and the Regulations and the Overseas Investment Exemption Notice 2001 are revoked.

77 Transitional provision for acts done or begun under previous overseas investment regime

(1) In this section, the 1973 Act, the Regulations, sections 56 to 58 of the Fisheries Act 1996, and section 152(3) of Te Ture Whenua Maori Act 1993, as they were in force immediately before the commencement of sections 73, 74, and 76, are called the **previous regime**.

(2) The previous regime continues to have effect as if it had not been replaced by this Act (subject to section 71) for the purpose of—

(a) investigating any offence under or breach of the previous regime committed before the commencement of this section (**commencement**),

commencing or completing proceedings for the offence or breach, or imposing a penalty or other remedy for the offence or breach:

(b) considering and determining any application for consent or exemption under the Regulations that is made before commencement or that relates to a transaction entered into before commencement:

(c) considering and determining any application for a declaration under section 56(2), or a permission under section 57, of the Fisheries Act 1996 that is made before commencement or that relates to a transaction entered into before commencement:

(d) considering and determining an application for confirmation of an alienation under section 152(3) of Te Ture Whenua Maori Act 1993:

(e) completing any proceedings commenced under the previous regime before commencement.

79 Transitional provision for permissions, etc, under Fisheries Act 1996

(1) This section applies to permissions granted under section 28Z(9) of the Fisheries Act 1983 or under section 57(3) of the Fisheries Act 1996, and conditions of those permissions, that are in effect immediately before the commencement of section 73 or that are granted after that commencement by virtue of section 77(2).

(2) Those permissions and conditions must be treated as if they were consents granted and conditions applied under this Act.

(3) However, regulation 14(2) of the Regulations, as in force immediately before the commencement of section 76, continues to apply to those permissions and conditions of those permissions.

Fisheries Act 1996 Amendment Act 2008

Public Act	2008 No 96
Date of assent	27 September 2008
Commencement	see section 2

1 Title

This Act is the Fisheries Act 1996 Amendment Act 2008.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

5 Transitional provision relating to consultation

(1) This section applies to consultation undertaken before the commencement of this Act under section 12 of the principal Act for the purpose of setting or varying a total allowable catch for a quota management stock under section 13 of the principal Act after the commencement of this Act.

(2) The consultation is to be treated as complying with section 12 of the principal Act if, had it been undertaken after the commencement of this Act, it would have complied with section 12 of the principal Act.

Fisheries Amendment Act 2012

Public Act	2012 No 63
Date of assent	31 August 2012
Commencement	see section 2

1 Title

This Act is the Fisheries Amendment Act 2012.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

7 Validation of existing notified users

Any recognition of a person as a notified user under section 104(2) of the principal Act before the commencement of this Act, to the extent that it did not satisfy the requirement in section 104(3)(b) of the principal Act, is validated and is to be treated as always having been lawful.

Fisheries (Foreign Charter Vessels and Other Matters) Amendment Act 2014

Public Act	2014 No 60
Date of assent	7 August 2014
Commencement	see section 2

1 Title

This Act is the Fisheries (Foreign Charter Vessels and Other Matters) Amendment Act 2014.

2 Commencement

(1) Sections 7 to 9 come into force on 1 May 2016.

(2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Fisheries Act 1996 (the **principal Act**).

Part 1
Registration of fishing vessels

Amendments taking effect on 1 May 2016

9 Saving and transitional provisions

(1) This section applies to every fishing vessel registered under the principal Act immediately before the commencement of this section.

(2) On the commencement of this section, every vessel to which this section applies that is not a New Zealand ship is deemed to be an unregistered fishing vessel under the principal Act.

Notes

1 General

This is a consolidation of the Fisheries Act 1996 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Maritime Powers Act 2022 (2022 No 23): section 54

Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14): wehenga 7/section 7

Legislation Act (Amendments to Legislation) Regulations 2021 (LI 2021/247): regulations 22–26

Reserve Bank of New Zealand Act 2021 (2021 No 31): section 300(1)

Fisheries (Alteration of Quota Management Area—Paua Kaikōura Coast) Order 2021 (LI 2021/153): Part 1

Overseas Investment Amendment Act 2021 (2021 No 17): section 38

Secondary Legislation Act 2021 (2021 No 7): section 3

Public Service Act 2020 (2020 No 40): section 135

Privacy Act 2020 (2020 No 31): section 217

Overseas Investment (Urgent Measures) Amendment Act 2020 (2020 No 21): Part 2 subpart 2

COVID-19 Response (Further Management Measures) Legislation Act 2020 (2020 No 13): section 3

Fisheries (Schedule 5A—Rock Lobster) Order 2020 (LI 2020/37)

Overseas Investment Amendment Act 2018 (2018 No 25): section 50

Fisheries (Schedule 8) Order 2018 (LI 2018/145)

Statutes Amendment Act 2018 (2018 No 27): section 55

Statutes Repeal Act 2017 (2017 No 23): section 3(2)

Statutes Amendment Act 2016 (2016 No 104): Part 12

Judicial Review Procedure Act 2016 (2016 No 50): section 24

District Court Act 2016 (2016 No 49): section 261

Fisheries (Schedule 8) Order 2016 (LI 2016/145): clauses 4(2), 5(2)

Fisheries (Alteration of Quota Management Areas—Freshwater Eel) Order 2016 (LI 2016/144): clauses 6–8, 11–14

Legislation (Confirmable Instruments) Amendment Act 2015 (2015 No 120): section 14

Fisheries (Schedule 6) Order 2014 (LI 2014/281)

Fisheries (Foreign Charter Vessels and Other Matters) Amendment Act 2014 (2014 No 60)

Food Act 2014 (2014 No 32): section 447

Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409): regulation 3(1)

Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19): section 8

Fisheries (Schedules 5A and 6) Order 2012 (SR 2012/353)

Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72): section 175

Fisheries Amendment Act 2012 (2012 No 63)

Search and Surveillance Act 2012 (2012 No 24): sections 248–252

Fisheries (Schedule 6) Order 2012 (SR 2012/53)

Criminal Procedure Act 2011 (2011 No 81): section 413

Fisheries Amendment Act 2011 (2011 No 68)

Fisheries (Schedule 5A) Order 2011 (SR 2011/293)

Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3): section 128

Fisheries (Schedule 6) Order 2010 (SR 2010/408)

Fisheries (Schedules 5, 5A, and 6) Order 2010 (SR 2010/297)

Ministry of Agriculture and Fisheries (Restructuring) Amendment Act 2010 (2010 No 19): section 6

Fisheries Amendment Act 2010 (2010 No 16)

Fisheries (Declaration of New Stocks Subject to and Stocks Determined Not to be Subject to Quota Management System) Notice 2009 (SR 2009/325): clause 8

Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 (2009 No 34): section 861

Fisheries (Schedule 5) Order 2009 (SR 2009/248)

Fisheries Act 1996 Amendment Act 2008 (2008 No 96)

Fisheries Amendment Act (No 2) 2008 (2008 No 93)

Policing Act 2008 (2008 No 72): section 116(a)(ii)

Fisheries (Schedule 6) Order (No 2) 2008 (SR 2008/275)

Fisheries Amendment Act 2008 (2008 No 11)

Fisheries (Schedule 6) Order 2008 (SR 2008/33)

Income Tax Act 2007 (2007 No 97): section ZA 2(1)

Fisheries (Amalgamation of Quota Management Areas) Order 2007 (SR 2007/175)

Fisheries (Schedules 2, 5, 6, and 8) Order 2007 (SR 2007/31)

Insolvency Act 2006 (2006 No 55): section 445

Fisheries (Schedule 6) Order 2006 (SR 2006/242)

Summary Proceedings Amendment Act 2006 (2006 No 13): section 33

Fisheries (Stocks Determined Not to be Subject to Quota Management System) Notice 2005 (SR 2005/349): clause 5

Fisheries (Declaration of New Stocks Subject to Quota Management System) Notice (No 2) 2005 (SR 2005/347): clause 7(1)

Fisheries (Schedules 2 and 6) Order 2005 (SR 2005/317)

Overseas Investment Act 2005 (2005 No 82): sections 73, 75

Fisheries (Declaration of New Stocks Subject to Quota Management System) Notice 2005 (SR 2005/15): clause 7(1)(b)

Fisheries (Schedules 3 and 6) Order 2004 (SR 2004/337)

Fisheries (Schedules 3, 5A, and 6) Order 2004 (SR 2004/278)

Fisheries (Schedule 9A) Order 2004 (SR 2004/171)

Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 (2004 No 109): section 19(2)

Fisheries Amendment Act (No 3) 2004 (2004 No 104)

Maori Fisheries Act 2004 (2004 No 78): section 214

Fisheries Amendment Act (No 3) 2004 (2004 No 76)

Fisheries Amendment Act (No 2) 2004 (2004 No 71)

Fisheries Amendment Act 2004 (2004 No 6)

Fisheries (Schedule 6) Order 2004 (SR 2004/67)

Gambling Act 2003 (2003 No 51): section 374

Fisheries (Schedules 5A and 6) Order 2003 (SR 2003/231)

Fisheries (Schedules 2, 5A, and 6) Order 2003 (SR 2003/48)

Fisheries (Removal of Packhorse Rock Lobster from Eighth Schedule) Order 2003 (SR 2003/28)

Fisheries (Foreign Fishing Crew) Amendment Act 2002 (2002 No 27)

Fisheries (Schedules 5A and 6) Order 2002 (SR 2002/279)

Fisheries Act Commencement Order 2002 (SR 2002/167)

Fisheries (Schedules 2, 5A, and 6) Order 2002 (SR 2002/154)

Sentencing Act 2002 (2002 No 9): section 186

Human Rights Amendment Act 2001 (2001 No 96): section 70(1)

Fisheries (Schedule 5A) Order 2001 (SR 2001/252)

Fisheries Act Commencement Order (No 2) 2001 (SR 2001/179)

Fisheries Amendment Act 2001 (2001 No 65)

Fishing Industry Board Repeal Act 2001 (2001 No 34): section 5(2)

Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33)

Fisheries Act Commencement Order 2001 (SR 2001/38)

Fisheries Act Commencement Order 2000 (SR 2000/182)

Employment Relations Act 2000 (2000 No 24): section 240

Fisheries Amendment Act 2000 (2000 No 20)

Hauraki Gulf Marine Park Act 2000 (2000 No 1): section 12

Fisheries Act 1996 Commencement Order 1999 (SR 1999/380)

Fisheries Act 1996 Amendment (No 2) 1999 (1999 No 103)

Fisheries Act 1996 Amendment Act 1999 (1999 No 101)

Animal Products (Ancillary and Transitional Provisions) Act 1999 (1999 No 94): section 8(1)

Interpretation Act 1999 (1999 No 85): section 38(1)

Ngāi Tahu Claims Settlement Act 1998 (1998 No 97): sections 310, 311

Fisheries Act Commencement Order 1998 (SR 1998/251)
District Courts Amendment Act 1998 (1998 No 76): section 7
Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67)
Fisheries (Foveaux Strait Dredge Oyster Fishery) Amendment Act 1998 (1998 No 6)
Fisheries Act Commencement Order (No 2) 1997 (SR 1997/171)
Fisheries Act Commencement Order 1997 (SR 1997/40)
Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255)
Resource Management Amendment Act 1996 (1996 No 160): section 6(2)(a)
Fisheries Act Commencement Order 1996 (SR 1996/235)
Fisheries Act 1996 (1996 No 88): section 79(7), 79A(10)
Territorial Sea and Exclusive Economic Zone Amendment Act 1996 (1996 No 74): section 5(4)
Public Finance Act 1989 (1989 No 44): section 65R(3)

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