



Fisheries Amendment Act 2010

Public Act 2010 No 16
Date of assent 19 April 2010
Commencement see section 2

Contents

	Page
1 Title	1
2 Commencement	1
3 Principal Act amended	1
4 Catch to be counted against annual catch entitlement	2
5 New sections 76A and 76B inserted	2
76A Application for catch balancing relief	2
76B Effect of granting catch balancing relief	4

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Fisheries Amendment Act 2010.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Principal Act amended**
This Act amends the Fisheries Act 1996.

4 Catch to be counted against annual catch entitlement

- (1) Section 76(1) is amended by inserting “76A,” after “In this section and sections”.
- (2) Section 76(6) is amended by inserting the following paragraph after paragraph (a):
 - “(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”.

5 New sections 76A and 76B inserted

The following sections are inserted after section 76:

“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.

“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.”

Legislative history

30 March 2010	Divided from Regulatory Improvement Bill (Bill 298–2) by committee of the whole House, third reading
19 April 2010	Royal assent

This Act is administered by the Ministry of Fisheries.
