

Version  
as at 28 October 2021



## Fisheries (Reporting) Regulations 2017 (LI 2017/154)

Patsy Reddy, Governor-General

### Order in Council

At Wellington this 10th day of July 2017

Present:

Her Excellency the Governor-General in Council

These regulations are made under sections 296B, 297, and 304 of the Fisheries Act 1996—

- (a) on the advice and with the consent of the Executive Council; and
- (b) in relation to the item in Schedule 3 relating to the Fisheries (Transfer of Functions, Duties, and Powers to Commercial Fisheries Services Limited) Order 2013, on the recommendation of the Minister for Primary Industries made after complying with section 296B of the 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.

**These regulations are administered by the Ministry for Primary Industries.**

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## Regulations

### 1 Title

These regulations are the Fisheries (Reporting) Regulations 2017.

### 2 Commencement

These regulations come into force on 1 October 2017.

### 3 Interpretation

In these regulations, unless the context otherwise requires,—

**Act** means the Fisheries Act 1996

**auditor** means an auditor appointed under regulation 26

**circular** means a circular issued by the chief executive under regulation 47

**client details annual update form** means the approved form for updating client details under regulation 34

**client number** means the unique identification number assigned by the chief executive to a person who is included in any class listed in section 189 of the Act

**destination type code** means a code, as specified in a circular, that identifies a particular type of landing or disposal (as defined by regulation 10(4))

**electronic reporting requirements** means the technical requirements for electronic reporting that are specified in a circular

**fish** includes seaweed

**fishing method** has the meaning given by regulation 3 of the Fisheries (Commercial Fishing) Regulations 2001

**fishing trip** or **trip**, in relation to a trip undertaken by a permit holder for the purpose of fishing, means a period that,—

(a) if the permit holder uses a vessel,—

(i) starts when the vessel—

(A) leaves any place at which the vessel is moored or berthed or launched; or

- (B) enters the exclusive economic zone through its seaward boundary; and
- (ii) ends when the vessel—
  - (A) returns to a place at which the permit holder using the vessel is permitted to land fish and any fish is removed from the vessel or the vessel with fish on board is removed from the water; or
  - (B) having been granted approval under section 110 of the Act, leaves the exclusive economic zone by its seaward boundary:
- (b) if the permit holder does not use a vessel,—
  - (i) starts when the permit holder begins fishing; and
  - (ii) ends when the permit holder returns to a place where the permit holder may—
    - (A) land the fish in accordance with the conditions of their permit; or
    - (B) hold the fish in a holding container

**holding container—**

- (a) means any container on land or in water that is used primarily for storing (but not transporting) fish or fish product; and
- (b) includes—
  - (i) a freezer or chiller on land:
  - (ii) a live fish holding tank on land:
  - (iii) a holding pot in the sea or other waters:
  - (iv) a sack, net, or trap used to store live freshwater eels

**landed state** means the state of fish or fish product when it is landed, having regard to the degree or amount of any processing of the fish since it was taken

**landing** has the meaning given by regulation 4

**licensed fish receiver—**

- (a) means a person who holds a fish receiver's licence under the Fisheries (Licensed Fish Receivers) Regulations 1997; and
- (b) includes a person who acts as an employee or agent of a person described in paragraph (a)

**licensed fish receiver details annual update form** means the approved form for updating licensed fish receiver details under regulation 35

**permit holder—**

- (a) means—

- (i) a person who holds a fishing permit issued under section 91 of the Act;
  - (ii) a person who holds a high seas fishing permit issued under section 113H of the Act; and
- (b) includes a person—
- (i) who acts as an employee or agent of a person described in paragraph (a); and
  - (ii) whose responsibilities include reporting functions under these regulations

**related party** has the meaning given by regulation 26(4)

**report** means a report or return of a kind described in regulation 6

**type of fish** means the species or fishstock to which a fish belongs, whichever form of identification is required by a circular.

Regulation 3 **permit holder** paragraph (b): replaced, on 10 January 2019, by regulation 4 of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

#### 4 Meaning of landing

- (1) In these regulations, **landing** means,—
- (a) in relation to fish taken using a vessel, except in the fresh waters within New Zealand,—
    - (i) the removal of a vessel containing fish from New Zealand fisheries waters for the purpose of moving the vessel to any place in New Zealand; or
    - (ii) the removal or discharge of fish from a vessel (other than by placing the fish in a holding pot in the sea); or
    - (iii) the removal of a vessel containing fish from New Zealand fisheries waters under an approval granted under section 110 of the Act; or
    - (iv) the disposal, or loss from the permit holder's possession, of fish that had been placed in a holding container on land:
  - (b) in relation to fish taken without using a vessel, or taken using a vessel in the fresh waters within New Zealand,—
    - (i) the disposal or loss of fish from the permit holder's possession (including fish held by the permit holder in a holding container); or
    - (ii) the removal of fish from the immediate vicinity of the body of water from which the fish was taken.
- (2) For the purposes of subclause (1)(a)(ii), fish must be treated as being removed or discharged from a vessel if—

- (a) the vessel ceases to be registered or is re-registered under the Act, for whatever reason and by whatever mechanism; or
- (b) fish are held on board the vessel at the close of a fishing year and the vessel is operated by, or on behalf of, a person who, during the fishing year ending on that day, has held 100 000 kg or more of annual catch entitlement under the Act.

Regulation 4(1)(a)(ii): amended, on 10 January 2019, by regulation 5 of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

## 5 Transitional, savings, and related provisions

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

## 6 Kinds of reports

The kinds of reports provided for by these regulations are—

### *Event reports*

- (aaa) trip start reports (*see* regulation 7AAA):
- (aaab) trip end reports (*see* regulation 7AAAB):
  - (a) fish catch reports (*see* regulation 7):
  - (b) non-fish species or protected fish species catch reports (*see* regulation 8):
  - (c) processing reports (*see* regulation 9):
  - (d) disposal reports (*see* regulation 10):
  - (e) landing reports (*see* regulation 11):

### *Monthly reports*

- (f) monthly harvest returns (*see* regulations 13 and 14):
- (g) licensed fish receiver returns (*see* regulation 20):

### *Annual reports*

- (h) licensed fish receiver annual inventory returns (*see* regulation 23):
- (i) licensed fish receiver annual audit reports (*see* regulation 25):
- (j) client details annual update forms (*see* regulation 34):
- (k) licensed fish receiver details annual update forms (*see* regulation 35):

### *Amendments*

- (l) amendments to any of the reports referred to in paragraphs (a) to (k) (*see* regulation 38).

Regulation 6(aaa): inserted, on 10 January 2019, by regulation 6 of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

Regulation 6(aaab): inserted, on 10 January 2019, by regulation 6 of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

## Part 1

### Event reports

#### 7AAA Trip start reports

- (1) A permit holder must complete and provide a trip start report to the chief executive immediately after the start of each fishing trip.
- (2) The trip start report must record—
  - (a) the date and time that the fishing trip starts; and
  - (b) the location of where the fishing trip starts; and
  - (c) any additional information specified in a circular.

Regulation 7AAA: inserted, on 10 January 2019, by regulation 7 of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

#### 7AAAB Trip end reports

- (1) A permit holder must complete and provide a trip end report to the chief executive immediately after the end of each fishing trip.
- (2) The trip end report must record—
  - (a) the date and time that the fishing trip ends; and
  - (b) the location of where the fishing trip ends; and
  - (c) any additional information specified in a circular.

Regulation 7AAAB: inserted, on 10 January 2019, by regulation 7 of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

#### 7 Fish catch reports

- (1) A permit holder must provide a fish catch report to the chief executive each time fishing is carried out under the permit.
- (2) The report must record—
  - (a) the type of fish that the permit holder intends to take; and
  - (b) the date and time of when and location of where the fishing starts; and
  - (c) the date and time of when and location of where the fishing ends; and
  - (d) any additional information specified in a circular.
- (3) The permit holder must—
  - (a) record the information referred to in subclause (2)(a) and (b) immediately when the fishing starts; and
  - (b) record the information referred to in subclause (2)(c) immediately when the fishing ends; and
  - (c) record the information referred to in subclause (2)(d) and complete the report within 8 hours after the fishing ends; and



- (d) provide a fish catch report to the chief executive before the close of the day on which the report must be completed.
- (4) This regulation does not apply to fish that must be recorded in a report under regulation 8.

Regulation 7(1): replaced, on 10 January 2019, by regulation 8(1) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

Regulation 7(3)(a): amended, on 10 January 2019, by regulation 8(2) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

Regulation 7(3)(b): amended, on 10 January 2019, by regulation 8(3) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

Regulation 7(3)(c): amended, on 10 January 2019, by regulation 8(4) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

Regulation 7(3)(d): replaced, on 10 January 2019, by regulation 8(5) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

## **8 Non-fish species or protected fish species catch reports**

- (1) A permit holder must provide a non-fish species or protected fish species catch report to the chief executive if the permit holder catches (whether intentionally or not) 1 or both of the following:
  - (a) a non-fish species that is specified in a circular:
  - (b) a fish species that is declared to be a protected fish species by a circular.
- (2) The report must record—
  - (a) the species and quantities caught; and
  - (b) the fishing method that resulted in the catch; and
  - (c) the date, time, and location of the fishing; and
  - (d) any additional information specified in a circular.
- (3) The permit holder must,—
  - (a) if required to complete a fish catch report, complete and provide the report at the same time as the fish catch report; and
  - (b) in any other case, complete and provide the report before the close of the day on which the permit holder becomes aware of the non-fish species or protected fish species catch.

Regulation 8(1): amended, on 10 January 2019, by regulation 9(1) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

Regulation 8(3): replaced, on 10 January 2019, by regulation 9(2) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

## **9 Processing reports**

- (1) A permit holder must provide a processing report to the chief executive each time both of the following apply:
  - (a) the permit holder processes fish on board a vessel; and
  - (b) the vessel—

- (i) is of a size or class specified in a circular; and
  - (ii) is on a fishing trip during which fishing operations of a kind specified in a circular have been undertaken.
- (2) The report must cover a period of not more than 24 hours and record—
  - (a) the date on which the fish is processed; and
  - (b) the types of fish processed and their quantities; and
  - (c) the processed states of the fish; and
  - (d) any additional information specified in a circular.
- (3) The permit holder must complete and provide the report to the chief executive before the close of the day after the day covered by the report.

Regulation 9(1)(b): replaced, on 10 January 2019, by regulation 10(1) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

Regulation 9(2): amended, on 10 January 2019, by regulation 10(2) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

Regulation 9(3): replaced, on 10 January 2019, by regulation 10(3) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

## 10 Disposal reports

- (1) This regulation applies if a permit holder—
  - (a) returns, abandons, or accidentally loses fish to or in the sea or other waters; or
  - (b) stores fish in, or retrieves fish from, a holding pot in the sea or other waters; or
  - (c) uses fish (for example, as food or bait) during the trip on which the fish was taken.
- (1A) The permit holder must provide a disposal report to the chief executive in respect of the activities described in subclause (1).
- (2) The report must record,—
  - (a) for all disposals,—
    - (i) the types of fish disposed of and their estimated quantities; and
    - (ii) the fish catch report (if any) that related to the fish; and
    - (iii) the destination type code; and
  - (b) for disposals under subclause (1)(b), the date, time, and location of the disposal; and
  - (c) for disposals specified in a circular, any additional information specified in a circular.
- (3) The permit holder must,—
  - (a) if required to complete a fish catch report,—

- (i) complete the disposal report within 8 hours after the fishing ends; and
    - (ii) provide the disposal report to the chief executive before the close of the day on which the report must be completed; or
  - (b) if required to complete and provide a processing report, complete and provide the disposal report at the same time; or
  - (c) in any other case,—
    - (i) complete the disposal report within 1 hour after the disposal is finished; and
    - (ii) provide the disposal report to the chief executive before the close of the day on which the report must be completed.
- (4) In this regulation, **disposal** means any of the actions described in subclause (1)(a) to (c).

Regulation 10(1): amended, on 10 January 2019, by regulation 11(1) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

Regulation 10(1)(b): amended, on 10 January 2019, by regulation 11(2) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

Regulation 10(1A): inserted, on 10 January 2019, by regulation 11(3) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

Regulation 10(3): replaced, on 10 January 2019, by regulation 11(4) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

## 11 Landing reports

- (1) A permit holder must provide a landing report to the chief executive each time the permit holder lands fish or fish product.
- (2) The report must record—
  - (a) the types of fish or fish product landed; and
  - (aa) the greenweight of the fish or fish product that is conveyed or sold to a licensed fish receiver; and
  - (b) the date of the landing; and
  - (c) the destination type code; and
  - (d) any additional information specified in a circular.
- (3) The permit holder must—
  - (a) record the information referred to in subclause (2)(a), (b), (c), and (d) immediately after the landing is finished; and
  - (b) record the information referred to in subclause (2)(aa) (if applicable) not later than 15 days after the landing is finished; and
  - (c) provide to the chief executive the information referred to in subclause (2) by the close of the day on which it must be recorded.

- (4) This regulation does not apply to a landing that is also a disposal for the purposes of regulation 10.

Regulation 11(2)(a): replaced, on 10 January 2019, by regulation 12(1) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

Regulation 11(2)(aa): inserted, on 10 January 2019, by regulation 12(1) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

Regulation 11(3): replaced, on 10 January 2019, by regulation 12(2) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

## **12 Event reports must be completed and provided electronically**

- (1) A report under this Part must be completed and provided electronically.
- (2) *See* regulation 41 for the obligation to comply with the electronic reporting requirements.

## **Part 2 Monthly reports**

### *Monthly harvest returns*

*[Revoked]*

Heading: revoked, on 10 January 2019, by regulation 13 of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

## **13 Monthly harvest returns: who must provide them**

- (1) A person must complete a monthly harvest return and provide it to the chief executive if the person—
- (a) is a permit holder; or
  - (b) has been granted an approval under section 110 of the Act that contains a condition requiring the person to provide monthly harvest returns; or
  - (c) has been issued with a special permit under section 97 of the Act that contains a condition requiring the person to provide monthly harvest returns; or
  - (d) is advised by the chief executive in writing that the person must provide monthly harvest returns; or
  - (e) is an operator who, being a New Zealand national using a New Zealand ship, takes any highly migratory species that is—
    - (i) subject to the quota management system outside New Zealand fisheries waters; and
    - (ii) taken outside New Zealand fisheries waters; and
    - (iii) taken for the purpose of sale.
- (2) However, subclause (1)(e) does not apply, and no monthly harvest return is required, if the operator proves to the satisfaction of the chief executive that—

- (a) the operator was authorised to take the species in the national fisheries jurisdiction of another State; and
- (b) if the other State has a national allocation for the species taken, the catch was recorded against the other State's allocation; and
- (c) the other State has agreed to comply with all of the conservation and management measures of the competent regional fisheries management organisation for the species.

Compare: SR 2001/188 r 7

#### **14 Monthly harvest returns: content and timing requirements**

- (1) A person required to provide monthly harvest returns must—
  - (a) complete a return for each month; and
  - (b) provide the return to the chief executive no later than 15 days after the last day of the month.
- (2) A return must record—
  - (a) the types of fish taken during the month and their quantities; and
  - (b) information identifying any vessels used to take the fish.
- (3) A return need not record—
  - (a) fish—
    - (i) that is recorded in a disposal report or landing report; and
    - (ii) for which the appropriate destination type code is specified in a circular as not to be recorded on a monthly harvest return; or
  - (b) fish that is on board a vessel whose fishing trip spans a month; or
  - (c) fish that is—
    - (i) taken outside New Zealand fisheries waters; and
    - (ii) not subject to the quota management system outside New Zealand fisheries waters; or
  - (d) fish that is taken or retained by an observer under Part 12 of the Act.
- (4) If the exception in subclause (3)(a) or (b) ceases to apply, a person who subsequently lands that fish must—
  - (a) include the fish in the monthly harvest return for the month in which the exception ceased to apply; and
  - (b) comply with subclause (1)(b).
- (5) *[Revoked]*
- (6) If no fish are required to be reported for a month, the return must—
  - (a) record the month and year to which the return relates; and
  - (b) be clearly marked as a nil return; and

- (c) be signed and dated by, or on behalf of, the person required to make the return.

Compare: SR 2001/188 r 7

Regulation 14(3)(a): replaced, on 10 January 2019, by regulation 14(1) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

Regulation 14(5): revoked, on 10 January 2019, by regulation 14(2) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

## **15 Monthly harvest returns must be provided using return books**

*[Revoked]*

Regulation 15: revoked, on 1 December 2019, by regulation 15(2).

## **16 Chief executive must supply return books**

*[Revoked]*

Regulation 16: revoked, on 1 December 2019, by regulation 16(3).

## **17 Return books must be retained**

*[Revoked]*

Regulation 17: revoked, on 1 December 2019, by regulation 17(2).

## **18 Chief executive may authorise monthly harvest returns to be sent to different places**

*[Revoked]*

Regulation 18: revoked, on 1 December 2019, by regulation 18(2).

## **19 Chief executive may direct that monthly harvest returns be provided electronically**

- (1) After consulting the Minister, the chief executive may by notice—
- (a) direct a person or class of persons to complete and provide monthly harvest returns electronically; and
  - (b) in making a direction under paragraph (a), direct that the monthly harvest returns be provided within periods or on dates determined by the chief executive and specified in the notice.
- (2) *[Revoked]*
- (3) A notice given under subclause (1) must specify the date on and from which the direction applies.
- (4) A person who is subject to a direction under this regulation must comply with the direction.
- (5) See regulation 41 for the obligation to comply with the electronic reporting requirements.
- (6) A person who is required to complete and provide a monthly harvest return to the chief executive—

- (a) must do it electronically on or from 1 December 2019; and
  - (b) may do it electronically before that date.
- (7) A notice given under this regulation is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements), unless it applies only to 1 or more named persons.
- (8) A notice that is not secondary legislation must be in writing and given to each person to whom it applies.

Compare: SR 2001/188 r 41F

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**Legislation Act 2019 requirements for secondary legislation made under this regulation**

**Publication** The maker must publish it on a website maintained by, or on behalf of, the Ministry LA19 ss 73, 74(1)(a), Sch 1 cl 14

**Presentation** It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019 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 secondary legislation.*

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Regulation 19(2): revoked, on 28 October 2021, by regulation 50(1) of the Legislation Act (Sub-delegated Secondary Legislation) Regulations 2021 (LI 2021/248).

Regulation 19(6): inserted, on 10 January 2019, by regulation 19 of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

Regulation 19(7): inserted, on 28 October 2021, by regulation 50(2) of the Legislation Act (Sub-delegated Secondary Legislation) Regulations 2021 (LI 2021/248).

Regulation 19(8): inserted, on 28 October 2021, by regulation 50(2) of the Legislation Act (Sub-delegated Secondary Legislation) Regulations 2021 (LI 2021/248).

### *Licensed fish receiver returns*

## **20 Licensed fish receiver returns**

- (1) A licensed fish receiver must—
- (a) complete a licensed fish receiver return for each month; and
  - (b) provide the return to the chief executive no later than 15 days after the last day of the month.
- (2) A return must record—
- (a) the types of fish received during the month and their quantities; and
  - (b) information identifying the permit holders who supplied the fish.
- (3) If no fish are received in a month, the return must—
- (a) record the month and year to which the return relates; and
  - (b) be clearly marked as a nil return; and
  - (c) be signed and dated by the licensed fish receiver.

Compare: SR 2001/188 r 16

**21 Licensed fish receiver returns must be provided electronically**

- (1) A licensed fish receiver return must be completed and provided electronically.
- (2) *See* regulation 41 for the obligation to comply with the electronic reporting requirements.

### **Part 3** **Annual reports**

#### *Annual inventory returns*

**22 Annual stocktakes for purpose of providing annual inventory returns**

- (1) A licensed fish receiver must, at least once during each fishing year, carry out a physical stocktake in accordance with this regulation for the purpose of providing an annual inventory return under regulation 23.
- (2) The physical stocktake—
  - (a) may be undertaken on any date within the fishing year that the licensed fish receiver determines, being a date that is at least 6 months after the date of any previous stocktake for which an annual inventory return was provided under regulation 23; and
  - (b) must be undertaken on the same day for all operating premises and storage locations of the licensed fish receiver; and
  - (c) must cover all categories of inventory owned, and all categories of inventory held, by the licensed fish receiver on the date of the stocktake, including the following categories:
    - (i) processed fish ready for sale:
    - (ii) fish in the course of being processed:
    - (iii) unprocessed fish:
    - (iv) fish in transit (being fish that is being transported from one location to another, whether or not either location is owned by the licensed fish receiver):
    - (v) fish owned by the licensed fish receiver but held by a person other than the licensed fish receiver:
    - (vi) fish held by the licensed fish receiver but owned by another person:
    - (vii) bait:
    - (viii) any other category of fish not included in the categories set out in subparagraphs (i) to (vii).

Compare: SR 2001/188 r 17



### **23 Licensed fish receivers must provide annual inventory returns**

- (1) A licensed fish receiver must provide to the chief executive an annual inventory return for each fishing year.
- (2) An annual inventory return for a fishing year must—
  - (a) relate to the physical stocktake carried out in accordance with regulation 22; and
  - (b) be provided to the chief executive in the same manner and at the same time as the audit report provided under regulation 31.
- (3) An annual inventory return must record, for all categories of fish referred to in regulation 22(2)(c), the following information:
  - (a) the species and state of all the fish;
  - (b) the number of fish containers, the net weight of the fish in each container, and the total net weight of each species of fish;
  - (c) in the case of fish in transit, the locations to and from which the fish is being transported, and the name of the carrier;
  - (d) in the case of fish held by a person other than the licensed fish receiver, sufficient details to identify that person and the location where the fish is held;
  - (e) in the case of fish held but not owned by the licensed fish receiver, sufficient details to identify the owner, species, state, and weight of all fish held on behalf of the owner.
- (4) A nil return must be provided for a nil inventory.
- (5) An annual inventory return must—
  - (a) certify that the physical stocktake to which the return relates was undertaken on the date stated on the return; and
  - (b) certify that the return does not contain false or misleading information, and is a true representation of all inventory owned and all inventory held by the licensed fish receiver on that date; and
  - (c) be signed by the licensed fish receiver.

Compare: SR 2001/188 r 18

### **24 Chief executive may require further annual inventory returns**

- (1) If the chief executive considers on reasonable grounds that an annual inventory return fails to meet the requirements of these regulations, the chief executive may, by notice in writing, require the licensed fish receiver concerned—
  - (a) to provide a fresh return for the matters stated in the notice; or
  - (b) to undertake, within the same fishing year, another physical stocktake, and to provide an annual inventory return for that stocktake.

- (2) A notice given under subclause (1)(a) must state the manner and form in which the return must be completed, and a reasonable time within which the return must be provided.
- (3) A licensed fish receiver who receives a notice given under subclause (1) must comply with the notice.

Compare: SR 2001/188 r 19

### *Annual audit reports*

#### **25 Licensed fish receivers must be audited and provide annual audit reports**

- (1) A licensed fish receiver must—
  - (a) carry out an annual audit of the licensed fish receiver’s fish-related operations for each fishing year; and
  - (b) no later than 30 November in each year, provide to the chief executive an annual audit report or reports about those operations.
- (2) There must be a minimum period of 6 months between audits for different fishing years.
- (3) The first audit of a newly licensed fish receiver must be carried out within 6 months after the granting of the fish receiver’s licence.

Compare: SR 2001/188 r 20

#### **26 Licensed fish receivers must appoint suitably qualified persons as auditors**

- (1) A licensed fish receiver must appoint a suitably qualified person to carry out an audit of the licensed fish receiver’s fish-related operations, and make a report on that audit.
- (2) A person is suitably qualified only if—
  - (a) the person holds a certificate, degree, diploma, registration, or similar qualification, whether obtained in New Zealand or elsewhere, that is relevant to the current practices of accounting and auditing; or
  - (b) the person is sufficiently skilled in the specialised areas of identifying and interpreting the systems and relevant internal controls of the business activities of a licensed fish receiver to give a reasoned opinion on the adequacy of those systems and internal controls.
- (3) A licensed fish receiver may not appoint as an auditor a person who—
  - (a) has a close relationship to the licensed fish receiver; or
  - (b) is an officer, employee, or shareholder of the licensed fish receiver; or
  - (c) is a person associated (in terms of paragraph (a) or (b)) with a related party.
- (4) In this regulation,—

**close relationship** means that a person is—

- (a) a subsidiary of the licensed fish receiver; or
- (b) a company of which the licensed fish receiver is a subsidiary; or
- (c) a partnership or an unincorporated joint venture that would be a subsidiary described in paragraph (a) or (b) 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

**related party**—

- (a) means—
  - (i) any person who has the ability, directly or indirectly, to control or exercise significant influence over the licensed fish receiver in making operating, investing, or financing decisions:
  - (ii) any person over whom the licensed fish receiver has the ability, directly or indirectly, to control or exercise significant influence of the kind described in subparagraph (i):
  - (iii) any person who, together with the licensed fish receiver, is subject to common control or significant influence of the kind described in subparagraph (i) by a third party; and
- (b) includes the persons described in subclause (3)

**subsidiary** has the meaning given by section 5(1) of the Companies Act 1993.

Compare: SR 2001/188 r 21

## 27 Contents of audit reports

- (1) An audit report must contain the information and documentation set out in Schedule 2 under each of the following section headings:
  - (a) systems section:
  - (b) internal controls section:
  - (c) supporting information section.
- (2) An audit report, including each section of the report, must clearly identify the premises to which the report or section relates.

Compare: SR 2001/188 r 22

## 28 Audit reports for multiple premises

- (1) If a licensed fish receiver operates from more than 1 set of premises,—
  - (a) only 1 audit report need be made and provided for all of the premises if the fish-related operations in all of the premises are substantially the same in relation to the nature of the species dealt with and the nature of the handling and processing operations for those species; but

- (b) if different systems or subsystems of documentation, internal controls, or disposal and selling methods apply in those premises, the relevant information relating to each system and subsystem must be reported on separately in the audit report.
- (2) An audit report, including each separate section of the report, must clearly identify the premises to which it applies and the location of the premises.

Compare: SR 2001/188 r 23

### **29 Licensed fish receivers must certify audit reports**

- (1) After receiving an audit report, a licensed fish receiver must certify that the licensed fish receiver has read, understood, and, subject to any reservations noted by the licensed fish receiver, accepted the results of the report.
- (2) If the licensed fish receiver does not accept any or all of the results of the audit, the licensed fish receiver must, in writing, identify and record the areas of non-acceptance, giving reasons.

Compare: SR 2001/188 r 24

### **30 Licensed fish receivers must provide rectification reports if appropriate**

- (1) This regulation applies if an auditor identifies in an audit report—
  - (a) a deficiency in the nature and extent of the audit; or
  - (b) a failure to comply with any of the Fisheries (Recordkeeping) Regulations 1990.
- (2) The licensed fish receiver must provide to the chief executive—
  - (a) the audit report in accordance with regulation 31; and
  - (b) a separate rectification report outlining the steps taken or proposed to be taken to rectify the deficiency or failure to comply.

Compare: SR 2001/188 r 25

### **31 Audit reports, etc, must be provided to chief executive within 21 days after receipt from auditor**

- (1) Within 21 days after receiving an audit report from an auditor, a licensed fish receiver must provide to the chief executive—
  - (a) the audit report; and
  - (b) the certification and any written reservations referred to in regulation 29; and
  - (c) any rectification report required by regulation 30; and
  - (d) the annual inventory return for that fishing year required by regulation 23.
- (2) A licensed fish receiver must, either on or before the day on which the audit report is provided to the chief executive, advise the chief executive in writing of—

- (a) the name of the auditor; and
- (b) any professional qualifications held by the auditor; and
- (c) the reasons why the licensed fish receiver considers the auditor to be suitably qualified.

Compare: SR 2001/188 r 26

### **32 Exemptions for up to 2 years on application**

- (1) The chief executive may, on application by a licensed fish receiver, exempt the licensed fish receiver from the requirement under regulation 25 to be audited and to provide an audit report.
- (2) Before granting an exemption, the chief executive must—
  - (a) be satisfied that the exemption is reasonably necessary to address the matters giving rise to the exemption; and
  - (b) have regard to the purpose of these regulations.
- (3) An exemption—
  - (a) must be in writing; and
  - (b) must be for no longer than 2 years; and
  - (c) may be granted subject to any terms and conditions that the chief executive may reasonably impose.
- (4) Before granting an exemption, the chief executive may require the licensed fish receiver to supply any information that the chief executive requires, including—
  - (a) information about the nature of the licensed fish receiver's business; and
  - (b) information about any changes (or intended changes) to the licensed fish receiver's business.
- (5) The chief executive may revoke an exemption at any time if the chief executive is satisfied that—
  - (a) the licensed fish receiver has breached any conditions on which the exemption was granted; or
  - (b) the nature of the licensed fish receiver's business has so changed that the basis on which the exemption was granted to the licensed fish receiver no longer applies; or
  - (c) the licensed fish receiver has been convicted of an offence against the Act or any regulations made under the Act; or
  - (d) the integrity of the fisheries compliance system may be put at risk if the exemption granted to the licensed fish receiver were to continue.

Compare: SR 2001/188 r 26A

*Exemptions: annual inventory returns and annual audit reports***33 Exemptions on grounds of hardship or impracticability**

- (1) The chief executive may exempt a licensed fish receiver or class of licensed fish receivers from the need to comply with the requirement to provide an annual inventory return or annual audit report if the chief executive is satisfied that—
- (a) compliance with any requirement of regulations 22 to 31 would cause undue hardship or would be impracticable; and
  - (b) the exemption is no broader than is reasonably necessary to address the matters giving rise to the exemption; and
  - (c) the purpose behind the requirement would be equally well achieved by some other method.
- (2) An exemption may apply to 1 or more of the following:
- (a) a particular licensed fish receiver or a class of licensed fish receivers;
  - (b) fish generally or a species or other class of fish;
  - (c) particular premises or a class of premises.
- (3) An exemption—
- (a) *[Revoked]*
  - (b) *[Revoked]*
  - (c) must specify a date on which it expires; and
  - (d) may be granted subject to any conditions that the chief executive may reasonably impose; and
  - (e) may be amended or revoked to reflect changed circumstances.
- (4) An exemption granted under this regulation is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements), unless it applies only to 1 or more named persons.
- (5) An exemption that is not secondary legislation must be in writing and given to the persons to whom it applies.

Compare: SR 2001/188 r 27

**Legislation Act 2019 requirements for secondary legislation made under this regulation**

<b>Publication</b>	The maker must publish it on a website maintained by, or on behalf of, the Ministry or in any New Zealand publication that relates primarily to commercial fishing	LA19 ss 73, 74(1)(a), Sch 1 cl 14
<b>Presentation</b>	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the secondary legislation.*

Regulation 33(3)(a): revoked, on 28 October 2021, by regulation 51(1) of the Legislation Act (Sub-delegated Secondary Legislation) Regulations 2021 (LI 2021/248).

Regulation 33(3)(b): revoked, on 28 October 2021, by regulation 51(1) of the Legislation Act (Sub-delegated Secondary Legislation) Regulations 2021 (LI 2021/248).

Regulation 33(4): inserted, on 28 October 2021, by regulation 51(2) of the Legislation Act (Sub-delegated Secondary Legislation) Regulations 2021 (LI 2021/248).

Regulation 33(5): inserted, on 28 October 2021, by regulation 51(2) of the Legislation Act (Sub-delegated Secondary Legislation) Regulations 2021 (LI 2021/248).

### *Annual update forms*

#### **34 Client details annual update forms**

- (1) A person who has a client number must complete and provide to the chief executive a client details annual update form within 14 days after receiving a written request from the chief executive to do so.
- (2) A person to whom a new client number is issued must complete and provide to the chief executive those details required by the chief executive on the form.
- (3) A person who has a client number must advise the chief executive within 1 month of any changes to the person's information.

Compare: SR 2001/188 r 14

#### **35 Licensed fish receiver details annual update forms**

- (1) A licensed fish receiver must complete and provide to the chief executive a licensed fish receiver details annual update form within 14 days after receiving a written request from the chief executive to do so.
- (2) If a licensed fish receiver licence is issued for a period of more than 1 year, the chief executive must request in writing that a licensed fish receiver details annual update form be provided annually.
- (3) A licensed fish receiver must advise the chief executive as soon as practicable of any changes to the information on their licensed fish receiver details annual update form.

Compare: SR 2001/188 r 15

## **Part 4 Reports generally**

### *All reports*

#### **36 Reports must record identifying information**

A report must record, as specified in a circular, information identifying—

- (a) the person who is required to provide it; and
- (b) if it is a report under Part 1 and the activity to which the report relates was carried out on or using a vessel, the vessel and its master.

**37 Reports must be in required manner and form**

A report must record the information required by these regulations in the manner and form specified in a circular.

**38 Reports may be amended**

- (1) A person required to provide a report may amend the report if—
  - (a) the person considers that the report contains an error; and
  - (b) the chief executive has received and accepted the report.
- (2) An amendment must—
  - (a) be provided to the chief executive in the same manner as the report was provided; and
  - (b) if the amendment relates to a monthly harvest return made using a return book, be completed using a return book for amendments that is made available by the chief executive (*see* regulation 16).

**39 Reports must be retained for 7 years**

*[Revoked]*

Regulation 39: revoked, on 10 January 2019, by regulation 20 of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

**40 Reports may be inspected**

A person who is required to provide a report or who has custody of a report must, on request by the chief executive or a fishery officer,—

- (a) immediately produce for inspection the report that is the subject of the request (whether original or in copy, and whether or not completed or already provided to the chief executive); and
- (b) cause or allow copies to be taken of the report.

Compare: SR 2001/188 r 35

*Electronic reports*

**41 Reports must be provided in accordance with electronic reporting requirements**

A person required to provide a report electronically must do so in accordance with the electronic reporting requirements.

**42 Identity of persons and devices providing reports must be notified to chief executive**

- (1) A person to whom regulation 41 applies must notify the chief executive in writing of—
  - (a) the identity of any employee or agent authorised to provide the report on the person's behalf; and



- (b) the identifier of any device used to provide the report.
- (2) The report must be made—
  - (a) personally by the person required to provide it or by a person whose identity has been notified to the chief executive in accordance with subclause (1)(a); and
  - (b) using a device whose identifier has been notified to the chief executive in accordance with subclause (1)(b).

#### **43 Chief executive must be notified of technical failure, etc**

- (1) If a person to whom regulation 41 applies is unable to provide the report by the applicable deadline due to an accident, or a mechanical or technical failure, the person must, as soon as practicable,—
  - (a) notify the chief executive of the reason why the person is unable to provide the report by the deadline; and
  - (aa) comply with any directions given by the chief executive under subclause (2); and
  - (b) provide the chief executive with the report in accordance with regulations 41 and 42.
- (2) The chief executive may issue to a person to whom regulation 41 applies any directions that the chief executive considers reasonably necessary for the purpose of managing any risks caused by the report not being provided on time.

Regulation 43(1)(aa): inserted, on 10 January 2019, by regulation 21(1) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

Regulation 43(2): inserted, on 10 January 2019, by regulation 21(2) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

#### *Chief executive's powers*

#### **44 Chief executive may give directions as to manner of completing reports**

- (1) If the chief executive considers that a person required to provide reports under these regulations has not completed or provided any report or part of a report in compliance with these regulations,—
  - (a) the chief executive may, by notice in writing, require the person to provide to the chief executive a fresh report completed in compliance with these regulations and provided within a reasonable time that may be directed by the chief executive; and
  - (b) the person must provide the fresh report in accordance with the direction of the chief executive.
- (2) If the chief executive considers that a person required to provide reports under these regulations is not or has not been completing reports in compliance with these regulations,—

- (a) the chief executive may, by notice in writing, direct the person as to how reports must be completed in order to comply with these regulations; and
- (b) the person must subsequently ensure that reports provided by the person comply with that direction.

Compare: SR 2001/188 r 39

#### **45 Chief executive may specify different intervals, periods, or dates for completing or providing reports**

- (1) If the chief executive considers it necessary or desirable to assist in the utilisation, while ensuring the sustainability, of any fishery resource,—
  - (a) the chief executive may, by notice in writing to a person required to provide reports under these regulations, direct the person to complete and provide reports of any kind at the intervals, periods, or dates that the chief executive may determine; and
  - (b) the person must subsequently complete and provide reports in accordance with that direction.
- (2) If a person is required to provide any report under this regulation, nothing in Parts 1 to 3 requires the person to provide a report of the same kind for any event or period covered by the report required under this regulation, unless the chief executive stipulates otherwise.

Compare: SR 2001/188 r 40

#### **46 Exemptions**

- (1) The chief executive may exempt a person or class of persons from compliance with all or any of the requirements under these regulations if the chief executive is satisfied that—
  - (a) compliance with any requirement of these regulations would cause undue hardship or would be unduly impracticable; and
  - (b) the exemption is no broader than is reasonably necessary to address the matters giving rise to the exemption; and
  - (c) the exemption would not unduly prejudice the management and conservation of any fishery resource.
- (2) An exemption—
  - (a) *[Revoked]*
  - (b) *[Revoked]*
  - (c) must specify a date on which it expires; and
  - (d) may be granted subject to any conditions that the chief executive may reasonably impose; and
  - (e) may be amended or revoked to reflect changed circumstances.

- (3) An exemption granted under this regulation is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements), unless it applies only to 1 or more named persons.
- (4) An exemption that is not secondary legislation must be in writing and given to the persons to whom it applies.

Compare: SR 2001/188 r 41

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**Legislation Act 2019 requirements for secondary legislation made under this regulation**

<b>Publication</b>	The maker must publish it on a website maintained by, or on behalf of, the Ministry or in any New Zealand publication that relates primarily to commercial fishing	LA19 ss 73, 74(1)(a), Sch 1 cl 14
<b>Presentation</b>	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the secondary legislation.*

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Regulation 46(2)(a): revoked, on 28 October 2021, by regulation 52(1) of the Legislation Act (Sub-delegated Secondary Legislation) Regulations 2021 (LI 2021/248).

Regulation 46(2)(b): revoked, on 28 October 2021, by regulation 52(1) of the Legislation Act (Sub-delegated Secondary Legislation) Regulations 2021 (LI 2021/248).

Regulation 46(3): inserted, on 28 October 2021, by regulation 52(2) of the Legislation Act (Sub-delegated Secondary Legislation) Regulations 2021 (LI 2021/248).

Regulation 46(4): inserted, on 28 October 2021, by regulation 52(2) of the Legislation Act (Sub-delegated Secondary Legislation) Regulations 2021 (LI 2021/248).

## 47 Circulars

- (1) The chief executive may issue, amend, or revoke circulars for 1 or more of the following purposes:
  - (a) specifying the manner and form in which a report must be completed, including—
    - (i) whether types of fish must be identified by species or fishstock:
    - (ii) how locations must be identified (for example, by latitude and longitude):
    - (iii) the units of measurement that must be used:
    - (iv) the relevant categories for certain information (for example, the relevant processed states of fish):
    - (v) the codes that must be used (for example, destination type codes and codes for fishstocks):
    - (vi) limits on the number of items that must be recorded (for example, the number of types of fish):
    - (vii) the identifying information required by regulation 14(2)(b), 20(2)(b), or 36:
  - (b) specifying additional information that relates to the subject matter of a report under Part 1 and must be recorded in it:

- (c) specifying technical requirements for electronic reporting, including requirements relating to—
- (i) the devices used to complete and provide reports:
  - (ii) the software used to complete and provide reports:
  - (iii) the computer file format of reports:
  - (iv) the encryption and security of files containing reports:
- (d) specifying non-fish species or declaring protected fish species for the purposes of regulation 8(1)(a) or (b):
- (e) specifying, for the purposes of regulation 9(1)(b),—
- (i) kinds of fishing operations; and
  - (ii) vessels of a size and class:
- (f) specifying destination type codes for the purposes of regulation 14(3)(a).
- (2) Before issuing, amending, or revoking a circular, the chief executive must consult, to the extent practicable, any persons considered by the chief executive to be representative of the classes of persons likely to be substantially affected by the circular.
- (3) A circular issued under subclause (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

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**Legislation Act 2019 requirements for secondary legislation made under this regulation**

<b>Publication</b>	The maker must:	LA19 ss 73, 74(1)(a), Sch 1 cl 14
	• publish it on a website maintained by, or on behalf of, the maker	
	• if a circular is amended, publish an up to date version of it as amended	
<b>Presentation</b>	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the secondary legislation.*

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Regulation 47(1)(e): replaced, on 10 January 2019, by regulation 22 of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

Regulation 47(3): replaced, on 28 October 2021, by regulation 53 of the Legislation Act (Sub-delegated Secondary Legislation) Regulations 2021 (LI 2021/248).

## Part 5 Offences

### 48 Offences

A person commits an offence if the person—

*Low penalty*

- (a) fails to comply with the requirements of any of regulations 17, 25(2), 34 to 37, and 40:

*Medium penalty*

- (b) provides a report required by any of regulations 7 to 11 late, but within 14 days after the date on which it was due:
- (c) provides a return required by regulation 14 or 20 late, but within 1 month after the date on which it was due:
- (d) provides an annual audit report required by regulation 25(1) late, but within 2 months after the date on which it was due:
- (e) carries out the first audit of a newly licensed fish receiver late, but within 1 month after the end of the period specified in regulation 25(3):
- (f) fails to comply with the requirements of any of regulations 7(3)(a) to (c), 10(3)(a) to (c), 11(3)(a) and (b), 12, 19(4), 21, 23(2)(b), 24(3), and 41 to 44:

*High penalty*

- (g) fails to provide a report required by any of regulations 7 to 11 before, on, or within 14 days after the date on which it was due:
- (h) fails to provide a return required by regulation 14 or 20 before, on, or within 1 month after the date on which it was due:
- (i) fails to provide an annual audit report required by regulation 25(1) before, on, or within 2 months after the date on which it was due:
- (j) fails to carry out the first audit of a newly licensed fish receiver before, at, or within 1 month after the end of the period specified in regulation 25(3):
- (k) fails to comply with the requirements of any of regulations 7AAA(1), 7AAAB(1), 26 to 31, and 45(1)(b):
- (l) fails to comply with a direction of the chief executive issued to that person in accordance with regulation 43(2).

Regulation 48(a): amended, on 10 January 2019, by regulation 23(1) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

Regulation 48(f): amended, on 10 January 2019, by regulation 23(2) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

Regulation 48(k): amended, on 10 January 2019, by regulation 23(3) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

Regulation 48(l): inserted, on 10 January 2019, by regulation 23(4) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

## 49 Penalties

A person who commits an offence against—

- (a) regulation 48(a) is liable on conviction to a fine not exceeding \$10,000:

- (b) any of paragraphs (b) to (f) of regulation 48 is liable on conviction to a fine not exceeding \$20,000:
- (c) any of paragraphs (g) to (k) of regulation 48 is liable on conviction to a fine not exceeding \$100,000.

## **50 Defence**

It is a defence to a prosecution for an offence against regulation 48 if the defendant proves that—

- (a) the offence occurred as a result of an accident, or a mechanical or technical failure (other than a mechanical or technical failure of a nature that could have been avoided with adequate maintenance); and
- (b) the defendant acted reasonably in the circumstances.

## **51 Amendments to other enactments**

Amend the enactments specified in Schedule 3 as set out in that schedule.

## **52 Revocation**

The Fisheries (Reporting) Regulations 2001 (SR 2001/188) are revoked.

## Schedule 1 Transitional, savings, and related provisions

r 5

### Part 1 Provisions relating to these regulations as made

#### 1 Interpretation

In this Part,—

**former regulations** means the Fisheries (Reporting) Regulations 2001

**trawl net** has the meaning given by regulation 3 of the Fisheries (Commercial Fishing) Regulations 2001.

#### 2 Certain vessels may comply with former regulations or these regulations between 1 October 2017 and 31 March 2018

- (1) This clause applies to every permit holder, except the holder of a permit under which a vessel that has an overall length that exceeds 28 m is being used in fishing with a trawl net.
- (2) On and from 1 October 2017 until the close of 31 March 2018,—
  - (a) compliance with the applicable requirements of the former regulations is sufficient compliance with these regulations; and
  - (b) there is no need to comply with any requirement in these regulations that was not in the former regulations.
- (3) The exemption expires at the close of 31 March 2018.

#### 3 Temporary exemption for voyage underway when these regulations commence

- (1) This clause applies if—
  - (a) a vessel has commenced, but not completed, a fishing trip when these regulations come into force; and
  - (b) clause 2 does not apply in relation to the vessel.
- (2) While the vessel is at sea on that occasion,—
  - (a) compliance with the applicable requirements of the former regulations is sufficient compliance with these regulations; and
  - (b) there is no need to comply with any requirement in these regulations that was not in the former regulations.
- (3) The exemption expires at the end of the fishing trip.

#### 4 Provisions applying from 16 August 2018 to 9 January 2019

In the period on and from 16 August 2018 to 9 January 2019, the provisions set out in Part 2 of this schedule apply, instead of regulations 7 to 50, to every permit holder, except the holder of a permit under which a vessel that has an overall length that exceeds 28 m is being used in fishing with a trawl net.

Schedule 1 clause 4: inserted, on 16 August 2018, by regulation 5(1) of the Fisheries (Transitional Reporting) Amendment Regulations 2018 (LI 2018/140).

Schedule 1 clause 4 heading: amended, on 10 January 2019, by regulation 24(1) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

Schedule 1 clause 4: amended, on 10 January 2019, by regulation 24(2) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

### Part 2

#### Provisions applying between 16 August 2018 and 1 December 2019

Schedule 1 Part 2: inserted, on 16 August 2018, by regulation 5(2) of the Fisheries (Transitional Reporting) Amendment Regulations 2018 (LI 2018/140).

Schedule 1 Part 2 heading: amended, on 10 January 2019, by regulation 24(3) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

#### Subpart 1—Requirements for reporting and related matters

#### 5 Interpretation

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

**2001 regulations** means the Fisheries (Reporting) Regulations 2001 as in force before they were revoked

**access identifier** means an identifier that—

- (a) is issued to an individual by the chief executive for the purpose of completing and providing returns using electronic software; and
- (b) uniquely identifies that individual

**actual weight** means the weight in kilograms of fish in its landed state

**additional landed state**, in the case of fish landed in 2 or more states, means a landed state other than the principal landed state of the fish

**artificially attached** has the same meaning as in regulation 3 of the Fisheries (Commercial Fishing) Regulations 2001

**audit trail** means the ability to trace the species, state, and weight of fish product through the relevant systems of a licensed fish receiver or person acting as an agent of a licensed fish receiver

**authorised user** means a person approved by the chief executive under clause 36 in this Part to complete and provide returns using electronic software



**beak and mouth**, in relation to squid, means the state in which the head, mantle, tentacles, and all internal organs, except the beak and mouth, have been removed

**checks**, in relation to fish, means the state in which the head, body, and internal organs, except that portion of flesh with skin still attached that is extracted from the head forward of the operculum (gill cover), have been removed

**destination** means the place at which—

- (a) fish or fish product is landed; or
- (b) fish or fish product is held at the time of landing

**electronic software** means software that—

- (a) is approved by the chief executive under clause 47 in this Part; and
- (b) must be used by every authorised user for completing and providing returns under any of clauses 36 to 47 in this Part

**fish meal by-product** means the state in which offcuts and offal from whole fish have been rendered or cooked into a dried form

**fish tail** means the part of a fish that remains after the head, body, and internal organs have been removed

**fisher identification number** means the client number allocated to a person

**fishing gear** has the meaning set out in the Fisheries (Commercial Fishing) Regulations 2001

**fishing trip** or **trip** means any period in which fish are taken from, or transferred aboard, a vessel, being a period that—

- (a) commences when the vessel—
  - (i) leaves any place at which the vessel is moored or berthed or launched; or
  - (ii) enters the exclusive economic zone through its seaward boundary; and
- (b) ends when the vessel—
  - (i) returns from sea to a place at which the permit holder using the vessel is permitted to land fish and any fish is removed from the vessel or the vessel with fish on board is removed from the water; or
  - (ii) having been granted permission under section 110 of the Act, leaves the exclusive economic zone by its seaward boundary; and
- (c) includes, in relation to a permit holder during a period when the permit holder is not using, or does not have the use of, a vessel or operates otherwise than from a vessel, any period that commences when the permit holder begins to take fish under a permit and ends when the permit holder returns to a point of landing

**flaps** means the state in which the head, body, and all internal organs of a fish, except the flap of flesh and skin that surrounds the gut cavity, have been removed

**foreign fishing vessel** means a foreign fishing vessel licensed under section 83 of the Act

**green-lipped mussel spat** means a shellfish of the species *Perna canaliculus* that is less than 10 mm in length

**gut by-product** means an additional landed state in which the internal organs have been removed from the body cavity

**head**, in relation to a fish, means the state in which the body and all internal organs, except the head, have been removed

**head and tentacles**, in relation to squid, means the state in which the mantle and all internal organs have been removed after the squid has been dressed

**hoki mince by-product** means an additional landed state in which offcuts and offal from skin-off fillets or the headed and gutted state have been rendered by a machine into a minced form

**key internal controls** means the specific controls or procedures that are fundamental to the prevention or detection of errors that may undermine the adequacy or reliability of the audit trail in relation to systems or subsystems of a licensed fish receiver

**landing date** means the date on which fish are landed or the date on which a landing commences

**length** or **overall length**, in relation to a vessel, means the overall length of the vessel entered in the Fishing Vessel Register

**lugs** or **collars** means the state in which—

- (a) the head has been retained after the flesh has been dressed; and
- (b) the flesh, with the skin still attached from immediately behind the head, has been retained

**naturally attached** has the same meaning as in regulation 3 of the Fisheries (Commercial Fishing) Regulations 2001

**non-fish species** means the species listed in Part 2A or 2B of Schedule 3 of the 2001 regulations

**offal** means the state in which the head and body of a fish, except the contents of the gut cavity (including the gills), have been removed

**oil**, in relation to processed fish or fish product, means an additional landed state in which oil derived from the processed fish or fish product has been removed

**permit** means a fishing permit issued under section 91 of the Act or a special permit issued under section 97 of the Act

**point of landing**—

- (a) means,—
- (i) in relation to fish taken by use of a vessel, a place where fish may be landed from the vessel or where the vessel, containing the fish, may be removed from New Zealand fisheries waters under the conditions of a permit issued in accordance with section 91 or section 97 of the Act, being a place that is described on the permit issued to the person using the vessel to take fish for sale:
  - (ii) in relation to fish taken by a permit holder who does not use a vessel or have the use of a vessel or operates otherwise than from a vessel, a place where fish may be landed in accordance with the conditions of the permit; and
- (b) includes—
- (i) a place where fish are transferred from a vessel to another vessel that is a New Zealand fishing vessel, a vessel registered under section 105 of the Act, or a foreign fishing vessel:
  - (ii) a place where a vessel leaves the exclusive economic zone of New Zealand by passing through the seaward boundary of that zone:
  - (iii) the place at which a vessel that has fish on board is situated at the close of the fishing year if the vessel is being operated by, or on behalf of, a permit holder who, during the fishing year ending on that day, has held 100 000 kilograms or more of annual catch entitlement under the Act:
  - (iv) the situation where the registration of a vessel is cancelled or a vessel is re-registered:
  - (v) a place where fish or fish product is retained overnight in a holding receptacle

**principal landed state**, in the case of fish landed in 2 or more states, means the landed state that has the greatest actual weight

**protected fish species** means the species listed in Part 2C of Schedule 3 of the 2001 regulations

**return** means any return or report of a kind set out in clauses 6 to 20 in this Part

**shark fins**, in relation to any species of shark, means all primary fins associated with that shark

**shark fins attached** means,—

- (a) in relation to blue shark, the state in which the trunk is processed to the dressed state and the fins are artificially attached:

- (b) in relation to any other species of shark, the state in which the trunk is processed to the headed and gutted state and the fins are naturally attached

**sounds** or **swim bladders** means the state in which the head, body, and all internal organs of a fish, except the swim bladders, have been removed

**southern blue whiting mince by-product, skin-off fillets** means the additional landed state in which offcuts and offal from southern blue whiting mince, skin-off fillets have been rendered by a machine into a minced form

**species** means the species set out in Parts 2, 2A, 2B, or 2C of Schedule 3 of the 2001 regulations

**state** means a state set out in Part 3 or Part 4 of Schedule 3 of the 2001 regulations

**statistical area** means a statistical area shown on a map referred to in clause 31 in this Part

**target species**, in relation to a permit holder and any fishing method, means the main or major species or class of fish that the permit holder was attempting to take by use of that fishing method

**tentacles by-product**, in relation to squid or octopus, means the additional landed state in which the head, mantle, and all internal organs have been removed

**vessel name** means the name of the vessel as entered on its certificate of registration or licence, as the case may require

**vessel registration number** means,—

- (a) in the case of a New Zealand fishing vessel or fish carrier, the registration number stated in the certificate of registration of that vessel:
- (b) in the case of a foreign fishing vessel, the international call sign of that vessel

**wharf sale** means a sale or other disposition of fish by a commercial fisher to which section 191(2) of the Act applies

**wings**, in relation to squid, means the state in which the head, mantle, tentacles, and all internal organs, except the mantle wings, have been removed.

- (2) The term point of landing must, if appropriate,—
- (a) be referred to and entered on a return as “transfer at sea” if paragraph (b)(i) of the definition of the term applies:
- (b) be referred to and entered on a return as “out of zone” if paragraph (b)(ii) of the definition of the term applies:
- (c) be referred to and entered on a return as “end of year” if paragraph (b)(iii) of the definition of the term applies:

- (d) be referred to and entered on a return as, respectively, “registration cancelled” or “vessel re-registered” if paragraph (b)(iv) of the definition of the term applies.
- (3) In this Part, unless the context otherwise requires, terms used to describe any fishing gear or fishing method have the same meaning as in the Fisheries (Commercial Fishing) Regulations 2001.
- (4) A landed state that is specified in the first column of Part 3 of Schedule 3 of the 2001 regulations has the same meaning as in a notice given by the chief executive under section 188(1) of the Act, if the landed state—
  - (a) is not defined in this Part; but
  - (b) is defined in the notice.

Compare: SR 2001/188 rr 3, 41A

### *Kinds of returns*

## **6 Catch, effort, and landing returns**

- (1) A permit holder who takes fish, or on whose behalf fish are taken, must complete and provide to the chief executive catch, effort, and landing returns for each particular type of fishing activity undertaken that does not require the permit holder to provide a return under clause 7, 9, 10, 11, 12, 13, 14, 15, 16, 18, or 19 in this Part.
- (2) A person required to provide catch, effort, and landing returns must—
  - (a) complete, before the end of each day of a fishing trip (or at the end of each day in which more than 1 trip is made), the section of the return headed “Catch/Effort Data” for each day or part-day of a fishing trip; and
  - (b) complete, immediately on landing, that section of the return headed “Catch Landing Data”; and
  - (c) complete those parts of the last 2 columns for which information is required from a licensed fish receiver immediately on receipt of the necessary information required from a licensed fish receiver.
- (3) Subject to a direction of the chief executive under clause 33 in this Part, catch, effort, and landing returns for any fishing trip that ends on any day in a calendar month must be provided not later than 15 days after the last day of the calendar month.
- (4) A person contravenes this clause if the person provides a catch, effort, and landing return after the date it was due, but not more than 1 calendar month after the date it was due.
- (5) A person contravenes this clause if the person provides or fails to provide a catch, effort, and landing return more than 1 calendar month after the date it was due.

- (6) If no fishing trip has been made in a calendar month, the permit holder must provide, not later than 15 days after the last day of the calendar month, a catch, effort, and landing return that—
- (a) states the person's client name and number, and vessel name and registration number; and
  - (b) states the month and year to which the return relates; and
  - (c) is clearly marked as a nil return; and
  - (d) is signed and dated by, or on behalf of, the person.

Compare: SR 2001/188 r 5

## 7 Catch landing returns

- (1) A permit holder who takes fish, or on whose behalf fish are taken, from a vessel must complete and provide to the chief executive catch landing returns for the vessel if the fish are taken from a vessel for which the following returns are required to be provided under clauses 12 to 19 in this Part:
- (a) trawl catch, effort, and processing returns:
  - (b) lining catch effort returns:
  - (c) lining trip catch effort returns:
  - (d) trawl catch effort returns:
  - (e) squid jigging catch effort returns:
  - (f) tuna longlining catch effort returns.
- (2) A person required to provide catch landing returns must—
- (a) complete a return at the end of each landing, except those parts of the last 2 columns of the section of the return headed "Catch Landing Data" for which information is required from a licensed fish receiver; and
  - (b) complete those parts of the last 2 columns immediately on receipt of the necessary information from a licensed fish receiver.
- (3) Subject to a direction of the chief executive under clause 28 in this Part, catch landing returns for a fishing trip must be provided to the chief executive not later than—
- (a) 15 days after the last day of the fishing trip for permit holders who take fish, or on whose behalf fish are taken, from a vessel for which a return under subclause (1)(a), (b), or (e) must be provided:
  - (b) 15 days after the last day of the calendar month in which the fishing trip ended for permit holders who take fish, or on whose behalf fish are taken, from a vessel for which a return under subclause (1)(c), (d), or (f) must be provided.

- (4) A person contravenes this clause if the person provides a catch landing return after the date it was due, but not more than 1 calendar month after the date it was due.
- (5) A person contravenes this clause if the person provides or fails to provide a catch landing return more than 1 calendar month after the date it was due.
- (6) If no fishing trip has been made in a calendar month, the permit holder must provide to the chief executive, not later than 15 days after the last day of the calendar month, a catch landing return that—
  - (a) states the person's client name and number, and vessel name and registration number; and
  - (b) states the month and year to which the return relates; and
  - (c) is clearly marked as a nil return; and
  - (d) is signed and dated by, or on behalf of, the person.

Compare: SR 2001/188 r 6

## **8 Monthly harvest returns**

- (1) In addition to any other returns required to be completed and provided under this Part, a person must complete and provide to the chief executive monthly harvest returns if the person—
  - (a) is a permit holder; or
  - (b) has been granted an approval under section 110 of the Act that contains a condition requiring the person to provide monthly harvest returns; or
  - (c) has been issued with a special permit under section 97 of the Act that contains a condition requiring the person to provide monthly returns; or
  - (d) is advised by the chief executive in writing that the person must provide monthly harvest returns; or
  - (e) is an operator who, being a New Zealand national using a New Zealand ship, takes any highly migratory species that is—
    - (i) subject to the quota management system outside New Zealand fisheries waters; and
    - (ii) taken outside New Zealand fisheries waters; and
    - (iii) taken for the purpose of sale.
- (2) Subclause (1)(e) does not apply, and no monthly harvest return is required, if the operator proves to the satisfaction of the chief executive that—
  - (a) the operator was authorised to take the stock in the national fisheries jurisdiction of another State; and
  - (b) if the other State has a national allocation for the stock taken, the catch was recorded against the other State's allocation; and

- (c) the other State has agreed to comply with all of the conservation and management measures of the competent regional fisheries management organisation for the relevant species.
- (3) Subject to a direction of the chief executive under clause 33 in this Part, a person required to provide monthly harvest returns must—
- (a) complete a return for each calendar month for all fish taken during that month, except—
    - (i) in relation to any fish recorded in any kind of return under this Part if the appropriate destination type code for those fish is F, R, P, Q, D, T, or X; or
    - (ii) in relation to any fish on board a vessel if the vessel's fishing trip spans a calendar month; or
    - (iii) in relation to any fish that—
      - (A) are taken outside New Zealand fisheries waters; and
      - (B) are not subject to the quota management system outside New Zealand fisheries waters; and
  - (b) provide the return to the chief executive not later than 15 days after the last day of each calendar month.
- (4) A person contravenes this clause if the person provides a monthly harvest return after the date it was due, but not more than 1 calendar month after the date it was due.
- (5) A person contravenes this clause if the person provides or fails to provide a monthly harvest return more than 1 calendar month after the date it was due.
- (6) If the exception in subclause (3)(a)(i) or (ii) ceases to apply, a person who subsequently lands that fish must—
- (a) include that fish in the monthly harvest return for the calendar month in which the exception ceased to apply; and
  - (b) comply with subclause (3)(b).
- (7) For the purposes of subclause (6), in the case of fish that are required to be recorded against destination type code T, the fish must be recorded by the person who took the fish in the monthly harvest return for the calendar month in which the fish were subsequently landed.
- (8) If no fish are required to be reported, the person required to provide the report must—
- (a) complete a return for each calendar month; and
  - (b) provide to the chief executive, not later than 15 days after the last day of each calendar month, a monthly harvest return that—
    - (i) states the person's client name and number; and
    - (ii) states the month and year to which the return relates; and



- (iii) is clearly marked as a nil return; and
  - (iv) is signed and dated by, or on behalf of, the person.
- (9) If a person considers that the person's monthly harvest return contains an error, the person may amend the form, using the monthly harvest return amendment set out in form 4 of Schedule 2 of the 2001 regulations, only after his or her monthly harvest return has been received and accepted by the chief executive.
- (10) This Part does not require a person to report on a monthly harvest return any fish, aquatic life, or seaweed taken or retained by an observer under Part 12 of the Act.

Compare: SR 2001/188 r 7

## **9 Freshwater eel catch effort return**

- (1) A permit holder who targets freshwater eels, or on whose behalf freshwater eels are targeted, by any method must complete and provide to the chief executive freshwater eel catch effort returns.
- (2) A person who is required to provide freshwater eel catch effort returns must complete, before the end of the day in which fishing gear was lifted or retrieved, as many lines of information in section 3 of the return as are necessary to record that day's fishing activity.
- (3) Subject to a direction of the chief executive under clause 33 in this Part, freshwater eel catch effort returns for a calendar month must be provided to the chief executive not later than 15 days after the last day of that calendar month.
- (4) A person contravenes this clause if the person provides a freshwater eel catch effort return after the date it was due, but not more than 1 calendar month after the date it was due.
- (5) A person contravenes this clause if the person provides or fails to provide a freshwater eel catch effort return more than 1 calendar month after the date it was due.

Compare: SR 2001/188 r 8

## **10 Freshwater eel catch landing returns**

- (1) A permit holder who targets freshwater eels, or on whose behalf freshwater eels are targeted, by any method must complete and provide to the chief executive freshwater eel catch landing returns unless subclause (6) applies.
- (2) A person who is required to provide freshwater eel catch landing returns must complete, immediately on landing, as many of the lines of information in section 3 of the return as are necessary to record that landing, with the exception of the last 2 columns, which must be completed immediately on receipt of the necessary information from a licensed fish receiver.
- (3) Subject to a direction of the chief executive under clause 33 in this Part, freshwater eel catch landing returns for a calendar month must be provided to the chief executive not later than 15 days after the last day of that calendar month.

- (4) A person contravenes this clause if the person provides a freshwater eel catch landing return after the date it was due, but not more than 1 calendar month after the date it was due.
- (5) A person contravenes this clause if the person provides or fails to provide a freshwater eel catch landing return more than 1 calendar month after the date it was due.
- (6) If a permit holder is an operator or notified user of more than 1 fishing vessel, and no fish were landed in a calendar month that were taken while targeting freshwater eels, the permit holder must provide to the chief executive, not later than 15 days after the last day of the calendar month, a catch, effort, and landing return in accordance with clause 6 in this Part that—
  - (a) states the permit holder’s client name and number; and
  - (b) states the month and year to which the return relates; and
  - (c) states the vessel’s name and registration number; and
  - (d) is clearly marked as a nil return; and
  - (e) is signed and dated by, or on behalf of, the permit holder.
- (7) If a permit holder is not an operator or notified user of more than 1 fishing vessel, and no fish were landed in a calendar month that were taken while targeting freshwater eels, the permit holder must provide to the chief executive, not later than 15 days after the last day of that calendar month, a freshwater eel catch landing return that—
  - (a) states the permit holder’s client name and number; and
  - (b) states the month and year to which the return relates; and
  - (c) is clearly marked as a nil return; and
  - (d) is signed and dated by, or on behalf of, the permit holder.

Compare: SR 2001/188 r 9

## **11 Paua catch effort landing returns**

- (1) A permit holder who targets paua, or on whose behalf paua is targeted, by the method of diving must complete and provide to the chief executive paua catch effort landing returns.
- (2) A person required to provide paua catch effort landing returns must—
  - (a) complete, before the end of each day that diving takes place, as many lines of information in section 3 of the return as are necessary to record that day’s fishing activity; and
  - (b) complete, immediately on landing, as many lines of information in section 4 of the return as are necessary to record that landing, except the last 2 columns, which must be completed immediately on receipt of the necessary information from a licensed fish receiver.

- (3) Subject to a direction of the chief executive under clause 33 in this Part, paua catch effort landing returns for a calendar month must be provided to the chief executive not later than 15 days after the last day of the calendar month.
- (4) A person contravenes this clause if the person provides a paua catch effort landing return after the date it was due, but not more than 1 calendar month after the date it was due.
- (5) A person contravenes this clause if the person provides or fails to provide a paua catch effort landing return more than 1 calendar month after the date it was due.
- (6) If no paua taken by diving were landed in a calendar month, and no diving for paua occurred in the same month, the permit holder must provide to the chief executive, not later than 15 days after the last day of that calendar month, a paua catch effort landing return that—
  - (a) states the permit holder's name and client number; and
  - (b) states the vessel's name and registration number; and
  - (c) states the month and year to which the return relates; and
  - (d) is clearly marked as a nil return; and
  - (e) is signed and dated by, or on behalf of, the permit holder.

Compare: SR 2001/188 r 10

## **12 Trawl catch, effort, and processing returns**

- (1) A permit holder who takes fish, or on whose behalf fish are taken, by the method of trawling from a vessel must complete and provide to the chief executive trawl catch, effort, and processing returns for the vessel if the vessel is one for which the chief executive has advised the permit holder in writing that trawl catch, effort, and processing returns must be provided.
- (2) A person required to provide trawl catch, effort, and processing returns for a vessel must—
  - (a) complete a return on each day or part-day that the vessel is on a fishing trip; and
  - (b) provide the return to the chief executive not later than 15 days after the last day of that fishing trip.
- (3) A person contravenes this clause if the person provides a trawl catch, effort, and processing return after the date it was due, but not more than 1 calendar month after the date it was due.
- (4) A person contravenes this clause if the person provides or fails to provide a trawl catch, effort, and processing return more than 1 calendar month after the date it was due.

Compare: SR 2001/188 r 11

**13 Lining catch effort return**

- (1) A permit holder who takes fish, or on whose behalf fish are taken, by the methods of bottom longlining, surface longlining (targeting species other than tuna or swordfish), and trot lining from a vessel must complete and provide to the chief executive lining catch effort returns if the vessel—
  - (a) is more than 28 m in overall length; or
  - (b) is a vessel for which the chief executive has advised the permit holder in writing that lining catch effort returns must be provided.
- (2) A person required to provide lining catch effort returns for a vessel must—
  - (a) complete a return for each day of a fishing trip on which a line setting operation is commenced from the vessel; and
  - (b) complete all of the return, except for the information about hauling, species caught, and signature, before the end of the day on which line setting commenced; and
  - (c) complete the information about hauling and species caught as soon as the hauling operation for that set is completed; and
  - (d) sign and date the return as soon as all fishing reported on the return is completed; and
  - (e) provide the return to the chief executive not later than 15 days after the last day of that fishing trip.
- (3) A person contravenes this clause if the person provides a lining catch effort return after the date it was due, but not more than 1 calendar month after the date it was due.
- (4) A person contravenes this clause if the person provides or fails to provide a lining catch effort return more than 1 calendar month after the date it was due.

Compare: SR 2001/188 r 11A

**14 Netting catch effort landing returns**

- (1) A permit holder who takes fish, or on whose behalf fish are taken, by the method of set netting, inshore drift netting, or pair set netting from a vessel must complete and provide to the chief executive netting catch effort landing returns if the vessel—
  - (a) is 6 m or more in overall length; or
  - (b) is a vessel for which the chief executive has advised the permit holder in writing that netting catch effort landing returns must be provided.
- (2) The permit holder must—
  - (a) complete separate returns for each fishing trip; and
  - (b) complete a column of catch and effort information in section 2 of the return for each set as soon as hauling for the set is completed; and

- (c) complete section 3 (relating to trip information) immediately on landing; and
  - (d) complete section 4 (relating to catch landing data) immediately on landing, except any part of the last 2 columns that requires information from a licensed fish receiver; and
  - (e) complete any remaining part of the last 2 columns of section 4 immediately on receipt of the information required from the licensed fish receiver; and
  - (f) complete section 5 (relating to permit holder and vessel details), sign the declaration, and date the return; and
  - (g) provide the return to the chief executive no later than 15 days after the last day of the calendar month in which the fishing trip ends.
- (3) In subclause (2)(b), a **set** includes all nets that are set—
- (a) to target the same species; and
  - (b) within 2 nautical miles of the first net that is set; and
  - (c) as soon as practicable after the first net is set.
- (4) A person contravenes this clause if the person provides a netting catch effort landing return after the date it is due, but no more than 1 calendar month after that date.
- (5) A person contravenes this clause if the person provides or fails to provide a netting catch effort landing return more than 1 calendar month after the date it is due.
- (6) If no fishing trip is made in a calendar month, the permit holder must—
- (a) state that month and the year in the space next to “landing date” in section 3 of a return; and
  - (b) clearly mark the return as a nil return; and
  - (c) complete section 5 (relating to permit holder and vessel details), sign the declaration, and date the return; and
  - (d) provide the return to the chief executive no later than 15 days after the last day of that month.

Compare: SR 2001/188 r 11B

## **15 Lining trip catch effort return**

- (1) A permit holder who takes fish, or on whose behalf fish are taken, by the methods of bottom longlining, surface longlining (targeting species other than tuna or swordfish), or trot lining from a vessel must complete and provide to the chief executive a lining trip catch effort return if the vessel—
- (a) is 6 m or more but not more than 28 m in overall length; or

- (b) is a vessel for which the chief executive has advised the permit holder in writing that a lining trip catch effort return must be provided.
- (2) A person required to provide a lining trip catch effort return must—
- (a) complete a separate lining trip catch effort return for each fishing trip; and
  - (b) complete the fishing method, hook spacing, name of fisher, and permit holder and vessel details before completing the details relating to the setting of the first set required by the return; and
  - (c) complete, for each set, a separate column of catch effort information; and
  - (d) complete, for each set, the information about the setting as soon as the setting for that set is completed; and
  - (e) complete, for each set, the information about the hauling and species caught as soon as the hauling for that set is completed; and
  - (f) record, for each set, the setting information on the same return that is used to record the hauling information for that set; and
  - (g) sign and date the return after all fishing reported on the return is completed; and
  - (h) provide the return for a fishing trip that ends on any day in a calendar month to the chief executive not later than 15 days after the last day of that calendar month.
- (3) In subclause (2), a **set** includes all lines that are set—
- (a) to target the same species; and
  - (b) with the same fishing method, hook spacing, and name of fisher; and
  - (c) within 2 nautical miles of the start of the first line; and
  - (d) as soon as is practicable following the setting of the first line.
- (4) A person contravenes this clause if the person provides a lining trip catch effort return after the date it was due, but not more than 1 calendar month after the date it was due.
- (5) A person contravenes this clause if the person provides or fails to provide a lining trip catch effort return more than 1 calendar month after the date it was due.

Compare: SR 2001/188 r 11C

## 16 Trawl catch effort return

- (1) A permit holder who takes fish, or on whose behalf fish are taken, by the methods of bottom trawl, bottom pair trawl, mid-water trawl, or mid-water pair trawl from a vessel must complete and provide to the chief executive a trawl catch effort return if the vessel—
- (a) is 6 m or more but not more than 28 m in overall length; or

- (b) is a vessel for which the chief executive has advised the permit holder in writing that a trawl catch effort return must be provided.
- (2) A person required to provide a trawl catch effort return must—
  - (a) complete a separate trawl catch effort return for each fishing trip; and
  - (b) complete the gear code, design wingspread, design headline height, and permit holder and vessel details before the start of the first shot reported on the return; and
  - (c) complete, for each shot, a separate column of catch effort information as soon as hauling for that shot is completed; and
  - (d) sign and date the return after all fishing reported on the return is completed; and
  - (e) provide the return for a fishing trip that ends on any day in a calendar month to the chief executive not later than 15 days after the last day of that calendar month.
- (3) A person contravenes this clause if the person provides a trawl catch effort return after the date it was due, but not more than 1 calendar month after the date it was due.
- (4) A person contravenes this clause if the person provides or fails to provide a trawl catch effort return more than 1 calendar month after the date it was due.

Compare: SR 2001/188 r 11D

#### **17 Non-fish and protected species catch return**

- (1) A permit holder who takes non-fish species or protected fish species listed in Parts 2A, 2B, or 2C of Schedule 3 of the 2001 regulations, whether alive or dead, or on whose behalf non-fish species or protected fish species are taken, whether alive or dead, must complete and provide to the chief executive non-fish and protected species catch returns.
- (2) The permit holder must—
  - (a) complete a return for each fishing trip on which a non-fish species or protected fish species is taken; and
  - (b) complete a row of non-fish or protected fish species catch information in section 3 of the return as soon as it becomes evident that a non-fish or protected fish species has been taken; and
  - (c) complete, as soon as the first row in section 3 of the non-fish and protected species catch return has been completed,—
    - (i) section 4 of the return; and
    - (ii) the permit holder and vessel details in section 5 of the return; and
  - (d) sign and date the return after all fishing reported on the return has been completed; and

- (e) provide the return to the chief executive no later than the due date for the return that reports the effort during which the non-fish species or protected fish species was taken.
- (3) The permit holder must use the relevant species code listed in Part 2C of Schedule 3 of the 2001 regulations to report protected fish species.
- (4) The permit holder must use the relevant species code listed in Part 2A of Schedule 3 of the 2001 regulations to report non-fish species unless they cannot identify the species, in which case they must use the most appropriate species group code from Part 2B of Schedule 3 of the 2001 regulations.
- (5) If a permit holder finds a tag from a marine turtle, the tag number must be reported to the chief executive in the manner specified by the chief executive in relation to the non-fish and protected species catch return.
- (6) A person contravenes this clause if the person provides a non-fish and protected species catch return after the date it is due, but not more than 1 calendar month after that date.
- (7) A person contravenes this clause if the person provides or fails to provide a non-fish and protected species catch return more than 1 calendar month after the date it is due.

Compare: SR 2001/188 r 11E

### **18 Squid jigging catch effort return**

- (1) A permit holder who takes squid, or on whose behalf squid are taken, by the method of jigging from a vessel (including a foreign fishing vessel) must complete and provide to the chief executive squid jigging catch effort returns for that vessel.
- (2) A person required to provide squid jigging catch effort returns for any vessel must—
  - (a) complete a return on each day or part-day that the vessel is on a fishing trip; and
  - (b) provide the return to the chief executive not later than 15 days after the last day of that fishing trip.
- (3) A person contravenes this clause if the person provides a squid jigging catch effort return after the date it was due, but not more than 1 calendar month after the date it was due.
- (4) A person contravenes this clause if the person provides or fails to provide a squid jigging catch effort return more than 1 calendar month after the date it was due.

Compare: SR 2001/188 r 12



## **19 Tuna longlining catch effort returns**

- (1) A permit holder who targets tuna or swordfish, or on whose behalf tuna or swordfish are targeted, by the method of longlining from a vessel (including a foreign fishing vessel) must complete, and provide to the chief executive, tuna longlining catch effort returns for that vessel.
- (2) A person required to provide tuna longlining catch effort returns for any vessel must—
  - (a) complete a return for every set made from the vessel on a fishing trip immediately after the set is completed; and
  - (b) provide the return for a fishing trip that ends on any day in a calendar month to the chief executive not later than 15 days after the last day of that calendar month.
- (3) A person contravenes this clause if the person provides a tuna longlining catch effort return after the date it was due, but not more than 1 calendar month after the date it was due.
- (4) A person contravenes this clause if the person provides or fails to provide a tuna longlining catch effort return more than 1 calendar month after the date it was due.

Compare: SR 2001/188 r 13

## **20 Client details annual update form**

- (1) A person who has a client number and who is advised by the chief executive in writing that a client details annual update form must be completed must complete and provide to the chief executive a duly completed form within 14 days after receiving the request from the chief executive to provide the information.
- (2) A person to whom a new client number is issued must complete and provide to the chief executive those details required by the chief executive on the approved form.
- (3) A person who has a client number must advise the chief executive, within 1 calendar month, of any changes to the person's information.

Compare: SR 2001/188 r 14

### *Returns generally*

## **21 Separate returns required for each vessel or method**

A person who is required to provide returns under this Part must provide appropriate returns under clause 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, or 19 in this Part for—

- (a) each vessel; and
- (b) each method or group of methods—
  - (i) used from each vessel:

- (ii) used otherwise than from a vessel.

Compare: SR 2001/188 r 28

## **22 Return books supplied by chief executive**

- (1) The chief executive must ensure that return books for each of the kinds of returns referred to in this clause are available.
- (2) A return book must contain,—
  - (a) in the case of return books for catch, effort, and landing returns, returns in form 1 of Schedule 2 of the 2001 regulations:
  - (b) in the case of return books for catch landing returns, returns in form 2 of Schedule 2 of the 2001 regulations:
  - (c) in the case of return books for monthly harvest returns, returns in form 3 of Schedule 2 of the 2001 regulations:
  - (d) in the case of return books for trawl catch, effort, and processing returns, returns in form 5 of Schedule 2 of the 2001 regulations:
  - (e) in the case of return books for lining catch effort returns, returns in form 5A of Schedule 2 of the 2001 regulations:
  - (f) in the case of return books for netting catch effort landing returns, returns in form 5B of Schedule 2 of the 2001 regulations:
  - (g) in the case of return books for lining trip catch effort returns, returns in form 5C of Schedule 2 of the 2001 regulations:
  - (h) in the case of return books for trawl catch effort returns, returns in form 5D of Schedule 2 of the 2001 regulations:
  - (i) in the case of return books for squid jigging catch effort returns, returns in form 6 of Schedule 2 of the 2001 regulations:
  - (j) in the case of return books for tuna longlining catch effort returns, returns in form 7 of Schedule 2 of the 2001 regulations:
  - (k) in the case of freshwater eel catch effort returns, returns in form 8 of Schedule 2 of the 2001 regulations:
  - (l) in the case of freshwater eel catch landing returns, returns in form 9 of Schedule 2 of the 2001 regulations:
  - (m) in the case of paua catch effort landing returns, returns in form 10 of Schedule 2 of the 2001 regulations:
  - (n) in the case of return books for non-fish and protected species catch returns, returns in form 13 of Schedule 2 of the 2001 regulations.
- (3) The chief executive may, if the chief executive thinks fit,—
  - (a) include within, or make separately available with, any return book—
    - (i) a copy or summary of any of the provisions of these clauses:

- (ii) a copy or summary of any of the notes that are set out in Schedule 2 of the 2001 regulations for the relevant return form:
- (iii) explanatory notes explaining terms used in the form, or explaining or elaborating on the manner in which the return must be completed or provided:
- (b) state in any language other than English, either in addition to, or in replacement of, the English version, any of the matters contained in—
  - (i) the return forms in a return book; or
  - (ii) any material referred to in paragraph (a).

Compare: SR 2001/188 r 29

### **23 Return books must be used for providing returns**

- (1) A person who is required to provide returns of any sort under this Part must, unless otherwise authorised under clause 25 in this Part or section 296 of the Act,—
  - (a) obtain books of the relevant returns from the chief executive; and
  - (b) enter all information required for the relevant return in the appropriate book—
    - (i) in duplicate (except in the case of monthly harvest returns, monthly harvest return amendments, licensed fish receiver returns, or licensed fish receiver return amendments); and
    - (ii) in a legible and durable manner; and
    - (iii) in accordance with the requirements in this Part and with any notes or explanatory notes supplied or made available by the chief executive under clause 22(3)(a)(ii) and (iii) in this Part or any directions notified by the chief executive to that person under clause 32 in this Part; and
  - (c) provide to the chief executive the top, or original, copy of the information entered; and
  - (d) retain in each book of returns the duplicate, or second, copy of that information (except in the case of monthly harvest returns or licensed fish receiver returns).
- (2) If a person is required by clause 21 in this Part to provide separate returns for different vessels or fishing methods,—
  - (a) a separate book of returns must be obtained for each vessel, or each fishing method or group of methods; and
  - (b) the information to be entered in a particular book of returns must relate to the use of the particular vessel or other fishing method or group of methods only.

Compare: SR 2001/188 r 30

**24 Return books must be kept on vessel, etc**

- (1) Until a book of returns is completely used on the completion of the last return contained in it, the book must be retained—
  - (a) on board the vessel (if any) to which the book relates at any time when the vessel is being used or operated to take fish; and
  - (b) at any other time, either on board the vessel (if any) to which the book relates or in the custody of the person whose responsibility it is to complete and provide the returns.
- (2) The person who is responsible for completing and providing returns for the vessel must take custody of the book of returns at the earliest opportunity on or after the last day of the trip if, during the period of a trip undertaken by a vessel,—
  - (a) the registration of the vessel is cancelled; or
  - (b) the vessel is re-registered; or
  - (c) the permit under which fish may be taken by the vessel is cancelled; or
  - (d) a book of returns relating to the vessel is completely used.

Compare: SR 2001/188 r 31

**25 Chief executive may authorise computer printouts instead of standard returns**

- (1) Despite clauses 22 to 24 in this Part, the chief executive may authorise a particular person or class of person to supply a particular return or class of returns by way of a computer printout that is in the same or substantially the same style and form as the returns contained in the appropriate book of returns.
- (2) An authorisation—
  - (a) must be in writing and addressed to the person whose responsibility it is to provide the return or returns; and
  - (b) must be subject to the conditions (if any) that the chief executive may state in writing; and
  - (c) may be withdrawn at any time by the chief executive in writing.
- (3) If a person is authorised to provide a return by way of computer printout,—
  - (a) the person must make and (except in the case of monthly harvest returns or monthly harvest return amendments) retain a duplicate or second copy of the return; and
  - (b) the provisions in this Part must, subject to any conditions or exceptions stated by the chief executive, and with any necessary modifications, apply as if—
    - (i) the computer printout provided or to be provided to the chief executive were the original copy of a return contained in a book of returns; and

- (ii) the duplicate or second copy of the printout were a duplicate or second copy of a return contained in a book of returns.

Compare: SR 2001/188 r 32

## **26 Chief executive may authorise returns to be sent to different place**

The chief executive may, at the request of a person required to provide returns, authorise the person in writing to send a particular return or class of returns to a place other than the place notified by the chief executive under section 295 of the Act.

Compare: SR 2001/188 r 33

## **27 Duplicate returns must be retained for 7 years**

- (1) A person who is required by this Part to provide a return must retain in the person's custody, for a period of not less than 7 years after the date of completion of the return,—
  - (a) in the case of a return made in accordance with clause 23 in this Part, the duplicate or second copy of the return; or
  - (b) in the case of a return made under clauses 35 to 47 in this Part, a copy of the return.
- (2) Subclause (1) does not apply to the following returns:
  - (a) a monthly harvest return:
  - (b) a monthly harvest return amendment.

Compare: SR 2001/188 r 34

## **28 Inspection of returns**

A person who is required by this Part to provide a return or who has custody of a return must, on request by the chief executive or a fishery officer,—

- (a) immediately produce for inspection the return that is the subject of the request (whether original or duplicate, and whether or not completed or already provided to the chief executive); and
- (b) cause or allow copies to be taken of that return.

Compare: SR 2001/188 r 35

### *Completion of returns*

## **29 Method of entering certain details on return**

- (1) For the purpose of completing a return, unless otherwise stated on the return or in any notes referred to in clause 22(3)(a)(ii) and (iii) in this Part or unless the chief executive otherwise notifies the person who is required to complete the return in writing,—
  - (a) subject to subclause (2), all weights and container capacities must be recorded in kilograms:

- (b) all lengths and distances must be recorded in metres:
  - (c) all mesh sizes must be recorded in millimetres:
  - (d) all speeds must be recorded in knots, except that wind speed and wind force must be recorded in metres per second:
  - (e) all times must be recorded in hours and minutes according to a 24-hour clock in New Zealand standard time or New Zealand daylight time, whichever is for the time being applicable, and all dates must be recorded in terms of that applicable time:
  - (f) all temperatures must be recorded in degrees celsius:
  - (g) all matters for which a code is required by clause 30 in this Part to be entered must be entered using the most appropriate code:
  - (h) a reference in a return to a landing of containers must,—
    - (i) if the landing occurs on the removal or discharge of fish from the vessel concerned, be read as a reference to the containers of fish removed or discharged:
    - (ii) if the landing occurs on the removal of the vessel concerned from New Zealand fisheries waters, be read as a reference to the containers of fish on the vessel:
  - (i) container information need not be completed in respect of any returns to the sea properly made in accordance with Schedule 6 of the Fisheries Act 1996.
- (2) If fish is landed in 2 or more states,—
- (a) the landed state that has the greatest actual weight is the principal landed state, and its weight must be recorded in kilograms; and
  - (b) all other landed states are additional landed states, and their weight must be recorded as the actual weight of the fish in that landed state; but
  - (c) the weight of the additional landed state of any fish must not be recorded on a monthly harvest return or monthly harvest return amendment; and
  - (d) a licensed fish receiver must not record the weight or species of any additional landed state of fish received by the licensed fish receiver on any licensed fish receiver return or licensed fish receiver return amendment.
- (3) However,—
- (a) all weights of fish, aquatic life, or seaweed (except scallops and Foveaux Strait dredge oysters) must be recorded in greenweight kilograms using, if appropriate to the landed state of the fish, aquatic life, or seaweed,—
    - (i) the conversion factors stated in a notice or certificate given by the chief executive under section 188(1) or (2) of the Act; or
    - (ii) any spat ratio set by a notice made under section 188A of the Act:

- (b) all scallop weights must be recorded in meatweight, being the weight of scallops remaining when the shell, skirt, and gut has been removed and discarded:
  - (c) all Foveaux Strait dredge oysters must be recorded in oyster numbers, and those numbers must, if appropriate, be recorded in any part of a return that refers to weight as if 1 oyster weighed 1 kilogram:
  - (d) all paua weights in PAU 4 must be recorded in greenweight kilograms using the appropriate conversion factor set out in any notice given by the chief executive under section 188(1) of the Act to translate the shucked weight to greenweight.
- (4) For the purpose of trawl catch, effort, and processing returns and tuna long-lining catch effort returns, any reference to a processed state must be read as if it were a reference to a landed state, and the weight of fish in those states must be calculated in accordance with this clause.

Compare: SR 2001/188 r 36

### **30 Use of codes for certain entries**

Unless the chief executive otherwise notifies the person who is required to complete the return in writing, if there is required to be entered on a return—

- (a) any fishstock to which the return relates, the person completing the return must enter the appropriate fishstock code stated in table 1 (or, in the case of freshwater eels, in table 11, or, in the case of green-lipped mussel and green-lipped mussel spat, in table 17, or, in the case of oreos, in table 21) in Part 1 of Schedule 3 of the 2001 regulations for the species or class of fish taken, the area in which the fish were taken (except in the case of offal), and, if appropriate, the fishing method by which the fish were taken:
- (b) any fish, non-fish, or protected fish species to which the return relates, the person completing the return must enter the appropriate code stated for the species in Part 2, 2A, 2B, or 2C of Schedule 3 of the 2001 regulations:
- (c) any statistical area in which any fishing method or fishing gear is or was being used to take any species of fish, the person completing the return must enter—
  - (i) the appropriate statistical area code determined in accordance with, and by reference to, the maps referred to in clause 31 in this Part; or
  - (ii) the latitude and longitude of each place where the fish were taken or where fishing commenced; or
  - (iii) if the permit holder required to provide the return has been advised in writing by the chief executive to provide this informa-

- tion in a specific manner, the information in accordance with the advice of the chief executive:
- (d) the landed state of fish to which the return relates, the person completing the return must enter,—
    - (i) in the case of fish landed whole or in only 1 state or as a principal landed state, the landed state code in Part 3 of Schedule 3 of the 2001 regulations that best represents that state:
    - (ii) in the case of fish landed as an additional landed state, the landed state code in Part 4 of Schedule 3 of the 2001 regulations that best represents that state:
  - (e) the container type of the container in which the fish is landed, the person completing the return must enter the container type code stated in Part 5 of Schedule 3 of the 2001 regulations that best describes that type of container:
  - (f) the destination of fish taken, the person completing the return must enter the destination type code stated in Part 6 of Schedule 3 of the 2001 regulations that best describes the manner in which the fish is held or disposed of at the time of landing:
  - (g) the gear type used in taking any fish, the person completing the return (being a trawl return) must enter the gear code stated in Part 7 of Schedule 3 of the 2001 regulations that best describes the type of trawl net used in taking the fish:
  - (h) the method used in taking any fish, the person completing the return must enter the method code stated in Part 8 of Schedule 3 of the 2001 regulations that best describes the method used in taking the fish:
  - (i) the cloud cover for the taking of any fish, the person completing the return must enter the cloud cover code stated in Part 9 of Schedule 3 of the 2001 regulations that best describes the type of cloud cover at the time the fish were taken.

Compare: SR 2001/188 r 37

### **31 Further provisions relating to use of codes for certain entries**

- (1) For the purposes of clause 30(c)(i) in this Part, the chief executive must—
  - (a) certify any maps that may be required to show—
    - (i) the different statistical areas (for 1 or more species of fish that may be stated or referred to on the map) for which different statistical area codes are to be used; and
    - (ii) the statistical area code to be used for each statistical area; and
  - (b) lodge all certified maps at the head office of the Ministry; and
  - (c) ensure that copies of all maps (whether full-size or reduced) are available for supply to persons required to provide returns under this Part.



- (2) For the purposes of subclause (1), the chief executive must certify different maps for the following species and general locations:
- (a) scallops taken in waters adjacent to the east coast of the North Island between North Cape and Cape Rodney:
  - (b) scallops taken in waters adjacent to the east coast of the North Island between Cape Rodney and Town Point:
  - (c) scallops taken in waters adjacent to the west coast of the North Island between North Cape and Tauroa Point:
  - (d) scallops and dredge oysters taken in waters adjacent to the north coast of the South Island between Farewell Spit and Robertson Point:
  - (e) scallops and dredge oysters taken in waters surrounding the Chatham Islands:
  - (f) dredge oysters taken in waters between the south coast of the South Island and Stewart Island:
  - (g) paua taken in waters adjacent to the coast of New Zealand:
  - (h) rock lobster taken in waters adjacent to the coast of New Zealand:
  - (i) eels taken in the internal and estuarine waters of the North Island (and any statistical area shown on the map must be treated as including, if appropriate, the estuarine waters adjacent or contiguous to that statistical area):
  - (j) eels taken in the internal and estuarine waters of the South Island and Chatham Islands (and any statistical area shown on the map must be treated as including, if appropriate, the estuarine waters adjacent or contiguous to that statistical area):
  - (k) all species or classes of fish taken in New Zealand fisheries waters that—
    - (i) are not species or classes of fish stated in paragraphs (a) to (j); or
    - (ii) are of a species or class referred to in any of those paragraphs, but are not taken in any statistical area shown on the relevant map.

Compare: SR 2001/188 r 38

### **32 Chief executive may give directions as to manner of completing returns**

- (1) If the chief executive considers that a person required to provide returns under this Part has not completed or provided any return or part of a return in an appropriate manner,—
- (a) the chief executive may, by notice in writing, require the person to provide to the chief executive a fresh return completed in the manner and provided within the reasonable time that may be directed by the chief executive; and

- (b) the person must provide the fresh return in accordance with the direction of the chief executive.
- (2) If the chief executive considers that a person required to provide returns under this Part is not or has not been completing returns in an appropriate manner,—
  - (a) the chief executive may, by notice in writing, direct the person as to the manner in which returns must be completed by that person, whether by reference to material referred to in clause 22(3)(a) in this Part or by specific direction in the particular case; and
  - (b) the person must subsequently ensure that returns provided by the person comply with that direction.

Compare: SR 2001/188 r 39

### **33 Chief executive may specify different intervals, periods, or dates for completing or providing returns**

- (1) If the chief executive considers it necessary or desirable to assist in the utilisation, while ensuring the sustainability, of any fishery resource,—
  - (a) the chief executive may, by notice in writing to a person required to provide returns under this Part, direct the person to complete and provide returns of any kind at the intervals, periods, or dates that the chief executive may determine; and
  - (b) the person must subsequently complete and provide returns in accordance with that direction.
- (2) If a person is required to provide any return under this clause, nothing in clauses 6 to 20 in this Part requires the person to provide a return of the same kind for any period that is included in the return required under this clause, unless the chief executive stipulates otherwise.

Compare: SR 2001/188 r 40

### **34 Chief executive may waive requirements in certain cases**

- (1) The chief executive may waive or suspend any requirement in this Part in relation to any person or class of persons required to provide returns if the chief executive is satisfied that—
  - (a) compliance with any requirement in this Part would cause undue hardship or would be unduly impracticable; and
  - (b) the waiver or suspension of any requirement would not unduly prejudice the management and conservation of any fishery resource.
- (2) A waiver or suspension—
  - (a) must be notified in writing to the person or persons concerned or, if it relates to a class of persons, may be notified in the *Gazette* or in any New Zealand publication that relates primarily to commercial fishing:

- (b) must apply for the period and be subject to the conditions that may be stated by the chief executive;
- (c) may be revoked by the chief executive at any time in the manner stated in paragraph (a).

Compare: SR 2001/188 r 41

### *Electronic transmission of returns*

#### **35 Application of clauses 36 to 47**

Clauses 36 to 47 in this Part—

- (a) apply to all returns approved for electronic transmission by the chief executive under section 296(1) of the Act; but
- (b) do not limit the application of the other provisions in this Part to returns completed or provided under clauses 36 to 47 in this Part, unless otherwise specified in those clauses.

Compare: SR 2001/188 r 41B

### *Approval of authorised users*

#### **36 Approval as authorised user**

- (1) A permit holder may apply to the chief executive—
  - (a) for approval as an authorised user; and
  - (b) for any other person to be approved as an authorised user so that the person may act on behalf of the permit holder.
- (2) An application made under subclause (1) must be made in the approved form, accompanied by the prescribed fee (if any).
- (3) The chief executive must give written notice to the permit holder and any person acting as an authorised user on behalf of that permit holder—
  - (a) of the decision on the application; and
  - (b) of the date on and from which the permit holder and any authorised user acting on behalf of the permit holder must complete and provide returns using electronic software.
- (4) Clause 23(1)(b) to (d) and (2)(b) in this Part does not apply to an authorised user completing and providing returns under this Part, except in the circumstances described in clauses 40(1)(a) and 43(1)(a) in this Part.

Compare: SR 2001/188 r 41C

#### **37 Obligations on authorised user**

- (1) A permit holder or any authorised user acting on behalf of the permit holder must, from the date specified by notice given under clause 36(3) in this Part, complete and provide all returns for which the permit holder is approved under that clause, using electronic software.

- (2) A permit holder contravenes this clause if the permit holder, or an authorised user acting on behalf of the permit holder, fails to complete and provide returns as required by subclause (1) on and from the date specified in the notice given under clause 36(3)(b) in this Part.

Compare: SR 2001/188 r 41D

### *Changes to approvals*

#### **38 Chief executive may direct**

- (1) The chief executive may, by notice in the *Gazette*, direct a permit holder or class of permit holders to complete and provide returns to the chief executive using electronic software.
- (2) A notice given under subclause (1) must specify the date on and from which the direction applies.

Compare: SR 2001/188 r 41E

#### **39 Alternative requirements may be specified**

- (1) The chief executive may, by notice in the *Gazette*, direct a permit holder or class of permit holders to complete and provide returns using electronic software to the chief executive at intervals, after periods, or on dates that the chief executive determines.
- (2) The chief executive must consult with the Minister before giving notice under subclause (1).
- (3) A permit holder contravenes this clause if the permit holder, or an authorised user acting on behalf of that permit holder, fails to complete and provide a return in accordance with a direction given under subclause (1).

Compare: SR 2001/188 r 41F

#### **40 Failure of electronic software**

- (1) If, because the electronic software fails or for any other reason beyond the control of the authorised user, an authorised user is unable to complete or provide a return using electronic software,—
- (a) the authorised user must complete and provide a return in accordance with clause 23 in this Part; and
- (b) as soon as practicable, the permit holder on whose behalf the authorised user is acting must notify the chief executive that the authorised user is unable to complete or provide a return using electronic software.
- (2) A permit holder contravenes this clause if a return is not able to be completed or provided using electronic software unless—
- (a) the authorised user acting on behalf of the permit holder completes and provides a return in accordance with clause 23 in this Part; and

- (b) the permit holder notifies the chief executive as required by subclause (1)(b).

Compare: SR 2001/188 r 41G

#### **41 Chief executive may cancel or vary approval of authorised user**

- (1) The chief executive may, on his or her own initiative, cancel or vary the approval of the following persons as authorised users:
  - (a) a permit holder;
  - (b) an authorised user acting on behalf of a permit holder.
- (2) Before the chief executive may cancel or vary an approval under subclause (1), the chief executive must—
  - (a) give written notice of the proposal to do so to the permit holder or authorised user acting on behalf of the permit holder; and
  - (b) give that person a reasonable opportunity to make submissions to the chief executive on the proposal; and
  - (c) consider any submissions made by the permit holder or any authorised user.
- (3) The chief executive must give notice in writing to the permit holder or authorised user—
  - (a) of the decision; and
  - (b) of the date on which any cancellation or variation of an approval takes effect.

Compare: SR 2001/188 r 41H

#### **42 Application by permit holder to cancel or vary approval**

- (1) A permit holder may apply to the chief executive to cancel or vary the approval as an authorised user—
  - (a) of the permit holder; or
  - (b) of an authorised user acting on behalf of that permit holder.
- (2) An application under subclause (1) to vary an approval must be made in the approved form, accompanied by the prescribed fee (if any).
- (3) In the case of an application to cancel or vary the approval of an authorised user acting on behalf of the permit holder, the chief executive must give written notice of the application to the authorised user concerned.
- (4) When the chief executive has determined an application, written notice of the decision and the date on which any cancellation or variation takes effect must be given to—
  - (a) the permit holder; and

- (b) any authorised user acting on behalf of that permit holder who is the subject of the decision.

Compare: SR 2001/188 r 41I

#### **43 Consequences of cancellation or variation of approval**

- (1) A permit holder whose approval as an authorised user is cancelled under clause 41 or 42 in this Part—
  - (a) must comply with the requirements of clause 23(1)(b) to (d) and (2)(b) in this Part; and
  - (b) contravenes this clause if the permit holder—
    - (i) purports to complete or provide a return by electronic software on or after the date specified in the notice; or
    - (ii) fails to comply with the requirements of clause 23(1)(b) to (d) and (2)(b) in this Part.
- (2) A permit holder whose approval as an authorised user is varied under clause 41 or 42 in this Part contravenes this clause if the permit holder fails to complete and provide a return using electronic software in accordance with the approval as varied.

Compare: SR 2001/188 r 41J

#### *Access identifier*

#### **44 Chief executive to issue access identifiers**

- (1) The chief executive must issue an access identifier to every person approved as an authorised user.
- (2) The access identifier may be in a form or of a kind determined by the chief executive.
- (3) The chief executive may, by written notice to the authorised user, impose conditions for the use and security of the access identifier that apply—
  - (a) to all authorised users generally; or
  - (b) to a particular authorised user.

Compare: SR 2001/188 r 41K

#### **45 Use of access identifier**

- (1) The access identifier issued to an authorised user must not be used except by that person.
- (2) If a return is completed and provided using an access identifier issued to an authorised user, the completion or provision of that return is, in the absence of proof to the contrary, sufficient evidence that the authorised user to whom the access identifier was issued has completed and provided that return.

- (3) If an access identifier is used by a person other than by the person to whom it was issued, subclause (2) does not apply provided, before any unauthorised use occurs, the chief executive is notified that the access identifier is no longer secure by—
- (a) the authorised user to whom it was issued; or
  - (b) the permit holder on whose behalf the authorised user is acting.
- Compare: SR 2001/188 r 41L

### *Electronic software*

#### **46 Requirements for electronic software**

- (1) The chief executive may issue circulars setting out the requirements that apply to electronic software.
- (2) Different requirements may be set out for different types of electronic software.
- (3) Without limiting subclauses (1) and (2), a circular may specify the following matters:
- (a) the organisations authorised to test electronic software:
  - (b) the minimum requirements for the operation of electronic software.
- Compare: SR 2001/188 r 41M

#### **47 Approval of electronic software**

- (1) Any person may apply to the chief executive to approve electronic software.
- (2) An application must be accompanied by the prescribed fee (if any).
- (3) If the electronic software submitted for approval complies with the requirements set out in the circulars issued under clause 46 in this Part, the chief executive must—
- (a) approve that software; and
  - (b) notify its approval in the *Gazette*.
- (4) The chief executive may, by notice in the *Gazette*, vary or cancel an approval given under this clause.
- Compare: SR 2001/188 r 41N

### *Offences and penalties*

#### **48 Offences**

Every person commits an offence who—

- (a) contravenes or fails to comply with the requirements of any of clauses 20, 24, 25, 27, and 28 in this Part:
- (b) contravenes or fails to comply with the requirements of any of clauses 6(2), (4), and (6), 7(2), (4), and (6), 8(4) and (8), 9(2) and (4), 10(2), (4), (6), and (7), 11(2), (4), and (6), 12(3), 13(2) and (3), 14(2), (4), and (6),

15(2) and (4), 16(2) and (3), 17(2) and (6), 18(2) and (3), 19(2) and (3), and 33 in this Part:

- (c) contravenes or fails to comply with the requirements of any of clauses 6(5), 7(5), 8(5), 9(5), 10(5), 11(5), 12(4), 13(4), 14(5), 15(5), 16(4), 17(4), 18(4), 19(4), 33, 37(2), 39(3), 40(2), and 43(1) and (2) in this Part:
- (d) fails to provide returns in the manner specified by these clauses:
- (e) makes any false or misleading statement or entry of information in any returns required by these clauses.

Compare: SR 2001/188 r 42

#### **49 Penalties**

Every person who commits an offence—

- (a) against clause 48(a) is liable on conviction to a fine not exceeding \$10,000:
- (b) against clause 48(b) is liable on conviction to a fine not exceeding \$20,000:
- (c) against clause 48(c), (d), or (e) is liable on conviction to a fine not exceeding \$100,000.

Compare: SR 2001/188 r 43

### **Subpart 2—Application of Schedules 2 and 3 of 2001 regulations**

#### **50 Schedules 2 and 3 of 2001 regulations**

In the period on and from 16 August 2018 to the close of 1 December 2019, Schedules 2 and 3 of the 2001 regulations, which set out forms and codes for reporting purposes, apply, for the purposes of clauses 5, 8, 17, 22, and 30 of subpart 1, with any necessary modifications as if those schedules had not been revoked.

Schedule 1 clause 50: amended, on 10 January 2019, by regulation 24(4) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

## **Part 3**

### **Provisions relating to these regulations as amended by the Fisheries (Reporting) Amendment Regulations 2018**

Schedule 1 Part 3: inserted, on 10 January 2019, by regulation 24(5) of the Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259).

#### **51 Interpretation**

In this Part, unless the context otherwise requires,—

**ACE holdings** means annual catch entitlement



**new reporting requirements** means regulations 7 to 50 of the regulations as amended by the Fisheries (Reporting) Amendment Regulations 2018

**permit** means a fishing permit issued under section 91 of the Act.

**52 How new reporting requirements apply to person who holds permit granted before 14 January 2019**

A person who holds a permit granted before 14 January 2019—

- (a) must comply with the new reporting requirements on and from the date in column 3 of the table that corresponds to the permit holder's total ACE holding as at 30 September 2017; and
- (b) must comply with Part 2 of this Schedule before that date; but
- (c) may, on and from the date specified in column 2 of the table, comply with the new reporting requirements instead of Part 2 of this Schedule.

<b>Permit holder's total ACE holding as at 30 September 2017</b>	<b>Permissible date</b>	<b>Compliance date</b>
2,000 tonnes and over	14 January 2019	1 May 2019
180–1,999.99 tonnes	1 May 2019	1 June 2019
45–179.99 tonnes	1 June 2019	1 July 2019
24–44.99 tonnes	1 July 2019	1 August 2019
11–23.99 tonnes	1 August 2019	1 September 2019
4.50–10.99 tonnes	1 September 2019	1 October 2019
1–4.49 tonnes	1 October 2019	1 November 2019
Less than 1 tonne	1 November 2019	1 December 2019

**53 New reporting requirements apply to person who is granted permit on and from 14 January 2019**

- (1) A person who is granted a permit on and from 14 January 2019 must comply with the new reporting requirements on and from the date that the permit is granted.
- (2) However, if that person held a permit between 1 October 2017 and 14 January 2019,—
  - (a) subclause (1) does not apply to the person; and
  - (b) the person must instead comply with the new reporting requirements on and from a date determined in accordance with clause 52, except that a person who did not have a total ACE holding as at 30 September 2017 must be treated as if their total ACE holding as at that date was less than 1 tonne.

**54 How new reporting requirements affect fishing under multiple permits**

- (1) This clause applies if—

- (a) a vessel is used for fishing by a permit holder who is required to comply with the new reporting requirements on and from a date determined in accordance with this Part (the **earliest compliance date**); and
  - (b) that same vessel is used for fishing by 1 or more other permit holders who are required to comply with the new reporting requirements on and from a later date.
- (2) The new reporting requirements apply, on and from the earliest compliance date, to all permit holders who use the vessel to fish.

## Schedule 2

### Contents of audit reports

r 27

#### 1 Systems section

- (1) Identify all source documents generated to support every identifiable system or subsystem within the licensed fish receiver's fish-related operations, and document by way of flowcharts (that is, a separate flowchart for each identifiable system or subsystem).

A narrative description of any of the identified systems or subsystems may be provided if, in the opinion of the auditor, it is more appropriate. The auditor must give reasons for this.

- (2) Identify on the flowchart (or narrative opinion if applicable) for each relevant system or subsystem the source document that, in the opinion of the auditor, represents the prescribed source document required under Part 2 of the Fisheries (Recordkeeping) Regulations 1990.
- (3) Document for each prescribed source document the extent to which it complies with the requirements of the Fisheries (Recordkeeping) Regulations 1990 in terms of—
  - (a) manner and form:
  - (b) content:
  - (c) retention.

Report exceptions in a manner that provides maximum assistance to the licensed fish receiver to enable subsequent compliance.

- (4) Append to the audit report a photocopy of a completed example of each source document that, in the opinion of the auditor, constitutes a prescribed source document within the meaning of regulation 11 of the Fisheries (Recordkeeping) Regulations 1990.

#### 2 Internal controls section

- (1) Provide an opinion, with supporting reasons, on the nature and extent of the internal control environment, having regard to the size of the business and number of personnel involved.
- (2) Provide an opinion, with supporting reasons, on the existence or non-existence of key internal controls that support each of the systems and subsystems.
- (3) Provide an opinion, with supporting reasons, on the effectiveness and verifiability of the internal control systems supporting the information that is provided to the Ministry on any return relevant to the function of the licensed fish receiver (for example, a licensed fish receiver return or an annual inventory return).

- (4) Reconcile the current annual inventory return with internal supporting work papers and review the return in terms of compliance with the requirements set out in regulation 23. Provide positive confirmation of that reconciliation and review and document any unresolved areas of concern.

- (5) In this clause,—

**audit trail** means the ability to trace the species, state, and weight of fish product through the relevant systems of a licensed fish receiver or person acting as an agent of a licensed fish receiver

**key internal controls** means the specific controls or procedures that are fundamental to the prevention or detection of errors that may undermine the adequacy or reliability of the audit trail in relation to systems or subsystems of a licensed fish receiver.

### 3 Supporting information section

- (1) Disclose any relationship the auditor has with, or interests the auditor has in, the licensed fish receiver or a related party and the nature and extent of any services provided, or intended or contracted to be provided, to the licensed fish receiver.
- (2) State whether the auditor has obtained all information and explanations required.
- (3) Describe the nature and extent of the fish-related operations of the licensed fish receiver (for example, specify whether the licensed fish receiver is also a fisher or the holder of an annual catch entitlement).
- (4) Provide a chart setting out the various activities, divisions, and locations that, in the auditor's opinion, are relevant to the licensed fish receiver's business operation, and identify the premises or locations that form the basis of that opinion.
- (5) Provide a flowchart or diagram that indicates the relationship between the licensed fish receiver and related parties of the licensed fish receiver, showing, where the interests are fish-related, the location and activities of their related interests.

### Schedule 3 Amendments to other enactments

r 51

#### **Fisheries (Commercial Fishing) Regulations 2001 (SR 2001/253)**

In regulation 3, revoke the definition of **catch landing return**.

In regulation 3, insert in its appropriate alphabetical order:

**landing report** means a report required by regulation 11 of the Fisheries (Reporting) Regulations 2017

In regulation 19(9), replace “catch landing return” with “landing report”.

#### **Fisheries (Cost Recovery Levies for Conservation Services) Order 2016 (LI 2016/189)**

In clause 4, replace “in Parts 1 and 2 of Schedule 3 of the Fisheries (Reporting) Regulations 2001” with “specified in circulars issued under regulation 47(1)(a)(v) of the Fisheries (Reporting) Regulations 2017”.

#### **Fisheries (Cost Recovery Levies for Fisheries Services) Order 2016 (LI 2016/188)**

In clause 4, replace “in Parts 1 and 2 of Schedule 3 of the Fisheries (Reporting) Regulations 2001” with “specified in circulars issued under regulation 47(1)(a)(v) of the Fisheries (Reporting) Regulations 2017”.

#### **Fisheries (Deemed Value and Notification of Balances) Regulations 2001 (SR 2001/259)**

In regulation 3, definition of **reported catch**, paragraph (a), replace “2001” with “2017”.

#### **Fisheries (Infringement Offences) Regulations 2001 (SR 2001/316)**

In Schedule 1, replace the item relating to the Fisheries (Reporting) Regulations 2001 with:

<i>Fisheries (Reporting) Regulations 2017</i>		
<b>Provision</b>	<b>Description of offence</b>	<b>Fee (\$)</b>
r 7(3)(a)	Failing to record the required information in a fish catch report immediately after fishing starts	400
r 7(3)(b)	Failing to record the required information in a fish catch report immediately after fishing ends	400
r 7(3)(c)	Failing to record the required additional information in a fish catch report within 4 hours after fishing ends	400
r 7(3)(d)	Providing a fish catch report late, but before the close of the 14th day after the date on which it was due	400
r 7(3)(d)	Providing a fish catch report within a period starting on the 15th day after the date on which it was due and ending on the 30th day after that date	750

**Fisheries (Infringement Offences) Regulations 2001 (SR 2001/316)—continued**

<b>Provision</b>	<b>Description of offence</b>	<b>Fee (\$)</b>
r 8(3)	Providing a non-fish species or protected fish species catch report late, but before the close of the 14th day after the date on which it was due	400
r 8(3)	Providing a non-fish species or protected fish species catch report within a period starting on the 15th day after the date on which it was due and ending on the 30th day after that date	750
r 9(3)	Providing a processing report late, but before the close of the 14th day after the date on which it was due	400
r 9(3)	Providing a processing report within a period starting on the 15th day after the date on which it was due and ending on the 30th day after that date	750
r 10(3)(a)	Failing to complete a disposal report within 1 hour after a disposal is finished	400
r 10(3)(b)	Providing a disposal report late, but before the close of the 14th day after the date on which it was due	400
r 10(3)(b)	Providing a disposal report within a period starting on the 15th day after the date on which it was due and ending on the 30th day after that date	750
r 11(3)(a)	Failing to record the required information in a landing report immediately after a landing is finished	400
r 11(3)(b)	Failing to record the required additional information in a landing report as soon as is practicable	400
r 11(3)(c)(i)	Providing the relevant landing report information late, but before the close of the 14th day after the date on which the information was due	400
r 11(3)(c)(i)	Providing the relevant landing report information within a period starting on the 15th day after the date on which it was due and ending on the 30th day after that date	750
r 11(3)(c)(ii)	Providing the relevant landing report information late, but before the close of the 14th day after the date on which the information was due	400
r 11(3)(c)(ii)	Providing the relevant landing report information within a period starting on the 15th day after the date on which it was due and ending on the 30th day after that date	750
r 14(1)(b)	Providing a monthly harvest return late, but before the close of the 20th day of the month in which it was due	400
r 14(1)(b)	Providing a monthly harvest return within a period starting on the 21st day of the month in which it was due and ending on the 15th day of the following month	750
r 20(1)(b)	Providing a licensed fish receiver return late, but before the close of the 20th day of the month in which it was due	400
r 20(1)(b)	Providing a licensed fish receiver return within a period starting on the 21st day of the month in which it was due and ending on the 15th day of the following month	750
r 25(1)(b)	Providing an annual audit report in December of the year it became due or in January the following year	400
r 25(3)	Carrying out an audit of a newly licensed fish receiver late, but within 1 month after the end of the specified period	400
r 34(1)	Failing to provide a client details annual update form by the due date	400
r 34(3)	Failing to advise of updated client details by the due date	400
r 35(1)	Failing to provide a licensed fish receiver details annual update form by the due date	400
r 35(3)	Failing to advise of updated licensed fish receiver details as soon as is practicable	400

**Fisheries (Infringement Offences) Regulations 2001 (SR 2001/316)—*continued***

<b>Provision</b>	<b>Description of offence</b>	<b>Fee (\$)</b>
r 36	Failing to record identifying information in a report	400
r 39	Failing to retain a report for at least 7 years	400

**Fisheries (Licensed Fish Receivers) Regulations 1997 (SR 1997/291)**

Replace regulation 10(1)(d) with:

- (d) the holder has failed to provide any report required by the Fisheries (Reporting) Regulations 2017.

**Fisheries (Recordkeeping) Regulations 1990 (SR 1990/219)**

In regulation 2(2), replace “2001” with “2017”.

In regulation 4(b)(v), replace “2001” with “2017”.

In regulation 13(3)(d), replace “2001” with “2017”.

In regulation 13(3)(i), replace “Part 2 of Schedule 3 of the Fisheries (Reporting) Regulations 2001” with “circulars issued under regulation 47(1)(a)(v) of the Fisheries (Reporting) Regulations 2017”.

**Fisheries (Registers) Regulations 2001 (SR 2001/187)**

In regulation 5(2)(d)(i), replace “2001” with “2017”.

**Fisheries (Total Allowable Catch, Total Allowable Commercial Catch, and Deemed Value Rates) Notice 2015 (LI 2015/211)**

In clause 3, definition of **quota management stock**, replace “Part 1 of Schedule 3 of the Fisheries (Reporting) Regulations 2001” with “circulars issued under regulation 47(1)(a)(v) of the Fisheries (Reporting) Regulations 2017”.

In clause 3, definition of **related quota management area**, replace “Part 1 of Schedule 3 of the Fisheries (Reporting) Regulations 2001” with “circulars issued under regulation 47(1)(a)(v) of the Fisheries (Reporting) Regulations 2017”.

**Fisheries (Transfer of Functions, Duties, and Powers to Commercial Fisheries Services Limited) Order 2013 (SR 2013/333)**

In the Schedule, Part 2, replace item (6) with:

- (6) in the Fisheries (Reporting) Regulations 2017,—
  - (a) regulation 3, in relation to client numbers:
  - (b) regulation 13 (except subclause (1)(d)):
  - (c) regulations 14 to 16:
  - (d) regulations 19 and 20:
  - (e) regulations 23 to 25:

**Fisheries (Transfer of Functions, Duties, and Powers to Commercial Fisheries Services Limited) Order 2013 (SR 2013/333)—*continued***

- (f) regulation 34, in relation to the persons specified in section 189(a) to (e) of the Act, but excluding holders of special permits and masters and owners of vessels:
- (g) regulation 35:
- (h) regulation 44, in relation to reports that are the responsibility of Fish-Serve under this order:

**Te Arawa Lakes (Fisheries) Regulations 2006 (SR 2006/340)**

In regulation 28(4)(b)(iii), replace “2001” with “2017”.

Michael Webster,  
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2019.  
Date of notification in *Gazette*: 13 July 2017.



## Notes

### **1** *General*

This is a consolidation of the Fisheries (Reporting) Regulations 2017 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*

Legislation Act (Sub-delegated Secondary Legislation) Regulations 2021 (LI 2021/248): regulations 50–53

Fisheries (Reporting) Amendment Regulations 2018 (LI 2018/259)

Fisheries (Transitional Reporting) Amendment Regulations 2018 (LI 2018/140)

Fisheries (Reporting) Regulations 2017 (LI 2017/154): regulations 15–18