



## Fisheries (Trawling) Amendment Regulations 2017

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 section 297 of the Fisheries Act 1996 on the advice and with the consent of the Executive Council.

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## Regulations

### 1 Title

These regulations are the Fisheries (Trawling) Amendment Regulations 2017.

### 2 Commencement

These regulations come into force on 1 October 2017.

## Part 1

### Amendments to Fisheries (Commercial Fishing) Regulations 2001

### 3 Principal regulations

This Part amends the Fisheries (Commercial Fishing) Regulations 2001 (the **principal regulations**).

**4 Regulation 3 amended (Interpretation)**

- (1) In regulation 3, definition of **trawl net**, delete “means”.
- (2) In regulation 3, definition of **trawl net**, paragraph (a), before “a net or part”, insert “means”.

**5 Regulation 31 amended (Minimum finfish length and net mesh size)**

- (1) In regulation 31(1), replace “mesh size” with “net mesh size”.
  - (2) In regulation 31(1), delete “, measured in accordance with the requirements of Part 2 of Schedule 3”.
  - (3) After regulation 31(2), insert:
- (2A) The restriction in subclause (1) does not apply to trawl nets (*see* regulation 71).

**6 Regulation 71 amended (Trawl net restrictions)**

Replace regulation 71(1) and (2) with:

- (1) A commercial fisher must not use for fishing, or have on board a fishing vessel, a trawl net if,—
  - (a) in the case of a trawl net that includes mesh, the trawl net has any 1 or more of the following features:
    - (i) more than 1 layer of mesh:
    - (ii) liners, sleeves, or flappers of any material:
    - (iii) a method of strengthening with centres less than 1 m:
    - (iv) net mesh size less than 100 mm unless a fishing permit authorises the use or possession of the mesh:
  - (b) in any other case, the chief executive has not approved the trawl net for use under regulation 71A.
- (2) Subclause (1)(a) does not prohibit a commercial fisher from using for fishing or possessing on a vessel a trawl net that has been approved for use under regulation 71A.

**7 New regulations 71A to 71C inserted**

After regulation 71, insert:

**71A Approval of trawl nets**

- (1) The chief executive may, on application by any person, approve the use of a trawl net (A) if the chief executive is satisfied that—
  - (a) A performs at least as well as a specified net in providing for the utilisation of fisheries resources while ensuring sustainability (*see* regulation 71B); and
  - (b) the use of A is consistent with relevant fisheries plans approved under section 11A of the Act.

- (2) In this regulation and regulation 71B, **specified net**, in relation to an application for a net that is proposed to be used for taking 1 or more particular species in 1 or more areas, means a trawl net that,—
- (a) at the time of the application, may be used for fishing under regulation 71 or under other regulations in force under the Act that relate to commercial fishing in a specified area of New Zealand fisheries waters; and
  - (b) the chief executive otherwise considers is appropriate to use for the comparison under subclause (1), having regard to the kinds of net that are commonly used, or are approved for use under this regulation, for taking at least 1 of those species in at least 1 of those areas or in a similar area.
- (3) The approval—
- (a) must be notified on an Internet site maintained by or on behalf of the Ministry; and
  - (b) may be given on the terms and conditions that the chief executive thinks fit (for example, relating to the areas in which the net may be used and the species that may be targeted); and
  - (c) is no longer in effect if any of those terms and conditions are not complied with.
- (4) A person who has been given an approval for the use of a trawl net may apply to vary 1 or more of the terms or conditions of the approval.
- (5) *See* clause 13A of Schedule 2 for the fee that must be paid in relation to an application.

#### **71B Consideration of application for approval**

- (1) This regulation applies when the chief executive is comparing the performance of the trawl net that is the subject of the application (**A**) with that of a specified net (**B**) under regulation 71A.
- (2) The comparison must be made by assessing the following matters:
- Species composition*
    - (a) how A compares (or is likely to compare) with B with respect to the relative species composition (including both quota management system and non-quota management system species):
  - Size composition*
    - (b) how A compares (or is likely to compare) with B with respect to the relative size composition (including both quota management system and non-quota management system species):
  - Impact on protected species*
    - (c) how the number of protected species injured or killed by A compares (or is likely to compare) with the number of protected species injured or killed by B:

*Impact on benthic species*

- (d) how the weight of benthic species, or the area of seabed, impacted by A compares (or is likely to compare) with the weight of benthic species, or the area of seabed, impacted by B.
- (3) The comparison may also include assessing any other matter that the chief executive considers relevant, including—
- (a) matters relating to ensuring sustainability other than those described in subclause (2); and
  - (b) matters relating to utilisation (for example, the value of the catch).

**71C Notices relating to approval of trawl net**

- (1) The chief executive may issue, amend, or revoke a notice that specifies technical details relating to—
- (a) the manner in which a comparison must be made under regulation 71B, including—
    - (i) matters that the chief executive must have regard to when deciding whether information from trials is required;
    - (ii) what information from trials is required (if any);
  - (b) information that must be included in an application under regulation 71A(1) or (4).
- (2) Before issuing, amending, or revoking a notice, 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 notice.
- (3) The chief executive must publish, on an Internet site maintained by or on behalf of the Ministry,—
- (a) notification of the issue, amendment, or revocation of a notice; and
  - (b) an up-to-date version of the notice.

**8 Schedule 2 amended**

In Schedule 2, after clause 13, insert:

**13A Approval of trawl net**

The fee payable in respect of an application for approval under regulation 71A(1), or an application under regulation 71A(4), is \$150.65 per hour or part hour taken to process the application.

## **Part 2**

### **Amendments to other regulations**

#### Subpart 1—Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986

##### **9 Principal regulations**

This subpart amends the Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986 (the **principal regulations**).

##### **10 Regulation 5 amended (Restriction on mesh size of trawl nets)**

After regulation 5(1), insert:

- (1AA) However, subclause (1) does not prohibit a commercial fisher from using a trawl net that has been approved for use under regulation 71A of the Fisheries (Commercial Fishing) Regulations 2001.

#### Subpart 2—Fisheries (Challenger Area Commercial Fishing) Regulations 1986

##### **11 Principal regulations**

This subpart amends the Fisheries (Challenger Area Commercial Fishing) Regulations 1986 (the **principal regulations**).

##### **12 Regulation 8 amended (Pair trawling restricted in Tasman Bay)**

In regulation 8, insert as subclause (2):

- (2) However, subclause (1) does not prohibit a commercial fisher from using a trawl net that has been approved for use under regulation 71A of the Fisheries (Commercial Fishing) Regulations 2001.

#### Subpart 3—Fisheries (South-East Area Commercial Fishing) Regulations 1986

##### **13 Principal regulations**

This subpart amends the Fisheries (South-East Area Commercial Fishing) Regulations 1986 (the **principal regulations**).

##### **14 Regulation 2C amended (Minimum net mesh for queen scallop trawling)**

In regulation 2C, insert as subclause (2):

- (2) However, subclause (1) does not prohibit a commercial fisher from using or possessing a trawl net that has been approved for use under regulation 71A of the Fisheries (Commercial Fishing) Regulations 2001.

## Subpart 4—Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986

### 15 Principal regulations

This subpart amends the Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986 (the **principal regulations**).

### 16 Regulation 3BA amended (Minimum net mesh for queen scallop trawling)

After regulation 3BA(1), insert:

- (1A) However, subclause (1) does not prohibit a commercial fisher from using or possessing a trawl net that has been approved for use under regulation 71A of the Fisheries (Commercial Fishing) Regulations 2001.

### 17 Regulation 4A amended (Use of 60 mm mesh trawl net permitted south of 48°S at certain times)

- (1) In regulation 4A(1), replace “31(1)” with “71(1)”.

- (2) After regulation 4A(1), insert:

- (1A) However, subclause (1) does not prohibit a commercial fisher from using a trawl net that has been approved for use under regulation 71A of the Fisheries (Commercial Fishing) Regulations 2001.

### 18 Regulation 15A amended (Use of 60 mm mesh trawl net permitted)

- (1) In regulation 15A(1), replace “31(1)” with “71(1)”.

- (2) After regulation 15A(1), insert:

- (1A) However, subclause (1) does not prohibit a commercial fisher from using a trawl net that has been approved for use under regulation 71A of the Fisheries (Commercial Fishing) Regulations 2001.

Michael Webster,  
Clerk of the Executive Council.

## Explanatory note

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on 1 October 2017,—

- amend the Fisheries (Commercial Fishing) Regulations 2001 (the **2001 regulations**); and
- make consequential amendments to various other regulations in force under the Fisheries Act 1996 (the **Act**) that relate to commercial fishing in specified areas of New Zealand fisheries waters.

The main change to the 2001 regulations is to modify the restrictions on trawl nets. Currently, the 2001 regulations contain restrictions relating to trawl nets that include mesh (for example, restrictions relating to mesh size). *Regulation 6* amends regulation 71 to provide an alternative to complying with these requirements. The alternative is for the chief executive to approve a trawl net for use (whether or not it includes mesh). Trawl nets that satisfy the existing requirements will be able to continue to be used without approval.

*Regulation 7* inserts *new regulations 71A to 71C*. The general effect of these regulations is as follows:

- *new regulation 71A* allows the chief executive to approve the use of a trawl net if he or she is satisfied that it performs at least as well as certain other specified nets (in providing for the utilisation of fisheries resources while ensuring sustainability) and the use of the net is consistent with fisheries plans approved under the Act:
- *new regulation 71B* provides for how the chief executive compares the performance of the nets:
- *new regulation 71C* allows notices to deal with technical details relating to the comparison.

*Regulation 8* amends Schedule 2 to provide for a fee of \$150.65 (inclusive of goods and services tax) per hour or part hour taken to process an application under *new regulation 71A*.

*Part 2* consequentially amends various other regulations that relate to commercial fishing in specified areas to refer to trawl nets that have been approved for use under *new regulation 71A*.

### Regulatory impact statement

The Ministry for Primary Industries produced a regulatory impact statement in May 2017 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- <http://www.mpi.govt.nz/document-vault/18232>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 13 July 2017.

These regulations are administered by the Ministry for Primary Industries.