

Fisheries Amendment Act 1995

Public Act 1995 No 51
Date of assent 22 September 1995

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An Act to amend the Fisheries Act 1983

BE IT ENACTED by the Parliament of New Zealand as follows:**1 Short Title and commencement**

- (1) This Act may be cited as the Fisheries Amendment Act 1995, and shall be read together with and deemed part of the Fisheries Act 1983 (hereinafter referred to as the principal Act).
- (2) Except as provided in sections 8(3) and 9(3) of this Act, this Act shall come into force on the 1st day of October 1995.

2

This section amended s 2(1) of the principal Act.

3

This section inserted ss 28BB to 28BD of the principal Act.

4

This section amended s 28V of the principal Act.

5

This section inserted ss 107EH and the preceding heading of the principal Act.

6

This section inserted schedule 1DA of the principal Act.

7 Scallops to be subject to Part 2A

- (1) Every quota held under Part 2B of the principal Act immediately before the commencement of this Act is hereby declared to be individual transferable quota under Part 2A of that Act.
- (2) Annual allowable catch under Part 2B of the principal Act and having effect immediately before the commencement of this Act is hereby deemed to be total allowable commercial catch under Part 2A of that Act.
- (3) Every reference in any enactment or document to annual allowable catch for scallops shall hereafter be read as a reference to total allowable commercial catch.
- (4) Notwithstanding anything in section 28OB of the principal Act, the total allowable commercial catch for southern scallops, northland scallops, and Nelson-Marlborough dredge oysters may be altered during any fishing year and the commence-

ment date of any fishing year to which any relevant total allowable commercial catch applies may be altered.

Subsection (4) was amended, as from 1 October 1996, by section 316(1) Fisheries Act 1996 (1996 No 88) by substituting the words “southern scallops, northland scallops, and Nelson-Marlborough dredge oysters”, and the words “to which any relevant”, for the word “scallops” and for the words “to which any”.

8 Further amendments to principal Act and regulations

- (1) The principal Act is hereby amended in the manner indicated in Schedule 2 to this Act.
- (2) The regulations and notices specified in Schedule 3 to this Act are hereby amended in the manner indicated in that Schedule.
- (3) The amendments made to sections 20F(1) and 28OJ(1) of the principal Act by subsection (1) of this section shall be deemed to have come into force on the 1st day of October 1994.
- (4) The regulations and notices referred to in Schedule 3 to this Act may be amended or revoked as if the amendments set out in that Schedule had been effected by regulations or notice, as the case may be, and not by this Act.

9 Repeals and revocations

- (1) Part 1 (comprising sections 4 to 12) and sections 28AB, 28ZH, 28ZI, 28ZJ, 28ZK, 28ZL, 28ZP, 28ZQ, 28ZR, 28ZS, 28ZT, 28ZU, 28ZV, 28ZW, 28ZX, 28ZY, 28ZZ, 28ZZA, and 28ZZC of the principal Act are hereby repealed.
- (2) Clause 4 of Part A, and Part D, of the Schedule 2 to the Fisheries Amendment Act 1994 are hereby repealed.
- (3) Subsection (2) of this section shall be deemed to have come into force on the 1st day of October 1994.
- (4) The following enactments are hereby consequentially repealed:
 - (a) So much of Schedule 2 to the Conservation Act 1987 as relates to sections 6, 7, 8, 10A and 11 of the principal Act:
 - (b) Sections 5, 6, and 7 of the Fisheries Amendment Act 1986:

- (c) So much of Schedule 8 to the Resource Management Act 1991 as relates to sections 6, 10, and 10B of the principal Act:
 - (d) Section 10(2) of the Fisheries Amendment Act 1991:
 - (e) Section 3 of the Fisheries Amendment Act 1993:
 - (f) So much of the Schedule to the Ministry of Agriculture and Fisheries (Restructuring) Act 1995 as relates to sections 28ZP, 28ZQ, 28ZU, and 28ZV of the principal Act.
- (5) The following orders are hereby revoked:
- (a) The Fisheries Amendment Act (Transitional Levies) Order 1995:
 - (b) The Fisheries Amendment Act (Transitional Levies) Order (No 2) 1995.

10 Expiry of section 28ZZG of principal Act

Section 28ZZG of the principal Act (as inserted by section 13 of the Fisheries Amendment Act (No 2) 1992) shall expire with the close of a date to be appointed by the Governor-General by Order in Council and shall, as from the close of that date, be deemed to have been repealed.

11 Validation of non-registration of paua trades

- (1) The refusal or failure by the responsible chief executive, at any time during the period commencing on the 16th day of September 1995 and ending with the close of the 30th day of September 1995, to register any transfer or lease of any individual transferable quota for paua is hereby declared to be, and always to have been, lawful.
- (2) Notwithstanding anything in the principal Act or any other enactment or rule of law, every transfer or lease of any individual transferable quota for paua in the area known as PAU 5 that was entered into or commences during the period commencing on the 16th day of September 1995 and ending with the close of the 30th day of September 1995 is hereby declared to have, and always to have had, no effect.

12 Compensation not available for effects of subdivision, etc, of paua quota management area, etc

Nothing effected by or under sections 28BB to 28BD of the principal Act (as inserted by section 3 of this Act) or any other provision of this Act—

- (a) Shall be regarded as placing the Crown or any other person in breach of, or default under, any contract or other arrangement relating to quota, or as otherwise making them guilty of a civil wrong:
- (b) Subject to section 11(2) of this Act, shall invalidate any contract or other arrangement in relation to quota, or shall be regarded as giving rise to a right to terminate or cancel any such contract or other arrangement, except to the extent that specific provision to the contrary is made in the relevant contract or other arrangement:
- (c) Shall be regarded as making the Crown or any other person liable for damages or compensation, whether arising directly or indirectly from anything effected by or under this Act.

13 References to PAU 5 substituted

- (1) Every reference in any enactment or document to any waters within the quota management area known as PAU 5 — South-East/Southland (Otago and Southland Coast) and defined, immediately before the commencement of this Act, in Schedule 2 to the Fisheries (Quota Management Areas, Total Allowable Catches, and Catch Histories) Notice 1986 shall hereafter be read as a reference to the corresponding waters in PAU 5A or PAU 5B or PAU 5D, as the case may require.
 - (2) Every reference in any enactment or document to the fishstock identified by the code PAU 5 and having effect immediately before the commencement of this Act shall hereafter be read as a reference to the corresponding fishstock identified by the code PAU 5A or PAU 5B or PAU 5D, as the case may require.
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Schedule 1 Section 6
New Schedule 1DA Inserted in Principal Act

Schedule 2 Section 8(1)
Further Amendments to Principal Act

Schedule 3 Section 8(2)
Consequential Amendments to Fisheries Regulations