

# Fisheries (Remedial Issues) Amendment Act 1998

Public Act 1998 No 67  
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**Fisheries (Remedial Issues) Amendment  
Act 1998**

1998 No 67

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**An Act to amend the Fisheries Act 1996 and related legislation**

**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 (Remedial Issues) Amendment Act 1998, and is part of the Fisheries Act 1996 (“the principal Act”).
- (2) Sections 5 to 8, 14, 15, 20, 21, 25, 26, 28, and 30 each come into force on the day on which the provision of the principal Act that they amend or insert is brought into force by Order in Council made under section 1(2) of that Act.

- (3) The other provisions of this Act come into force on the day on which this Act receives the Royal assent.

## 2 Interpretation

- (1) This subsection amended the definition of the term **fishing year** in section 2(1) of the principal Act.
- (2) This subsection amended the definition of the term **total allowable commercial catch** in section 2(1) of the principal Act.

## 3 Sustainability measures

This section amended s 11(5) of the principal Act.

## 4 Total allowable catch

- (1) This subsection amended s 13(1) of the principal Act.
- (2) This subsection substituted s 13(2)(b) of the principal Act.
- (3) This subsection amended s 13(4) of the principal Act.
- (4) This subsection amended s 13(7) of the principal Act.
- (5) This subsection amended s 13(8) of the principal Act.
- (6) This subsection inserted s 13(10) of the principal Act.

## 5 Setting and variation of total allowable commercial catch

Section 20(1) of the principal Act is amended by adding the words “, or until an alteration of the quota management area for that stock takes effect in accordance with sections 25 and 26”.

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

Section 21 of the principal Act is amended by repealing subsection (4), and substituting the following subsection:

- “(4) When allowing for Maori customary non-commercial interests under subsection (1), the Minister must take into account—
- “(a) Any mataitai reserve in the relevant quota management area that is declared by the Minister by notice in the *Gazette* under regulations made for the purpose under section 186:

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

#### **7 Alteration of quota management areas**

Section 25(3) of the principal Act is amended by adding the expression “; and” to paragraph (d), and further adding the following paragraph:

“(e) The quota owners have also notified their intention to seek an alteration to all persons who are noted on the Quota Register as having an interest in the quota to which the proposed alteration relates.”

#### **8 Effect on quota if quota management area altered**

(1) Section 26 of the principal Act is amended by repealing subsection (2), and substituting the following subsection:

“(2) Subject to sections 43 and 52, the chief executive must allocate quota in accordance with the proportion of shares provided for in the agreement referred to in section 25(4), and the allocation—

“(a) Is to be in the form in which the quota was held immediately before the alteration in the quota management area takes effect; and

“(b) Takes effect at the same time as that alteration.”

(2) Section 26(3)(b) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:

“(b) To be given a schedule that sets out the allocation of quota shares to all other quota owners for each new stock by reference to the proportion of shares provided for in the quota owner agreement referred to in section 25(4),—”.

#### **9 Qualifying years**

This section substituted s 33(a) of the principal Act.

#### **10 Notification of eligibility to receive provisional catch history**

(1) This subsection substituted s 35(2)(e) of the principal Act.

- (2) This section amended s 35(3) of the principal Act.
- (3) This section amended s 35(6) of the principal Act.

**11 Notification of allocation of provisional catch history**  
This section amended s 36(1)(a) of the principal Act.

**12 Transfer of provisional catch history**  
*[Repealed]*

Section 12 was repealed, as from 1 October 2001, by section 7 Fisheries Amendment Act 2001 (2001 No 65).

**13 Unallocated total allowable commercial catch to be held by Crown**  
This section amended s 49(3) of the principal Act.

**14 Rights of Crown in relation to quota**

Section 50 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

- “(1) Without limiting any other provision of this Act, the chief executive may, on behalf of the Crown,—
- “(a) Purchase any individual transferable quota or provisional catch history:
  - “(b) Hold any quota allocated or acquired, or any provisional catch history, without being obliged to offer it to any person:
  - “(c) Transfer any individual transferable quota or provisional catch history held by or on behalf of the Crown:
  - “(d) Cancel any provisional catch history held by the Crown (and notify the Registrar accordingly).”

**15 Licensing offences**

Section 84 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

- “(1) No person may take any fish, aquatic life, or seaweed within the exclusive economic zone using a foreign fishing vessel except—
- “(a) Under the authority of—
    - “(i) A licence issued under section 83; or

- “(ii) If the vessel is used for the purposes of fisheries research or experimentation (including gear and equipment trials) or recreation, the prior written consent of the Minister; and
- “(b) In accordance with any conditions of that licence or consent.”

**16 Regulations relating to customary fishing**

This section substituted s 186(2)(a) of the principal Act.

**17 Temporary closure of fishing area or restriction on fishing methods**

This section inserted s 186A of the principal Act.

**18 Conversion factors**

This section amended s 188(1) of the principal Act.

**19 Accounts, records, returns, and other information**

This section inserted s 190(2) of the principal Act.

**20 General powers**

Section 215(2)(c) of the principal Act is amended by omitting the words “to the extent specified in subsection (3) of this section”.

**21 Penalties**

- (1) Section 252(3) of the principal Act is amended by inserting, after paragraph (h), the following paragraph:
- “(ha) Section 190(2) (failure to comply with specification of chief executive in relation to records, returns, etc):”.
- (2) Section 252(5) of the principal Act is amended by inserting, after paragraph (h), the following paragraph:
- “(ha) Section 186A(8) (contravention, other than by individual for purposes other than sale, of notice closing area or prohibiting or restricting fishing methods):”.
- (3) Section 252(5) of the principal Act is amended by inserting, after paragraph (l), the following paragraph:

“(la) Sections 312 and 313 (taking scallops outside of season or fishery, or when fishery closed):”.

(4) Section 252(5) of the principal Act is amended by adding the following paragraph:

“(o) Section 369 (taking Northland scallops outside fishery season).”

(5)

Subsection (5) was repealed, as from 1 October 2001 by section 23 Fisheries Amendment Act 2001 (2001 No 65).

**22 Consultation on fisheries services required before levy order (other than amending order) made**

(a) This paragraph amended s 266(2) of the principal Act.

(b) This paragraph amended s 266(3) of the principal Act.

(c) This paragraph amended s 266(4) of the principal Act.

**23 Consultation on services to be performed by outside agencies**

This section substituted s 269 of the principal Act.

**24 General regulations**

This section amended s 297(1)(p) of the principal Act.

**25 Prohibition on taking southern scallops for sale outside scallop season**

This section inserted s 312(4) of the principal Act.

**26 Closure of southern scallop fishery**

This section inserted s 313(3) of the principal Act.

**27 Transitional provisions relating to registration of vessels where consent required under section 57(8) of Fisheries Act 1983**

This section inserted s 332(6)(ba) of the principal Act.

**28 Provisions relating to registration of leases***[Repealed]*

Section 28 was repealed, as from 1 October 2001, by section 35(4) Fisheries (Remedial Issues) Amendment Act 2001 (2001 No 33).

**29 Transitional offences and penalties**

This section amended s 361(1) of the principal Act.

**30 Allocation of quota for bait**

Section 362(6) of the principal Act is amended by omitting the expression “section 339”, and substituting the expression “section 343”.

**31 Southern scallop enhancement programme**

This section amended s 366(1) of the principal Act.

**32 Allocation of Northland scallop quota**

This section inserted s 369(7) of the principal Act.

**33 Schedule 1 amended**

(1) This subsection inserted the notes section of Schedule 1 of the principal Act.

(2)

- (a) This paragraph amended paragraph (d) of the item Fishery Management Area 9—Auckland (West) in Part 1 of Schedule 1 to the principal Act.
- (b) This paragraph amended paragraph (d) of the item Fishery Management Area 2B—Central (Wairarapa) in Part 2 of Schedule 1 to the principal Act.
- (c) This paragraph amended paragraph (d) of the item Quota Management Area CRA 1—Northland in Part 3 of Schedule 1 to the principal Act.
- (d) This paragraph amended the item Quota Management Area CRA 3—Gisborne in Part 3 of Schedule 1 of the principal Act.
- (e) This paragraph amended paragraph (b) of the item Quota Management Area SCA 1—Northland Scallop Fishery in Part 3 of Schedule 1 of the principal Act.



**34 Schedule 9 amended**

This section amended Part 2 of Schedule 9 of the principal Act.

**Amendments to other Acts, etc****35 Fisheries Act 1983 amended**

- (1) This subsection amended paragraph (a) of the definition of the term **fishing year** in s 2(1) Fisheries Act 1983.
- (2) This subsection repealed the definition of the term **PAU 5A** in s 2(1) Fisheries Act 1983.
- (3) This subsection substituted the definition of the term **quota management area** in s 2(1) Fisheries Act 1983.
- (4)
  - (a) This paragraph amended ss 28BA(1) and s 28CA(1) Fisheries Act 1983.
  - (b) This paragraph amended s 28BB(1) Fisheries Act 1983.
  - (c) This paragraph amended s 28CA Fisheries Act 1983.
- (5) This subsection inserted s 28W(10) Fisheries Act 1983.
- (6) Section 2(3) of the Fisheries Amendment Act (No 2) 1992 is consequentially repealed.

**36 Marine Mammals Protection Act 1978 amended**

This section inserted s 3H(1)(o) Marine Mammals Protection Act 1978.

**37 Resource Management Act 1991 amended**

This section amended s 30(2) Resource Management Act 1991.

**38 Fisheries regulations amended**

- (1) This subsection amended rule 1(b) of Schedule 2 of the Fisheries (Catch Against Quota) Regulations 1993 (SR 1993/28).
- (2) Notwithstanding section 272 of the principal Act or regulation 14(2) of the Fisheries (Cost Recovery Levies) Order 1996 (SR 1996/267), no person who before 1 October 1997 was liable to pay any levy pursuant to regulation 7 of the Fisheries (Cost Recovery Levies) Order 1996 is obliged to pay that levy unless demand was made for its payment before that date.

- (3) The regulations amended by this section may be amended as if the amendments made by this section had been effected by regulation and not by this section.