

Reprint
as at 1 October 2017



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

Michael Hardie Boys, Governor-General

Order in Council

At Wellington this 3rd day of November 1997

Present:

His Excellency the Governor-General in Council

Pursuant to section 89 of the Fisheries Act 1983 and section 297 of the Fisheries Act 1996, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, makes the following regulations.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Ministry for Primary Industries.

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Regulations

1 Title and commencement

- (1) These regulations may be cited as the Fisheries (Licensed Fish Receivers) Regulations 1997.
- (2) These regulations come into force on the 28th day after the date of their notification in the *Gazette*.

2 Interpretation

In these regulations, unless the context otherwise requires,—

fish receiving means receiving fish for handling or processing from a commercial fisher in circumstances to which section 191(2) of the Fisheries Act 1996 does not apply; but does not include the receiving of fish by the Crown

handling and processing, in relation to fish, means the weighing, washing, grading, opening, shucking, cutting, filleting, trimming, smoking, drying, freezing, canning, bagging, packaging, preserving, reducing, or other processing; but does not include the cooking of fish or fish products to form the whole or part of a meal sold or supplied at or from the premises where the fish or fish products are cooked

licensed fish receiver means a holder of a fish receiver licence granted under these regulations

premises means any premises or location at which—

- (a) fish is received from commercial fishers or processed or distributed; and
- (b) any prescribed source document or other record required by the Fisheries (Recordkeeping) Regulations 1990 (SR 1990/219) is kept or required to be kept by the licensed fish receiver

prescribed source document has the meaning given in regulation 11 of the Fisheries (Recordkeeping) Regulations 1990 (SR 1990/219)

source documents, in relation to the operations of any person or entity, means the original records of any transaction that occurs between that person or entity and any third party, or that occurs within the internal operations of that person or entity.

Regulation 2 **audit trail**: revoked, on 1 October 2001, by regulation 3(1) of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Regulation 2 **auditor**: revoked, on 1 October 2001, by regulation 3(1) of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Regulation 2 **certificate of recognition**: revoked, on 1 October 2001, by regulation 3(1) of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Regulation 2 **fish receiving**: amended, on 1 October 2001, by regulation 3(2) of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Regulation 2 **key internal controls**: revoked, on 1 October 2001, by regulation 3(1) of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Regulation 2 **licensed fish receiver**: substituted, on 1 October 2001, by regulation 3(3) of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Regulation 2 **related party**: revoked, on 1 October 2001, by regulation 3(1) of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Regulation 2 **species**: revoked, on 1 October 2001, by regulation 3(1) of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Regulation 2 **state**: revoked, on 1 October 2001, by regulation 3(1) of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Part 1

Licensing of fish receivers

3 Fish receivers must be licensed

No person may engage in fish receiving unless the person is at the time the holder of a fish receiver's licence.

Regulation 3: amended, on 1 October 2001, by regulation 4 of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

4 Applications for licences

Every application for a fish receiver's licence must be made to the chief executive on an approved form and accompanied by the prescribed fee (if any).

Regulation 4: amended, on 1 October 2001, by regulation 5 of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

5 Chief executive may require information from applicant

- (1) The chief executive may require an applicant to produce evidence that—
 - (a) all premises to which the fish receiver's licence would relate comply with the Food Act 2014 (if appropriate); and
 - (b) *[Revoked]*
 - (c) the source documents, accounting records, and systems that are to be used by the applicant will meet the requirements of the Fisheries (Recordkeeping) Regulations 1990 (SR 1990/219).
- (2) The chief executive may require an applicant to provide details of the address or location of all premises that will be owned, operated, or used by the applicant where fish purchased by, acquired by, or in the possession of the applicant is to be stored, sold by wholesale or retail, handled or processed, or otherwise disposed of.

Regulation 5(1)(a): amended, on 1 March 2016, by section 447 of the Food Act 2014 (2014 No 32).

Regulation 5(1)(b): revoked, on 1 March 2016, by section 447 of the Food Act 2014 (2014 No 32).

6 Grant of fish receiver's licence

- (1) The chief executive must issue a fish receiver's licence to an applicant if—

- (a) the applicant has produced all or, in the opinion of the chief executive, a sufficient amount of the information required under regulation 5; and
 - (b) the chief executive is satisfied that the applicant is operating or intends to operate a fish receiving business.
- (2) Notwithstanding subclause (1), the chief executive may not issue a fish receiver's licence to an applicant if the chief executive is satisfied that—
- (a) the applicant or any person likely to be involved in the fish receiving operations has been convicted of any offence involving fish; or
 - (b) the applicant or any person likely to be involved in the management of the fish receiving operations has been involved in the management of the fish receiving operations of a body corporate that has been convicted of any offence involving fish,—
- unless the chief executive is satisfied that the fish receiving operations will be conducted in a proper manner.
- (3) After consulting the applicant, the chief executive may impose on any licence issued to the applicant under subclause (1) such conditions relating to—
- (a) the location and type of fish receiving operations; and
 - (b) the location and type of fish receiving premises; and
 - (c) the quantity, species, or source of the fish received; and
 - (d) the involvement in the operation of persons convicted of any offence involving or relating to fish,—
- as the chief executive considers necessary to enable the chief executive to enforce the provisions of these regulations and to audit the operation for the purpose of ensuring compliance with these provisions.
- (4) After consulting the holder of a fish receiver's licence, the chief executive may, by notice in writing to the holder,—
- (a) amend or revoke any conditions imposed on the licence; or
 - (b) impose on the licence any new conditions that could be imposed on a licence under subclause (3).

Regulation 6(4): amended, on 1 October 2001, by regulation 6(1) of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Regulation 6(4)(a): amended, on 1 October 2001, by regulation 6(2) of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Regulation 6(4)(b): amended, on 1 October 2001, by regulation 6(2) of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

7 Certificates of recognition

[Revoked]

Regulation 7: revoked, on 1 October 2001, by regulation 7 of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

8 Obligations on licence holders

- (1) The chief executive may require any holder of a fish receiver's licence to demonstrate that the source documents, accounting records, and systems being used by the holder meet the requirements of the Fisheries (Recordkeeping) Regulations 1990 (SR 1990/219).
- (2) Every holder of a fish receiver's licence must, during the currency of the licence, advise the chief executive of any conviction for an offence involving or relating to fish that is entered against any person involved in the management of a fish receiving operation.

Regulation 8(1): amended, on 1 October 2001, by regulation 8(1) of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Regulation 8(2): substituted, on 1 October 2001, by regulation 8(2) of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

9 Duration of licences

Every fish receiver's licence continues to have effect until the licence is revoked by the chief executive or is surrendered.

Regulation 9: substituted, on 1 October 2001, by regulation 9 of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

9A Suspension of licence in certain circumstances

- (1) The chief executive may, after giving notice in writing of the chief executive's intention to do so, suspend a licensed fish receiver's licence if—
 - (a) the licensed fish receiver is liable to pay a fee set by an approved service delivery organisation under section 296Z of the Fisheries Act 1996; and
 - (b) the licensed fish receiver has failed to pay the fee in full within 2 months after the date on which payment of the fee became due.
- (2) Notice of the chief executive's intention to suspend the licensed fish receiver's licence under subclause (1) must state—
 - (a) the amount of the outstanding fee; and
 - (b) the date by which the outstanding fee must be paid; and
 - (c) that the licensed fish receiver's licence may be suspended if the licensed fish receiver does not pay the fee within the time specified under paragraph (b) or in accordance with any conditions that may be set by the chief executive in relation to the payment of the fee.
- (3) If a licensed fish receiver holds more than 1 licence, a suspension may be imposed in relation to 1 or more of those licences.
- (4) A suspended licence has no effect during the period of the suspension.
- (5) The chief executive must, as soon as practicable,—
 - (a) lift the suspension if the outstanding fee is paid; and

- (b) notify the licensed fish receiver in writing that the suspension has been lifted.

Regulation 9A: inserted, on 1 October 2001, by regulation 10 of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

10 Revocation of licences

- (1) The chief executive may revoke a fish receiver's licence if satisfied that, since the issue or latest renewal of the licence—
 - (a) the holder or any person involved in the management of a fish receiving operation has been convicted of any offence involving fish; or
 - (b) the circumstances of the fish receiving operations or the persons involved have so changed that if the holder were to apply for the licence that licence would not be granted; or
 - (c) the holder has contravened or failed to comply with any condition imposed on the licence under regulation 6(3); or
 - (d) the holder has failed to provide any report required by the Fisheries (Reporting) Regulations 2017.
- (2) In considering whether or not to revoke a licence under subclause (1)(a), the chief executive is to have regard to—
 - (a) whether the person convicted of the offence is involved in the management of the operations or is employed in some other capacity in or related to the operations; and
 - (b) the nature and extent of the offending, and its implications for the manner in which the operations are likely to be undertaken; and
 - (c) such other matters as the chief executive considers relevant.
- (3) In considering whether or not to revoke a licence under subclause (1)(b), the chief executive is to have regard to—
 - (a) the nature of the change, and whether or not (in the case of a change in the circumstances of persons involved in the operations) the changed circumstances relate to a person involved in the management of the operations or employed in some other capacity in or related to the operations; and
 - (b) such other relevant matters as the chief executive considers relevant.

Regulation 10 heading: amended, on 1 October 2001, by regulation 11(1) of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Regulation 10(1): amended, on 1 October 2001, by regulation 11(2) of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Regulation 10(1): amended, on 1 October 2001, by regulation 11(3) of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Regulation 10(1)(a): amended, on 1 October 2001, by regulation 11(4) of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Regulation 10(1)(b): amended, on 1 October 2001, by regulation 11(3) of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Regulation 10(1)(c): amended, on 1 October 2001, by regulation 11(5) of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Regulation 10(1)(d): replaced, on 1 October 2017, by regulation 51 of the Fisheries (Reporting) Regulations 2017 (LI 2017/154).

Regulation 10(2): amended, on 1 October 2001, by regulation 11(6) of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Regulation 10(3): amended, on 1 October 2001, by regulation 11(6) of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

11 Chief executive to give notice of intention to revoke or decline licence

- (1) If the chief executive proposes to revoke any fish receiver's licence, or to decline any application for a fish receiver's licence, the chief executive must—
 - (a) give the holder or applicant written notice of that intention, and the information on which it is based; and
 - (b) give the holder or applicant a reasonable opportunity to be heard in respect of the matter.
- (2) If the chief executive revokes any licence, the chief executive must give notice of the revocation in a newspaper circulating in the area or areas where the holder of the licence carried out fish receiving operations, and in such other publications as the chief executive considers appropriate.

Regulation 11 heading: amended, on 1 October 2001, by regulation 12(1) of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Regulation 11(1): amended, on 1 October 2001, by regulation 12(2) of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Regulation 11(2): amended, on 1 October 2001, by regulation 12(3) of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Part 2 Inventory and audit

[Revoked]

Part 2: revoked, on 1 October 2001, by regulation 13 of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Annual inventory returns

Heading: revoked, on 1 October 2001, by regulation 13 of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

12 Annual stocktake for purposes of making annual inventory return

[Revoked]

Regulation 12: revoked, on 1 October 2001, by regulation 13 of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

13 Licensed fish receivers to furnish annual inventory returns

[Revoked]

Regulation 13: revoked, on 1 October 2001, by regulation 13 of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

14 Chief executive may require further annual inventory return

[Revoked]

Regulation 14: revoked, on 1 October 2001, by regulation 13 of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Audits and audit reports

Heading: revoked, on 1 October 2001, by regulation 13 of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

15 Licensed fish receivers to be audited and furnish annual audit reports

[Revoked]

Regulation 15: revoked, on 1 October 2001, by regulation 13 of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

16 Licensed fish receiver to appoint suitable person as auditor

[Revoked]

Regulation 16: revoked, on 1 October 2001, by regulation 13 of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

17 Contents of audit report

[Revoked]

Regulation 17: revoked, on 1 October 2001, by regulation 13 of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

18 Audit reports for multiple premises

[Revoked]

Regulation 18: revoked, on 1 October 2001, by regulation 13 of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

19 Licensed fish receiver to sign off audit report

[Revoked]

Regulation 19: revoked, on 1 October 2001, by regulation 13 of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

20 Licensed fish receiver to furnish rectification report where appropriate

[Revoked]

Regulation 20: revoked, on 1 October 2001, by regulation 13 of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

21 Audit report, etc, to be furnished to chief executive within 21 days of receipt from auditor

[Revoked]

Regulation 21: revoked, on 1 October 2001, by regulation 13 of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

22 Chief executive may waive requirements in certain cases

[Revoked]

Regulation 22: revoked, on 1 October 2001, by regulation 13 of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Part 3

Miscellaneous provisions

23 Offence and penalty

- (1) Every person commits an offence who contravenes, or fails to comply with, regulation 3.
- (2) Every person who commits an offence against subclause (1) is liable on conviction to a fine not exceeding \$100,000.

Regulation 23: substituted, on 1 October 2001, by regulation 14 of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Regulation 23(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

24 Revocations

The following regulations are revoked:

- (a) Fisheries (Licensed Fish Receivers) Regulations 1986 (SR 1986/190):
- (b) Fisheries (Licensed Fish Receivers) Regulations 1986, Amendment No 3 (SR 1990/215):
- (c) Fisheries (Licensed Fish Receivers) Regulations 1986, Amendment No 5 (SR 1994/180):
- (d) Fisheries (Licensed Fish Receivers) Amendment Regulations 1997 (SR 1997/193).

Schedule
Contents of audit report
[Revoked]

r 17

Schedule: revoked, on 1 October 2001, by regulation 15 of the Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256).

Marie Shroff,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 6 November 1997.

Reprints notes

1 *General*

This is a reprint of the Fisheries (Licensed Fish Receivers) Regulations 1997 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Fisheries (Reporting) Regulations 2017 (LI 2017/154): regulation 51

Food Act 2014 (2014 No 32): section 447

Criminal Procedure Act 2011 (2011 No 81): section 413

Fisheries (Licensed Fish Receivers) Amendment Regulations 2001 (SR 2001/256)