



## **Fisheries (Transitional Reporting) Amendment Regulations 2018**

Patsy Reddy, Governor-General

### **Order in Council**

At Wellington this 13th day of August 2018

Present:

Her Excellency the Governor-General in Council

These regulations are made under sections 296B, 297, and 304 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 (Transitional Reporting) Amendment Regulations 2018.

**2 Commencement**

These regulations come into force on 16 August 2018.

**3 Principal regulations**

These regulations amend the Fisheries (Reporting) Regulations 2017 (the **principal regulations**).

**4 Revocation**

These regulations expire and are revoked at the close of 31 July 2020.

**5 Schedule 1 amended (Transitional, savings, and related provisions)**

(1) In Schedule 1, Part 1, after clause 3, insert:

**4 Provisions applying between 16 August 2018 and 31 July 2020**

In the period on and from 16 August 2018 to 31 July 2020, 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.

(2) In Schedule 1, after Part 1, insert:

**Part 2**

**Provisions applying between 16 August 2018 and 31 July 2020**

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

**cheeks**, 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 per-

mit 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 3 to 14 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(4), 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 31 July 2020, 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.

**6 Consequential amendments to Fisheries (Infringement Offences) Regulations 2001**

In Schedule 1 of the Fisheries (Infringement Offences) Regulations 2001, after the item relating to r 39, insert:

*Fisheries (Reporting) Regulations 2017*

In the period on and from 16 August 2018 to the close of 31 July 2020, the following infringement offences and infringement fees apply:

Provisions of Schedule 1	Description of offence	Fee (\$)
cl 6(3)	Failing to complete a catch, effort, and landing return as required	400

**Fisheries (Transitional Reporting) Amendment  
Regulations 2018**

2018/140

r 6

<b>Provisions of Schedule 1</b>	<b>Description of offence</b>	<b>Fee (\$)</b>
cl 6(4)	In the case of a catch, effort, and landing return due not later than the 15th day of a month, providing the return between the 16th and 20th days of that month (both days inclusive)	400
cl 6(4)	In the case of a catch, effort, and landing return due not later than the 15th day of a month, providing the return between the 21st day of that month and the 15th day of the following month (both dates inclusive)	750
cl 6(6)	Failing to provide a nil catch, effort, and landing return by the due date	400
	Failing to complete a catch landing return as required	400
cl 7(4)	In the case of a catch landing return due not later than the 15th day after the last day of the fishing trip, providing the return between the 16th and 20th days after the last day of the fishing trip (both days inclusive)	400
cl 7(4)	In the case of a catch landing return due not later than the 15th day after the last day of the fishing trip, providing the return between 6 days and 1 calendar month after the date it was due (both dates inclusive)	750
cl 7(4)	In the case of a catch landing return due not later than 15 days after the last day of the calendar month, providing the return between the 16th and the 20th days after the last day of the calendar month (both days inclusive)	400
cl 7(4)	In the case of a catch landing return due not later than 15 days after the last day of the calendar month, providing the return between the 21st day of that month and the 15th day of the following month (both days inclusive)	750
cl 7(4)	Failing to provide a nil catch landing return by the due date	400
cl 8(4)	In the case of a monthly harvest return due not later than the 15th day of a month, providing the return between the 16th and 20th days of that month (both days inclusive)	400
cl 8(4)	In the case of a monthly harvest return due not later than the 15th day of a month, providing the return between the 21st day of that month and the 15th day of the following month (both days inclusive)	750
cl 8(8)	Failing to provide a nil monthly harvest return by the due date	400
cl 9(2)	Failing to complete a freshwater eel catch effort return as required	400
ci 9(4)	In the case of a freshwater eel catch effort return due not later than the 15th day of a month, providing the return between 16th and 20th days of that month (both days inclusive)	400
cl 9(4)	In the case of a freshwater eel catch effort return due not later than the 15th day of a month, providing the return between the 21st day of that month and the 15th day of the following month (both days inclusive)	750
cl 10(2)	Failing to complete freshwater eel catch landing return as required	400
cl 10(4)	In the case of a freshwater eel catch landing return due not later than the 15th day of a month, providing the return between the 16th and the 20th days of that month (both days inclusive)	400
cl 10(4)	In the case of a freshwater eel catch landing return due not later than the 15th day of a month, providing the return between the 21st day of that month and the 15th day of the following month (both days inclusive)	750

**Fisheries (Transitional Reporting) Amendment  
Regulations 2018**

r 6

2018/140

<b>Provisions of Schedule 1</b>	<b>Description of offence</b>	<b>Fee (\$)</b>
cl 10(6)	Failing to provide a nil catch, effort, and landing return by the due date	400
cl 10(7)	Failing to provide a nil freshwater eel catch landing return by the due date	400
cl 11(2)	Failing to complete a paua catch effort landing return as required	400
cl 11(4)	In the case of a paua catch effort landing return due not later than the 15th day of a month, providing the return between the 16th and the 20th days of that month (both days inclusive)	400
cl 11(4)	In the case of a paua catch effort landing return due not later than the 15th day of a month, providing the return between the 21st day of that month and the 15th day of the following month (both days inclusive)	750
cl 11(6)	Failing to provide a nil paua catch, effort landing return by the due date	400
cl 12(3)	In the case of a trawl catch, effort, and processing return due not later than the 15th day after the last day of the fishing trip, providing the return between the 16th and 20th days after the last day of the fishing trip (both days inclusive)	400
cl 12(3)	In the case of a trawl catch, effort, and processing return due not later than the 15th day after the last day of the fishing trip, providing the return between 6 days and 1 calendar month after the date it was due (both dates inclusive)	750
cl 15(2)	Failing to complete a lining trip catch effort return as required	400
cl 15(4)	In the case of a lining trip catch effort return due not later than the 15th day of the month, providing the return between the 16th day and the 20th day of that month (both days inclusive)	400
cl 15(5)	In the case of a lining trip catch effort return due not later than the 15th day of the month, providing the return between the 21st of that month and the 15th day of the following month (both days inclusive)	750
cl 16(2)	Failing to complete a trawl catch effort return	400
cl 16(3)	In the case of a trawl catch effort return due not later than the 15th day of the month, providing the return between the 16th day and the 20th day of that month (both days inclusive)	400
cl 16(4)	In the case of a trawl catch effort return due not later than the 15th day of the month, providing the return between the 21st of that month and the 15th day of the following month (both days inclusive)	750
cl 18(3)	In the case of a squid jigging catch effort return due not later than the 15th day after the last day of the fishing trip, providing the return between the 16th and 20th days after the last day of the fishing trip (both days inclusive)	400
cl 18(3)	In the case of a squid jigging catch effort return due not later than the 15th day after the last day of the fishing trip, providing the return between 6 days and 1 calendar month after the date it was due (both dates inclusive)	750
cl 19(3)	In the case of a tuna longlining catch effort return due not later than 15 days after the last day of the calendar month, providing the return between the 16th and 20th days after the last day of the calendar month (both days inclusive)	400

Provisions of Schedule 1	Description of offence	Fee (\$)
cl 19(3)	In the case of a tuna longlining catch effort return due not later than 15 days after the last day of the calendar month, providing the return between the 21st day of that month and the 15th day of the following month (both days inclusive)	750
cl 20(1)	Failing to provide a client details annual update form by the due date	400
cl 20(3)	Failing to advise of updated client details by the due date	400
cl 24(1)	Failing to retain a return book in accordance with the regulations	400

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 16 August 2018, extend the transitional period of the Fisheries (Reporting) Regulations 2017 (the **principal regulations**), the regulations that replaced the Fisheries (Reporting) Regulations 2001 (the **2001 regulations**). These transitional regulations, which do not have retrospective effect, expire at the end of 31 July 2020.

The principal regulations enabled the implementation of electronic catch reporting in place of the previous paper-based system. They included a transitional phase to enable a staged implementation, permitting fishers to continue operating under the paper-based system under the 2001 regulations as a means of meeting the compliance requirements of the principal regulations. The transitional period ended on 31 March 2018, which did not allow sufficient time for the implementation of electronic catch reporting, and it has become clear that a further extension of the transitional arrangements is required to enable reporting under the 2001 regulations to continue until 31 July 2020. Accordingly, the relevant requirements of the 2001 regulations are set out as the applicable requirements until 31 July 2020, with the offences and penalties from the 2001 regulations aligned to those requirements.

*Regulation 5(1)* inserts *new clause 4* into Part 1 of Schedule 1 to provide that, in the period on and from 16 August 2018 to 31 July 2020, all permit holders, other than those holding a permit for a vessel exceeding 28 m in length that is used in fishing with a trawl net, must comply with the provisions set out in *new Part 2* of the schedule instead of regulations 7 to 50 of the principal regulations.

*Regulation 5(2)* inserts *new Part 2*, containing the following 3 new subparts, which apply for the period on and from 16 August 2018 to 31 July 2020:

- *new subpart 1*, setting out the provisions that apply instead of regulations 7 to 50 of the principal regulations; and

- *new subpart 2*, incorporating Schedules 2 and 3 of the 2001 regulations by reference; these apply as relevant as if they had not been revoked.

*Regulation 6* sets out consequential amendments to Schedule 1 of the Fisheries (Infringement Offences) Regulations 2001 to provide for the continuing application of the infringement offences and infringement fees imposed under those regulations instead of the amended infringement offences and infringement fees that were imposed by the principal regulations.

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These regulations are administered by the Ministry for Primary Industries.