

Fisheries Amendment Act 1986

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An Act to amend the Fisheries Act 1983

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1 Short Title and commencement

- (1) This Act may be cited as the Fisheries Amendment Act 1986, and shall be read together with and deemed part of the Fisheries Act 1983 (hereinafter referred to as the principal Act).

- (2) This Act shall come into force on the 1st day of August 1986.

2 Interpretation

- (1) Section 2(1) of the principal Act is hereby amended by repealing the definition of the term “commercial fisherman”, and substituting the following definition:

“‘Commercial fisherman’ means any person who has a fishing permit issued under section 63 of this Act entitling the person to take any species or class of fish, aquatic life, or seaweed:”.

- (2) Section 2(1) of the principal Act is hereby amended by inserting, after the definition of the term “fishing vessel”, the following definition:

“‘Fishing year’ means a period of 12 months commencing with each 1st day of October:”.

- (3) Section 2(1) of the principal Act is hereby amended by inserting, after the definition of the term “foreign fishing craft”, the following definition:

“‘Foreign owned New Zealand fishing vessel’ means a New Zealand fishing vessel that cannot be registered without the consent of the Director-General under section 57(8) of this Act:”.

- (4) Section 2(1) of the principal Act is hereby amended by inserting, after the definition of the term “internal waters”, the following definition:

“‘Lease’, in relation to any individual transferable quota, includes a sub-lease:”.

- (5) Section 2(1) of the principal Act is hereby amended by omitting from the definition of the term “owner” the words “, in relation to any vessel registered under”, and substituting the words “except as provided in section 57(9)(c) of”.

- (6) Section 2(1) of the principal Act is hereby amended by inserting, after the definition of the term “public authority”, the following definitions:

“‘Quota Appeal Authority’ means the Quota Appeal Authority established under section 28a of this Act:

“‘Quota management area’ means a quota management area declared under section 28b of this Act:

“‘Quota management system’ means a quota management system established under Part IIa of this Act:”.

3 Act to bind Crown

The principal Act is hereby amended by inserting, after section 2, the following section:

“2a

4 References to weight of fish to be references to greenweight

The principal Act is hereby amended by inserting, after section 3, the following section:

“3a

- “(1) Except where otherwise expressly provided, every reference in this Act or any regulations or notice made under this Act to the weight of fish shall be construed as a reference to the greenweight of the fish, which shall be the weight of the fish before any processing (other than freezing) commences and before any part of the fish is removed.
- “(2) The Minister may from time to time, by notice in the *Gazette*, given after consultation with the Fishing Industry Board specify conversion factors which shall for all purposes and in any proceedings for any offences against this Act or any regulation made or notice given under this Act be used to determine the greenweight of any fish.”

5 Fishery management plans

- (1) Section 8 of the principal Act is hereby amended by repealing subsections (6) and (7), and substituting the following subsections:
- “(6) The Minister shall give notice in the *Gazette* of the fact that the Minister has approved any plan and the place or some or all of the places from which copies of the plan may be obtained, and shall give that notice to each objector and body or person that made submissions under section 9 of this Act.
- “(7) Any approved plan may be amended, suspended, or revoked, either in whole or in part; and any amendment, suspension, or revocation shall be made and notified in the same manner as proposed management plans and management plans are made under this Part of this Act.”
- (2) Section 10 of the principal Act is hereby amended by omitting from subsections (1), (4), (6)(a), and (7)(a) the word “operative”, and substituting in each case the word “approved”.
- (3) The principal Act is hereby amended by repealing the First Schedule, and substituting the First Schedule set out in the First Schedule to this Act.

6 New sections relating to fishery management plans inserted

The principal Act is hereby amended by repealing section 11, and substituting the following sections:

“10a Regulations to bring plan into effect

- “(1) Where—
- “(a) There are no submissions or objections made under section 10 of this Act within the time prescribed in that section; or
- “(b) There are such submissions or objections and all the procedures and appeals provided for in section 10 of this Act have been completed,—
- the Minister shall recommend to the Governor-General the making by Order in Council of regulations bringing the plan into force and giving effect to the

controls specified in the plan and any other matters necessary for giving full effect to the plan, and the Governor-General may make such regulations.

“(2) In the event of any inconsistency between any regulations made under this section or section 11 of this Act and any regulations made under any other section of this Act, the regulations made under this section or section 11 of this Act shall prevail over the inconsistent regulations made under any other section of this Act.

“11 Emergency amendments to plan

“(1) If at any time an emergency occurs that endangers or may endanger stocks of fish, or aquatic life, or any species or class of fish or aquatic life in any fishery in respect of which a fishery management plan has been approved, the Governor-General may, by Order in Council, made on the recommendation of the Minister given after consultation with the Fishing Industry Board or any appropriate acclimatisation society, make regulations amending any regulations made under section 10a of this Act.

“(2) Any amendment made pursuant to subsection (1) of this section shall take effect from a date to be specified in the regulations and, except as provided in subsection (3) of this section, may remain in effect for not more than 90 days from the date so specified.

“(3) Any period specified under subsection (2) of this section may be extended for one further period not exceeding 90 days by subsequent regulations before the expiry of the original regulations.

“(4) Any amendment made pursuant to subsection (1) of this section shall, unless sooner revoked, be deemed to be revoked with effect from the expiry of the period specified in the regulations made pursuant to subsection (1) of this section or any subsequent regulations made pursuant to subsection (3) of this section.

“(5) Upon the revocation of any amendment made under this section the regulations amended shall revive from the date of that revocation unless otherwise provided in any regulations made pursuant to section 10a of this Act.”

7 Emergency restrictions in fishery management areas

Section 12(1) of the principal Act is hereby amended by inserting, after the word “occurs”, the words “within a fishery management area”.

8 Procedure before Authority

(1) Section 18(4) of the principal Act is hereby amended by adding the words “and to examine and cross-examine witnesses”.

(2) Section 22 of the principal Act is hereby amended by adding the words “and to examine and cross-examine witnesses”.

9 Quota Appeal Authority established

The principal Act is hereby amended by inserting, after section 28, the following section:

“28a

- “(1) There is hereby established a Quota Appeal Authority.
- “(2) The Quota Appeal Authority shall have the sole function of hearing appeals and making decisions under sections 28h and 28i of this Act in respect of quota management systems that are declared under section 28b(1) of this Act.
- “(3) The Quota Appeal Authority shall consist of—
 - “(a) One member who shall be the Chairman, being a person who has held a practising certificate as a barrister or solicitor for at least 7 years:
 - “(b) One member appointed after consultation with the Fishing Industry Board:
 - “(c) One member who shall not be an officer or employee of the Ministry.
- “(4) The members of the Quota Appeal Authority shall be appointed by the Minister by notice that shall be published in the *Gazette* and shall be appointed for a term of 3 years or such lesser term as shall be specified in that notice.
- “(5) Subsections (4), (5), and (6) of section 13, and sections 14, 15 (except subsection (2)), and 16 to 23 of this Act shall apply in respect of the Quota Appeal Authority as if it were the Fisheries Authority.
- “(6) Every deputy appointed under section 15(1) of this Act (as applied by subsection (5) of this section) to act for the member referred to in subsection (3)(b) of this section shall be appointed by the Minister after consultation with the Fishing Industry Board.
- “(7) Sections 18, 22, and 23 of this Act (as applied by subsection (5) of this section) shall apply in respect of any appeal lodged under section 28h of this Act as if the appeal were an application for a licence.
- “(8) The Director-General shall be a party to any appeal lodged under subsection (1) or subsection (2) of section 28h of this Act, and shall be entitled to appear and be heard either in person or by counsel or agent, and shall have the right to produce evidence and to examine and cross-examine witnesses.
- “(9) Every person in respect of whom the Director-General lodges an appeal under subsection (3) or subsection (4) of section 28h of this Act shall be a party to the appeal, shall be entitled to appear and be heard either in person or by counsel or agent, and shall have the right to produce evidence and to examine and cross-examine witnesses.”

10 New Part inserted

The principal Act is hereby amended by inserting, after section 28a, (as inserted by section 9 of this Act) the following headings and sections:

“Part IIa**“Commercial Fishing on Quota Management System****“28b Declaration that species or class of fish subject to quota fishing**

- “(1) The Minister may, after consultation with the Fishing Industry Board, by notice in the *Gazette*, declare that the taking of any species or class of fish in any specified quota management area shall be subject to the quota management system established under this Part of this Act on and from a date specified in the notice.
- “(2) The Minister shall not make any declaration under subsection (1) of this section in respect of any species or class of fish for any quota management area within which there is a controlled fishery for that species or class of fish.
- “(3) Every notice under this section shall clearly define the quota management area to which it relates, and may do so by reference to fishery management areas and combinations of all or part of such areas.
- “(4) So far as is practicable, the Minister shall maintain the same quota management areas for different species or classes of fish.
- “(5) Except as provided in section 28m of this Act, no declaration under subsection (1) of this section may be revoked and no area may be excluded from any quota management area except by Act of Parliament.
- “(6) Nothing in subsection (5) of this section shall prevent the Minister making a notice varying the date on and from which any quota management system is to come into force.

“28c Declaration of total allowable catch

- “(1) The Minister may, after allowing for the Maori, traditional, recreational, and other non-commercial interests in the fishery, by notice in the *Gazette*, specify the total allowable catch to be available for commercial fishing for each quota management area in respect of each species or class of fish subject to the quota management system.
- “(2) The Minister may, in the notice referred to in subsection (1) of this section, specify separate total allowable catches for separately defined parts of any quota management area and may define total allowable catches by reference to methods of taking fish or the periods within which fish may be taken.
- “(3) The Minister shall, in the notice given under subsection (1) of this section or a subsequent notice in the *Gazette*, specify the period or periods for which fishing returns are to be used under section 28e(1) of this Act in determining provisional maximum individual transferable quotas.
- “(4) The Minister shall include in the total allowable catch specified under subsection (1) of this section any relevant total allowable catch as determined under section 11 of the Territorial Sea and Exclusive Economic Zone Act 1977 for

any part of the exclusive economic zone that is within the quota management area.

- “(5) The Minister may, in the notice given under subsection (1) of this section or a subsequent notice in the *Gazette*, specify an appropriate total allowable catch for the remaining part of the fishing year in which any quota management system is to come into force, having regard to the traditional fishing patterns for the species or class of fish in the quota management area.
- “(6) Subject to subsections (7) and (8) of this section, the Minister may, by notice in the *Gazette*, at any time after individual transferable quota have been allocated under section 28o of this Act, vary any total allowable catch for any quota management area in respect of any species or class of fish in the same manner as the total allowable catch is set under this section.
- “(7) Except as provided in sections 28d and 28u(4) of this Act, the Minister shall not reduce any total allowable catch for any quota management area in respect of any species or class of fish.
- “(8) Where the total allowable catch for any quota management area in respect of any species or class of fish is increased after individual transferable quota have been allocated, the right to take the increased catch shall be determined under section 28t of this Act.

“28d Reduction of total allowable catch and compulsory reduction of individual transferable quota

- “(1) Notwithstanding anything to the contrary in this Act, but subject to subsection (2) of this section, the Minister may from time to time, by notice in the *Gazette*, after consultation with the Fishing Industry Board, reduce the total allowable catch for any quota management area in respect of any species or class of fish subject to the quota management system where the Minister is satisfied that—
- “(a) The stock for a quota management area for that species or class of fish has fallen significantly below the level that can sustain the total allowable catch; and
- “(b) The imposition of controls on fishing under this Act would not be sufficient to maintain the fishery at a level at or about the current total allowable catch.
- “(2) No reduction may be made under this section that reduces a total allowable catch for any part of the exclusive economic zone within the quota management area below the total allowable catch as determined under section 11 of the Territorial Sea and Exclusive Economic Zone Act 1977 for that part of the exclusive economic zone.
- “(3) Where the Minister reduces any total allowable catch under subsection (1) of this section, the quantity of fish that may be taken under the individual transferable quotas relating to that total allowable catch shall be reduced to the quantity provided for in the reduced total allowable catch.

- “(4) The reduction of the total allowable catch may, if the Minister so directs, be achieved—
- “(a) By the reduction of all individual transferable quota on a proportionate basis, in which case compensation shall be payable by the Crown for the fair market value of the individual transferable quota; or
 - “(b) By operation of section 28u(4) of this Act.
- “(5) The compensation payable in respect of individual transferable quotas that are reduced under subsection (3) of this section shall be payable by the Crown to the holders of the individual transferable quotas and to persons holding any interest in those quotas at such amount as may be agreed between the Crown and the holders and other persons.
- “(6) In the absence of agreement as to the amount of compensation payable to any holder or any other person, the compensation payable by the Crown to the holder or other person shall be determined by arbitration in accordance with the Arbitration Act 1908.

“28e Criteria for granting provisional maximum individual transferable quotas

- “(1) Where any declaration is made under section 28b of this Act, the Director-General shall make an allocation of provisional maximum individual transferable quotas in accordance with this section, using as a basis the proportion that the commercial catch of the person in that quota management area of that species or class of fish as shown in the fishing returns of that person bears to the total commercial catch in that quota management area of that species or class of fish in previous years.
- “(2) Allocations may be made under subsection (1) of this section only to—
- “(a) Persons who are holders of fishing permits issued under this Act at the date of the declaration under section 28b of this Act; and
 - “(b) Persons who have held such permits within the previous 12 months or such longer period as the Director-General considers appropriate for special reasons relating to any particular case.
- “(3) In determining any provisional maximum individual transferable quota the Director-General may, where the Director-General is satisfied in a particular case that the provisional maximum individual transferable quota determined under subsection (1) of this section would be unfair having regard to—
- “(a) The commitment to, and dependence on, the taking of fish of that species or class in that quota management area by the person at the date of the declaration under section 28b of this Act; and
 - “(b) The other provisional maximum individual transferable quota (if any) allocated to that person,—
- allocate a different provisional maximum individual transferable quota to the person.

- “(4) In determining the commitment to, and dependence on, the taking of any fish by any person for the purposes of subsection (3) of this section, the Director-General may disregard any information relating to the taking of fish that is not supported by fishing returns made in accordance with the requirements of this Act or any regulations made under this Act.
- “(5) The Minister may, on behalf of the Crown, whether before or after the commencement of this Act, and prior to the allocation of the provisional maximum individual transferable quota, enter into an agreement with any person to whom the Minister believes a provisional maximum individual transferable quota will be allocated to surrender to the Crown the anticipated entitlement to all or part of any provisional maximum individual transferable quota that may be allocated to that person.
- “(6) Where the Minister has entered into an agreement under subsection (5) of this section, the Director-General shall reduce or cancel the provisional maximum individual transferable quota allocated under this section accordingly.

“28f Guaranteed minimum individual transferable quotas

- “(1) The Director-General shall determine guaranteed minimum individual transferable quotas by, if necessary, reducing on a pro rata basis all the provisional maximum individual transferable quotas determined under section 28e of this Act so that the total of the guaranteed minimum individual transferable quotas does not exceed the total allowable catch for the quota management area in respect of the species or class of fish concerned.
- “(2) The guaranteed minimum individual transferable quota allocated to any person whose provisional maximum individual transferable quota has been reduced under section 28e(6) of this Act shall be determined under this section as if the provisional maximum individual transferable quota had not been reduced; except that, where the reduced provisional maximum individual transferable quota is less than the guaranteed minimum individual transferable quota, the guaranteed minimum individual transferable quota for that person shall be the reduced provisional maximum individual transferable quota.
- “(3) In determining the guaranteed minimum individual transferable quota in any case where section 28e(6) of this Act does not apply, no account shall be taken of any reduction or cancellation of provisional maximum individual transferable quota under that provision.
- “(4) Each provisional maximum individual transferable quota shall, after being reduced if necessary under subsection (1) of this section, become a guaranteed minimum individual transferable quota.

“28g Notice of quota allocations to be given

- “(1) The Director-General shall advise each person concerned of the provisional maximum individual transferable quota and the guaranteed minimum indi-

vidual transferable quota allocated to the person under sections 28e and 28f of this Act.

“(2) The Director-General shall give public notice, at least twice with an interval of not less than 7 days between each notification in a newspaper or newspapers circulating in the area or areas where the Director-General considers persons who take fish or are likely to want to take fish from the quota management area are likely to be based,—

“(a) Specifying that provisional maximum individual transferable quotas and guaranteed minimum individual transferable quotas have been allocated for the quota management area under sections 28e and 28f of this Act:

“(b) Specifying a date, being not earlier than the 28th day after the date of the first publication of the notice in that newspaper, by which any person who has not been allocated such quotas may appeal to the Quota Appeal Authority for the allocation of a provisional maximum individual transferable quota.

“28h Appeal against allocation or failure to allocate provisional maximum individual transferable quota

“(1) Any person may, within 28 days after being notified under section 28g of this Act of the provisional maximum individual transferable quota and the guaranteed minimum individual transferable quota allocated to that person, or such longer period as the Quota Appeal Authority may allow, appeal to that Authority against the amount of the provisional maximum individual transferable quota allocated to that person.

“(2) A person to whom no provisional maximum individual transferable quota has been allocated for a species or class of fish in respect of a quota management area may, before the date specified in accordance with section 28g(2)(b) of this Act or such later date as the Quota Appeal Authority may allow, appeal to that Authority against the failure or refusal of the Director-General to allocate any such provisional maximum individual transferable quota to that person.

“(3) The Director-General may, within 28 days after notifying a person of the provisional maximum individual transferable quota and guaranteed minimum individual transferable quota or such longer period as the Quota Appeal Authority may allow, appeal against the amount of the provisional maximum individual transferable quota allocated to that person.

“(4) The Director-General may, before the date specified in accordance with section 28g(2)(b) of this Act or such later date as the Quota Appeal Authority may allow, appeal against the failure or refusal to allocate any provisional maximum individual transferable quota to any person.

“28i Decisions of Quota Appeal Authority

“(1) The Quota Appeal Authority shall, as soon as practicable after hearing each appeal, determine whether or not the appellant should be allocated a provi-

sional maximum individual transferable quota or an increase or decrease in provisional maximum individual transferable quota, as the case may require, and the amount, if any, of such quota or increased or decreased quota to be allocated.

- “(2) The Quota Appeal Authority shall inform the parties to each appeal of its decision and the reasons for the decision.
- “(3) Every decision of the Quota Appeal Authority under subsection (1) of this section shall be final unless challenged by an application for review under Part I of the Judicature Amendment Act 1972, and the Authority shall so inform the parties when it informs the parties of its decision.

“28j Effect of increase in provisional maximum individual transferable quota by Quota Appeal Authority

- “(1) Where the Quota Appeal Authority allocates or increases any provisional maximum individual transferable quota under section 28i of this Act, the guaranteed minimum individual transferable quota of the person concerned shall be a proportionate amount or increased by a proportionate amount, as the case may require, notwithstanding that the effect of that allocation or increase may be that the total of the guaranteed minimum individual transferable quota exceeds the total allowable catch for the quota management area in respect of the species or class of fish concerned.
- “(2) The total allowable catch declared under section 28c of this Act for any quota management area in respect of any species or class of fish shall, by virtue of this subsection, be deemed to be increased by any guaranteed minimum individual transferable quota allocated under subsection (1) of this section.
- “(3) Where the Quota Appeal Authority allocates or increases any provisional maximum individual transferable quota under section 28i of this Act, and the provisional maximum individual transferable quota is not surrendered under section 28l of this Act, the provisional maximum individual transferable quota shall be reduced by the same proportion (if any) as other provisional maximum individual transferable quota in respect of the same species or class of fish in the same quota management area have been or are to be reduced under section 28n(1) of this Act.
- “(4) Where any total allowable catch is increased by virtue of subsection (2) of this section, the Director-General shall, once all the decisions of the Quota Appeal Authority in relation to that total allowable catch are known, give notice in the *Gazette* of the new total allowable catch.

“28k Effect of allocation of guaranteed minimum individual transferable quota

- “(1) Subject to subsections (2) and (3) of this section, every person to whom a guaranteed minimum individual transferable quota is allocated shall, on and from the date specified in the notice given under section 28b(1) of this Act, be entitled to take fish of the species or class referred to in the quota within

the quota management area in accordance with the fishing permit held by the person.

- “(2) No person shall be entitled to take fish pursuant to a guaranteed minimum individual transferable quota unless the person also holds a fishing permit issued under section 63 of this Act, and the fish are taken in accordance with the permit.
- “(3) Where any quota management system comes into force on any date other than the 1st day of October in any year the person to whom any guaranteed minimum individual transferable quota is allocated may take under that quota only an amount of fish to which the quota relates, reduced—
- “(a) By the same proportion that the total allowable catch determined under subsection (5) of section 28c of this Act (if any) bears to the total allowable catch determined under subsection (1) of that section; or
- “(b) By the amount of fish of that species or class taken by that person in the current fishing year in that area pursuant to any quota imposed by regulations made under section 89(1)(g) of this Act or allocated by any notice made under any such regulation,—
- whichever is the greater reduction.
- “(4) It is hereby declared for the avoidance of doubt that, where any person has lawfully taken a greater amount of fish under any quota imposed by regulations made under section 89(1)(g) of this Act or any notice made under any such regulation, the taking of that fish shall not constitute a breach of a guaranteed minimum individual transferable quota and shall not be counted as fish taken in excess of quota for the purposes of section 28v of this Act.

“28l Agreements to surrender provisional maximum individual transferable quota

The Minister may invite all persons to whom provisional maximum individual transferable quotas are allocated, or any such person, to enter into agreements, within a reasonable period or periods specified by the Minister (but in any case not less than 28 days after notice of the allocation of the provisional maximum individual transferable quota is given under section 28g of this Act), to surrender to the Crown some or all of the quota (including the guaranteed minimum individual transferable quota).

“28m Minister may abandon quota management scheme

Where the Minister is satisfied, having regard to any agreements entered into under section 28l of this Act and the effect of reductions of provisional maximum individual transferable quotas under section 28n of this Act on the persons concerned, that it would not be appropriate to proceed with the quota management system for the species or class of fish in the quota management area the Minister may, after consultation with the Fishing Industry Board, by notice in the *Gazette*, declare that the taking of the species or class of fish in

the quota management area is not to be subject to a quota management system under this Part of this Act, and may revoke the appropriate notices made under sections 28b and 28c of this Act.

“28n Reduction of provisional maximum individual transferable quotas

- “(1) Where the Minister does not enter into agreements under section 28l of this Act sufficient to reduce the total provisional maximum individual quotas to the total allowable catch, the Director-General shall, unless the Minister abandons the scheme, reduce each provisional maximum individual transferable quota on a proportionate basis so that the total allowable catch, as increased by any additional guaranteed minimum individual transferable quota allocated under section 28i of this Act, is not exceeded.
- “(2) For the purposes of any reduction under subsection (1) of this section, the provisional maximum individual transferable quota for any person who has entered into an agreement under section 28l of this Act shall be the provisional maximum individual transferable quota less the amount of that quota that has been surrendered under the agreement.
- “(3) No compensation or other payment shall be payable by the Crown to any person in respect of the reduction under this section of the provisional maximum individual transferable quota of that person.
- “(4) No provisional maximum individual transferable quota shall be reduced under this section below the guaranteed minimum individual transferable quota.

“28o Allocation of individual transferable quota

- “(1) When the agreements (if any) entered into under section 28l of this Act have been effected and the necessary reductions (if any) have been made under sections 28j(3) and 28n of this Act, the Director-General shall notify every person concerned of the individual transferable quota allocated to that person.
- “(2) The individual transferable quotas created under subsection (1) of this section shall be expressed in tonnes or parts of a tonne.
- “(3) No individual transferable quota shall apply in respect of more than one species or class of fish, but quota for more than one species or class of fish may be contained in the same document.
- “(4) Subject to subsections (5) and (6) of this section, each individual transferable quota shall enable the holder or, if there is more than one holder, the combined holders, and any lessee or lessees of the rights to take fish under the quota, to take in total within the quota management area concerned in any year fish of the species or class shown in the quota up to the tonnage shown in the quota.
- “(5) No person shall be entitled to take fish pursuant to an individual transferable quota unless the person also holds a fishing permit issued under section 63 of this Act, and the fish are taken in accordance with that permit.

“(6) Where any quota management system comes into force on any date other than the 1st day of October in any year, the individual transferable quota allocated under subsection (1) of this section shall authorise the taking of only an amount of fish to which the quota relates, reduced—

“(a) By the same proportion that the total allowable catch determined under subsection (5) of section 28c of this Act (if any) bears to the total allowable catch determined under subsection (1) of that section; or

“(b) By the amount of fish of that species or class taken by that person during the current fishing year in that area pursuant to any quota imposed by regulations made under section 89(1)(g) of this Act or allocated by any notice made under any such regulation,—

whichever is the greater reduction.

“(7) It is hereby declared for the avoidance of doubt that, where any person has lawfully taken a greater amount of fish under any quota imposed by regulations made under section 89(1)(g) of this Act or any notice made under any such regulation, the taking of that fish shall not constitute a breach of an individual transferable quota and shall not be counted as fish taken in excess of quota for the purposes of section 28v of this Act.

“(8) All fish taken under a guaranteed minimum individual transferable quota that is replaced by an individual transferable quota shall, for the purposes of this section, be deemed to have been taken under the individual transferable quota.

“28p Registers to be maintained

“(1) The Director-General shall ensure that there is maintained in respect of each quota management area for each species or class of fish a register showing—

“(a) The total allowable catch:

“(b) The individual transferable quota allocated to each person:

“(c) Every transfer of an individual transferable quota whether by operation of law or agreement of the parties that has been notified to the Director-General:

“(d) Every lease under section 28q of this Act that has been notified to the Director-General.

“(2) The registers for each quota management area shall be kept at such office of the Ministry as the Director-General shall determine; and copies shall be kept at such offices of the Ministry as the Director-General considers are ordinarily used by persons who fish in that quota management area.

“(3) Each register shall be a public document open for inspection on payment of the prescribed fee (if any) during ordinary office hours; and the Director-General shall supply to any person copies of all or part of the register on request and payment of a reasonable charge for the production of the copy.

“(4) In any proceedings in any Court, a certificate purporting to be signed by an officer of the Ministry to the effect that the officer has checked the appropriate register and stating any matters that are or are not included in the register at a specified date shall, in the absence of evidence to the contrary, be sufficient evidence of the matters contained in the certificate.

“28q. Transfers and leases of individual transferable quotas

“(1) Except as provided in section 28x of this Act, any person who is the holder of an individual transferable quota may permanently transfer that quota to any other person or lease the rights of the holder to any other person for a specified period or specified tonnage of fish.

“(2) Every such transfer or lease shall be notified to the Ministry by the transferee or lessee by the most appropriate means in the circumstances and confirmed by notice on an approved form accompanied by the prescribed fee within 5 days after the transfer or lease is entered into.

“(3) The Director-General shall enter the name of the transferee or the name of the lessee and the period of the lease or the amount of fish involved in the lease in the appropriate register.

“(4) No transfer or lease referred to in subsection (1) of this section shall confer any right to take fish on any person until notification of the transfer or lease has been received by the Ministry.

“(5) Where a transfer or lease is made under this section to any person, that person shall not be entitled to take any fish under the quota unless that person holds an appropriate fishing permit.

“(6) No transfer or other transaction by way of security involving an individual transferable quota shall be capable of registration; but nothing in this subsection shall prohibit any such transfer or other transaction.

“28r Form of leases of individual transferable quota

“(1) Every transfer of an individual transferable quota shall be on an approved form and shall clearly show—

“(a) The name and address of the transferor and the transferee:

“(b) The price of or consideration for the transfer.

“(2) Every lease of an individual transferable quota shall be in an approved form and shall clearly show—

“(a) The name and address of the holder of the quota and the lessee of the quota:

“(b) The maximum tonnage of fish that may be taken under the lease:

“(c) The duration of the lease:

“(d) Whether or not the holder transfers to the lessee all or any of the holder’s rights under section 28v of this Act, and the extent (if any) of the rights so transferred:

“(e) The rental charged under the lease.

“(3) The Director-General shall enter in the appropriate register the details referred to in subsections (1) and (2) of this section.

“28s Minimum holdings of quota and interests in quota

“(1) Except as provided in subsections (2) to (5) of this section, no person may purchase or take on lease—

“(a) Less than 5 tonne of individual transferable quota for any quota management area for any species or class of finfish unless the total individual transferable quota held or held on lease by that person for all species or classes of finfish (including that quota) in one or more quota management areas is or exceeds 5 tonne:

“(b) Less than 1 tonne of individual transferable quota for any quota management area for any species or class of shellfish unless the total individual transferable quota held or held on lease by that person for all species or classes of shellfish (including that quota) in one or more quota management areas is or exceeds 1 tonne.

“(2) Nothing in subsection (1) of this section shall prevent the allocation under section 28f of this Act of guaranteed minimum individual transferable quota or the allocation under section 28o of this Act of individual transferable quota in amounts less than those specified in that subsection, the transfer of such quotas, or the taking of fish pursuant to such quotas.

“(3) Nothing in subsection (1) of this section shall prevent the purchase or taking on lease of individual transferable quotas by any person who intends to acquire at least the minimum individual transferable quota over a period, and who does not take any fish pursuant to that quota until the person holds at least the minimum amount of quota specified in that subsection.

“(4) Nothing in subsection (1) of this section shall apply to the holder of any controlled fishery licence issued under Part III of this Act.

“(5) Where any person holds at least the minimum holding of individual transferable quota specified in subsection (1)(b) of this section that person may purchase or take on lease less than the minimum of any individual transferable quota specified in subsection (1)(a) of that section.

“(6) No person may sell or otherwise dispose of (other than by lease) individual transferable quota that reduce the total individual transferable quota held by that person to less than—

“(a) Five tonne of finfish; or

“(b) One tonne of shellfish:

unless all the individual transferable quota for finfish or shellfish, as the case may be, held or leased by the person are disposed of.

“(7) No person may dispose of or grant a lease of and no person may acquire or take on lease less than 100 kilograms of any individual transferable quota; unless, in the case of disposal or granting of a lease, the person disposes of or grants a lease of all the individual transferable quota held by that person for that species or class of finfish or shellfish, as the case may be, for a quota management area.

“28t Distribution of total allowable catch where increased or not initially allocated as quota

“(1) Where the total allowable catch for any quota management area in respect of any species or class of fish is increased at any time after the allocation of individual transferable quota under section 28o of this Act, the Minister shall offer the increased quotas on a proportionate basis free of charge to those persons who had provisional maximum individual transferable quota for that species or class of fish in that quota management area reduced under section 28n of this Act and who continue to hold individual transferable quota for that species or class of fish in that quota management area on a date nominated by the Minister in amounts such that each person receives the amount of provisional maximum individual transferable quota that was reduced under section 28n of this Act, or lesser amounts if sufficient quota is not available.

“(2) No offer of quota under subsection (1) of this section shall be made in respect of any quota reduced under section 28d of this Act.

“(3) Where the total allowable catch for any quota management area in respect of any species or class of fish is increased at any time after the allocation of individual transferable quota under section 28o of this Act or where the individual transferable quotas allocated under that section for any quota management area in respect of any species or class of fish are less than the appropriate total allowable catch, and the Minister has taken the action required by subsection (1) of this section, the Minister may, after making any necessary determination under section 12(1) of the Territorial Sea and Exclusive Economic Zone Act 1977, and in accordance with any such determination, then do any one or more of the following things:

“(a) Offer the increased or unallocated portion of the total allowable catch as individual transferable quotas on a proportionate basis to holders of quotas for the same species or class of fish in the quota management area on a date nominated by the Minister at a price nominated by the Minister; or

“(b) Invite by public notice, either generally or from a specified class of persons, tenders or offers for individual transferable quotas or leases of

- individual transferable quotas for the whole or any part of the increased or unallocated portion of the total allowable catch; or
- “(c) Allocate the increased or unallocated portion of the total allowable catch to the Crown as individual transferable quotas; and in any such case the Crown shall be entitled to hold or deal with them under section 28u of this Act as if they had been purchased on behalf of the Crown; or
- “(d) By public notice declare that the increased or unallocated portion of the total allowable catch may be taken by any commercial fisherman, or by any commercial fisherman who holds an individual transferable quota for that species or class of fish or any species or class of fish in that quota management area or any other quota management area.
- “(4) The public notice required to be given under paragraph (b) or paragraph (d) of subsection (3) of this section shall be given at least twice with an interval of not less than 7 days between each notification in a newspaper or newspapers circulating in the area or areas where the Director-General considers persons who take fish or are likely to want to take fish from the quota management area are likely to be based.
- “(5) The Minister shall not be obliged to accept the highest or any tender for any quota for which tenders are invited under this section; and in considering whether or not to accept any tender may consider such matters as the Minister considers relevant including any difference in operating costs of foreign owned New Zealand fishing vessels and other New Zealand fishing vessels.
- “(6) Where a declaration is made under subsection (3)(d) of this section, the Minister may specify a maximum amount of fish that may be taken by any person, and may require any person taking the fish to comply with all or any of the conditions that would apply if the fish had been taken pursuant to an individual transferable quota.
- “(7) Where any person takes any fish under the authority of a declaration made under subsection (3)(d) of this section, that person shall be liable to pay to the Crown on the 20th day of the month after the month in which the fish was taken a resource rental equivalent to the total annual resource rental (if any) that would be payable under section 28zc of this Act if the person had been the holder of a quota to take that fish during the whole of the year in which the fish was taken.
- “(8) No person shall engage in any competitive fishing permitted under subsection (3)(d) of this section while that person has the right to take such fish under an individual transferable quota for that quota management area.
- “(9) The Minister may at any time by public notice cancel any declaration made under subsection (3)(d) of this section, or give notice that the amount of fish to which the declaration relates has been taken or is likely to have been taken by a specified date and that the taking of fish under the authority of the declaration is prohibited on and from a date specified in the notice.

“28u Crown may acquire, hold, transfer, lease, or cancel quotas

- “(1) The Director-General may, on behalf of the Crown,—
- “(a) Purchase any individual transferable quota or take a lease of the quota for a specified period:
 - “(b) Subject to subsection (2) of this section, retain any quota so acquired, without being obliged to offer them to any commercial fisherman:
 - “(c) Transfer any individual transferable quota held by or on behalf of the Crown, or lease for a specified period some or all of the rights of the Crown in relation to the quota.
- “(2) Where any individual transferable quota held by the Crown relates to fish to which the Territorial Sea and Exclusive Economic Zone Act 1977 applies and the Minister has determined under section 12 of the Territorial Sea and Exclusive Economic Zone Act 1977 that the fish cannot be taken by New Zealand fishing craft within the meaning of that Act, the quota shall be made available to foreign fishing craft licensed under the Territorial Sea and Exclusive Economic Zone Act 1977 to take those fish.
- “(3) Where quota or rights under quota are held on behalf of the Crown, the Crown shall have all the rights that would be enjoyed by any such holder who is not the Crown.
- “(4) The Minister may, unless the right to take the fish is or is required to be made available to foreign fishing craft under the Territorial Sea and Exclusive Economic Zone Act 1977, cancel any individual transferable quota held on behalf of the Crown, and where the Minister does so, the total allowable catch specified under section 28c of this Act shall be reduced accordingly.
- “(5) The Minister shall give notice in the *Gazette* of any cancellation of individual transferable quota and the consequent reduction of the total allowable catch.

“28v Taking of fish in excess of quota, and carrying forward of unused quota

- “(1) Subject to subsections (2) and (3) of this section and the requirements of this Act relating to fishing permits, any holder of an individual transferable quota or holder of the right to take fish under an individual transferable quota may in any fishing year take in total not more than 10 percent more fish than is specified in that quota.
- “(2) The Director-General may, by notice in writing to the person concerned, permit the taking in any fishing year of a specified percentage or amount of fish that is greater than 10 percent more fish than is specified in the quota.
- “(3) Where more than one person holds any quota or has the right to take fish under any quota during any year, nothing in this section shall allow the taking in total of more than 10 percent more than the tonnage of fish specified in the quota or the greater percentage or amount of fish specified in a notice given under subsection (2) of this section.

- “(4) Where fish are taken in excess of the amount specified in a quota by any person acting under the authority of subsection (1) or subsection (2) of this section, the amount of fish that may be taken under that quota in the next fishing year by that person or any other person shall be reduced by the same amount.
- “(5) Where the total tonnage of fish specified in any quota is not taken in any year, the holder of the quota or, subject to the terms of the lease, the person who has the right to take fish under the quota may in the next year take up to 10 percent of the total tonnage specified in the quota or the tonnage that was not taken, whichever is the lesser.
- “(6) Where the right to take any fish is carried forward to the next year under subsection (5) of this section, the tonnage of fish concerned shall not form part of the quota for the purposes of subsection (1) of this section and, if the tonnage of fish is not taken in that next year, the right to take the tonnage of fish carried forward shall lapse.
- “(7) Where any right to take fish under a quota is held by the lessee of a quota, that lessee shall not have any of the rights specified in this section unless they are specified in the lease agreement.

“28w Restriction on amount of quota that may be held by any one person

- “(1) Notwithstanding the provisions in this Part of this Act relating to the transfer and lease of individual transferable quotas, no person shall be entitled to hold (whether by allocation or by taking on transfer or lease or by any combination of those means)—
- “(a) More than 35 percent of the total of individual transferable quotas for New Zealand fisheries waters in respect of any species or class of fish named in Schedule 1a of this Act:
- “(b) In any other case, more than 20 percent of the total of individual transferable quotas for any quota management area in respect of any species or class of fish.
- “(2) Nothing in subsection (1) of this section shall apply to any person who is allocated more than the permitted percentage of the total of any individual transferable quotas for any species or class of fish for any quota management area under section 28o or section 28t(1) of this Act; but, except as may be permitted by any consent granted under subsection (3) of this section, no such person may acquire or take on lease any more such quota.
- “(3) In any case to which subsection (1)(a) of this section applies, the Minister may from time to time, after consultation with the Fishing Industry Board, by notice in the *Gazette*, consent, subject to such conditions as the Minister may impose, to any named person holding (whether by allocation or by taking on transfer or lease or by any combination of those means) not more than a specified percentage which is greater than 35 percent of the total of individual

transferable quotas for New Zealand fisheries waters in respect of the species or class of fish for any specified year or years or generally.

- “(4) In any case to which subsection (1)(b) of this section applies the Minister may from time to time, after consultation with the Fishing Industry Board, by notice in the *Gazette*, consent, subject to such conditions as the Minister may impose, to any named person holding (whether by allocation or by taking on transfer or lease or by any combination of those means) not more than a specified percentage which is greater than 20 percent of the individual transferable quotas for any quota management area in respect of any species or class of fish for any specified year or years or generally.
- “(5) The Minister shall, in considering whether or not to grant any consent under subsection (3) or subsection (4) of this section, consider—
- “(a) The willingness and ability of other members of the New Zealand fishing industry to acquire or hold the appropriate individual transferable quota and take the fish concerned:
 - “(b) The likely effect of the granting or withholding of the consent on—
 - “(i) The development of any new or existing fishery:
 - “(ii) Other commercial fishermen:
 - “(iii) The processing and marketing of that species or class of fish:
 - “(iv) The ability of the applicant to take any other species or class of fish:
 - “(c) Such other matters as the Minister considers relevant.
- “(6) The Minister shall not grant any consent under subsection (3) or subsection (4) of this section in any case where quotas have been acquired by any person in excess of the then permitted percentage of quotas before the consent is sought.
- “(7) Where any person acquires any quota or any interest in any quota in breach of this section or any consent given by the Minister under this section, the quota or the interest in the quota so acquired shall, to the extent that the holding of it is in breach of this section, be forfeited to the Crown without compensation.
- “(8) For the purposes of this section, the term ‘person’ includes—
- “(a) Any person who is in partnership with the person:
 - “(b) Any person who is a director or employee of any company of which the person is a director or employee:
 - “(c) Any person who is a relative of that person, as defined in section 2 of the Income Tax Act 1976:
 - “(d) Any person who, for the purposes of the Income Tax Act 1976, would be a person associated with that person as provided in section 8 of that Act:
 - “(e) Any beneficiary or trustee of any trust of which the person is a trustee or beneficiary.

“(9) The Governor-General may, by Order in Council, amend Schedule 1a of this Act by adding the name of any species or class of fish to that Schedule.

“28x Quota not to be allocated to owners of licensed foreign fishing craft

“(1) Nothing in sections 28e to 28o or section 28t of this Act shall apply in respect of any person who is the owner of a foreign fishing craft licensed under the Territorial Sea and Exclusive Economic Zone Act 1977.

“(2) Where any person to whom subsection (1) of this section applies would be entitled to be allocated an individual transferable quota if it were not for that subsection, that quota shall be allocated to the Crown.

“28y Quota not to be sold to or held in respect of licensed foreign fishing craft or leased to them other than by Crown

“(1) No person may sell or lease any individual transferable quota to the owner of any foreign fishing craft licensed under the Territorial Sea and Exclusive Economic Zone Act 1977.

“(2) Notwithstanding subsection (1) of this section, the Crown may lease any quota held by it to permit the taking of fish by any foreign fishing craft licensed under the Territorial Sea and Exclusive Economic Zone Act 1977.

“28z Quota not to be allocated to overseas individuals or companies with overseas control

“(1) This section applies to any person who,—

“(a) Being an individual, is a person who is not ordinarily resident in New Zealand:

“(b) Being a body corporate, is wholly or significantly controlled from outside New Zealand.

“(2) For the purposes of subsection (1)(a) of this section any person who is not otherwise ordinarily resident in New Zealand shall be deemed to be ordinarily resident in New Zealand if—

“(a) The person has resided in New Zealand for not less than two and a half years during the period of 3 years immediately preceding the date on which the matter is to be determined; and

“(b) The Director-General is satisfied that the person is likely to continue to reside permanently in New Zealand.

“(3) For the purposes of subsection (1)(b) of this section, a body corporate shall be deemed to be wholly or significantly controlled from outside New Zealand if 25 percent or more of the voting power in relation to the body corporate is—

“(a) Held or may be exercised by or on behalf of one or more individuals who are not ordinarily resident in New Zealand; or

“(b) Held by a body or bodies corporate of which 25 percent or more of the voting power is held or may be exercised by or on behalf of an

individual or individuals who is or are not ordinarily resident in New Zealand or a body or bodies corporate that, by virtue of this provision, is or are wholly or significantly controlled from outside New Zealand, or a combination of such individuals and bodies corporate.

- “(4) The Director-General may, by notice in the *Gazette*, declare that for the purposes of this section, any company whose shares are listed on the New Zealand Stock Exchange is not wholly or significantly controlled from outside New Zealand.
- “(5) Except as provided in subsection (7) of this section, nothing in sections 28e to 28o or section 28t of this Act shall apply in respect of any person to whom this section applies.
- “(6) Where any person to whom this section applies would be entitled to be allocated an individual transferable quota if it were not for that subsection, that quota shall be allocated to the Crown.
- “(7) Where any person who is allocated a provisional maximum individual transferable quota or guaranteed minimum individual transferable quota becomes a person to whom this section applies, the person may continue to hold the provisional maximum individual transferable quota or guaranteed minimum individual transferable quota until the person is allocated an individual transferable quota under section 28o of this Act, and subsection (8) of this section shall then apply.
- “(8) Where any person who is the holder of an individual transferable quota or the lessee of any individual transferable quota becomes a person to whom this section applies, that person shall, unless an appropriate declaration is made under subsection (4) of this section, or permission is granted under subsection (9) of this section, dispose of the quota or interest in the quota within 3 months or such greater period as the Director-General may permit.
- “(9) The Director-General may, subject to such conditions as the Director-General considers appropriate, permit the acquisition or continued holding of individual transferable quota or interests in individual transferable quota by any person to whom this section applies.
- “(10) No person may sell or lease any individual transferable quota to any person to whom this section applies other than in accordance with any permission granted under subsection (9) of this section.
- “(11) Where any person to whom this section applies holds any individual transferable quota or any interest in any individual transferable quota that is not permitted under subsection (8) or subsection (9) of this section, the individual transferable quota or interest in the individual transferable quota shall be forfeited to the Crown without compensation.

“28za Fish subject to quota fishing cannot be taken for sale other than under quota

- “(1) Except in the case of fish taken in accordance with a public notice given under section 28t(3)(d) of this Act or pursuant to an arrangement or agreement entered into under section 87 of this Act, no person may take for sale any fish for which guaranteed minimum individual transferable quota or individual transferable quota have been allocated other than under the authority of a guaranteed minimum individual transferable quota or an individual transferable quota.
- “(2) No person shall take any fish under the authority of a guaranteed minimum individual transferable quota or an individual transferable quota other than in accordance with the conditions of an appropriate fishing permit, the conditions and limitations imposed by or under this Act, any regulations or notice made under this Act, and any applicable fishery management plan.

“28zb Dumping of fish taken under quota prohibited

- “(1) No commercial fisherman shall return to the sea or abandon in the sea any fish taken by that commercial fisherman under an individual transferable quota.
- “(2) Nothing in this section shall apply to—
- “(a) The return of parts of fish where the fish is lawfully processed at sea:
 - “(b) The return or abandonment of diseased fish:
 - “(c) The return or abandonment of fish to ensure the safety of the vessel:
 - “(d) The return or abandonment of fish that is required or permitted by this Act or any regulations or notice made under this Act.

“28zc Resource rental payable in respect of quota

- “(1) There shall be payable to the Crown in respect of every guaranteed minimum transferable quota and individual transferable quota an annual resource rental for each tonne or part of a tonne of quota at the appropriate rate according to the species or class of fish and the vessel that may be used to take the fish as specified in Schedule 1b to this Act.
- “(2) The Minister shall waive or remit the difference between the resource rentals payable or paid by any person at the higher of the 2 rates specified for quota for any species or class of fish in Schedule 1b to this Act and the lower of those rates in respect of so much of the quota as authorises the taking of any fish that the Minister is satisfied were taken using a vessel that was not at the time the fish was taken a foreign owned New Zealand fishing vessel.
- “(3) The annual resource rental shall be payable in equal instalments on the last days of March, June, September, and December in each year and shall be payable by the person who is the holder of the quota on the date concerned.
- “(4) The annual resource rental shall be payable irrespective of whether or not the fish to which the quota relates is taken.

“(5) For the purposes of this section, the term ‘holder’ in relation to a quota means the person to whom a quota is issued or transferred and who for the time being would be entitled to take fish under the quota if the rights under the quota had not been leased to any other person, and includes any lessee from the Crown of the right to take fish under a quota other than a lessee of quota who uses a foreign fishing craft licensed under the Territorial Sea and Exclusive Economic Zone Act 1977 to take the fish; but does not include any other lessee of the right to take fish under a quota, the Crown, or the Director-General acting on behalf of the Crown.”

11 Controlled fisheries

Section 30 of the principal Act is hereby amended by adding the following subsection:

“(6) Notwithstanding sections 108 and 109 of this Act, the Governor-General may, by Order in Council, revoke any order made under subsection (1) of this section, or any other order constituting or declaring a controlled fishery.”

12 Renewal of licence

Section 37 of the principal Act is hereby amended by repealing subsections (3) and (4), and substituting the following subsections:

“(3) The Authority may, on receipt of an application for the renewal of a continuous licence, propose that the licence be changed to a seasonal licence, and if it does so shall advise the applicant and the Director-General of the proposal.

“(4) The Authority may, on receipt of an application for the renewal of a seasonal licence, propose that the licence be changed to a continuous licence and if it does so, shall advise the applicant and the Director-General of the proposal.

“(4a) If the Authority is satisfied, upon consideration of an application for the renewal of a seasonal or continuous licence, that—

“(a) The applicant has complied with the terms and conditions of the licence; and

“(b) The maximum number of licences fixed in respect of the controlled fishery has not been reduced under section 30 of this Act; and

“(c) The licence should not be changed from a continuous licence to a seasonal licence, or from a seasonal licence to a continuous licence—

the Authority may renew the licence upon payment of the prescribed fee (if any) without holding a hearing.

“(4b) In any case to which subsection (4a) of this section does not apply, the Authority may, and shall if the applicant or the Director-General so requests within 14 days of being advised by the Authority of its proposed decision, appoint a convenient time and place to hear the matter and shall give at least 14 days’ notice thereof to the applicant and the Director-General who shall both be entitled to be present and to be heard.”

13 New Part substituted

- (1) The principal Act is hereby amended by repealing Part IV, and substituting the following Part:

“Part IV**“Fishing Vessels and Methods of Fishing****“55 Provisions of this Part to apply**

The provisions of this Part of this Act shall continue to apply, notwithstanding anything in Part I of this Act or any operative plan made pursuant to that Part, and notwithstanding anything in Part IIa of this Act.

Compare: 1983, No. 14, s. 55

“56 Registration offices and Registrars

The Director-General may from time to time, by notice published in the *Gazette*, establish and declare registration offices at which fishing vessels may be registered under the provisions of this Act, and designate officers of the Ministry to be Registrars for each registration office so established.

Compare: 1983, No. 14, s. 60

“57 Fishing vessels to be registered

- “(1) No person may use any vessel for commercial fishing unless—
- “(a) The vessel is registered under this Act; and
 - “(b) The owner of the vessel holds a fishing permit issued under section 63 of this Act.
- “(2) Where an owner intends to use a vessel for commercial fishing, the owner shall apply on an approved form to the Registrar at the nearest registration office appointed under section 56 of this Act for registration of the vessel.
- “(3) Where any vessel is eligible to be registered, the Registrar shall enter in a register of fishing vessels the name of the vessel and such other particulars as may be specified by the Director-General, and shall issue to the owner a certificate of registry on an approved form.
- “(4) Every certificate of registry shall be valid for the period specified in it, being a period of not more than 5 years and shall only be issued on payment of the prescribed fee (if any) for each year or part of a year for which it is issued.
- “(5) No vessel may be registered under this Act unless the vessel is so constructed and equipped as to comply with the relevant requirements in respect of the harvesting, handling, processing, and storage of fish, aquatic life, or seaweed as may be prescribed by regulations made pursuant to this Act.

- “(6) The Director-General may cancel the registration of any vessel upon being satisfied that any of the requirements of subsection (5) of this section are not complied with.
- “(7) The Director-General shall again register any vessel for which the registration was cancelled under subsection (6) of this section upon being satisfied that the grounds for the cancellation no longer exist.
- “(8) Except with the prior consent of the Director-General, who may refuse consent, or grant it unconditionally, or on such conditions as the Director-General thinks fit to impose, whether related to the purposes of this Act or otherwise, no vessel shall be registered under this Act unless the owner is a commercial fisherman—
- “(a) Who, being an individual, is a person who is ordinarily resident in New Zealand; or
 - “(b) Which, being an incorporated company, is a company registered in New Zealand and is controlled by one or more persons who or all of whom are ordinarily resident in New Zealand.
- “(9) For the purposes of subsection (8) of this section—
- “(a) A person shall be deemed to be ordinarily resident in New Zealand on any date if the person is a New Zealand citizen who does not hold any legal or equitable interest in a foreign fishing craft or in any business outside New Zealand fisheries waters that relates to the taking, processing, or dealing in fish, aquatic life, or seaweed, or, if not,—
 - “(i) The person has resided in New Zealand for not less than two and a half years during the period of 3 years immediately preceding that date; and
 - “(ii) The Director-General is satisfied that the person is likely to continue to reside permanently in New Zealand:
 - “(b) A company shall be deemed to be controlled by one or more persons if in the opinion of the Director-General, who may, if the Director-General considers it appropriate, disregard a small amount of paid up capital or a small number of allotted shares held by a person in any company, all the voting power at meetings of the company may be exercised by that person or, as the case may be, by those persons:
 - “(c) The term ‘owner’ does not include any charterer, sub-charterer, lessee, or sub-lessee of the vessel.
- “(10) Nothing in this section shall apply to any foreign fishing craft licensed under the Territorial Sea and Exclusive Economic Zone Act 1977 to engage in fishing within the exclusive economic zone.

“(11) Nothing in this section or any entry in any register of fishing vessels shall confer, take away, or in any way affect any title to or interest in any fishing vessel.

Compare: 1983, No. 14, s. 57

“58 Application of this Part to tenders

Every vessel or tender that is carried by or attached to a fishing vessel and is used or intended to be used for the purposes of commercial fishing, either separately or in conjunction with the fishing vessel, shall be deemed to be a separate fishing vessel for the purposes of this Part of this Act.

Compare: 1983, No. 14, s. 58

“59 Cancellation of registration of fishing vessel

“(1) The registration of a fishing vessel under this Act shall be deemed to be cancelled where—

“(a) The Registrar at the port at which the vessel is registered receives a request in writing from the owner that the registration be cancelled; or

“(b) Any owner, being an individual, dies, or, being an incorporated company, is dissolved; or

“(c) The vessel is transferred to or becomes vested in some person other than the sole owner at the time of registration; or

“(d) Any share in the vessel is transferred to or becomes vested in any person who did not own a share at the time of registration; or

“(e) Any condition imposed under section 57(8) of this Act is not complied with; or

“(f) The vessel is lost or destroyed.

“(2) Notwithstanding subsection (1)(b) of this section, where an owner of a fishing vessel has died, the Registrar may from time to time extend the registration of the fishing vessel for such period as the Registrar thinks fit.

Compare: 1983, No. 14, s. 59

“60 Taking of fish, etc., by other than New Zealand ships

“(1) No person shall use any vessel that is not a New Zealand ship within the meaning of the Shipping and Seamen Act 1952 in fishing in the territorial sea or internal waters of New Zealand except for fisheries research, experimental, sports, or recreational fishing purposes, and then in each case only with the consent of the Minister and subject to such terms and conditions as the Minister may impose.

“(2) Any Fishery Officer may, for the enforcement of this Act, at any time stop, board, and search any vessel (other than a New Zealand ship in New Zealand fisheries waters) and inspect any fish, aquatic life, or seaweed on board the craft; and where the Fishery Officer has reasonable cause to believe that any

offence against this Act relating to fishing within the territorial sea has been committed the Fishery Officer may—

“(a) Seize and detain all fish, aquatic life, or seaweed on board the vessel:

“(b) Arrest any person whom the Fishery Officer has reasonable cause to believe has committed an offence specified in this section:

“(c) If the Fishery Officer has reasonable cause to believe that any such offence has been committed by the master, charterer, or owner of the craft, seize and detain the vessel.

“(3) Nothing in this section shall be construed to empower any Fishery Officer to board or search any foreign fishing craft, or to seize, take possession of, or detain any such craft or any fish, aquatic life, seaweed, or equipment found on board the craft in respect of any offence which the Fishery Officer believes is being or has been committed relating to fishing within the exclusive economic zone.

“(4) In proceedings for an offence against this section, proof that any vessel was used for fisheries research, experimental, sports, or recreational fishing purposes with the consent of the Minister shall lie on the defendant.

“(5) Where any tender or similar vessel that is carried by or attached to or operated in conjunction with any other vessel is used in fishing, whether that other vessel is within the territorial sea or internal waters of New Zealand or not, then, for the purposes of this section, that other vessel shall also be deemed to be used in fishing at the time and place where that tender or similar vessel is so used.

“(6) If any vessel is used in fishing in breach of the provisions of this section, the owner, the charterer (if any), and the master of the vessel and every member of its crew each commits an offence, and is liable,—

“(a) In the case of an offence committed by the owner, charterer, or master, to a fine not exceeding \$100,000:

“(b) In the case of an offence committed by any member of the crew, to a fine not exceeding \$5,000.

“(7) Any vessel or fish, aquatic life, or seaweed seized or detained pursuant to this section may be dealt with in accordance with section 80 of this Act.

Compare: 1983, No. 14, s. 62

“61 Possession of fish, etc., by vessels that are not New Zealand ships

“(1) Notwithstanding anything to the contrary in this Act, no offence of being in possession of fish, aquatic life, or seaweed in contravention of this Act shall be deemed to be committed by the master or any crew member of any ship that is not a New Zealand ship within the meaning of the Shipping and Seamen Act 1952 if the fish, aquatic life, or seaweed were taken beyond the territorial sea

or internal waters of New Zealand and either remain on board the vessel, or with the prior consent of the Minister, are landed in New Zealand.

- “(2) Any fish, aquatic life, or seaweed landed in New Zealand with the prior consent of the Minister may, with the prior consent of the Minister, be sold; and, notwithstanding anything in this Act, no offence of buying or selling or being in possession of any fish, aquatic life, or seaweed shall be deemed to have been committed in respect of any fish, aquatic life, or seaweed sold in accordance with that consent and in compliance with any conditions imposed by the Minister in granting that consent.

Compare: 1983, No. 14, s. 63

“62 Taking fish, etc., commercially without permit prohibited

- “(1) No person shall take any fish, aquatic life, or seaweed by any method unless the person does so under the authority of and in accordance with a current fishing permit that authorises the taking of fish, aquatic life, or seaweed by that method.

- “(2) Nothing in this section shall apply to—

“(a) The taking of fish, aquatic life, or seaweed by any person for subsistence or personal use only (and not for the purposes of sale), or the taking of whitebait for any purpose, within such limits (if any) relating to numbers, quantity, size, weight, methods, types and amounts of fishing gear, and periods of time as may be prescribed for any such fish, aquatic life, seaweed, or whitebait:

“(b) The taking of any seaweed while it is floating free and unattached or after it has been cast ashore that belongs to the Class Rhodophyceae (being of a class of seaweed used in making agar):

“(c) Any person fishing pursuant to a notice made under the Marine Reserves Act 1971.

“63 Fishing permits

- “(1) Every person who proposes to take fish, aquatic life, or seaweed for purposes of sale using a New Zealand fishing vessel or otherwise than from a vessel shall apply for a fishing permit to the Registrar at the registration office nearest to the area where the applicant wishes to take the fish, aquatic life, or seaweed.

- “(2) The Director-General shall grant an appropriate fishing permit to any person who makes an application under subsection (1) of this section and who has the right to take fish under a guaranteed minimum individual transferable quota or an individual transferable quota.

- “(3) Every application for a permit under this section shall be made on an approved form and shall be accompanied by the prescribed fee (if any).

- “(4) Each fishing permit may be issued for a period of not more than 5 years on payment of the prescribed fee (if any) for each year or part of a year for which

it is issued and shall be subject to such conditions relating to areas, species, quantities, methods, the use or non-use of vessels and the specific vessel or types of vessels (if any) that may be used, types and amounts of fishing gear, harvesting, handling, places where fish may be landed, and periods of time as the Director-General considers appropriate.

- “(5) Before issuing any permit, other than a permit to which subsection (2) of this section applies, the Director-General may require an evaluation to be undertaken to determine appropriate fishing methods.
- “(6) The Director-General may from time to time, by written notice to a permit holder, amend or revoke the conditions of the permit or add new conditions.
- “(7) No conditions may be imposed under this section on any permit that conflict with or are inconsistent with the conditions of any relevant fishery management plan.
- “(8) The conditions that may be imposed on permits under this section may be more restrictive or more onerous than the conditions imposed on fishing by any regulations or notice.
- “(9) The conditions referred to in this section shall be substantially the same for all permits for any fishery management area or quota management area in respect of the same class or species of fish unless the Director-General is satisfied, on stated grounds, that different conditions are reasonable.
- “(10) The Director-General may, if the Director-General considers it expedient to do so, require the holder of a permit to surrender the permit and issue a substitute permit containing the new conditions in its place.
- “(11) Where any decision is made under this section by any officer acting under the delegated authority of the Director-General, the applicant for the permit or permit holder, as the case may be, shall be entitled to have the decision reviewed by the Director-General or by an officer designated by the Director-General who was not involved in the making of the original decision.
- “(12) Where the registration of a fishing vessel is cancelled by the Director-General acting under section 57(6) of this Act, any fishing permit issued in respect of that vessel shall also be cancelled but the Director-General shall issue a further permit in respect of the vessel if it is again registered under section 57(7) of this Act.

Compare: 1983, No. 14, s. 64

“64 Special permits

- “(1) Notwithstanding anything to the contrary in this Act, the Director-General may, on application made to the Director-General in writing, grant to any person named in the application a special permit, subject to such conditions as the Director-General may from time to time impose, to take fish, aquatic life, or seaweed from any waters (including waters where fishing may for the time being be lawfully prohibited or restricted) using such fishing gear as may be

specified in the permit (whether or not the use of the fishing gear is otherwise lawfully prohibited or restricted)—

“(a) For the purposes of education, investigative research, or the carrying out of trials and experiments with fishing vessels or fishing gear or any other apparatus or technique which is capable of being used in connection with the taking of fish, aquatic life, or seaweed:

“(b) For the purposes of sport or recreation in the case of any disabled person within the meaning of the Disabled Persons Employment Promotion Act 1960 who, in the opinion of the Director-General, would otherwise be unable, by reason of the person’s disability, to fish by the methods permitted by this Act:

“(c) For any purpose approved by the Minister.

“(2) All fish, aquatic life, or seaweed taken pursuant to this section shall be disposed of as the Director-General directs, or as may be specified in the permit.

“(3) The Director-General may at any time revoke any permit given under subsection (1) of this section by notice in writing to the holder of the permit.

Compare: 1983, No. 14, s. 66

“65 Minister may restrict fishing

“(1) The Minister may, if the Minister considers it necessary or desirable for the conservation or management of a fishery, as a preliminary to the declaration of a controlled fishery, or for other purposes, from time to time, by notice in the *Gazette*, declare that, as from a day to be specified in the notice and during such period as may be specified, it shall be a condition of every fishing permit, or fishing licence issued by an acclimatisation society, issued or renewed during that period, that the holder of the permit or licence shall be prohibited from fishing in any fishery specified in the notice.

“(2) Notwithstanding subsection (1) of this section, the Minister may, after a notice has been given under that subsection, authorise the holder or holders of any fishing permit or licence excluded by the notice from fishing in the fishery specified in the notice, to fish in that fishery if the Minister considers it fair and reasonable to do so in the circumstances of any particular case, and any such authorisation shall be endorsed on the permit or licence.

“(3) Any notice under this section may, in like manner, be amended or revoked.

“(4) The Minister may, either generally or specifically in relation to any case or class of cases, delegate to the Authority any of the Minister’s powers under subsection (2) of this section.

“(5) Nothing in this section shall apply in respect of any quota management area for any species or class of fish that is subject to the quota management system in that area.

Compare: 1983, No. 14, s. 65

“66 Records and returns

“(1) Every holder of a permit, authority, or approval issued under this Act to take fish, aquatic life, or seaweed by any method for the purpose of sale or otherwise, every person who has the right to take fish under a quota issued under Part IIa of this Act, every master of any vessel registered under this Act, and every owner or person in charge of any premises where fish, aquatic life, or seaweed are received, bought, processed, stored, sold by wholesale or retail, or are otherwise disposed of, shall—

“(a) Keep in a manner and form specified by the Director-General such accounts and records (including records of returns and information to be supplied or that have been supplied under paragraph (b) of this subsection) as the holder, master, owner, or other person may be required to keep by the Director-General:

“(b) Supply to the Director-General within such time and in such manner and form as the Director-General may specify, such returns and information as are required by the Director-General—

to assist the management and conservation of any fishery resource.

“(2) Every holder of a licence issued by the Authority shall, in addition to complying with subsection (1) of this section,—

“(a) Keep such accounts and records (including records of returns and information to be supplied or that have been supplied under paragraph (b) of this subsection) as may be prescribed by regulations made under this Act:

“(b) Supply to the Authority, within such time and in such manner as it may specify, such returns and information as are required by it—

to assist in the management and control of any controlled fishery.

“(3) Except in respect of a prosecution under this Act, or where a Court so directs, no return or information made pursuant to this Act shall be disclosed or used in any proceedings whatever, and no returns or information shall be released to any person not employed by or within the Ministry or acting on the Ministry’s behalf for the purposes of this Act, or published in any form, unless summarised so that specific identities or businesses are not revealed except by written permission of the person furnishing the return or information.

“(4) Nothing in subsection (3) of this section shall prohibit the Director-General or any officer authorised by the Director-General in that behalf from communicating to—

“(a) Any officer of the Department of Statistics any information which that officer is authorised by that Department to receive and which the Director-General considers is not undesirable to disclose and is reasonably necessary to enable that officer to carry out any official duty lawfully imposed on him by the Statistics Act 1975:

“(b) The Commissioner of Inland Revenue any information which the Director-General is lawfully bound to disclose.

Compare: 1983, No. 14, s. 67

“67 Disposal of fish by commercial fishermen

“(1) Except as provided in subsection (2) of this section, every commercial fisherman may on or after the 1st day of October 1986 sell or otherwise dispose of fish taken by the commercial fisherman in that capacity or in the commercial fisherman’s possession in that capacity only to a person who is licensed or deemed to be licensed under regulations made pursuant to section 89(1)(h) of this Act, or to the Crown.

“(2) Any commercial fisherman may sell or otherwise dispose in any one transaction of not more than—

“(a) Ten kilograms of finfish; or

“(b) Six kilograms of shellfish other than shellfish of Class Crustacea; or

“(c) Three kilograms of shellfish of Class Crustacea; or

“(d) Any combination of such fish within those limits—

taken by the commercial fisherman to any person who is not licensed or deemed to be licensed under the regulations referred to in subsection (1) of this section where the transaction takes place on or in the vicinity of the vessel used by the commercial fisherman to take the fish or at some other place approved by the Director-General.

“(3) Every commercial fisherman who sells or otherwise disposes of any fish under the authority of subsection (2) of this section shall, at the time of the transaction, make such records of the transaction as the commercial fisherman is required to make under section 66 of this Act.

“67a Restrictions on purchase or acquisition of fish by certain persons

“(1) No person licensed or deemed to be licensed under regulations made under section 89(1)(h) of this Act may purchase or otherwise acquire or be in possession of any fish that were not taken by that person, unless the fish were purchased, acquired, or obtained from a commercial fisherman or from another person licensed or deemed to be licensed under those regulations or the Crown.

“(2) No person who operates any business in which food is sold or prepared for sale may purchase or otherwise acquire or be in possession of any fish that were not taken by that person unless the fish were purchased, acquired, or obtained from a commercial fisherman in accordance with section 67(2) of this Act or from a person licensed or deemed to be licensed under regulations made under section 89(1)(h) of this Act or the Crown.

“(3) Nothing in subsection (2) of this section shall apply in respect of any fish purchased or acquired before the 1st day of October 1986 or any fish that came into the possession of the person before that date.

“(4) Nothing in this section shall apply in respect of any acclimatised fish taken legally pursuant to a current licence and served to the angler who took the fish and the angler’s immediate guests.

“67b Examiners

“(1) The Director-General may, from time to time, designate any officer to be an examiner to assist in the enforcement of sections 66, 67, and 67a of this Act by examining and verifying the keeping and contents of accounts, records, returns, and information required to be kept or made under those sections.

“(2) Where the Director-General does not consider it practical or appropriate to designate an officer or officers under subsection (1) of this section by reason of—

“(a) The nature of the duties to be undertaken; or

“(b) The duration or extent of the duties to be undertaken—

the Director-General may engage any person to be an examiner to perform the duties specified in subsection (1) of this section.

“(3) Each examiner appointed under this section shall be issued with a warrant of appointment by the Director-General and shall have such of the powers of a Fishery Officer as are specified in that warrant.

“(4) No person engaged under subsection (2) of this section shall be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962 or the Government Superannuation Fund Act 1956 by reason of the person holding the office of examiner.

“Scientific Observer Scheme

“67c Scientific observer scheme established

“(1) For the purpose of ensuring the collection of reliable catch and effort information for management purposes and increasing the accuracy of information concerning fish and fisheries for research purposes there is hereby established a scientific observer scheme for fishing vessels under which scientific observers with specified powers may be placed on specified fishing vessels to observe the fishing activities conducted on and from those vessels.

“(2) The scientific observers may report to the Director-General on—

“(a) The species, numbers, size, age, and condition of fish taken:

“(b) The methods by which, the areas in which, and the depths at which fish are taken:

“(c) The effects on fish of the methods used to take them:

“(d) The operations of the vessel:

“(e) Any other matter that may assist the Director-General to obtain, analyse, or verify information for research purposes.

“67d Appointment of scientific observers

- “(1) The Director-General may from time to time engage any person to be a scientific observer for the purposes of the scientific observer scheme established under section 67c(1) of this Act.
- “(2) No person who is a Fishery Officer or who has any of the powers of a Fishery Officer shall be engaged under subsection (1) of this section.
- “(3) No person shall be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962 or the Government Superannuation Fund Act 1956 by reason of that person holding the office of scientific observer.

“67e Director-General to give notice of intention to place scientific observer on vessel

- “(1) The Director-General shall give reasonable notice of the Director-General’s intention to place a scientific observer or more than one scientific observer on any specified fishing vessel to the owner or master of the fishing vessel.
- “(2) The owner and the master of any fishing vessel in respect of which a notice under subsection (1) of this section has been given each commit an offence where the vessel puts to sea when a scientific observer is to be placed on the vessel—
- “(a) Without a scientific observer on the vessel; or
- “(b) Other than with the permission of the Director-General and subject to and in accordance with any conditions imposed by the Director-General in giving that permission.
- “(3) For the purposes of this section, the term ‘reasonable notice’ means notice in writing that specifies a date, being not earlier than 14 days after the date of the notice, on or after which the vessel is not to put to sea without a scientific observer on board; or such other period or type of notice as is agreed to by the owner or master of the vessel.

“67f Powers of scientific observers

- “(1) The master of any vessel on which a scientific observer is placed under section 67e of this Act shall allow the scientific observer, at all reasonable times, having regard to the fishing operations of the vessel,—
- “(a) To have access to the fishing gear and the storage and processing facilities on the vessel:
- “(b) To have access to the catch on the vessel:
- “(c) To have access to the bridge and the navigation and communications equipment of the vessel:
- “(d) To have access to the logs and records of the vessel, whether required to be carried and maintained by or under this Act or otherwise:

“(e) To receive and transmit messages and to communicate with the shore and other vessels.

“(2) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 who, being the master of a vessel on which a scientific observer is placed under section 67e of this Act, fails to comply with subsection (1) of this section or fails to provide a scientific observer with reasonable assistance when requested to do so.

“67g Food and accommodation to be provided for scientific observers

“(1) The owner of any fishing vessel on which a scientific observer is placed shall be responsible for providing food and accommodation for the scientific observer at a standard specified by the Director-General.

“(2) The Director-General shall pay to the owner of any fishing vessel that is required to carry any scientific observer such amount for the provision of food and accommodation as may be agreed between the Director-General and the owner or master of the vessel or, in the absence of such agreement, such amount as may be prescribed.”

(2) Section 2 of the principal Act is hereby amended—

(a) By omitting from the definition of the term “fishing permit” the expression “64”, and substituting the expression “63”:

(b) By omitting from the definition of the term “Registrar” the expression “60”, and substituting the expression “56”.

(3) Section 3(2) of the principal Act is hereby amended by omitting the expression “62”, and substituting the expression “60”.

(4) The principal Act is hereby amended by inserting after the First Schedule (as substituted by section 5(3) of this Act), the Schedules 1a and 1b set out in the Second Schedule to this Act.

14 Taking of acclimatised fish within licensed fish farm permitted

Section 68(2) of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraph:

“(a) The taking within a fish farm licensed under regulations made pursuant to this Act of acclimatised fish bred or reared in any such farm:”.

15 Offences relating to spawning acclimatised fish

The principal Act is hereby amended by inserting, after section 68, the following section:

“68a

“(1) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who—

“(a) Disturbs or damages the spawning ground of any acclimatised fish:

- “(b) Disturbs or injures the eggs or larvae of any acclimatised fish:
 - “(c) Is in possession of the eggs or larvae of any acclimatised fish.
- “(2) Nothing in subsection (1) of this section shall apply to—
- “(a) The taking of any acclimatised fish bred or reared in a fish farm licensed pursuant to regulations made under this Act or the eggs or larvae of such fish:
 - “(b) The taking of acclimatised fish or the eggs or larvae of such fish for the purposes of scientific investigation or data collection, under a permit or authority under this Act, and in accordance with any conditions imposed by such permit or authority:
 - “(c) The taking of any fish in accordance with this Act or any regulations made under this Act:
 - “(d) The taking of acclimatised fish subsequently found to contain eggs or larvae.”

16 Sales of acclimatised fish to and from acclimatisation societies and Crown

Section 69 of the principal Act is hereby amended by adding the following subsection:

- “(4) Nothing in this section shall apply to the buying, sale, or possession for sale of acclimatised fish where the sale or intended sale is between acclimatisation societies, or between an acclimatisation society and the Crown acting for acclimatisation purposes, where—
- “(a) The fish have been bred or reared by the seller; and
 - “(b) The sale has the prior written approval of the Director-General.”

17 Fishing competitions relating to acclimatised fish

The principal Act is hereby amended by inserting, after section 69, the following section:

“69a

- “(1) The Director-General may approve, prohibit, or regulate by imposing such conditions as the Director-General considers appropriate for the management and conservation of the fishery, competitions involving the taking of acclimatised fish.
- “(2) No person shall promote, organise, or participate in any fishing competition for the taking of acclimatised fish that does not have the approval of the Director-General which shall only be granted after consultation with the appropriate acclimatisation society.
- “(3) No person shall promote or organise or participate in any fishing competition in contravention of any prohibition or conditions imposed by the Director-General under subsection (1) of this section.”

18 Occupier may fish without licence

Section 74 of the principal Act is hereby amended by adding, as subsections (2) and (3), the following subsections:

- “(2) For the purposes of this section the term ‘lawful occupier’ includes the owner of the land and any person who has the right to occupy the land pursuant to a written agreement for a period of not less than 6 months.
- “(3) Every person who claims to be the lawful occupier of any land pursuant to an agreement referred to in subsection (2) of this section shall produce the agreement on demand by a Fishery Officer or at an office of the Ministry or acclimatisation society within 7 days of a demand by a Fishery Officer.”

19 Pollution of fresh waters and estuaries

Section 75(2) of the principal Act is hereby amended by omitting the words “to discharge water”, and substituting the words “to discharge waste”.

20 Powers of Fishery Officers

- (1) Section 79(1)(c) of the principal Act is hereby amended by omitting the words “has reasonable cause to believe that such person is or has been engaged in taking fish, aquatic life, or seaweed”, and substituting the words “believes on reasonable grounds that such person has been engaged in taking or selling fish, aquatic life, or seaweed, or, where the Fishery Officer believes on reasonable grounds that an offence against this Act or any regulations made under this Act is being or has been committed, has purchased or is or has been in possession of fish, aquatic life, or seaweed”.
- (2) Section 79(1)(d) of the principal Act is hereby amended by inserting, after the word “occupation”, the words “and, where the Fishery Officer believes on reasonable grounds that any of those details are false, such verification of those details as it is reasonable in the circumstances to require the person to provide,”.

21 Research and development of fisheries

Section 87 of the principal Act is hereby amended by adding, as subsection (2), the following subsection:

- “(2) Any agreement or arrangement entered into under this section may permit any person to take fish that the person would not otherwise be entitled to take and may permit the person to retain those fish or any other fish taken by the person under the agreement or arrangement.”

22 Act not to apply to taking of fish in certain circumstances

Section 88(1) of the principal Act is hereby amended by adding the expression “; or”, and the following paragraph:

“(c) Any person who, having taken any fish contrary to this Act or any regulations made or notice given under this Act as an inevitable consequence of the lawful taking of other fish,—

“(i) Notifies a Fishery Officer of the taking of the fish as soon as practicable after the fish were taken; and

“(ii) Disposes of the fish or surrenders the fish to the Crown in a manner directed by a Fishery Officer.”

23 Regulations

(1) Section 89(1)(b) of the principal Act is hereby repealed.

(2) Section 89(1) of the principal Act is hereby amended by repealing paragraphs (h) and (i), and substituting the following paragraphs:

“(h) Providing for the issue, refusal, renewal, suspension, revocation, modification, and imposition by the regulations or the Director-General of conditions on licences for persons who wish to acquire or be in possession in prescribed circumstances of fish taken For the purpose of sale; providing for the recognition of licences granted under the Fishing Industry Board Act 1963 or the Meat Act 1981 as licences for the purposes of such regulations upon application by the holder of the licence and provision of such further information as the Director-General may require; and providing for the payment of fees for the issue and renewal of licences and the recognition of other licences:

“(i) Prescribing the matters in respect of which fees are payable under this Act; the amounts of those fees or the method by which they are to be assessed; the persons liable for payment of the fees; and circumstances in which the Minister, the Authority, or the Director-General may remit or waive payment of the whole or any part of the fees:

“(ia) Prescribing fees payable for annual registration as a holder of individual transferable quota issued under Part IIa of this Act and for the registration of transfers and leases of such individual transferable quotas.”.

(3) Section 89(1)(k) of the principal Act is hereby amended by inserting, after the word “prescribing”, the words “details relating to registration of fishing vessels and related matters,”.

(4) Section 89(1)(1) of the principal Act is hereby amended—

(a) By omitting the expression “\$5,000”, and substituting the expression “\$10,000”:

(b) By omitting the expression “\$50”, and substituting the expression “\$500”.

(5) Section 89 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1a) No regulations shall be made under subsection (1)(g) of this section in respect of any quota management area for any species or class of fish for which

guaranteed minimum individual transferable quota or individual transferable quota have been created under Part IIa of this Act in respect of that area.”

24 Licences to fish for acclimatised fish

Section 90(1)(a) of the principal Act is hereby amended—

- (a) By inserting in subparagraph (i), after the words “acclimatisation societies”, the words “or their agents”:
- (b) By inserting, after the words “Tourist and Publicity Department”, at the first 2 places where they occur, the words “or agents appointed by it”:
- (c) By inserting, after the words “by them”, the words “or on their behalf”.

25 Special regulations relating to freshwater fish farming

Section 91(e) of the principal Act is hereby amended by inserting, after the word “issue,”, the word “revocation,”.

26 Certain notices to have status of regulations

The principal Act is hereby amended by inserting, after section 92, the following section:

“92a

- “(1) Except as provided in subsection (2) of this section, every notice given under this Act and required to be published in the *Gazette* is hereby deemed for the purposes of the Acts Interpretation Act 1924 and the Regulations Act 1936 to be a regulation.
- “(2) Nothing in this section shall apply to any notice given under any of sections 8, 12, 26, 32, 28a, 28c, 28d, 28j, 28u, 28w, 28z, 47, 56, 65, 70, 71, and 85 of this Act, or any District Anglers Notice.”

27 New sections relating to offences and penalties substituted

- (1) The principal Act is hereby amended by repealing sections 93 to 107, and substituting the following sections:

“93 General offences

Every person commits an offence who acts in contravention of or fails to comply with any provision of this Act, or any notice, direction, restriction, requirement, or condition given, made, or imposed under this Act.

Compare: 1983, No. 14, s. 93

“94 Liability of directors and managers

Where any body corporate is convicted of an offence against this Act, or any offence referred to in section 93 of this Act, or any offence against any regulation made under this Act, every director and every person concerned in the management of the body corporate shall be guilty of a like offence if it

is proved that the act that constituted the offence took place with the person's authority, permission, or consent, or that the person knew the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

“95 Obstructing Fishery Officers

“(1) Every person commits an offence who—

“(a) Resists or obstructs, or incites or encourages any other person to resist or obstruct, any Fishery Officer while in the execution of the Fishery Officer's powers or duties, or any person lawfully assisting the Fishery Officer; or

“(b) Uses threatening language or behaves in a threatening manner towards any Fishery Officer, while in the execution of the Fishery Officer's powers or duties, or any person lawfully assisting the Fishery Officer; or

“(c) Fails to comply with the lawful requirements of any Fishery Officer; or

“(d) Furnishes to any Fishery Officer any particulars which are false or misleading in any material respect; or

“(e) Personates or falsely claims to be a Fishery Officer, or who falsely claims to be a person lawfully assisting the Fishery Officer.

“(2) For the purpose of subsection (1) of this section, any person who refuses to allow any Fishery Officer, or any person lawfully assisting the Fishery Officer, to exercise any of the powers conferred on the Fishery Officer by this Act, any regulations or notice made under this Act, or any notice given under this Act or those regulations, shall be deemed to be obstructing that Fishery Officer or person.

Compare: 1983, No. 14, s. 94

“96 Neglect or refusal to supply particulars, and improper divulging of information

Every person commits an offence who—

“(a) Fails to provide any accounts or records or who neglects or refuses to furnish any records, return, or information when lawfully requested to do so pursuant to this Act:

“(b) Makes any false or misleading statement or any material omission in any communication or application or return for the purposes of this Act:

“(c) Except as permitted under section 66 of this Act, fails to keep secret the contents of any return or information furnished for the purpose of this Act.

Compare: 1983, No. 14, s. 95

“97 Buying, selling, or possessing fish, etc., contrary to Act

- “(1) Every person commits an offence who buys, sells, or has in possession any fish, aquatic life, or seaweed taken in New Zealand fisheries waters in contravention of this Act, or any regulation made or notice given under this Act.
- “(2) For the purpose of this section, fish, aquatic life, or seaweed shall be deemed to be sold if it forms part of a meal for which payment for that meal or any part of the meal is made or which is supplied to any person (whether in accordance with the terms of a contract of service or otherwise) who is employed by the person by whom the meal is supplied.

Compare: 1983, No. 14, s. 96

“98 Using explosives, etc., to catch or destroy fish

- “(1) Every person commits an offence who for the purpose of taking or destroying any fish uses in any water any explosive or toxic gas, or toxic, poisonous, or narcotic substance or any electric fishing device.
- “(2) Subsection (1) of this section shall not apply to actions taken by a Fishery Officer, or any person authorised in writing by the Director-General.
- “(3) In this section, the term ‘explosive’ has the same meaning as in the Explosives Act 1957.

Compare: 1983, No. 14, s. 99

“99 Ownership and possession of fish

- “(1) Subject to the provisions of any agreement in writing to the contrary signed by the owner of the vessel, all fish (except acclimatised fish), aquatic life, or seaweed taken by any means from a vessel shall, for the purposes of this Act and any regulations made or notice given under this Act be deemed to be owned by the owner of the vessel.
- “(2) For the purpose of this section, fish shall be deemed to be taken from a vessel when taken with any line, or in any net, pot, trap, or other contrivance used or set from the vessel or from any tender or similar vessel carried by or attached to the vessel.

Compare: 1983, No. 14, s. 100

“100 Fish on registered vessel deemed to have been caught in New Zealand

- “(1) For the purposes of this Act and any regulation made or notice given under this Act, all fish on board, landed from, or transferred to or from a fishing vessel registered under this Act or any New Zealand ship within the meaning of the Shipping and Seamen Act 1952, whether found on board, landed, or transferred within New Zealand or elsewhere, shall be deemed to have been taken within New Zealand fisheries waters.

“(2) Nothing in subsection (1) of this section shall apply in respect of fish taken by any vessel with the prior approval of the Director-General and in accordance with any conditions imposed by the Director-General.

“101 Fish taken in New Zealand fisheries waters must be landed in New Zealand

“(1) Every person commits an offence who lands any fish taken in New Zealand fisheries waters at any place outside New Zealand unless the landing of the fish outside New Zealand has the prior approval of the Director-General and is in accordance with any conditions imposed by the Director-General.

“(2) Nothing in subsection (1) of this section shall apply where the fish were lawfully taken by the person using a foreign fishing vessel.

“102 Fish on registered vessel deemed to have been taken for the purposes of sale

“(1) For the purposes of this Act and any regulation made or notice given under this Act, all fish on board or unloaded from any fishing vessel registered under this Act shall, in the absence of proof to the contrary, be deemed to have been taken for the purposes of sale.

“(2) Nothing in this section shall apply in respect of fish that are intended to be used as bait and are not intended for sale.

“103 Fish on licensed premises or premises where food sold deemed to have been taken for purposes of sale

“(1) For the purposes of this Act and any regulation made or notice given under this Act, all fish in any premises owned or operated by any person who holds a licence issued or recognised under regulations made under section 89(1)(h) of this Act shall, in the absence of proof to the contrary, be deemed to have been taken for the purposes of sale.

“(2) For the purposes of this Act and any regulation made or notice given under this Act, all fish in any premises where food is sold, prepared for sale, stored, or processed, shall, in the absence of proof to the contrary, be deemed to have been taken for the purposes of sale.

“104 Proceedings for offences

“(1) Any offence against this Act or any regulation made under this Act that is committed within New Zealand fisheries waters shall be deemed to have been committed in New Zealand.

“(2) Notwithstanding section 14 of the Summary Proceedings Act 1957, an information in respect of any offence against this Act or any regulation made under this Act may be laid at any time within 2 years after the time when the matter of the information arose.

- “(3) All proceedings in respect of offences against this Act or any regulation made under this Act shall be under the Summary Proceedings Act 1957.
- “(4) In any proceedings for an offence against section 97(1) of this Act, it shall also be a defence if the defendant satisfies the Court that the fish to which the offence relates were preserved in containers in New Zealand or elsewhere or were cured in some country other than New Zealand.
- “(5) The defence specified in subsection (4) of this section shall not be available in the case of—
- “(a) Trout; or
 - “(b) Cured salmon.
- “(6) All prosecutions and proceedings in respect of offences against this Act or any regulation made under this Act may be commenced and taken in the name of the Minister or the Director-General, or of any Fishery Officer or acclimatisation society in any district in which an offence has been committed or an offender is found.

Compare: 1983, No. 14, s. 101

“105 Strict liability

- “(1) In any prosecution for any offence against this Act or any regulation made under this Act it shall not be necessary for the prosecution to prove that the defendant intended to commit an offence.
- “(2) It shall be a defence in any such prosecution if the defendant proves—
- “(a) That the defendant did not intend to commit the offence; and
 - “(b) That—
 - “(i) In any case where it is alleged that anything required to be done was not done, the defendant took all reasonable steps to ensure that it was done; or
 - “(ii) In any case where it is alleged that anything prohibited was done, that the defendant took all reasonable steps to ensure that it was not done.

“106 Evidence in proceedings

- “(1) Subject to subsection (5) of this section, in any proceedings in respect of an offence under this Act or any regulation made under this Act—
- “(a) A certificate purporting to be signed by the Director-General or any officer authorised by the Director-General for that purpose to the effect that, on a date specified in the certificate,—
 - “(i) A vessel specified in the certificate was registered under this Act; or
 - “(ii) No fishing permit or approval was in force authorising the taking of fish from a vessel specified in the certificate; or

- “(iii) The defendant or other named person was not the holder of a fishing permit; or
- “(b) A certificate signed by the Secretary to the Authority that, on a date specified in the certificate,—
- “(i) A vessel specified in the certificate was not the subject of a boat authority; or
- “(ii) The defendant or any other named person was not the holder of a licence or a temporary licence,—
- shall, in the absence of proof to the contrary, be sufficient evidence of the matter stated in the certificate.
- “(2) Subject to subsection (5) of this section, in any proceedings in respect of an offence against this Act or any regulation made under this Act, a certificate purporting to be signed by a Chief Surveyor and stating the status of any area of land or water shall, in the absence of proof to the contrary, be sufficient evidence of that status; and all maps, plans, and documents purporting to be certified as true by any Chief Surveyor shall, in the absence of proof to the contrary, be sufficient evidence of their contents.
- “(3) Subject to subsection (5) of this section, in any proceedings in respect of an offence against this Act or any regulations made under this Act, a certificate purporting to be signed by the Registrar of Ships appointed pursuant to the Shipping and Seamen Act 1952 that on a date specified in the certificate a vessel specified in the certificate was not a New Zealand ship within the meaning of the Shipping and Seamen Act 1952, shall, in the absence of proof to the contrary, be sufficient evidence of the matters stated in the certificate.
- “(4) Subject to subsection (5) of this section, in any proceedings for an offence against this Act or any regulations made under this Act, any certificate purporting to be signed by any serviceman within the meaning of the Defence Act 1971 and—
- “(a) Stating the position of any fishing vessel at any date and time specified in the certificate; or
- “(b) Stating that the serviceman is satisfied that the equipment used to determine the position of any fishing vessel was in proper working order and that the equipment was accurate within specifications detailed in the certificate; or
- “(c) Stating both the matters referred to in paragraph (a) and the matters referred to in paragraph (b) of this subsection—
- shall be sufficient evidence of the facts stated until the contrary is proved.
- “(5) Any certificate referred to in subsections (1) to (4) of this section shall be admissible in evidence only if—
- “(a) At least 28 days before the hearing at which the certificate is tendered, a copy of that certificate is served, by or on behalf of the prosecutor, on

the defendant or the defendant's agent or counsel, and that person is, at the same time, informed in writing that the prosecutor does not propose to call the person who signed the certificate as a witness at the hearing; and

- “(b) The Court has not, on the application of the defendant made not less than 14 days before the hearing, ordered, not less than 7 days before the hearing or such lesser period as the Court in the special circumstances of the case thinks fit, that the certificate should not be admissible as evidence in the proceedings.
- “(6) The Court shall not make an order under subsection (5) of this section unless it is satisfied that there is a reasonable doubt as to the accuracy or validity of a certificate.
- “(7) A copy of any licence, boat authority, or other document granted or issued under this Act which is certified correct by the Secretary to the Authority, or the Director-General or any officer of the Ministry duly authorised by the Director-General in that behalf, shall be sufficient, in the absence of proof to the contrary, to prove that licence, boat authority, or other document.
- “(8) A copy of any certificate of registry granted or issued under the Shipping and Seamen Act 1952 which is certified correct by the Registrar of Ships appointed pursuant to that Act, or any officer duly authorised by the Registrar of Ships in that behalf, shall be sufficient, in the absence of proof to the contrary, to prove that certificate.
- “(9) If, in the opinion of a Fishery Officer, any controlled fish was taken from a controlled fishery or any gear or equipment was used in a controlled fishery, being controlled fish, gear, or equipment found on board a fishing vessel by the Fishery Officer, then, in the absence of proof to the contrary, that controlled fish, gear, or equipment, as the case may be, shall be deemed to have been so taken or used.
- “(10) The production of any certificate or copy of any document for the purposes of this section purporting to be signed by any person authorised under this section to sign it shall be prima facie evidence of the certificate or copy without proof of the signature of the person appearing to have signed it.

Compare: 1983, No. 14, s. 102

“107 Penalties

Every person who commits an offence against this Act or any regulation made under this Act for which no other penalty is prescribed shall on conviction be liable to a fine not exceeding \$10,000, and, if the offence is a continuing one, to a further fine not exceeding \$500 for every day after the first day on which the offence has continued.

Compare: 1983, No. 14, s. 103

“107a Provision for payment of fees

- “(1) Where any person is convicted of an offence against section 57(1)(a) of this Act, then, whether or not the Court imposes any penalty in respect of the offence, there shall be payable to the Crown by the owner of the fishing vessel an amount equal to the amount of the prescribed registration fee payable in respect of the vessel.
- “(2) Where any person is convicted of an offence against section 68(1) of this Act, then, whether or not the Court imposes any penalty in respect of the offence, there shall be payable to the Crown by the defendant an amount equivalent to the amount prescribed as being payable for a whole season licence.
- “(3) Any amount payable to the Crown under subsection (1) or subsection (2) of this section shall be assessed by the Court, and shall be recoverable as if it were a fine.

Compare: 1983, No. 14 s. 104

“107b Forfeiture of property on conviction

- “(1) On the conviction of any person for any offence against this Act or any regulation made under this Act, any vessel, vehicle, or other conveyance, fishing gear, implement, appliance, material, container, goods, or equipment used in respect of the commission of the offence, and any fish, aquatic life, or seaweed in respect of which the offence has been committed, whether or not they have been seized, taken possession of, or detained under section 80 of this Act, and any proceeds from the sale of such property pursuant to section 80(4) of this Act, shall be forfeit to the Crown, unless the Court for special reasons relating to the offence thinks fit to order otherwise, and disposed of as the Minister thinks fit.
- “(2) Any person whose property has been forfeit to the Crown under subsection (1) of this section or any person having a legal or equitable interest in such property may apply to the Minister within 30 days of the conviction for the release of the property so forfeited; and the Minister may order the release of such property on payment to the Crown of such amount (if any) as the Minister thinks appropriate, being an amount not exceeding the amount the items otherwise forfeited are estimated by the Director-General to realise if sold by public auction in New Zealand.
- “(3) Any forfeiture directed or redemption payment imposed pursuant to this section shall be in addition to, and not in substitution for, any other penalty that may be imposed by the Court or by this Act.
- “(4) Notwithstanding subsection (2) of this section, where the prosecution was commenced on the information of an officer of an acclimatisation society, the forfeited property shall be disposed of by the Minister to that acclimatisation society for the purposes of sale and may be sold by that society, and the proceeds of sale shall be paid into its funds and applied for the purposes of the society.

“(5) Subject to section 103(2) of the Public Finance Act 1977, all fines imposed and recovered in proceedings taken by an acclimatisation society for any breach of this Act or any regulations or notice made under this Act shall be paid to the acclimatisation society in the district of which the fines were received, for the purpose of the distribution, rearing, cultivation, and protection of fish in the district of that society.

Compare: 1983, No. 14, s. 106

“107c Forfeiture of quota on conviction

“(1) On the conviction of any person for any offence against this Act or any regulation made under this Act, all individual transferable quota held by that person at the time of the commission of the offence and any interest held by that person in any individual transferable quota at that time shall be forfeit to the Crown unless the Court for special reasons relating to the offence thinks fit to order otherwise.

“(2) Nothing in this section shall prevent the acquisition of any individual transferable quota or any interest in any individual transferable quota (including the individual transferable quota or interest in individual transferable quota forfeited under subsection (1) of this section) from the Crown or any other person.

“107d Forfeiture of licence, approval, permission, or permit, and banning from industry on second conviction

“(1) Every person who is convicted of an offence against this Act or any regulation made under this Act and within 7 years from the date of that conviction is convicted on another occasion of the same or any other offence against this Act or any regulation made or notice given under this Act shall, in addition to any other penalty, forfeit any licence, approval, permission, or fishing permit obtained pursuant to this Act and shall be incapable, for a period of 3 years from the date of conviction, of holding any such licence, approval, permission, or fishing permit, or engaging in any activity associated with the taking of fish, aquatic life, or seaweed, or deriving any beneficial income from activities associated with the taking of fish, aquatic life, or seaweed.

“(2) Notwithstanding subsection (1) of this section, the Court may, in the circumstances of any particular case and upon application being made to it by the person concerned within 30 days from the date of conviction or such extended period as the Court may allow, direct that the provisions of that subsection are not to apply to any particular licence, approval, permission, or fishing permit otherwise forfeit, or that the provision prohibiting the person from engaging in any activity associated with the taking of fish, aquatic life, or seaweed shall not apply.

“(3) Every holder of a licence issued by the Authority under this Act who is convicted of an offence under this Act or any regulation made under this Act, and whose licence is not forfeited pursuant to subsection (1) of this section

shall be the subject of an inquiry by the Authority under section 45 of this Act unless the Court exercises its discretion under subsection (2) of this section, and the licence of every such holder shall be suspended until the inquiry has been held and any appeal arising from the decision of the Authority in relation to the inquiry has been determined.

- “(4) For the purpose of this section, every conviction in respect of an offence against the Fisheries Act 1908 or any regulation made under that Act shall be deemed to be a conviction in respect of an offence against this Act or any regulation made under this Act.

Compare: 1983, No. 14, s. 105

“107e Rewards to informers

- “(1) The Director-General may make such payments as the Director-General thinks fit to any person or persons who have supplied information that has led to the conviction for an offence against this Act or any regulation made under this Act or who procured or assisted in procuring such conviction.

- “(2) All payments under subsection (1) of this section shall be made from money from time to time appropriated by Parliament for the purpose.”

- (2) Section 51(2) of the principal Act is hereby amended by omitting the expression “105(3)”, and substituting the expression “107d(3)”.

Compare: 1983, No. 14, s. 107

28 New sections relating to resource rentals inserted

- (1) The principal Act is hereby amended by inserting, after section 107e (as inserted by section 27 of this Act), the following heading and sections:

“Resource Rentals

“107f Resource rentals payable in respect of certain fish

- “(1) There shall be payable to the Crown by any commercial fisherman who takes any fish of a species or class specified in Schedule 1c to this Act on or after the appropriate date specified in that Schedule in relation to that fish a resource rental at the appropriate rate specified in that Schedule.

- “(2) The resource rentals referred to in subsection (1) of this section shall be payable on the 20th day of the month after the month in which the fish was taken.

- “(3) Nothing in this section shall apply in respect of fish taken under a guaranteed minimum individual transferable quota or individual transferable quota, or in respect of fish taken under the authority of a declaration made under section 28t(3)(d) of this Act.

“107g Variation of resource rentals by Order in Council

- “(1) Subject to this section, the Governor-General may, by Order in Council made on the recommendation of the Minister,—
- “(a) Vary the resource rentals specified in Schedule 1b or Schedule 1c of this Act:
 - “(b) Specify resource rentals to be payable in respect of any species or class of fish not previously described by name in Schedule 1b of this Act:
 - “(c) Omit any reference to any species or class of fish and resource rental from Schedule 1c to this Act and insert in Schedule 1b to this Act a reference to that species or class of fish and a resource rental that is no more than 20 percent greater than the resource rental that was payable under Schedule 1c to this Act in respect of that species or class of fish,—
- and for those purposes the Governor-General may in that manner amend those Schedules or revoke any such Schedule and substitute a new Schedule.
- “(2) Not more than one Order in Council shall be made pursuant to this section in respect of any fishing year for any species or class of fish.
- “(3) Every Order in Council made pursuant to this section shall be made before the commencement of the first fishing year to which it relates and shall come into force on the first day of that fishing year.
- “(4) Except as provided in subsection (5) of this section, the resource rental in respect of any species or class of fish shall not be increased in respect of any fishing year by more than 20 percent of the resource rental for that species or class of fish in respect of the previous fishing year.
- “(5) Nothing in subsection (4) of this section shall apply in respect of—
- “(a) Any species or class of fish that is described by name in Schedule 1b of this Act for the first time (notwithstanding that resource rentals may have been payable under that Schedule in respect of that species or class of fish under the category of any other species or class of fish in respect of which resource rentals are not payable under Schedule 1c to this Act):
 - “(b) The resource rentals payable in respect of any fishing year before the fishing year that commences with the 1st day of October 1991 in respect of any species or class of fish not described by name in Schedule 1B to this Act and not being fish in respect of which resource rentals are payable under Schedule 1C to this Act:
 - “(c) The resource rentals payable in respect of any fish that are to be taken using a foreign owned New Zealand fishing vessel.
- “(6) Before making any recommendation under subsection (1) of this section, the Minister shall advise the Fishing Industry Board and such other persons or organisations as the Minister considers appropriate, of the proposed recommendation and the reasons for it, and shall invite the Board and the persons and organisations (if any) to make submissions to the Minister in respect of the

recommendation before such date, being not less than 28 days after the date of the Minister's advice as to the proposed recommendation, as the Minister may specify.

- “(7) In making any recommendation under subsection (1) of this section the Minister shall have regard to—
- “(a) The value of individual transferable quotas for the species or class of fish:
 - “(b) The net returns and likely net returns to commercial fishermen for fish caught; including any difference in operating costs of foreign owned New Zealand fishing vessels and other New Zealand fishing vessels:
 - “(c) Any relevant changes in total allowable catches:
 - “(d) Any submissions made to the Minister under subsection (6) of this section:
 - “(e) Such other matters as the Minister considers relevant.

“107h Resource rentals to be paid to Fisheries Fund

The resource rentals payable under sections 28t(7), 28zc, and 107f of this Act shall be collected by the Ministry and paid into the Fisheries Fund (being a revolving fund to which section 52a of the Public Finance Act 1977 applies).”

- (2) The principal Act is hereby amended by inserting, after Schedule 1b (as inserted by section 13(4) of this Act) the Schedule 1c set out in the Third Schedule to this Act.

29 Saving

The principal Act is hereby amended by inserting, after section 108, the following section:

“109

30 Amendments to Fishing Industry Board Act 1963

- (1) Section 10(1) of the Fishing Industry Board Act 1963 is hereby amended by inserting, after paragraph (k), the following paragraph:
- “(ka) To provide or arrange the provision of such services (if any) as it considers appropriate to enable orderly trading in individual transferable quotas and interests in individual transferable quotas as provided for in Part IIa of the Fisheries Act 1983:”.
- (2) Section 11 of the Fishing Industry Board Act 1963 is hereby amended by adding, as subsection (2), the following subsection:
- “(2) Without limiting the generality of this section, the Board may impose charges for the use of any services provided or arranged by it under section 10(1)(ka) of this Act”.

31 Amendment to Public Finance Act 1977

The Public Finance Act 1977 is hereby amended by adding to the Fifth Schedule the following item:

"Ministry of Agriculture and Fisheries	Fisheries Fund	Management of and research into New Zealand fisheries"
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32 Revocations

The following regulations are hereby revoked:

- (a) The Rotorua and Taupo Trout Fishing Regulations 1980, Amendment No. 2 (S.R. 1982/137):
- (b) The Rotorua and Taupo Trout Fishing Regulations 1980, Amendment No. 3 (S.R. 1983/105):
- (c) The Fisheries (General) Regulations 1950, Amendment No. 40 (S.R. 1983/192):
- (d) The Fisheries (Chatham Islands Amateur Fishing) Notice 1983 (S.R. 1983/306):
- (e) The Fisheries (Chatham Islands Rock Lobster Closed Season) Notice 1985 (S.R. 1985/27).

Schedules**First Schedule****New First Schedule Substituted in Principal Act**

Section 5(3)

**"First Schedule
Fishery Management Plans**

Section 8(1)

1

Every fishery management plan shall contain a description of the fishery, including but not limited to—

- (a) Maori, traditional, recreational, commercial, and non-commercial interests in the fishery.
- (b) The number and type of fishing vessels engaged:
- (c) The methods employed and fishing gear used:
- (d) The species of aquatic life and their distribution:
- (e) An assessment of the present yield and possible optimum yield from the fishery:

- (f) Any other factor which could affect the fishery resource:

2

Every fishery management plan shall consist of the following parts:

- (a) Background papers outlining the history and current status of the fishery:
- (b) The policies and objectives of the plan:
- (c) The controls that are to be imposed under the plan.

3

Any fishery management plan may, subject to the provisions of this Act, any regulations or notice declaring a controlled fishery, and any quota management system established under Part IIa of this Act,—

- (a) Designate areas, within the fishery management area where, and the periods when, fishing for certain species of fish shall be prohibited or restricted, or permitted only by specified types of vessels or by specified methods, or with specified types or quantities of fishing gear, or subject to such other conditions as may be specified:
- (b) Determine a total allowable catch for the fishery or for any designated areas within the fishery for all fish, aquatic life, or seaweed within the fishery or such areas, or for any designated species or type of fish, aquatic life, or seaweed:
- (c) Establish specified limits as to the size, number, weight, sex, or any other factors, on the catch of any fish, aquatic life, or seaweed or any species or class of fish, aquatic life, or seaweed from any specified area which are considered necessary or desirable for the conservation and the management of the fishery:
- (d) Establish a system for limiting access to the fishery to persons who can satisfy the Director-General of their eligibility having regard to the following criteria or such of these as may be specified in the plan:
 - (i) Present participation in the fishery:
 - (ii) Historical fishing patterns and dependence on the fishery:
 - (iii) The economics of the fishery:
 - (iv) The capability of fishing vessels being used, or intended to be used in the fishery, to operate in other fisheries:
 - (v) Any other relevant considerations:
- (e) Contain any other measures considered necessary or desirable for the conservation or management of the fishery.”

Second Schedule
New Schedules 1A and 1B to Principal Act

Section 13(4)

“Schedule 1A

**Species or Classes of Fish in Respect of Which Any Person May
Hold or Take on Lease 35 Percent of Total Individual Transferable
Quotas for New Zealand Fisheries Waters**

Section 28w(1)(a), (9)

Hake.
Hoki.
Ling.
Orange Roughy.
Oreo Dory.
Silver Warehou.
Squid.

“Schedule 1B

Resource Rentals Under Individual Transferable Quota System

Sections 28t(7), 28zc(1), and 107g

Species or Class of Fish	Rate of resource rental per tonne of quota held where person does not have use of any foreign owned New Zealand fishing vessel at any time during the fishing year	Rate of resource rental per tonne of quota held where person has use of any foreign owned New Zealand fishing vessel at any time during the fishing year
	\$	\$
Hake	22.50	45
Hoki	8.25	16.25
Ling	27.50	55
Orange Roughy	100	200
Oreo Dory	11.25	22.50
Paua	87.50	175
Silver Warehou	25	50
Squid taken in Southern Islands area	23.75	47.50
Squid taken in any other area	47.50	95
Any other species or class of fish, (being fish in respect of which resource rentals are not payable under Schedule 1c to this Act)	3	6

Third Schedule
New Schedule 1C to Principal Act

Section 28(2)

“Schedule 1c	
Resource Rentals Where no Individual Transferable Quota System	
Sections 107f and 107c	
Species or Class of Fish	Rate of Resource Rental
Paua taken on or after 1 August 1986	\$87.50 per tonne
Oysters taken by dredging on or after 1 August 1986	\$22.17 per tonne
Scallops taken on or after 1 August 1986	\$250 per tonne (meat weight)
Rock lobsters taken on or after 1 August 1986	\$275 per tonne.”

This Act is administered in the Ministry of Agriculture and Fisheries.