

**Version  
as at 1 November 2022**

## **Fisheries Amendment Act 1991**

Public Act      1991 No 149  
Date of assent      23 December 1991

Fisheries Amendment Act 1991: repealed, on 1 November 2022, pursuant to section 22 of the Fisheries Amendment Act 2022 (2022 No 56).

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#### **Note**

Changes authorised by subpart 2 of Part 3 of the Legislation Act 2019 have been made in this consolidation. See the notes at the end of this consolidation for further details.

**This Act is administered by the Ministry for Primary Industries.**

**An Act to amend the Fisheries Act 1983 and the Maori Fisheries Act 1989****BE IT ENACTED by the Parliament of New Zealand as follows:****1 Short Title and commencement**

- (1) This Act may be cited as the Fisheries Amendment Act 1991, and shall be read together with and deemed part of the Fisheries Act 1983 (hereinafter referred to as the principal Act).
- (2) Except as provided in section 7(4) of this Act, this Act shall come into force on the day on which it receives the Royal assent.

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**4 Appeal against allocation or failure to allocate provisional maximum individual transferable quota**

- (1) This subsection amended s 28H(1) of the principal Act.
- (2) This subsection amended s 28H(2) of the principal Act.
- (3) This subsection amended s 28H(3) of the principal Act.
- (4) This subsection amended s 28H(4) of the principal Act.
- (5) Nothing in this section affects the validity, or prevents the continuation, of any appeal lodged before the date of the commencement of this section.

**5 Appeal against allocation or failure to allocate provisional maximum transferable term quota**

- (1) This subsection amended s 28HA(1) of the principal Act.
- (2) This subsection amended s 28HA(2) of the principal Act.
- (3) This subsection amended s 28HA(3) of the principal Act.
- (4) This subsection amended s 28HA(4) of the principal Act.
- (5) Nothing in this section affects the validity, or prevents the continuation, of any appeal lodged before the date of the commencement of this section.

**6 Interpretation of provisions relating to compensation**

(1)

(2)

(3) *[Repealed]*(4) *[Repealed]*

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Subsection (3) was repealed, as from 1 October 1994, by section 8(3)(c) Fisheries Amendment Act 1994 (1994 No 87).

Subsection (4) was repealed, as from 1 October 1994, by section 8(3)(c) Fisheries Amendment Act 1994 (1994 No 87).

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## **10 Limit on total compensation payable**

(1) This subsection inserted section 15(aa) of the principal Act

(2) *[Repealed]*

(3) *[Repealed]*

(4) Subsections (4) and (5) amended section 28OJ(1) and inserted section 28OJ(1A) of the principal Act.

(5) Subsections (4) and (5) amended section 28OJ(1) and inserted section 28OJ(1A) of the principal Act.

(6) *[Repealed]*

Subsection (3), which amended section 28OJ(1)(c) of the principal Act, was repealed, as from 1 October 1994, by section 8(3)(c) Fisheries Amendment Act 1994 (1994 No 87).

Subsection (6), which amended section 28OJ(2) of the principal Act, was repealed, as from 1 October 1994, by section 8(3)(c) Fisheries Amendment Act 1994 (1994 No 87).

Subsection (2) was repealed, as from 1 October 1995, by section 9(4)(d) Fisheries Amendment Act 1995 (1995 No 51).

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## **12 Manner and timing of payment of compensation**

(1) This subsection substituted s 28OL(1)(a).

(2) *[Repealed]*

(3) This section substituted s 28OL(3)(a) and inserted s 28OL(3)(aa) and (ab) of the principal Act.

(4) No person shall have any claim against the Crown, the Minister, the Association, the Federation, or the Commission by reason of any delay in the payment of compensation that became payable under the principal Act before the commencement of this Act.

(5) Notwithstanding anything in the principal Act, where compensation is payable under any of sections 28OG to 28OI of that Act in respect of any allocation or reduction that occurred before the commencement of this Act, the following provisions shall apply:

(a) In the case of rock lobster (if the compensation balance is sufficient), the payment due shall be paid out of the compensation balance as at the date

of the commencement of this Act and be paid before the close of the next quarter after that date of commencement:

- (b) In the case of any other species of fish (if the compensation balance is sufficient), the full amount of the agreed preliminary percentage of compensation shall be paid out of the compensation balance as at that date of commencement and be paid before the close of the next quarter after that date of commencement:
- (c) If the compensation balance is insufficient to enable the payments referred to in paragraphs (a) and (b) of this subsection to be paid, the payments due shall be paid in accordance with the priorities set out in section 28OL(2) of the principal Act.

Subsection (2) was repealed, as from 1 October 1994, by section 8(3)(c) Fisheries Amendment Act 1994 (1994 No 87).

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**19 Commercial fishermen may be required to pay deemed value of excess or unauthorised quota fish**

- (1) This subsection inserted s 28ZD(3) of the principal Act.
- (2) Demands may be made under section 28ZD of the principal Act (as so added) in respect of fish taken before the commencement of this Act; and subsection (3) of that section (as inserted by subsection (1) of this section) shall apply to such demands as if it were in force when those fish were taken.

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**26 Special regulations relating to freshwater farming**

- (1) This subsection substituted s 91(e) of the principal Act.
- (2) The following enactments are hereby consequentially repealed:
  - (a) Section 25 of the Fisheries Amendment Act 1986:
  - (b) Section 2(1) of the Fisheries Amendment Act (No 2) 1990.

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**29**

*[Repealed]*

Section 29 was repealed, as from 1 October 1994, by section 8(3)(c) Fisheries Amendment Act 1994 (1994 No 87)

**30 Payments to Crown in lieu of disposal or surrender of fish taken contrary to Act**

- (1) Where, in relation to any fish taken before the commencement of this section,—
  - (a) Any person either—
    - (i) Has notified or notifies a Fishery Officer or any employee of the Ministry of the matters notifiable under section 88(1)(c)(i) of the principal Act (as added by section 22 of the Fisheries Amendment Act 1986) or section 105A(1)(c)(ii) of that Act or regulation 30A(3)(c) of the Fisheries (Commercial Fishing) Regulations 1986; or
    - (ii) Has furnished or furnishes the Director-General or the Ministry with a return in a form purporting to be required by the Director-General under section 66 of the principal Act or under the Fisheries (Reporting) Regulations 1990, being a return showing that, when the fish were taken, a quantity of fish was taken in excess of the quota (if any) held by that person for that class or species of fish or, in the case of salmon, showing a quantity of fish taken in contravention of regulation 30A of the Fisheries (Commercial Fishing) Regulations 1986; and
  - (b) That person or a licensed fish receiver—
    - (i) Has paid to the Crown a sum (including any interest and any additional amount for late payment) sought by the Crown in respect of the value of the fish referred to in the notice or return; or
    - (ii) Either—
      - (A) Has received a request or demand from the Crown to pay a sum in respect of the value of the fish referred to in the

- notice or return, being a request or demand that was not cancelled or withdrawn by the Crown before the commencement of this Act; or
- (B) Receives a request or demand, being a request or demand made for the first time, to pay a sum in respect of the value of the fish referred to in the notice or return or receives a request or demand to pay such a sum that is issued in place of a request or demand that was made and subsequently cancelled or withdrawn by the Crown; or
- (iii) Has entered into any agreement or made any arrangement with the Crown in respect of the fish referred to in the notice or return, being an agreement or arrangement in respect of quota held by that person or another person whereby—
- (A) The fish taken were regarded for the purposes of the agreement or arrangement as having been taken under the authority of that quota; and
- (B) The right to take fish under the authority of that quota was adjusted accordingly,—
- then, as the case may be,—
- (c) The sum paid shall be deemed to have been validly paid and the Crown shall be entitled to retain that sum; or
- (d) The request or demand shall be deemed to have been validly made and shall be treated as a lawful debt due to the Crown by the person or licensed fish receiver, and that debt shall, subject to subsection (3) of this section, be deemed to be a statutory debt within the meaning of section 13A of the Ministry of Agriculture and Fisheries Act 1953 and may be recovered in any Court of competent jurisdiction; or
- (e) The agreement or arrangement shall be deemed to have been validly made and all of the parties thereto shall be bound by it.
- (2) Every request or demand referred to in subsection (1)(b)(ii)(B) of this section, not being a request or demand made in place of, and for the same amount as, a request or demand cancelled or withdrawn by the Crown, shall be for a sum calculated having regard to the basis on which any like requests or demands were calculated before the commencement of this Act.
- (3) Section 13A of the Ministry of Agriculture and Fisheries Act 1953 shall apply to debts due under this section as if such debts are payable within 3 months after the date on which payment is demanded (being a demand made on or after the commencement of this Act).
- (4) Nothing in subsection (1) of this section affects any demand made under section 28ZD of the principal Act or any payment made under that section.

## **Consolidation notes**

### **1    *General***

This is a consolidation of the Fisheries Amendment Act 1991 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### **2    *About this consolidation***

This consolidation is not an official version of the legislation under section 78 of the Legislation Act 2019.

### **3    *Amendments incorporated in this consolidation***

Fisheries Amendment Act 2022 (2022 No 56): section 22