

Fisheries (Cost Recovery) Rules 2001

(SR 2001/229)

Pursuant to section 263 of the Fisheries Act 1996, Her Excellency the Governor-General, on the recommendation of the Minister of Fisheries under that section, and acting on the advice and with the consent of the Executive Council, makes the following rules.

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Note

These rules are administered in the Ministry of Fisheries.

1 Title

These rules are the Fisheries (Cost Recovery) Rules 2001.

2 Commencement

These rules come into force on the day after the date of their notification in the *Gazette*.

3 Interpretation

(1) In these rules, unless the context otherwise requires,—

Act means the Fisheries Act 1996

bottom trawling

coastal permit means a coastal permit under the Resource Management Act 1991

coastal permit: this definition was inserted, as from 1 January 2006, by rule 3 Fisheries (Cost Recovery) Amendment Rules 2005 (SR 2005/321).

costs includes both direct and indirect costs

deepwater benthic research

fisheries resources stock assessment research, in relation to any stock, species, or class of fish or fish resource, means research projects that aim to produce information on the stock structure, productivity, distribution, ecology, biomass, or sustainable yields of that stock, species, class, or resource

ICE means individual catch entitlement

inshore finfish—

(a) includes elephant fish, groper, red cod, rig, school shark, and snapper:

(b) does not include freshwater eels or blue cod

MHR means the monthly harvest return required by the Fisheries (Reporting) Regulations 2001

monitoring harvest levels means services to monitor the quantity and quality of data received from the reporting of fishing activity under the Act

pelagic fisheries resources includes albacore, jack mackerel, kahawai, skipjack tuna, southern bluefin tuna, kingfish (yellowtail), and other game fish species

permit holder means any person who holds a fishing permit issued under section 91 of the Act

port price means the surveyed average price paid by licensed fish receivers to independent fishers for fish landed to those licensed fish receivers, as set or updated under rule 12

QMS means quota management system

registered fish farmer means a fish farmer registered under Part 9A of the Act

registered fish farmer: this definition was inserted, as from 1 January 2006, by rule 3 Fisheries (Cost Recovery) Amendment Rules 2005 (SR 2005/321).

research relating to the protected species population means research required or carried out in the interests of the effective management of any species that is—

- (a) protected under the Wildlife Act 1953 or the Marine Mammals Protection Act 1978; and
- (b) taken as non-targeted species by commercial fishers

shellfish fisheries resources does not include cockles, paua, pipis, rock lobster, or tuatua

TAC means total allowable catch

TACC means total allowable commercial catch.

- (2) In these rules, references to **stocks** includes, where appropriate, references to fishing activities undertaken for the purpose of harvesting those stocks and to the persons carrying out those activities.

4 Status of rules

These rules are to be followed so far as reasonably practicable in setting any levies under the Act, but failure to accurately predict, estimate, account for, or otherwise quantify any matter referred to in these rules does not invalidate any levies set in accordance with their general tenor.

5 Proportion of costs to be recovered from industry

The proportion of costs to be recovered from the commercial fishing industry for the fisheries or conservation services specified in the first column of the Schedule is the proportion set out in the second column of that schedule.

6 Who must pay levies, and basis for levy

- (1) The persons who must pay levies in respect of the fisheries and conservation services specified in the Schedule are, as appropriate,—
- (a) quota owners, on the basis of the quota weight equivalent in relation to their quota share:
 - (b) ICE holders, on the basis of the amount of ICE held:
 - (c) permit holders, on the basis of the amount of actual catch of non-QMS stock reported on the holders' MHRs:
 - (d) fish farmers (being persons undertaking fish farming under licences granted under the Freshwater Fish Farming Regulations 1983), on the basis of—
 - (i) the area of the relevant fish farm in hectares, in the case of costs for research services:
 - (ii) the number of coastal permits or other authorisations held, in the case of costs for enforcement or other services.
 - (e) fish farmers (being registered fish farmers), on the basis of the aggregate area in hectares of all fish farms in relation to which a fish farmer is registered.
- (2) The levy payable for any fishing year on quota weight equivalent in relation to quota share, ICE held, or actual catch of non-QMS stock reported on a permit holder's MHR is to be calculated for each stock in accordance with the following formula:

$$\frac{g}{h}$$

where—

- g is the total amount of costs to be recovered from the stock for the fishing year
- h is the total TACC, ICE, or estimated catch likely to be extracted from the stock in the fishing year, as appropriate.

- (3) Levies imposed on the persons specified in subclause (1)(a) to (c) may be expressed as a levy amount per tonne, per kilogram, or per quota share.

Subclause (1)(d) was amended, as from 1 January 2006, by rule 4(1) Fisheries (Cost Recovery) Amendment Rules 2005 (SR 2005/321) by inserting the words “(being persons undertaking fish farming under licences granted under the Freshwater Fish Farming Regulations 1983)” after the words “fish farmers”.

Subclause (1)(d)(ii) was amended, as from 1 January 2006, by rule 4(2) Fisheries (Cost Recovery) Amendment Rules 2005 (SR 2005/321) by substituting the words “coastal permits” for the words “licences, permits,”.

Subclause (1)(e) was inserted, as from 1 January 2006, by rule 4(3) Fisheries (Cost Recovery) Amendment Rules 2005 (SR 2005/321).

7 Allocation of costs between stocks for certain industry-wide services

- (1) This rule applies to the following services:
 - (a) the services specified in item 1 of the Schedule (which relates to monitoring and offence detection):
 - (b) the services specified in items 2 and 3 of the Schedule (which relate to protected species research):
 - (c) the services specified in item 4 of the Schedule (which relates to mitigation, etc, of effects of commercial fishing on the aquatic environment or biological diversity):
 - (d) the services specified in item 9 of the Schedule (which relates to the monitoring of harvest levels):
 - (e) the services specified in item 10 of the Schedule (which relates to administration and registry services).
- (2) The percentage of the costs to be recovered from each stock in respect of the services listed in subclause (1) is to be determined in accordance with the following formula:

$$\frac{a}{b}$$

where—

- a is the value of the particular stock, derived by multiplying the total TACC, ICE, or estimated catch for the stock by the port price for that stock
 - b is the total value of all stocks, derived by—
 - (a) multiplying the total TACC, ICE, or estimated catch for each stock by its relevant port price; and
 - (b) adding all the results.
- (3) If, in the case of the services specified in items 2, 3, and 4 of the Schedule, the chief executive identifies particular stocks

as risk exacerbators in all or any areas to which the services relate, then—

- (a) the costs of those services in these areas are not to be recovered from other stocks; and
- (b) the costs to be recovered in those areas from the identified stocks are to be determined in accordance with the formula in subclause (2) as if item b related only to the total value of those stocks identified as exacerbators.

8 Allocation of costs between stocks for observer coverage services

In respect of the observer coverage services specified in item 8 of the Schedule, the percentage of costs to be recovered from each stock is to be determined in accordance with the following formula:

$$\frac{c}{d}$$

where—

- c is the number of observer seadays in the relevant fishing year or financial year or other relevant period attributable to the particular stock
- d is the total number of observer sea days during that year or period.

9 Allocation of costs for stock assessment research

(1) In respect of the stock assessment research services specified in items 5, 6, and 7 of the Schedule,—

- (a) the costs of services attributable to a single stock are to be recovered from that stock:
- (b) where the services relate to more than 1 stock, the costs are to be recovered from each stock to which the services relate in accordance with—
 - (i) the formula in subclause (2), if the chief executive has determined a percentage allocation for the research effort in respect of the particular stock; or

- (ii) the formula in subclause (3), if the chief executive has not determined such a percentage allocation for the stock.
- (2) If, in respect of services that relate to more than 1 stock, the chief executive has determined a percentage allocation for the research effort in respect of a particular stock, the costs to be recovered from that stock are to be determined in accordance with the following formula:

$$c \times d \times h$$

where—

- c is the total cost of the services (before deduction of any Crown contribution)
- d is the percentage allocation determined by the chief executive as reflecting the research effort in respect of the particular stock
- h is the percentage of costs to be recovered from the particular stock, as indicated in the second column of item 5 or the second column of item 6 of the Schedule (whichever is relevant).
- (3) If, in respect of services that relate to more than 1 stock, the chief executive has not determined a percentage allocation for the research effort in respect of a particular stock, the costs to be recovered from that stock are to be determined in accordance with the following formula:

$$(c - e) \times \frac{f}{g} \times h$$

where—

- c is the total cost of the services (before deduction of any Crown contribution)
- e is the sum of any research costs allocated under subclause (2) to other stocks for the services concerned
- f is the value of the particular stock, derived by multiplying the total TAC, ICE, or estimated catch for the stock by the port price for the stock
- g is the total value of all the stocks to which the services relate (other than stocks for which an allocation has been made under subclause (2)), derived by—

- (a) multiplying the total TAC, ICE, or estimated catch for each stock (other than stocks for which an allocation has been made under subclause (2)) by its relevant port price; and
 - (b) adding all the results
- h is the percentage of costs to be recovered from the particular stock, as indicated in the second column of item 5 or the second column of item 6 of the Schedule (whichever is relevant).

Rule 9 was substituted, as from 26 July 2002, by rule 3 Fisheries (Cost Recovery) Amendment Rules 2002 (SR 2002/212).

10 Allocation of costs for aquaculture services

- (1) In respect of the aquaculture services specified in item 11 in the Schedule, costs are to be recovered in relation to a fish farm (being the area and premises specified in a current licence under the Freshwater Fish Farming Regulations 1983) on the basis of—
- (a) the area of each fish farm, in the case of the costs of research services:
 - (b) the number of coastal permits or other authorisations held, in the case of the costs of enforcement or other services.
- (2) In respect of the aquaculture services specified in item 11 in the Schedule, costs are to be recovered in relation to fish farms (being fish farms in relation to which fish farmers are registered) on the basis of the aggregate area in hectares of all fish farms in relation to which a fish farmer is registered.

Rule 10 was amended, as from 1 January 2006, by rule 5(1) Fisheries (Cost Recovery) Amendment Rules 2005 (SR 2005/321) by inserting the words “in relation to a fish farm (being the area and premises specified in a current licence under the Freshwater Fish Farming Regulations 1983)” after the word “recovered”.

Paragraph (b) was amended, as from 1 January 2006, by rule 5(2) Fisheries (Cost Recovery) Amendment Rules 2005 (SR 2005/321) by substituting the words “coastal permits” for the words “licences, permits,”.

Subclause (2) was inserted, as from 1 January 2006, by rule 5(3) Fisheries (Cost Recovery) Amendment Rules 2005 (SR 2005/321).

11 Alterations in levies during fishing year

If it is proposed to alter any levy during a fishing year, the altered levy may be set at a figure that, when averaged with the existing levy, results in an appropriate overall levy amount for the whole fishing year.

12 Port prices

Before 1 October in each year, the chief executive must survey the port prices for each stock and fix a port price that, in the view of the chief executive, is the average port price for that stock.

13 Revocation

The Fisheries (Crown Contribution) Order 1999 (SR 1999/381) is revoked.

Schedule

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**Apportionment of costs of fisheries and
conservation services**

| Services | Percentage of costs to be borne by industry | Allocation between stocks |
|---|--|----------------------------------|
| 1 Monitoring and offence detection of commercial fishing activities | 100% | As in rule 7(2) |

| Services | Percentage of costs to be borne by industry | Allocation between stocks |
|---|---|---------------------------|
| 2 Research relating to protected species populations where risk to those populations by human intervention has been estimated | a/b expressed as a percentage, where— | As in rule 7(2) or (3) |
| | a is the risk to the populations posed by commercial fishing in New Zealand fisheries waters: | |
| | b is the total risk of human interventions on the populations | |

| | Services | Percentage of costs to be borne by industry | Allocation between stocks |
|---|---|--|----------------------------------|
| 3 | Research relating to protected species populations where risk to those populations by human intervention has not been estimated | 50% | As in rule 7(2) or (3) |
| 4 | Services (including research) provided to avoid, remedy, or mitigate that portion of the risk to, or adverse effect on, the aquatic environment or biological diversity of the aquatic environment caused by commercial fishing | 100% | As in rule 7(2) or (3) |

| Services | Percentage of costs to be borne by industry | Allocation between stocks |
|--|---|---------------------------|
| | a is the TACC for the stock | |
| | b is the TACC for the stock | |
| 6 Stock assessment research for stock for which a TACC or a TAC has not been set | The following percentage, as appropriate, for the stock being researched: | As in rule 9(1)(a) |
| | (a) blue cod—40%: | |
| | (b) freshwater eels—50%: | |
| | (c) cockles, pipis, or tu-atua—25%: | |
| | (d) paua or rock lobster—75%: | |

| Services | Percentage of costs to be borne by industry | Allocation between stocks |
|-----------------|---|----------------------------------|
| | (e) shell- fish other than cock- les, pipis, tuatua, paua, or rock lob- ster—90%: | |
| | (f) inshore finfish other than freshwater eels or blue cod—75%: | |
| | (g) pelagic fisheries other than kahawai and king- fish—95%: | |
| | (ga) ka- hawai—70%: | |
| | (gb) king- fish—50%: | |
| | (h) sea- weed—25%: | |

| Services | Percentage of costs to be borne by industry | Allocation between stocks |
|---|---|---------------------------|
| | (i) all other stocks not specified in paragraphs (a) to (h)—100% | |
| 7 Stock assessment research across more than one stock | For each stock, the relevant percentage for that stock specified in this column in item 5 or item 6 (which percentage is to be applied to the stock's share of the costs determined in rule 9(2)) | As in rule 9(2) |
| 8 Observer coverage to support stock assessment process and conservation services | 100% | As in rule 8 |

| | Services | Percentage of costs to be borne by industry | Allocation between stocks |
|----|--|--|----------------------------------|
| 9 | Monitoring harvest levels | 100% | As in rule 7(2) |
| 10 | Quota and commercial fishing administration and registry services, including access and introducing new species into QMS | 100% | As in rule 7(2) |
| 11 | Aquaculture services | 100% | As in rule 10 |

Item 2 was amended, as from 1 October 2004, by rule 3 Fisheries (Cost Recovery) Amendment Rules 2004 (SR 2004/290) by substituting in the second column the words “New Zealand fisheries waters” for the words “the EEZ of New Zealand”.

Item 6, paragraph (g) was substituted, as from 26 July 2002, by rule 4 Fisheries (Cost Recovery) Amendment Rules 2002 (SR 2002/212).

Item 6, paragraphs (ga) and (gb) were inserted, as from 26 July 2002, by rule 4 Fisheries (Cost Recovery) Amendment Rules 2002 (SR 2002/212).

Marie Shroff,
Clerk of the Executive Council.

Explanatory note

This note is not part of the rules, but is intended to indicate their general effect.

These rules, which come into force on the day after the date of their notification in the *Gazette*, set out general background rules in relation to the imposition of cost recovery levies.

Among other things, the rules indicate the proportion of costs of various fisheries and conservation services that are to be borne by the commercial fishing industry, either as a specific percentage or by means of a formula that establishes the appropriate proportion. These provisions replace the Fisheries (Crown Contribution) Order 1999, which is revoked.

The rules also indicate the basis on which levies are to be allocated to particular fishstocks or levy payers.

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