

Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Amendment Regulations (No 3) 2001

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

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1 Title

- (1) These regulations are the Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Amendment Regulations (No 3) 2001.
- (2) In these regulations, the Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986¹ are called “the principal regulations”.

2 Commencement

These regulations come into force on 1 October 2001.

3 Interpretation

- (1) Regulation 2(1) of the principal regulations is amended by revoking the definition of **Act**, and substituting the following definition:

Act means the Fisheries Act 1996.

- (2) Regulation 2(1) of the principal regulations is amended by revoking the definitions of **albacore tuna**, **anchovy**, **basking shark**, **bigeye tuna**, **black shark**, **blue shark**, **broadbill swordfish**, **cardinal fish**, **conger eel**, **dolphinfish**, **durvillea**, **ecklonia**, **flying fish**, **frost fish**, **garfish**, **ghost shark**, **gracilaria**, **jack mackerel**, **jellyfish**, **lamprey**, **leatherjacket**, **lessonia**, **longfinned eel**, **macrocyctis**, **mako shark**, **munida**, **New Zealand cancer crab**, **pilchard**, **porphyra**, **pterocladia**, **rat tail**, **ray’s bream**, **ribaldo**, **saury**, **scallop**, **scampi**, **sea hare**, **sea horse**, **sea perch**, **shortfinned eel**, **silverside**, **skate and ray**, **skipjack tuna**, **slender tuna**, **southern bluefin tuna**, **southern blue whiting**, **spiny sea dragon**, **sprat**, **stokell-smelt**, **thresher shark**, **trumpeter**, **ulva**, **undaria**, **wrasse**, **yellow-eyed mullet**, **yellowfin tuna**, **yellowtail kingfish**, and **zostera**.
- (3) Regulation 2(1) of the principal regulations is amended by revoking the definition of **commercial fisherman**, and substituting the following definition:

commercial fisher means—

- (a) any person who takes any fish, aquatic life, or seaweed for the purposes of sale;
 - (b) any person who is engaged in any capacity on a New Zealand fishing vessel;
 - (c) any person who has a fishing permit issued under section 91 of the Fisheries Act 1996 entitling the person to take any species or class of fish, aquatic life, or seaweed.
- (4) Regulation 2(1) of the principal regulations is amended—
 - (a) by omitting from paragraph (b)(ii) of the definition of **fishing trip** the expression “section 101”, and substituting the expression “section 110”;
 - and

¹ SR 1986/220

- (b) by omitting from the definition of **place or port of registry** the expression “section 57”, and substituting the words “section 103 or section 105”:

4 References to commercial fisher substituted for references to commercial fisherman

Regulations 3 to 3D, 3F to 4B, 6, 6A, 8, 10, 11, 13A to 15A, 15C, 15D, 15F to 15J, and 15K of the principal regulations are amended by omitting the words “commercial fisherman” wherever they appear, and substituting in each case the words “commercial fisher”.

5 Use of 60 mm mesh trawl net permitted south of 48oS at certain times

Regulation 4A(1) of the principal regulations is amended by inserting, after the words “the Fisheries Act 1983”, the words “or the Act”.

6 Concession relating to female rock lobster taken between 1 May 1990 and 30 April 1991

- (1) The heading to regulation 5C of the principal regulations is amended by omitting the words “taken between 1 May 1990 and 30 April 1991”.
- (2) Regulation 5C(1) of the principal regulations is amended by omitting the words “under a quota”.

7 References to chief executive substituted for references to Director-General

Regulations 5D, 5E, 15D, 15F, 15G, and 15HA of the principal regulations are amended by omitting the word “Director-General” wherever it appears, and substituting in each case the words “chief executive”.

8 Processing and sale of Southland Concession Area rock lobster

Regulation 5E(1)(d) of the principal regulations is amended by omitting the words “Agriculture and”.

9 Oyster dredges

Regulation 10(1) of the principal regulations is amended by inserting, after the words “the Fisheries Act 1983”, the words “or the Act”.

10 Use of 60 mm mesh trawl net permitted

Regulation 15A(1) of the principal regulations is amended by inserting, after the words “the Fisheries Act 1983”, the words “or the Act”.

11 Targeting of certain fish, aquatic life, and seaweed prohibited, unless specially authorised

Regulation 15CA of the principal regulations is revoked.

12 Species that may be taken subject to competitive or individual quotas, method restrictions, etc

Regulation 15CB of the principal regulations is revoked.

13 Kina season and quotas

- (1) Regulation 15F(1) of the principal regulations is amended by omitting the words “(other than the waters described in the Table set out in regulation 15CA(5) of these regulations)”.
- (2) Regulation 15F of the principal regulations is amended by adding the following subclause:
- (3) No commercial fisher may take any kina or be in possession of any kina taken from those waters lying within 2 nautical miles of the mean high-water mark between lines extending 2 nautical miles seaward of Oliver Point (45°34.7'S, 166°40.7'E) on a true bearing of 315°T and 2 nautical miles seaward of Puysegur Point (46°10.1'S, 166°37.8'E) on a true bearing of 270°T, which includes all the waters of Breaksea Sound, Acheron Passage, Wet Jacket Arm, Dusky Sound, Chalky Inlet, Edwardson Sound, Cunaris Sound, Long Sound, and Preservation Inlet.

14 New regulation 16 substituted

The principal regulations are amended by revoking regulation 16, and substituting the following regulation:

16 Offences

- (1) A person commits an offence and is liable on summary conviction to a fine not exceeding \$20,000 if the person acts in contravention of, or fails to comply with, any of regulations 3C, 3F, 5A, 5B, 5C, 5E, 10, 15A(2), or 15I.
- (2) A person commits an offence and is liable on summary conviction to a fine not exceeding \$100,000 if the person acts in contravention of, or fails to comply with, any of regulations 3 to 3B, 3D to 4B, 6, 6A, 8, 11, 12, 13A to 15, 15C, 15F to 15HA, or 15J to 15K.

15 Other amendments to principal regulations

The principal regulations are amended in the manner indicated in the Schedule.

16 Revocations

The following regulations are revoked:

- (a) regulation 3 of the Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986, Amendment No 9 (SR 1990/216);
- (b) regulations 5 and 8 of the Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986, Amendment No 11 (SR 1991/164):

- (c) regulations 6 and 7 of the Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986, Amendment No 12 (SR 1992/86):
- (d) Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986, Amendment No 14 (SR 1992/235):
- (e) regulations 2 and 3 of the Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986, Amendment No 15 (SR 1992/302):
- (f) regulations 4 and 5 of the Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986, Amendment No 17 (SR 1993/283):
- (g) regulation 2 of the Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986, Amendment No 22 (SR 1996/270):
- (h) regulations 3 and 4 of the Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Amendment Regulations (No 2) 1998 (SR 1998/298):
- (i) regulation 4 of the Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Amendment Regulations 2001 (SR 2001/68):
- (j) regulation 3 of the Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Amendment Regulations (No 2) 2001 (SR 2001/150).

Schedule

Other amendments to principal regulations

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- **Regulation 3B**
- Omit the words “regulation 21 of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulation 31(1) of the Fisheries (Commercial Fishing) Regulations 2001”.
- **Regulation 4A(1)**
- Omit the words “regulation 21 of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulation 31(1) of the Fisheries (Commercial Fishing) Regulations 2001”.
- **Regulation 5(1)**
- Omit the words “regulation 30 of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulation 42 of the Fisheries (Commercial Fishing) Regulations 2001”.
- **Regulation 5A**
- Omit from subclause (1)—

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- (a) the words “regulation 27(1) of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulation 37(1) of the Fisheries (Commercial Fishing) Regulations 2001”; and
 - (b) the expression “regulation 29” and substitute the expression “regulation 41”.
- Omit from subclause (2) the words “regulation 27(2) of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulation 37(2) of the Fisheries (Commercial Fishing) Regulations 2001”.
- Omit from subclause (3) the words “regulation 29(1)(f) of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulation 41(1)(g) of the Fisheries (Commercial Fishing) Regulations 2001”.
- **Regulation 5B**
- Omit from subclause (1)—
 - (a) the words “regulation 27 of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulation 37 of the Fisheries (Commercial Fishing) Regulations 2001”; and
 - (b) the expression “regulation 29” and substitute the expression “regulation 41”.
- Omit from subclause (2) the words “regulation 27(2) of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulation 37(2) of the Fisheries (Commercial Fishing) Regulations 2001”.
- **Regulation 5C**
- Omit from subclause (1)—
 - (a) the words “regulation 27 of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulation 37 of the Fisheries (Commercial Fishing) Regulations 2001”; and
 - (b) the expression “regulation 29” and substitute the expression “regulation 41”.
- Omit from subclause (2) the words “regulation 27(2) of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulation 37(2) of the Fisheries (Commercial Fishing) Regulations 2001”.
- **Regulation 5D**
- Omit from subclauses (1) and (2)—
 - (a) the words “regulation 28 of the Fisheries (Commercial Fishing) Regulations 1986” and substitute in each case the words “regulation 38 of the Fisheries (Commercial Fishing) Regulations 2001”; and
 - (b) the words “First Schedule to the Fisheries (Commercial Fishing) Regulations 1986” and substitute in each case the words “Schedule 1 of the Fisheries (Commercial Fishing) Regulations 2001”.

- **Regulation 10(1)**
- Omit the words “regulation 53 of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulation 78 of the Fisheries (Commercial Fishing) Regulations 2001”.
- **Regulation 15A(1)**
- Omit the words “regulation 21 of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulation 31(1) of the Fisheries (Commercial Fishing) Regulations 2001”.

Martin Bell,

Acting for Clerk of the Executive Council.

Explanatory note

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

These regulations, which come into force on 1 October 2001, amend the Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986 to make them more consistent with the Fisheries Act 1996. The main features of the amendments are as follows:

- • a definition of commercial fisher is substituted for the definition of commercial fisherman:
- • references to the chief executive are substituted for references to the Director-General:
- • the prohibition on targeting certain fish, aquatic life, and seaweed is omitted. This matter is now covered by the Fisheries (Commercial Fishing) Regulations 2001:
- • taking or processing kina in Southern Fiordland is prohibited:
- • the maximum penalty for the higher band of offences, which was formerly \$10,000, is increased to \$100,000.

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