

## Fisheries (Order of Transactions) Amendment Regulations 2004

Pursuant to section 297(1)(sa) 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 (Order of Transactions) Amendment Regulations 2004.
- (2) In these regulations, the Fisheries (Order of Transactions) Regulations 2001<sup>1</sup> are called “the principal regulations”.

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<sup>1</sup> SR 2001/191

**2 Commencement**

These regulations come into force on the 28th day after the date of their notification in the *Gazette*.

**3 Regulation 10 revoked**

The principal regulations are amended by revoking regulation 10 (order of transactions at close of October 2000/September 2001 fishing year).

**4 Regulation 11 revoked**

The principal regulations are amended by revoking regulation 11 (order of transactions on 1 October 2001).

**5 Regulation 12 revoked**

The principal regulations are amended by revoking regulation 12 (order of transactions for fishing periods 1 October 2001 to 31 March 2002, and 1 October 2001 to 30 September 2002).

**6 Order of transactions on first day of any fishing year other than 1 October 2001**

Regulation 13(2) of the principal regulations is amended by revoking paragraph (d), and substituting the following paragraph:

“(d) fourthly,—

“(i) allocate and register quota for new stocks created by the alteration of a quota management area under section 26, and adjust and register any caveats and mortgages over the new quota under section 154 of the Act; and

“(ii) register settlement quota interests over any quota shares allocated under section 44 of the Fisheries Act 1996.”

**7 New regulation 15A inserted**

The principal regulations are amended by inserting, after regulation 15, the following regulation:

**“15A Order of transactions where settlement quota subject to forfeiture under Act**

“(1) This regulation applies to forfeitures, under the Act, of quota shares subject to a settlement quota interest.

- “(2) The chief executive must take the following actions (as applicable) in the order listed:
- “(a) remove the Crown caveat registered over the quota shares subject to a settlement quota interest in relation to the forfeiture proceedings:
  - “(b) remove any settlement quota interest that is registered over those quota shares:
  - “(c) transfer the required number of quota shares as directed by the forfeiture order to the Crown Settlement Quota Encumbered Account:
  - “(d) register a settlement quota interest over the forfeited quota shares.”

#### **8 New regulation 19A inserted**

The principal regulations are amended by inserting, after regulation 19, the following regulation:

#### **“19A Order of transactions in relation to caveat or mortgage where section 153 of Act applies**

- “(1) If the circumstances described in section 153(1) or (3) of the Act exist, the chief executive must reduce the number of shares secured by the mortgage or caveat by applying the quota share reduction principles set out in section 153(4) of the Act in the manner prescribed by subclause (3) or subclause (5) or subclause (7), as appropriate.
- “(2) Subclause (3) applies if,—
- “(a) a mortgage has been registered after a caveat has been registered; and
  - “(b) after deduction of quota shares under section 23 or section 52 of the Act, the total number of shares subject to the caveat and mortgage exceeds the total number of shares held by the quota owner.
- “(3) If the circumstances described in subclause (2) exist, the chief executive must—
- “(a) reduce the number of shares secured by the last registered mortgage so that the total number of shares subject to the mortgage and caveat equals the number of shares held by the quota owner; and
  - “(b) if the reduction in shares is insufficient to satisfy the requirements of paragraph (a) and the next last mortgage

has been registered after the caveat, reduce the number of shares secured by the next last mortgage in the manner described in paragraph (a).

- “(4) Subclause (5) applies if the total number of shares subject to all mortgages exceeds the total number of shares held by the quota owner after deduction of quota shares under section 23 or section 52 of the Act.
- “(5) If the circumstances described in subclause (4) exist, the chief executive must—
- “(a) reduce the number of shares secured by the last registered mortgage so that the total number of shares subject to all mortgages equals the number of shares held by the quota owner; and
  - “(b) if the reduction in shares secured by the last registered mortgage does not satisfy the requirement of paragraph (a), reduce the next last registered mortgage and, if necessary, any other previously registered mortgages until the total number of shares secured by all mortgages equals the total number of shares held by the quota owner.
- “(6) Subclause (7) applies if the total number of shares subject to an individual caveat exceeds the total number of shares held by the quota owner after deduction of quota shares under section 23 or section 52 of the Act.
- “(7) If the circumstances described in subclause (6) exist, the chief executive must reduce the number of shares subject to the caveat so that the number of shares subject to the caveat equals the number of shares held by the quota owner.”

Diane Morcom,  
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 the 28th day after the date of their notification in the *Gazette*, amend the Fisheries (Order of Transactions) Regulations 2001 by—

- revoking regulations 10, 11, and 12, which are now redundant (regulations 3, 4, and 5):
- inserting, as regulation 13(2)(d)(ii), a requirement that the chief executive registers settlement quota interests over any quota shares allocated under section 44 of the Fisheries Act 1996 (regulation 6):
- inserting new regulations 15A (dealing with the order of transactions where settlement quotas are subject to forfeiture under the Act) and 19A (dealing with the order of transactions in relation to caveats or mortgages where section 153 of the Act applies) (regulations 7 and 8).

The revocation of regulations 10, 11, and 12 is a result of the specified time for taking the actions having passed.

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