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An Act to consolidate and reform the law relating to the management and conservation of fisheries and fishery resources within New Zealand and New Zealand fisheries waters

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 Act 1983.

(2) Subject to section 108 (6) of this Act, this Act shall come into force on the 1st day of October 1983.

2. Interpretation—(1) In this Act, unless the context otherwise requires,—

"Acclimatised fish" means every species of fish which the Governor-General may declare, by Order in Council, to be acclimatised fish for the purposes of this Act:

"Acclimatisation district" means the district administered by an acclimatisation society or, where there is no acclimatisation society, a district administered by the Department of Internal Affairs:

"Acclimatisation society" means an acclimatisation society registered under the Wildlife Act 1953 and, in relation to an acclimatisation district where there is for the time being no acclimatisation society, means the Department of Internal Affairs:

"Approved",—

(a) In relation to Part III of this Act, means approved by the Authority; and

(b) In all other cases, means approved by the Director-General:

"Aquatic life", in relation to New Zealand fisheries waters, means any species of plant or animal life (except birds) which, at any time of the life history of the species, must inhabit water; and includes any part of such plant or animal:

"Authority" means the Fisheries Authority established under section 13 (1) of this Act:

"Boat authority" means a licence, approved by the Authority, which sets out those particulars of a controlled fishery licence that apply to a particular fishing vessel used by the person holding the licence:

"Commercial fisherman" means—

(a) In the case of an individual, a person who is engaged or intending to engage in fishing for sale throughout the year, or a specified part of the season of each year, and who can satisfy the Director-General that during such time as he engages in fishing for sale he relies wholly or substantially on his fishing activities for his income; or
(b) In the case of a company or other body of persons, that it has an appreciable investment in the fishing industry or intends to make one; or

(c) In the case of an individual fishing solely for eels on a commercial basis, a person who can satisfy the Director-General as to his legitimate involvement in the fishery (even if that person does not otherwise comply with the provisions of this definition); or

(d) In the case of an individual taking seaweed for commercial purposes, a person who can satisfy the Director-General as to his legitimate involvement in the seaweed-taking business (even if that person does not otherwise comply with the provisions of this definition):

“Commercial fishing” means taking fish for sale within New Zealand or New Zealand fisheries waters:

“Controlled fish” means any fish in respect of which a fishery has been declared to be a controlled fishery under this Act:

“Controlled fishery” means a fishery which the Governor-General, by Order in Council, has declared to be a controlled fishery; and includes all persons and vessels engaged in fishing a controlled fishery:

“Director-General” means the Director-General of Agriculture and Fisheries:

“District Anglers Notice” means a notice published in the Gazette by an acclimatisation society under section 71 of this Act:

“Exclusive Economic Zone” means the exclusive economic zone of New Zealand as defined by section 9 of the Territorial Sea and Exclusive Economic Zone Act 1977:

“Fish” includes all species of finfish of the Classes Agnatha, Chondrichthyes, and Osteichthyes, and all shellfish, at all stages of the life history of such finfish and shellfish; and includes any part thereof:

“Fishery” means one or more stocks or parts of stocks or one or more species of fish, aquatic life, or seaweed that can be treated as a unit for the purposes of conservation or management:

“Fishery management area” means any area so declared pursuant to section 5 of this Act:

“Fishery Officer” means any officer specified as such in section 76 of this Act:

“Fishery resource” means any fishery, or any stock, species, habitat, or location of fish, aquatic life, or seaweed:
“Fishing” means the catching, taking, or harvesting of fish, aquatic life, or seaweed; and includes any other activity which may reasonably be expected to result in the catching, taking, or harvesting of fish, aquatic life, or seaweed; and also includes any operation in support of or in preparation for any activities described in this definition:

“Fishing Industry Board” means the New Zealand Fishing Industry Board established under the Fishing Industry Board Act 1963:

“Fishing permit” means a permit issued pursuant to section 64 of this Act:

“Fishing unit”, in relation to a controlled fishery licence, means the vessel or vessels used by the licence holder in carrying out the business of fishing together with all gear and equipment used in association with that business; and includes any employee of the licence holder engaged in that business:

“Fishing vessel” includes every description of vessel, aircraft, hovercraft, or other thing, of whatever size, that is capable of being used in fishing:

“Foreign fishing craft” means any fishing vessel that is not a New Zealand fishing vessel:

“Internal waters” means all internal waters of New Zealand as defined by section 4 of the Territorial Sea and Exclusive Economic Zone Act 1977:

“Licence”, in relation to Part III of this Act, means a controlled fishery licence issued under that Part:

“Management plan” means a fishery management plan prepared under section 6 of this Act:

“Master”, in relation to any vessel (whether a fishing vessel or not), means any person for the time being having command or charge of the vessel:

“Minister” means the Minister of Fisheries:

“Ministry” means the Ministry of Agriculture and Fisheries:

“New Zealand fisheries waters” means—
(a) All waters in the exclusive economic zone of New Zealand:
(b) All waters of the territorial sea of New Zealand:
(c) All internal waters of New Zealand:
(d) All other fresh or estuarine waters where fish indigenous to or acclimatised in New Zealand are found:

“New Zealand fishing vessel” means any fishing vessel registered under section 57 of this Act:
“Optimum”, in relation to the maximum sustainable yield from a fishery, means the maximum sustainable yield from that fishery modified, for the purposes of a management plan, by any relevant economic, social, recreational, or ecological factor:

“Owner”, in relation to any fishing vessel, includes any body of persons, whether incorporated or not, by which the vessel is owned and, in relation to any vessel registered under this Act, includes any charterer, sub-charterer, lessee, or sub-lessee of the vessel:

“Plan” means a fishery management plan made pursuant to Part I of this Act:

“Planning Tribunal” means the Planning Tribunal established under section 128 of the Town and Country Planning Act 1977:

“Possession” means possession of or control over any fish, or possession of or control over any vessel, vehicle, container, package, thing, or place in or on which the fish are found, either jointly or on one’s own account:

“Port” has the same meaning as in section 2 (1) of the Harbours Act 1950:

“Premises” means any land or building; and includes any vessel, aircraft, or hovercraft, or any vehicle or conveyance of any kind whatever:

“Processing” includes cutting, shelling, and the use of all methods of manufacture and preservation:

“Public authority” includes every local authority and every department or instrument of the executive Government of New Zealand or local authority; and includes the New Zealand Maori Council and the National Parks and Reserves Authority established under section 17 of the National Parks Act 1980:

“Registrar” means a Registrar of the Ministry appointed under section 60 of this Act:

“Sale” includes every method of disposition for valuable consideration, including barter; and includes the disposition to an agent for sale on consignment; and also includes offering or attempting to sell, or receiving or having in possession for sale, or exposing for sale, or sending or delivering for sale, or causing or permitting to be sold, offered, or exposed for sale; and also includes disposal by way of raffle, lottery, or other game of chance; and “sell” and “sold” have corresponding meanings:
“Seaweed” includes all kinds of algae and sea-grasses that grow in New Zealand fisheries waters below low water, or on tidal lands:

“Shellfish” includes all species of the phylum Echinodermata and phylum Mollusca and all species of the Class Crustacea at all stages of the life history of all such fish:

“Taking” means fishing; and “to take” has a corresponding meaning:

“Territorial sea” means all waters of the territorial sea of New Zealand as defined by section 3 of the Territorial Sea and Exclusive Economic Zone Act 1977:

“Tidal lands” means such areas of land as are covered and uncovered by the effect of ordinary spring tides:

“Tidal water” means such part of the sea or of a river or creek as is within the effect of ordinary spring tides:

“Total allowable catch”, with respect to the yield from a fishery, means the amount of fish, aquatic life, or seaweed that will produce from that fishery the maximum sustainable yield, as qualified by any relevant economic or environmental factors, fishing patterns, the interdependence of stocks of fish, and any generally recommended sub-regional or regional or global standards.

(2) For the purposes of this Act and any regulations made under it, unless the context otherwise requires, the term “sale” does not include the disposal by public auction of fish taken by amateur fishermen during the course of a fishing competition, if the competition and the auction are carried out in accordance with any conditions imposed by the Director-General, either generally or specifically, and the proceeds from the auction, less only the auctioneer’s commission (if any) and similar related expenses, are applied to purposes which are cultural, benevolent, philanthropic, or charitable.

3. Application of Act to exclusive economic zone—
(1) Nothing in this Act shall be construed—
(a) To require the licensing or registration or obtaining of a permit or of any consent by a foreign fishing craft for the purpose of fishing within the exclusive economic zone of New Zealand; or
(b) To authorise the making of any regulations in derogation of the provisions of the Territorial Sea and Exclusive Economic Zone Act 1977.
Economic Zone Act 1977, or of any regulations made under that Act, relating to fishing within the exclusive economic zone; or

(c) To authorise the boarding, search, seizure, taking of possession, detention, or forfeiture under this Act of any such foreign fishing craft, or of any equipment or fish on board the craft, or the arrest of any crew member of such craft, in respect of any offence relating to fishing within the exclusive economic zone; or

(d) To authorise the imposition of a term of imprisonment on any crew member of any such foreign fishing craft in respect of any such offence.

(2) Nothing in Part III or section 62 of this Act shall apply to fishing by foreign fishing craft within the exclusive economic zone.

(3) Where, but for the provisions of subsection (1) of this section, a person would be liable to suffer imprisonment for the commission of any offence, he shall instead of such imprisonment be liable on summary conviction to a fine not exceeding in the case of any licensee, owner, or master of the foreign fishing craft $10,000, and not exceeding in the case of any other crew member of the foreign fishing craft $1,000.

(4) Any offence against this Act that is committed within the exclusive economic zone of New Zealand shall be deemed to have been committed in New Zealand.

PART I

FISHERY MANAGEMENT PLANS

4. Purposes of fishery management plans—The purpose of any fishery management plan under this Part of this Act is to conserve, enhance, protect, allocate, and manage the fishery resources within New Zealand fisheries waters having regard to the need for—

(a) Planning, managing, controlling, and implementing such measures as may be necessary to achieve those purposes:

(b) Promoting and developing commercial and recreational fishing:

(c) Providing for optimum yields from any fishery and maintaining the quality of the yield without detrimentally affecting the fishery habitat and environment.
5. Declaration of fishery management area—The Minister, for the purposes specified in section 4 of this Act, may from time to time by notice in the Gazette, declare any area of New Zealand fisheries waters to be a fishery management area for the management of such species of aquatic life as are specified in the notice.

6. Fishery management plan—Where any fishery management area has been declared, the Director-General shall, as soon as practicable after the declaration, consult and have regard to the views and responsibilities of appropriate public authorities, acclimatisation societies, the Fishing Industry Board, and such organisations and persons representing commercial, recreational, Maori, traditional, and other interests in fisheries as he considers appropriate, and prepare a proposed plan for the whole or any part of that fishery management area for the purposes specified in section 4 of this Act, and the need for the co-ordination of interrelated fisheries.

7. Fishery management advisory committees—(1) For the purposes of preparing proposed plans and giving advice in relation to operative plans, the Minister may, as he thinks fit, from time to time appoint advisory committees for each management area or part thereof.

(2) Each such committee shall have as chairman an officer of the Ministry nominated by the Director-General, and may include members representing commercial, processing, wholesaling, retailing, recreational, Maori, and consumer interests in the area relating to fish and fishing.

(3) If the Minister so directs, there may be paid out of money appropriated by Parliament for the purpose to the members of any such committee remuneration by way of expenses and travelling allowances in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if the committee were a statutory Board within the meaning of that Act.

8. Procedure in relation to plans—(1) The proposed plan shall contain a description of the management area and such of the particulars for management specified in the First Schedule to this Act as the Director-General considers applicable to the management area concerned.

(2) Every proposed plan prepared in accordance with the provisions of this section shall be submitted to the Minister, and if he agrees in principle with the proposed plan he shall
authorise the Director-General to advise all those consulted pursuant to section 6 of this Act of the availability of the proposed plan and to publish notice of the proposed plan in the Gazette, and the proposed plan shall then be available for public inspection for a period of not less than 2 months from the date of notification in the Gazette.

(3) Notice of every such proposed plan shall also be published at least twice, with an interval of not less than 7 days between each notification of the plan, in the metropolitan newspapers and in a newspaper circulating in the locality of the fishery management area concerned; and a copy of the plan shall be deposited in the office of the Ministry nearest to the locality of the fishery management area and in the Ministry’s Head Office.

(4) After consideration and amendment (if any) pursuant to section 9 of this Act, the proposed plan together with any changes shall be referred back to the Minister for approval.

(5) Before approving any plan that affects the statutory responsibilities of any acclimatisation society, the Minister shall consult the appropriate society or societies; but shall not, without the consent of the appropriate society or societies, approve a plan affecting those matters which could otherwise be dealt with by a District Anglers Notice.

(6) Notice of the approved plan shall be published in the Gazette, and shall become operative as from a date specified therein, and every provision of such an operative plan shall have the force and effect of a regulation in force under this Act.

(7) Any operative plan approved pursuant to this section may at any time be amended, suspended, or revoked, either in whole or in part, and any such amendments shall be made in accordance with the provisions of this section and of section 6 of this Act:

Provided that the Minister may approve amendments to already operative plans without recourse to the procedures outlined in this section if the amendment relates to fishing quotas and fixes a quota which is neither more than nor less than 20 percent of any quota or range of quotas fixed in the plan, and at least 21 days’ notice of the amendment is given in the Gazette.

9. Objections to, and submissions on, proposed plan—
(1) Any person or public authority, local authority, or any body specifically constituted by or under any Act, and any Minister of the Crown, which or who has any function, power, or duty
which relates to, or which or who is or could be affected by, any aspect of the proposed fishery management plan may lodge an objection, or submissions in respect of the plan, to the Director-General within 2 months of notification in the Gazette of the proposed plan.

(2) Every objection shall identify the provisions of the plan objected to, the grounds and the relief sought, and shall be supplemented by such particulars and information as the Director-General notifies the applicant he considers necessary to sufficiently identify the grounds of objection.

(3) The Director-General shall consider the objections and all submissions received by him, or, if he thinks fit, refer it to the Authority, which shall have power to consider and hear the objections and submissions thereon and to make recommendations to the Minister in respect of them.

(4) If the Authority holds a hearing, it shall give not less than 28 days’ written notice of the time and place of the hearing to the objector, any local authority whose region or district is affected by the objection, and every body or person which or who has made submissions in respect of the plan shall have the right to be present and be heard by the Authority, may be represented by counsel or duly authorised representative, and may call evidence in support of its or his contentions, before the Authority makes a decision on a recommendation in respect of the objections or submissions:

Provided that where the Authority holds a hearing, the Director-General shall have the right to be heard.

(5) Where the Authority holds a hearing, it may request the Director-General to supply it with such information relating to the proposed plan or any objections or submissions made in respect of it as the Authority considers necessary to assist it; and the Director-General shall, as far as may be practicable, provide such information.

(6) The reasonable expenses and costs of the hearing of the objection and any parties to the proceedings shall be borne as the Authority may direct, or may be left where they fall.

(7) Upon considering any recommendation of the Director-General or the Authority under this section, the Minister shall advise each objector or person who made submissions of that recommendation, and of his decision on all or any part of the recommendation, and shall also give public notice of those matters.

10. Inquiry by Planning Tribunal—(1) Within 28 days after the date of notification of the approved plan pursuant to section
8 (6) of this Act, the appellant and every body and person which or who made submissions on or objected to the proposed plan under section 9 of this Act, or the Director-General, may make submissions on or object to the operative plan or any part of it to the Planning Tribunal, or object to the Tribunal against the recommendation, as the case may be.

(2) The Planning Tribunal shall consider all submissions and objections received by it under subsection (1) of this section, and for that purpose shall conduct a public inquiry at such times and places as it may appoint.

(3) For the purposes of conducting a public inquiry under this section, the Tribunal shall have all the powers, privileges, and immunities conferred on it by Part VIII of the Town and Country Planning Act 1977.

(4) The appellant, the Minister, or any regional or united council or local authority whose region or district is affected by the operative plan, and every body and person which or who made submissions on or objected to the proposed plan under section 9 of this Act, shall have the right to be present and be heard at every inquiry conducted by the Planning Tribunal under this section, and may be represented by counsel or duly authorised representative.

(5) The Planning Tribunal may, if it considers it to be expedient, conduct any 2 or more inquiries together notwithstanding that they relate to different areas or different parts of any area.

(6) On completion of the inquiry, the Planning Tribunal shall, having regard to the purposes of fishery management plans as set out in section 4 of this Act,—

(a) Make a report and recommendation to the Minister on the appeal and any necessary amendments to the operative plan; or

(b) Recommend to the Minister that the appeal be declined.

(7) The Minister may, after taking into account the report and recommendations of the Planning Tribunal,—

(a) Amend the operative plan; or

(b) Decline the appeal—

and shall give public notice of the report and recommendations and of his decision.

(8) Subject to subsection (9) of this section, no appeal shall lie from any report or recommendation of the Planning Tribunal under this section.

(9) Where any party to any proceedings under this section before the Planning Tribunal is dissatisfied with the report or any recommendation of the Planning Tribunal as being
erroneous in point of law, he may appeal to the High Court by way of case stated for the opinion of the Court on a question of law only, and the provisions of subsections (2) to (11) of section 162 and of section 162A of the Town and Country Planning Act 1977 shall, with any necessary modifications, apply in respect of the report or recommendation in the same manner as they apply in respect of a determination of the Planning Tribunal under the Town and Country Planning Act 1977.

11. Minister may make emergency amendments to plan—(1) If at any time an emergency occurs that, in the opinion of the Minister, after consultation with the New Zealand Fishing Industry Board or appropriate acclimatisation society, 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, then, notwithstanding any provision to the contrary in section 6 or section 8 of this Act, the Minister may by notice in the Gazette amend such plan to the extent required by the emergency.

(2) Any amendment made pursuant to subsection (1) of this section shall take effect from a date to be specified in the notice, and 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 a subsequent notice given before the expiry of the original notice.

(4) Any amendment made pursuant to subsection (1) of this section shall be deemed to be revoked with effect from the expiry of the period specified in the notice issued pursuant to subsection (1) of this section or any subsequent notice issued pursuant to subsection (3) of this section, or it may be revoked by the Minister at any time within the period specified in the notice.

12. Minister may impose emergency restrictions before introduction of plan—(1) If at any time an emergency occurs that, in the opinion of the Minister, endangers or may endanger stocks of fish, or aquatic life, or any species or class of fish or aquatic life in any fishery or part of a fishery where there is no fishery management plan or any proposed plan has not yet been approved by the Minister, the Minister may, by notice in the Gazette after consultation with the Fishing Industry Board or appropriate acclimatisation society,—
(a) Halt all or any fishing in that fishery or any specified part of the fishery:
(b) Restrict the number of fishing vessels fishing in the fishery:
(c) Restrict the amount of fish or aquatic life which may be taken from that fishery.

(2) Any such notice shall shortly state the reasons for the restrictions, and shall be given for a period of not more than 28 days but may from time to time be amended, revoked, or renewed by the Minister by a subsequent notice.

(3) The particulars of any notice given under this section shall be advertised twice in at least 1 newspaper generally circulated in the area concerned.

(4) Every notice given under this section shall come into force on a day to be specified, being a day no sooner than the date on which the notice is advertised under subsection (3) of this section for the second time.

(5) During the period of any such emergency, the Director-General may authorise, in the case of a freshwater emergency, any acclimatisation society concerned to take adult salmon from any of the waters specified in the notice and to dispose of such fish in such manner as the Director-General shall direct.

PART II
FISHERIES AUTHORITY

13. Establishment of Fisheries Authority—(1) There is hereby established the Fisheries Authority.

(2) The Authority shall consist of 5 members appointed by the Minister, being—

(a) Three members, one of whom shall be appointed as Chairman and one as deputy to the Chairman:
(b) One member, after consultation with the Fishing Industry Board:
(c) One member, after consultation with the New Zealand Maori Council.

(3) Subject to this section and to section 14 of this Act, each member of the Authority shall hold office for a term of 3 years, and may from time to time be reappointed:
Provided that—
(a) Of the first members appointed under subsection (2) (a) of this section, the person appointed as Chairman shall retire 3 years after the commencement of this Act, the person appointed as deputy to the Chairman after 2 years, and the other after 1 year:
(b) The first person appointed under subsection (2) (b) of this section shall retire 3 years after the commencement of this Act:

(c) The first person appointed under subsection (2) (c) of this section shall retire 2 years after the commencement of this Act.

(4) Any member of the Authority may resign his office at any time by written notice given to the Minister.

(5) Any member of the Authority may be removed from office at any time by the Minister for disability, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Minister.

(6) If any member of the Authority dies, resigns, or his office becomes vacant, or he is removed from office, the vacancy shall be filled in the same manner as the appointment of the vacating member. Every person so appointed shall hold office for the residue of the term for which his predecessor was appointed.

(7) Notwithstanding subsection (3) of this section, every member, unless he sooner vacates his office or is removed from office under this section, shall continue in office until his successor is appointed.

(8) Those members of the Fisheries Licensing Authority appointed pursuant to section 101 of the Fisheries Act 1908 in office as at the commencement of this Act, shall go out of office on such commencement, but shall be eligible for appointment to the Authority.

14. Chairman not to be financially interested in fishing industry—(1) No person shall be qualified for appointment as Chairman of the Authority if he is financially interested in the fishing industry.

(2) If any person appointed Chairman of the Authority becomes financially interested in the fishing industry his office shall thereupon become vacant.

(3) For the purposes of this section, a person shall be deemed to be financially interested in the fishing industry if that person—

(a) Is the owner of a fishing vessel or of any share in a fishing vessel for the time being registered under this Act; or

(b) Is engaged in fishing for the purposes of catching fish for sale; or

(c) Is engaged in the business of selling fish, whether by wholesale or retail; or
(d) Is in partnership with any person specified in paragraph (a) or paragraph (b) of this subsection; or
(e) Is a member or director or employee of any company carrying on the business of fishing or of selling fish, whether by wholesale or retail; or
(f) Is the wife or husband or employee of any person disqualified under the foregoing provisions of this subsection.

15. Deputies of members—(1) The Minister may, either concurrently with the appointment of a member to the Authority, or at any time thereafter, appoint a deputy for the member; and such deputy may act in place of the member to whom he is appointed deputy while that member is prevented by illness, absence, or other sufficient cause from performing the duties of his office; but any such appointment as deputy may at any time be revoked by the Minister.

(2) Every deputy appointed under this section to act for the member whose appointment was made in accordance with section 13 (2) (b) or (c) of this Act shall be appointed by the Minister after consultation with the Fishing Industry Board or, as the case may require, the New Zealand Maori Council.

(3) Any deputy appointed under this section shall, while he acts as such, be deemed to be a member of the Authority.

(4) No appointment of a deputy and no acts done by him as such, and no act done by the Authority while any deputy is acting as such, shall in any proceedings be questioned on the grounds that the occasion for his appointment or for his or it so acting had not arisen or had ceased.

16. Co-opted members—(1) The Authority may co-opt any person or persons, by reason of any particular expert knowledge or skill, to be a member or members to assist it for a specified time or purpose.

(2) A person co-opted under this section shall be deemed to be a member of the Authority during the period for which he is co-opted, but shall not be entitled to vote on any question before the Authority.

17. Meetings of Authority—(1) Meetings of the Authority shall be held at such times and places as the Chairman may from time to time appoint.

(2) The Chairman shall preside at all meetings he attends, and in his absence the deputy Chairman shall preside and shall have all the powers of the Chairman.
(3) At any meeting the quorum necessary for the transaction of business shall be the Chairman or, in his absence, the deputy Chairman, and 2 other members or their deputies.

(4) Subject to this Act, the Authority may regulate its own procedure.

18. Meetings to be held in public except in certain circumstances—(1) Except as provided by subsections (2) to (4) of this section, every hearing of the Authority shall be in public.

(2) The Authority may deliberate in private as to its decision in any matter or as to any question arising in the course of any proceedings before it.

(3) Where the Authority is satisfied that it is desirable to do so by reason of the confidential nature of any evidence or matter (including details of the private financial circumstances of any person), or that the interests of any party to the hearing in having the whole or any part of the proceedings conducted in private outweigh the public interest in having the hearing conducted in public, the Authority may, on the application of any party to the proceedings, order that the whole or any part of the hearing shall be in private.

(4) Subject to section 22 of this Act, every application for a licence under this section shall be heard in private, but the parties to the application and the Director-General shall be entitled to be present and to make submissions.

(5) In any case where a hearing of the Authority is held in private, the Authority may allow any particular person to attend the private hearing if it is satisfied that the person has a proper interest in the matter to be heard.

19. Fees and travelling allowances—(1) The Authority is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(2) There shall be paid to the members of the Authority, out of money appropriated by Parliament for the purpose, remuneration by way of fees, salary, or allowances, and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

20. Administration of Authority—(1) The Director-General shall designate an officer of his Ministry to be Secretary to the Authority, and shall also provide from his Ministry such secretarial, recording, accounting, and clerical services as may be necessary to enable the Authority to discharge its functions.
(2) All expenses incurred in respect of the administration of the Authority shall be paid out of money from time to time appropriated by Parliament for the purpose.

21. **Money received by Authority and refunds**—(1) All fees and other money received by the Authority shall be dealt with as if they were a receipt of the Ministry of Agriculture and Fisheries, and shall be paid into the Public Account to the credit of the Consolidated Account.

(2) If the Authority is satisfied that any fee or other money received by it has been paid in error or in excess of the amount properly payable it may on its own volition or on application made to it any time within 3 years after the payment of that fee or other money direct the Director-General to refund the fee or other money or the amount of the excess, as the case may require, to the person by whom it was paid.

(3) All money payable by way of refund under subsection (2) of this section shall be paid out of the Consolidated Account without further appropriation than this section.

22. **Representation of parties**—Subject to any provision to the contrary in this Act, every person making an application to the Authority, or who is the subject of an inquiry under section 45 of this Act, shall be entitled to appear and be heard by the Authority in respect of the application or inquiry either in person or by his counsel or agent, and shall have the right to produce evidence.

23. **Evidence before Authority**—(1) The Authority may receive in evidence any statement, document, information, or matter that may, in its opinion, assist it to deal effectively with the matter before it, whether or not the same would otherwise be admissible in a Court of law.

(2) The Authority may, if it thinks fit in respect of any application before it, examine, on oath or otherwise, the applicant or any other party to the application or any person whose evidence has been received by the Authority under subsection (1) of this section, or require any person to verify by statutory declaration any statement made by him with respect to the application.

24. **Reasons for decision of Authority may be obtained**—
(1) The Authority shall, if requested to do so by any person who under section 50 of this Act may exercise a right of appeal against a decision of the Authority, supply to that person a statement of its reasons for that decision.
(2) Every request under subsection (1) of this section shall be made within the period specified in section 49 (1) of this Act.

25. Functions and powers of Authority—(1) The functions of the Authority shall be to sit as a body to consider—
(a) Applications for licences to fish in a controlled fishery, and to grant, renew, revoke, or amend such licences;
(b) Objections to and submissions in respect of fishery management plans under section 9 of this Act.
(2) The Authority shall also have such other functions as are conferred on it by or under this Act or any other enactment.
(3) The Authority shall have all the powers necessary to carry out its functions.

26. Authority to implement policy of Government—
(1) In the exercise of its functions and powers under this Act, the Authority shall give effect to the policy of the Government in relation to those functions and powers, as communicated to it from time to time in writing by the Minister.
(2) A copy of every communication under subsection (1) of this section to the Authority in any financial year of the Authority shall—
(a) Be notified in the Gazette as soon as practicable after its receipt by the Authority; and
(b) Be included in the annual report laid before Parliament under section 28 of this Act.

27. Financial year—The financial year of the Authority shall end with the 31st day of March or with such other date as the Authority, with the approval of the Minister, may determine.

28. Annual report—(1) As soon as reasonably practicable after the end of each financial year, the Authority shall deliver a general report of its operations during the year to the Minister.
(2) A copy of the general report shall be laid before Parliament as soon as practicable after its receipt by the Minister.

PART III
CONTROLLED FISHERIES

Register of Controlled Fishery Licences

29. Register of Controlled Fishery Licences—(1) For the purposes of this Part of this Act, the Secretary to the Authority shall set up and maintain a Register of Controlled Fishery Licences.
(2) The Register shall be open to inspection by the public during ordinary office hours on payment of the prescribed fee (if any).

(3) On payment to him of the prescribed fee (if any), the Secretary shall send to any person requesting the same in writing a copy of any specified entry in the Register.

(4) Whenever a licence is granted, renewed, amended, or revoked by the Authority under this Act, the Secretary shall make an appropriate entry in the Register, showing—

(a) In the case of the issue of a licence, the name and address of the licensee, any conditions which the Authority may attach to a licence or directions given in respect of it, and the date on which the application was granted:

(b) In the case of the renewal of a licence, the date on which the application was granted:

(c) In the case of the revocation of a licence, the date and the grounds on which the revocation was made.

(5) The Secretary shall also, in respect of any entry, record such other particulars as may from time to time be prescribed, and such further conditions, amendments, or directions as the Authority may from time to time attach, make, or give in respect of any licence.

(6) Notwithstanding the provisions of this section, no details of the private financial circumstances of any licensee or applicant for a licence shall be entered in the Register.

Controlled Fisheries Licensing

30. Declaration of controlled fisheries—(1) On the recommendation of the Minister, after consultation with the New Zealand Fishing Industry Board, the Governor-General may from time to time, by Order in Council, constitute and declare any part of New Zealand fisheries waters (including any fishery management area or part thereof) to be a controlled fishery under this Act for the purposes of the management or conservation of the fishery in that part or the economic stability of the fishing industry.

(2) The Minister may, following the declaration of a controlled fishery, by notice in the Gazette,—

(a) Define the controlled fishery by reference to such matters as he thinks fit, including the species or class of fish, aquatic life, or seaweed that may be taken from the fishery, the areas that may be fished, and the persons who may be engaged in the fishery; and
(b) After having regard to the provisions of any plan in respect of a fishery and to the recommendations of the Fishing Industry Board, fix the maximum number of licences and boat authorities that may be granted in respect of the controlled fishery.

(3) Any notice under this section may at any time in like manner be varied, amended, or revoked.

(4) Notwithstanding the provisions of this section, no fishery shall be declared to be a controlled fishery in any leased or licensed area as defined in the Marine Farming Act 1971.

(5) Every fishery which, as at the commencement of this Act, is a controlled fishery pursuant to section 118 of the Fisheries Act 1908 shall be deemed to be a controlled fishery under this Act; and every controlled fishery licence granted by the Fisheries Licensing Authority under that Act and in force as at the commencement of this Act shall be deemed to be a controlled fishery licence granted by the Fisheries Authority under this Act.

31. Offence to fish controlled fishery without licence—

(1) Where a controlled fishery is constituted and declared pursuant to section 30 of this Act, every person—

(a) Who is not a licence holder in respect of that controlled fishery, fishes for, or has in possession, or has on board any vessel, any controlled fish, aquatic life, or seaweed in a controlled fishery; or

(b) Who is engaged in any aspect of the fishing industry and who has control or possession of any controlled fish, aquatic life, or seaweed not taken under a licence—commits an offence, and is liable on summary conviction to a fine not exceeding $10,000.

(2) It shall be a defence to an action under this section if the defendant can satisfy the Court—

(a) That within prescribed limits—

(i) The taking of controlled fish, aquatic life, or seaweed from a controlled fishery was for a purpose other than sale; or

(ii) He had possession of controlled fish, aquatic life, or seaweed in a controlled fishery for a purpose other than sale; or

(iii) The fishing for or possession of the controlled fish, aquatic life, or seaweed was due to an incidental by-catch; or
(b) That he was on innocent passage through the area of the
controlled fishery, having taken the fish, aquatic life,
or seaweed elsewhere.

(3) Every person who fails to cease fishing in a controlled
fishery forthwith upon being lawfully ordered by a Fishery
Officer to do so commits an offence and is liable on summary
conviction to a fine not exceeding $1,000.

32. Application for licence—(1) Every commercial
fisherman who desires to obtain a controlled fisheries fishing
licence shall make application to the Authority on a form
provided by the Authority for the purpose, accompanied by
the prescribed fee (if any).

(2) Where the Minister has, under section 30 of this Act,
fixed the maximum number of licences that may be granted
in respect of a controlled fishery the Authority may specify a
closing date for the receipt by it of applications for a licence
in respect of that controlled fishery and, unless in the special
circumstances of the case it considers it equitable to do so,
shall not consider any application received by it after that date.

(3) Every closing date specified under subsection (2) of this
section shall be publicised by publishing a notice in the Gazette
and in at least one newspaper generally circulated in the area
concerned.

(4) Every application—
(a) Shall specify the class of licence applied for, being of a
class described in section 35 of this Act:
(b) Shall state the place or intended place of business of the
applicant:
(c) Shall specify the nature and size of any vessel intended
to be used, and give details of all gear and equipment
intended to be used in fishing from that vessel or
otherwise:
(d) Shall, if the applicant will not be personally fishing within
the controlled fishery or is a company, give the names
and qualifications of the master or masters who will
have command or charge of the vessel or vessels
intended to be used:
(e) Shall specify whether or not the applicant has, within the
preceding 5 years, been convicted for any offence
punishable by imprisonment or for any offence
against this Act or any other enactment relating to
fishing.

(5) Every application shall be accompanied by a statement
in writing setting forth the grounds on which the application
is made and supported by such documents relating to the character of the applicant, his qualifications, and his financial standing, as the applicant considers will assist the Authority in its consideration of the application, and shall also produce evidence that any levies owing to the Fishing Industry Board have been paid.

(6) The Authority shall refer every application under this section to the Director-General who may investigate the application and may request the applicant to provide such further information as the Director-General thinks necessary to assist the Authority. On completing any such investigation the Director-General shall furnish the Authority and the applicant with a report on the nature and extent of his investigations and any conclusions he may have drawn as a result of the investigation, and shall return the application and supporting documents to the Authority.

33. Authority may grant licence—(1) As soon as practicable after receiving any application for a licence and any report from the Director-General pursuant to section 32 (6) of this Act, the Authority shall consider the application and, if it is fully satisfied that having regard to the applicant's character, financial position, and qualifications, and to the matters specified in section 34 of this Act, the applicant is a fit and proper person to hold a licence, the Authority shall grant the licence which shall be issued to the applicant on an approved form on payment of the prescribed fee (if any). If the Authority is not so satisfied, it shall appoint a convenient time and place for hearing the application, and shall give at least 14 days' notice thereof to the applicant and to the Director-General who shall both be entitled to be present and to be heard.

(2) If, after hearing any application under subsection (1) of this section, the Authority is satisfied that, having regard to the matters specified in that subsection, the applicant is a fit and proper person to hold a licence, it shall grant the licence which shall be issued to the applicant on an approved form on payment of the prescribed fee (if any). If the Authority is not so satisfied, it shall not grant a licence to the applicant unless ordered to do so by the Court.

(3) Subject to this Act and to any terms and conditions imposed by the Authority, a licence shall authorise the licensee to carry on the business of fishing for controlled fish, aquatic life, or seaweed and shall specify the controlled fishery to which the licence relates during the period for which it was granted, and may from time to time be renewed.
34. Matters to be considered in determining application for licence—(1) In considering any application for a licence, the Authority shall generally have regard to—

(a) The extent to which the grant of a licence is necessary or desirable in the controlled fishery, and in the areas of that fishery in which it is proposed to operate the licence:

(b) Any policy approved by the Minister for the conservation of any species of fish, aquatic life, or seaweed or controlled fish, aquatic life, or seaweed, the proper management of any controlled fishery, or for any other matter relevant to fishing or the fishing industry within the controlled fishery:

(c) The desirability of providing and maintaining a reasonable standard of living for commercial fishermen within the controlled fishery:

(d) The desirability of giving preference to commercial fishermen—

   (i) Already engaged in the fishing industry:

   (ii) From a community within the area of the controlled fishery.

(2) After having regard to the matters mentioned in subsection (1) of this section, the Authority, in respect of any particular application, shall take into account—

(a) The financial ability of the applicant to fish in the manner proposed in the application:

(b) The vessels and fishing devices proposed to be used:

(c) The likelihood of the applicant carrying on the proposed fishing satisfactorily and, in the case of a current licensee or a person who has previously held a licence of the kind to which the application relates, the manner in which the licensee has previously operated under a licence:

(d) Whether a licensee who is now deceased or who has surrendered his licence pursuant to section 43 of this Act had expressed a wish for the applicant to take over his licence in any case where the applicant is connected by blood relationship, marriage, or adoption:

(e) Such other matters as may be prescribed by regulations made under this Act:

(f) Any other matters that the Authority considers relevant to the application.
(3) For the purposes of subsection (2) (d) of this section—
(a) Persons are connected by blood relationship if within the fourth degree of relationship:
(b) Persons are connected by marriage if one is married to the other or to a person who is connected by blood relationship to the other:
(c) Persons are connected by adoption if one has been adopted as the child of the other or as a child of a person who is within the third degree of relationship to the other.

35. Classification and duration of licences—(1) Every controlled fishery licence shall be—
(a) A continuous licence, being a licence which authorises fishing in a controlled fishery throughout the year; or
(b) A seasonal licence, being a licence which authorises fishing in a controlled fishery during the regular periods specified in the licence.
(2) A continuous licence and every renewal of such licence shall be for such period of years as may be specified on the licence by the Authority:
Provided that all continuous licences granted in respect of a particular controlled fishery shall expire with the same day.
(3) A seasonal licence and every renewal of such licence shall be for such period as may be specified on the licence by the Authority, being a period expiring not later than one year from the date of granting.

36. Terms and conditions of licence—(1) Subject to such terms and conditions as may be prescribed, the Authority may, when granting any licence, specify—
(a) The class of licence and the period for which it is granted:
(b) A date by which the licensee shall commence fishing:
Provided that the date may be extended by the Authority upon application to it in that behalf:
(c) The controlled fishery or any particular waters within the controlled fishery to which the licence applies:
(d) The vessel or vessels to be used:
(e) The port or ports at which any vessel or vessels are to be based:
(f) The quantity, quality, or size of controlled fish, aquatic life, or seaweed that may be taken from the controlled fishery:
(g) The records that are to be kept in relation to the controlled fishery, and any information which is to be supplied by the licence holder to either the Authority or the Director-General:

(h) The names of the master or masters who may have command or charge of the vessel or vessels within the controlled fishery:

(i) Such other terms or conditions as the Authority thinks necessary in a particular case.

(2) Where the Authority thinks it desirable for the effective management of a controlled fishery, it may attach conditions to a licence requiring the licensee—

(a) To land controlled fish, aquatic life, or seaweed taken from a controlled fishery only at such port or ports as the Authority may specify:

(b) To provide facilities approved by the Director-General for keeping or preserving controlled fish, aquatic life, or seaweed taken from a controlled fishery on board a fishing vessel.

(3) The Authority shall attempt to ensure that, as far as practicable, all licences granted in respect of fishing units of similar size and capacity are granted subject to similar terms and conditions.

37. Renewal of licence—(1) An application for the renewal of a licence shall be made to the Authority on a form provided by the Authority for the purpose accompanied by the prescribed fee (if any) not earlier than 2 months and not later than 1 month preceding the date of the expiry of the licence.

(2) An application for the renewal of a licence may be heard and determined by the Authority, notwithstanding that the application is not made by the date specified in subsection (1) of this section, if the application is made before the date of the expiry of the licence.

(3) If the Authority is satisfied, upon consideration of an application for the renewal of a continuous licence, that the applicant has complied with the terms and conditions of his licence and that the maximum number of licences fixed in respect of the controlled fishery has not been reduced under section 30 of this Act, the Authority may renew the licence upon payment of the prescribed fee (if any) without holding a hearing pursuant to section 33 of this Act.

(4) Every renewal of a licence shall be granted on the same terms and conditions as apply to the original licence, unless such terms and conditions are amended pursuant to section 46 or section 47 of this Act.
(5) Where an application for the renewal of a licence has been made to the Authority but not determined before the date on which the licence would otherwise expire, the licence shall continue in force until the application is determined.

38. Temporary licence—(1) Any person who,—
(a) In the case of a licensee who is a protected patient within the meaning of the Mental Health Act 1969, is the manager of his estate; or
(b) In the case of a licensee in respect of whom a protection order is in force under the Aged and Infirm Persons Protection Act 1912, is the manager of his estate; or
(c) In the case of a licensee who has been adjudicated bankrupt, is his assignee in bankruptcy; or
(d) In the case of a licensee company that is in liquidation or receivership, is the liquidator or receiver of that company, as the case may be; or
(e) In the case of a licensee who is sick, indisposed, or absent, or is otherwise temporarily prevented from fishing, may, not later than 14 days after so becoming the manager, personal representative, assignee in bankruptcy, liquidator or receiver, or agent, as the case may be, apply to the Registrar nearest to a port authorised under the licence for use by the vessel or vessels of the licensee for a temporary licence to carry on the licensee's business as a fisherman in a controlled fishery.

(2) The Registrar shall grant a temporary licence for such period not exceeding one month as he thinks appropriate.

(3) While any person so authorised carries on any such business he shall, for the purposes of this Part of this Act, be deemed to be the holder of the licence, and the licence, any boat authority, and the Register of Controlled Fishery Licences shall be endorsed accordingly.

(4) An application for the renewal of a temporary licence may be made, before the date of the temporary licence's expiry, to the Authority which may renew the temporary licence for such period as it thinks appropriate in the circumstances of the case; but any such renewal shall expire with the date on which the licence would otherwise expire.

39. Temporary master may be appointed—(1) A licensee may apply to the Registrar nearest to a port authorised under the licence for use by the vessel or vessels of the licensee for a temporary variation in the conditions applying to his licence
to allow a master, other than that specified in the licence pursuant to section 36 (1) (h) of this Act, to have command or charge of a boat within the controlled fishery.

(2) The making of such an application shall of itself authorise the licensee to act as if the application had been granted until such time as the Registrar specifies, or until the Registrar advises the licensee that the application has not been granted.

40. Boat authorities—(1) Every licence holder shall keep on board every vessel approved by the Authority and specified in the licence a boat authority issued by the Authority in an approved form.

(2) Each boat authority shall take effect according to its tenor to authorise the licence holder, but no other person, to use the vessel in fishing a controlled fishery, and shall specify the master or masters of the vessel.

(3) Every boat authority shall be available for inspection by a fishery officer when so requested.

(4) It shall be a condition of every boat authority—

(a) That all fishing gear and equipment on the vessel shall be maintained in a fit and proper condition:

(b) That all authorities and certificates required in respect of the vessel pursuant to the Shipping and Seamen Act 1952 will be maintained.

41. Licence not transferable—(1) No licence granted or boat authority issued under this Part of this Act shall be transferable to any other person or vessel.

(2) No goodwill shall attach to any licence or boat authority or, in respect of such licence or authority, form part of the purchase price—

(a) Of any vessel which is or has been issued with a boat authority; or

(b) Of any shares or stock in a licensee company (other than shares or stock officially listed on stock exchanges affiliated to the Stock Exchange Association of New Zealand).

(3) No applicant for a licence and no licence holder who, in each case, is purchasing or intending to purchase a vessel in respect of which a boat authority is in force or has been in force within the previous 12-month period shall have issued any boat authority in respect of that vessel unless the purchase price of that vessel is approved by the Authority as not contravening subsection (2) of this section.
(4) In considering any such purchase price, the Authority may obtain the opinion of 2 assessors, of whom one shall be nominated and paid by the seller and the other nominated and paid by the purchaser and, in the event of a dispute, may also obtain the opinion of the Director-General.

(5) No person shall enter into any transaction or make any contract or arrangement, whether orally or in writing, for the purpose of or having the effect of, in any way, whether directly or indirectly, defeating, evading, avoiding, or preventing the operation of subsection (2) of this section, and any such transaction, contract, or arrangement shall be void and shall not be subject to the provisions of the Illegal Contracts Act 1970:

Provided that all money paid and the value of any other consideration provided by the purchaser in respect of any such transaction, contract, or arrangement shall be recoverable as a debt to him from the vendor or, as the case may be, bailor.

(6) Notwithstanding section 49 of this Act, the decision of the Authority as to whether the purchase price for a vessel or for any shares or stock contravenes subsection (2) of this section shall be final.

42. **Fishing not to be suspended**—(1) Except pursuant to the approval of the Authority under subsection (2) of this section or the voluntary surrender of a licence under section 43 of this Act, no holder of a continuous licence shall voluntarily cease or significantly reduce the fishing effort authorised by the licence.

(2) The Authority may, on application by the licensee, authorise the licensee to suspend or reduce the fishing effort authorised by the licence for such period and subject to such conditions as the Authority may specify.

(3) If the licensee is authorised to suspend or reduce fishing, he shall not be entitled to recommence fishing at the rate authorised by the licence until—

(a) The period specified by the Authority has expired; or

(b) The Authority has authorised him to do so on application made in that behalf by the licensee or the Director-General.

43. **Voluntary surrender of licence**—(1) A licensee may at any time surrender his licence by forwarding a written notice to that effect, together with the licence, to the Secretary to the Authority.
(2) The Secretary shall endorse on the notice and the Register the date on which he receives the notice, and the licence shall, as from that date, cease to have effect.

(3) The surrender of a licence under this section shall not affect the licensee's liability—
(a) To pay any fees or other money payable or to be payable in accordance with this Act on or before the date on which the licence would, but for its surrender, expire:
(b) To perform any obligation required to be performed by him by or under this Act on or before that date:
(c) For any act done or default made before the date on which the licence ceased to have effect.

44. Lost licences, boat authorities, and temporary licences—Where the Secretary to the Authority is satisfied that any licence, boat authority, or temporary licence has been lost he may, on payment of the prescribed fee (if any), issue to the holder of the licence, boat authority, or temporary licence a substitute licence, boat authority, or temporary licence.

45. Revocation and suspension of licence—(1) The Authority may at any time, or if so directed by the Minister shall, hold an inquiry as to whether or not any fishing authorised by a licence under this Part of this Act is being carried out in conformity with the licence and of this Part of this Act.

(2) Not less than 28 clear days' notice of the time, day, and place fixed for any such inquiry shall be given in writing to the licensee together with particulars of the matters proposed to be inquired into:
Provided that the Authority may on application by the licensee fix another time, day, or place for the inquiry.

(3) The Authority shall give notice in writing to all persons whom it thinks may be affected by the inquiry or have a special interest in the inquiry.

(4) The Authority shall for the purposes of an inquiry under this section be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908 and, subject to this Act, the provisions of that Act shall apply accordingly.

(5) If as a result of any such inquiry the Authority is satisfied that the licensee is not fishing in conformity with the licence or of this Act it may revoke the licence.

(6) Instead of revoking the licence the Authority may suspend the licence either completely or in respect of any specified
place or waters of the controlled fishery, for such period as it thinks fit, and it may amend the terms and conditions of the licence or add new terms or conditions.

46. Review of licences—(1) If the Authority thinks at any time that the conditions in a controlled fishery have materially changed since any licence in respect of that fishery was granted, or if the Minister so requests, the Authority shall give notice in writing to every licensee of that controlled fishery that it intends to review the licences.

(2) Not less than 28 clear days after the notice has been given to each licensee, the Authority shall review the licences by taking into account the conditions in the controlled fishery at the time of the review and by applying section 34 of this Act, with any necessary modifications, as if each licensee were an applicant for a new licence.

(3) If as a result of any such review the Authority considers it necessary to protect the controlled fishery it may revoke all the licences, or suspend all the licences for such period as it thinks fit, or amend the terms or conditions of the licences, or add new terms or conditions.

47. Restrictions on licences in certain cases—(1) The Minister may by notice in the Gazette, upon being satisfied that fishing in a particular controlled fishery should immediately be restricted and after informing the Authority, impose such restrictions on all licences granted in respect of that controlled fishery as may be recommended by the Director-General (after consultation with the Fishing Industry Board if practicable), being restrictions relating to the suspension or reduction of fishing in the places or waters described in the notice, or to the quantity, quality, or size of controlled fish, aquatic life, or seaweed that may be taken.

(2) Any such notice shall shortly state the reasons for the restrictions.

(3) Any restrictions imposed pursuant to subsection (1) of this section shall take effect from a date to be specified in the notice, and may remain in effect for not more than 90 days from the date so specified.

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

(5) Any restrictions imposed pursuant to subsection (1) of this section shall be deemed to be revoked with effect from the
expiry of the period specified in the notice issued pursuant to subsection (1) of this section or any subsequent notice issued pursuant to subsection (4) of this section, or it may be revoked by the Minister at any time within the period specified in the notice.

48. Keeping of accounts and records—Every licence holder shall keep such accounts and records and make such returns as may be prescribed.

Appeals

49. Appeal against decision of Authority—(1) Subject to section 50 of this Act and subsection (2) of this section there shall be a right of appeal, within 28 days after the date on which written notification of the decision appealed against has been given to the applicant or to the subject of an inquiry, to the High Court against the whole or any part of any decision of the Authority where the Authority—
   (a) Refuses to grant an application for a licence; or
   (b) Refuses to grant an application for the renewal of a licence; or
   (c) Revokes any licence; or
   (d) Grants a licence; or
   (e) Suspends any licence under section 45 or section 46 of this Act; or
   (f) Amends the terms or conditions of a licence or adds new terms or conditions to a licence which, in either case, appear to unduly restrict the business of the licence holder.

(2) No appeal shall lie against a decision of the Authority to refuse to issue or renew a licence in respect of a controlled fishery where the Authority states that its grounds for doing so are that the licences already issued and currently being operated are the number which the Minister has fixed pursuant to section 30 of this Act as being the maximum number of licences that may be granted in respect of that fishery.

(3) Every appeal under this section shall be heard and determined by the Administrative Division of the High Court (hereinafter referred to as the Court).

(4) Subject to this Act, the procedure in respect of any appeal to the Court shall be in accordance with the rules of the Court.

50. Persons entitled to appeal—The following persons and no others may exercise the aforesaid right of appeal:
(a) The person in respect of whose application the decision of the Authority was given:
(b) The holder of a licence in respect of which the decision of the Authority was given:
(c) The Director-General:
(d) Any other licensee or applicant affected by the decision:
(e) Any incorporated body which has as its principal object the protection of the interests of licensees.

51. Rights of licensee pending disposal of appeal in certain cases—(1) Where a decision of the Authority is to revoke any licence or refuse an application for the renewal of any licence, that decision shall be of no effect until—
   (a) Where notice of an appeal against that decision has been given within the period specified in section 49 (1) of this Act, the appeal is determined:
   (b) Where no notice of an appeal against that decision has been given within that period, that period expires.
(2) Nothing in subsection (1) of this section shall apply in respect of any licence suspended under section 105 (3) of this Act.

52. Hearing and determination of appeal—(1) The Court may receive in evidence any statement, document, information, or matter that may in its opinion assist it to deal effectively with the matters before it, whether or not that evidence would be otherwise admissible in a Court of law.
   (2) The Court may, if it considers it is in the public interest, order that the hearing or any part of it shall be held in private.
   (3) The Court may make an order prohibiting the publication of any report or description of the proceedings or of any part of the proceedings in any appeal before it (whether heard in public or in private); but no order shall be made prohibiting the publication of the names and descriptions of the parties to the appeal, or particulars of any licence affected by the appeal, or of any decision of the Court.
   (4) In its determination of any appeal the Court may confirm, modify, or reverse the decision appealed against, or any part of that decision, and, subject to section 53 of this Act, the decision of the Court shall be final and conclusive.

53. Court may refer appeals back to Authority—(1) Notwithstanding section 52 of this Act the Court may, in any case, instead of determining any appeal under that section,
direct the Authority to reconsider, either generally or in respect of any specified matters, the whole or any specified part of the matter to which the appeal relates.

(2) In giving any direction under this section the Court shall—
(a) Advise the Authority of its reasons for doing so;
(b) Give to the Authority such directions as it thinks fit as to the reconsideration or otherwise of the whole or any part of the matter that is referred back for reconsideration.

(3) The Authority shall, in reconsidering any matter so referred back to it, have regard to the Court's reasons for giving a direction under subsection (1) of this section and to the Court's directions under subsection (2) of this section.

54. Appeals to Court of Appeal on questions of law—The provisions of section 144 of the Summary Proceedings Act 1957 shall apply in respect of any determination of the High Court under section 52 of this Act as if the determination were made under section 107 of the Summary Proceedings Act 1957.

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.

56. Fishing year—For the purposes of this Part and of Part V of this Act, the term "fishing year" means a period of 12 months ending with the 30th day of September, or such other date as the Director-General may determine and notify in the Gazette.

57. Fishing vessels to be registered—(1) It shall not be lawful for any vessel to be used for commercial fishing unless—
(a) The vessel is registered under the provisions of this Act; and
(b) The owner of the vessel holds a fishing permit in terms of section 64 of this Act.

(2) Where an owner intends to use a vessel for commercial fishing he shall apply to the Registrar at the nearest registration office appointed under section 60 of this Act for registration of the vessel.
(3) The application shall be on a form approved by the Director-General, and shall be accompanied by the prescribed fee (if any).

(4) 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.

(5) Every certificate of registry shall be valid for the period specified on it, being a period of between 1 and 5 years.

(6) No vessel may be registered under this Act, and the registration of any registered vessel shall be revoked by the Director-General, unless—

(a) In circumstances where the provisions of the Shipping and Seamen Act 1952 require the vessel to be issued with a certificate of survey, an appropriate certificate has been issued;

(b) The Master and crew of the vessel can prove to the satisfaction of the Registrar that they have the appropriate qualifications required under the Shipping and Seamen Act 1952, and the complement of the vessel is in accordance with the manning scales specified by that Act;

(c) The vessel carries all the equipment necessary to comply with the requirements of the Shipping and Seamen Act 1952, for the vessel, and is so constructed and equipped to comply with such requirements in respect of the handling, processing, and storage of fish, aquatic life, or seaweed as may be prescribed by regulations under this Act;

(d) The owner of the vessel is a commercial fisherman.

(7) Any registration revoked by the Director-General for failure to comply with subsection (6) of this section shall be restored upon him being satisfied that the failure has been remedied.

(8) Except with the prior consent of the Director-General, who may refuse his consent, or grant it unconditionally, or on such conditions as he thinks fit to impose, no vessel shall be registered under this Act unless the owner—

(a) Being an individual, is a person who is ordinarily resident in New Zealand; or

(b) In the case of an incorporated company, the company is 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 he 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) He 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 he 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 all the voting power at meetings of the company may be exercised by that person or, as the case may be, by those persons:
   Provided that in the exercise of his discretion, the Director-General may disregard a small amount of paid up capital or a small number of allotted shares held by a person in any company.

(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.

58. Application of this Part to tenders—(1) Except as provided in subsection (2) of this section, every vessel and 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.

(2) Every vessel or tender that is carried by or attached to a fishing vessel shall be deemed for the purposes of this Part of this Act to form part of that fishing vessel if—
   (a) The vessel or tender is used or is intended to be used solely for purposes other than the taking of fish, aquatic life, or seaweed; or
   (b) In any case where the fishing vessel is engaged in net fishing (other than the taking of rock lobsters), the vessel or tender is used or is intended to be used solely for the purpose of transporting, setting, clearing, and lifting nets that form part of the gear
of the fishing vessel and the fishing vessel is close at hand when the vessel or tender is being so used, except where, by reason of mechanical mishap, stress of weather, or circumstances beyond the control of the master, it is not practicable for the fishing vessel to remain close at hand.

59. Cancellation of registration of fishing vessel—The registration of a fishing vessel shall be deemed to be cancelled where—

(a) The Director-General 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:

Provided that where any owner of a fishing vessel has died the Director-General at the port or place at which the vessel is registered may from time to time extend the registration of the fishing vessel for such period as he thinks fit; 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) The provisions of section 57 (8) of this Act are no longer complied with; or

(f) The vessel is lost or destroyed.

60. 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 appoint officers of the Ministry to be Registrars for each registration office so established.

61. Taking fish, etc., commercially without permit prohibited—(1) It shall not be lawful for any person to take any fish, aquatic life, or seaweed by any method unless he is a commercial fisherman who holds 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) Subject to any regulations made under this Act, the taking of whitebait:
(b) The taking of fish, aquatic life, or seaweed by any person for subsistence or personal use only (and not for the purposes of sale), within such limits (if any) relating to numbers, quantity, or weight as may be prescribed for any such fish, aquatic life, or seaweed:
(c) 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):
(d) Any person fishing pursuant to an Order in Council made under the Marine Reserves Act 1971.

62. Taking of fish, etc., by other than New Zealand ships—(1) No vessel that is not a New Zealand ship within the meaning of the Shipping and Seamen Act 1952 shall be used in fishing in the territorial sea or internal waters of New Zealand except for fisheries research or experimental or 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 he may impose.

(2) Every Fishery Officer may, for the enforcement of the provisions of this section, 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 he has reasonable cause to believe that any offence against this Act relating to fishing within the territorial sea has been committed he may—
(a) Seize and detain all fish, aquatic life, or seaweed on board the vessel:
(b) Apprehend any person whom he has reasonable cause to believe has committed an offence specified in this section:
(c) If he 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 he 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 or experimental or 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 the provisions of section 80 of this Act.

63. 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 pursuant to that consent and in compliance with any conditions imposed by the Minister in granting that consent.
64. Fishing permits—(1) Subject to this Act, every commercial fisherman being the owner of a fishing vessel registered under section 57 of this Act shall apply to the Registrar, at the registration office where the vessel is registered, for a fishing permit on an approved form accompanied by the prescribed fee (if any).

(2) Such a fishing permit may be issued for a period of between 1 and 5 years, and may be subject to such conditions relating to areas, species, quantities, methods, types of fishing gear, and periods of time as the Director-General thinks fit to impose.

(3) Any person being a commercial fisherman intending taking fish, aquatic life, or seaweed otherwise than from a vessel for the purpose of sale shall make application on an approved form for a fishing permit to the Registrar at the registration office nearest to the area where the applicant wishes to take such fish, aquatic life, or seaweed.

(4) The Director-General may, from time to time, either on application by the permit holder or otherwise, amend the conditions of a permit or add new conditions.

(5) Where the registration of a fishing vessel has been revoked pursuant to section 57 of this Act, any fishing permit issued in respect of that vessel shall be cancelled, but shall be re-issued if the registration of the vessel is reinstated.

(6) Before issuing a permit, the Director-General may require an evaluation to be undertaken to determine the desirability of certain fishing methods at specific locations.

65. Minister may restrict fishing—(1) The Minister may, if he 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 such 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 he 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) For the purposes of subsection (2) of this section, the Minister may, either generally or specifically in relation to any case or class of cases, delegate to the Authority any of his powers under the said subsection (2).

66. Special permits—(1) Notwithstanding anything to the contrary in this Act, the Director-General may, on application being made to him 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 his 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 withdraw any permit given under subsection (1) of this section by notice in writing to the holder of the permit.

67. Permit holders to keep records and furnish returns—
(1) Every person holding a permit, authority, or approval issued pursuant to the provisions of this Act to take fish, aquatic life, or seaweed by any method for the purpose of sale or otherwise, and every master of any vessel registered pursuant to 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 keep records and shall furnish, on an approved form or schedule such returns and information as may be required to assist the management and conservation of any fishery resource.

(2) Every holder of a licence issued by the Authority shall keep such accounts and records as may be prescribed, and shall furnish on such form or schedule as the Authority shall provide such returns and information as may assist in the management and control of any controlled fishery.

(3) Except in respect of a prosecution under this Act, or where the 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, 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 him 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.

PART V
FRESHWATER FISHERIES

68. Taking acclimatised fish without licence prohibited—(1) Subject to this Act, every person commits an offence who takes an acclimatised fish from any waters of an acclimatisation district at any time unless he is the holder of a licence issued pursuant to regulations made under this Act authorising him to take such fish from such waters at such time.
(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:
(b) The taking of acclimatised 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.
(3) No person shall establish, manage, or operate any fish
hatchery or fish farm for acclimatised fish except pursuant to
regulations made under this Act; but nothing in this subsection
shall apply in relation to any hatchery or fish farm for
acclimatised fish established or being established as at the
commencement of this Act.
(4) No person shall establish, manage, or operate a fish farm
for trout.

69. Buying, selling, or possessing acclimatised fish
prohibited—(1) Subject to this section, every person commits
an offence who buys, sells, or has in his possession for the
purpose of sale, any acclimatised fish.
(2) Nothing in subsection (1) of this section shall apply—
(a) To the sale or other disposal of any acclimatised fish bred
or reared in a fish farm licensed pursuant to
regulations made under this Act:
(b) If there are for the time being regulations in that behalf
made under this Act, to the sale of any salmon taken
by a commercial fisherman—
   (i) Elsewhere than in the district of an
acclimatisation society; and
   (ii) In accordance with those regulations.
(3) For the purpose of this section, fish 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:
Provided that nothing in this subsection shall apply to
acclimatised fish taken legally pursuant to a current licence and
served to the angler who took the fish and his immediate
guests.

70. Restrictions on fishing—(1) The Director-General, by
notice in the Gazette, for such period as may be specified in
the notice, may, notwithstanding that it is otherwise lawful
under this Act,—
(a) Declare any specified waters to be spawning grounds for fish, and prohibit or impose restrictions and conditions on entry into any such waters or on to any land within a specified distance of any such waters:

(b) Prohibit or impose restrictions and conditions on entry into any waters within a specified distance of any device erected in those waters for the purpose of preventing or controlling the movement of fish upstream or downstream or on entry to any land within a specified distance of any such device:

(c) Prohibit or impose restrictions or conditions on fishing in any waters or in any specified part or parts thereof, or on the taking of any species of fish therein, or on the methods of fishing in such waters:

(d) In the case of fish (other than acclimatised fish) exempt communities either wholly, partially, or conditionally, or in respect of any specified waters, from the operation of any such prohibition, restriction, or other condition in the notice.

(2) Notwithstanding subsection (1) of this section, the Director-General shall not impose any prohibition, restriction, or other condition which relates to the taking of acclimatised fish from any waters in the district of any acclimatisation society without prior consultation with that society, nor restrict entry to any area without prior consultation with the appropriate Catchment Authority (being any public body established for the purpose of soil conservation and water management under any enactment) or any Government agency which has statutory control over the land involved.

71. Acclimatisation society responsibilities—
(1) Acclimatisation societies shall, inter alia, be responsible for the protection, management, and enhancement of all acclimatised fish species and their habitats, and the conservation of all indigenous freshwater fish species and their habitats, as may occur within their districts of administration.

(2) In the performance of their responsibilities, acclimatisation societies shall abide by the requirements of this Act and any regulations made under it.

(3) In respect of subsections (1) and (2) of this section, acclimatisation societies shall not, within their districts, engage in any activity that has as its predominant purpose the making of a commercial gain from that activity.
(4) Subject to this Act and to any regulations made under it and to the prior approval of the Director-General, each acclimatisation society shall, from time to time, prepare and publish by notice in the Gazette and have available for sale to the public, District Anglers Notices applying within its district.

(5) A District Anglers Notice shall set out the conditions under which a current licence holder may fish for acclimatised fish in the acclimatisation district to which the notice relates, being conditions relating to—

(a) The size and limit bag for any species of acclimatised fish:
(b) Any open or closed season in any specified waters in the district, and the acclimatised fish in respect of which they are open or closed:
(c) Any requirements, restrictions, or prohibitions on fishing tackle, methods, or the use of any gear, equipment, or device:
(d) The hours of fishing:
(e) The handling, treatment, or disposal of any acclimatised fish.

(6) A District Anglers Notice may also declare any waters within the district of the Acclimatisation Society to be fisheries experimental waters, and to make such provision for the protection of fish in those waters as in the opinion of the Director-General are necessary or desirable for fish research purposes.

72. Acclimatisation societies may grant special permits—

(1) Subject to this Act and to any conditions to the contrary specified in relation to indigenous fish in any National Park or reserve (within the meaning of the Reserves Act 1977) by the administering authority of that park or reserve, any acclimatisation society may, on application being made to it in writing, grant to any person named in the application a special permit, subject to such conditions as the society may impose, to take fish from any waters, or any specified part of the waters, of that society’s district (including waters where fishing may for the time being be lawfully prohibited or restricted)—

(a) For the purposes of education, investigative research, or the carrying out of trials and experiments with vessels or fishing gear or any other apparatus or technique which is capable of being used in connection with the taking of fish:
(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 acclimatisation society, would otherwise be unable, by reason of his disability, to fish by the methods permitted by this Act:

(c) For any purpose approved by the Minister.

(2) All fish taken pursuant to this section shall be disposed of as the acclimatisation society directs, or as may be specified in the permit.

(3) The acclimatisation society may at any time withdraw any permit given under subsection (1) of this section by notice in writing to the holder of the permit.

73. Fishing rights not to be sold or let—(1) Every person commits an offence against this Act who sells or lets the right to fish in any waters.

(2) Subsection (1) of this section shall not apply to the selling or letting of fishing rights on any licensed fish farm to the general public.

74. Occupier may fish without licence—Subject to this Act, any person who is the lawful occupier of any land may fish on such land or waters within such land without a licence or payment of fee, within the period and upon such terms and conditions, as may be specified in any notice issued pursuant to section 70 of this Act, or in any District Anglers Notice applying, or in any regulations made under section 89 of this Act, without being liable to any penalty for doing so.

75. Pollution of fresh waters and estuaries—(1) It shall be unlawful to disturb, injure, poison, kill, or detrimentally affect any fish, fish spawning ground, or food of fish in any river, stream, lake, or any other water, by casting, discharging, or allowing to fall, flow, or percolate into such waters, any sawdust or sawmill refuse, sheep dip, flax mill refuse, oil, milk or milk product, chlorinated hydrocarbon, pesticide, toxic or any other substance (including heavy metal or solid debris), or other material or rubbish which could lie on the bed of such waters.

(2) For the purposes of this section, a person shall be deemed to discharge water into natural water if he places or discharges or causes or permits to be placed or discharged, any waste or natural water containing waste in a position where that waste or any other waste emanating as a result of a natural process from that waste, is liable to fall or descend into, or to be washed or percolate into, or to be carried by wind, tide, or current into, any natural water.
(3) Every person who commits a breach of subsection (1) or subsection (2) of this section commits an offence, and commits a further offence if he neglects or refuses to remove as much as may be practicable of the material in respect of which the breach arose immediately upon having been ordered to do so by a Fishery Officer.

(4) Where any person is convicted of an offence under this section he shall be liable to a fine not exceeding $10,000, and to a further fine of $500 per day if the offence is a continuing one; but it shall be a defence to the charge if the defendant can show that the effluent discharged was in terms of the conditions of a current water right granted or otherwise authorised pursuant to the Water and Soil Conservation Act 1967 or any other Act, and for this purpose it shall be a sufficient defence to produce a certificate to that effect from the Regional Water Board in the area of which the right was purported to be granted or otherwise authorised.

(5) This section shall apply in respect of all fresh and estuarine waters in New Zealand, which shall include the mouth of every river or stream; and every river and stream shall be deemed to include every outlet thereof and the seashore between those outlets and the waters of the sea or of any harbour lying within a distance of 500 m from any place where at low tide the waters of a river or stream meet the waters of the sea or of any harbour.

PART VI

APPOINTMENT AND POWERS OF FISHERY OFFICERS

76. Appointment of Fishery Officers—(1) There may from time to time be appointed under the State Services Act 1962 such Fishery Officers and other officers as may be required for the purposes of this Act.

(2) Every officer in command of any vessel or aircraft of the New Zealand Armed Forces, and every constable, shall be deemed to be a Fishery Officer for the purposes of this Act.

(3) Where any officer or constable described in subsection (2) of this section has, from time to time, ordered any person under his command to carry out, for such period as he thinks necessary, such of the duties of a Fishery Officer as he may specify, the person so ordered shall, for the purpose of carrying out those duties, have all the powers of a Fishery Officer.

(4) Every Inspector of Sea Fishing under the Fisheries Act 1908 shall be deemed to have been appointed a Fishery Officer under this Act.
77. Appointment of Honorary Fishery Officers—(1) The Director-General may, from time to time, appoint suitable persons as Honorary Fishery Officers for a specified area, or areas, and every person so appointed shall be deemed to be a Fishery Officer for the purposes of this Act having the powers of such as specified in the warrant issued to him under section 78 of this Act.

(2) Every person appointed as an Honorary Fishery Officer under this section—

(a) Shall be appointed for such term, not exceeding 3 years, as the Director-General thinks fit, and may be re-appointed:

(b) May, at any time, be removed from office by the Director-General for incapacity, neglect of office, or misconduct, or may at any time resign his office by writing addressed to the Director-General.

(3) There may be paid to any Honorary Fishery Officer out of money appropriated by Parliament for the purpose an honorarium not exceeding $1,000 in any one year.

(4) No person appointed as an Honorary Fishery Officer under this section shall, by virtue of any honorarium paid to him under subsection (3) of this section, be deemed to be employed by the Crown for the purposes of the State Services Act 1962 or the Government Superannuation Fund Act 1956.

(5) Every person who, at the commencement of this Act, holds an appointment as an Honorary Fishery Officer under section 9 of the Fisheries Amendment Act 1959 shall continue to hold office as if he had been appointed under this section, and the provisions of this section shall apply as if he had been so appointed.

(6) There may be paid to any Honorary Fishery Officer out of money appropriated by Parliament for the purpose, reimbursement of actual and reasonable expenses incurred in the course of carrying out his powers and duties, where prior authorisation has been given by the Director-General and where the expenses have been subsequently approved by the Director-General.

78. Issue of warrants—(1) The Director-General may, from time to time, issue—

(a) To any Fishery Officer appointed or deemed to be appointed under this Act, a warrant authorising him to exercise the powers conferred on Fishery Officers under this Act:
(b) To any Honorary Fishery Officer appointed under this Act, a warrant specifying such of the powers conferred on Fishery Officers under this Act as he may exercise.

(2) Any warrant issued to any person appointed as an Honorary Fishery Officer may relate to all or any particular species or type of fish, aquatic life, or seaweed in any particular area or waters or generally throughout New Zealand or New Zealand fisheries waters, and may limit the powers which the Honorary Fishery Officer may exercise; and, if the appointment is in respect of a particular species or type of fish, aquatic life, or seaweed or any particular area or waters, or limits the powers that the officer may exercise, the warrant shall so specify.

(3) The Director-General may, from time to time, issue a warrant to such officers of the Ministry or acclimatisation societies as may be required to carry out any research or investigatory work for the purposes of this Act; and any such officer is accordingly empowered, at any time, to enter upon and pass along the banks and borders of any river, stream, lake, or other waters, whether natural or artificial, and enter upon and pass along, with boats or otherwise, such river, stream, lake, or other waters; and any such warrant shall be deemed to be and have the effect of a special permit granted under section 66 of this Act.

(4) On the termination of any appointment made under section 76 or section 77 of this Act, the person whose appointment has been terminated shall surrender to the Director-General any warrant issued to him.

(5) Any person to whom a warrant is issued under subsection (3) of this section shall surrender that warrant to the Director-General when the reasons for it being issued no longer apply.

79. Powers of Fishery Officer—(1) Every person holding a warrant designating that person as a Fishery Officer, and every other person who by this Act is deemed to be a Fishery Officer, may, for the purpose of the enforcement of the provisions of this Act and any regulations made under it, at all reasonable times,—

(a) Enter, or pass across any land and enter, examine, and search, by stopping or by opening where necessary, any vessel, conveyance of any kind, premises, or place (except a private dwelling place), parcel, package, or thing where that Fishery Officer believes, on reasonable grounds, that any offence is being or has
been committed against this Act or regulations made under it, and any fish, aquatic life, or seaweed taken or thing used in contravention of this Act or those regulations is being concealed or is located:

(b) Stop, enter, or pass across any land and enter, and examine any vessel or vehicle, or enter and examine any place (except a private dwelling place), or examine any record, document, article, and any gear, apparatus, device, or contents of any kind therein in the course of the enforcement and administration of this Act and any regulations made under it:

(c) Question any person and require the master of any vessel, or any other person, to give any explanation or information concerning that vessel, or any place or thing, or any fish, aquatic life, seaweed, fishing method, gear, apparatus, record, document, article, device, or thing, and require such persons to produce any permit, authority, licence, or certificate issued in respect of that vessel, person, or thing where that Fishery Officer has reasonable cause to believe that such person is or has been engaged in taking fish, aquatic life, or seaweed:

(d) Where he finds any person offending against this Act or any regulation made under it or where he believes on reasonable grounds that any person may have committed an offence against this Act or that regulation, order that person forthwith to desist from that offence, and, if that person after being so required, refuses upon request by the officer to provide his real first name or given name, surname, date of birth, actual place of residence and occupation or continues the offence, arrest the offender and cause him to be brought before a District Court Judge to be dealt with by law as soon as practicable:

(e) Where he believes that a vessel is being or has been used in fishing in contravention of the provisions of this Act or the conditions of any certificate or registration, permit, approval, or licence issued in respect of the vessel, require the master forthwith to discontinue fishing and to take the vessel back to the port or place to which it belongs, or to such nearer port or place nominated by the master and agreed to by the Fishery Officer:

(f) Do all such acts and things and give such directives as are necessary for the purpose of this Act.
(2) Nothing in subsection (1) of this section shall be construed to empower any Fishery Officer to enter a private dwelling place, or the enclosed garden or curtilage of any private dwelling place, or upon any Maori reservation constituted under or pursuant to the Maori Affairs Act 1953, unless he is authorised in writing by a District Court Judge or Justice, who shall not grant such authority unless he is satisfied that the Fishery Officer has reasonable grounds for requiring entry into the private dwelling place or the enclosed garden or curtilage of such private dwelling place, or the Maori reservation.

(3) Nothing in subsection (1) of this section shall be construed so as to require any person to answer any question tending to incriminate himself.

(4) Any Fishery Officer lawfully exercising his powers under this section may make or take copies of any record or document, and for this purpose may take possession of and remove from the place where they are kept, for such period of time as is reasonable in the circumstances, any such record or document.

(5) Every Fishery Officer exercising any power conferred by this section shall identify himself and produce evidence that he is a Fishery Officer to any person on or in the land, vehicle, vessel, premises, or place or claiming an interest in the things on or in or in respect of which the power is exercised, who questions the right of the Fishery Officer to exercise that power.

(6) The production by any Fishery Officer of any warrant issued to him under section 78 of this Act shall, until the contrary is proved, be sufficient authority for any such officer to do any thing which he is authorised by this Act, or any regulations made under it, to do.

80. Powers of seizure—(1) A Fishery Officer may seize—

(a) Any vessel, vehicle or other conveyance, fishing gear, implement, appliance, material, container, goods, or equipment which he believes on reasonable grounds is being or has been used or is intended to be used in the commission of an offence against this Act or any regulations made under it;

(b) Any fish, aquatic life, or seaweed which he believes on reasonable grounds are being or have been taken, killed, transported, bought, sold, or found in the possession of any person, in contravention of this Act or any regulations made under it; or any fish with which such fish, aquatic life, or seaweed have been intermixed.
(2) Any vessel, vehicle or other conveyance, fish, aquatic life, seaweed, or other article seized pursuant to subsection (1) of this section shall be delivered into the custody of the Director-General.

(3) Notwithstanding subsection (2) of this section, any vessel, vehicle or other conveyance, fish, aquatic life, seaweed, or other article seized pursuant to subsection (1) of this section may, on application by the person from whom such vessel, vehicle or other conveyance, fish, aquatic life, seaweed, or article was seized, be released to such person, under such sureties and conditions as the Director-General shall specify.

(4) Where, in the opinion of the Director-General, any fish, aquatic life, or seaweed or other article seized pursuant to subsection (1) of this section may rot, spoil, or otherwise perish, he may arrange for the sale of such fish or other article in such manner and for such price as he may determine.

(5) Where the ownership of any vessel, vehicle or other conveyance, fishing gear, implement, appliance, material container, goods, equipment, fish, aquatic life, or seaweed cannot, at the time of seizure, be ascertained the property seized shall be forfeit to the Crown and be disposed of as directed by the Director-General after 90 days from the date of seizure if, within that time, it has not been possible to establish the ownership of the property.

(6) All property seized pursuant to subsection (1) of this section and the proceeds from the sale of any such property pursuant to subsection (4) of this section, except where such property or proceeds have been forfeited to the Crown pursuant to subsection (5) of this section, shall be held in the custody of the Crown until—

(a) A decision is made not to lay any information or charge in respect of the alleged offence for which the property was seized; or

(b) Where such a charge or information is laid, upon the completion of proceedings in respect of the alleged offence for which the property was seized, or such sooner time as the Court may determine.

(7) The decision whether or not to lay any information or charge in respect of an alleged offence for which any property is seized under subsection (1) of this section shall be made as soon as reasonably practicable after the property is seized, taken possession of, or detained.

(8) The Crown shall not be liable to any person for any spoilage or deterioration in the quality of any fish, aquatic life, or seaweed seized under subsection (1) of this section.
(9) Subject to subsection (8) of this section, but notwithstanding any other provisions of this section, where any property has been seized under subsection (1) of this section, then—

(a) On a decision being made not to lay an information or charge; or

(b) On the acquittal of any person charged with an offence for which the property is subject to forfeiture—such property, or the proceeds from the sale of such property, shall forthwith be released from the custody of the Crown.

(10) Notwithstanding any other provisions in this section, a Fishery Officer who at the time of seizure returns to the water any fish or aquatic life seized pursuant to subsection (1) of this section that he believes to be alive, shall not be under any civil or criminal liability to the person from whom the fish or aquatic life was seized in the event of a decision being made not to lay an information or charge in respect of the fish or aquatic life, or of the person being acquitted of the charge.

(11) Where a Fishery Officer exercises his powers under this section for or on behalf of an acclimatisation society, the references in this section to the Director-General shall be construed as references to the acclimatisation society for or on behalf of which the Fishery Officer was exercising his powers.

81. Persons to assist Fishery Officer—(1) Any Fishery Officer exercising any of the powers conferred on him by this Act may do so with the aid of such assistants as he considers necessary for the purpose.

(2) All persons if called upon to assist any Fishery Officer in the exercise of any of the powers conferred on him by this Act, are hereby authorised and required to render such assistance.

82. Fish unfit for human consumption to be condemned and vessel prohibited—(1) If a Fishery Officer is of the opinion on reasonable grounds that any fishing vessel, or any equipment on that vessel, used for the taking, storing, or processing of fish, is by reason of its insanitary, defective, or other condition unsuitable for the taking, storing, or processing of fish for human consumption he may, by writing addressed to the master of the vessel, prohibit the use of the vessel or equipment for the aforesaid purposes either absolutely, or until the insanitary, defective, or other condition has been remedied
to his satisfaction. Any prohibition under this subsection may 
be expressed to take effect as from a date to be stated by the 
Fishery Officer.

(2) A Fishery Officer shall, by writing addressed to the master 
of the vessel, condemn any fish intended for human 
consumption found on that vessel where he is satisfied that 
the fish, by reason of any defect in the taking, handling, or 
processing, or any insanitary condition of the vessel or 
equipment, is unfit for human consumption, and the fish so 
condemned shall be disposed of in such manner as the Fishery 
Officer may direct.

83. Protection of Fishery Officer from liability—(1) Any 
Fishery Officer who—

(a) Examines or renders ineffective any net, line, pot, gear, 
tackle, or device which the officer has reasonable 
cause to believe has been set for the purpose of taking 
fish, aquatic life, or seaweed in contravention of this 
Act or any regulations made under it, or of any 
conditions of any permit, authority, or licence issued 
in respect of the fishing; or

(b) Does any act in pursuance of this Act, or any regulations 
made under it, or omits to do any act required by 
this Act or by any regulations made under it—
shall not be under any civil or criminal liability as a result of 
that act or omission on the ground of want of jurisdiction or 
mistake of law or fact, or any other ground, unless he has 
acted or omitted to act in bad faith, or without reasonable 
cause.

(2) Neither the Crown nor any acclimatisation society shall 
be held directly or indirectly liable for any such act or omission 
of any such officer, unless the officer himself would incur 
liability for the act or omission.

PART VII

Miscellaneous Provisions

84. Pollution of marine waters—(1) In this section, the term 
“New Zealand fisheries waters” does not include the fresh and 
estuarine waters to which section 75 of this Act applies, nor 
the waters in the exclusive economic zone of New Zealand.

(2) It shall be unlawful to injure, poison, kill, or detrimentally 
afect any fish, aquatic life, or seaweed in New Zealand fisheries
waters by casting, discharging, or allowing to fall, flow, or percolate into such waters any chlorinated hydrocarbons, biocides, pesticides, or toxic or other substances.

(3) For the purposes of this section, a person shall be deemed to discharge water into natural water if he places or discharges or causes or permits to be placed or discharged, any waste or natural water containing waste in a position where that waste or any other waste emanating as a result of a natural process from that waste, is liable to fall or descend into, or to be washed or percolate into, or to be carried by wind, tide, or current into, any natural water.

(4) Every person who commits a breach of subsection (2) of this section or who is deemed to discharge water into natural water under subsection (3) of this section, commits an offence.

(5) Where any person is convicted of an offence under this section he shall be liable to a fine not exceeding $10,000, and to a further fine of $500 per day if the offence is a continuing one; but it shall be a defence to the charge if the defendant can show that the effluent discharged was in terms of the conditions of a current water right granted or otherwise authorised pursuant to the Water and Soil Conservation Act 1967 or any other Act, and for this purpose it shall be a sufficient defence to produce a certificate to that effect from the Regional Water Board in the area of which the right was purported to be granted or otherwise authorised.

85. Determination of closed seasons for fishing—(1) In respect of any species of fish (other than acclimatised fish), aquatic life, or seaweed the Director-General may, from time to time by notice in the Gazette, determine a closed season for the whole or any part of New Zealand fisheries waters—

(a) Over any term not exceeding 3 years; or
(b) In any year, month, week, or day.

(2) In respect of any acclimatised fish, the Director-General may, with the consent of the appropriate acclimatisation society and subject to any District Angling Notice, from time to time by notice in the Gazette, determine a closed season for the whole or any part or parts of an acclimatisation district for such period or periods in any year, month, week, or day that may be most suitable.

(3) The particulars of any notice given under this section shall be advertised in at least one newspaper generally circulated in the area affected by the notice or, in the case of a notice affecting the whole or a substantial part of New Zealand fisheries waters, in the metropolitan newspapers.
(4) The Director-General may, in like manner, extend or vary any closed season so determined or vary any closed season so extended.

(5) During the period of any closed season determined, varied, or extended pursuant to this section for any species of fish, aquatic life, or seaweed it shall be unlawful for any person to knowingly take or have in possession any such fish, aquatic life, or seaweed, or in any way injure or disturb any such fish, aquatic life, or seaweed, and every person so doing commits an offence against this Act.

(6) Every person who commits an offence under this section is liable to a fine not exceeding $5,000, and to a further fine not exceeding $20 in respect of every fish in relation to which the offence was committed, 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.

(7) Any person who, during any closed season, is found in possession of any fresh fish shall be deemed to have taken or obtained that fish during such closed season until the contrary is proved.

86. Closed season in exclusive economic zone—The Director-General shall not determine any closed season which relates to the taking of fish (other than acclimatised fish), aquatic life, or seaweed from any waters in the exclusive economic zone, or the territorial waters or internal waters of New Zealand, without prior consultation with the Fishing Industry Board.

87. Research and development of fisheries—The Minister may from time to time enter into agreements or arrangements with any person for the purposes of joint research and development work on fishery resources; and any such agreement or arrangement may include the use of facilities owned by that person.

88. Limitation of Act—(1) Nothing in this Act shall apply to—

(a) Any person using a landing net to secure fish lawfully taken with a rod and line; or

(b) Any person who, having unintentionally taken any fish or aquatic life contrary to the provisions of this Act or any regulations made under it, immediately returns the fish or aquatic life with as little injury as possible, to the water.
Nothing in this Act shall affect any Maori fishing rights.

This Act is subject to section 49 of the Marine Farming Act 1971.

Regulations

89. Regulations—(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) Generally regulating fishing in New Zealand and New Zealand fisheries waters:

(b) Providing for the Minister or Director-General to issue notices for publication in the Gazette or elsewhere to provide for details, where necessary, of fishery management plans, controlled fisheries, and the registration of fishing vessels and the issue of fishing permits and of such other matters as may be prescribed:

(c) Providing for the protection of shellfish and shellfish beds, including the regulation of places where shellfish may be opened, and for the marking out of boundaries of shellfish beds:

(d) Prohibiting or regulating the taking, buying, selling, exposing for sale, consigning for sale, transporting, processing, preparing or offering for consumption in any public eating-house, acquiring, receiving, or having in possession any fish or any part or particular state or condition of any fish:

(e) Regulating the construction or provision and maintenance of facilities on vessels, vehicles or other conveyances, or in premises, for the handling, transportation, preservation, or storage of fish, or for the preservation alive of Mollusca, Crustacea, and Echinodermata in storage or in transit to any establishment where such fish are processed; and prescribing measures to protect from sun, weather, or contamination any fish being handled or transported:

(f) Regulating the quantity of fish that may at any one time be on board any vehicle or vessel or be kept or conveyed on any vehicle or vessel or animal, or kept in any container, package, or place, or in the possession of any person or of any prescribed number of persons:
(g) Prescribing a quota or total allowable catch for any fish, or in respect of any fishery or method of fishing, in any part of New Zealand fisheries waters; and authorising the Minister to allocate any such quota or total allowable catch to such commercial fisherman or fishermen as he may specify by notice in the Gazette:

(h) Authorising, notwithstanding the provisions of the Harbours Act 1950 or of any other Act, the erection (whether in, on, over, through, or across tidal lands or tidal waters or elsewhere) and the removal of temporary stands, jetties, and similar structures for the purpose of fishing in any specified rivers or streams or other waters, and providing for the registration, management, and control of the sites of such stands, jetties, and structures:

(i) Prescribing fees or levies which are payable under this Act; and prescribing the method of assessing such levies or fees, the amounts payable, and the person liable for payment thereof; and the circumstances in which the Minister, the Authority, or the Director-General may remit the whole or any part of such fees or levies:

(j) Defining the vessels or classes or types of vessels to which any regulations are to apply, and providing for the exemption of any vessels or classes or types of vessels from any such regulations:

(k) Prescribing the method or methods of identifying fishing vessels, specifying identification marks or symbols or distinguishing flags to be carried by such vessels and by tenders and similar vessels carried by or attached to or used in conjunction with registered fishing vessels, and the identification marks on sails, nets or seines, and other gear used in fishing for sale, by vessels or otherwise:

(l) Prescribing offences in respect of contravention of or non-compliance with any regulations made under this Act or any notice, requirement, or direction, given pursuant to any such regulations; and prescribing penalties not exceeding $5,000 in respect of any offence and, in the case of continuing offences, prescribing further penalties not exceeding $50 for each day during which the offence has continued:

(m) Specifying any offences or class of offences as infringement offences, prescribing the scale of
infringement fees payable in respect of such offences, and prescribing the form of and the procedure for serving infringement notices in respect of such offences:

(n) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

(2) Regulations under subsection (1) of this section may be made with respect to aquatic life and seaweed as regulations may be made under that subsection with respect to fish.

(5) Regulations made pursuant to this section—

(a) May apply generally throughout New Zealand or New Zealand fisheries waters or be made to apply only within such area or areas as may be defined in that behalf; but no regulation shall be made under this Act in derogation of any provisions of the Territorial Sea and Exclusive Economic Zone Act 1977 or of any regulations made under that Act relating to fishing by a foreign fishing craft within the exclusive economic zone:

(b) May apply special conditions or confer special rights in relation to fishing by specified communities.

(4) Any regulation under this section conferring on the Minister or the Director-General power to issue, in such manner as may be prescribed, instructions, orders, requirements, permits, authorities, notices, or circulars, shall have effect according to its tenor, and shall be complied with by all persons affected thereby.

(5) For the purpose of giving effect to any international agreement, the Governor-General may make regulations under this section, and may declare any such regulation to apply beyond the outer limits of New Zealand fisheries waters in respect of any New Zealand citizen or any New Zealand vessel.

(6) In subsection (5) of this section, the term “international agreement” means any bilateral or multilateral treaty, convention, or agreement, to which New Zealand is a party, and any understanding concluded by the Government of New Zealand and the government of any other country.

90. Special regulations relating to freshwater fisheries—

(1) Regulations may be made under section 89 of this Act—

(a) Providing, under conditions prescribed in the regulations, for the issue—

(i) By acclimatisation societies of licences to fish for trout or other acclimatised fish:
(ii) By the Tourist and Publicity Department of special licences authorising bona fide overseas tourists to fish for trout or other acclimatised fish,— and for the payment to the Tourist and Publicity Department and to acclimatisation societies of the prescribed fee payable in respect of those licences, and requiring those societies or that Department to pay into the Consolidated Account, at such times and in such manner as may be prescribed, a proportion of the aggregate fees charged for licences issued by them:

Provided that any regulation made under this paragraph may impose a surcharge on any licence fee or fees, not exceeding a prescribed portion of each combined fee and surcharge; and shall provide that the revenue from any such surcharge shall not be taken into account by acclimatisation societies or the Tourist and Publicity Department in determining their contribution to the Consolidated Account pursuant to any regulation made under this paragraph:

(b) Providing for the payment to an acclimatisation society of any fines or licence fees for the purpose of the distribution, rearing, cultivation, or protection of fish in the district of that society, or, with the approval of the Minister given upon or subject to such conditions as he thinks fit, for the purpose of applying the same or any part thereof either alone or jointly with any other society for any such purpose in the district of any society, or for any other freshwater fishery purpose approved by the Minister:

(c) Providing for the payment by any acclimatisation society in the North Island to the Council of North Island Acclimatisation Societies, and by any acclimatisation society in the South Island to the Council of South Island Acclimatisation Societies, of a prescribed portion of the aggregate fees and surcharges (if any) charged for licences issued by them:

(d) Authorising the Director-General, subject to such conditions as may be prescribed in the regulations, to regulate the use of electric fishing devices for the taking of fish:

(e) Regulating, restricting, or imposing conditions on the canning, smoking, freezing, or other preserving of trout or other specified acclimatised fish and the
possession thereof when canned, smoked, frozen, or otherwise preserved; and providing for the inspection of canneries, smokehouses, freezing chambers, refrigerating works, and any premises (not being a dwellinghouse) where fish are canned, smoked, frozen, preserved, treated, dressed, or stored:

(f) Requiring and authorising the provision of devices and facilities to permit or control the passage of fish through or around any dam or other structure impeding the natural movement of fish upstream or downstream:

(g) Authorising the establishment of fish hatcheries by acclimatisation societies, the Ministry of Agriculture and Fisheries, or the Department of Internal Affairs, and regulating the management and operation of such establishments:

(h) To prohibit or impose conditions and restrictions on the possession, or the retention in captivity, or the transfer to or release into any waters, of any live fish, or any form of aquatic life.

(2) For the purpose of ensuring compliance with the requirements of any regulations made under subsection (1)(a) of this section, any person authorised in that behalf by the Controller and Auditor-General may enter upon the premises of any acclimatisation society and there inspect any books or papers belonging to or in the possession of the society.

(3) All money paid into the Consolidated Account pursuant to regulations made under subsection (1)(a) of this section shall be applied in defraying expenses incurred by the Director-General for research or management in relation to freshwater fisheries, and expenditure incidental to that research or management.

(4) Where any application has been made pursuant to regulations made under subsection (1)(h) of this section to permit the transfer of any aquatic life or release of any such aquatic life into any waters, the Minister may require the applicant to advertise the intent (to so transfer or release the aquatic life) in at least one general newspaper circulated in the area for at least 2 consecutive Saturdays; and any such advertisement shall state that submissions will be received by the Director-General. The Director-General may, with the agreement of the Commissioner for the Environment, require that any such applicant prepare an environmental impact report for audit by the Commissioner for the Environment, and consideration of the application may be deferred until the audit has been completed.
91. Special regulations relating to freshwater fish farming—Regulations may be made under section 89 of this Act—

(a) Authorising persons, to be registered for the purpose, to construct and maintain ponds as fish farms for breeding and rearing fish (except trout) for sale subject to such conditions as are specified in the regulations:

(b) Regulating the operation of fish farms subject to such conditions as may be specified in the regulations, and prohibiting the operation of any such fish farm, and the sale, disposal, transport, or export of any fish from such a fish farm without a licence:

(c) Providing for the registration of persons who may hold licences to operate fish farms and for the qualifications those persons shall be required to hold and the conditions with which they shall be required to comply before being granted registration and in order to remain registered:

(d) Providing for the appointment of officers, including any class of officers with specialist qualifications, to inspect such fish farms and ensure that any regulations made under this section are enforced and for the inspection of any such fish farm for facilities for processing or storing any fish reared on the farm:

(e) Providing for the issue, renewal, and transfer of licences in respect of any such operation and the form and contents of any such licence, and prescribing the fee, not exceeding $300 per annum, payable in advance in respect of any such licence:

(f) Specifying the species, sub-species, varieties, or hybrids of fish that may be bred or reared in any such farm, and regulating the types and quantities of food that may be fed to any such fish, and the methods of feeding:

(g) Regulating or prohibiting the canning of any such fish, their sale or other disposal, or possession:

(h) Providing for the keeping by the licensee of any fish farm of records of fish acquired, kept, and disposed of, and for the keeping of records relating to those fish by any other licensee or other person:

(i) Prescribing the measures to be taken to avoid the outbreak or on an outbreak of any disease among the fish, and authorising or requiring the taking of any specimen, the testing of any thing, or the sampling
of any substance present on any fish farm and authorising or requiring the removal of any specimen or sample, or the destruction of diseased fish, whether with or without payment of compensation.

92. Regulations may provide for the issuing of circulars—(1) Regulations under this Act may provide for the promulgation from time to time by the Director-General of circulars setting out general criteria for the drawing up, accomplishment, demonstration, carrying on, or provision for any act, plan, proposal, matter, system, process, or thing.

(2) Where, pursuant to regulations made under this Act, any act, plan, proposal, matter, system, process, or thing must be—

(a) Approved by the Director-General or a Fishery Officer, it shall be deemed so to have been approved if it is in conformity with general criteria relating to it set out in a circular or circulars promulgated pursuant to subsection (1) of this section and for the time being in force:

(b) Accomplished, demonstrated, carried on, or provided for to the satisfaction of the Director-General or a Fishery Officer, it shall be deemed so to have been accomplished, demonstrated, carried on or provided for if it has been accomplished, demonstrated, carried on, or provided for in conformity with general criteria relating to it set out in a circular or circulars promulgated pursuant to the said subsection and for the time being in force:

(c) Accomplished, demonstrated, carried on, or provided for to an extent that, in the opinion of the Director-General or a Fishery Officer, meets or tends to meet some particular standard, or achieves or tends to achieve some particular result, it shall be deemed so to have been accomplished, demonstrated, carried on, or provided for if it has been accomplished, demonstrated, carried on, or provided for in conformity with general criteria relating to it set out in a circular or circulars promulgated pursuant to the said subsection and for the time being in force.

(3) The powers of the Director-General or a Fishery Officer to approve or be satisfied of, or to take any action (a prerequisite to the taking of which is that he have a particular opinion about), any act, plan, proposal, matter, system, processing, or thing shall not be limited or affected by any matter contained in a circular promulgated pursuant to subsection (1) of this section.
Offences and Penalties

93. Offences—(1) Subject to this Act, every person commits an offence who knowingly or negligently acts in contravention of or fails to comply in any respect with any provision of this Act, or any notice, direction, restriction, requirement, or condition given, made, or imposed under this Act.

(2) If any vessel is used in contravention of this section, the owner and the master shall each be deemed to have committed an offence.

94. Obstructing Fishery Officers—(1) Every person commits an offence who—

(a) Assaults, resists, or obstructs any Fishery Officer in the execution of the powers or duties conferred on him by this Act or by any regulations made under it, or any person lawfully acting under the Officer’s orders or in his aid; or

(b) Incites or encourages any other person to assault, resist, or obstruct any Fishery Officer, while in the execution of his powers or duties, or any person lawfully acting under the Officer’s orders or in his aid; or

(c) Uses threatening language or behaves in a threatening or insulting manner or uses abusive language or insulting gestures towards any Fishery Officer, while in the execution of his powers or duties, or any person lawfully acting under the Officer’s orders or in his aid; or

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

(e) Furnishes to any Fishery Officer any particulars which, to his knowledge, are false or misleading in any material respect; or

(f) Personates or falsely represents himself to be a Fishery Officer, or who falsely represents himself to be a person lawfully acting under a Fishery Officer’s orders or in his aid.

(2) For the purpose of subsection (1) of this section, any person who refuses to allow any Fishery Officer, or any person acting under his order or in his aid, to exercise any of the powers conferred on a Fishery Officer by this Act shall be deemed to be obstructing that Officer or person.

95. 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) Knowingly makes any false or misleading statement or any material omission in any communication or application or return for the purposes of this Act:

(c) Knowingly fails to keep secret the contents of any return or information furnished for the purpose of this Act.

96. Buying, selling, or possessing fish, etc., contrary to Act—(1) Every person commits an offence who buys, sells, or has in his possession—

(a) Any fish, aquatic life, or seaweed taken in New Zealand fisheries waters in contravention of this Act; or

(b) Any fish, aquatic life, or seaweed taken beyond New Zealand fisheries waters, if the taking of such fish, aquatic life, or seaweed within New Zealand fisheries waters would be in contravention of this Act.

(2) Every person who commits an offence against this section is liable to a fine not exceeding $5,000.

(3) 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.

97. Only fishing gear specified in permit to be carried—(1) It shall be unlawful for any registered fishing vessel to carry any fishing gear of a kind not specified in the fishing permit for the time being in force in respect of that vessel.

(2) If any fishing gear is carried on any fishing vessel in contravention of this section, the owner and the master of the vessel shall each be deemed to have committed an offence:

Provided that in any proceedings under this subsection against the owner of any fishing vessel it shall be a good defence for the defendant to prove that the contravention occurred without his knowledge and that he had taken all reasonable steps to ensure that the provisions of subsection (1) of this section were not contravened.

98. Fish, etc., not to be transferred to another vessel—(1) It shall be unlawful for any fish, aquatic life, or seaweed to be transferred from any registered fishing vessel to another
vessel (whether a fishing vessel or not) at any place outside the port or place to which the fishing vessel belongs, as specified in the certificate of registry of the fishing vessel, except with the consent of the Director-General or a Fishery Officer, which may be given by such means as he thinks fit:

Provided that nothing in this subsection shall apply with respect to the transfer of any fish, aquatic life, or seaweed to a registered fishing vessel from another registered fishing vessel carried by and used in conjunction with the first-mentioned fishing vessel for the purpose of taking the fish, aquatic life, or seaweed.

(2) If any fish, aquatic life, or seaweed are transferred from any fishing vessel to another vessel in breach of the provisions of subsection (1) of this section, the master of the fishing vessel and the master or person in charge of the other vessel shall each be deemed to have committed an offence.

99. Using explosives, etc., to catch or destroy fish—
(1) Where any person uses in any water any explosive or toxic gas, or toxic, poisonous, or narcotic substance, or any electric fishing device for the taking or destroying of any fish, he shall, on summary conviction, be liable to a fine not exceeding $5,000, or imprisonment for a term not exceeding 2 months, or both.

(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.

100. 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, 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.

(3) For the purpose of this section, the term “owner”, in relation to a vessel, includes any operator under any charter or lease or agreement of the vessel.
101. Proceedings for offences—(1) Any offence against 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 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 regulations made under it shall be under the Summary Proceedings Act 1957.

(4) In any proceedings for an offence relating to taking, buying, selling, or possessing any fish, aquatic life, or seaweed in contravention of the provisions of this Act, it shall be a defence if the defendant satisfies the Court that—

(a) He did not know, and could not with the exercise of reasonable diligence have ascertained, that the fish to which the alleged offence relates were taken or were in his possession; or

(b) Although he did know the fish to which the alleged offence relates were taken or were in his possession he did not know, and could not with reasonable diligence have ascertained, that the taking or possession of the fish would constitute the offence charged against him.

(5) In any proceedings for an offence against section 96(1) of this Act, it shall also be a defence if the defendant satisfies the Court that the fish to which the offence relates, other than trout, were preserved in containers or, except for salmon, cured in some country other than New Zealand.

(6) All prosecutions and proceedings in respect of offences under this Act or regulations made under it 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 wherein an offence has been committed or an offender is found.

102. Evidence in proceedings—(1) In any proceedings in respect of an offence under this Act or any regulations made under it—

(a) A certificate purporting to be signed by the Director-General or any officer authorised by him for that purpose to the effect that, on a date specified in the certificate,—

(i) A vessel specified in the certificate was not 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 any 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) In any proceedings in respect of an offence against this Act or regulations made under it, 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.
(3) 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 him in that behalf, shall be sufficient, in the absence of proof to the contrary, to prove that licence, boat authority, or other document.
(4) 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 him in that behalf, shall be sufficient, in the absence of proof to the contrary, to prove that certificate.
(5) 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.
(6) 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.
108. Penalties—Every person who commits an offence against any provisions of this Act for which no other penalty is prescribed shall on conviction be liable to a fine not exceeding $5,000, and, if the offence is a continuing one, to a further fine not exceeding $250 for every day after the first day on which the offence has continued.

104. Provision for payment of fees—(1) Where any person is convicted of an offence against paragraph (a) of section 57 (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 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.

105. Forfeiture of licence—(1) Every person who is convicted of an offence against this Act or against any regulations made under it and within 7 years from the date of that conviction is convicted on another occasion of an offence against the said Act or regulations shall, in addition to any other penalty, forfeit any licence, approval, permission, or fishing permit obtained pursuant to the said 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 Minister may in the circumstances of any particular case and upon application being made to him by the person concerned within 30 days from the date of conviction or such extended period as the Minister 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 him 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, 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 Minister exercises his 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.

106. Forfeiture of property on conviction—(1) On the conviction of any person for any offence under this Act or any regulations made under it, 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, 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 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 as he 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 the provisions of 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 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.

107. Rewards to informers—(1) The Director-General may make such payments as he thinks fit to any person or persons who have supplied information that has led to the conviction for an offence against this Act or regulations made under it 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.

Repeals, Revocations, and Amendments

108. Repeals, revocations, and amendments—(1) The enactments specified in Part I of the Second Schedule to this Act are hereby repealed.

(2) The regulations specified in Part II of the said Second Schedule are hereby revoked.

(3) The Orders in Council specified in Part III of the said Second Schedule are hereby revoked.

(4) The notices specified in Part IV of the said Second Schedule are hereby revoked.

(5) The enactments specified in the Third Schedule to this Act are hereby amended in the manner indicated in that Schedule.

(6) Subsections (2), (3), and (4) of this section shall come into force on the 1st day of January 1984.
SCHEDULES

Section 8 (1)

FIRST SCHEDULE

FACTORS TO BE TAKEN INTO ACCOUNT WHEN PREPARING A PROPOSED FISHERY MANAGEMENT PLAN

1. Any fishery management plan shall—
   (a) Contain a description of the fishery, including but not limited to—
      (i) The number and type of fishing vessels engaged:
      (ii) The methods employed and fishing gear used:
      (iii) The species of aquatic life and their distribution:
      (iv) Commercial, recreational, traditional, and other interests in the fishery:
      (v) An assessment of the present yield and possible optimum yield from the fishery:
      (vi) Any other factor which could affect the fishery resource:
   (b) Contain any other measures considered necessary or desirable for the conservation or management of the fishery.

2. Any fishery management plan may also, subject to the provisions of this Act or any regulations or notice declaring a controlled fishery that prohibit or limit fishing generally or relate to fishing vessels or methods of fishing,—
   (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.
SECOND SCHEDULE

Part I

ENACTMENTS REPEALED

### SECOND SCHEDULE—continued

#### Part II

**REGULATIONS REVOKED**

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### THIRD SCHEDULE
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| 1959, No. 90—The Maori Purposes Act 1959 | By repealing section 14 (as amended by section 9 (4) of the Maori Purposes Act 1977), and substituting the following:  

«14. Modification of provisions of Fisheries Act 1983—(1) The operation of the Fisheries Act 1983, in its application to the Lake, is hereby modified as follows:  

(a) Section 74 of that Act shall not apply:  

(b) Section 71 (5) (b) of that Act shall apply as if the Trustees were an acclimatisation society, and the words ‘the district’ in that paragraph were the words ‘the Lake’.”  

1971, No. 29—The Marine Farming Act 1971 | By inserting in section 7 (as amended by section 4 of the Marine Farming Amendment Act 1975 and section 4 of the Marine Farming Amendment Act 1976), after subsection (1), the following subsections:  

“(1A) The controlling authority shall not grant a lease or licence under section 8 of this Act until the Director-General, in any case where the Minister is the controlling authority, or the controlling authority in any other case, has considered any objections made in accordance with section 6 of this Act, and, if he or it thinks fit, refers the application and objection to the Fisheries Authority established under the Fisheries Act 1983.”
Third Schedule—continued
Enactments Amended—continued

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<tr>
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| 1971, No. 29—The Marine Farming Act 1971—continued                              | "(1B) In any case where objections are referred to the Fisheries Authority, the provisions of sections 9 and 10 of the Fisheries Act 1983 shall apply (including the right of further appeal to the Planning Tribunal) as if the application for a lease or licence under this Act were a plan applied for under the Fisheries Act 1983."
By repealing sections 14A, 14B, 14C, and section 14D (as inserted by section 5 of the Marine Farming Amendment Act 1975), and substituting the following section:
"14A. Special Permits—(1) Notwithstanding anything to the contrary in this Act, the Director-General may, on application being made to him 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, for the purpose of carrying out in the area specified in the permit research into the requirements and habits of any specified species of fish or marine vegetation suitable for cultivation or to enable any specified species of fish or marine vegetation to be cultivated.
(2) The Director-General may at any time withdraw any permit given under subsection (1) of this section by notice in writing to the holder of the permit.
By omitting from section 14E(3) (as inserted by section 6 of the Marine Farming Amendment Act 1975) the words "including a licensee under a research licence granted pursuant to section 14A of this Act or under a pilot commercial scheme licence granted pursuant to section 14B of this Act."
By adding to section 41 the following subsection:
"(4) Any person exercising a power of entry or inspection conferred on him by this section shall observe the provisions of subsections (2) and (5) of section 79 of the Fisheries Act 1983 (which relate to entry into private dwelling places and certain other places and to the production of warrants of appointment or other evidence of identity) in the same manner as if that person were a Fishery Officer under that Act."
By inserting in section 49, after the word "fish" wherever it occurs, the words "or seaweed". |
<table>
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<th>Enactment Amended</th>
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This Act is administered in the Ministry of Agriculture and Fisheries.