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An Act—

(a) To reform and restate the law relating to fisheries resources; and

(b) To recognise New Zealand's international obligations relating to fishing; and

(c) To provide for related matters

[13 August 1996]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Fisheries Act 1996.

(2) Subject to subsection (3) of this section, this Act shall come into force on a date to be appointed by the Governor-General by Order in Council; and different dates may be so appointed by one or more Orders in Council for different provisions and different purposes.

(3) Sections 332 and 333 of this Act shall come into force on the 1st day of March 1997.

PART I

PRELIMINARY PROVISIONS

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

"Annual catch entitlement" means an annual catch entitlement allocated under section 67 or section 68 of this Act:

"Annual Catch Entitlement Register" means the relevant Annual Catch Entitlement Register kept under section 124 (1) (b) of this Act:

"Approved" means approved by the chief executive:
“Approved form”, in relation to any document, means the form prescribed by regulations made under this Act or, if there is no such prescribed form, the form approved by the chief executive; and includes an electronic format that is so prescribed or approved:

“Aquatic ecosystem” means any system of interacting aquatic life within its natural and physical environment:

“Aquatic environment”—
(a) Means the natural and biological resources comprising any aquatic ecosystem; and
(b) Includes all aquatic life and the oceans, seas, coastal areas, inter-tidal areas, estuaries, rivers, lakes, and other places where aquatic life exists:

“Aquatic life”—
(a) Means any species of plant or animal life that, at any stage in its life history, must inhabit water, whether living or dead; and
(b) Includes seabirds (whether or not in the aquatic environment):

“Associated or dependent species” means any non-harvested species taken or otherwise affected by the taking of any harvested species:

“Authorised stock” means any quota management stock or any stock declared to be an authorised stock by regulations made under section 297 of this Act:

“Best available information” means the best information that, in the particular circumstances, is available without unreasonable cost, effort, or time:

“Biological diversity” means the variability among living organisms, including diversity within species, between species, and of ecosystems:

“Catch History Review Committee” means the committee established under section 283 of this Act:

“Chatham Islands Enterprise Trust” means the trustees duly incorporated under that name as a charitable trust board under the Charitable Trusts Act 1957:

“Chief executive” means, subject to any enactment, the chief executive for the time being of the Ministry, which chief executive has, with the authority of the Prime Minister, assumed responsibility for this Act:

“Coastal marine area” and “coastal permit” have the meanings given to those terms by section 2(1) of the Resource Management Act 1991:
“Commercial fisher” means any person who holds a fishing permit issued under section 91 of this Act:
“Commercial fishing” means taking fish, aquatic life, or seaweed in circumstances where a fishing permit is required by section 89 of this Act:
“Commission” means the Treaty of Waitangi Fisheries Commission established under section 4 of the Maori Fisheries Act 1989:
“Conservation” means the maintenance or restoration of fisheries resources for their future use; and “conserving” has a corresponding meaning:
“Court” means a District Court or, where proceedings are commenced in the High Court, the High Court:
“Deemed value amount” means the amount of any deemed value payable in respect of any catch taken in excess of any annual catch entitlement, as determined in accordance with section 76 of this Act:
“Deemed value rate” means the rate of the deemed value payable in respect of any stock, as determined by the Minister and notified in the Gazette under section 75 of this Act:
“Document” means a document in any form whether signed or initialled or otherwise authenticated by its maker or not; and includes—
(a) Any writing on any material:
(b) Any information recorded or stored by means of any tape-recorder, computer, or other device, and any material subsequently derived from information so recorded or stored:
(c) Any label, marking, or other writing that identifies or describes any thing of which it forms part, or to which it is attached by any means:
(d) Any book, map, plan, graph, or drawing:
(e) Any photograph, film, negative, tape, or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced:
“Effect” means the direct or indirect effect of fishing; and includes—
(a) Any positive or adverse effect; and
(b) Any temporary or permanent effect; and
(c) Any past, present, or future effect; and
(d) Any cumulative effect which arises over time or in combination with other effects—
regardless of the scale, intensity, duration, or frequency of the effect; and also includes—

(e) Any potential effect of high probability; and

(f) Any potential effect of low probability which has a high potential impact:

“Encumbered”, in relation to any quota, means the situation where the quota is—

(a) Held by the Crown as a consequence of being forfeit to the Crown under this Act—

(i) While any proceedings in respect of that forfeiture are before a court and have not been finally resolved; or

(ii) During the period of 35 working days referred to in section 62 (3) or section 256 (3) of this Act; or

(b) Withheld from allocation by the Crown under section 46 of this Act:

“Environmental principles” means the environmental principles set out in section 9 of this Act:

“Examiner” means a person appointed under section 222 of this Act to be an examiner and holding a warrant under section 198 of this Act:

“Exclusive economic zone of New Zealand” or “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:

“Finfish” includes all species of finfish of the Classes Agnatha, Chondrichthyes, and Osteichthyes, at any stage of their life history, whether living or dead:

“Fish” includes all species of finfish and shellfish, at any stage of their life history, whether living or dead:

“Fish carrier” means any vessel capable of being used for transportation:

“Fish farm” means—

(a) The area and premises for which any marine farming permit has been issued under section 67J of the Fisheries Act 1983 (including any area and premises to which there has been a temporary transfer within the terms of the permit or this Act); or

(b) The area and premises for which any marine farming lease or licence has been issued under the Marine Farming Act 1971; or
(c) The area and premises for which any licence has been granted under the Freshwater Fish Farming Regulations 1983:

“Fish farmer” means—

(a) A holder of a permit issued under section 67J of the Fisheries Act 1983:

(b) A holder of a lease or licence issued under the Marine Farming Act 1971:

(c) A holder of a licence issued under the Freshwater Fish Farming Regulations 1983:

“Fish farming”—

(a) Means the activity of breeding, hatching, cultivating, rearing, or ongrowing of fish, aquatic life, or seaweed for harvest; but

(b) Does not include—

(i) Any such activity where fish, aquatic life, or seaweed are not within the exclusive and continuous possession or control of the fish farmer; or

(ii) Any such activity where the fish, aquatic life, or seaweed being farmed cannot be distinguished, or kept separate, from naturally occurring fish, aquatic life, or seaweed;—

and “to farm” has a corresponding meaning and includes any operation in support of, or in preparation for, any fish farming:

“Fisheries Dispute Commissioner”, or “Commissioner”, means a Fisheries Dispute Commissioner appointed under section 117 (1) of this Act:

“Fisheries resources” means any one or more stocks or species of fish, aquatic life, or seaweed:

“Fishery officer” means—

(a) A person deemed by section 196 (2) of this Act to be a fishery officer:

(b) A person appointed in accordance with section 196 (1) of this Act to be a fishery officer and holding a warrant under section 198 of this Act:

(c) A person appointed under section 197 of this Act to be an honorary fishery officer and holding a warrant under section 198 of this Act:

(d) A person appointed under section 222 of this Act to be an examiner and holding a warrant under section 198 of this Act:
"Fishing"—
(a) Means the catching, taking, or harvesting of fish, aquatic life, or seaweed; and
(b) Includes—
   (i) Any activity that may reasonably be expected to result in the catching, taking, or harvesting of fish, aquatic life, or seaweed; and
   (ii) Any operation in support of or in preparation for any activities described in this definition:

"Fishing permit" means a fishing permit issued under section 91 of this Act:

"Fishing-related mortality" means the accidental death or incidental death of any protected species that occurs in the course of fishing:

"Fishing vessel" means any vessel that is capable of being used for fishing:

"Fishing Vessel Register" means the Fishing Vessel Register kept under section 98 of this Act:

"Fishing year" means,—
(a) In relation to rock lobster, southern scallops, Northland scallops, or any other stock declared under a notice made under section 18 of this Act to have a fishing year commencing on the 1st day of April in any year, a period of 12 months commencing on each 1st day of April:
(b) In relation to any other quota management stock, a period of 12 months commencing on each 1st day of October:
(c) In relation to any stock not subject to the quota management system, a period of 12 months commencing on each 1st day of October, unless otherwise prescribed:

"Foreign allowable catch" means a foreign allowable catch set under section 81 of this Act:

"Foreign fishing vessel" means any fishing vessel that is neither a New Zealand fishing vessel nor a New Zealand ship:

"Foreign vessel" means any vessel that is neither a vessel registered under this Act nor a New Zealand ship:

"Foreign-owned New Zealand fishing vessel" means a fishing vessel registered with consent under section 103(4) of this Act:
“Greenweight”, in relation to any fish, aquatic life, or seaweed, means the weight of fish, aquatic life, or seaweed before any processing commences and before any part is removed:

“Harvested species” means any fish, aquatic life, or seaweed that may for the time being be taken with lawful authority:

“Hazardous substance” has the same meaning as it has in section 2 (1) of the Hazardous Substances and New Organisms Act 1996:

“Holder”, in relation to any permit, authority, approval, permission, licence, or certificate, means the person to whom the permit, authority, approval, permission, licence, or certificate has been issued, granted, or given; and “holds” and “held” have corresponding meanings:

“Honorary fishery officer” means a person appointed under section 197 of this Act to be an honorary fishery officer and holding a warrant under section 198 of this Act:

“Individual catch entitlement” —

(a) Means a catch limit for a commercial fisher set by a permit (other than a special permit) or licence, or by regulations made or an allocation notice given under this Act, or any combination of them, that apportions an annual amount of any stock that can be taken exclusively by that fisher; and

(b) In relation to Foveaux Strait oysters (Tiostrea chilensis), includes any vessel catch limit imposed by regulations; but

(c) Does not include any daily bag limit, or any total catch limit for an entire stock, set by permit or licence conditions or by regulations made under this Act:

“Individual transferable quota” means—

(a) Individual transferable quota allocated under section 44 or section 47 or section 49 of this Act:

(b) Quota deemed by section 49 of this Act to be individual transferable quota:

(c) Any quota that otherwise becomes individual transferable quota in accordance with this Act:

“Information” includes—

(a) Scientific, customary Maori, social, or economic information; and

(b) Any analysis of any such information:
“Information principles” means the information principles set out in section 10 of this Act:

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

“Kaitiakitanga” means the exercise of guardianship; and, in relation to any fisheries resources, includes the ethic of stewardship based on the nature of the resources, as exercised by the appropriate tangata whenua in accordance with tikanga Maori:

“Licensed fish receiver” means a person licensed as a fish receiver under regulations made under section 297 of this Act:

“Mana whenua” means customary authority exercised by an iwi or hapu in an identified area:

“Master”, in relation to any vessel, means any person for the time being having command or charge of the vessel:

“Maximum sustainable yield”, in relation to any stock, means the greatest yield that can be achieved over time while maintaining the stock’s productive capacity, having regard to the population dynamics of the stock and any environmental factors that influence the stock:

“Meatweight” means,—

(a) In relation to scallops, the weight of the scallops remaining when the shell, skirt, and gut have been removed and discarded:

(b) In relation to any other stock, the weight calculated in accordance with the notice under section 18 of this Act declaring the stock to be subject to the quota management system or in the notice relating to the stock under section 188 of this Act, as the case may be:

“Minister” means, subject to any enactment, any Minister of the Crown who, under authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act:

“Ministry” means, subject to any enactment, the Ministry that is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act:
“Mortgage” means any charge registered under this Act on quota:
“Mortgagee” means the proprietor of a mortgage:
“Mortgagor” means any person who is the registered owner of quota subject to a mortgage:
“Nelson-Marlborough dredge oyster” means any mollusc of the species *Tiostrea chilensis lutaria* found in the Nelson-Marlborough dredge oyster fishery:
“Nelson-Marlborough dredge oyster fishery” means those New Zealand fisheries waters defined as OYS7 in the First Schedule to this Act:
“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 within New Zealand where fish, aquatic life, or seaweed that are indigenous to or acclimatised in New Zealand are found:
“New Zealand fishing vessel” means any fishing vessel registered under section 108 of this Act:
“New Zealand ship” has the same meaning as in section 2 (1) of the Ship Registration Act 1992:
“Northland scallop” means any scallop found in the Northland scallop fishery:
“Northland scallop fishery” means those New Zealand fisheries waters defined as SCA1 in the First Schedule to this Act:
“Observer” means an observer appointed under section 223 of this Act:
“Ornamental fish” means any species of fish, aquatic life, or seaweed declared by the chief executive, by notice in the *Gazette* under section 307 of this Act, to be an ornamental fish:
“Operator”, in relation to a vessel, means the person who, by virtue of ownership, a lease, a sublease, a charter, a subcharter, or otherwise, for the time being has lawful possession and control of the vessel:
“Owner”,—
(a) In relation to any vessel, means any person by whom the vessel is owned:
(b) In relation to any quota or annual catch entitlement, means the person shown as the owner in
the appropriate register kept under Part VIII of this Act:

“Permit Register” means the Permit Register kept under section 98 of this Act:

“Possession” means possession of, or control over, either jointly or on one’s own account,—
(a) Any fish, aquatic life, or seaweed; or
(b) Any vessel, container, package, thing, premises, or place in or on which the fish, aquatic life, or seaweed are found:

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

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

“Protected species” means—
(a) Any marine wildlife as defined in section 2 of the Wildlife Act 1953 that is absolutely protected under section 3 of that Act:
(b) Any marine mammal as defined in section 2 (1) of the Marine Mammals Protection Act 1978:

“Provisional catch history” means the provisional catch history specified in section 34 or section 40 of this Act:

“Provisional individual transferable quota” means—
(a) Provisional individual transferable quota allocated under section 47 or section 49 of this Act:
(b) Any quota that otherwise becomes provisional individual transferable quota in accordance with this Act:

“Publicly notify” means publish a notice in one or more daily newspapers circulating in the main metropolitan areas or, if the Minister, the chief executive, or the Registrar (as the case may be) considers it appropriate, publish a notice in one or more newspapers circulating in the area to which the notice relates; and “public notification” and “publicly notified” have corresponding meanings:

“Qualifying years”, in relation to any stock, has the meaning given to it by section 33 of this Act:

“Quota” means any individual transferable quota or provisional individual transferable quota:

“Quota management area” means any area declared by or under this Act to be a quota management area:
“Quota management stock” means any stock subject to the quota management system:

“Quota management system” means the quota management system established under Part IV of this Act:

“Quota Register” means the relevant Quota Register kept under section 124 (1) (a) of this Act:

“Quota share” has the meaning given to it by section 42 of this Act:

“Quota weight equivalent”, in relation to any quota share, means the figure in kilogrammes arrived at by dividing by 100,000,000 the total allowable commercial catch for the stock to which the quota share relates; and, consequently, the quota weight equivalent of a parcel of shares is the quota weight equivalent of one share multiplied by the number of shares in the parcel:

“Record” includes any document, whether or not it has been completed:

“Regional plan” has the meaning given to it by section 2 (1) of the Resource Management Act 1991:

“Registered fish carrier” means any fish carrier registered under section 105 of this Act:

“Registrar”, in relation to the registration of anything under this Act, means—
(a) A Registrar of Annual Catch Entitlement appointed under section 125 of this Act; or
(b) A Registrar of Quota appointed under section 125 of this Act; or
(c) The Registrar of Fishing Vessels appointed under section 99 of this Act; or
(d) The Registrar of Permits appointed under section 99 of this Act,—
who is authorised under this Act to perform functions and duties and exercise powers in relation to such registration:

“Rock lobster” means—
(a) Spiny rock lobster (Jasus edwardsii);
(b) Packhorse rock lobster (Jasus verreauxi):

“Sale”—
(a) Includes—
(i) Every method of disposition for valuable consideration, including barter; and
(ii) The disposition to an agent for sale on consignment; and
(iii) 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

(iv) Disposal by way of raffle, lottery, or other game of chance; and

(v) The use by a person of fish, aquatic life, or seaweed as bait in that person's commercial fishing operations; and

(vi) Any other use by a person of fish, aquatic life, or seaweed as part of that person's commercial activities;—

and "sell" and "sold" have a corresponding meaning; but

(b) Does not include the disposal by any method approved by the chief executive of fish, aquatic life, or seaweed lawfully taken during the course of a fishing competition, if—

(i) The competition and the disposal method are carried out in accordance with any conditions imposed by the chief executive, either generally or specifically; and

(ii) The chief executive's approval has been obtained prior to the disposal of the fish, aquatic life, or seaweed; and

(iii) The proceeds (less any reasonable expenses of disposal) are applied to purposes that are cultural, benevolent, philanthropic, or charitable:

"Scallop" means the mollusc *Pecten novaezelandiae*; but does not include scallop spat:

"Scallop spat"—

(a) Means the larval stage of the mollusc *Pecten novaezelandiae*; and

(b) Includes any animal of that species, still in its shell, that has been retained by fishing gear on which it settled while in the larval stage:

"Seaweed" includes all kinds of algae and sea-grasses that grow in New Zealand fisheries waters at any stage of their life history, whether living or dead:

"Shellfish" includes all species of the phylum Echinodermata and phylum Mollusca and all species of the Class Crustacea at any stage of their life history, whether living or dead:
“Southern scallop” means any scallop found in the southern scallop fishery:

“Southern scallop fishery” means those New Zealand fisheries waters defined as SCA7 in the First Schedule to this Act:

“Spat catching permit” means a permit issued under section 67Q of the Fisheries Act 1983:

“Special permit” means a special permit issued under section 97 of this Act:

“Sports fish” has the same meaning as in section 2(1) of the Conservation Act 1987:

“Statutory debt” means any fee, charge, or levy required by this Act, or by any regulation, order, notice, direction, or other instrument made or issued under this Act, to be paid to the Crown or the Ministry or the holder of any named office:

“Stock” means any fish, aquatic life, or seaweed of one or more species that are treated as a unit for the purposes of fisheries management:

“Sustainability measure” means any measure set or varied under Part III of this Act for the purpose of ensuring sustainability:

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

“Tangata whenua”, in relation to a particular area, means the hapu, or iwi, that is Maori and holds mana whenua over that area:

“Tender” means any vessel that is carried by or attached to a fishing vessel and is used or intended to be used for taking fish, aquatic life, or seaweed for sale, either separately or in conjunction with the fishing vessel:

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

“Tikanga Maori” means Maori customary values and practices:

“Total allowable catch”, in relation to any quota management stock, means a total allowable catch as set or varied for that stock by notice in the Gazette under section 13 or section 14 of this Act:

“Total allowable commercial catch”, in relation to any quota management stock, means a total allowable commercial catch specified for that stock by notice in the Gazette under section 20 of this Act:
“Transaction” means,—
(a) In relation to any quota or annual catch entitlement or provisional catch history, a transfer of the quota, annual catch entitlement, or provisional catch history:
(b) In relation to any quota, a mortgage, variation of mortgage, or discharge of mortgage over the quota:
(c) In relation to any quota or annual catch entitlement, a caveat or discharge of a caveat over the quota or annual catch entitlement:

“Transhipment” means the transfer of fish, aquatic life, or seaweed from one vessel to another vessel; and “tranship” and “transhipped” have a corresponding meaning:

“Transportation” means—
(a) The receiving and carriage of fish, aquatic life, or seaweed by any vessel; or
(b) The storage and refrigeration of fish, aquatic life, or seaweed by any vessel for the purpose of carriage:

“Tuna” means any fish of the genera *Katsuwonus, Euthynnus, Thunnus, Allothunnus*, or *Gasterochisma*:

“Unwanted aquatic life” means—
(a) Any species (including subspecies, hybrids, and variations of that species) listed in the Third Schedule to the Freshwater Fisheries Regulations 1983:
(b) Any species of fish, aquatic life, or seaweed that is determined by a chief technical officer under the Biosecurity Act 1993 to be an unwanted organism:

“Vessel” means any description of vessel, aircraft, hovercraft, submersible vessel, or other vessel of whatever size:

“Whitebait” includes the species *Retropina retropina* and juveniles of all species of the genus *Galaxias*:

“Working day” means any day other than—
(a) A Saturday, a Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign’s birthday, and Waitangi Day; and
(b) A day in the period commencing on the 25th day of December in any year and ending with the close of the 15th day of January in the following year.

(2) For the avoidance of doubt, it is hereby declared that, unless the context otherwise requires,—
(a) Every reference in this Act to any fisheries resources, stock, fish, aquatic life, seaweed, habitat, location of stock, quota, or annual catch entitlement includes any part thereof:

(b) The expression of any matter or thing by way of example, or a provision to the effect that any matter or thing includes certain matters or things, does not limit the generality of the provision to which the example relates or the included matters or things relate.

(3) For the purpose of this Act, the weight, greenweight, or meatweight of any fish, aquatic life, or seaweed shall be determined, where appropriate, in accordance with sections 187 and 188 of this Act.

Cf. 1977, No. 28, s. 2 (1); 1983, No. 14, s. 2; 1986, No. 34, s. 2; 1989, No. 159, s. 48; 1990, No. 29, s. 2; 1990, No. 31, s. 129; 1992, No. 90, s. 2; 1993, No. 67, s. 2

3. Meaning of term "associated person"—(1) For the purpose of this Act, a person is associated with another person if—

(a) The interest of one of the persons in any quota is subject to the effective control of the other; or

(b) The interest of both persons in any quota is subject to the effective control of another person,—

whether or not the person said to have the effective control of such quota has—

(c) Any legal or equitable estate or interest in the quota; or

(d) Any right, power, or privilege in connection with the quota.

(2) Without limiting the generality of subsection (1) of this section, in determining whether a person is an associated person, regard may be had to—

(a) Shareholdings in, debentures over, or directorships of, any company that has an interest (whether direct or indirect) in the quota; and

(b) Any trust that has a relationship to the quota; and

(c) Family, domestic, and business relationships between persons having an interest in quota, or in companies of the kind referred to in paragraph (a) of this subsection or trusts of the kind referred to in paragraph (b) of this subsection, and any other persons.

(3) For the purposes of this section, a person's quota shall, unless the contrary is proven, be deemed to be within the
effective control of another person if the first person is, in relation to that quota,—

(a) Accustomed to following the instructions of the other person; or

(b) Accustomed to acting in a manner consistent with advancing the interests of the other person; or

(c) A relative of the person, and for the purposes of this section “relative” means a spouse, parent, grandparent, stepfather, stepmother, brother, sister, half-brother, half-sister, son, daughter, grandson, grand-daughter, stepson, or stepdaughter; or

(d) A company and the other person holds—

(i) The right to exercise or control the exercise of 25 percent or more of the voting power at any meeting of the company; or

(ii) Twenty-five percent or more of any class of shares in the company.

For the purposes of this section, the term “quota” includes individual transferable quota, provisional individual transferable quota, annual catch entitlement, provisional catch history, and any rights associated with any individual transferable quota, provisional individual transferable quota, annual catch entitlement, or provisional catch history.

Notwithstanding anything in this section, for the purpose of this Act,—

(a) The Commission shall not be regarded as being associated with any other person; and

(b) No person shall be regarded as being associated with any other person merely because either or both of those persons are associated with the Commission.

No bank registered under the Reserve Bank of New Zealand Act 1989 shall be regarded as being associated with any other person merely because the bank has, in the ordinary course of its business as a financier, been granted any interest in quota owned by that person.

4. Meaning of terms “overseas person”, “ordinarily resident in New Zealand”, and “nominee”—(1) For the purpose of this Act, the term “overseas person” means—

(a) Any natural person who is neither a New Zealand citizen nor ordinarily resident in New Zealand:

(b) Any company or body corporate that is incorporated outside New Zealand, or any company, within the meaning of the Companies Act 1955 or the Companies Act 1993, as the case may be, that is, for
the purposes of the Companies Act 1955 or the Companies Act 1993, a subsidiary of any company or body corporate incorporated outside New Zealand:

(c) Any company within the meaning of the Companies Act 1955, or the Companies Act 1993, as the case may be, or any building society, in which—

(i) Twenty-five percent or more of any class of shares is held by any overseas person or overseas persons; or

(ii) The right to exercise or control the exercise of 25 percent or more of the voting power at any meeting of the company or building society is held by any overseas person or overseas persons:

(d) Any nominee of an overseas person, whether or not the nominee is also an overseas person.

(2) For the purpose of this Act, an individual (other than a New Zealand citizen) shall not be regarded as being ordinarily resident in New Zealand unless—

(a) He or she has the right to permanently reside in New Zealand and is currently residing in New Zealand; and

(b) Either—

(i) His or her usual place of abode is, and has been for the immediately preceding period of 12 months, in New Zealand, whether or not he or she has been occasionally or temporarily absent from New Zealand during that period; or

(ii) The Minister is satisfied that the person is likely to continue to reside permanently in New Zealand.

(3) For the purpose of this Act, the term “nominee”, in relation to an overseas person, means—

(a) Any company or building society effectively controlled by the overseas person or by any company or building society that is the nominee of the overseas person; or

(b) Any company or building society that—

(i) Effectively controls or is interested in (whether beneficially or otherwise) any shares in the capital of the overseas person or a nominee of the overseas person; or

(ii) Is entitled, directly or indirectly, to any part of the profits of the overseas person or a nominee of the overseas person—

where the acquisition of those shares or the entitlement to that part of those profits was entered into or obtained for the benefit of an overseas person or a nominee of an overseas person; or
(c) Any person subject to the direction or control, whether direct, indirect, general, or specific, of any company or building society that is an overseas person or the nominee of an overseas person, whether or not the direction or control is legally enforceable; or

(d) Any person who, in any transaction, acts as an agent, trustee, representative, or in any way on behalf of the overseas person or a nominee of the overseas person or is in any way subject to the direction, control, or influence of the overseas person or a nominee of the overseas person, whether or not, in respect of the transaction, the relationship between that person and the overseas person or nominee is such as to confer legally enforceable rights on either party; or

(e) Any overseas person who—
   (i) In any transaction acts jointly with or in concert with any overseas person or any nominee of an overseas person; or
   (ii) Undertakes or participates in any transaction in consequence of any arrangement made between the overseas person and any other overseas person or any nominee of an overseas person—whether or not, in respect of the transaction or the arrangement, the relationship between the first overseas person and the other overseas person or nominee is such as to confer legally enforceable rights on either party.

(4) For the purpose of this Act, the term “building society” means a building society within the meaning of the Building Societies Act 1965.

5. Application of international obligations and Treaty of Waitangi (Fisheries Claims) Settlement Act 1992—This Act shall be interpreted, and all persons exercising or performing functions, duties, or powers conferred or imposed by or under it shall act, in a manner consistent with—

   (a) New Zealand’s international obligations relating to fishing; and


6. Application of Resource Management Act 1991—(1) No provision in any regional plan or coastal permit is enforceable to the extent that it provides for—
(a) The allocation to one or more fishing sectors in preference to any other fishing sector of access to any fisheries resources in the coastal marine area; or

(b) The conferral on any fisher of a right to occupy any land in the coastal marine area or any related part of the coastal marine area, if the right to occupy would exclude any other fisher from fishing in any part of the coastal marine area.

(2) Subsection (1) of this section does not prevent any regional plan or coastal permit authorising the erection in the coastal marine area of any fish farm structure or other structure.

(3) In this section—

"Fishing sector" means—

(a) Commercial fishers:

(b) Recreational fishers:

(c) Maori non-commercial customary fishers:

(d) Fish farmers:

(e) Other fishers authorised under this Act to take fish, aquatic life, or seaweed:

"Occupy" has the same meaning as in section 12(4) of the Resource Management Act 1991.

7. Act to bind the Crown — This Act shall bind the Crown.

Cf. 1983, No. 14, s. 2A; 1986, No. 34, s. 3

PART II

PURPOSE AND PRINCIPLES

8. Purpose — (1) The purpose of this Act is to provide for the utilisation of fisheries resources while ensuring sustainability.

(2) In this Act—

"Ensuring sustainability" means—

(a) Maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of future generations; and

(b) Avoiding, remedying, or mitigating any adverse effects of fishing on the aquatic environment:

"Utilisation" means conserving, using, enhancing, and developing fisheries resources to enable people to provide for their social, economic, and cultural well-being.

9. Environmental principles — All persons exercising or performing functions, duties, or powers under this Act, in relation to the utilisation of fisheries resources or ensuring
sustainability, shall take into account the following environmental principles:

(a) Associated or dependent species should be maintained above a level that ensures their long-term viability:
(b) Biological diversity of the aquatic environment should be maintained:
(c) Habitat of particular significance for fisheries management should be protected.

10. **Information principles**—All persons exercising or performing functions, duties, or powers under this Act, in relation to the utilisation of fisheries resources or ensuring sustainability, shall take into account the following information principles:

(a) Decisions should be based on the best available information:
(b) Decision makers should consider any uncertainty in the information available in any case:
(c) Decision makers should be cautious when information is uncertain, unreliable, or inadequate:
(d) The absence of, or any uncertainty in, any information should not be used as a reason for postponing or failing to take any measure to achieve the purpose of this Act.

**PART III**

**SUSTAINABILITY MEASURES**

11. **Sustainability measures**—(1) The Minister may, from time to time, set or vary any sustainability measure for one or more stocks or areas, after taking into account—

(a) Any effects of fishing on any stock and the aquatic environment; and
(b) Any existing controls under this Act that apply to the stock or area concerned; and
(c) The natural variability of the stock concerned.

(2) Before setting or varying any sustainability measure under subsection (1) of this section, the Minister shall have regard to any provisions of—

(a) Any regional policy statement, regional plan, or proposed regional plan under the Resource Management Act 1991; and
(b) Any management strategy or management plan under the Conservation Act 1987—

that apply to the coastal marine area and are considered by the Minister to be relevant.
(3) Without limiting the generality of subsection (1) of this section, sustainability measures may relate to—

(a) The catch limit (including a commercial catch limit) for any stock or, in the case of a quota management stock that is subject to section 13 or section 14 of this Act, any total allowable catch for that stock:

(b) The size, sex, or biological state of any fish, aquatic life, or seaweed of any stock that may be taken:

(c) The areas from which any fish, aquatic life, or seaweed of any stock may be taken:

(d) The fishing methods by which any fish, aquatic life, or seaweed of any stock may be taken or that may be used in any area:

(e) The fishing season for any stock, area, fishing method, or fishing vessels.

(4) The Minister may,—

(a) By notice in the Gazette, set or vary the catch limit (including the commercial catch limit) for any stock not within the quota management system:

(b) Recommend the making of such regulations under section 298 of this Act as he or she considers necessary or expedient for the purpose of implementing sustainability measures, as set or varied under subsection (1) of this section.

(5) Without limiting subsection (4) (a) of this section, when setting or varying a catch limit (including a commercial catch limit) for any stock not within the quota management system, the Minister shall have regard to the matters referred to in section 13 (2) or section 21 (1) of this Act, as the case may require.

12. Consultation—(1) Before doing anything under any of sections 11 (1), 13 (1), 13 (4), 13 (7), 14 (1), 14 (8), 14 (6), 15 (1), and 15 (2) of this Act or recommending the making of an Order in Council under section 13 (9) or section 14 (8) of this Act, the Minister shall—

(a) Consult with such persons or organisations as the Minister considers are representative of those classes of persons having an interest in the stock or the effects of fishing on the aquatic environment in the area concerned, including Maori, environmental, commercial, and recreational interests; and

(b) Provide for the input and participation of tangata whenua having—
(i) A non-commercial interest in the stock concerned; or
(ii) An interest in the effects of fishing on the aquatic environment in the area concerned—and have particular regard to Kaitiakitanga.

(2) After setting or varying any sustainability measure, the Minister shall, as soon as practicable, give to the parties consulted in accordance with subsection (1) of this section reasons in writing for his or her decision.

(3) This section does not apply in respect of emergency measures under section 16 of this Act.

13. Total allowable catch—(1) Subject to this section, the Minister shall, by notice in the Gazette, set in respect of the quota management area relating to each quota management stock a total allowable catch for that stock, and that total allowable catch shall continue to apply in each fishing year for that stock unless varied under this section.

(2) The Minister shall set a total allowable catch that—
(a) Maintains the stock at or above a level that can produce the maximum sustainable yield, having regard to the interdependence of stocks; or
(b) Enables the level of any stock whose current level is below that which can produce maximum sustainable yield to be altered—
(i) In a way and at a rate that will result in the stock being restored to or above a level that can produce the maximum sustainable yield, having regard to the interdependence of stocks and any environmental conditions affecting the stock; and
(ii) Within a period appropriate to the stock and its biological characteristics; or
(c) Enables the level of any stock whose current level is above that which can produce the maximum sustainable yield to be altered in a way and at a rate that will result in the stock moving towards or above a level that can produce the maximum sustainable yield, having regard to the interdependence of stocks.

(3) In considering the way in which and rate at which a stock is moved towards or above a level that can produce maximum sustainable yield under paragraph (b) or paragraph (c) of subsection (2) of this section, the Minister shall have regard to such social, cultural, and economic factors as he or she considers relevant.
(4) The Minister may from time to time, by notice in the Gazette, vary any total allowable catch set for any quota management stock under this section by increasing or reducing the total allowable catch.

(5) Without limiting subsection (1) or subsection (4) of this section, the Minister may set or vary any total allowable catch at, or to, zero.

(6) Except as provided in subsection (7) of this section, every setting or variation of a total allowable catch shall have effect on and from the first day of the next fishing year for the stock concerned.

(7) After considering information about the abundance during the current fishing year of any stock listed in the Second Schedule to this Act, the Minister may, by notice in the Gazette, increase the total allowable catch for the stock with effect from such date in the fishing year in which the notice is published as may be stated in the notice.

(8) If a total allowable catch for any stock has been increased during any fishing year under subsection (6) of this section, the total allowable catch for that stock shall, at the close of that fishing year, revert to the total allowable catch that applied to that stock at the beginning of that fishing year; but this subsection does not prevent a variation under subsection (4) of this section of the total allowable catch that applied at the beginning of that fishing year.

(9) The Governor-General may from time to time, by Order in Council, omit the name of any stock from the Second Schedule to this Act or add to that Schedule the name of any stock whose abundance is highly variable from year to year.

Cf. 1983, No. 14, ss. 28c, 28d, 28oe–28oe; 1986, No. 34, s. 10; 1990, No. 29, s. 5 (1); 1992, No. 90, s. 4; 1992, No. 121, s. 24 (1)

14. Alternative total allowable catch for stock specified in Third Schedule—(1) Notwithstanding anything in section 13 of this Act, if satisfied, in the case of any quota management stock listed in the Third Schedule to this Act, that the purpose of this Act would be better achieved by setting a total allowable catch otherwise than in accordance with subsection (2) of that section, the Minister may at any time, by notice in the Gazette, set in respect of the quota management area relating to the quota management stock a total allowable catch for that stock that he or she considers appropriate to achieve the purpose of this Act.
(2) Every total allowable catch set under subsection (1) of this section for any stock shall continue to apply in each fishing year for the stock unless varied under subsection (3) of this section.

(3) The Minister may from time to time, by notice in the Gazette, vary any total allowable catch set under subsection (1) of this section for any stock by increasing or reducing the total allowable catch.

(4) Without limiting subsection (1) or subsection (3) of this section, the Minister may set or vary any total allowable catch at, or to, zero.

(5) Except as provided in subsection (6) of this section, every setting or variation of a total allowable catch shall have effect on and from the first day of the next fishing year for the stock concerned.

(6) After considering information about the abundance during the current fishing year of any stock listed in the Third Schedule to this Act, the Minister may, by notice in the Gazette, increase the total allowable catch for the stock with effect from such date in the fishing year in which the notice is published as may be stated in the notice.

(7) If a total allowable catch for any stock has been increased during any fishing year under subsection (6) of this section, the total allowable catch for that stock shall, at the close of that fishing year, revert to the total allowable catch that applied to that stock at the beginning of that fishing year; but this subsection does not prevent a variation under subsection (3) of this section of the total allowable catch that applied at the beginning of that fishing year.

(8) The Governor-General may from time to time, by Order in Council,—

(a) Omit the name of any stock from the Third Schedule to this Act:

(b) Add to that Schedule the name of any stock if—

(i) It is not possible, because of the biological characteristics of the species, to estimate maximum sustainable yield; or

(ii) A catch limit for New Zealand has been determined as part of an international agreement; or

(iii) The stock is managed on a rotational or enhanced basis.

15. Fishing-related mortality of marine mammals or other wildlife—(1) If a population management plan has been approved under section 14F of the Wildlife Act 1953 or
section 3E of the Marine Mammals Protection Act 1978, the Minister—

(a) Shall take all reasonable steps to ensure that the maximum allowable fishing-related mortality level set by the relevant population management plan is not exceeded:

(b) May take such other measures as he or she considers necessary to further avoid, remedy, or mitigate any adverse effects of fishing on the relevant protected species.

(2) In the absence of a population management plan, the Minister may, after consultation with the Minister of Conservation, take such measures as he or she considers necessary to avoid, remedy, or mitigate the effect of fishing-related mortality on any protected species, and such measures may include setting a limit on fishing-related mortality.

(3) The Minister may require, or authorise the chief executive to require, any person or class of persons listed in section 189 of this Act to give to the Minister or the chief executive such information relating to fishing-related mortality as the Minister or chief executive, as the case may be, considers necessary, and may require, or authorise the chief executive to require, such information to be given in the approved manner and form.

(4) The Minister may recommend the making of such regulations under section 298 of this Act as the Minister considers necessary or expedient for the purpose of implementing any measures referred to in subsection (1) or subsection (2) or subsection (3) of this section.

(5) The Minister may, by notice in the Gazette, prohibit all or any fishing or fishing methods in an area either—

(a) Under subsection (1) (a) of this section, for the purpose of ensuring the maximum allowable fishing-related mortality level set by the relevant population management plan is not exceeded; or

(b) Under subsection (2) of this section, for the purpose of ensuring that any limit on fishing-related mortality is not exceeded.

(6) Every person commits an offence and is liable to the penalty set out in section 252 (5) of this Act who fails to comply with any notice given under subsection (5) of this section.

16. Emergency measures—(1) If satisfied that there is or has been—

(a) An outbreak of disease; or
(b) A serious decline in the abundance or reproductive potential of one or more stocks or species; or 

(c) A significant adverse change in the aquatic environment,—

the Minister may, by notice in the Gazette, impose such emergency measures in respect of any stocks or areas affected, or both, as the Minister considers necessary or expedient in the circumstances.

(2) Before giving notice under subsection (1) of this section, the Minister shall, to the extent reasonably practicable in the circumstances, consult such persons or organisations as the Minister considers are representative of the classes of persons having an interest in the stock or area affected, including Maori, environmental, commercial, and recreational interests.

(3) An emergency measure under this section may be in force for a period not exceeding 3 months and, after consultation by the Minister with such persons or organisations as the Minister considers are representative of those classes of persons having an interest in any stock or area affected, including Maori, environmental, commercial, and recreational interests, may be renewed once only for a further period not exceeding 9 months.

(4) This section does not empower the Minister to reduce or cause to be reduced during the fishing year to which it relates any total allowable catch set under section 13 or section 14 of this Act.

(5) The Minister shall ensure that all emergency measures imposed under this section are publicly notified.

(6) Every person commits an offence and is liable to the penalty set out in section 252(5) of this Act who contravenes any emergency measure imposed under this section.

(7) For the purposes of this section, the term “emergency measures” means one or more of the following:

(a) Closing any area by prohibiting the harvesting of all or any fish, aquatic life, or seaweed in that area:

(b) Restricting the methods that may be used to take any fish, aquatic life, or seaweed in any area:

(c) Restricting the taking of any fish, aquatic life, or seaweed in any area by reference to the size, sex, or biological state of that fish, aquatic life, or seaweed and, for that purpose, setting or altering limits in respect of the size, sex, or biological state of any fish, aquatic life, or seaweed:

(d) Setting or altering the fishing season for any stock in any area:
(e) Imposing reporting requirements for any stock, area, or fishing method that are additional to reporting requirements for the time being in force under any other provision of this Act:

(f) Requiring the disposal of any fish, aquatic life, or seaweed in a specified manner.

Cf. 1983, No. 14, ss. 65, 85; 1986, No. 34, s. 13

PART IV

QUOTA MANAGEMENT SYSTEM

Declaration of Quota Management System

17. Application of this Part—(1) This Part of this Act applies to every stock declared from time to time by the Minister, by notice under section 18 of this Act, to be subject to the quota management system.

(2) Every species or class of fish, aquatic life, or seaweed that was, immediately before the commencement of this Part of this Act, subject to Part IIA of the Fisheries Act 1983 shall be subject to the quota management system.

(3) This Part of this Act does not apply to fishing authorised by a foreign fishing licence issued under Part V of this Act.

18. Declaration that new stock subject to quota management system—The Minister may from time to time, by notice in the Gazette, declare any stock to be subject to the quota management system on and from the first day of the fishing year stated in the notice.

19. Matters to be included in notice under section 18—(1) Any notice given under section 18 of this Act shall—

(a) Define the quota management area to which the notice relates by reference to an area or areas defined in the First Schedule to this Act or in any other manner:

(b) State the fishing year in respect of the stock, which year shall be a 12-month period commencing on either the 1st day of April or the 1st day of October:

(c) State whether, for the stock concerned, the total allowable commercial catch is, and annual catch entitlements are, to be expressed in meatweight or greenweight:

(d) Make provision for such other matters as may be contemplated by this Act.

(2) In defining the quota management area, the Minister shall, as far as practicable, maintain the same quota management areas for different species.
(3) If the Minister is satisfied that separate populations of any species that occur in the waters around the Chatham Islands can, for fisheries management purposes, be managed effectively as a unit, a notice under section 18 of this Act may create around the Chatham Islands a separate quota management area for that species.

(4) Subject to subsections (5) and (6) of this section,—

(a) No declaration made under section 18 of this Act shall be revoked; and

(b) No species or class of fish, aquatic life, or seaweed that was immediately before the commencement of this Part of this Act, subject to Part IIA of the Fisheries Act 1983, may be removed from the quota management system; and

(c) No quota management area shall be altered—except by Act of Parliament.

(5) Subsection (4) of this section does not prevent—

(a) The Minister varying, by notice in the Gazette, any date set under section 18 of this Act, if the variation is published before that date; or

(b) Any alteration of a quota management area under section 25 of this Act; or

(c) Any amendment to a notice under section 18 of this Act that involves a minor or technical correction only.

(6) A provision in a regulation made under this Act, or in a notice given under section 15 or section 16 or a regulation made under section 186 (2)(b) of this Act, shall not be construed as altering a quota management area merely because it prohibits, limits, or restricts fishing in the quota management area.

(7) Before making any declaration under section 18 of this Act, the Minister shall consult such persons or organisations as the Minister considers are representative of those classes of persons having an interest in the matters referred to in subsection (1) of this section.

Cf. 1983, No. 14, s. 28B (1), (3), (5), (6); 1986, No. 34, s. 10

20. Setting and variation of total allowable commercial catch—(1) Subject to this section, the Minister shall, by notice in the Gazette, set in respect of the quota management area relating to each quota management stock a total allowable commercial catch for that stock, and that total allowable commercial catch shall continue to apply in each fishing year for that stock unless varied under this section.
(2) The Minister may from time to time, by notice in the Gazette, vary any total allowable commercial catch set for any quota management stock by increasing or reducing that total allowable commercial catch.

(3) Without limiting the generality of subsections (1) and (2) of this section, the Minister may set or vary a total allowable commercial catch at, or to, zero.

(4) Every total allowable commercial catch set or varied under this section shall have effect on and from the first day of the next fishing year for the quota management stock concerned.

(5) A total allowable commercial catch for any quota management stock shall not—

(a) Be set unless the total allowable catch for that stock has been set under section 13 or section 14 of this Act; or

(b) Be greater than the total allowable catch set for that stock.

Cf. 1983, No. 14, ss. 28c; 1990, No. 29, s. 5(1)

21. Matters to be taken into account in setting or varying any total allowable commercial catch—

(1) In setting or varying any total allowable commercial catch for any quota management stock, the Minister shall have regard to the total allowable catch for that stock and shall allow for—

(a) The following non-commercial fishing interests in that stock, namely—

(i) Maori customary non-commercial fishing interests; and

(ii) Recreational interests; and

(b) All other mortality to that stock caused by fishing.

(2) Before setting or varying a total allowable commercial catch for any quota management stock, the Minister shall consult such persons and organisations as the Minister considers are representative of those classes of persons having an interest in this section, including Maori, environmental, commercial, and recreational interests.

(3) After setting or varying any total allowable commercial catch under section 20 of this Act, the Minister shall, as soon as practicable, give to the parties consulted under subsection (2) of this section reasons in writing for his or her decision.

(4) When allowing for Maori customary non-commercial interests under subsection (1) of this section, the Minister shall take into account any mataitai reserve in the relevant quota management area declared by the Minister by notice in the
Gazette under regulations made for the purpose under section 186 of this Act.

(5) When allowing for recreational interests under subsection (1) of this section, the Minister shall take into account any regulations that prohibit or restrict fishing in any area for which regulations have been made following a recommendation made by the Minister under section 311 of this Act.

Cf. 1983, No. 14, ss. 28c, 280B (1), (2); 1990, No. 29, ss. 5 (1), 15

22. **Effect of reduction of total allowable commercial catch**—(1) If the Crown owns any unencumbered quota shares for a stock as at the date the total allowable commercial catch for that stock is reduced under section 20 of this Act, the chief executive shall transfer to every quota owner at the time the reduction takes effect, in the form in which that quota is held by that person, a number of quota shares calculated in accordance with the following formula:

\[ a + (100,000,000 - b) \times c = d \]

where—

- **a** is the number of quota shares for the stock held by the person immediately before the reduction in the total allowable commercial catch for the stock takes effect; and

- **b** is the number of unencumbered quota shares for the stock owned by the Crown immediately before the reduction in the total allowable commercial catch for the stock takes effect; and

- **c** is the lesser of—
  - (a) The number of unencumbered quota shares for the stock owned by the Crown immediately before the reduction in the total allowable commercial catch for the stock takes effect:
  - (b) The number of unencumbered quota shares owned by the Crown for the stock the quota weight equivalent of which is equivalent to the amount of the reduction in the total allowable commercial catch for the stock; and

- **d** is the number of quota shares to be transferred to the quota owner under this section.

(2) If there has been a reduction in the total allowable commercial catch for any stock but the Crown does not hold any unencumbered quota shares for that stock as at the date
the reduction takes effect, no deductions or transfers of quota shall be made under this section.

(3) The chief executive shall, as soon as practicable after the reduction takes effect, notify every quota owner affected by a reduction in the total allowable commercial catch for any stock of—

(a) The reduced total allowable commercial catch; and

(b) Any consequential change in the number of the quota shares for that stock that are owned by that person; and

(c) The quota weight equivalent of 1 quota share of the reduced total allowable commercial catch.

(4) The chief executive shall, as soon as practicable after any reduction in the total allowable commercial catch for any stock takes effect, notify the Registrar of Quota for any stock of any quota transfer necessary to give effect to the reduction.

(5) For the purposes of subsection (1) of this section, the Crown is a quota owner except in relation to its unencumbered quota.

Cf. 1983, No. 14, s. 280D; 1990, No. 29, s. 15

28. Effect of increase in total allowable commercial catch—(1) If the total allowable commercial catch for any stock has been increased under section 20 of this Act and any person (in this section called an eligible person) holds preferential allocation rights for that stock, the chief executive shall deduct from every person owning quota for that stock as at the date the increase takes effect the number of quota shares calculated in accordance with the following formula:

\[ a \times \left( 1 - \frac{b}{b + c} \right) = d \]

where—

a is the number of quota shares for the stock owned by any person immediately before the increase in the total allowable commercial catch takes effect; and

b is the total allowable commercial catch for the stock (in kilograms) applying immediately before the increase takes effect; and

\[ \text{c is the lesser of—} \]

(a) The amount of the increase in the total allowable commercial catch for the stock (in kilograms):

(b) The total of all preferential allocation rights for the stock (in kilograms); and
d is the number of quota shares to be deducted from each person's holdings and transferred to the Crown in accordance with this section.

(2) Immediately after deducting quota shares under subsection (1) of this section, the chief executive shall transfer to each eligible person a number of quota shares which shall be calculated in accordance with the following formula:

\[ a + b \times c \times \frac{100,000,000}{d + c} = e \]

where—

a is the eligible person's current preferential allocation rights for the stock (in kilogrammes); and

b is the total of all preferential allocation rights for the stock (in kilogrammes); and

c is the lesser of—

(a) The amount of the increase in the total allowable commercial catch for the stock (in kilogrammes):

(b) The total of all preferential allocation rights for the stock (in kilogrammes); and

d is the total allowable commercial catch for the stock (in kilogrammes) applying immediately before the increase takes effect; and

e is the number of quota shares to be transferred from the Crown to the eligible person in accordance with this section.

(3) Every person who was, immediately before the commencement of this section, entitled to quota under section 280E (1) (a) of the Fisheries Act 1983 is entitled to a preferential allocation right equivalent to the amount (in kilogrammes) of the reduction in that person's provisional maximum individual transferable quota for the stock under section 28N of that Act less the amount (in kilogrammes) of any quota allocated to that person under section 280E (1) (a) of that Act, but that preferential allocation right (which entitles the holder to receive quota shares under subsection (2) of this section)—

(a) Shall have effect only while that person continues to hold shares for that stock, which shares have been continuously held by that person since the commencement of this section; and

(b) Is personal to the eligible person who holds the right and is not transferable in any circumstances.

(4) The amount of an eligible person's preferential allocation right shall be reduced by the quota weight equivalent of any quota for the stock transferred to the eligible person under subsection (2) of this section at the time of the transfer and,
when the amount of the preferential allocation right equals zero, the right shall expire and no eligible person shall be entitled to receive in the aggregate under that subsection quota shares whose quota weight equivalent (calculated at the time of transfer of the relevant shares to the eligible person) exceeds the amount of preferential allocation right held by that person on the commencement of this section or on the date of allocation of quota to that person under section 337 of this Act, as the case may be.

(5) If the total allowable commercial catch for any stock is increased but there are no eligible persons in relation to that stock, no deductions or transfers of quota shall be made under this section.

(6) The chief executive shall, as soon as practicable after any increase in the total allowable commercial catch for any stock takes effect, cause every quota owner affected by the increase to be notified of—

(a) The increased total allowable commercial catch; and

(b) Any consequential change in the number of the quota shares for that stock owned by that person; and

(c) The quota weight equivalent of 1 quota share of the increased total allowable commercial catch.

(7) The chief executive shall, as soon as practicable after any reduction in a person's preferential allocation right takes effect, notify the Registrar of Quota for any stock of any quota transfer necessary to give effect to the reduction.

Cf. 1983, No. 14, s. 280E (1) (a), (5); 1990, No. 29, s. 15

Quota Management Areas

24. Quota management areas—(1) There shall be a quota management area for every stock to which this Part of this Act applies.

(2) Subject to section 25 of this Act, the quota management area for any stock is,—

(a) In the case of any stock declared by notice under section 18 of this Act to be subject to the quota management system, the quota management area defined for that stock by that notice:

(b) In the case of any species or class of fish, aquatic life, or seaweed that, immediately before the date of commencement of this section, was subject to Part IIa of the Fisheries Act 1983, the quota management
area in force for that stock immediately before that date.
Cf. 1983, No. 14, s. 28b (3), (4); 1986, No. 34, s. 10

25. Alteration of quota management areas—(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister,—

(a) Alter any quota management area for any stock—

(i) By dividing the area into smaller quota management areas defined in the order; or

(ii) By amalgamating 2 or more quota management areas; or

(iii) By amalgamating any quota management area (or defined area or areas within any quota management area) with any adjoining quota management area (or defined area or areas within any adjoining quota management area); or

(iv) By doing any combination of the things referred to in the preceding provisions of this paragraph:

(b) In relation to quota for squid in a quota management area being altered under this section, remove any method restriction applying to that quota.

(2) Before recommending the alteration of any quota management area for any stock under subsection (1) of this section, the Minister—

(a) Shall have regard to—

(i) Non-commercial fishing interests in the affected area; and

(ii) The biological characteristics of the stock; and

(iii) The agreement referred to in subsection (4) of this section; and

(iv) Such other matters as the Minister considers relevant; and

(b) Shall consult such persons and organisations as the Minister considers are representative of those classes of persons having an interest in the relevant quota management area, including Maori, recreational, commercial, and environmental interests.

(3) The Minister shall not recommend the alteration of any quota management area under subsection (1) of this section unless, at least 90 days before the date that the alteration is to take effect, the Minister is satisfied that—

(a) The purpose of this Act would be achieved better by altering the quota management area or areas; and
(b) The alteration would not unduly prejudice any quota owner who—
   (i) Owns quota shares for the stock or stocks in the quota management area or quota management areas concerned; and
   (ii) Is opposed to the alteration; and
(c) An agreement that, in the Minister's opinion, satisfactorily addresses the matters set out in subsection (4) of this section, has been executed (either as an original or in counterparts) by the quota owners who hold in the aggregate not less than 75,000,000 quota shares for each of the stock or stocks for the area or areas being altered; and
(d) The quota owners have publicly notified their intention to seek an alteration of the quota management area or areas.

(4) The agreement between quota owners under this section shall, as a minimum, include provisions that address—
   (a) The boundaries of the proposed quota management area or quota management areas; and
   (b) The manner in which quota shares are to be apportioned within the proposed quota management area or quota management areas; and
   (c) The interests of any aggrieved quota owner who holds quota shares in any area affected by the proposed alteration; and
   (d) In the case of any alteration in a quota management area or quota management areas for squid, whether any method restriction applying to squid quota should be removed; and
   (e) Any other matter required by the Minister to be addressed.

(5) The agreement may include provisions to resolve any grievance of a quota owner who holds quota shares in any area affected by the proposed alteration if, and only if, the Minister so requires.

(6) Every Order in Council made under subsection (1) of this section shall come into force on the commencement of the first day of the fishing year to which it relates, as stated in the order.

(7) The chief executive shall, immediately after the making of an Order in Council under subsection (1) of this section, direct the relevant Registrar of Quota to record against all quota for the stock or stocks in respect of which one or more quota management areas are being altered a memorial to the
effect that the quota management area to which the quota relates will be altered under this section.

26. Effect on quota if quota management area altered—
   (1) This section applies if one or more quota management areas are altered under section 25 of this Act.
   (2) Subject to section 43 of this Act, the chief executive shall allocate quota in accordance with the agreement referred to in section 25 (4) of this Act, and the allocation shall be in the form in which the quota was held immediately before the alteration is to take effect and shall take effect when the alteration takes effect.
   (3) The chief executive shall, as soon as practicable after the date on which the alteration takes effect, cause every quota owner affected by the alteration—
      (a) To be notified of the number of quota shares (if any) allocated to that person for each new stock and of any other relevant matters; and
      (b) To be given a schedule setting out the allocation of quota shares to all other quota owners for each new stock—
          as a consequence of the alteration to the quota management area or quota management areas.
   (4) On the close of the last day of the fishing year before the fishing year in which the alteration takes effect, all existing quota relating to the quota management area or quota management areas to which the alteration applies shall be cancelled, but all rights, obligations, and liabilities (including liability to forfeiture) relating to the cancelled quota shall apply to the new quota.
   (5) All preferential allocation rights held under section 23 of this Act shall be apportioned in the same manner as quota is allocated under subsection (2) of this section.
   (6) This section does not confer on the Commission any entitlement to any further allocation of quota under section 44 of this Act or any other enactment.

Definition of Rights Relating to Quota

27. Characteristics of individual transferable quota—
   (1) Individual transferable quota for any stock has the following general characteristics:
      (a) It is to be allocated in perpetuity in a manner permitted by this Act:
      (b) It perpetually generates a right to receive an annual catch entitlement for that stock in the applicable quota management area:
(c) It is to be expressed as quota shares, and each quota share represents an equal proportion of the total allowable commercial catch for the stock:

(d) It may be traded in any manner permitted by this Act:

(e) It may be secured in any manner permitted by this Act:

(f) It may be caveated in any manner permitted by this Act:

(g) Each person's holding is liable to be increased or decreased as a consequence of appeals against provisional catch history or the transfer of quota by the Crown under section 22 or section 23 or section 52 of this Act:

(h) It is liable to be forfeit for contravention of aggregation limits or foreign ownership constraints, or on conviction for any offence referred to in section 255 (4) of this Act:

(i) It may be cancelled and reallocated to give effect to an alteration to quota management areas:

(j) In the case of quota for squid, the quota may be subject to a method restriction.

(2) This section does not—

(a) Limit the effect of any other provision of this Act; or

(b) Confer any rights, create any offence, or impose any obligation that is enforceable in any court.

28. Characteristics of provisional individual transferable quota—(1) Provisional individual transferable quota has the same general characteristics as individual transferable quota, as described in section 27 of this Act, except that—

(a) It is provisional pending the determination of any appeal by any person against the quota owner's provisional catch history:

(b) It has effect until the close of the fishing year in which the quota owner's provisional catch history becomes conclusive following the final determination of any appeal relating to that quota owner's provisional catch history, and upon the close of that fishing year shall be deemed to be transferred to the Crown and converted into individual transferable quota:

(c) It is not transferable except by operation of law.

(2) This section does not—

(a) Limit the effect of any other provision of this Act; or

(b) Confer any rights, create any offence, or impose any obligation that is enforceable in any court.
29. Characteristics of provisional catch history—
(1) Provisional catch history has the following general characteristics:

(a) It is the mechanism by which quota is to be allocated:

(b) An eligible person’s provisional catch history is equivalent to,—

(i) In the case of a stock controlled by an individual catch entitlement, that person’s individual catch entitlement for the fishing year in which the stock is declared by notice under section 18 of this Act to be subject to the quota management system; or

(ii) In any other case, that person’s eligible catch over the specified 12 consecutive months within the applicable qualifying year or qualifying years:

(c) It is a contingent right that comes into existence upon allocation by the chief executive or by virtue of a decision of the Catch History Review Committee or any court in accordance with this Act:

(d) In the case of provisional catch history allocated on the basis of eligible catch, it may be transferred within the transfer period set out in relation to the stock by this Act to a person eligible to receive quota (and is thereby added to that person’s own provisional catch history):

(e) It does not confer any entitlement to take fish, aquatic life, or seaweed:

(f) It is to be expressed in kilogrammes:

(g) It will not be increased or decreased as a result of changes to the total allowable commercial catch for the stock:

(h) It is liable to be increased or decreased as a consequence of the determination of any appeal against the allocation of provisional catch history or the transfer of provisional catch history:

(i) In the case of any person who is not eligible for quota, at the expiration of the person’s transfer period it is to be cancelled unless earlier transferred, and in every other case it becomes permanently fixed when it becomes conclusive:

(j) It is liable to be forfeit for contravention of aggregation limits or foreign ownership constraints, or on conviction for any offence referred to in section 255 (4) of this Act.

(2) This section does not—

(a) Limit the effect of any other provision of this Act; or
Confer any rights, create any offence, or impose any obligation that is enforceable in any court.

**Provisional Catch History**

**30. Provisional catch history to be mechanism for allocation of quota**—(1) Except as provided in subsection (2) of this section, provisional catch history is the mechanism by which quota shall be allocated under this Part of this Act.

(2) All—

(a) Quota allocated to the Commission under section 44 of this Act; and

(b) Quota allocated to the Crown under section 49 of this Act—

shall be allocated in accordance with those sections.

**31. Manner of calculating provisional catch history**—For the purposes of allocating quota, provisional catch history shall be calculated,—

(a) In the case of any stock controlled exclusively, as at the date of the publication of the relevant notice made under section 18 of this Act, by means of an individual catch entitlement, in accordance with section 40 of this Act:

(b) In the case of any other stock, in accordance with section 34 of this Act.

**Calculation of Provisional Catch History if No Individual Catch Entitlement**

**32. Criteria of eligibility to receive provisional catch history for quota management stock**—(1) If a stock is declared by notice under section 18 of this Act to be subject to the quota management system but the stock was not, immediately before the date of the publication of the notice, controlled by means of individual catch entitlements, a person is eligible to receive provisional catch history for the stock if the person—

(a) Either,—

(i) In the case of a stock that is a controlled fishery under the Fisheries Act 1983 immediately before the stock was declared to be subject to the quota management system, at any time during any qualifying year held a controlled fishery licence for the stock and a fishing permit issued under section 63 of that Act; or
(ii) Was issued a fishing permit under section 2 (2) of the Fisheries Amendment Act 1994; or

(iii) In the case of a stock that is a species of tuna, held, at any time during any applicable qualifying year, a fishing permit issued under section 63 of the Fisheries Act 1983 or section 91 of this Act that authorised the holder to take the stock; or

(iv) In any other case, held, at any time during any applicable qualifying year, a fishing permit issued under section 63 of the Fisheries Act 1983 for any species of fish, aquatic life, or seaweed; and

(b) In any case, is not an overseas person or, if an overseas person, is exempt under section 56 of this Act or has been granted permission to hold provisional catch history or quota under section 57 of this Act;—

and has provided the chief executive with eligible returns for the stock for the applicable qualifying year or qualifying years.

(2) For the purposes of this Part of this Act, an eligible return is a lawfully completed catch landing return or a catch effort landing return as referred to in the Fisheries (Reporting) Regulations 1990 that,—

(a) In the case of any stock referred to in subparagraph (ii) or subparagraph (iii) of subsection (1) (a) of this section, was given to the chief executive on or before the 15th day after the close of each applicable qualifying year; or

(b) In any other case, was given to the chief executive on or before the 15th day of October 1994.

33. Qualifying years—For the purposes of this Part of this Act, the qualifying year or qualifying years are,—

(a) In the case of a person eligible to receive provisional catch history under section 32 (1) (a) (ii) of this Act, the first consecutive 12 months after the 30th day of September 1992 in which the person was authorised to take fish, aquatic life, or seaweed:

(b) In the case of a person eligible to receive provisional catch history under section 32 (1) (a) (iii) of this Act, such fishing year or fishing years as the Minister may from time to time set for the purpose by notice in the Gazette:

(c) In any other case, the fishing years commencing respectively on the 1st day of October 1990 and the 1st day of October 1991.
34. **Calculation of provisional catch history**—(1) The provisional catch history of a person is,—

(a) If the qualifying year is the one referred to in section 33 (a) of this Act and the person is eligible to receive provisional catch history under section 32 (1) (a) (ii) of this Act for any stock, the total weight of eligible catch reported in the person’s eligible returns:

(b) If the qualifying year or years are set under section 33 (b) of this Act and the person is eligible to receive provisional catch history under section 32 (1) (a) (iii) of this Act for any stock, the total weight of eligible catch reported in the person’s eligible returns in respect of the period of 12 consecutive months within the qualifying years relating to the person, which period shall be—

   (i) Chosen by the person in accordance with section 35 (3) (c) (iv) or section 35 (4) (b) of this Act; or

   (ii) If the person has not made such a choice, chosen by the chief executive in accordance with section 35 (1) (d) of this Act:

(c) In the case of any other person who is eligible to receive provisional catch history under paragraph (a) (i) or paragraph (a) (iv) of section 32(1) of this Act, the total weight of eligible catch reported in the person’s eligible returns in respect of a period of 12 consecutive months within the qualifying years relating to the person, which period shall be—

   (i) Chosen by the person in accordance with section 35 (3) (c) (iv) or section 35 (4) (b) of this Act; or

   (ii) If the person has not made such a choice, chosen by the chief executive in accordance with section 35 (1) (d) of this Act.

(2) For the purposes of this Part and Part XV of this Act, the term “eligible catch” means the total weight of all the catch of the relevant stock lawfully taken and lawfully reported as landed or otherwise lawfully disposed of by a person eligible to receive provisional catch history under section 32 of this Act during the applicable qualifying years; and also includes fish, aquatic life, or seaweed of that stock reported as taken and used as bait; but does not include—

(a) Fish, aquatic life, or seaweed seized by a fishery officer under section 80 of the Fisheries Act 1983 or section 207 of this Act, if the fish, aquatic life, or seaweed (or the proceeds of sale thereof) were forfeit to the Crown:
(b) Fish, aquatic life, or seaweed, other than southern bluefin tuna, taken outside New Zealand fisheries waters (even though such fish, aquatic life, or seaweed may be deemed to have been taken within New Zealand fisheries waters by the operation of this Act or the Fisheries Act 1983);

(c) Fish, aquatic life, or seaweed (other than fish, aquatic life or seaweed taken by persons granted fishing permits under section 2 (2) of the Fisheries Amendment Act 1994) taken under a special permit granted under this Act or under section 64 of the Fisheries Act 1983.

35. Notification of eligibility to receive provisional catch history—(1) The chief executive shall, as soon as practicable after the publication of a notice under section 18 of this Act declaring any stock to be subject to the quota management system,—

(a) Decide whether, in the chief executive’s opinion, a person is eligible to be allocated provisional catch history in accordance with this Act; and

(b) If the person is eligible to be allocated provisional catch history, determine whether, in the chief executive’s opinion, the person is eligible to be allocated quota under section 47 of this Act because,—

(i) In the case of a stock that was a controlled fishery as at the date of the publication of the notice declaring the stock to be subject to the quota management system, the person was a holder of both a controlled fishery licence for that stock and a current fishing permit; or

(ii) In any other case,—

(A) The person was a holder of a fishing permit as at the date of the publication of the notice declaring the stock to be subject to the quota management system; and

(B) The person is not an overseas person or, if an overseas person, is exempt under section 56 of this Act or has been granted permission to hold provisional catch history or quota under section 57 of this Act; and

(c) If section 33 (a) of this Act applies, determine both the relevant period of 12 consecutive months that is to be the person’s qualifying year and the quantum of the person’s eligible catch during that period; and
(d) If paragraph (b) or paragraph (c) of section 33 of this Act applies, decide the period of 12 consecutive months within the qualifying years which the chief executive will nominate for the purpose of calculating the person's provisional catch history (which period is to maximise the person's eligible catch) and the quantum of the person's eligible catch during that period.

(2) The chief executive shall, as soon as practicable after deciding or determining the matters referred to in subsection (1) of this section, notify in writing every person whom the chief executive considers to be eligible for provisional catch history of the following matters:

(a) The chief executive's decisions and determinations in respect of that person under subsection (1) of this section:

(b) The applicable qualifying years for the stock for which that person is eligible to receive provisional catch history:

(c) The eligible catch of that person for each month of the applicable qualifying years:

(d) The rights conferred by subsection (4) of this section:

(e) The date by which objections must be lodged (which date shall be not less than 60 working days after the date specified in the notice under this subsection):

(f) Such other matters as the chief executive thinks relevant.

(3) The chief executive shall, within 10 working days after the date specified under subsection (2) (e) of this section, publicly notify—

(a) The criteria of eligibility for an allocation of provisional catch history for the stock; and

(b) The criteria of eligibility for an allocation of quota for the stock; and

(c) That any person who has not received a notification under subsection (2) of this section, but who believes that the person is or will be—

(i) Entitled to receive provisional catch history; or

(ii) Entitled to receive quota,—

under this Act, may notify the chief executive on or before the date specified under subsection (2) (e) of this section of—

(iii) The grounds for the belief; and

(iv) If the qualifying years are those set out in paragraph (b) or paragraph (c) of section 33 of this Act, the period of 12 consecutive months within the
qualifying years for the stock that the person wishes to be used as a basis for calculating the person's provisional catch history—within 10 working days after the date specified in the notice under subsection (2) (e) of this section, and the notice under this section shall be published a second time not less than 10 working days but not more than 20 working days after the date of that first public notification.

(4) Any person notified in accordance with subsection (2) of this section may, on or before the date specified in the notice,—

(a) Lodge with the chief executive in the approved form an objection giving reasons for the objection—
   (i) As to the quantum of eligible catch stated in the notice; or
   (ii) As to the chief executive's opinion that the person will not be eligible to receive an allocation of quota; and

(b) If paragraph (b) or paragraph (c) of section 33 of this Act applies, notify the chief executive in writing of an alternative period of 12 consecutive months to the period decided by the chief executive that the person requires the chief executive to use for the purposes of calculating the person's provisional catch history.

(5) Any person who has not received a notification under subsection (2) of this section, but who believes that the person is or will be—

(a) Entitled to receive provisional catch history; or
(b) Entitled to receive quota,—under this Act, may, on or before the date specified in the public notification referred to in subsection (3) of this section, notify the chief executive on the approved form of—

(c) The grounds for the belief; and
(d) If the qualifying years are those set out in paragraph (b) or paragraph (c) of section 33 of this Act, the period of 12 consecutive months within the qualifying years for the stock that the person wishes to be used as a basis for calculating the person's provisional catch history.

(6) Notwithstanding anything in this Part of this Act, if, in the case of any stock listed in the Fourth Schedule to this Act, after deciding on the matters referred to in subsection (1) of this section and estimating the likely total provisional catch history, the chief executive considers that the total amount of provisional catch history for that stock will or is likely to exceed
the quota weight equivalent of 80,000,000 shares in that stock, no further steps shall be taken and no quota shall be allocated for that stock under this Act.

(7) If quota for any stock is not to be allocated because of the operation of subsection (6) of this section, then, notwithstanding the declaration relating to the stock under section 18 of this Act, the stock shall become subject to the quota management system on a date set by, and quota shall be allocated in accordance with, an Act passed for the purpose.

36. Notification of allocation of provisional catch history—(1) As soon as practicable after the specified date referred to in section 35 (2) (e) of this Act, the chief executive shall—

(a) Complete his or her determination of any objection or notification received under section 35 of this Act and notify the person concerned of his or her determination:

(b) In the case of any person whom the chief executive considers to be eligible to receive provisional catch history for a stock, allocate the amount of such provisional catch history as the chief executive considers the person is eligible to receive:

(c) Notify the person concerned,—

(i) In the case of any person whom the chief executive considers to be eligible to receive provisional catch history for a stock, of the allocation and the amount of provisional catch history; and

(ii) In all cases, of the result of any determination under paragraph (a) of this subsection.

(2) Every notification under subsection (1) of this section shall be sent to the person's last known address and shall state—

(a) Both—

(i) The person's right to appeal under section 51 (1) (b) of this Act; and

(ii) That the appeal must be lodged not later than the date specified for the purpose in the notice; and

(b) If the chief executive considers under section 35 (1) (b) of this Act that the person is not eligible to receive quota, that unless the person lodges an appeal not later than the date specified under paragraph (a) (ii) of this subsection the person may transfer the person's provisional catch history within the period of 20 working days commencing on the day after that specified date, and that, if the provisional catch
history is not transferred within that period, it shall be deemed to be cancelled on the expiration of that period; and

(c) If the chief executive considers, under section 35 (1) (b) (ii) (B) of this Act, that the person is not eligible to receive quota,—

(i) The person’s right to appeal under section 51 (1) (b) and apply for a declaration under section 51 (2) of this Act; and

(ii) That any appeal to the Catch History Review Committee or application for a declaration to the High Court must be lodged not later than the date specified under paragraph (a) (ii) of this subsection.

(3) The date referred to in paragraphs (a) (ii) and (c) (ii) of subsection (2) of this section and specified in a notification under subsection (1) of this section shall be not less than 60 working days after the date of the notification.

(4) As soon as practicable after notifying persons under subsection (1) of this section, the chief executive shall notify the Registrar of Quota of—

(a) The amount of provisional catch history the chief executive has allocated to each person; and

(b) The name of every person allocated provisional catch history for the stock who the chief executive believes is not eligible to receive quota.

(5) As soon as practicable after the specified date referred to in subsection (2) (c) (ii) of this section, the chief executive shall notify the Registrar of Quota of whether any person or the chief executive has appealed to the Catch History Review Committee under section 51 of this Act in respect of any provisional catch history.

37. Transfer of provisional catch history—(1) Provisional catch history in respect of any stock, other than a stock to which section 40 of this Act applies, may be transferred only if—

(a) The transferor is not eligible to receive quota for the stock; and

(b) The transferee is a current fishing permit holder; and

(c) Any appeal against the amount of provisional catch history for the stock allocated to the transferor has been finally determined or withdrawn; and

(d) The transfer takes effect during the transfer period and the Registrar of Quota has been notified on the approved form of the transfer during that period; and
(e) The transfer is for an amount of provisional catch history expressed in whole kilogrammes.

(2) For the purposes of subsections (1) and (3) of this section, the transfer period is—

(a) The transfer period referred to in section 36 (2) (b) of this Act; or

(b) A period of 20 working days commencing on the later of the following:

(i) The day following the date of the final determination or withdrawal of any appeal in respect of the provisional catch history being transferred:

(ii) If section 54 (1) (b) of this Act applies, the day following the day of the determination of the proceedings referred to in that section.

(3) If provisional catch history for any stock is allocated to any person who is not eligible to receive quota under section 45 of this Act for the stock, then, unless a transfer of the provisional catch history is notified to the Registrar of Quota within the transfer period or the referral of a dispute to the Court is notified to the chief executive within the transfer period, that provisional catch history shall be deemed to be cancelled on the expiration of the transfer period.

(4) A transferee shall lodge a copy of the transfer, together with the prescribed fee (if any) with the Registrar of Quota and the Registrar shall record the transfer in the register and shall notify the chief executive, the transferor, and the transferee accordingly.

38. Disputes about transfer of provisional catch history—(1) If any matter relating to a transfer of provisional catch history is disputed by any of the parties to the transfer, any of the parties may refer the dispute to a court for resolution, so long as the referral occurs during the applicable transfer period specified in section 37 (2) of this Act and the chief executive is notified of the referral in the approved form.

(2) While such a dispute is before the Court, the chief executive shall, in determining the amount of quota to be allocated to the transferee, exclude the provisional catch history to which the dispute relates from the transferee’s total provisional catch history for the stock concerned but not from the total of all provisional catch history held by persons who are eligible to receive quota for the stock under section 47 of this Act.
(3) Once a dispute has been resolved in accordance with this section, the chief executive shall, in accordance with the resolution, either—

(a) Cancel the provisional catch history; or
(b) Give effect to the transfer—in accordance with section 52 (4) of this Act.

(4) If a dispute is not referred to a court, or if a dispute is referred to a court but the chief executive is not notified of such referral within the applicable transfer period, the chief executive shall give effect to the transfer or cancel the provisional catch history as appropriate in accordance with this Act.

Allocation of Provisional Catch History Based on Individual Catch Entitlement

39. Criteria of eligibility to receive provisional catch history for stock controlled by individual catch entidement—(1) If a stock declared by notice under section 18 of this Act to be subject to the quota management system was, immediately before the date of the publication of the notice, controlled exclusively by means of individual catch entitlements, a commercial fisher is eligible to receive provisional catch history for the stock if the commercial fisher—

(a) Held an individual catch entitlement for that stock on that date; and
(b) Is not an overseas person or, if an overseas person, is exempt under section 56 of this Act or has been granted permission to hold provisional catch history or quota under section 57 of this Act.

(2) Notwithstanding anything in this Part of this Act, if, in the case of any stock listed in the Fourth Schedule to this Act that is subject to this section, the chief executive considers that the total amount of individual catch entitlements for that stock held by eligible commercial fishers will or is likely to exceed the quota weight equivalent of 80,000,000 shares in that stock, no further steps shall be taken and no quota shall be allocated for that stock under this Act.

(3) If quota for any stock is not to be allocated because of the operation of subsection (2) of this section, then, notwithstanding the declaration relating to the stock under section 18 of this Act, the stock shall become subject to the quota management system on a date set by, and quota shall be allocated in accordance with, an Act passed for the purpose.
40. Calculation of provisional catch history based on individual catch entitlement—(1) Subject to subsection (2) of this section, the provisional catch history of a commercial fisher in relation to stock allocated on the basis of individual catch entitlements shall be equivalent to the commercial fisher’s individual catch entitlement for that stock for the fishing year in which the notice under section 18 of this Act was published in the *Gazette*.

(2) If the area to which the individual catch entitlement relates is not the same as any quota management area, the provisional catch history arising from the individual catch entitlement shall be deemed to relate to the quota management area which most closely relates to the area in question.

41. Notification of eligibility to receive provisional catch history on basis of individual catch entitlement—(1) As soon as practicable after the publication in the *Gazette* of a notice under section 18 of this Act declaring a stock to be subject to the quota management system, the chief executive shall,—

(a) In the case of persons holding individual catch entitlements for the stock whom the chief executive considers to be eligible to receive provisional catch history for that stock,—

(i) Allocate the amount of such provisional catch history calculated in accordance with section 40 of this Act; and

(ii) Notify such persons of—

(A) The amount of provisional catch history allocated to that person by the chief executive; and

(B) The person’s right to appeal under section 51 (1) (a) of this Act; and

(C) The requirement that any appeal to the Catch History Review Committee must be lodged not later than the date specified for the purpose in the notification;

(b) In the case of any person who holds an individual catch entitlement whom the chief executive decides is not eligible to receive provisional catch history because of the operation of section 39 (1) (b) of this Act, notify that person of—

(i) That decision; and
(ii) The person’s right to appeal under section 51 (1)(a) and to apply for a declaration under section 51 (2) of this Act; and

(iii) The requirement that any appeal to the Catch History Review Committee or application for a declaration to the High Court must be lodged not later than the date specified for the purpose in the notification.

(2) The dates referred to in paragraphs (a) (ii) (C) and (b) (iii) of subsection (1) of this section and specified in any notification under that subsection shall be not less than 60 working days after the date of that notification.

(3) No decision or purported decision—

(a) Made to allocate any stock by means of an individual catch entitlement; or

(b) Made at any time to continue to allocate any stock by means of an individual catch entitlement; or

(c) Made at any time and relating to the quantum of an individual catch entitlement issued or allocated to any person—

shall be liable to be challenged, reviewed, quashed, or called into question in any court, unless the application or proceedings to challenge, review, quash, or call into question such a decision is made within 3 months after the date of that decision.

(4) The chief executive shall notify the Registrar of Quota of—

(a) The amount of provisional catch history the chief executive has allocated to each person; and

(b) Whether that person or the chief executive has appealed to the Catch History Review Committee in respect of the quantum of provisional catch history allocated to that person,—

as soon as practicable after notifying the person under subsection (1) of this section or after the applicable specified date referred to in subsection (2) of this section, as the case may be.

Allocation of Quota

42. Quota to be expressed in shares—Quota for any stock shall be expressed as shares that are whole numbers, and—

(a) The sum of that quota shall be 100,000,000 shares for each stock; and
(b) The value of 1 share is equal to one hundred-millionth of the total allowable commercial catch for the stock.

Cf. 1983, No. 14, s. 280 (2); 1986, No. 34, s. 10

48. **Rounding of amounts or shares**—If the chief executive allocates a number of quota shares to any person or increases or decreases the number of quota shares held by any person under this Act, the chief executive may round up or round down the number of quota shares consequently held by that person to ensure that—

(a) The sum of quota shares for the stock is always 100,000,000; and

(b) No person holds a part of a quota share.

44. **Commission entitled to 20 percent of total new quota**—(1) The chief executive shall allocate to the Commission 20,000,000 shares of the individual transferable quota for each stock declared by notice in the Gazette under section 18 of this Act to be subject to the quota management system.

(2) Every allocation under subsection (1) of this section shall be made at the time when quota for that stock is allocated under section 47 of this Act and shall take effect on the first day of the fishing year in respect of which the stock becomes a quota management stock.

45. **Criteria of eligibility to receive quota**—A person is eligible to receive quota for any stock declared by notice in the Gazette under section 18 of this Act to be subject to the quota management system if the person—

(a) At the date of the publication of the notice is—

(i) A holder of a fishing permit; or

(ii) In the case of a stock that was a controlled fishery on the date of the publication of the notice, a holder of both a controlled fishery licence for the stock and a fishing permit; and

(b) Is not an overseas person or, if an overseas person, is exempt under section 56 of this Act or has been granted permission to hold provisional catch history or quota under section 57 of this Act; and

(c) Has obtained for the stock, whether by an allocation or a transfer in accordance with this Act, provisional catch history that is recorded in that person's name in the Quota Register.
46. Withholding of quota for non-payment of cost recovery levies or deemed values—If a fishing permit has been suspended under this Act for non-payment of levies payable under Part XIV or deemed value amounts payable under this Part of this Act, the chief executive may, until the levies or deemed value amounts are paid in full, withhold any quota that would, but for this section, have been allocated in respect of any provisional catch history held by the permit holder.

47. Allocation of quota on basis of provisional catch history—(1) Not less than 20 working days after the relevant date referred to in section 36 (3), or at any time after the relevant date referred to in section 41 (2) of this Act, as the case may be, the chief executive shall allocate to every person who is eligible to receive quota an amount of provisional individual transferable quota or individual transferable quota, as the case may be, for the stock concerned, which amount shall be expressed as shares and, subject to section 43 of this Act, be the lesser of—

(a) The number of shares the quota weight equivalent of which is equivalent to the person's provisional catch history for the stock:

(b) The number of shares that bears the same proportion to the 80,000,000 shares of quota available for allocation for the stock as the person's provisional catch history bears to the total provisional catch history held by persons who are eligible to receive quota for the stock.

(2) If an appeal has been lodged in respect of a person's provisional catch history and that person is eligible to receive quota for that stock, then the quota allocated to that person shall be provisional individual transferable quota.

(3) Except as provided in subsection (2) of this section, the quota allocated shall be individual transferable quota.

(4) After the allocation of quota under subsection (1) of this section, the chief executive shall notify the Registrar of Quota, in respect of each person eligible to receive quota, of the amount of individual transferable quota, or provisional individual transferable quota, as the case may be, the chief executive has allocated to that person.

(5) The provisional catch history—

(a) Held by every person who is allocated individual transferable quota under subsection (1) of this section; and
(b) Registered in that person's name on the date of allocation—shall, on and from that date, be conclusive and shall be permanently fixed for all purposes.

(6) Any quota allocated under this section shall take effect on and from the first day of the fishing year in which that stock becomes a quota management stock.

48. Notification of allocation of quota—At any time after the allocation of quota under section 47 of this Act and after the total allowable catch and the total allowable commercial catch for the stock have been declared, but before the commencement of the fishing year in which the stock becomes a quota management stock, the chief executive shall notify each person to whom he or she has allocated quota for that stock, and the Commission, of—

(a) The total allowable catch for that stock; and

(b) The total allowable commercial catch for that stock; and

(c) The number of quota shares in that stock that has been allocated to that person; and

(d) The quota weight equivalent of 1 quota share for that stock.

49. Unallocated total allowable commercial catch to be held by the Crown—(1) Immediately after quota is allocated under section 44 or section 47 of this Act, all of the remaining quota shares in a stock that have not been allocated under those sections shall be automatically allocated to the Crown—

(a) In the form of provisional individual transferable quota; or

(b) If no disputes about the transfer of relevant provisional catch history have been referred to a court under section 38 (1) of this Act and no appeals under section 51 of this Act have been lodged in respect of that stock, in the form of individual transferable quota.

(2) After the allocation of quota under subsection (1) of this section, the chief executive shall notify the Registrar of Quota of the amount of individual transferable quota, or provisional individual transferable quota, as the case may be, allocated to the Crown.

(3) Quota allocated to the Crown under subsection (1)(a) of this section shall be held as unencumbered provisional individual transferable quota until all appeals in respect of the allocation of provisional catch history or quota for that stock have been finally determined and those determinations have
been given effect, and, at that time, such provisional individual transferable quota held by the Crown shall become individual transferable quota.

(4) When any quota for a Chatham Islands quota management area, created in accordance with section 19 of this Act, is allocated to the Crown under subsection (1) of this section and becomes individual transferable quota, the Crown shall transfer that quota to the Chatham Islands Enterprise Trust.

50. Rights of the Crown in relation to quota—

(1) Without limiting any other provision of this Act, the chief executive may, on behalf of the Crown,—

(a) Purchase any individual transferable quota:

(b) Hold any quota allocated or acquired without being obliged to offer it to any person:

(c) Transfer any individual transferable quota held by or on behalf of the Crown.

(2) Subject to this Act, if unencumbered quota or interests in quota are owned by or on behalf of the Crown, the Crown shall have all the rights and obligations that would be enjoyed by any owner of such quota or interest in quota other than the Crown.

Cf. 1983, No. 14, s. 28u (1), (3); 1989, No. 159, s. 65; 1992, No. 121, s. 27

Appeals

51. Rights of appeal—(1) Any person, including the chief executive, may, subject to subsection (3) of this section and on or before the date specified for the purpose in the relevant notice under section 36 or section 41 of this Act, appeal to the Catch History Review Committee against,—

(a) In the case of any stock for which provisional catch history was allocated under section 41 of this Act,—

(i) A decision of the chief executive to the effect that the person is or is not a commercial fisher who has an individual catch entitlement entitling the person to an allocation of provisional catch history; or

(ii) An allocation of provisional catch history that is different from the amount to which the person is entitled under section 40 of this Act:

(b) In any other case,—

(i) A decision of the chief executive to the effect that the person is or is not eligible to receive provisional catch history under section 32 (1) (a) of
this Act either because that person held or did not hold a fishing permit or controlled fishery licence at any time during the applicable qualifying year or years; or

(ii) A decision of the chief executive to the effect that the person has, or does not have, eligible catch in the qualifying year or years entitling the person to be allocated provisional catch history; or

(iii) A decision of the chief executive as to the quantum of eligible catch reported in any eligible returns made by any person eligible to receive provisional catch history, on the ground that—

(A) The information on the relevant returns held by the chief executive has been incorrectly recorded by the chief executive; or

(B) The chief executive has excluded fish, aquatic life, or seaweed that was lawfully taken and lawfully reported in eligible returns from the person's eligible catch; or

(iv) A decision of the chief executive to the effect that the person is or is not eligible to be allocated quota under paragraph (b) (i) or paragraph (b) (ii) (A) of section 35 (1) of this Act either because that person held or did not hold a fishing permit or controlled fishery licence as at the date of the publication of the notice under section 18 of this Act declaring the stock to be a quota management stock; or

(v) An allocation of provisional catch history that is different from the amount to which the person is entitled under section 34 of this Act.

(2) Any person notified by the chief executive under section 36 (1) (c) (ii) or section 41 (1) (b) of this Act that he or she is not eligible to receive provisional catch history because of the operation of section 32 (1) (b) or section 39 (1) (b) of this Act may, on or before the date specified in the notification to that person,—

(a) Apply to the High Court for a declaration as to whether that person is, or is not, an overseas person; and

(b) Appeal to the Committee against the chief executive's decision and any other relevant action referred to in subsection (1) of this section.

(3) Any appeal lodged under this section shall be in the approved form and shall be available to the public once received by the Committee, but the Committee may—
(a) Delete information that it considers commercially sensitive:
(b) Make copies of the appeal available on payment of a reasonable charge.

52. Effect of decision to alter provisional catch history—(1) The Registrar of Quota shall, as soon as practicable after—
   (a) The Catch History Review Committee releases a decision; or
   (b) Any court on review of any decision of the Committee makes an order in respect of any appeal; or
   (c) Any court makes an order in respect of a dispute regarding a transfer of provisional catch history under this Act,—

adjust the entry in the appropriate register for the provisional catch history of the person concerned in such manner as may be necessary to give full effect to the decision or to the order.

(2) Except as provided in subsection (3) of this section, subsection (1) of this section does not require the Registrar of Quota to allocate any quota as a result of any decision or order referred to in subsection (1) of this section.

(3) Subject to section 54 of this Act, at the close of the last day of a fishing year in which a person's provisional catch history has been finally determined other than by the transfer of provisional catch history, the chief executive shall—
   (a) Transfer the person's provisional individual transferable quota for the relevant stock (if any) to the Crown, and that transferred quota shall be held as unencumbered provisional individual transferable quota; and
   (b) Calculate, in the manner set out in section 53 of this Act, the amount of individual transferable quota for the stock (if any) to which the person is entitled following the adjustment to the person's provisional catch history under subsection (1) of this section; and
   
   (c) Either,—
      (i) If the Crown has sufficient unencumbered provisional individual transferable quota to satisfy the person's entitlement to individual transferable quota for the stock, transfer to the person in the form of individual transferable quota such amount of its own provisional individual transferable quota as is sufficient to satisfy that entitlement; or
      (ii) If the Crown does not have sufficient unencumbered provisional individual transferable
quota to satisfy the person's entitlement to individual transferable quota for the stock, deduct from all other quota owners (including the Crown in respect of its encumbered quota and unencumbered individual transferable quota) on a pro rata basis sufficient quota so that, after adding the quota so obtained to the Crown's unencumbered provisional individual transferable quota holdings, the Crown has sufficient unencumbered provisional individual transferable quota to satisfy the person's entitlement to quota for the stock, and then transfer to the person in the form of individual transferable quota such amount of quota as is sufficient to satisfy that entitlement; and

(d) If the appeal results in the person being entitled to less individual transferable quota than the amount of provisional individual transferable quota that person was originally allocated, and quota for that stock was allocated under section 47 (1) (b) of this Act, allocate on a pro rata basis among all persons (other than the Commission) who received an allocation of quota under that provision and who have continuously held and continue to hold quota for that stock, the amount of quota remaining after the allocation to that person.

(4) Subject to section 54 of this Act, at the close of the last day of a fishing year in which provisional catch history has been transferred to a person or in which a dispute about the transfer of relevant provisional catch history under section 38 of this Act has been resolved (which fishing year shall be a fishing year after the year in which quota was allocated for that stock under section 47 of this Act), the chief executive shall—

(a) Calculate, in the manner set out in section 53 of this Act, the amount of individual transferable quota for the stock (if any) to which the person is entitled by virtue of the provisional catch history transferred to that person; and

(b) Either,—

(i) If the Crown has sufficient unencumbered provisional individual transferable quota to satisfy the person's entitlement to individual transferable quota for the stock, transfer to the person in the form of individual transferable quota such amount of its own provisional individual transferable quota as is sufficient to satisfy that entitlement; or
(ii) If the Crown does not have sufficient unencumbered provisional individual transferable quota to satisfy the person’s entitlement to individual transferable quota for the stock, deduct from all other quota owners (including the Crown in respect of its encumbered quota and unencumbered individual transferable quota) on a pro rata basis sufficient quota so that, after adding the quota so obtained to the Crown’s unencumbered provisional individual transferable quota holdings, the Crown has sufficient unencumbered provisional individual transferable quota to satisfy the person’s entitlement to quota for the stock, and then transfer to the person in the form of individual transferable quota such amount of quota as is sufficient to satisfy that entitlement; and

(c) If the resolution of the transfer dispute results in the person not being entitled to receive any further quota, and quota for that stock was originally allocated under section 47 (1) (b) of this Act, allocate the amount of quota held by the Crown in respect of the provisional catch history that is the subject of the dispute on a pro rata basis among all persons (other than the Commission) who have both—

(i) Received an allocation of quota under section 47 (1) (b) of this Act; and

(ii) Continuously held and continue to hold quota for that stock.

(5) If the provisional catch history of more than one person has been adjusted under this section, then, in taking the steps set out in subsection (3) or subsection (4) of this section, the chief executive shall (so far as is possible) take those steps simultaneously in respect of all such persons.

(6) The provisional catch history of every person whose provisional catch history has been finalised and registered under subsection (1) of this section shall, on and from the date of registration, be conclusive and shall be permanently fixed for all purposes.

53. Calculation of entitlement to quota following appeal—(1) Every person who is entitled to receive a transfer of individual transferable quota under section 52 of this Act shall receive an amount of individual transferable quota for the stock concerned equivalent to the number of shares the person would have received under section 47 of this Act if the person
(and all other persons whose provisional catch history has since been altered) had owned the revised amount of provisional catch history on the date on which quota was allocated for that stock under section 47 of this Act.

(2) If—

(a) Any person is entitled to receive a transfer of individual transferable quota under section 52 of this Act for any stock; and

(b) The quota management area for that stock has been altered under section 25 of this Act,—

the person is entitled to a transfer of the amount of quota for the new quota management area, calculated in accordance with subsection (1) of this section, that the person would have been allocated on the date of the alteration of the quota management area if the person had on that date owned quota for the original stock, and the chief executive has all the powers under subsections (3)(c) and (4)(b) of section 52 of this Act necessary to give effect to that entitlement.

54. Allocation of quota if proceedings determined late in fishing year—(1) If any proceedings to which this Part of this Act applies that are before the Catch History Review Committee or any court are determined less than 90 days before the last day of a fishing year,—

(a) Any person who is eligible to receive quota may request the chief executive to transfer individual transferable quota to the person in accordance with section 52 of this Act on the last day of the fishing year in which the proceedings are determined:

(b) Any person who is not eligible to receive quota may transfer that person’s provisional catch history in accordance with section 37 of this Act and the transferee may request the chief executive to allocate individual transferable quota to the transferee, as if it were the result of an appeal in accordance with section 52 of this Act, on the last day of the fishing year in which the proceedings are finally determined.

(2) In any case to which subsection (1) of this section applies, neither the person nor the transferee shall have any right of appeal or review in respect of the proceedings so determined or in respect of the person’s eligibility or the quantum of provisional catch history for any stock, and the person’s provisional catch history so determined or the transferred provisional catch history shall thereupon be conclusive and
shall be permanently fixed for all purposes at the level then recorded in the Quota Register.

(3) The chief executive is not obliged to transfer any quota or provisional catch history under subsection (1) of this section if the time allowed for filing an appeal or review has not expired.

55. Determination or order not to affect quota allocated to Commission—None of the following, namely, any—

(a) Determination of the Catch History Review Committee; or

(b) Order of any court, whether the order relates to an appeal from the Committee in respect of a transfer dispute or relates to an application for a declaration concerning whether any person is, or is not, an overseas person; or

(c) Transfer of quota by the chief executive for the purposes of giving effect to any such determination or order—shall affect any quota allocated to the Commission under section 44 of this Act if the Commission has continuously owned such quota from the date of allocation to the date of the transfer of quota by the chief executive.

Foreign Ownership and Aggregation of Quota

56. Quota or annual catch entitlement not to be allocated to overseas persons—(1) No provisional catch history, quota, or annual catch entitlement shall be allocated to any overseas person and no overseas person may purchase or own any provisional catch history, quota, or annual catch entitlement, or any interest in any provisional catch history, quota, or annual catch entitlement (whether recognised by this Act or not) unless the overseas person—

(a) Is a company named in a Gazette notice given by the Minister under subsection (2) of this section; or

(b) Has obtained, under section 57 of this Act, the permission of the Minister to own the provisional catch history, quota, annual catch entitlement, or the interest in quota.

(2) The Minister may, by notice in the Gazette, declare that, for the purposes of this section, any company whose shares are listed on the New Zealand Stock Exchange is not an overseas person; and a company so declared not to be an overseas person is exempt from subsection (1) of this section.

(3) No person shall be deemed to be an overseas person merely because overseas persons—
(a) Referred to or named in the Schedule to any exemption notice made under the Overseas Investment Regulations 1985 or any regulations promulgated or any enactment enacted to replace those regulations; or

(b) Deemed to be exempt from Parts II and III of the Overseas Investment Regulations 1985 or any regulations promulgated or any enactment enacted to replace those regulations; or

(c) Who are wholly-owned subsidiaries of any person referred to in paragraph (a) or paragraph (b) of this subsection—

have an interest in that person, unless those overseas persons and any other overseas persons have the right to exercise or control the exercise of 40 percent or more of the voting power at a meeting of that person or are able to appoint or control the appointment of 40 percent of the board of directors (or other persons or body exercising powers of management, however described) of that person.

(4) Any bank registered under the Reserve Bank of New Zealand Act 1989 may own any provisional catch history, quota, interest in quota, or annual catch entitlement if the bank acquired the provisional catch history, quota, interest in quota, or annual catch entitlement in the ordinary course of its activities as a bank, but if the bank acquires any quota or interest in quota in the course of enforcing any security, it shall dispose of the quota or interest in quota within 12 months after so acquiring it.

(5) No person shall be deemed to be an overseas person merely because a bank registered under the Reserve Bank of New Zealand Act 1989 owns any interest in that person if the interest was acquired and is held in the ordinary course of the bank’s activities as a bank.

(6) If, but for subsection (1) of this section, any overseas person would be entitled to be allocated provisional catch history, that provisional catch history shall be cancelled.

57. Minister may permit acquisition or continued holding of quota by persons to whom section 56 applies—(1) For the purposes of this section, the term “interest in quota” means an interest that is capable of being registered on the relevant Quota Register.

(2) The Minister shall not permit the acquisition or holding by any overseas person who is a natural person of any—

(a) Quota or interest in quota; or
(b) annual catch entitlement; or
(c) Provisional catch history.

(3) The Minister may, on receipt of an application in the approved form accompanied by the prescribed fee (if any) but subject to subsection (4) of this section, permit the acquisition or continued holding by any overseas person who is an incorporated body of any—
(a) Quota or interest in quota; or
(b) Annual catch entitlement; or
(c) Provisional catch history.

(4) The Minister may grant permission under subsection (3) of this section only if satisfied that—
(a) The individuals controlling the applicant are of good character and no such person is a person of the kind referred to in section 7 (1) of the Immigration Act 1987; and
(b) The granting of the permission is in the national interest, having regard to one or more of the following:
   (i) Whether the granting of the permission will or is likely to result in—
      (A) The creation of new job opportunities in New Zealand or the retention of existing jobs in New Zealand that would or might otherwise be lost:
      (B) The introduction into New Zealand of new technology or business skills:
      (C) The development of new export markets or increased export market access for New Zealand exporters:
      (D) Added market competition, greater efficiency or productivity, or enhanced domestic services, in New Zealand:
      (E) The introduction into New Zealand of additional investment for purposes of significant development:
      (F) Increased processing in New Zealand of fish, aquatic life, or seaweed:
      (ii) Such matters as may be prescribed by regulations made under this Act:
      (iii) Such other matters as the Minister, having regard to the circumstances and the nature of the application, thinks fit.

(5) No permission shall be granted under subsection (3) of this section if it will result in—
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(a) Overseas persons having the right to exercise or control the exercise of 40 percent of the voting power at a meeting of the applicant; or

(b) Overseas persons being able to appoint or control the appointment of 40 percent of the board of directors (or other persons or body exercising powers of management, however described) of the applicant.

(6) The Minister may grant a permission under subsection (3) of this section in whole or in part and either unconditionally or subject to such conditions as he or she thinks fit.

Cf. 1983, No. 14, s. 28z (9); 1986, No. 34, s. 10; 1989, No. 159, s. 70

58. Quota or annual catch entitlement owned by overseas persons to be forfeit—(1) If the chief executive believes on reasonable grounds that any overseas person owns any provisional catch history, quota, annual catch entitlement, or any interest in any such provisional catch history, quota, or annual catch entitlement that is not permitted under section 56 of this Act or is in breach of any permission granted under section 57 (2) of this Act, the chief executive—

(a) May direct that a caveat be registered over such quota or annual catch entitlement (or any quota allocated in respect of any such provisional catch history) in the appropriate register under Part VIII of this Act; and

(b) Shall notify in writing the owner that the provisional catch history, quota, annual catch entitlement, or any interest in any such provisional catch history, quota, or annual catch entitlement shall be forfeit to the Crown without compensation unless, within the period specified for the purpose in the notice (which period shall be not less than 60 working days after the date on which the notice is given), the owner applies to the High Court for a declaration as to whether that person is an overseas person.

(2) Any caveat directed to be registered under subsection (1) (a) of this section shall remain on the register until removed by direction of the chief executive or order of a court pursuant to any proceedings referred to in subsection (1) (b) of this section.

(3) If the chief executive gives a notice under subsection (1) (b) of this section and the person to whom the notice applies fails, within the relevant time limit, to apply to the High Court for a declaration as to whether that person is an overseas person, the provisional catch history, quota, annual
catch entitlement, or interest in any such provisional catch history, quota, or annual catch entitlement to which the notice relates shall be forfeit to the Crown without compensation.

(4) If the Court declares the person to be an overseas person, the Court may,— 

(a) If the overseas person knew, or through making reasonable enquiries would have become aware, that the person was an overseas person and failed, within 3 months after the date when that person knew or could have known that the person was an overseas person, to apply for permission under section 57 of this Act, order the forfeiture without compensation of the provisional catch history, quota, or annual catch entitlement, or interest in provisional catch history, quota, or annual catch entitlement;

(b) In any other case, order—

(i) The forfeiture without compensation of the provisional catch history, quota, or annual catch entitlement, or interest in provisional catch history, quota, or annual catch entitlement; or

(ii) The disposal by the overseas person of the provisional catch history, quota, or annual catch entitlement, or interest in provisional catch history, quota, or annual catch entitlement within a specified period that,—

(A) In the case of provisional catch history or provisional individual transferable quota, is not more than 60 working days after the date on which any individual transferable quota is allocated for that provisional catch history or provisional individual transferable quota:

(B) In any other case, is not more than 60 working days after the date of the order.

(5) In making any orders under subsection (4) of this section or section 62 of this Act, the Court shall ensure that an overseas person who does not have permission under section 57 of this Act to continue to own provisional catch history, quota, or annual catch entitlement, or any interest in quota shall cease to own such property or interest.

(6) Any provisional catch history, quota, or annual catch entitlement, or interest in provisional catch history, quota, or
annual catch entitlement, that is forfeit under this section shall be dealt with in accordance with section 62 of this Act.

Cf. 1988, No. 14, s. 28z (1) (8), (10), (11); 1986, No. 34, s. 10; 1989, No. 159, s. 70; 1990, No. 29, s. 25

59. Aggregation limits—(1) Notwithstanding the provisions of this Act relating to the transfer of quota, no person shall be entitled to own—

(a) A number of quota shares for any one species the total quota weight equivalent of which is more than 45 percent of the combined total allowable commercial catches for every stock of that species (which species shall be a species named in the Fifth Schedule to this Act);

(b) More than 10,000,000 quota shares (10 percent of the total allowable commercial catch) for spiny rock lobster in any one quota management area:

(c) More than 20,000,000 quota shares (20 percent of the total allowable commercial catch) for paua in any one quota management area:

(d) In the case of bluenose (*Hyperoglyphe antarctica*), a number of quota shares for that species the quota weight equivalent of which is more than 20 percent of the combined total allowable commercial catches for every stock of that species:

(e) In any other case, a number of quota shares for any one species the total quota weight equivalent of which is more than 35 percent of the combined total allowable commercial catches for every stock of that species.

(2) Subject to subsection (5) of this section, nothing in subsection (1) of this section prevents any person being allocated more than the permitted number of quota shares; but, except as may be permitted by any consent granted under section 60 of this Act, no such person may acquire any more such quota.

(3) Nothing in subsection (1) of this section prevents any person, after an alteration of a quota management area under section 25 of this Act, being allocated more than the permitted number of quota shares; but, except as may be permitted by any consent granted under section 60 of this Act, no such person may acquire any more such quota.

(4) Nothing in subsection (1) of this section prevents any person who has quota shares transferred to that person under section 22 or section 23 or section 52 of this Act from holding
those shares; but, except as may be permitted by any consent granted under section 60 of this Act, no such person may acquire any more such quota.

(5) If any person acquires any provisional catch history other than by allocation for any stock, the person is not entitled to be allocated any quota in respect of that provisional catch history to the extent that the allocation of such quota would result in the person being in breach of this section, and such provisional catch history shall be cancelled.

(6) For the purposes of this section, the term “person” includes a person associated with that person.

(7) The Governor-General may, by Order in Council made on the recommendation of the Minister, following consultation with such persons or organisations who are representative of those classes of persons the Minister considers have an interest in this section, add the name of any new species to, or delete the name of any existing species from, the Fifth Schedule to this Act.

(8) Subsection (1) of this section does not apply to the Chatham Islands Enterprise Trust or to the Crown.

(9) The Minister shall, on or before the 1st day of January 2000, review the aggregation limits set by subsection (1) of this section, prepare a report containing the result of that review, and lay a copy of the report before the House of Representatives.

60. Minister may consent to persons holding quota in excess of aggregation limits—(1) Notwithstanding section 59 of this Act, the Minister may from time to time, after consultation with such persons or organisations the Minister considers are representative of those classes of persons having an interest in this section, by notice in the Gazette, consent to any named person holding,—

(a) In the case of spiny rock lobster, up to a specified number of quota shares exceeding 10,000,000 for any one quota management area:

(b) In the case of paua, up to a specified number of quota shares exceeding 20,000,000 for any one quota management area:

(c) In any other case, quota shares for any one species having a combined quota weight equivalent less than or equal to a specified percentage of the combined total allowable commercial catches for all stocks of that species (which percentage is greater than the
percentage specified in section 59 (1) of this Act for the stock concerned).

(2) Any consent under subsection (1) of this section may be given subject to such conditions as the Minister may impose, including any limit on the number of quota shares for any particular stock, and may be given for any specified year or years or generally.

(3) The Minister shall, in considering whether to grant any consent under subsection (1) of this section, consider—
(a) The willingness and ability of other members of the New Zealand fishing industry to acquire quota of the relevant species;
(b) The likely effect of the granting or withholding of the consent on—
(i) The development of any new or existing stock or species:
(ii) Other quota owners or commercial fishers:
(iii) The processing and marketing of that stock or species:
(iv) The ability of the applicant to take any other stock or species:
(v) The efficiency of the New Zealand fishing industry or any person engaged in the New Zealand fishing industry:
(c) Such other matters as the Minister considers relevant.

(4) The Minister shall not grant any consent under subsection (1) of this section in any case if quota shares have been acquired by any person in excess of the then permitted number of shares before the consent is obtained.

61. Quota held in excess of aggregation limits to be forfeit—(1) If the chief executive believes on reasonable grounds that any person has acquired any quota in breach of section 59 of this Act or any consent given by the Minister under section 60 of this Act, the chief executive—
(a) May direct that a caveat be registered in the appropriate register under Part VIII of this Act in respect of all quota owned by that person; and
(b) Shall notify in writing the owner that quota acquired in breach of section 59 of this Act or any consent given by the Minister under section 60 of this Act shall be forfeit to the Crown without compensation unless, within 60 working days after the date specified in the notice, the owner applies to the High Court for a declaration as to whether that quota was acquired in
breach of section 59 of this Act or any consent given by the Minister under section 60 of this Act.

(2) Any caveat directed to be registered under subsection (1)(a) of this section shall remain on the register until removed by direction of the chief executive or order of a court pursuant to any proceedings referred to in subsection (1)(b) of this section.

(3) If any person whose quota has been caveated under subsection (1) of this section fails to apply to the High Court under that subsection or the High Court declares the quota to have been acquired in breach of section 59 of this Act or any consent given by the Minister under section 60 of this Act, then any quota held in breach of those sections (which quota shall be the quota acquired most recently in time) shall be forfeit to the Crown without compensation.

(4) Any quota forfeit to the Crown under subsection (3) of this section shall be dealt with in accordance with section 62 of this Act.

(5) For the purposes of this section, the term "person" includes a person associated with that person.

Cf. 1983, No. 14, s. 28w; 1986, No. 34, s. 10; 1989, No. 159, s. 67; 1990, No. 29, s. 23; 1991, No. 149, s. 17; 1992, No. 121, s. 28

62. Provisions relating to forfeit property—(1) In this section, unless the context otherwise requires,—

"Forfeit property" means any—

(a) Quota or interest in quota; or

(b) Annual catch entitlement or interest in an annual catch entitlement; or

(c) Provisional catch history or interest in provisional catch history—

forfeit to the Crown under section 58 or section 61 of this Act:

"Interest" means—

(a) Any interest that was recorded on any register kept under this Act at the time the forfeiture occurred:

(b) Any other legal or equitable interest in that forfeit property that existed at the time the forfeiture occurred.

(2) The chief executive shall, within 10 working days after the date of any forfeiture under section 58 or section 61 of this Act, publicly notify the details of the forfeit property and the right of any person to apply under this section.
(3) Any person claiming an interest in any forfeit property may, within 35 working days after the date on which the forfeiture occurred, apply to the Court for relief from the effect of forfeiture on that interest.

(4) Every application under subsection (3) of this section shall contain sufficient information to identify the interest and the property in which it is claimed, and shall include—
(a) A full description of the forfeit property in which the interest is claimed; and
(b) Full details of the interest or interests claimed, including,—
(i) Whether the interest is legal or equitable; and
(ii) Whether the interest is by way of security or otherwise; and
(iii) If the interest is by way of security, details of the security arrangement and any other property included in that arrangement; and
(iv) Whether the interest is noted on any register maintained pursuant to statute; and
(v) Any other interests in the property known to the applicant; and
(c) A statement as to whether the applicant is associated (as defined in section 3 of this Act) with the person who breached the provisions of section 59 of this Act or any consent given under section 60 of this Act and owned the forfeit property that is the subject of the application; and
(d) The applicant's estimate of both the value of the forfeit property and the value of the claimed interest.

(5) The Court shall hear all applications in respect of the same property together, unless it considers that it would not be in the interests of justice to do so.

(6) The Court shall, in respect of every application made under subsection (3) of this section,—
(a) Determine the value of the forfeit property, which value shall be the amount the property would realise if sold at public auction in New Zealand; and
(b) Determine the nature, extent, and, if possible, value of any applicant's interest in the property; and
(c) Determine whether, in the case of quota that was owned by an associated person before being forfeit under section 61 of this Act, the interest of the associated person was created solely or principally for the purpose of avoiding or defeating the consequences of the application of this Act in respect of forfeiture; and
(d) Determine the cost to the Ministry of the holding, and the anticipated cost of disposal, of the forfeit property, including the Court proceedings in respect of that holding and disposal.

(7) Subject to subsections (8) and (9) of this section, having determined the matters specified in subsection (6) of this section, the Court may, after having regard to—

(a) The purpose of this Act (including the purpose of section 56 or section 59 of this Act, as the case may be); and

(b) The social and economic effects on the person who owned the property or quota, and on persons employed by that person, of non-release of the property or quota; and

(c) The economic benefits that accrued or might have accrued to the owners of the property or quota through the commission of the offence; and

(d) The cost to the Ministry of the holding, and the anticipated cost of disposal, of the forfeit property, including the Court proceedings in respect of that holding and disposal,—

make an order or orders providing relief (either in whole or in part) from the effect of forfeiture on any of the interests determined under subsection (6) of this section.

(8) No order shall be made under subsection (7) of this section unless—

(a) It is necessary to avoid manifest injustice; and

(b) The Court is satisfied that, in the case of an order made in respect of an application made by an associated person relating to forfeit quota, the interest was not created solely or principally for the purpose of avoiding or defeating the consequences of the application of this Act in respect of forfeiture.

(9) An order made under subsection (7) of this section in respect of forfeit property owned by an overseas person or a person who breached the aggregation limits under section 59 of this Act or any consent given under section 60 of this Act shall not have effect to the extent that the effect of the order, together with any other order made under that subsection in respect of the same forfeit property, is that less than 40 percent of the value of the forfeit property is to remain forfeit to the Crown.

(10) Nothing in subsection (9) of this section shall prevent the return of up to 100 percent of the value of any forfeit property to any owner of property other than a person referred to in that subsection.
(11) Without limiting subsection (7) of this section, any order under that subsection may include one or more of the following orders:

(a) For the retention of the forfeit property by the Crown:
(b) For the return of some or all of the forfeit property to the owner at the time of forfeiture, with or without the prior payment to the Crown of a sum of money:
(c) For the sale of some or all of the forfeit property, with directions as to the manner of sale and dispersal of proceeds:
(d) For the delivery of some or all of the forfeit property to a person with an interest in the property, with or without directions as to payment of a sum of money to specified persons (including the Crown) prior to such delivery:
(e) For the reinstatement (notwithstanding the forfeiture) of any interest that was forfeit or cancelled as a result of a forfeiture.

(12) This section does not require the Crown to pay, or secure the payment of, any sum of money to any person claiming an interest in forfeit property, other than the net proceeds of sale of forfeit property under a court order made under subsection (7) of this section.

(13) For the purpose of assisting the Court in determining any application for relief, the chief executive and any employee or agent of the Ministry is entitled to appear before the Court and be heard.

(14) Any forfeiture under section 58 or section 61 of this Act, and any payment of a sum of money or delivery of property under subsection (7) of this section, to persons claiming an interest, shall be in addition to, and not in substitution for, any other penalty that may be imposed by the Court or by this Act.

Cf. 1983, No. 14, s. 107c; 1990, No. 29, s. 52 (1)

Order of Transactions at End of Fishing Year and Beginning of Fishing Year

65. Order of transactions at end of fishing year—On the last day of each fishing year, the chief executive or the Registrar of Quota, as the case may be, shall action the following things in accordance with this Act in the order indicated:

(a) First, the Registrar shall action all transactions intended for the last day of the fishing year:
(b) Secondly, the chief executive shall make any necessary adjustments to any person’s quota that arise from any transfers by the chief executive under section 52 of this Act.

64. **Order of transactions on first day of new fishing year**—On the first day of each fishing year, the chief executive or the relevant Registrar, as the case may be, shall action the following things in accordance with this Act in the order indicated:

(a) First, any necessary adjustments resulting from any alteration of a quota management area under section 25 of this Act:

(b) Secondly, any necessary adjustments to any person’s quota under section 22 or section 23 of this Act that arise from any variation of the total allowable commercial catch:

(c) Thirdly, the generation of annual catch entitlements under section 66 of this Act and the allocation of 75 percent of such annual catch entitlements under section 67 of this Act:

(d) Fourthly, any forward transfers of annual catch entitlements recorded under Part VIII of this Act:

(e) Fifthly, any other transactions intended for the first day of any fishing year.

**Generation of Annual Catch Entitlement**

65. **Characteristics of annual catch entitlement**—(1) An annual catch entitlement has the following characteristics:

(a) It is generated from quota and relates only to the stock and quota management area in respect of that quota:

(b) It may, when a total allowable catch is increased during a fishing year in accordance with section 13 (7) or section 14 (6) of this Act, be created by the Minister in accordance with section 68 of this Act:

(c) It is to be allocated in a manner permitted by this Act:

(d) It is to be expressed in kilogrammes and expressed as applying to a particular fishing year:

(e) It confers upon the commercial fisher an entitlement to harvest a quantity of fish, aquatic life, or seaweed of the stock taken under the authority of that annual catch entitlement, and in accordance with a fishing permit and any conditions and limitations imposed by or under this Act:
(f) It may be used to satisfy or remit deemed value amounts under section 76 of this Act:

(g) It may be transferred to the chief executive as a bycatch trade-off in satisfaction of a deemed value amount under section 78 of this Act:

(h) It may be traded in any manner permitted by this Act:

(i) It may be caveated in any manner permitted by this Act:

(k) In the case of an annual catch entitlement for squid, it may be subject to a method restriction.

(2) This section does not—

(a) Limit the effect of any other provision of this Act; or

(b) Confer any rights, create any offence, or impose any obligation that is enforceable in any court.

66. Generation of annual catch entitlement at beginning of new fishing year—(1) On the first day of each fishing year, quota shall generate annual catch entitlement.

(2) The chief executive shall, in respect of each quota management stock, calculate as at the first day of each fishing year the amount of annual catch entitlement that would be generated by the amount of quota owned by each quota owner, in accordance with the following formula:

\[(a + 100,000,000) \times b = c\]

where—

- \(a\) is the number of quota shares held by the quota owner;
- \(b\) is the total allowable commercial catch (expressed in kilogrammes); and
- \(c\) is the amount (expressed in kilogrammes) of annual catch entitlement that would be generated by the amount of quota owned by each quota owner.

(3) Any annual catch entitlement calculated under subsection (2) of this section shall be rounded up or rounded down by the chief executive to ensure that—

(a) The sum of all annual catch entitlements equals the applicable total allowable commercial catch for the stock; and

(b) Only whole kilogrammes of annual catch entitlement are generated.

67. Allocation of annual catch entitlement—(1) On the first day of each fishing year the chief executive shall allocate, to each quota owner whose quota has generated under section
66 of this Act an annual catch entitlement for any quota management stock, 75 percent of that quota owner's annual catch entitlement for that stock, as calculated by the chief executive under that section.

(2) On or before the 15th day of the second month of each fishing year, the chief executive shall allocate to each person who receives an amount of annual catch entitlement under subsection (1) of this section for any stock a further amount of annual catch entitlement for that stock calculated in accordance with the following formula:

$$(a + 100,000,000) \times (b - c) = d$$

where—

a is the number of quota shares for the stock held by the quota owner referred to in item a of the formula set out in section 66 (2) of this Act (which shares shall be quota shares held on the first day of the fishing year); and

b is the remaining 25 percent of unallocated annual catch entitlement for the stock (in kilogrammes); and

c is the lesser of—

(a) The amount in kilogrammes of the remaining unallocated annual catch entitlement referred to in item b of this formula:

(b) The amount (in kilogrammes) by which reported catch for the immediately preceding fishing year for the relevant stock exceeds the total amount of annual catch entitlement allocated to quota owners (other than any annual catch entitlement held by the Crown under subsection (3) of this section for that year); and

d is the amount of annual catch entitlement to be allocated to the quota owner.

(3) Any annual catch entitlement remaining unallocated after the allocation of annual catch entitlement under subsection (2) of this section, shall be allocated to the Crown and, subject to subsection (4) of this section, shall not be used for any purpose under this Act.

(4) If,—

(a) Any annual catch entitlement has been transferred to the Crown under subsection (3) of this section; and

(b) Any commercial fisher has requested a review under section 80 (2) of this Act within the time limit specified in that section; and

(c) Following the determination by the chief executive under section 80 (5) of this Act, of all requests for review
whether or not any commercial fisher appeals against any such determination under section 80 (6) of this Act, the total amount of catch reported (up to the time of such determination) by all commercial fishers in the previous year has consequently been reduced,—

then a further amount of annual catch entitlement shall be allocated to all quota owners from the annual catch entitlement allocated to the Crown under subsection (3) of this section, on the first day of the month following such determination, and the amount shall be calculated in accordance with the following formula:

\[(a + 100,000,000) \times b = c\]

where—

- **a** is the number of quota shares for the stock held by the quota owner referred to in item **a** of the formula set out in section 66 (2) of this Act (which shares shall be quota shares held on the first day of the fishing year); and

- **b** is the difference (in kilogrammes) between the amount of annual catch entitlement allocated under subsection (2) of this section and the amount of annual catch entitlement that would have been allocated under that subsection if the adjusted amount of total reported catch had been used in the calculation; and

- **c** is the amount of annual catch entitlement to be allocated to the quota owner.

(5) Any annual catch entitlement calculated under this section shall be rounded up or rounded down by the chief executive to ensure that no quota owner holds part of a kilogramme of annual catch entitlement as a result of an allocation.

(6) Subject to subsection (3) of this section, any annual catch entitlement allocated under this section shall have effect for all purposes of this Act on and from the date of allocation.

(7) The chief executive shall, as soon as practicable after allocating any annual catch entitlement in accordance with this section, notify every quota owner of the amount of annual catch entitlement allocated to that quota owner under this section.

(8) The chief executive shall, as soon as practicable after allocating any annual catch entitlement in accordance with this section, notify the relevant Registrar of Annual Catch...
Entitlement of the amount of annual catch entitlement allocated to each quota owner.

68. Minister to create additional annual catch entitlement if total allowable catch increased during fishing year—(1) If—
(a) The total allowable catch in respect of any stock is increased during a fishing year in accordance with section 13 (7) or section 14 (6) of this Act; and
(b) The Minister believes that, after considering the matters referred to in section 21 (1) of this Act, he or she would have increased the total allowable commercial catch but for section 20 (4) of this Act,—
the Minister shall create an additional amount of annual catch entitlement for the stock that equals the amount by which he or she would have increased the total allowable commercial catch.

(2) Subject to subsection (3) of this section, the chief executive shall allocate to every person owning quota for the stock an amount of the annual catch entitlement created by the Minister under subsection (1) of this section calculated in accordance with the following formula:

\[(a + 100,000,000) \times b = c\]

where—

\(a\) is the number of quota shares held by the quota owner on the date the increase in the total allowable catch takes effect; and

\(b\) is the amount (expressed in kilogrammes) of annual catch entitlement created by the Minister under subsection (1) of this section; and

\(c\) is the amount (expressed in kilogrammes) of annual catch entitlement to be allocated under this section to the quota owner.

(3) Any annual catch entitlement calculated under subsection (2) of this section that any quota owner is entitled to be allocated under this section shall be rounded up or rounded down by the chief executive to ensure that—
(a) The sum of all annual catch entitlements allocated under this section equals the amount of the increase that would have been made to the total allowable commercial catch but for section 20 (4) of this Act; and

(b) No quota owner holds part of a kilogramme of annual catch entitlement consequent upon such allocation.
(4) The chief executive shall, after any rounding under subsection (3) of this section, notify every quota owner of the amount of annual catch entitlement allocated to that quota owner under this section.

(5) Any annual catch entitlement so allocated shall have effect on and from the date of allocation and shall have the same characteristics as any annual catch entitlement allocated under section 67 of this Act.

(6) The chief executive shall, as soon as practicable after allocating annual catch entitlements in accordance with this section, notify the relevant Registrar of Annual Catch Entitlement of the amount of annual catch entitlement allocated to each quota owner.

**Annual Catch Entitlement Required Before Fishing**

69. Catch must be covered by annual catch entitlement—(1) No person shall take for sale any fish, aquatic life, or seaweed subject to the quota management system except under the authority of an annual catch entitlement.

(2) For the purpose of this Act, a person takes fish, aquatic life, or seaweed under the authority of an annual catch entitlement if, at the time the taking occurs, that person holds an amount of annual catch entitlement for the stock that is—

(a) Applicable to the relevant fishing year; and

(b) Equal to or greater than the weight of all catch of that stock taken by that person in that fishing year up to and including the time of such taking.

(3) Every person commits an offence and is liable to the penalty set out in section 252 (3) of this Act who contravenes subsection (1) of this section.

70. Defences applicable to certain stock—(1) Section 243 of this Act does not apply where a commercial fisher commits an offence against section 69 (3) of this Act in respect of a quota management stock that, at the time of the commission of the offence, is listed in the Eighth Schedule to this Act.

(2) If a species of shellfish is to become a quota management stock on the first day of the next fishing year, the Minister shall recommend the making of an Order in Council adding the name of the stock to the Eighth Schedule to this Act.

(3) The Minister may from time to time, after consultation with such persons as the Minister considers are representative of those classes of persons having an interest in this Part of this Act, recommend the making of an Order in Council adding the name of a stock to the Eighth Schedule to this Act if,
(a) In the case of a quota management stock, the Minister is satisfied that the total reported catch for that stock will or is likely to exceed the total amount of allocated annual catch entitlement for that stock (which total amount does not include any annual catch entitlement allocated to the Crown under section 67(3) of this Act but not allocated to any person under section 67(4) of this Act) for the fishing year immediately preceding the year in which the Order in Council will take effect; or

(b) In the case of a stock that is to become subject to the quota management system on the first day of the next fishing year, the Minister is satisfied that the total reported catch for that stock is likely to exceed the total allowable commercial catch for that stock for the fishing year in which the stock becomes subject to the quota management system.

(4) An Order in Council recommended under subsection (3) of this section may be made at any time during a fishing year but shall only take effect on the first day of the next fishing year.

(5) The Minister shall, in respect of any stock (other than a stock that is a species of shellfish) that is for the time being named in the Eighth Schedule to this Act, recommend that the stock be removed from that Schedule if, on the basis of reported catch notified to the chief executive on or before the 15th day after the end of the previous fishing year, the total reported catch for that stock for that previous fishing year did not exceed the total amount of allocated annual catch entitlement for that stock (which total amount does not include any annual catch entitlement allocated to the Crown under section 67(3) of this Act but not allocated to any person under section 67(4) of this Act) for that previous fishing year.

(6) When such an Order in Council is made adding to or removing from the Eighth Schedule to this Act the name of any stock, the chief executive shall notify all persons owning quota for the stock and all commercial fishers that the order has been made; but the failure to give or receive such notification shall not invalidate the order.

71. Defences applicable to individual fishers—
(1) Section 243 of this Act does not apply where a commercial fisher commits an offence against section 69(3) of this Act in respect of a quota management stock and, at the time of the
commission of the offence, the commercial fisher is (in relation to that stock) subject to this section.

(2) A commercial fisher who in any fishing year (in this section called the first fishing year) takes an amount of reported catch for any one stock that exceeds the amount of annual catch entitlement for that stock owned by that commercial fisher as at the close of the 15th day of the next fishing year (in this section called the second fishing year) shall become subject to this section (in relation to that stock) on and from the commencement of the first day of the second month of the second fishing year and ceases to be so subject to this section with the close of the last day of the first month of the fishing year next following the second fishing year.

(3) A commercial fisher who, by the close of the 15th day of the second fishing year, fails to comply with the requirements of this Act relating to the recording and reporting of the taking, return, or landing of fish, aquatic life, or seaweed taken during the first fishing year shall become subject to this section (in relation to all stocks) on and from the commencement of the first day of the second month of the second fishing year and ceases to be so subject to this section with the close of the last day of the first month of the fishing year next following the second fishing year.

(4) If a commercial fisher requests a review under section 80 of this Act of the total amount of that commercial fisher’s reported catch for any stock notified to that fisher under that section and, as a result of the final determination of that review, the total amount of catch for that stock reported by that commercial fisher is reduced to an amount less than or equal to the total amount of annual catch entitlement for that stock held by that commercial fisher, the commercial fisher shall (in relation to that stock) cease to be subject to this section on the beginning of the first day of the first month following the final determination of that review.

(5) Nothing in this section applies to any stock that is for the time being named in the Eighth Schedule to this Act.

(6) The chief executive shall notify every commercial fisher who has become, or has ceased to be, subject to this section of the date on which that commercial fisher became or ceased to be subject to this section; but the failure to give or receive such notification shall not affect the application of this section to any person.

72. Dumping of fish prohibited—(1) No commercial fisher shall return to or abandon in the sea or any other waters
any fish, aquatic life, or seaweed of legal size, or for which no legal size is set, that is subject to the quota management system.

(2) Subsection (1) of this section does not apply if the stock is listed in the Sixth Schedule to this Act and the commercial fisher complies with the requirements set out in that Schedule.

(3) Any commercial fisher who takes any fish, aquatic life, or seaweed subject to the quota management system that is not of legal size shall immediately return that fish, aquatic life, or seaweed, whether alive or dead, to the sea or waters from which the fish, aquatic life, or seaweed was taken.

(4) Every person commits an offence and is liable to the penalty set out in section 252 (3) of this Act who contravenes subsection (1) or subsection (3) of this section.

(5) Without limiting the application of section 241 of this Act, it is a defence to any offence under subsection (4) of this section if—

(a) The return was a return of parts of fish, aquatic life, or seaweed lawfully processed on a vessel; or

(b) The fish, aquatic life, or seaweed was returned or abandoned to ensure the safety of the vessel or any crew member; or

(c) The following provisions were complied with, namely,—

(i) A fishery officer or observer was present when the fish, aquatic life, or seaweed was taken; and

(ii) The fishery officer or observer authorised the return or abandonment of the fish, aquatic life, or seaweed; and

(iii) The commercial fisher returned or abandoned the fish, aquatic life, or seaweed under the supervision of the fishery officer or observer, and complied with any directions of the fishery officer or observer; and

(iv) The amount of fish, aquatic life, or seaweed was included in the returns for the appropriate period that are required to be made by the commercial fisher under this Act.

(6) Any fish, aquatic life, or seaweed returned or abandoned in accordance with subsection (5)(c) of this section shall be included in the commercial fisher's reported catch for the purposes of section 76 of this Act.

(7) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister, add or omit from the Sixth Schedule to this Act the name of any
73. Offence to transfer used annual catch entitlement—
(1) No person shall transfer any annual catch entitlement for any stock unless, immediately following that transfer, that person holds an amount of annual catch entitlement for that stock that is greater than or equal to the amount of all catch of that stock taken by that person in the fishing year to which the annual catch entitlement relates up to the time of that transfer.

(2) Every person commits an offence and is liable to the penalty set out in section 252 (3) of this Act who contravenes subsection (1) of this section.

74. Minimum holdings of annual catch entitlement—
(1) No commercial fisher may take any fish, aquatic life, or seaweed subject to the quota management system unless the commercial fisher holds an amount of annual catch entitlement that is,—

(a) In the case of spiny rock lobster or packhorse rock lobster in any quota management area, not less than 3,000 kilogrammes of the relevant one of those species in that quota management area:

(b) In the case of shellfish (other than southern scallops), not less than 3,000 kilogrammes in one or more quota management areas:

(c) In the case of southern scallops, not less than 5,000 kilogrammes:

(d) In any other case, not less than 5,000 kilogrammes in one or more quota management areas.

(2) If,—

(a) Following the allocation of quota under section 44 or section 47 or section 52 of this Act, the amount of quota owned by a commercial fisher does not generate an annual catch entitlement sufficient to satisfy the requirements of subsection (1) of this section; or

(b) Following a reduction in the total allowable commercial catch, the amount of quota owned by a commercial fisher, as at the beginning of the fishing year in which the reduction takes effect, does not generate an annual catch entitlement sufficient to satisfy the requirements of subsection (1) of this section; or
(c) Following an alteration of a quota management area under section 25 of this Act, quota is allocated under section 26 of this Act to a commercial fisher and that quota does not generate an annual catch entitlement sufficient to satisfy the requirements of subsection (1) of this section; or

(d) Following an increase in the amount of annual catch entitlement required to be held by virtue of an Order in Council under subsection (7) of this section, the amount of relevant quota owned by a commercial fisher, as at the beginning of the fishing year in which the increase takes effect, does not generate an annual catch entitlement sufficient to satisfy that requirement; or

(e) Following a deduction of quota shares from any person by the chief executive under section 52 of this Act, the amount of relevant quota owned by a commercial fisher, as at the beginning of the fishing year immediately following the year in which the deduction occurs, does not generate an annual catch entitlement sufficient to satisfy the requirements of subsection (1) of this section,—

then the requirements of subsection (1) of this section shall apply as if the minimum amount of annual catch entitlement required to be held was the amount of annual catch entitlement actually generated by the commercial fisher’s relevant quota, and the commercial fisher may continue to take stock in each fishing year under the authority of the lesser amount of annual catch entitlement held by the commercial fisher unless the commercial fisher, in any particular fishing year, transfers any annual catch entitlement and thereby reduces the commercial fisher’s annual catch entitlement holding for that fishing year to an amount lower than the holding generated by the commercial fisher’s quota at the commencement of that year.

(3) Subsection (2) of this section does not apply to a commercial fisher referred to in paragraph (b) or paragraph (c) or paragraph (d) or paragraph (e) of that subsection unless, immediately before becoming a person referred to in any of those paragraphs, the commercial fisher owned a number of quota shares that would generate an amount of annual catch entitlement sufficient to satisfy the relevant requirements of subsection (1) of this section.

(4) If any commercial fisher is or becomes subject to subsection (2) of this section, that subsection shall continue to
apply for only so long as the commercial fisher does not sell any of the relevant quota, however obtained.

(5) If any commercial fisher is or becomes subject to subsection (2) of this section and the commercial fisher subsequently purchases any relevant quota, the requirements of subsection (1) of this section shall thereafter apply as if the minimum amount of annual catch entitlement required to be held was the amount of annual catch entitlement actually generated by the commercial fisher's quota (including such purchased quota) unless that amount exceeds the applicable amount specified in subsection (1) of this section; and subsection (2) of this section shall cease to apply to that commercial fisher.

(6) If any commercial fisher holds at least the minimum holding of annual catch entitlement referred to in paragraph (a) or paragraph (b) or paragraph (c) of subsection (1) of this section, then, even if the commercial fisher does not comply with subsection (1)(d) of this section, the commercial fisher may take fish, aquatic life, or seaweed of a species to which subsection (1)(d) of this section applies at any time while the commercial fisher holds an amount of annual catch entitlement for spiny rock lobster, packhorse rock lobster, shellfish (other than southern scallops), or southern scallops (as the case may require) in an amount not less than the amount set out in the applicable paragraph of subsection (1) of this section.

(7) Subject to subsections (8), (9), and (10) of this section, the Governor-General may from time to time, by Order in Council, increase or reduce any amount specified in subsection (1) of this section in the case of one or more stocks, and the increase or reduction shall take effect from the commencement of the following fishing year.

(8) No Order in Council shall be made under subsection (7) of this section in respect of the amounts specified in paragraph (a) or paragraph (c) of subsection (1) of this section unless the proposal is supported by way of an agreement in writing signed by quota owners owning not less than 75,000,000 quota shares for the relevant stock.

(9) No Order in Council shall be made under subsection (7) of this section in respect of the amounts referred to in paragraph (b) or paragraph (d) of subsection (1) of this section, except on the recommendation of the Minister following consultation by the Minister with such persons or organisations as the Minister considers are representative of those classes of persons having an interest in this Part of this Act.

(10) Every such order shall,—
(a) If it is made on or before the 30th day of June in any year, expire with the close of the 31st day of December in that year except so far as it is expressly confirmed by Act of Parliament passed during that year:

(b) If it is made on or after the 1st day of July in any year, expire on the close of the 31st day of December in the following year except so far as it is expressly confirmed by Act of Parliament passed before the end of that following year.

(11) For the purposes of this section, squid (Nototodarus gouldi, Nototodarus sloani commonly known as arrow squid) shall be regarded as a species to which subsection (1)(d) of this section applies.

(12) Every person commits an offence and is liable to the penalty set out in section 252 (5) of this Act who contravenes any of subsections (1), (2), and (6) of this section.

Cf. 1983, No. 14, s. 28s; 1991, No. 149, s. 15

Deemed Values

75. Deemed values to be set or varied by Minister—

(1) The Minister shall, by notice in the Gazette, set a deemed value rate for each quota management stock, and may from time to time, in the same manner, vary any deemed value rate during any fishing year by increasing or decreasing that deemed value rate; and every deemed value rate set or varied under this section shall take effect on and from such date as the Minister may state for the purpose in the notice.

(2) The Minister shall not set or vary any deemed value rate for any stock unless he or she is satisfied that the deemed value rate for that stock achieves the purpose of ensuring that there is an incentive for every commercial fisher taking fish, aquatic life, or seaweed of that stock to acquire annual catch entitlement to balance against catch, and in so satisfying himself or herself the Minister shall have regard to—

(a) The need to remove the economic benefit to any person from the taking, processing, or sale of any fish, aquatic life, or seaweed that is taken in circumstances where a commercial fisher takes fish, aquatic life, or seaweed of a quota management stock otherwise than under the authority of an annual catch entitlement; and

(b) The market value of the fish, aquatic life, or seaweed to commercial fishers and licensed fish receivers.
(3) Before setting or varying any deemed value rate, the Minister shall, if practicable, consult such persons or organisations as the Minister considers are representative of those classes of persons having an interest in the stock, including Maori, recreational, commercial, and environmental interests.

(4) This section does not require the Minister to—
(a) Have regard to the personal circumstances of any individual or class of person liable to pay the deemed value of any fish, aquatic life, or seaweed; or
(b) Determine separate deemed value rates in individual cases—
when setting or varying any deemed value rate.

(5) In setting a deemed value rate in respect of any stock, the Minister may, in respect of fish, aquatic life, or seaweed of that stock landed and received by a licensed fish receiver in the Chatham Islands, set a deemed value rate that is different from the deemed value rate set in respect of fish, aquatic life, or seaweed of that stock landed and received by a licensed fish receiver elsewhere.

(6) Notwithstanding any other enactment or rule of law, a court shall not hear or determine, and no person shall make or commence, any application or other proceedings of any kind in respect of a decision or purported decision of the Minister to set or vary a deemed value rate under this section unless the application is, or the proceedings are, made or commenced within 3 months after the date of notification in the Gazette of the decision or purported decision.

Cf. 1983, No. 14, ss. 28ZD, 28ZE; 1990, No. 29, s. 29 (1)

76. Catch to be counted against annual catch entitlement—(1) As soon as practicable after the 15th day of each month (in this section called the reporting month), the chief executive shall, in respect of every commercial fisher, compare—
(a) The annual catch entitlement (if any) for the relevant fishing year owned by that commercial fisher as at the close of the 15th day of the reporting month for each stock; and
(b) Reported catch for any quota management stock (in kilogrammes) calculated in accordance with regulations made for that purpose under section 297 of this Act, taken by that commercial fisher during the fishing year up to the end of the month preceding the reporting month—
and shall calculate, on the basis of that comparison, whether or not the annual catch entitlement owned by that commercial fisher as at the close of the 15th day of the reporting month for each stock exceeds the reported catch for that stock.

(2) Following the calculation referred to in subsection (1) of this section, the chief executive shall calculate the amount of deemed value that is to be demanded from, or remitted to, that commercial fisher in accordance with regulations made for the purpose under section 297 of this Act and thereafter shall demand or remit the amount, as the case may be.

(3) A demand for an amount of deemed value made by the chief executive under this section may be satisfied by—
(a) Payment of the sum of money so demanded; or
(b) Acquiring, for the relevant fishing year, annual catch entitlement for the relevant stock; or
(c) Entering into a bycatch trade-off under section 78 of this Act; or
(d) Any combination of those options.

(4) Every person who is liable to satisfy any deemed value amount demanded under this section is required to satisfy the demand whether or not an offence has been committed against this Act.

(5) All deemed value amounts are to be satisfied within 20 days after the demand is made and, if being satisfied by payment of money, the amount is payable to the chief executive and shall be held by the Crown on trust for the commercial fisher until the trust ends in accordance with this section or the deemed value amount is remitted to the commercial fisher.

(6) Any deemed value amount paid to the chief executive under this section in respect of fish, aquatic life, or seaweed taken in any fishing year shall cease to be held on trust and become the property of the Crown on the later of—
(a) The close of the 15th day of the third month after the end of the fishing year; or
(b) Five working days after the final determination of any request for a review by a commercial fisher of a notification under section 80 of this Act.

(7) Notwithstanding section 69 of the Public Finance Act 1989, no interest is payable in respect of any amount that is held on trust under this section, whether remitted to any commercial fisher or not.

Cf. 1983, No. 14, s. 28ZA (4); 1990. No. 29, s. 26 (1)
77. Declaration of bycatch trade-off species—(1) The chief executive may from time to time, by notice in the Gazette, in relation to any quota management area or combination of quota management areas, declare—

(a) Any quota management stock to be a bycatch stock in respect of which a transfer of annual catch entitlement for a target stock may be accepted by the chief executive in accordance with section 78 of this Act:

(b) Any quota management stock to be a target stock in relation to any bycatch stock, for which target stock a transfer of annual catch entitlement may be so accepted:

(c) The ratio at which a transfer of annual catch entitlement for any target stock may be accepted in relation to the amount of bycatch stock taken:

(d) The method or methods by which the stock must have been taken (if appropriate);—

and the notice shall have effect and be complied with accordingly.

(2) Before giving any notice under subsection (1) of this section, the chief executive shall consult such persons or organisations as the chief executive considers are representative of those classes of persons having an interest in this Part of this Act, including Maori, recreational, commercial, and environmental interests.

(3) The chief executive shall not give a notice under subsection (1) of this section unless he or she is satisfied that the option of a bycatch trade-off for a stock achieves the purpose of ensuring that there is an incentive for every commercial fisher taking fish, aquatic life, or seaweed of that stock to acquire annual catch entitlement to balance against catch, and before giving the notice the chief executive shall have regard to—

(a) The degree to which there is a disparity between—

(i) The ratio at which fish, aquatic life, or seaweed of the bycatch stock is caught in relation to the target stock as a consequence of using any particular method in the quota management area concerned; and

(ii) The ratio of the maximum extent to which annual catch entitlement for the bycatch stock is able to be fished in relation to the maximum extent to which annual catch entitlement for the target stock is
able to be fished, in the quota management area concerned; and

c) Whether the total allowable commercial catch for the bycatch stock of the fish, aquatic life, or seaweed taken by the commercial fisher has been or is likely to be exceeded in the relevant fishing year; and

d) The market value of the annual catch entitlement for the stocks; and

e) The need to remove the economic benefit to any person from the taking, processing, or sale of any fish, aquatic life, or seaweed that is taken in circumstances where a commercial fisher takes fish, aquatic life or seaweed of a quota management stock otherwise than under the authority of an annual catch entitlement.

(4) Notwithstanding any other enactment or rule of law, a court shall not hear or determine, and no person shall make or commence, any application or other proceedings of any kind in respect of a decision or purported decision of the chief executive in respect of any matter under subsection (1) of this section unless the application is, or the proceedings are, made or commenced within 3 months after the date of notification in the Gazette of the decision or purported decision.

78. Bycatch trade-off—(1) If a commercial fisher has received a demand for a deemed value amount in respect of the catch of any stock declared by notice under section 77 of this Act to be a bycatch stock, that commercial fisher may, at any time during that fishing year or not later than the close of the 60th day after the end of that fishing year, satisfy that demand by offering to the chief executive an executed transfer of an amount of annual catch entitlement for that year for any stock declared by that notice to be a target stock in relation to that bycatch stock, and the offer shall be made in the approved form and be accompanied by the prescribed fee (if any).

(2) Subject to subsection (3) of this section, the chief executive shall accept the offer only to the extent that—

(a) The demand has not already been satisfied by the commercial fisher; and

(b) The catch of the bycatch stock has been taken in accordance with the method required by the notice under section 77 of this Act (if any) and the transfer is otherwise able to be given effect to and is for no consideration.
(3) If the chief executive accepts the offer of annual catch entitlement, the annual catch entitlement shall be transferred to the chief executive and shall be held by the Crown on trust for the commercial fisher until the trust ends in accordance with this section or the annual catch entitlement is remitted to the commercial fisher in accordance with regulations made for the purpose under section 297 of this Act.

(4) Any annual catch entitlement transferred to the chief executive under this section in respect of fish, aquatic life, or seaweed taken in any fishing year shall cease to be held on trust and become the property of the Crown on the later of—
(a) The close of the 15th day after the end of that fishing year;
(b) The date of acceptance of the offer by the chief executive.

(5) Any offer accepted by the chief executive under this section shall take effect—
(a) If accepted before the close of the 15th day after the end of a fishing year, on the date of acceptance of the offer; or
(b) In any other case, on the close of that 15th day.

79. Suspension of permit for non-payment of deemed value—(1) If the total amount of deemed values owed by any commercial fisher exceeds $1,000 and has not been satisfied within the time limit specified in section 76 (5) of this Act, that commercial fisher’s current fishing permit and any permit subsequently issued to that commercial fisher shall, on the expiration of that time limit, be deemed to be suspended until the total amount of all outstanding deemed values owed by that commercial fisher is $1,000 or less.

(2) The chief executive shall notify every suspension or cessation of suspension of a fishing permit under subsection (1) of this section to—
(a) The commercial fisher concerned; and
(b) The Registrar of Permits;—
but any delay or failure to give such notification shall not affect any such suspension or cessation.

(3) A fishing permit suspended under this section does not authorise any person to take any fish, aquatic life, or seaweed under the authority of that permit, but all other provisions of this Act shall continue to apply as if the fishing permit had not been suspended.

(4) A commercial fisher who lodges an objection under section 80 of this Act may apply to a District Court for an order
lifting any suspension imposed under this section and the Court may make such an order subject to such sureties and conditions as the Court may specify.

Cf. 1983, No. 14, s. 107L; 1994, No. 87, s. 4

Notification of Balances

80. Conclusive balances—(1) As soon as practicable after the close of the 15th day of each month, the chief executive shall, for each stock in respect of which any commercial fisher either holds an annual catch entitlement or has reported catch, notify the commercial fisher in writing of—

(a) The total reported catch of the commercial fisher for that month; and

(b) The total annual catch entitlement registered in the commercial fisher’s name as at the close of the 15th day after the end of that month; and

(c) The result of the comparison referred to in section 76 (1) of this Act; and

(d) The result of any bycatch trade-off accepted by the chief executive on or before the 15th day after the close of that month; and

(e) Such other matters as are specified for the purpose in any regulations made under section 297 of this Act.

(2) Any commercial fisher who considers that any information supplied in the notification under subsection (1) of this section is incorrect in relation to any matter required to be specified in any notice given under that subsection may, within 20 days after the date specified for the purpose in the notice, request a review of the matters specified in the notification, but no request under this section may be made if the notification is no different from the previous month’s notification or if the grounds for such a request relate to the registration or non-registration of a transfer of annual catch entitlement for any reason and in any circumstances.

(3) Subsection (2) of this section does not prevent any person making an application under section 164 of this Act for a correction of a register.

(4) Every request under subsection (2) of this section for a review shall be in the approved form and be accompanied by the prescribed fee (if any), and shall provide such details as are necessary to enable the chief executive to determine the matters the subject of the review.

(5) The chief executive shall, if satisfied that a valid request for review has been received and sufficient information has
been provided, conduct a review of the notification and, as soon as practicable, determine the matters that are the subject of the review and issue a new notification containing all matters specified in subsection (1) of this section and incorporating the results of that determination.

(6) Any commercial fisher who is dissatisfied with any new notification issued by the chief executive under subsection (5) of this section may, within 20 working days after the date specified for the purpose in the notification of the decision, appeal to a District Court against the decision (which appeal may relate to any matters that were the subject of the commercial fisher's request for review) and the following provisions apply in relation to every such appeal:

(a) The appeal shall be commenced by way of an originating application under Part VI of the District Court Rules 1992;

(b) The Court—

(i) Shall consider each of the matters to which the appeal relates; and

(ii) Shall make a final determination in respect of each of those matters; and

(iii) Shall direct the chief executive to issue a new and final notification; and

(iv) May make such orders as to costs and such other orders as it thinks fit.

(7) Subject to subsection (6) of this section, no decision or purported decision of the chief executive under subsection (5) of this section shall be liable to be challenged, reviewed, quashed, called into question, or be subject to an appeal, but nothing in this subsection shall prevent any appeal in respect of any proceedings under subsection (6) of this section.

(8) Every—

(a) Notification under subsection (1) of this section; and

(b) New notification given by the chief executive under subsection (5) of this section; and

(c) New notification given pursuant to the direction of a court on appeal under subsection (6) of this section—shall be presumed to be conclusive for the purpose of this Act.

(9) Any deemed value amount demanded by the chief executive that may be affected by the outcome of any objection under this section shall remain payable and all provisions of this Act shall apply accordingly notwithstanding the objection under this section.

(10) Nothing in any notification referred to in subsection (8) of this section—
(a) Prevents the chief executive altering any information in a notification under subsection (1) of this section merely because he or she has accepted any return required under this Act that is given late; or

(b) Shall be conclusive against the Crown in any criminal proceedings.

(11) As soon as practicable after the close of the 15th day of each month, the chief executive shall notify the relevant Registrar of Annual Catch Entitlement of—

(a) The total catch reported by each commercial fisher for the relevant year to the end of each month; and

(b) Any change to any commercial fisher’s reported catch as a result of any decision in respect of a request for review made under this section.

PART V

FOREIGN LICENSED ACCESS

81. Calculation of foreign allowable catch—(1) The Minister shall from time to time determine—

(a) The portion of the total allowable commercial catch for each quota management stock that may be taken within the exclusive economic zone; and

(b) The portion of the total catch limit (if any) for any stock not subject to the quota management system (including any highly migratory stock) that may be taken within the exclusive economic zone; and

(c) The foreign allowable catch for each stock in the exclusive economic zone.

(2) The foreign allowable catch for any quota management stock shall be the lesser of—

(a) The portion of the total allowable commercial catch for the time being determined for the stock under subsection (1)(a) of this section:

(b) The Crown’s available annual catch entitlement for the stock.

(3) For the purposes of subsection (2)(b) of this section, the Crown’s available annual catch entitlement for a stock shall be the Crown’s holding of annual catch entitlement for the stock that is generated from unencumbered quota held by the Crown as at the beginning of the relevant fishing year for the stock, which annual catch entitlement remains unsold after the Crown has offered the annual catch entitlement for sale to persons entitled to own quota.
(4) The foreign allowable catch for any stock not subject to the quota management system shall be the lesser of—

(a) The portion of the total catch limit (if any) for the time being determined under subsection (1) (b) of this section:

(b) A catch that is sustainable after taking into account the total catch limit (if any) for, and the domestic harvesting capacity of, the stock.

(5) For the purposes of this section, the term “domestic harvesting capacity”, in relation to any stock not subject to the quota management system, means the total domestic commercial catch reported as having been taken in the previous fishing year for the stock by New Zealand fishing vessels within New Zealand fisheries waters, with an appropriate adjustment to allow for—

(a) Any changes in the harvesting capacity of the domestic commercial fishing fleet due to—

(i) Recent investment in fishing vessels and fishing equipment; and

(ii) Catch trends; and

(b) Non-commercial take and scientific take.

(6) If the foreign allowable catch for any quota management stock has been determined under subsection (1) (c) of this section in accordance with subsection (2) of this section, the Minister shall set aside an amount of the Crown’s holding of annual catch entitlement for the stock that is equivalent to the amount of the foreign allowable catch, and such annual catch entitlement shall not be used for fishing.

Cf. 1977, No. 28, s. 12

82. Apportionment of foreign allowable catch for foreign fishing vessels—(1) The Minister may from time to time apportion, among countries other than New Zealand, the foreign allowable catch in respect of any stock within the exclusive economic zone.

(2) In making an apportionment under subsection (1) of this section, the Minister shall have regard to—

(a) The degree to which fishing vessels of countries other than New Zealand have engaged in fishing within the exclusive economic zone; and

(b) The degree to which such countries have co-operated with New Zealand in fisheries research and in the identification of fish stocks within the exclusive economic zone; and
(c) The degree to which such countries have co-operated with New Zealand in the conservation and management of fisheries resources within the exclusive economic zone, and in the enforcement of New Zealand law relating to such resources; and

(d) The degree to which such countries have complied with any relevant international obligations; and

(e) Such other matters as the Minister, after consultation with the Minister of Foreign Affairs and Trade, considers to be relevant.

Cf. 1977, No. 28, s. 13

83. Issue of licences—(1) The operator of any foreign fishing vessel who proposes to use that vessel for fishing within the exclusive economic zone may, in the approved form, apply for a licence for that purpose; and—

(a) The application shall be made to an office of the Ministry appointed for the purpose by the chief executive by notice in the Gazette; and

(b) The application shall be accompanied by the prescribed fee (if any) and shall contain such information as the Minister may from time to time require by notice in the Gazette.

(2) The Minister may issue to the operator of any foreign fishing vessel a licence to fish using that vessel within the exclusive economic zone.

(3) Before issuing a licence under this section, the Minister—

(a) Shall have regard to the previous offending history (if any) of the vessel's operator, owner, master, or crew in relation to fishing activities, whether within the jurisdiction of New Zealand or of some other country or in international waters; and

(b) May have regard to such other matters as the Minister considers to be relevant.

(4) A licence may be issued under this section upon or subject to conditions relating to all or any of the following matters:

(a) The areas within the exclusive economic zone in which fishing is authorised;

(b) The seasons, times, and particular voyages during which fishing is authorised;

(c) The species, size, age, and quantities of fish, aquatic life, or seaweed that may be taken;

(d) The methods by which fish, aquatic life, or seaweed may be taken:
(e) The types, size, and amount of fishing gear or equipment that may be used or carried and the modes of storage of that gear or equipment when not in use:

(f) The use, transfer, transhipment, landing, receiving, and processing of fish, aquatic life, or seaweed taken:

(g) Procedures or requirements, or both, enabling the verification of fish, aquatic life, or seaweed taken or being taken by the vessel, including procedures or restrictions relating to the species of, quantities of, or areas from which, fish, aquatic life, or seaweed are being or have been taken by the vessel:

(h) Entry by the vessel to New Zealand ports, whether for the inspection of its catch or for other purposes:

(i) The compensation payable to New Zealand citizens or to the Crown in the event of any loss or damage caused by the vessel to other vessels or their gear, equipment or catch, or to pipelines or cables, or to other New Zealand interests:

(j) Reports and information required to be given to the chief executive by the licence holder, including reports and information relating to—

   (i) Catch and effort:

   (ii) The positions and activities of the vessel:

(k) Management controls regarding fishing-related mortality of protected species:

(l) The conduct of specified programmes of fisheries research:

(m) The display on board the vessel of the licence issued in respect of the vessel:

(n) The marking of the vessel and other means for its identification:

(o) The placing of observers on the vessel and the payment of any associated prescribed fees and charges by the licence holder:

(p) The installation on the vessel and the maintenance of any automatic location communicator or other equipment for the identification and location of the vessel, and of adequate navigational equipment to enable the vessel to fix its position:

(q) The carriage on board the vessel of specified charts, publications, and instruments:

(r) Such other matters as the Minister considers necessary or expedient for the purpose of this Act or any other enactment or otherwise.
(5) The Minister may at any time, by notice in writing to the licence holder,—

(a) Amend or revoke any provision or condition of a licence issued under this section; or

(b) Add new provisions or conditions to any such licence—with effect on and from a date specified in the notice.

(6) In exercising powers under this section, the Minister shall ensure that the total catch authorised to be taken from any stock within the exclusive economic zone by vessels licensed under this section that are vessels of a particular country does not exceed that country’s apportionment for that stock under section 82 of this Act.

Cf. 1977, No. 28, ss. 15, 16, 17

84. Licensing offences—(1) No person shall take any fish, aquatic life, or seaweed using a foreign fishing vessel except—

(a) Under the authority of—

(i) A licence issued under section 83 of this Act; or

(ii) If the vessel is used for the purposes of fisheries research or experimentation (including gear and equipment trials) or recreation, within the exclusive economic zone, the prior written consent of the Minister; and

(b) In accordance with any conditions of that licence or consent.

(2) Consent under subsection (1) (a) (ii) of this section may be given unconditionally or upon or subject to such conditions, including the payment of fees, as the Minister thinks fit.

(3) Every person commits an offence and is liable to the penalty set out in section 252 (2) of this Act who contravenes subsection (1) (a) of this section.

(4) Every person commits an offence and is liable to the penalty set out in section 252 (3) of this Act who contravenes subsection (1) (b) of this section.

Cf. 1977, No. 28, ss. 14, 23

85. Fees, royalties, and charges—Every person to whom a licence has been issued under this Part of this Act shall pay to the Crown, in such manner as may be prescribed, such fees, royalties, and charges as may be prescribed under section 297 or section 299 of this Act.

Cf. 1977, No. 28, s. 18; 1980, No. 146, s.2 (1)

86. Suspension and revocation of licences—(1) If the Minister is satisfied that—
(a) An offence against this Act or any other New Zealand law that applies to fishing within New Zealand fisheries waters has been committed by the owner, operator, master, or crew member of a foreign fishing vessel; or

(b) Any licence holder, master, or crew member of a foreign fishing vessel has failed to pay to the Crown, within the time limit set out in section 88 (9) of this Act, the amount of any penalty imposed on that person under that section by the Minister,—

the Minister may suspend the licence for such period as he or she shall specify or may revoke the licence.

(2) If the Minister, after consultation with the Minister of Foreign Affairs and Trade, considers that it is necessary or expedient to achieve the purpose of this Act or to recognise any international obligation relating to fishing, the Ministry may suspend any licence for such period as he or she shall specify or may revoke any licence.

(3) While suspended under this section, a licence does not authorise fishing, but the obligations and conditions imposed by the licence, or imposed by or under this Act in relation to it, shall continue to have effect.

(4) Any person may request the Minister to revoke any licence issued to that person, and, upon revocation of that licence under this subsection,—

(a) The licence holder shall ensure that the licence and any duplicates are surrendered to the Minister; and

(b) The licence shall cease to have any effect for the purpose of this Act.

(5) The Minister may revoke any licence if satisfied that any information or evidence supplied with the application was false or misleading in any material particular, and, upon revocation under this subsection,—

(a) The licence holder shall ensure that the licence and any duplicates are surrendered to the Minister; and

(b) The licence shall cease to have any effect for the purpose of this Act.

(6) Any revocation of a licence under subsection (5) of this section shall be deemed to have effect on and from the date of issue of the licence; but nothing in that subsection requires the Minister to remit or refund any fees or charges paid or payable in respect of that licence from the date the licence was issued to the date of revocation.
87. Review by courts—No exercise or purported exercise by the Minister of any power conferred on the Minister by section 83 (6) or section 86 (2) of this Act shall be liable to be challenged, reviewed, quashed, or called into question in any court on the ground that the conditions for the exercise of the power by the Minister had not arisen or had ceased.

Cf. 1977, No. 28, s. 21

88. Administrative penalties for fisheries offences—
(1) This section—
(a) Applies in respect of any offence that carries a penalty of a fine not exceeding $250,000 and is an offence against this Act or against any other New Zealand law that relates to fishing; but
(b) Does not apply in respect of any alleged offence if any information or charge has been laid in respect of the alleged offence.
(2) If the Minister has reasonable cause to believe that—
(a) An offence to which this section applies may have been committed by any person in respect of any vessel licensed or required to be licensed under this Part of this Act; and
(b) Having regard to all the circumstances relating to the alleged offence it is of a minor nature and, having regard to the previous conduct of the vessel and of the person concerned in New Zealand fisheries waters, it would be appropriate to impose a penalty under this section,—
the Minister may cause a notice in writing, in the approved form, to be served on that person.
(3) A notice under subsection (2) of this section shall contain—
(a) The date and nature of the alleged offence; and
(b) A summary of the facts on which the allegation that an offence has been committed is based (which summary shall be sufficient to fully and fairly inform the person of the allegation against the person); and
(c) Any other matters (other than previous convictions) that the Minister considers relevant to the imposition of a penalty—
and shall be endorsed with a statement setting out the provisions of this section.
(4) Any person on whom a notice under subsection (2) of this section is served may, within 28 days after the notice is served on the person, by a notice in writing in the approved form
served on the chief executive, require that any proceedings in respect of the alleged offence shall be dealt with before a court, in which case the following provisions shall apply:

(a) No further proceedings shall be taken under this section by the Minister:

(b) Nothing in this section shall be construed to prevent the subsequent laying of any information or charge in respect of the alleged offence, or the conviction of the person of the offence by a court, or the imposition of any penalty under any enactment or forfeiture under this Act on such a conviction.

(5) Any person on whom a notice under subsection (2) of this section is served who does not require that any proceedings in respect of the alleged offence be dealt with before a court may, by notice in writing served on the chief executive,—

(a) Admit the offence; and

(b) Make submissions to the Minister as to the matters the person wishes the Minister to take into account in imposing any penalty under this section.

(6) If a person on whom a notice under subsection (2) of this section is served does not, within 28 days after the notice is served on the person,—

(a) Require that any proceedings in respect of the alleged offence be dealt with before a court; or

(b) Admit the offence,—

the person shall on the expiration of that period be deemed to have admitted the offence.

(7) If under this section a person admits or is deemed to have admitted an offence, the Minister may, after taking into account any submissions made by the person under subsection (5) of this section, impose on that person a monetary penalty not exceeding one-third of the maximum monetary penalty to which the person would be liable if the person were convicted of the offence by a court.

(8) If the Minister imposes a penalty on a person under this section in respect of an offence, the Minister shall cause a notice in writing in the approved form of the particulars of the penalty to be served on the person.

(9) A person on whom a penalty is imposed under this section shall pay the amount of the penalty to the Crown within 28 days after the notice of the penalty is served on the person in accordance with subsection (8) of this section.

(10) Notwithstanding the provisions of subsection (9) of this section or section 86 (1) of this Act, a penalty that has been imposed under this section shall be recoverable by the Crown,
from the person on whom it has been imposed, in the same manner as a fine is recoverable on summary conviction for any
offence.
(11) Notwithstanding the provisions of this Act, or any other
enactment, where any offence has been admitted or deemed to
have been admitted under this section, no information or
charge may be laid in respect of the offence against the person
by whom it is admitted.

Cf. 1977, No. 28, s. 26.

PART VI
ACCESS TO FISHERY
Fishing Permits

89. All fishing to be authorised by fishing permit
unless specific exemption held—(1) No person shall take
any fish, aquatic life, or seaweed by any method unless the
person does so under the authority of and in accordance with a
current fishing permit.
(2) Subsection (1) of this section does not apply to the taking
of—
(a) Fish, aquatic life, or seaweed by any natural person
otherwise than for the purpose of sale and in
accordance with any amateur fishing regulations
made under, and any other requirements imposed
by, this Act; or
(b) Fish, aquatic life, or seaweed by any natural person
otherwise than for the purpose of sale and in
accordance with any Maori customary non-
commercial fishing regulations made under, and any
other requirements imposed by, this Act; or
(c) Any seabirds or protected species; or
(d) Any whitebait, sports fish, ornamental fish, or unwanted
aquatic life; or
(e) Fish, aquatic life, or seaweed by any person in accordance
with an authorisation given under the Marine
Reserves Act 1971; or
(f) Seaweed of the Class Rhodophyceae while it is unattached
and cast ashore; or
(g) Samples of fish, aquatic life, or seaweed under the
authority of section 20 of the Food Act 1981 by an
officer as defined in that Act or by a person assisting
such an officer; or
(h) Samples of fish, aquatic life, or seaweed under the
authority of section 6 of the Meat Act 1981 by an
inspector as defined in that Act or by a person assisting such an inspector; or

(i) Fish, aquatic life, or seaweed under the authority of a foreign fishing vessel licence issued under section 83 of this Act; or

(j) Fish, aquatic life, or seaweed in accordance with a freshwater fish farming licence issued under the Freshwater Fish Farming Regulations 1983 or a marine farming permit or spat catching permit issued or granted under the Fisheries Act 1983 or this Act.

(3) For the purposes of subsection (1) of this section, no person shall take any fish, aquatic life, or seaweed under the authority of a fishing permit unless that person is—

(a) The holder of that fishing permit; or

(b) A person who is an employee or agent of the holder of that fishing permit; or

(c) The master or a member of the crew of a fishing vessel that is registered in the name of the holder of that fishing permit.

(4) For the purposes of subsection (1) of this section, no person shall take,—

(a) In the case of a fishing permit that authorises the taking of freshwater eels, any freshwater eel; or

(b) If the fishing occurs otherwise than from a vessel, any fish, aquatic life, or seaweed—

under the authority of a fishing permit unless that person is the holder of that permit or belongs to the class of persons referred to in paragraph (b) or paragraph (c) of subsection (3) of this section and is named in an agreement approved by the chief executive under subsection (5) of this section before the taking occurred.

(5) The chief executive may approve an agreement for the purpose of subsection (4) of this section if—

(a) The agreement is submitted to the chief executive in the approved form and is accompanied by the prescribed fee (if any); and

(b) The agreement is signed by all persons for whom authority to take under the fishing permit is being sought, and by the holder of the fishing permit; and

(c) The number of persons for whom authority to take under the fishing permit is being sought does not exceed the total number of persons (if any) permitted in accordance with subsection (8) of this section.

(6) The chief executive may approve a variation of an agreement approved under subsection (5) of this section that
adds or deletes the name of any person to or from the agreement, if—

(a) The variation is submitted to the chief executive in the approved form and is accompanied by the prescribed fee (if any); and

(b) The variation is signed by the persons for whom new authority to take under the fishing permit is being sought, and the holder of the fishing permit; and

(c) The number of persons who will have authority to take under the fishing permit will not exceed the total number of persons permitted in accordance with subsection (8) of this section.

(7) Agreements under subsection (5) of this section and variations under subsection (6) of this section shall not take effect until approved by the chief executive.

(8) The chief executive may set a condition on a fishing permit under section 92(1) of this Act limiting the total number of persons who may be named in any agreement under subsection (5) of this section.

(9) No person shall at any time hold more than one fishing permit.

(10) No fishing permit holder may transfer that permit to any other person.

(11) For the purposes of subsection (4) of this section, the freshwater eels referred to in that subsection are the species Anguilla australis, Anguilla dieffenbachii, and Anguilla reinhardtii, in all areas in New Zealand fisheries waters.

(12) Every person commits an offence and is liable to the penalty set out in section 252(3) of this Act who takes any fish, aquatic life, or seaweed in contravention of subsection (1) of this section, or contravenes subsection (9) or subsection (10) of this section.

Cf. 1983, No. 14, s. 62(1), (2); 1986, No. 34, s. 13(1)

90. Application for fishing permit—(1) An application for a fishing permit—

(a) May be made by any person; and

(b) Shall be made to the chief executive in the approved form; and

(c) Shall be supported by such evidence or information as may be specified in the approved form; and

(d) Shall be accompanied by the prescribed fee (if any).

(2) The chief executive may require an applicant to provide such additional information or evidence as the chief executive considers necessary for the purpose of the Act, including
information about the finances or creditworthiness of the applicant that is necessary for the purpose of enabling the chief executive to decide whether the applicant ought to provide a guarantee or bond in respect of any deemed value amount which could be incurred by the applicant, and the chief executive may require any such information to be given by way of a statutory declaration.

Cf. 1983, No. 14, s. 63 (1), (3); 1986, No. 34, s. 13 (1)

**91. Issue of fishing permit**—(1) Subject to subsections (2) to (5) of this section and to section 93 of this Act, the chief executive shall issue to every person who applies in accordance with section 90 of this Act an appropriate fishing permit in the approved form for a period not exceeding 5 years.

(2) A fishing permit may, but is not required to, be issued to any person who owes the Crown any levy payable under Part XIV of this Act.

(3) No fishing permit shall be issued to authorise the taking of any stock other than an authorised stock.

(4) No fishing permit shall be issued to any applicant to authorise the taking of any stock managed by way of individual catch entitlements, unless the applicant holds an individual catch entitlement for that stock.

(5) If—

(a) The chief executive considers that, given the size of the applicant's proposed fishing operation, the applicant may be unable to pay any deemed value amount owed by the applicant; or

(b) The applicant does not, at the time the application is received, hold a fishing permit,—

the chief executive may require the applicant to provide a suitable third party guarantee or bond, in an amount specified by the chief executive, before issuing a fishing permit to the applicant, unless the applicant elects to become subject to section 71 of this Act in relation to all quota management stocks taken by the applicant, in which case that section shall thereafter apply as if the applicant were a person subject to that section by virtue of subsection (3) of that section.

Cf. 1983, No. 14, s. 63 (2), (4), (6), (8), (9); 1986, No. 34, s. 13 (1)

**92. Fishing permit may be issued subject to conditions**—(1) A fishing permit shall specify the stocks to which it relates and may be subject to such conditions (including conditions relating to areas, quantities, methods, the
use or non-use of vessels and the specific vessel or types of vessels (if any) that may be used, types and amounts of fishing gear, the taking or handling of fish, aquatic life, or seaweed, places where fish, aquatic life, or seaweed may be landed, and periods of time) as the chief executive considers appropriate.

(2) The chief executive may from time to time, by written notice to a fishing permit holder, amend, add, or revoke any conditions of the permit, to take effect from a date specified in the notice.

(3) The conditions that may be imposed on fishing permits under this section may be more restrictive or more onerous than the conditions imposed on fishing by any regulations or notice.

(4) The chief executive may, if the chief executive considers it expedient to do so, require the holder of a fishing permit to surrender the permit and may replace that fishing permit with a new fishing permit containing the new conditions.

(5) The conditions referred to in this section shall be substantially the same for all fishing permits in respect of the same stock, unless the chief executive is satisfied, on stated grounds, that different conditions are reasonable.

(6) Every person commits an offence and is liable to the penalty set out in section 252 (5) of this Act who contravenes any condition placed on any fishing permit by the chief executive under this section.

93. Qualifications for holding fishing permit and moratorium—(1) No fishing permit authorising the taking of fish, aquatic life, or seaweed for the time being not subject to the quota management system under this Act shall be issued to any person unless either—

(a) All of the following apply:

(i) On the 30th day of September 1992, that person held a current fishing permit under section 63 of the Fisheries Act 1983 in respect of stocks not subject to a quota management system under that Act; and

(ii) During the period commencing on the 1st day of October 1990 and ending with the close of the 30th day of September 1992, that person lawfully took fish, aquatic life, or seaweed under the authority of the fishing permit held by that person; and

(iii) The chief executive is satisfied that the fish, aquatic life, or seaweed taken by that person, during that period were—
(A) One or more of the stocks named in the fishing permit held by that person; and
(B) Were caught as a target stock (other than bycatch); or
(b) A fishing permit was issued to that person under section 2 (2) of the Fisheries Amendment Act 1994.

(2) A fishing permit issued under subsection (1) of this section shall not authorise a person to take a stock that is for the time being not subject to the quota management system under this Act or Part IIA of the Fisheries Act 1983, unless either—
(a) The stock—
   (i) Is of the same species as one or more of the stocks referred to in subsection (1) (a) (iii) (A) of this section that were caught as a target stock (other than bycatch) during the period referred to in subsection (1) (a) (ii) of this section; and
   (ii) Was named in the fishing permit held by that person on the 30th day of September 1992; or
(b) In the case of a fishing permit issued to a person referred to in subsection (1) (b) of this section, the stock was named on the permit issued to that person under section 2 (2) of the Fisheries Amendment Act 1994.

(3) In satisfying himself or herself on any matter under this section, the chief executive shall only have regard to information from fishing records or returns duly completed and provided before the 15th day of October 1992 or in the prescribed manner or in accordance with requirements made under section 66 (3) of the Fisheries Act 1983.

(4) This section does not apply to tuna.

Cf. 1983, No. 14, s. 63 (13); 1986, No. 34, ss. 10, 13 (1); 1992, No. 137, s. 4

94. Right of review against decisions made under delegated authority—If any decision in respect of a fishing permit is made under this Part of this Act by any person acting under the delegated authority of the chief executive or by any person or organisation acting pursuant to an arrangement or contract with the chief executive, the applicant for the fishing permit or the fishing permit holder, as the case may be, is entitled to have the decision reviewed by the chief executive or by a person designated by the chief executive who was not involved in the making of the original decision.

Cf. 1983, No. 14, s. 63 (11)
95. Obligations of fishing permit holder—(1) This Act imposes the following obligations on every holder of a fishing permit:

(a) To ensure that any fishing vessel used by the fishing permit holder to take fish, aquatic life, or seaweed is registered in accordance with section 103 of this Act before so taking any fish, aquatic life, or seaweed:

(b) To complete and provide the required records and returns relating to the taking of fish, aquatic life, or seaweed in accordance with Part X of this Act and any regulations made under section 297 of this Act:

(c) To dispose of the fish, aquatic life, or seaweed in the manner provided in section 191 of this Act and regulations made under section 297 of this Act:

(d) To ensure that any quota management stock is taken under the authority of an annual catch entitlement in the manner provided in section 69 of this Act:

(e) To ensure that all deemed value amounts owed under this Part of this Act are satisfied within 20 days after being demanded under section 76 of this Act:

(f) To comply with the conditions relating to the taking of fish, aquatic life, or seaweed that are stated on the fishing permit:

(g) To comply with all applicable regulations and notices made under this Act, or continued in force by this Act, when taking any fish, aquatic life, or seaweed:

(h) To comply with the requirements of the observer programme established under Part XII of this Act:

(i) To pay the applicable levies imposed by Order in Council under section 262 of this Act:

(j) To hold the minimum amount of annual catch entitlement in accordance with section 74 of this Act, when taking a quota management stock.

(2) This section does not—

(a) Limit the effect of any other provision of this Act; or

(b) Create any offence or impose on any person any obligation that is enforceable in any court.

96. Revocation of fishing permit—(1) The chief executive may revoke any fishing permit on and from a date specified by notice in writing if satisfied that any information or evidence supplied with the application was false or misleading in any material particular, and, upon revocation under this subsection,—

(a) The fishing permit shall be immediately cancelled; and
(b) The holder shall ensure that the fishing permit and any duplicates are forthwith surrendered to the chief executive; and

(c) No fish, aquatic life, or seaweed taken after the date of the supply of the false or misleading information shall be regarded as eligible catch for the purposes of section 34 of this Act; and

(d) No individual catch entitlement under the permit shall entitle the holder to an allocation of any quota.

(2) A person may request the chief executive to revoke any fishing permit issued to that person, and shall enclose the fishing permit and any duplicates with the request; and, upon revocation, the fishing permit shall cease to have any effect for the purpose of this Act.

(3) Nothing in this section shall require the chief executive to remit or refund any fees, charges, or levies paid or payable by the fishing permit holder for the period from the date of issue of the permit to the date of revocation.

Special Permits

97. Special permits—(1) The chief executive may, on application made to the chief executive in the approved form, issue to any person named in the application a special permit—

(a) For the purposes of—

(i) Education; or

(ii) Investigative research; or

(iii) Management or eradication of unwanted aquatic life; or

(iv) 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 chief executive, would otherwise be unable, because of the person's disability, to fish by the methods permitted by this Act:

(c) For any other purpose approved by the Minister after consultation with such persons and organisations as he or she considers are representative of those classes of persons having an interest in the granting of a special permit for such a purpose, including Maori,
environmental, commercial, and recreational interests.

(2) If the issuing of any special permit will have a significant effect on fisheries resources or any fishing interest in the stocks affected that are provided for or authorised by or under this Act, the chief executive shall, before issuing such a permit, consult with such persons and organisations as the chief executive considers are representative of those classes of persons having interests that would be affected if the special permit were issued.

(3) In considering any application for a special permit, other than for the purpose of the management or eradication of any unwanted aquatic life, the chief executive shall take into account the purpose of this Act and the environmental and information principles.

(4) Notwithstanding anything in any other section of this Act, the chief executive may authorise the holder of a special permit to take and dispose of fish, aquatic life, or seaweed subject to such terms and conditions as the chief executive may set out in the permit.

(5) The chief executive may at any time, by notice in writing to the special permit holder, amend, add, or revoke any term or condition of a special permit issued under this section, which term or condition shall take effect from a date specified in the notice.

(6) It shall be deemed to be a term of every special permit that no fish, aquatic life, or seaweed taken under the authority of the permit shall be disposed of except in the manner specified in the special permit.

(7) Notwithstanding anything in section 192 of this Act, it is lawful for any person to buy, or otherwise acquire, or be in possession of, any fish, aquatic life, or seaweed disposed of to that person by the holder of any special permit in the manner specified in that permit.

(8) The chief executive may at any time revoke any special permit by notice in writing to the holder, which revocation shall take effect from a date specified in the notice.

(9) The chief executive shall not issue a special permit in respect of any seabirds or protected species.

(10) Section 90 of this Act, with any necessary modifications, shall apply to special permits as if they were fishing permits.

(11) Every person commits an offence and is liable to the penalty set out in section 252 (5) of this Act who contravenes
any term or condition placed on any special permit by or under this section.

Cf. 1983, No. 14, s. 64; 1986, No. 34, s. 13 (1)

Administration

98. Registers—(1) The chief executive shall keep the following registers:
   (a) A register to be called the Fishing Vessel Register:
   (b) A register to be called the Permit Register.

(2) The registers may be kept in the form of information stored by means of a computer.

(3) The registers may be kept in conjunction with any other register required to be kept under this Act.

(4) The Crown owns all information contained in the Fishing Vessel Register or the Permit Register that is required by this Act to be contained in that register.

(5) The chief executive shall, by notice in the Gazette, appoint the places at which the registers are to be located and state the hours when they are to be open for inspection by the public.

(6) Without limiting anything in section 297 of this Act, regulations under that section may provide for the operation of registers under this section, including the electronic transmission of information for the purposes of this Part of this Act.

99. Appointment of Registrars—(1) The chief executive may from time to time appoint any suitable person to be—
   (a) The Registrar of the Fishing Vessel Register or the Permit Register:
   (b) A Deputy Registrar of the Fishing Vessel Register or the Permit Register.

(2) Any appointment under subsection (1) of this section may, but is not required to, be made under the State Sector Act 1988.

(3) Any appointment under this section may be made subject to such conditions as the chief executive thinks fit.

(4) The chief executive may at any time, by notice in writing, revoke any appointment under this section if there is any disability, bankruptcy, neglect of duty, or misconduct of the appointee proved to the satisfaction of the chief executive; and the revocation shall take effect on the date specified for the purpose in the notice.

(5) Every Registrar has such functions, duties, and powers as are conferred or imposed by this Act or regulations made
under section 297 of this Act, but shall act under any directions of the chief executive.

(6) Subject to the directions of a Registrar or the chief executive, a Deputy Registrar shall have all of the functions and duties, and may exercise all of the powers, of a Registrar under this Act and, unless this Act or regulations made under section 297 of this Act otherwise expressly provide, the fact that a Deputy Registrar exercises or performs any of the functions, duties, or powers of a Registrar shall be conclusive evidence of his or her authority to do so.

(7) Without limiting anything in section 294 of this Act, the chief executive may enter into an arrangement or contract under that section with any suitable person or organisation for the purpose of providing services to enable any Registrar to maintain the Fishing Vessel Register or the Permit Register or any part of those registers.

100. Matters to be shown in Permit Register—(1) The Permit Register—

(a) Shall contain all of the following particulars in relation to every current permit issued under this Act:

(i) The name and postal address of the permit holder:

(ii) The period for which the permit is valid:

(iii) Whether the permit is for the time being in force or suspended:

(b) Shall contain such of the following particulars in relation to every current permit issued under this Act as may be applicable:

(i) The stocks the permit authorises to be taken:

(ii) The species and areas the permit authorises to be farmed:

(iii) The fishing methods authorised by the permit:

(c) Shall contain such other particulars as may be required by regulations made under section 297 of this Act.

(2) Subsection (1) of this section shall apply with any necessary modifications to such types or classes of permit, licence, approval, permission, or authority under this Act as the Governor-General may from time to time, by Order in Council, specify for the purposes of this section.

101. Matters to be shown in Fishing Vessel Register—
The Fishing Vessel Register shall contain the following particulars in relation to every vessel currently registered under this Act:
(a) The name of the vessel:
(b) The name and postal address of the owner of the vessel:
(c) The name and postal address of the operator and notified users (if any) of the vessel:
(d) The name and address of the authorised agent (if any) for the purpose of section 103 or section 105 of this Act:
(e) The vessel identification number:
(f) Whether the vessel is registered as a fishing vessel or a fish carrier:
(g) The period for which the vessel is registered:
(h) Such other particulars as may be required by regulations made under section 297 of this Act.

102. Access to registers and application of Privacy Act 1993—(1) The Permit Register and the Fishing Vessel Register are public registers for the purposes of the Privacy Act 1993 and shall be open for inspection by members of the public on payment of the prescribed fee (if any) during the hours stated by notice in the *Gazette* under section 98 (5) of this Act.

(2) Subject to subsection (3) of this section, the Registrar shall, upon request and payment of a reasonable charge fixed by the chief executive, supply to any person copies of all or any part of a register.

(3) If a Registrar is satisfied, on the application of any person, that the disclosure of that person’s address (as entered in the register) would be prejudicial to the personal safety of that person or his or her family, the Registrar may direct that such information shall not be available for inspection or otherwise disclosed.

Cf. 1983, No. 14, s. 56; 1986, No. 34, s. 13 (1)

*Fishing Vessel Registration*

103. Fishing vessels must be registered—(1) No person shall use a fishing vessel, or any tender of that fishing vessel, to take fish, aquatic life, or seaweed for sale, in New Zealand fisheries waters, unless—
(a) The vessel is registered in the Fishing Vessel Register as a fishing vessel; and
(b) That person is named in that register as an operator of, or a notified user in relation to, that vessel; and
(c) That person complies with all conditions of registration (if any) and any conditions of any consent of the chief executive given under subsection (4) of this section.

(2) Every application to register a fishing vessel shall—
(a) Be made by the operator of that fishing vessel; and
(b) Be made to the Registrar in the approved form and be accompanied by the prescribed fee (if any); and

(c) In the case of a vessel that requires the consent of the chief executive under subsection (4) of this section to be registered, specify the name and address of a person (other than an overseas person) to be the authorised agent (for the purpose of this Act and the purposes specified in subsection (5) of this section) of the person from whom the operator has, by virtue of a lease, a sublease, a charter, a subcharter, or otherwise, for the time being obtained possession and control of the vessel; and

(d) Be supported by such evidence as may be specified in the approved form.

(3) If the Registrar, having received an application made in accordance with this section, is satisfied that the vessel is eligible to be registered, he or she shall, as soon as practicable,—

(a) Register the fishing vessel for a specified period not exceeding 5 years; and

(b) Issue to the operator a certificate of registration in respect of that vessel.

(4) No vessel owned or operated by an overseas person, other than an overseas person exempt under section 56 of this Act or granted permission under section 57 of this Act, shall be registered under this section unless the chief executive has consented, either generally or particularly, to the registration of the vessel or vessels owned or operated by that person; and any consent under this subsection may be granted subject to such conditions as the chief executive thinks fit to impose.

(5) If the chief executive consents under subsection (4) of this section to the registration of any vessel, the following provisions apply while the vessel is in New Zealand fisheries waters:

(a) For the purposes of the Minimum Wage Act 1983, the Wages Protection Act 1983, and such provisions of any other enactments as are necessary to give full effect to those Acts, a person engaged or employed to do work on the vessel who holds a work permit under the Immigration Act 1987 shall be deemed to be an employee:

(b) For the purposes of the Minimum Wage Act 1983, the Wages Protection Act 1983, and such provisions of any other enactments as are necessary to give full effect to those Acts, the employer of a person
referred to in paragraph (a) of this subsection shall be deemed to be,—

(i) If the operator of the vessel is the employer or contractor of those persons, the operator:

(ii) In any other case, the person from whom the operator has, by virtue of a lease, a sublease, a charter, a subcharter, or otherwise, for the time being obtained possession and control of the vessel:

(c) For the purpose of determining whether the payment to any person engaged or employed to do work on any such vessel meets the requirements of the Minimum Wage Act 1983, the hours of work of, the payments received by, and the entitlements to payment of that person shall be assessed in relation to the whole of each period of such engagement or employment in New Zealand fisheries waters:

(d) Labour Inspectors within the meaning of the Employment Contracts Act 1991 may exercise their powers under that Act and under the enactments referred to in paragraph (a) of this subsection within New Zealand fisheries waters in respect of any person deemed to be an employee or employer by virtue of paragraph (a) or paragraph (b) of this subsection:

(e) If the operator of any vessel is not the employer by virtue of paragraph (b) of this subsection, then, notwithstanding any responsibility that may rest with the employer, the authorised agent referred to in subsection (2)(c) of this section shall be responsible under the enactments referred to in paragraph (a) of this subsection for providing any information and records to any Labour Inspector exercising powers under those Acts:

(f) The authorised agent referred to in subsection (2)(c) of this section may be served with any documents requiring service under any of the enactments referred to in paragraph (a) of this subsection, and such service shall be deemed to be service on the employer:

(g) The Employment Tribunal and the Employment Court may exercise jurisdiction in respect of any employment relationship that arises by virtue of paragraph (a) or paragraph (b) of this subsection as if it were a lawful employment relationship subject to New Zealand law.
(6) Without limiting anything in subsection (5) of this section, in considering whether to consent to the registration of a vessel owned or operated by an overseas person referred to in subsection (4) of this section, the chief executive shall have regard to—

(a) The previous offending history (if any) of the owner or operator of the vessel, or foreign charterparty, master, or crew, in relation to fishing activities, whether within the jurisdiction of New Zealand or another country or in international waters; and

(b) The nature of the charter or other agreement with the operator (if any); and

(c) Such other matters as the chief executive considers relevant.

(7) Every person commits an offence and is liable to the penalty set out in section 252(5) of this Act who contravenes subsection (1) of this section.

104. Provisions relating to notified users of fishing vessels—(1) Every application to become a notified user in relation to a fishing vessel shall—

(a) Be made jointly by the operator in whose name the fishing vessel is registered and the person who is to be the notified user in relation to the vessel; and

(b) Be made to the Registrar in the approved form and be accompanied by the prescribed fee (if any).

(2) Upon receipt of an application made in accordance with subsection (1) of this section, the Registrar shall, as soon as practicable,—

(a) Note the name of the notified user on the Fishing Vessel Register; and

(b) Issue to the operator and the notified user a certificate of notification in respect of the notified user.

(3) No person shall be a notified user in relation to—

(a) Any foreign-owned New Zealand fishing vessel; or

(b) Any vessel other than a vessel of a type or in a class specified by Order in Council under subsection (5) of this section.

(4) No overseas person shall be a notified user in relation to a fishing vessel.

(5) The Governor-General may from time to time, by Order in Council, specify types or classes of vessel for the purposes of subsection (3) (b) of this section.
105. Fish carriers must be registered—(1) No person shall use any vessel for the transportation of fish, aquatic life, or seaweed taken for sale within New Zealand fisheries waters unless—

(a) The vessel is registered in the Fishing Vessel Register as either a fish carrier or a fishing vessel, and—

(i) That person is named in that register as an operator of that vessel; and

(ii) That person complies with all conditions of registration (if any) and the conditions of any consent given by the chief executive under subsection (4) of this section; or

(b) The fish, aquatic life, or seaweed was lawfully landed in New Zealand and then lawfully purchased or acquired by a licensed fish receiver prior to transportation; or

(c) The fish, aquatic life, or seaweed was produced as part of a lawful fish farming operation; or

(d) The fish, aquatic life, or seaweed was lawfully taken and landed in New Zealand, and the person is transporting that fish, aquatic life, or seaweed as the agent of the commercial fisher who took the fish, aquatic life, or seaweed.

(2) Every application to register a fish carrier (other than a vessel that is registered as a fishing vessel under this Act) shall—

(a) Be made by the operator of that fish carrier; and

(b) Be made to the Registrar in the approved form and be accompanied by the prescribed fee (if any); and

(c) In the case of an operator who is an overseas person, specify the name and address of a person (other than an overseas person) to be the authorised agent of that person for the purpose of this Act; and

(d) Be supported by such evidence as may be specified in the form.

(3) If the Registrar, having received an application made in accordance with this section, is satisfied that the vessel is eligible to be registered, he or she shall, as soon as practicable,—

(a) Register the fish carrier for a specified period not exceeding 5 years; and

(b) Issue to the operator a certificate of registration in respect of that vessel.

(4) No vessel shall be registered under this section unless the chief executive has consented, either generally or particularly,
to registration of the vessel or vessels operated by that person; and any consent under this subsection may be granted subject to such conditions as the chief executive thinks fit to impose.

(5) In considering whether to consent to the registration of a vessel under subsection (4) of this section, the chief executive shall have regard to—

(a) The previous offending history (if any) of the owner or operator of the vessel, or foreign charterparty, master, or crew, in relation to fishing or transportation activities, whether within the jurisdiction of New Zealand or another country or in international waters; and

(b) The nature of the charter or other agreement with the operator (if any); and

(c) Such other matters as the chief executive considers relevant.

(6) Every person commits an offence and is liable to the penalty set out in section 252 (5) of this Act who contravenes subsection (1) of this section.

106. Further provisions relating to registration of vessels—(1) Nothing in section 103 or section 105 of this Act applies to any foreign fishing vessel licensed under Part V of this Act to engage in fishing within the exclusive economic zone.

(2) Nothing in section 108 or section 105 of this Act, or in any entry in the Fishing Vessel Register, confers, takes away, or in any way affects the title to, or any interest in, any vessel.

107. Cancellation of registration of fishing vessel—

(1) The chief executive may direct the Registrar of Fishing Vessels to cancel the registration of any vessel if satisfied that—

(a) Any information or evidence supplied with the application for registration was false or misleading in any material particular; or

(b) There is a breach of any condition imposed under section 108 (4) or section 105 (4) of this Act;— and, upon notification in writing to the operator by the Registrar,—

(c) The registration of the vessel shall immediately be cancelled; and

(d) The operator shall ensure that the certificate of registration and any duplicates are forthwith surrendered to the chief executive.
(2) If the Registrar of Fishing Vessels is satisfied that any information or evidence supplied with the application for registration was false or misleading in any material particular, he or she may cancel the registration of that vessel and, upon notification in writing to the operator by the Registrar,—

(a) The registration of the vessel shall immediately be cancelled; and

(b) The operator shall ensure that the certificate of registration and any duplicates are forthwith surrendered to the chief executive.

(3) A person may request the Registrar of Fishing Vessels to cancel the registration of any vessel registered in that person’s name and shall enclose the certificate of registration and any duplicates with the request; and, upon cancellation, the registration shall cease to have any effect for the purpose of this Act.

(4) If a vessel is lost or destroyed, the operator shall immediately notify the Registrar of that occurrence and the Registrar shall immediately cancel the registration of that vessel.

(5) If,—

(a) In the case of an operator who is an individual, the operator dies; or

(b) In the case of an operator who is an incorporated company, the operator is dissolved,—

the operator’s successors, representatives, or assigns shall, as soon as practicable, notify the Registrar of that occurrence and the Registrar shall immediately cancel the registration of that vessel.

(6) If—

(a) The vessel is forfeit to the Crown; or

(b) The chief executive has decided, on reasonable grounds and after receipt of advice from the Secretary of Labour, that a breach of any statutory provision referred to in section 103 (5) has occurred,—

the chief executive shall, as soon as practicable, notify the Registrar of that occurrence and the Registrar shall immediately cancel the registration of that vessel.

(7) For the purposes of subsection (6) of this section, reasonable grounds for a belief that a breach has occurred includes—

(a) Advice from the Secretary of Labour that a decision or order of the Employment Tribunal or Employment Court has been made to that effect:
(b) Advice from the Secretary of Labour to the effect that any information or records requested, whether from an authorised agent in accordance with section 103 (5) (d) of this Act or from the employer, have not been provided.

(8) If the ownership of any vessel registered under this Act changes to such an extent that the consent of the chief executive under section 103 or section 105 of this Act would be required to register that vessel, the operator shall immediately notify the Registrar of that occurrence and the Registrar shall immediately cancel the registration of the vessel.

(9) Every person commits an offence and is liable to the penalty set out in section 252 (5) of this Act who contravenes any requirement to notify the Registrar of any matter under subsection (4) or subsection (5) or subsection (8) of this section.

Cf. 1983, No. 14, s. 59; 1986, No. 34, s. 13 (1)

108. Application of this Part to tenders—No tender is required to be registered under this Act if it is marked in accordance with regulations made for the purpose under section 297 of this Act.

Cf. 1983, No. 14, s. 58; 1986, No. 34, s. 13 (1)

109. Fish on registered vessel deemed to have been caught in New Zealand—(1) For the purpose of this Act, all fish, aquatic life, or seaweed on board, landed from, or transferred to or from, a vessel registered under this Act or any New Zealand ship, whether found on board, landed, or transferred within New Zealand, New Zealand fisheries waters, or elsewhere, shall be deemed to have been taken in New Zealand fisheries waters and the provisions of this Act shall apply accordingly.

(2) Subsection (1) of this section does not apply in respect of fish, aquatic life, or seaweed lawfully taken outside New Zealand fisheries waters if—

(a) The fish, aquatic life, or seaweed was taken by a vessel with the prior approval of the chief executive and the taking, storage, transportation, recording, reporting, landing, and disposal of the fish, aquatic life, or seaweed was in accordance with any conditions of the chief executive’s approval; or

(b) The fish, aquatic life, or seaweed—

(i) Will be, or has been, landed in any country other than New Zealand before being brought into New Zealand fisheries waters; or
(ii) Will never be brought into New Zealand.

(3) Applications for approval by the chief executive under subsection (2)(a) of this section shall be made in the approved form and be accompanied by the prescribed fee (if any).

Cf. 1983, No. 14, s. 100; 1986, No. 34, s. 27 (1)

110. Fish taken in New Zealand fisheries waters must be landed in New Zealand—(1) No person shall land, at any place outside New Zealand, any fish, aquatic life, or seaweed taken in New Zealand fisheries waters unless the landing outside New Zealand has the prior approval of the chief executive and is in accordance with any conditions imposed by the chief executive.

(2) For the purposes of subsection (1) of this section, fish, aquatic life, or seaweed shall be deemed to have been landed at a place outside New Zealand if—

(a) It is transported beyond the outer limits of the exclusive economic zone by the vessel that took it; or

(b) It is taken (otherwise than from a vessel) and transferred to a vessel and then transported (whether in that vessel or any other vessel) beyond the outer limits of the exclusive economic zone without having been lawfully purchased or acquired by a licensed fish receiver in New Zealand before transportation; or

(c) It is transhipped, from the vessel that took the fish, aquatic life, or seaweed, to another vessel.

(3) The conditions that may be imposed on any approval granted under subsection (1) of this section include conditions relating to one or more of the following:

(a) The vessel that will take the fish, aquatic life, or seaweed:

(b) Any vessel which will receive the fish, aquatic life, or seaweed:

(c) The manner and conditions under which the storage, transportation, transhipment, recording, reporting, landing, and disposal of the fish, aquatic life, or seaweed will take place.

(4) Applications for the chief executive’s approval under subsection (1) of this section shall be made in the approved form and be accompanied by the prescribed fee (if any).

(5) Subsection (1) of this section does not apply if the fish, aquatic life, or seaweed was lawfully taken by a person under a foreign fishing licence issued under section 83 of this Act.
(6) Every person commits an offence and is liable to the penalty set out in section 252(3) of this Act who contravenes subsection (1) of this section.

Cf. 1983, No. 14, s. 101; 1986, No. 34, s. 27(1); 1990, No. 29, s. 47

111. Fish on registered vessel deemed to have been taken for purpose of sale—(1) For the purpose of this Act, all fish, aquatic life, or seaweed on board or unloaded from any fishing vessel or fish carrier registered under this Act shall be deemed to have been taken or possessed for the purpose of sale, unless the taking or possession of the fish, aquatic life, or seaweed was in accordance with a general or particular approval of the chief executive and that taking or possession occurred after the approval was given.

(2) Subsection (1) of this section does not apply if the fish, aquatic life, or seaweed were lawfully taken under regulations made under section 186 of this Act.

Cf. 1983, No. 14, s. 102; 1986, No. 34, s. 27(1)

112. Taking of fish, etc., by other than New Zealand ships—(1) No person shall use any vessel that is not a New Zealand ship to take fish, aquatic life, or seaweed in New Zealand fisheries waters (other than the exclusive economic zone), except—

(a) For fisheries research, experimental, sports, or recreational fishing purposes; and

(b) With the prior approval of the chief executive and in accordance with any conditions the chief executive may impose.

(2) If any vessel has any tender carried by, or attached to, or operated in conjunction with, the vessel, then, whether or not the vessel is within New Zealand fisheries waters (other than the exclusive economic zone), the vessel shall for the purposes of this section be deemed to be used in fishing at the time and place the tender is being so used, as well as at that time and place.

(3) Applications for the consent of the chief executive under subsection (1) of this section shall be made to the chief executive and shall be in the approved form and be accompanied by the prescribed fee (if any).
(4) If any vessel is used in fishing in contravention of this section, every person on the vessel commits an offence and is liable for the penalty set out in section 252 (3) of this Act.

Cf. 1983, No. 14, s. 60; 1986, No. 34, s. 13 (1); 1990, No. 29, s. 30

118. Possession of fish, etc., by vessels that are not New Zealand ships—(1) No person shall possess any fish, aquatic life, or seaweed in New Zealand or New Zealand fisheries waters, on any vessel that is not a New Zealand ship, unless,—

(a) In the case of fish, aquatic life, or seaweed taken outside New Zealand fisheries waters,—

(i) The fish, aquatic life, or seaweed was landed in any country other than New Zealand before being brought into New Zealand fisheries waters; or

(ii) The person has, before the entry into New Zealand fisheries waters, obtained the approval of the chief executive to possess that fish, aquatic life or seaweed, and acted in accordance with such conditions as the chief executive may think fit to impose; or

(b) The fish, aquatic life, or seaweed were lawfully taken by that vessel within New Zealand fisheries waters; or

(c) The fish, aquatic life, or seaweed were lawfully received by that vessel within New Zealand or New Zealand fisheries waters.

(2) The chief executive may impose any conditions on an approval granted under subsection (1) of this section, including conditions relating to the taking, storage, transportation, recording, reporting, landing, and disposal of the fish, aquatic life, or seaweed.

(3) Any fish, aquatic life, or seaweed landed in New Zealand with the chief executive’s approval under subsection (1) of this section and landed after that approval was given, may, in accordance with the conditions of that approval, 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 in accordance with that approval.

(4) Every person commits an offence and is liable to the penalty set out in section 252 (3) of this Act who contravenes subsection (1) of this section.

Cf. 1983, No. 14, s. 61; 1986, No. 34, s. 1 (1)
PART VII
Dispute Resolution

114. Application of this Part—This Part of this Act—
(a) Applies to disputes about the effects of fishing (including fish farming) on the fishing activities of any person who has a current fishing interest provided for or authorised by or under this Act; but
(b) Does not apply to disputes about ensuring sustainability or about the effects of any fishing authorised under Part IX of this Act.

Statement of Procedure

115. Minister to issue statement of procedure—
(1) Within 6 months after the commencement of this section, the Minister shall publicly notify the availability, at such places as he or she specifies in the notice, of a draft statement of procedure for the resolution of disputes to which this Part of this Act applies.

(2) Any person may, within 30 working days after the public notification of the availability of the draft statement of procedure under subsection (1) of this section, make a submission to the Minister about the draft statement of procedure.

(3) The Minister shall, after having due regard to the submissions (if any) received on the draft statement of procedure, and within 30 working days of the close of the period referred to in subsection (2) of this section, approve a statement of procedure for the resolution of disputes to which this Part of this Act applies.

(4) The Minister shall publicly notify the availability, at such places as he or she specifies in the notice, of the approved statement of procedure.

(5) The Minister shall from time to time, at such intervals as he or she considers appropriate, review the approved statement of procedure and may, at any time,—
(a) Amend the statement; or
(b) Revoke the statement and substitute a new statement;—
and subsections (2) to (4) of this section, with any necessary modifications, shall apply to every such amendment or substituted statement.

116. Content of statement of procedure—The statement of procedure under section 115 of this Act shall provide for—
(a) A process by which any interested party may identify a dispute to which this Part of this Act applies; and
(b) A process and guidelines to determine whether a dispute relates to a matter that significantly affects the fishing activities of one or more persons; and
(c) Input and participation by tangata whenua having a non-commercial interest in the fisheries resources concerned, having particular regard to Kaitiakitanga; and
(d) Opportunities for parties to negotiate, take collective action (if appropriate), and resolve disputes; and
(e) The outcome of any resolution processes to be forwarded to the Minister.

Fisheries Dispute Commissioners

117. Minister may appoint Fisheries Dispute Commissioner to resolve dispute—(1) The Minister may, on the Minister's own motion or at the request of any party to the dispute, appoint a Fisheries Dispute Commissioner to inquire into a dispute, if—
(a) The parties to the dispute are unable to resolve the dispute in accordance with the approved statement of procedure under section 115 of this Act; and
(b) The Minister is satisfied that—
(i) The dispute is a dispute to which this Part of this Act applies; and
(ii) There is no reasonable prospect of a negotiated solution being reached; and
(iii) The dispute relates to a matter that has a significant adverse effect on the fishing activities of one or more persons.

(2) Any party making a request to the Minister under this section shall, as soon as practicable after making the request, notify every other party to the dispute that such a request has been made.

(3) Subject to subsection (4) of this section, the Minister shall, within 40 working days after any party to a dispute requests the appointment of a Commissioner,—
(a) Decide whether or not to appoint a Commissioner; and
(b) Notify any party of either—
(i) The name of the Commissioner; or
(ii) The reasons for deciding not to appoint a Commissioner.

(4) The Minister may, at any time before the expiration of the 40-day period referred to in subsection (3) of this section,
from time to time extend that period by such further period not exceeding 80 working days as he or she considers necessary; and, in such case, the Minister shall, as soon as practicable, notify the parties of the extension and of the reasons for that extension.

(5) When appointing a Commissioner, the Minister shall specify to the Commissioner the nature of the dispute that is subject to the inquiry.

118. Inquiries—(1) For each inquiry, a Commissioner shall determine the procedure that he or she considers appropriate and fair in the circumstances.

(2) The Commissioner shall seek and consider—
(a) Submissions from parties to the inquiry; and
(b) Submissions from such other persons or organisations as the Commissioner considers appropriate.

(3) The Commissioner may receive in evidence any statement, document, information, or matter, that may, in the Commissioner’s opinion, assist the Commissioner to deal effectively with the dispute before him or her, whether or not the same would otherwise be admissible in a court of law.

(4) The Commissioner may—
(a) Examine, on oath or otherwise, one or more of the parties, or any person whose evidence has been received by the Commissioner under subsection (3) of this section:

(b) Require any person to verify by statutory declaration any statement made by that person with respect to the dispute.

(5) If the Commissioner is not satisfied that the dispute is one to which this Part of this Act applies, he or she shall refer the dispute back to the Minister and give reasons for doing so.

(6) Without limiting any other provision in this Part of this Act, every Commissioner shall have, and may exercise, such powers as are reasonably necessary or expedient to enable the Commissioner to carry out his or her functions.

(7) The parties to the dispute are the parties to the inquiry.

119. Secretarial services—(1) The chief executive shall designate an employee of the Ministry to be the secretary to a Commissioner, and shall also provide from the Ministry such secretarial, recording, accounting, and clerical services as may be necessary to enable a Commissioner to discharge his or her functions.
(2) All expenses incurred in respect of the functions of a Commissioner shall be paid out of money appropriated for that purpose by Parliament.

120. Fees and allowances of Commissioner—A Commissioner shall be paid such fees and other allowances as the Minister may from time to time approve, which fees and allowances shall be reasonable in the circumstances and be paid out of money appropriated for that purpose by Parliament.

Cf. 1993, No. 95, s. 63 (3)

121. Protection of sensitive information—(1) A Commissioner may, on the Commissioner's own motion or on the application of a party to the inquiry, make an order prohibiting or restricting the publication or communication of any information supplied to the Commissioner, or obtained by the Commissioner, in the course of any inquiry, whether or not the information may be material to the inquiry.

(2) A Commissioner shall make an order described in subsection (1) of this section only if satisfied that the order is necessary—

(a) To avoid serious offence to tikanga Maori or to avoid the disclosure of the location of wahi tapu; or
(b) To avoid the disclosure of a trade secret; or
(c) To avoid unreasonable prejudice to the position of the person who supplied, or is the subject of, the information, and is satisfied that, in the circumstances of the dispute, the importance of protecting the interests referred to in this section outweighs the public interest in making the information available.

(3) Every person commits an offence and is liable to the penalty set out in section 252 (6) of this Act who contravenes or fails to comply with an order made under subsection (1) of this section.

Cf. 1991, No. 69, s. 42; 1993, No. 95, s. 66

122. Commissioner to report to Minister within 60 working days—(1) Subject to subsection (2) of this section, a Commissioner shall, within 60 working days of appointment, give the Minister a report on the dispute including recommendations for resolving the dispute (which may include taking no action) together with the reasons for such recommendations.
(2) A Commissioner shall not recommend any option that is likely to have a significant adverse effect on the fishing activities of any person who has any current fishing interests provided for or authorised by or under this Act.

(3) The Minister may from time to time extend by such period as he or she considers necessary the period referred to in subsection (1) of this section; and, if the Minister does extend that period, the Minister shall, as soon as practicable, notify the parties to the inquiry of the extension and of the reasons for that extension.

123. Minister to determine dispute—(1) If there is a dispute to which this Part of this Act applies, the Minister shall,—

(a) In the case of a dispute referred to a Commissioner, determine the dispute as soon as practicable after receiving and considering the Commissioner's report under section 122 of this Act;

(b) In any other case, if the Minister is satisfied that the dispute could not be resolved in accordance with the approved statement of procedure under section 115 of this Act, determine the dispute as soon as practicable after being advised of that outcome.

(2) Without limiting the Minister's power to make a determination under subsection (1) of this section, the Minister may determine in any case that no action be taken.

(3) The Minister shall not make a determination under subsection (1) of this section that is likely to have a significant adverse effect on the fishing activities of any person who has any current fishing interests provided for or authorised by or under this Act.

(4) The Minister shall give reasons for every determination made under subsection (1) of this section.

(5) The Minister shall—

(a) Give each of the parties to the dispute notice in writing of the determination; and

(b) Give notice of the determination in at least one newspaper circulating in the area concerned.

(6) Without limiting the generality of section 297 of this Act, regulations under that section may make such provision as may be necessary or expedient for the purpose of giving effect to any determination made under this section.
PART VIII

REGISTRATION OF TRANSFERS, MORTGAGES, CAVEATS, ETC.

Administration

124. Registers—(1) The chief executive shall keep, in respect of each quota management stock,—

(a) A register to be called the Quota Register;

(b) A register to be called the Annual Catch Entitlement Register; and there shall be separate Annual Catch Entitlement Registers for each fishing year.

(2) The registers may be kept in the form of information stored by means of a computer.

(3) The registers may be kept in conjunction with any other register required to be kept under this Act.

(4) The Crown owns all information contained in any Quota Register or Annual Catch Entitlement Register that is required by this Act to be contained in that register.

(5) Without limiting anything in section 297 of this Act, regulations under that section may provide for the operation of the registers under this section, including the electronic transmission of documents and information for the purposes of notifying any matter and inspection of the register.

125. Appointment of Registrars—(1) The chief executive may appoint any suitable person to be the Registrar or a Deputy Registrar of anyone or more of the registers referred to in section 124 of this Act.

(2) Any appointment under subsection (1) of this section may, but is not required to, be made under the State Sector Act 1988.

(3) The chief executive may at any time, by notice in writing, revoke any appointment made under this section if there is any disability, bankruptcy, neglect of duty, or misconduct of the appointee proved to the satisfaction of the chief executive, and the revocation shall take effect on a date specified in the notice.

(4) Each Registrar has such functions, duties, and powers as are conferred or imposed on him or her by this Act or regulations made under section 297 of this Act, but shall act under any directions of the chief executive.

(5) Subject to the directions of a Registrar or the chief executive, a Deputy Registrar has all the functions and duties and may exercise all the powers of a Registrar under this Act and, unless this Act or regulations made under section 297 of this Act otherwise expressly provide, the fact that a Deputy Registrar exercises or performs any of the functions, duties, or
powers of a Registrar is conclusive evidence of his or her authority to do so.

(6) Without limiting anything in section 294 of this Act, the chief executive may enter into an arrangement or contract under that section with any suitable person or organisation for the purpose of providing services to enable any Registrar to maintain the Quota Register or the Annual Catch Entitlement Register or any part of those registers.

126. Registrar to have use of seal—(1) Each Registrar shall have and use a seal of office bearing the impression of the New Zealand Coat of Arms and having inscribed in the margin the words “Registrar of Quota, New Zealand” or “Registrar of Annual Catch Entitlement, New Zealand”, as the case may be.

(2) Every document bearing the imprint of the Registrar’s seal of office, and purporting to be signed or issued by the Registrar or a Deputy Registrar shall, in the absence of proof to the contrary, be deemed to be signed or issued by or under the direction of the Registrar.

127. Matters to be shown in Quota Register—(1) Each Quota Register shall contain the following particulars (if applicable) for each stock to which that Quota Register relates:

(a) The total allowable catch:
(b) The total allowable commercial catch:
(c) The individual transferable quota allocated to each person:
(d) Every registered transfer of individual transferable quota (whether by operation of law or otherwise) and every registered transfer of provisional individual transferable quota by operation of law, and—
   (i) The names of the transferor and the transferee; and
   (ii) The number of quota shares transferred; and
   (iii) The time and date of the registration of the transfer:
(e) The provisional individual transferable quota allocated to each person:
(f) The provisional catch history allocated to each person:
(g) Every registered transfer of provisional catch history (whether by operation of law or otherwise), and—
   (i) The names of the transferor and the transferee; and
   (ii) The amount in kilogrammes of provisional catch history transferred; and
(iii) The time and date of the registration of the transfer:

(h) Every increase and every decrease of the number of quota shares held by any person that results from the transfer by the Crown of any quota by virtue of the operation of section 22 or section 23 or section 52 of this Act:

(i) The aggregate holding of each kind of quota and provisional catch history held by each person:

(j) Every caveat registered in respect of any quota shares under section 159 of this Act, and—

(i) The names of the caveator and the quota owner over whose quota shares the caveat is registered; and

(ii) The time and date of the registration of the caveat; and

(iii) The number of quota shares over which the caveat is registered; and

(iv) The type of caveat being imposed; and

(v) The date (if any) on which the caveat will lapse; and

(vi) The date on which the caveat is withdrawn:

(k) Every mortgage registered under section 159 of this Act, and—

(i) The names of the mortgagor and the mortgagee; and

(ii) The time and date of the registration of the mortgage; and

(iii) The number of quota shares secured by the mortgage; and

(iv) Every variation of the terms of the mortgage; and

(v) The time and date of discharge of the mortgage:

(l) Every memorial registered under this Act, and the reason for the memorial:

(m) Every forfeiture of quota or provisional catch history under this Act, including—

(i) The time and date of the registration of the resulting transfer to the Crown of the quota or provisional catch history; and

(ii) The number of quota shares or kilogrammes of provisional catch history transferred to the Crown:

(n) Such other matters as may be required by regulations made under section 297 of this Act.
(2) Each Quota Register shall contain the last known postal address of the quota owner and persons having a registered interest in the quota.

(3) Each Quota Register shall contain corrections made under section 165 of this Act and the time and date of the corrections.

128. Matters to be shown in Annual Catch Entitlement Register—(1) Each Annual Catch Entitlement Register shall, in respect of the year to which it applies, contain the following particulars (if applicable) in respect of the stock to which it relates:

(a) Every annual catch entitlement held by any person at any time:
(b) The amount of annual catch entitlement that is generated or created, and held by any person:
(c) Every registered transfer of annual catch entitlement (whether by operation of law or otherwise), and—
   (i) The names of the transferor and the transferee; and
   (ii) The amount (in kilogrammes) of annual catch entitlement transferred; and
   (iii) The time and date of registration:
(d) Every transfer of annual catch entitlement received for registration under section 133 of this Act that is to be effective on and from the first day of the next fishing year, and—
   (i) The names of the transferor and the transferee; and
   (ii) The amount (in kilogrammes) of annual catch entitlement to be transferred; and
   (iii) The time and date of the Registrar’s receipt of the transfer document:
(e) Every caveat registered in respect of the annual catch entitlement under section 159 of this Act, and—
   (i) The names of the caveator and the annual catch entitlement owner over whose annual catch entitlement the caveat is registered; and
   (ii) The time and date of the registration of the caveat; and
   (iii) The amount (in kilogrammes) of annual catch entitlement over which the caveat is registered; and
   (iv) The type of caveat being imposed; and
   (v) The date (if any) on which the caveat will lapse; and
(vi) The date on which the caveat is withdrawn:

(f) Every forfeiture of annual catch entitlement under this Act, including—

(i) The time and date of the registration of the resulting transfer to the Crown of the annual catch entitlement; and

(ii) The amount (in kilogrammes) of annual catch entitlement transferred to the Crown:

(g) All reported catch of the stock taken in the year to which the register relates and notified by the chief executive under section 80 (11) of this Act:

(h) Such other matters as may be required by regulations made under section 297 of this Act.

(2) Each Annual Catch Entitlement Register shall contain the last known postal address of the annual catch entitlement owner and persons having a registered interest in the annual catch entitlement.

(3) Each Annual Catch Entitlement Register shall contain corrections made under section 165 of this Act and the time and date of the corrections.

129. Registers to be open for inspection—(1) The registers kept under this Part of this Act are public registers for the purposes of the Privacy Act 1993, and, subject to section 130 of this Act, shall be open for inspection on payment of the prescribed fee (if any) during ordinary office hours; and the Registrar shall, on request and on payment of a reasonable charge, supply to any person copies of all or part of a register.

(2) The Crown is not liable in damages for any loss or damage resulting from any inaccuracy in any search of a register or a correct search of an inaccurate entry in a register, including any search by, or on behalf of, the Registrar.

(3) If a Registrar is satisfied, on the application of any person, that the disclosure of that person’s address (as entered in any register) would be prejudicial to the personal safety of that person or his or her family, the Registrar may direct that such information shall not be available for inspection or otherwise disclosed.

Cf. 1989, No. 148, s. 28

130. Registrar may close register—(1) For the purpose of this Act, a Registrar may close a register established under this Part of this Act for a period not exceeding 48 hours.

(2) Any register may be closed for a period exceeding 48 hours if the chief executive so directs after consulting such
persons or organisations as the chief executive considers are representative of the classes of owners of the quota or annual catch entitlements affected by the closure.

(3) Before closing any register under subsection (1) or subsection (2) of this section, the Registrar shall, if practicable, publicly notify the proposed closure.

(4) While any register is closed during a period referred to in subsection (1) or subsection (2) of this section, the Registrar may receive documents but is not obliged to register any documents except those received for registration before the close of the register.

151. Liability of officers—(1) If any civil proceedings are brought against a Registrar or Deputy Registrar for anything the Registrar or Deputy Registrar has done or failed to do in the course of the exercise or intended exercise of the functions of a Registrar or Deputy Registrar under this Part of this Act, the Registrar or Deputy Registrar is entitled to be indemnified by the Crown in respect of all expenses incurred by him or her in connection with those proceedings, and in respect of any amount awarded against him or her in those proceedings, unless it is shown that the person, in acting or failing to act, acted in bad faith.

(2) Subsection (1) of this section does not apply to any civil action brought by the chief executive against any person for breach of any contract for services relating to the exercise of a Registrar’s functions under this Act.

Cf. 1989, No. 148, s. 72

Transfer of Quota or Annual Catch Entitlement

152. Transfers of individual transferable quota—(1) No transfer of individual transferable quota for any stock shall be registered under this Act unless, at the time the transfer is to be registered,—

(a) The transferor owns the individual transferable quota shares to be transferred; and

(b) The quota shares to be transferred are not subject to any caveat or mortgage registered under this Act.

(2) A part of an individual transferable quota share is not transferable.

(3) A Registrar shall not accept for registration a transfer that is expressed to take effect on a date after the date on which it is presented for registration.
183. Transfers of annual catch entitlement—(1) No transfer of annual catch entitlement for any stock shall be registered under this Act unless, at the time the transfer is to be registered,—

(a) The transferor owns the annual catch entitlement to be transferred; and

(b) The amount of annual catch entitlement to be transferred is not subject to any caveat registered under this Act.

(2) Subsection (4) of this section does not prevent a Registrar receiving in any fishing year a transfer of an annual catch entitlement that relates to the next fishing year and is intended to take effect on the commencement of the next fishing year, but no such forward transfer shall be registered until the commencement of that next fishing year.

(3) A part of a kilogramme of annual catch entitlement is not transferable.

(4) A Registrar shall not accept for registration a transfer that is expressed to take effect on a date after the date on which it is presented for registration.

184. Annual catch entitlement transferable during extended trading period—A transfer of annual catch entitlement may be registered at any time before the close of the 15th day after the end of the fishing year in which it is generated or created and shall be effective for all the purposes of this Act for that fishing year.

185. Other dealings in quota or annual catch entitlement—(1) No person may deal with quota, annual catch entitlement, or provisional catch history for the purpose of this Act otherwise than in accordance with this Act, and any dealing that is not in accordance with this Act has no effect for the purpose of this Act.

(2) Subsection (1) of this section does not provide a defence to any proceedings for an offence against this Act nor of itself disproves any association between 2 or more persons.

Mortgages of Quota

186. Mortgages of quota—(1) Except as otherwise expressly provided by this Act, any quota shares may be subject to a mortgage.

(2) A mortgage of quota shares prevents the registration of any transfer of quota shares owned by the mortgagor if the transfer would reduce the number of quota shares in any stock.
owned by the mortgagor to a number less than the number of quota shares for that stock subject to the mortgage.

(3) Every mortgage of quota shares shall state the number of quota shares to be charged at the time of registration of the mortgage.

(4) Except as otherwise provided by this Act, the Registrar shall register under section 159 of this Act a mortgage of quota shares in any stock only if—

(a) The mortgagor owns a number of quota shares in that stock equal to or greater than the number of quota shares in that stock over which the mortgage is to be registered; and

(b) The number of quota shares to be mortgaged is not subject to any caveat or other mortgage registered under this Act.

(5) A mortgage under this Act shall have effect as a security, but shall not operate as a transfer of the quota shares charged.

137. **Mortgages of annual catch entitlement prohibited**—No annual catch entitlement shall be subject to a mortgage and no mortgage over any annual catch entitlement has any effect for the purpose of this Act.

138. **Variation of terms of mortgage by endorsement**—The number of quota shares in any stock secured by a mortgage under this Act may be increased or reduced by a memorandum of variation in the approved form.

Cf. 1989, No. 148, s. 75

139. **Rights of mortgagee**—(1) Without limiting the covenants, conditions, and powers that may, by agreement between the mortgagor and the mortgagee, be contained in a mortgage of quota shares, a mortgage of quota shares shall confer on the mortgagee, in the event of default by the mortgagor in the performance or observance of any covenant contained or implied in the mortgage, the power to sell in whole or in part the number of quota shares subject to the mortgage.

(2) A power of sale under this section is subject to the following provisions:

(a) A mortgagee's power of sale over any provisional individual transferable quota shares is not exercisable until the provisional individual transferable quota shares become individual transferable quota shares:
(b) A mortgagee's power of sale over any quota shares is not exercisable if the quota is subject to a Crown caveat under section 58 or section 61 or section 214 of this Act.

Cf. 1989, No. 148, s. 78

140. Restriction on exercise of power of sale—(1) No power conferred by any mortgage to sell any quota shares shall, subject to section 141 of this Act, become or be deemed to have become exercisable because of—

(a) Any default in the payment of any money secured by any mortgage of any quota shares; or

(b) Any default in the performance or observance of any other covenant expressed or implied in the mortgage,—

unless and until the mortgagee serves on the mortgagor a notice that complies with the requirements of this section, and (in any case if the default complained of is capable of remedy) the mortgagor fails to remedy the default before the date stated in the notice.

(2) Every notice under subsection (1) of this section shall inform the mortgagor of—

(a) The nature and extent of the default complained of; and

(b) The date by which the mortgagor is required to remedy the default (if it is capable of remedy); and

(c) The rights that the mortgagee will be entitled to exercise if the default is not remedied within the stated period.

(3) Any notice given under subsection (1) of this section that does not comply with subsection (2) of this section shall be void unless the failure does not materially prejudice the interests of the mortgagor.

(4) The date to be stated in the notice shall be not earlier than 1 month from the service of the notice.

(5) In addition to giving the notice under subsection (1) of this section, if any of the quota shares are subject to a caveat registered under this Act and the mortgagee has actual notice of the name and address of the caveator, the mortgagee shall forthwith, after serving notice on the quota owner, serve a copy of the notice on the caveator; but failure to comply with this subsection does not in itself prevent any of the powers referred to in subsection (1) of this section from becoming or being deemed to have become exercisable and does not prevent any money secured by a mortgage from becoming or being deemed to have become payable.
(6) For the purposes of subsection (1) of this section, the entering into of a contract to sell or the granting of an option to purchase quota shares shall not be regarded as the exercise of a power of sale if the contract or option is conditional (either solely or together with other conditions) on the failure by the owner to remedy a default specified in a notice under this section served either before or after the contract is entered into or the option is granted, as the case may be.

(7) A mortgagee who exercises a power of sale of quota shares owes a duty to the mortgagor to take reasonable care to obtain the best price reasonably obtainable as at the time of sale.

(8) Notwithstanding any enactment or rule of law or anything contained in any deed or instrument by or under which the power of sale is conferred,—

(a) It is not a defence to proceedings against a mortgagee for a breach of the duty imposed by subsection (7) of this section that the mortgagee was acting as the mortgagor’s agent or under a power of attorney from the mortgagor:

(b) A mortgagee is not entitled to compensation or indemnity from the mortgaged quota shares or the mortgagor in respect of any liability incurred by the mortgagee arising from a breach of the duty imposed by subsection (7) of this section.

Cf. 1952, No. 51, ss. 92 (1AA), 103A, 103B; 1989, No. 148, s. 79

141. Court may permit mortgagee to exercise power before period expired—(1) Any court may, on the application of a mortgagee made ex parte or otherwise as the Court thinks fit, grant leave to the mortgagee to exercise any of the powers of the owner of the quota shares concerned at any time before the date specified in the notice given under section 140 of this Act.

(2) Leave may be granted under subsection (1) of this section either unconditionally or upon and subject to such conditions as the Court thinks fit.

Cf. 1952, No. 51, ss. 92 (1AA), 103A, 103B; 1989, No. 148, s. 81

142. Restriction on action to recover deficiency—(1) If at any time the mortgagee exercises the power of sale and the amount realised is less than the amount owing under the covenant to repay expressed or implied in the mortgage, no
action to recover the amount of the deficiency, or any part of
the deficiency, shall be commenced by the mortgagee against
any person (other than the mortgagor of the quota at the time
of the exercise of the power of sale) unless the mortgagee, at
least 1 month before the exercise of the power of sale, serves
on that person notice of the mortgagee's intention to exercise
the power of sale and to commence action against that person
to recover the amount of the deficiency in the event of the
amount realised being less than the amount owing under the
covenant to repay.

(2) A court may, on the application of a mortgagee made ex
parte or otherwise as the Court thinks fit, waive wholly or in
part the 1 month period referred to in subsection (1) of this
section.

Cf. 1989, No. 148, s. 82

143. No contracting out—Sections 139 to 142 of this Act
shall have effect notwithstanding any provision to the contrary
in any mortgage or other agreement.

Cf. 1989, No. 148, s. 83

144. Application of purchase money—The purchase
money from the sale by the mortgagee of any quota shares
shall be applied as follows:

(a) First, in payment of the expenses occasioned by the sale:

(b) Secondly, in payment of the money then due or owing to
the mortgagee:

(c) Thirdly, to the Crown in payment of any levies under Part
XIV of this Act that are the subject of a caveat
registered over the quota:

(d) Fourthly, the surplus (if any) shall be paid to the
mortgagor.

Cf. 1989, No. 148, s. 84

145. Transfer by mortgagee—(1) Notwithstanding section
148 of this Act, upon the registration of any transfer executed
by a mortgagee for the purpose of the sale of any quota shares
by the mortgagee, ownership of the quota shares passes to and
vests in the purchaser, freed and discharged from all liability on
account of the mortgage.

(2) Upon registration of such a transfer, every caveat over the
quota shares being transferred lapses in respect of those shares,
and the interests of the mortgagor expressed in that transfer to
be transferred pass to and vest in the purchaser, freed and
discharged of the interest claimed by the caveator.
(3) The Registrar shall make on the register any entry necessary to show that the mortgage has been discharged and that all caveats over the quota have lapsed, in respect of the shares so transferred.

(4) If a mortgagee gives a receipt in writing in respect of any money arising under an exercise of the power of sale conferred by this Part of this Act, or any money or securities comprised in the mortgagee's mortgage or arising under the mortgage, the receipt is a sufficient discharge for that money or those securities, and a person paying or transferring the money or securities to the mortgagee shall not be concerned to inquire whether any money remains due under the mortgage or to see to the application of the money or securities so paid or transferred.

Cf. 1952, No. 51, s. 98 (1); 1989, No. 148, s. 85

146. Discharge of mortgage—(1) If the sum secured by a mortgage has been paid off either wholly or in part, or if for any other reason the mortgagee has become bound to discharge the mortgage, the mortgagee shall endorse on the mortgage a memorandum of discharge in the approved form.

(2) A memorandum of discharge, when registered under this Act, discharges the quota shares from the mortgage to the extent specified in that memorandum.

Cf. 1989, No. 148, s. 86

Caveats

147. Types of caveats—A caveat may, subject to section 149 (2) of this Act, be registered over any quota shares or any annual catch entitlement—

(a) At the request of any person with the consent of the owner of those quota shares or that annual catch entitlement:

(b) At the direction of the chief executive under section 58 or section 61 or section 214 or section 273 of this Act:

(c) At the direction or order of a court in any civil proceedings.

148. Effect of caveat—(1) While a caveat remains in force, a Registrar shall not make any entry on a register having the effect of mortgaging or transferring the quota shares, or transferring the annual catch entitlement, to which the caveat relates.

(2) Subsection (1) of this section does not prevent a Registrar from making any entry if the caveator consents to the making
of that entry, and the consent is in the approved form and relates to—

(a) A transfer of the caveated quota shares or annual catch entitlement, and constitutes a withdrawal of the caveat in respect of the quota shares or annual catch entitlement transferred; or

(b) A mortgage of the caveated quota shares.

Cf. 1989, No. 148, s. 91

149. Caveat against transfer of quota or annual catch entitlement—(1) If—

(a) The owner of the quota shares or annual catch entitlement concerned and any other person jointly lodge a caveat in the approved form with a Registrar; or

(b) A court directs or orders that a caveat be lodged; or

(c) The chief executive directs that a caveat be lodged under section 58 or section 61 or section 214 or section 273 of this Act,—

a Registrar shall register under section 159 of this Act that caveat against the quota or annual catch entitlement if the caveat meets all the requirements of this Act for registration.

(2) Except as otherwise provided by this Act, a Registrar shall register under section 159 of this Act a caveat over quota shares or annual catch entitlement, as the case may be, only if—

(a) The person whose quota shares or annual catch entitlement is being caveated owns a number of quota shares or an amount of annual catch entitlement, as the case may be, in the relevant stock equal to or greater than the number of quota shares or amount of annual catch entitlement over which the caveat is to be registered; and

(b) In the case of a caveat lodged under subsection (1) (a) of this section, the quota shares or annual catch entitlement to be the subject of the caveat are not already subject to any other caveat registered under this Act.

Cf. 1989, No. 148, s. 89

150. Caveat may be withdrawn—(1) Any caveat may, either as to the whole or any part of the quota or annual catch entitlement protected by the caveat, be withdrawn by the person whose interests are protected by the caveat or by the person’s attorney or agent under a written authority.
(2) Every withdrawal of a caveat shall be in the approved form.

(3) If a caveat has been registered for a stated period, the caveat shall lapse at the close of that period.

Cf. 1989, No. 148, ss. 94, 96

151. Procedure for removal of caveat—(1) The owner of quota or annual catch entitlement against which a caveat has been lodged may apply to any court for an order that the caveat be removed.

(2) The Court, upon proof that notice of the application has been served on the caveator or the person on whose behalf the caveat has been lodged, may—

(a) Order that the caveat be removed entirely:

(b) Order that the caveat be removed in part or in respect of any particular transaction:

(c) Impose such sureties and conditions as it thinks fit:

(d) Make such other orders in respect of the caveat as it thinks fit.

(3) This section does not apply to caveats imposed under section 58 or section 61 or section 214 of this Act.

Cf. 1989, No. 148, s. 93

152. Person entering or maintaining caveat without due cause liable for damages—Any person who lodges a caveat and who, when that caveat is no longer needed to protect any interest of the caveator, fails, without reasonable cause, to withdraw that caveat as soon as reasonably practicable after having been requested to do so by any person prejudicially affected by the caveat, is liable in damages for any loss or damage suffered by any person as a result of the failure to withdraw the caveat.

Cf. 1989, No. 148, s. 95

Effect of Decrease in or Cancellation of Quota

153. Effect of decrease in quota shares—(1) If—

(a) A transfer of quota shares in any stock to any person holding preferential allocation rights under section 23 of this Act necessitates a deduction of quota shares under that section from any quota owner; or

(b) Any determination of an appeal under section 51 of this Act necessitates a deduction of quota shares under section 52 of this Act from any quota owner (other than the quota owner involved in the appeal),—
and, as a result of the deduction, the number of quota shares in 
that stock held by the owner is less than the number of quota 
shares in that stock subject to a mortgage or caveat 
immediately before the deduction, the number of shares so 
secured or caveated shall be proportionately reduced to equal 
the number of shares owned following the deduction.

(2) If any quota owner, or the chief executive, has appealed 
under section 51 of this Act in relation to any stock, then, when 
the appeal is finally determined,—

(a) All provisional individual transferable quota for the 
relevant stock owned by that quota owner shall, at 
the chief executive’s direction, be transferred to the 
Crown in accordance with section 52 of this Act; and 

(b) If any provisional individual transferable quota shares so 
transferred were subject to a mortgage or caveat, the 
mortgage or caveat shall cease to apply to the 
transferred provisional individual transferable quota 
shares and shall instead apply to the same number of 
individual transferable quota shares transferred to 
that quota owner under section 52 of this Act (if 
possible); and 

(c) If, as a result of such transfers, the number of individual 
transferable quota shares in the relevant stock owned 
by the quota owner is less than the number of 
provisional individual transferable quota shares that 
were subject to the mortgage or caveat, the number 
of shares so secured or caveated shall be 
proportionately reduced to equal the number of 
shares owned following the transfer.

(3) The Registrar shall make on the register any entry 
necessary to show that the quota has been transferred in 
accordance with section 23 or section 52 of this Act, and alter 
any relevant mortgage or caveat accordingly.

154. Effect of alteration of quota management area—

(1) If one or more quota management areas are altered under 
section 25 of this Act,—

(a) Any mortgage or caveat over any quota that is cancelled 
as a result of the alteration shall cease to apply to the 
cancelled quota and shall instead apply to the new 
quota allocated to the quota owner concerned as a 
result of that alteration; and 

(b) The number of new quota shares to be charged or 
caveated shall bear the same proportion to the quota 
owner’s total shareholding of those shares as the
number of shares charged or caveated immediately before the alteration bore to the quota owner's total shareholding for the areas affected by the alteration.

(2) The Registrar shall make on the register any entry necessary to show that the quota has been transferred in accordance with section 26 of this Act, and alter any relevant mortgage or caveat accordingly.

(3) Subject to subsections (1) and (2) of this section, an alteration of one or more quota management areas does not affect any rights under a caveat or mortgage of quota shares.

Registration Procedure

155. Transactions not effectual until registered—No transaction has any effect for the purpose of this Act until it is registered in accordance with this Part of this Act.

Cf. 1989, No. 148, s. 27

156. When transactions deemed registered—Every transaction registered under this Act shall be deemed to have been registered for the purpose of this Act at the time recorded in the Register as the time at which the transaction was registered.

Cf. 1989, No. 148, s. 13

157. Application for registration—Every application to register a transaction shall—

(a) Be made by presenting to the relevant Registrar an instrument in the approved form (if any); and

(b) Contain such particulars as are specified in the approved form (if any); and

(c) Be executed in the manner specified in the approved form (if any); and

(d) Be accompanied by the prescribed fee (if any).

Cf. 1989, No. 148, s. 64

158. Priority according to time of registration—

(1) Instruments presented for registration under this Act shall be registered in the chronological order in which they are received by the relevant Registrar; and, for the purposes of determining the chronological order of instruments received at the same or different places, the time recorded by the Registrar as having received the instrument is conclusive as to the order in which an instrument was received.
(2) An instrument presented by means of a computer transmission is deemed to be received at the time the registry computer notes it as having been received.

Cf. 1989, No. 148, s. 15

159. Registration procedure—On receipt of an application that complies with section 157 of this Act and is completed to the satisfaction of the relevant Registrar, that Registrar shall—
(a) Record in the appropriate register the particulars set out in the instrument required by this Act to be registered and the time at which the particulars are so recorded; and
(b) Issue, within 2 days (which days are days on which the register is open) after the date of registration, a registration notice as to the particulars recorded under paragraph (a) of this section; and
(c) Forward the registration notice to the person who presented the instrument for registration and forward duplicates of the notice to each of the other parties to the transaction; and
(d) If a caveat is registered over any quota shares, give notice of the registration of the caveat to the owner (if not otherwise notified) and any mortgagee of those shares and to any other caveator of those shares; and
(e) If a caveat is registered over any annual catch entitlement, give notice of the registration of the caveat to the owner (if not otherwise notified) and any other caveator of that annual catch entitlement.

Cf. 1989, No. 148, s. 17

160. Provisions relating to defective applications for registration—(1) If—
(a) Any document relating to a transaction lodged for registration; or
(b) Any document presented for registration together with any other documents—
is found not to be in order for the purposes of registration, the Registrar may return that document or those other documents to the person by whom they were lodged or, if that person is not available, to such other person as may, in the opinion of the Registrar, be entitled to receive them.
(2) Before returning any documents in accordance with subsection (1) of this section,—
(a) The Registrar shall make a copy of every document returned; and
(b) Shall file the copy in the Registrar’s office.
(3) If any documents are returned as provided in subsection (1) of this section, those documents shall be deemed not to have been presented for registration but the fee (if any) paid to the Registrar in respect of them shall be forfeit.

Cf. 1989, No. 148, ss. 18, 20 (2), 21 (a), (b), 22

161. Person claiming under operation of law may apply to have interest registered—(1) Any person claiming to be entitled by operation of law to be registered as the owner, mortgagee, or caveator of any quota shares, or the owner or caveator of any annual catch entitlement, may make an application to the Registrar in the approved form to be so registered.

(2) Every application under subsection (1) of this section shall be accompanied by such evidence in support of the application as may be necessary to satisfy the Registrar that the applicant is entitled to be registered as the owner, mortgagee, or caveator of the quota shares, or as the owner or caveator of any annual catch entitlement, as the case may be.

Cf. 1989, No. 148, s. 87 (1), (2)

162. Procedure on application—If, on any application under section 161 of this Act, the Registrar is satisfied that the requirements of this Act for registration are met, the Registrar shall register under section 159 of this Act the applicant as the owner, mortgagee, or caveator of any quota, or as the owner or caveator of any annual catch entitlement, as the case may be.

Cf. 1989, No. 148, s. 88

163. Chief executive may transfer quota or annual catch entitlement—(1) The power of the chief executive to transfer any quota shares or annual catch entitlement to the Crown or any other person as a consequence of—

(a) A reduction in the total allowable commercial catch under section 22 of this Act or an increase in the total allowable commercial catch under section 23 of this Act; or

(b) The determination of any appeal under section 51 of this Act or the resolution of any dispute under section 38 of this Act; or
(c) Any forfeiture to the Crown of any quota shares or annual catch entitlement—may be exercised notwithstanding the existence of any mortgage or caveat over any quota shares or annual catch entitlement.

(2) The Registrar shall make on the register any entry necessary to show that any quota shares or annual catch entitlement have been transferred in accordance with this section, and alter any relevant mortgage or caveat accordingly.

**Correction of Registers**

164. **Application for correction of register**—(1) A person who presents an instrument for registration under section 157 of this Act and any other person having a registered interest in the quota shares or annual catch entitlement to which the instrument applies may apply to the Registrar to correct the record on the register of the particulars set out in the instrument on the grounds that the register does not record accurately those particulars or is incorrect for any other reason specified for the purpose in any regulations made under section 297 of this Act.

(2) Every application made under subsection (1) of this section shall—

(a) Be made within 14 days after the registration notice issued under section 159 (b) of this Act is forwarded to that person; and

(b) Be in the approved form (if any); and

(c) Include a copy of the registration notice issued under section 159 (b) of this Act that relates to the record on the register to which the application relates.

Cf. 1989, No. 148, s. 23

165. **Correction of register**—(1) If, upon receipt of an application under section 164 of this Act, the Registrar is satisfied that the register does not record accurately the particulars set out in the instrument to which the application relates or is incorrect for any other reason specified for the purpose in any regulations made under section 297 of this Act, the Registrar shall correct the register accordingly and—

(a) Record on the register the nature of the correction and the time at which the correction was made; and

(b) Notify the person who made the application under section 164 of this Act, and any other person whom the Registrar considers will be affected, of the correction.
(2) If the Registrar is satisfied that the register does not record accurately the particulars set out in the instrument to which the record on the register relates or, subject to any regulations made under section 297 of this Act, is for any other reason incorrect, the Registrar may, of the Registrar's own motion, after notifying those persons whom the Registrar considers will be affected, correct the register accordingly and record on the register the nature of the correction and the time at which the correction was made.

(3) Without limiting the generality of subsection (2) of this section, the power conferred by that subsection is exercisable if—

(a) A registration notice has been issued in error or an entry or endorsement has been made in error:

(b) A misdescription has occurred in any entry in the register or any registration notice issued under section 159 (b) of this Act:

(c) An instrument has been obtained fraudulently or wrongfully, or retained fraudulently or wrongfully.

(4) No correction may be made under this section to the extent that the correction prejudices any bona fide purchaser for value, or any mortgagee for valuable consideration, unless that person makes a statutory declaration confirming his or her consent to the correction of the register.

Cf. 1989, No. 148, s. 24

166. Certified copies of register to be evidence—(1) The Registrar shall, upon application and payment of the prescribed fee (if any), provide to any person a certified copy of any record in the register.

(2) Every such certified copy in hard copy form signed by or on behalf of the Registrar or a Deputy Registrar, and sealed with the Registrar's seal, shall be received in evidence for all purposes as conclusive evidence that the particulars shown on the certified copy have been duly registered.

(3) This section does not apply to any record entered on a register in accordance with section 128 (1) (g) of this Act.

Cf. 1989, No. 148, s. 30

167. Registrar not bound to attend court or produce register without court order—No Registrar shall be required to produce in any court, or elsewhere than in the office of the Registrar, any record in respect of any quota, annual catch entitlement, or any other document in the Registrar's custody as Registrar, or to attend before any court or elsewhere to give
evidence, except by order of the Court, which order shall not be made unless the Court is satisfied that the Registrar’s attendance or the production of the record or document is necessary, and that the required evidence cannot be given by certified copy of the record or document.

Cf. 1989, No. 148, s. 71

Guarantee of Ownership Rights

168. Guarantee of ownership rights—(1) The production of a certified copy in hard copy form signed by or on behalf of the Registrar or a Deputy Registrar, and sealed with the Registrar’s seal, of a record in any register kept under this Part of this Act as to the ownership of any individual transferable quota, shall be held in every court of law or equity and for all purposes to be conclusive proof that the owner shown in the certified copy was, as at the time of the issue of the certified copy, owner of the quota to which the certified copy relates.

(2) Subsection (1) of this section does not apply in respect of any action brought by any person deprived of rights in relation to any quota or of any rights as mortgagee of any quota, by fraud, as against—

(a) The person registered as owner of the quota through fraud; or

(b) A person deriving otherwise than as a transferee bona fide for value from, or through, a person registered as owner of the quota through fraud.

(3) Subsection (1) of this section does not apply in respect of provisional individual transferable quota, annual catch entitlement, or provisional catch history.

Cf. 1989, No. 148, s. 58 (1), (3)

Protection of Purchasers

169. Purchasers and mortgagees not affected by notice—(1) Notwithstanding any rule of law or equity, except in the case of fraud, no purchaser or mortgagee of any individual transferable quota, and no person proposing to purchase or be a mortgagee of any such quota,—

(a) Is required—

(i) To inquire into or ascertain the circumstances in which or the consideration for which that owner or any previous owner is or was registered; or

(ii) To see to the application of the purchase money, or of any part of it; or
(b) Is affected by notice, direct or constructive, of any trust or unregistered interest, and the knowledge that any such trust or unregistered interest is in existence is not of itself to be imputed as fraud.

(2) This section does not apply in respect of provisional individual transferable quota, annual catch entitlement, or provisional catch history.

Cf. 1989, No. 148, s. 59

170. No liability on bona fide purchaser or mortgagee—(1) This section applies to—

(a) Any person who has acquired ownership of any individual transferable quota as a bona fide purchaser for value and is registered as owner under this Act; and

(b) Any person to whom a mortgage of any individual transferable quota has been granted in accordance with this Act, as a mortgagee bona fide for value, and who is registered as a mortgagee under this Act.

(2) No person to whom this section applies shall be subject to any action for recovery of damages, or be deprived of the rights as registered owner of the quota, or, as the case may be, of that person’s interest as mortgagee, on the ground that the vendor from whom the registered owner so acquired the quota or, as the case may require, the mortgagor of the quota—

(a) May have been registered as owner through fraud or error, or under any void or voidable instrument; or

(b) May have derived from a person registered as owner through fraud or error, or under any void or voidable instrument.

(3) This section does not apply in respect of provisional individual transferable quota, annual catch entitlement, or provisional catch history.

Cf. 1989, No. 148, s. 60

Compensation

171. Compensation for mistake or wrongdoing of Registrar—(1) Any person—

(a) Who sustains loss or damage through any omission, mistake, or wrongdoing of the Registrar, or a Deputy Registrar, or of any person employed to assist the Registrar in the exercise of the Registrar’s functions under this Act, in the execution of their respective duties; or
(b) Who is deprived of the rights in respect of which the person is registered as owner or mortgagee of any individual transferable quota—
   (i) By the registration of any other person as the owner or as mortgagee, as the case may be; or
   (ii) By any error, omission, or misdescription in any record kept by the Registrar in respect of such quota, or in any entry or memorial in the Quota Register; or
(c) Who sustains any loss or damage by the wrongful inclusion in any such record of a statement about ownership or any mortgage of quota,—

and who, by virtue of section 168 of this Act, is unable to bring an action in respect of that quota or that interest as owner or mortgagee, as the case may be, may bring an action against the Crown for recovery of damages.

(2) This section does not apply in respect of any transfer of individual transferable quota, or entry or record, effected before the commencement of this section.

(3) This section does not apply in respect of provisional individual transferable quota, annual catch entitlement, or provisional catch history.

Cf. 1989, No. 148, s. 61

172. Notice of action to be served on Attorney-General and Registrar—(1) Notice in writing of—

(a) Every action against the Crown under section 171 of this Act; and
(b) The cause of the action; and
(c) The amount claimed—

shall be served upon the Attorney-General, and also upon the Registrar, at least 20 working days before the commencement of the action, and the Registrar shall notify the chief executive of any such action served on the Registrar.

(2) If those officers concur that the claim ought to be admitted, as to the whole or any part of the claim, without suit or action, and jointly certify to that effect, the amount of the claim may, without further appropriation than this section, be paid, out of public money appropriated by Parliament, in whole or in part to the person entitled to that amount in accordance with the certificate.

(3) If, after notice of the admission has been served on the claimant, or the solicitor or agent of the claimant, the claimant proceeds with the action, and recovers no more than the amount admitted, the claimant—
(a) Shall not be entitled to recover any costs as against the Crown; and
(b) Shall be liable to the Crown for the costs of defending the action in the same manner as if judgment had been given for the defendant in the action.

Cf. 1989, No. 148, s. 63

173. Recovery of compensation paid and costs in case of fraud—(1) If any sum of money has been lawfully paid out of public money as compensation for any loss occasioned by fraud on the part of any person causing or procuring that person to be registered as the owner of any individual transferable quota or as mortgagee of such quota, as the case may be, by virtue of any dealing with or transmission from a registered owner, the amount of that compensation, together with all costs incurred in testing or defending any claim or action in relation to that compensation, shall be deemed to be a statutory debt due to the Crown from the person legally responsible for that fraud and may be recovered from that person, or from that person's personal representatives, by action at law, in the name of the Registrar, or, in the case of bankruptcy, may be proved as a debt due from that person's estate.

(2) In any action under subsection (1) of this section, the Court may, for the purposes of that action, determine on the balance of probabilities who is legally responsible for the fraud.

(3) A certificate signed by the Minister of Finance, verifying the fact of the payment of compensation out of public money, shall be prima facie proof that such payment was made.

(4) All money recovered in any action under subsection (1) of this section shall be paid to the credit of a Crown Bank Account.

Cf. 1989, No. 148, s. 64

PART IX

TAIAPURE-LOCAL FISHERIES AND CUSTOMARY FISHING

174. Object—The object of sections 175 to 185 of this Act is to make, in relation to areas of New Zealand fisheries waters (being estuarine or littoral coastal waters) that have customarily been of special significance to any iwi or hapu either—

(a) As a source of food; or
(b) For spiritual or cultural reasons,—
better provision for the recognition of rangatiratanga and of the right secured in relation to fisheries by Article II of the Treaty of Waitangi.

Cf. 1983, No. 14, s. 54A; 1989, No. 159, s. 74

175. Declaration of taiapure-local fisheries—Subject to section 176 of this Act, the Governor-General may from time to time, by Order in Council, declare any area of New Zealand fisheries waters (which waters are estuarine waters or littoral coastal waters) to be a taiapure-local fishery.

Cf. 1983, No. 14, s. 54B (1); 1989, No. 159, s. 74

176. Provisions relating to order under section 175—
(1) An order under section 175 of this Act may be made only on a recommendation made by the Minister in accordance with sections 177 to 185 of this Act.

(2) The Minister shall not recommend the making of an order under section 175 of this Act unless the Minister is satisfied both—
   (a) That the order will further the object set out in section 174 of this Act; and
   (b) That the making of the order is appropriate having regard to—
      (i) The size of the area of New Zealand fisheries waters that would be declared by the order to be a taiapure-local fishery; and
      (ii) The impact of the order on the general welfare of the community in the vicinity of the area that would be declared by the order to be a taiapure-local fishery; and
      (iii) The impact of the order on those persons having a special interest in the area that would be declared by the order to be a taiapure-local fishery; and
      (iv) The impact of the order on fisheries management.

Cf. 1983, No. 14, s. 54B (2), (3); 1989, No. 159, s. 74

177. Proposal for establishment of taiapure-local fishery—
(1) Any person may submit to the chief executive a proposal for the establishment of a taiapure-local fishery.

(2) The proposal shall—
   (a) Contain a description of the proposed taiapure-local fishery, which description shall include particulars of
the location, area, and boundaries of the proposed taiapure-local fishery; and

(b) Describe—

(i) Maori, traditional, recreational, commercial, and other interests in the proposed taiapure-local fishery; and

(ii) The species of fish, aquatic life, or seaweed in the proposed taiapure-local fishery that are of particular importance or interest.

(3) The proposal shall—

(a) State why the area to which the proposal relates has customarily been of special significance to an iwi or hapu either—

(i) As a source of food; or

(ii) For spiritual or cultural reasons:

(b) Set out the policies and objectives of the proposal:

(c) Contain such other particulars as the chief executive considers appropriate.

Cf. 1983, No. 14, s. 54c; 1989, No. 159, s. 74

178. Initial consideration of proposal—(1) The chief executive shall refer to the Minister every proposal submitted to the chief executive in accordance with section 177 of this Act.

(2) If the Minister, after consultation with the Minister of Maori Affairs and after having regard to the provisions of section 176 (2) of this Act, agrees in principle with the proposal, the Minister shall authorise the chief executive to publish notice of the proposal in the Gazette.

(3) The proposal shall be available for public inspection for a period of not less than 2 months after the date of the publication in the Gazette of the notice of the proposal.

(4) The notice shall specify the office of the Maori Land Court in which objections to the proposal may be lodged.

(5) If the Minister, after consultation with the Minister of Maori Affairs and after having regard to the provisions of section 176 (2) of this Act, does not agree in principle with the proposal, the chief executive shall inform the person who made the proposal that the proposal will not be proceeding further as the Minister does not agree with it in principle.

Cf. 1983, No. 14, s. 54d; 1989, No. 159, s. 74

179. Notice of proposal—(1) The notice authorised under section 178 (2) of this Act shall be published at least twice, with an interval of not less than 7 days between each notification of
the proposal, in the metropolitan newspapers and in a newspaper circulating in the locality of the area to which the proposal relates.

(2) A copy of the proposal shall be deposited in—
(a) The office of the Maori Land Court nearest to the locality of the area to which the proposal relates; and
(b) The Ministry's head office; and
(c) The office of the territorial authority for the area to which the proposal relates; and
(d) The office of the regional council for the area to which the proposal relates.

Cf. 1983, No. 14, s. 54E; 1989, No. 159, s. 74

180. Objections to, and submissions on, proposal—
(1) Any person or any public authority, local authority, or 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 taiapure-local fishery may, within 2 months of the publication in the Gazette of the proposal, lodge at the office of the Maori Land Court specified under section 178 (4) of this Act—
(a) An objection to the proposal; or
(b) Submissions in relation to the proposal; or
(c) Both.

(2) Any such objection and any such submissions shall—
(a) Identify the grounds on which the objections or submissions are made; and
(b) Be supplemented by such particulars and information as the Registrar of the Maori Land Court notifies the applicant the Registrar of the Maori Land Court considers necessary to sufficiently identify the grounds of the objection or the submissions.

Cf. 1983, No. 14, s. 54F; 1989, No. 159, s. 74

181. Inquiry by tribunal—
(1) A public inquiry shall be conducted into all objections and submissions received under section 180 of this Act.

(2) The inquiry shall be conducted by a tribunal consisting of a Judge of the Maori Land Court appointed by the Chief Judge of the Maori Land Court.

(3) The Chief Judge of the Maori Land Court may direct that the tribunal conducting the inquiry conduct it with the assistance of one or more assessors to be appointed by the Chief Judge for the purpose of the inquiry.
(4) In considering the suitability of any person for appointment as an assessor, the Chief Judge of the Maori Land Court shall have regard not only to that person's personal attributes but also to that person's knowledge of and experience in the different aspects of matters likely to be the subject-matter of the inquiry.

(5) The tribunal shall be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908 and, subject to the provisions of this Act, all the provisions of that Act, except sections 10 to 12, shall apply accordingly.

(6) The person who submitted the proposal to the chief executive, the Minister, any regional council or local authority whose region or district is affected by the proposal, and every body and person which or who made submissions on or objected to the proposal under section 180 of this Act, shall have the right to be present and be heard at every inquiry conducted by the tribunal under this section, and may be represented by counsel or other duly authorised representative.

(7) A tribunal appointed under this section may, if the Chief Judge of the Maori Land Court so directs, conduct any 2 or more inquiries together notwithstanding that they relate to different areas or different parts of any area.

(8) On completion of the inquiry, the tribunal shall, having regard to the provisions of section 176 (2) of this Act,—

(a) Make a report and recommendations to the Minister on the objections and submissions made to it, which report and recommendations may include recommended amendments to the proposal; or

(b) Recommend to the Minister that no action be taken as a result of the objections and submissions made to it.

(9) The Minister, after taking into account the report and recommendations of the tribunal and after having regard to the provisions of section 176 (2) of this Act, and after consultation with the Minister of Maori Affairs,—

(a) May—

(i) Accept those recommendations; or

(ii) Decline to accept all or any of those recommendations; and

(b) Shall publish in the Gazette—

(i) The report and recommendations of the tribunal; and

(ii) The decision of the Minister on the report and recommendations of the tribunal.
(10) Subject to section 182 of this Act, no appeal shall lie from any report or recommendation or decision made under this section.

Cf. 1983, No. 14, s. 54c; 1989, No. 159, s. 74

182. Appeal on question of law—If any party to any proceedings under section 181 of this Act before a tribunal appointed under that section is dissatisfied with the report or any recommendation of the tribunal as being erroneous in point of law, that party 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 sections 299 and 308 of the Resource Management Act 1991 shall, with any necessary modifications, apply in respect of the report or recommendation in the same manner as they apply in respect of a decision of the Planning Tribunal under that Act.

Cf. 1983, No. 14, s. 54h; 1989, No. 159, s. 74; 1991, No. 169, s. 362

183. Power of Minister to recommend declaration of taiapure-local fishery—If a proposal for the establishment of a taiapure-local fishery has been made under section 177 of this Act and either any proceedings in relation to that proposal (including any proceedings taken under sections 180 to 182 of this Act in relation to that proposal) have been disposed of or the time for taking any such proceedings has expired, the Minister shall, if satisfied that a recommendation should be made under section 176(1) of this Act, make that recommendation accordingly.

Cf. 1983, No. 14, s. 54i; 1989, No. 159, s. 74

184. Management of taiapure-local fishery—(1) The Minister, after consultation with the Minister of Maori Affairs, shall appoint a committee of management for each taiapure-local fishery.

(2) The committee of management may be any existing body corporate.

(3) The committee of management shall be appointed on the nomination of persons who appear to the Minister to be representative of the local Maori community.

(4) The committee of management shall hold office at the pleasure of the Minister.

Cf. 1983, No. 14, s. 54j; 1989, No. 159, s. 74
185. Power to recommend making of regulations—
(1) A committee of management appointed for a taiapure-local fishery may recommend to the Minister the making of regulations under section 186 or section 297 or section 298 of this Act for the conservation and management of the fish, aquatic life, or seaweed in the taiapure-local fishery.

(2) Regulations made under any section referred to in subsection (1) of this section (other than section 186 of this Act), and made pursuant to a recommendation under that subsection, may override the provisions of any other regulations made under section 297 or section 298 of this Act.

(3) Except to the extent that any regulations made under any section referred to in subsection (1) of this section, and made pursuant to a recommendation under that subsection, override or are otherwise inconsistent with the provisions of any other regulations made under that section, those provisions shall apply in relation to every taiapure-local fishery.

(4) Any provision of regulations made under any section referred to in subsection (1) of this section, and made pursuant to a recommendation under that subsection, that relates only to a taiapure-local fishery may be made only in accordance with subsection (1) of this section.

(5) No regulations made under any section referred to in subsection (1) of this section, and made pursuant to a recommendation under that subsection, shall provide for any person—
(a) To be refused access to, or the use of, any taiapure-local fishery; or
(b) To be required to leave or cease to use any taiapure-local fishery,—
because of the colour, race, or ethnic or national origins of that person or of any relative or associate of that person.

Cf. 1983, No. 14, s. 54k; 1989, No. 159, s. 74

Customary Fishing

186. Regulations relating to customary fishing—(1) The Governor-General may from time to time, by Order in Council, make regulations recognising and providing for customary food gathering by Maori and the special relationship between tangata whenua and places of importance for customary food gathering (including tauranga ika and mahinga mataitai), to the extent that such food gathering is neither commercial in any way nor for pecuniary gain or trade.
(2) Without limiting the generality of subsection (1) of this section, regulations made under that subsection may—

(a) Declare the relationship between such regulations and any other fishing regulations relating to any taiaapure-local fishery; and declare that the first-mentioned regulations shall prevail over such other regulations:

(b) Empower the Minister to declare, by notice in the Gazette, any part of New Zealand fisheries waters to be a mataitai reserve; and any such regulations shall require that, before any such notice is given, the Minister and the tangata whenua shall consult with the local community and the Minister shall have regard to the need to ensure sustainability in relation to the reserve:

(c) Provide for such matters as may be necessary or desirable to achieve the purpose of this Act in relation to mataitai reserves, including general restrictions and prohibitions in respect of the taking of fish, aquatic life, or seaweed:

(d) Empower any Maori Committee constituted by or under the Maori Community Development Act 1962, any marae committee, or any kaitiaki of the tangata whenua to make bylaws restricting or prohibiting the taking of fish, aquatic life, or seaweed:

(e) Empower any such Maori Committee, marae committee, or kaitiaki to allow the taking of fish, aquatic life, or seaweed to continue for purposes which sustain the functions of the marae concerned, notwithstanding any such bylaws.

(3) The following provisions apply in relation to bylaws made under regulations made under subsection (2)(d) of this section:

(a) Every restriction and every prohibition imposed on individuals by such bylaws shall apply generally to all individuals:

(b) Bylaws shall not come into force until they have been approved by the Minister and have been published in the Gazette:

(c) The publication in the Gazette of bylaws purporting to have been approved under this subsection shall be conclusive evidence that the bylaws have been duly made and approved under this section.

Cf. 1983, No. 14, s. 89 (1)(mb), (1c), (3) (b), (3A), (3b); 1992, No. 121, s. 54
PART X

RECORDKEEPING, REPORTING, DISPOSAL OF FISH, AND
PROVISIONS RELATING TO TAKING AND POSSESSION OF FISH FOR
PURPOSE OF SALE

187. References to weight of fish, aquatic life, or seaweed to be references to greenweight—(1) Subject to subsections (2) and (3) of this section and except as otherwise expressly provided, every reference in this Act to the weight of fish, aquatic life, or seaweed shall be construed as a reference to the greenweight of the fish, aquatic life, or seaweed.

(2) If a declaration in respect of any stock under section 18 of this Act so provides, every reference to the weight of that stock shall, except as otherwise expressly provided, be construed as a reference to meatweight.

(3) Every reference in this Act to the weight of any quota management stock that was, immediately before the commencement of this section, subject to Part IIa of the Fisheries Act 1983 and specified in meatweight under that Act, shall, except as otherwise expressly provided, be construed as a reference to meatweight.

188. Conversion factors—(1) The chief executive may, by notice in the Gazette, set conversion factors which shall, subject to subsection (2) of this section, for all purposes (including any proceedings for an offence against this Act) be used to determine the weight of any fish, aquatic life, or seaweed, and such conversion factors shall be used to translate—

(a) The weight of the fish, aquatic life, or seaweed in the state to which it has been processed to the greenweight, or meatweight, as the case may be; or

(b) The weight of the fish, aquatic life, or seaweed, when taken, to the meatweight.

(2) The chief executive may, in respect of any vessel on which fish, aquatic life, or seaweed is processed, having regard to the method of processing or the processing history of the vessel and after consultation with the owner, operator, or master of the vessel, issue a certificate specifying conversion factors for that vessel which shall for all purposes (including any proceedings for an offence against this Act) be used to determine the weight of any fish, aquatic life, or seaweed processed by that vessel within the terms of the certificate.

(3) Every certificate issued under subsection (2) of this section—
(a) Shall apply in respect of fish, aquatic life, or seaweed processed during the currency of the certificate:

(b) May be subject to such conditions, including conditions relating to methods of taking, processing, packing, and labelling of fish, aquatic life, or seaweed, the presence of observers or fishery officers, or the recording of catches, as the chief executive thinks fit to impose:

(c) May at any time be revoked by the chief executive by notice in writing, or may be amended or replaced by a further certificate issued by the chief executive under subsection (2) of this section.

(4) Any certificate issued under subsection (2) of this section may be issued for such term as the chief executive thinks fit, and the certificate, or any revocation of the certificate, shall take effect on the date specified for the purpose by the chief executive, which date shall be not earlier than the earliest of the following dates or occasions:

(a) The commencement of the fishing year following that in which the owner, operator, or master of the vessel is issued with the certificate or notified of the revocation:

(b) The next departure of the vessel from any New Zealand port following the issue of the certificate or notification of the revocation:

(c) The day on which any observer who is present on the vessel concerned, after the owner, operator, or master is issued with the certificate or notified of the revocation, certifies that the current catch of the vessel has been recorded by that observer:

(d) Such earlier date as may be agreed between the chief executive and the owner, operator, or master of the vessel.

Cf. 1983, No. 14, s. 3A; 1986, No. 34, s. 4; 1990, No. 29, s. 3

189. Persons who are required to keep records and returns—The following persons shall keep such accounts and records, and provide to the chief executive such returns and information, as may be required by or under regulations made under this Act:

(a) Holders of fishing permits, special permits, licences, or other authorities or approvals issued or granted under this Act entitling the holder to take fish,
aquatic life, or seaweed by any method for any purpose:

(b) Owners of quota or annual catch entitlements:

(c) Owners, operators, notified users, and masters of vessels registered under this Act:

(d) Owners and persons in charge of any premises where fish, aquatic life, or seaweed are received, purchased, stored, transported, processed, sold, or otherwise disposed of:

(e) Persons engaged in the receiving, purchasing, transporting, processing, storage, sale, or disposal of fish, aquatic life, or seaweed:

(f) Fish farmers and holders of spat catching permits:

(g) Persons who provide vessels for hire for the purpose of enabling persons to take fish, aquatic life, or seaweed:

(h) Persons who take fish, aquatic life, or seaweed otherwise than for the purpose of sale.

190. Accounts, records, returns, and other information—For the purpose of this Act, the chief executive may, in any particular case or class of cases,—

(a) Require accounts, records, returns, and other information additional to those specified in regulations made under this Act to be kept and provided to the chief executive, by any person referred to in section 189 of this Act; and

(b) Specify the manner and form in which such accounts, records, returns, and other information are to be kept and provided.

Cf. 1983, No. 14, s. 66; 1986, No. 34, s. 13 (1); 1990, No. 29, s. 33

Disposal of Fish

191. Disposal of fish by commercial fishers—(1) No commercial fisher may sell or otherwise dispose of fish, aquatic life, or seaweed, taken by the commercial fisher in that capacity, except to a licensed fish receiver or as provided in subsection (2) or subsection (5) of this section.

(2) Any commercial fisher may sell or otherwise dispose of, in any one transaction, not more than—

(a) Ten kilogrammes of finfish; or

(b) Six kilogrammes of shellfish (other than shellfish of Class Crustacea); or

(c) Three kilogrammes of shellfish of Class Crustacea; or
(d) Any combination of such finfish or shellfish within those limits—taken by the commercial fisher to any person who is not a licensed fish receiver if the transaction takes place on, or in the vicinity of, the vessel used by the commercial fisher to take the fish, aquatic life, or seaweed, or at some other place approved by the chief executive.

(3) A commercial fisher shall not enter into more than one transaction referred to in subsection (2) of this section with the same person within any 24-hour period.

(4) Every commercial fisher who sells or otherwise disposes of any finfish or shellfish under subsection (2) of this section shall, at the time of the transaction, make such records of the transaction as the commercial fisher is required to make under regulations made under this Act.

(5) Subsection (1) of this section does not apply in respect of fish, aquatic life, or seaweed—

(a) Landed outside New Zealand in accordance with any approval granted by the chief executive under section 110 of this Act; or

(b) Lawfully abandoned or returned, in accordance with section 72 of this Act, to the sea or waters from which the fish, aquatic life, or seaweed was taken; or

(c) Lawfully used by the commercial fisher who took the fish, aquatic life, or seaweed as bait, or consumed on board the vessel from which the fish, aquatic life, or seaweed was taken.

(6) Every commercial fisher commits an offence and is liable to the penalty set out in section 252(3) of this Act who contravenes any provision of this section.

Cf. 1983, No. 14, s. 67; 1986, No. 34, s. 13 (1); 1990, No. 29, s. 34

192. Restrictions on purchase or acquisition of fish by certain persons—(1) No commercial fisher shall purchase, acquire, or be in possession of any fish, aquatic life, or seaweed for the purpose of sale, unless the fish, aquatic life, or seaweed was—

(a) Taken in that person's capacity as a commercial fisher; or

(b) Purchased or acquired by that person from a licensed fish receiver for use as bait in that person's commercial fishing activities.

(2) No licensed fish receiver shall purchase or otherwise acquire or be in possession of any fish, aquatic life, or seaweed
for the purpose of sale, unless the fish, aquatic life, or seaweed was—

(a) Purchased or acquired for the purpose of sale from—
   (i) A commercial fisher; or
   (ii) Another licensed fish receiver; or
   (iii) A fish farmer; or
   (iv) The operator of a foreign fishing vessel, if the fish, aquatic life, or seaweed was landed under the authority and in accordance with the conditions of a licence issued under section 83 of this Act; or
   (v) The operator of a foreign vessel, if the fish, aquatic life, or seaweed was landed and disposed of in accordance with the conditions of an approval granted under section 113 of this Act; or

(b) Lawfully taken by that person for the purpose of sale in the person’s capacity as a commercial fisher, where that person has lawfully kept and completed all records, returns, and other documents required under this Act as if the commercial fisher and the licensed fish receiver had been separate persons; or

(c) Acquired or possessed by the licensed fish receiver otherwise than for the purpose of sale by the licensed fish receiver in accordance with subsection (7) of this section.

(3) No fish farmer shall be in possession of any fish, aquatic life, or seaweed for the purpose of sale, unless the fish, aquatic life, or seaweed was—

(a) Purchased or acquired from—
   (i) Another fish farmer; or
   (ii) A spat catching permit holder; or
   (iii) A licensed fish receiver; or

(b) Lawfully bred or cultivated by that fish farmer.

(4) No spat catching permit holder shall be in possession of any fish, aquatic life, or seaweed for the purpose of sale, unless the fish, aquatic life, or seaweed was taken by that person in that person’s capacity as a spat catching permit holder.

(5) No person (other than a person who at the relevant time is acting in the person’s capacity as a commercial fisher, licensed fish receiver, fish farmer, or spat catching permit holder) shall purchase, otherwise acquire, or be in possession of any fish, aquatic life, or seaweed for the purpose of sale, unless the fish, aquatic life, or seaweed was purchased or acquired from—

(a) A commercial fisher in a transaction referred to in section 191 (2) of this Act; or
(b) A licensed fish receiver; or
(c) A fish farmer.

(6) Every person commits an offence and is liable to the penalty set out in section 252(3) of this Act who contravenes any provision of subsections (1) to (5) of this section.

(7) For the purposes of subsection (2)(c) of this section, fish, aquatic life, or seaweed is acquired or possessed by a licensed fish receiver in accordance with this subsection if the fish, aquatic life, or seaweed—
(a) Is held by the licensed fish receiver for a person for storage or processing; and
(b) Was taken by that person in accordance with any relevant amateur or Maori customary non-commercial fishing regulations made under this Act; and
(c) Is held by the licensed fish receiver with the approval in writing of the chief executive (which approval may be granted either generally or particularly) but was not so held before that approval was granted; and
(d) Is stored and processed in accordance with the conditions imposed by the chief executive (which conditions may relate to records and returns and such other conditions as the chief executive thinks fit to impose).

(8) Subsection (5) of this section does not apply in respect of fish, aquatic life, or seaweed if—
(a) The fish, aquatic life, or seaweed was lawfully purchased or acquired from an approved person; and
(b) That approved person has lawfully acquired or purchased the fish, aquatic life, or seaweed from a licensed fish receiver; and
(c) The purchase or acquisition, and the storage and disposal, of the fish, aquatic life, or seaweed, and the keeping of records in relation to it, was in accordance with the conditions of the approval granted by the chief executive.

(9) Subsection (5) of this section does not apply in respect of any fish, aquatic life, or seaweed produced in the course of a lawful fish farming operation and subsequently traded.

(10) This section does not apply in respect of—
(a) Whitebait, seaweed of the Class Rhodophyceae taken while it is unattached and cast ashore, unwanted aquatic life, ornamental fish, seabirds, or protected species; or
(b) Any fish, aquatic life, or seaweed lawfully taken outside New Zealand fisheries waters that has been landed in
any country other than New Zealand before being brought into New Zealand; or

(c) Any transaction with the Crown; or

(d) Any fish, aquatic life, or seaweed lawfully taken otherwise than for the purpose of sale and served as part of a meal to the person who took the fish, aquatic life, or seaweed and the person's immediate guests.

Cf. 1983, No. 14, s. 67A; 1986, No. 34, s. 13 (1); 1991, No. 149, s. 22

When Fish Deemed to be Taken or Possessed for Purposes of Sale

193. Fish in licensed premises or premises where food sold deemed to have been taken for purpose of sale—

(1) For the purpose of this Act, all fish, aquatic life, or seaweed in any premises owned or operated by any licensed fish receiver, shall, in the absence of proof to the contrary, be deemed to have been taken, and to be possessed, for the purpose of sale.

(2) For the purpose of this Act, all fish, aquatic life, or seaweed in any premises where food is sold, prepared for sale, stored, or processed shall, in the absence of proof to the contrary, be deemed to have been taken, and to be possessed, for the purpose of sale.

Cf. 1983, No. 14, s. 103; 1986, No. 34, s. 27 (1)

194. Fish in fish farm deemed to be farmed and possessed for sale—For the purpose of this Act, all fish, aquatic life, or seaweed in, on, or transferred from any fish farm shall, in the absence of proof to the contrary, be deemed to be farmed, and to be possessed, for the purpose of sale.

195. Fish in excess of certain quantities deemed to have been acquired or possessed for purpose of sale—For the purpose of this Act, any person in possession of any fish, aquatic life, or seaweed of an amount or quantity exceeding 3 times the amateur individual daily limit (if any) prescribed in respect of that fish, aquatic life, or seaweed, shall, in the absence of proof to the contrary, be deemed to have acquired, or to possess, the fish, aquatic life, or seaweed for the purpose of sale unless the fish, aquatic life, or seaweed was lawfully taken by a person under regulations made under section 186 of this Act.

Cf. 1983, No. 14, s. 103A; 1990, No. 29, s. 49; 1992, No. 121, s. 35
PART XI

APPOINTMENT AND POWERS OF FISHERY OFFICERS

Appointment of Fishery Officers

196. Appointment of fishery officers—(1) Such fishery officers and other officers as may be required for the purposes of the enforcement and administration of this Act shall be appointed under the State Sector Act 1988.
   (2) For the purpose of this Act—
      (a) Every officer in command of any vessel or aircraft of the New Zealand Defence Force; and
      (b) Every member of the Police—shall be deemed to be a fishery officer and may, without warrant, exercise the powers conferred on fishery officers under this Act.
   (3) Where any person referred to in paragraph (a) or paragraph (b) of subsection (2) of this section has directed any person under his or her command to carry out such of the duties of a fishery officer as he or she may specify, for such period as he or she thinks necessary, the person so directed shall, for the purpose of carrying out those duties, have all the powers of a fishery officer.

Cf. 1983, No. 14, s. 76

197. Appointment of honorary fishery officers—(1) The chief executive may, from time to time, appoint as honorary fishery officers for a specified area or areas such persons as the chief executive considers fit and proper.
   (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 chief executive thinks fit, and may be reappointed:
      (b) May, at any time, be removed from office by the chief executive if the chief executive no longer considers him or her to be a fit and proper person for reasons of incapacity, neglect of office, misconduct, or otherwise:
      (c) May at any time resign his or her office, and notification of such resignation shall be given to the chief executive.
   (3) There may be paid to any honorary fishery officer out of money appropriated by Parliament for the purpose—
      (a) An honorarium not exceeding $1,000 in any one year; and
(b) Reimbursement of actual and reasonable expenses incurred in the course of carrying out his or her powers and duties, where the chief executive has given prior authorisation and has subsequently approved the expenses.

(4) No person appointed as an honorary fishery officer under this section shall be deemed to be employed by the Crown by reason of the appointment or any money paid to the person under this section.

Cf. 1983, No. 14, s. 77; 1987, No. 65, s. 65 (1)

198. Issue of warrants and conferral of powers—(1) The chief executive may, from time to time, issue—

(a) To any person appointed in accordance with section 196 of this Act to be a fishery officer a warrant authorising the person to exercise the powers conferred on fishery officers under this Act:

(b) To any person appointed under section 197 of this Act to be an honorary fishery officer a warrant that shall specify—

(i) Such of those powers conferred on fishery officers under this Act as the person may exercise:

(ii) The area or areas to which the warrant relates:

(iii) The species or stock of fish, aquatic life, or seaweed to which the warrant relates:

(c) To any person appointed under section 222 of this Act to be an examiner a warrant specifying such of the powers conferred on fishery officers under this Act as the person may exercise.

(2) On the termination of a person's appointment as a fishery officer, honorary fishery officer, or examiner under this Act, the person shall surrender to the chief executive any warrant issued to the person in respect of that appointment.

Cf. 1983, No. 14, s. 78; 1987, No. 65, s. 65 (1); 1990, No. 31, s. 137

Powers of Entry, Search, and Questioning

199. Powers of entry and search—(1) In the course of the enforcement and administration of this Act, a fishery officer may, at any reasonable time,—

(a) Stop, enter, or pass across any land in order to enter and examine any vessel or vehicle, or enter and examine any premises or place, or examine any record,
document, article, and any gear, apparatus, device, or contents of any kind therein:

(b) Stop any person and examine any record, document, article, container, gear, apparatus, device, fish, aquatic life, or seaweed in the possession of that person.

(2) If a fishery officer believes, on reasonable grounds,—

(a) That an offence is being or has been committed against this Act; and

(b) That—

(i) Any fish, aquatic life, or seaweed taken or thing used or intended to be used in contravention of this Act; or

(ii) Any record or information required by or under this Act to be kept, completed, or provided; or

(iii) Any article, record, document, or thing which there is reasonable ground to believe will be evidence as to the commission of an offence against this Act,—

then, for the purpose of the enforcement of this Act, that officer may at any reasonable time enter or pass across any land in order to enter, examine, and search any such premises or place, or any such vessel, vehicle, or conveyance of any kind (by stopping or opening where necessary), and may examine and search (by stopping or opening where necessary) any such parcel, package, record, or thing.

(3) A fishery officer may detain any vessel, vehicle, conveyance of any kind, parcel, package, record, document, article, gear, apparatus, device, container, fish, aquatic life, seaweed, or thing for such period as is reasonably necessary to enable the fishery officer to carry out an examination or search under this section.

Cf. 1983, No. 14, s. 79 (1) (a), (b)

200. Conditions relating to exercise of powers of entry, etc.—(1) A fishery officer shall not exercise any power under this Act to enter a place that is a private dwelling place, or the enclosed garden or curtilage of a private dwelling place, or any Maori reservation constituted by or under the Maori Affairs Act 1953 or Part XVII of Te Ture Whenua Maori Act 1993, unless he or she is authorised in writing by a Justice, District Court Judge, or Registrar of a District Court.
(2) An application for authorisation shall be made by a fishery officer on oath in writing, or on oath orally if the Justice, District Court Judge, or Registrar of a District Court considers it appropriate to do so; and, in such a case, that Justice, Judge, or Registrar shall make a written note of the grounds of the application.

(3) A Justice, District Court Judge, or Registrar of a District Court shall not grant such authority unless he or she is satisfied that the fishery officer has reasonable grounds for requiring entry into the private dwelling place, garden or curtilage, or Maori reservation.

(4) The following provisions apply in relation to every authorisation under subsection (1) of this section:

(a) An authorisation shall be directed to any fishery officer by name or generally to every fishery officer, and may be executed by any fishery officer:

(b) Every person exercising the power of entry conferred by an authorisation shall have the authorisation with him or her and produce it if required to do so:

(c) An authorisation is valid for 30 days after the date of issue unless otherwise specified in the authorisation:

(d) An authorisation shall authorise entry on only one occasion within the period referred to in paragraph (c) of this subsection, unless otherwise stated in the authorisation:

(e) If the owner or occupier is not present when the examination or search is undertaken, the fishery officer executing the examination or search shall take reasonable steps to promptly advise the owner or occupier of the examination or search, unless otherwise directed by the authorisation:

(f) An authorisation may be executed at any time:

(g) An authorisation shall be in the form set out in the Seventh Schedule to this Act.

(5) For the purposes of this section, a place is a private dwelling if private dwelling is the dominant purpose for which the place is used.

Cf. 1988, No. 14, s. 79 (2), (2A); 1991, No. 14, s. 23

201. Power to question persons and require production of documents—For the purpose of the enforcement of this Act, if a fishery officer believes on reasonable grounds that—

(a) A person is or has been engaged in the taking or selling of fish, aquatic life, or seaweed; or
(b) A person has purchased or is or has been in possession of fish, aquatic life, or seaweed; or
(c) A person is committing or has committed an offence against this Act,—
the fishery officer may, at any reasonable time,—
(d) Question that person or any other person; and
(e) Require the person being questioned to provide an answer, including any explanation or information concerning any vessel, or any place or thing, or any fish, aquatic life, or seaweed, or fishing method, gear, apparatus, record, document, article, device, or thing relating to the taking, sale, purchase, or possession of any fish, aquatic life, or seaweed; and
(f) Require that person or any other person to produce any permit, authority, approval, permission, licence, or certificate issued in respect of any vessel or person.

Cf. 1983, No. 14, s. 79 (1) (c)

202. Powers for purpose of ascertaining financial status or interest in forfeit property of certain persons—In order to ascertain—
(a) A person's financial status, for the purpose of assisting the Crown to make submissions on sentencing in respect of offences against this Act; or
(b) The nature of any person's interest in forfeit property, for the purpose of assisting the Court to make any determination or order in respect of such property under section 256 of this Act,—
a fishery officer may, with the leave of the Court, exercise all or any of the fishery officer powers exercisable under other provisions of this Act as if those powers were each expressed to be exercisable in the circumstances referred to in this section.

203. Power of arrest—(1) For the purpose of the enforcement of this Act, a fishery officer may, if he or she believes on reasonable grounds that any person is offending against this Act, order that person to forthwith desist from offending.

(2) For the purpose of the enforcement of this Act, a fishery officer may, at any reasonable time, if he or she believes on reasonable grounds that any person is offending or has committed an offence against this Act, request that person to supply to that fishery officer the name by which that person is
commonly known and the person’s family name or surname, date of birth, actual place of residence, and occupation.

(3) If the fishery officer believes on reasonable grounds that any of the details supplied under subsection (2) of this section are false or misleading, the fishery officer may request that person to supply to that fishery officer such verification of those details as it is reasonable in the circumstances to require the person to provide.

(4) If any person continues to offend after being required under subsection (1) of this section to desist, or refuses to comply with a request under subsection (2) or subsection (3) of this section, the fishery officer may arrest that person without warrant.

(5) If a fishery officer arrests a person under subsection (4) of this section,—

(a) The fishery officer shall cause the person to be delivered into the custody of a member of the Police as soon as practicable; and

(b) If the person so delivered into custody is released by a member of the Police without bail pursuant to section 19A of the Summary Proceedings Act 1957, the duties under subsections (3) to (5) of that section relating to the laying and filing of an information shall be carried out by a fishery officer and not a member of the Police.

Cf. 1983, No. 14, s. 79 (1) (d), (5A); 1990, No. 29, s. 37 (4)

204. Power to Give Directions to master—(1) For the purpose of the enforcement of this Act, a fishery officer may, if he or she believes that a vessel is being or has been used in contravention of the provisions of this Act or of the conditions of any permit, authority, approval, permission, licence, registration, or certificate issued under this Act, require the master to take the vessel, as soon as reasonably practicable, to the nearest available port, or such other port as is agreed between the master and the fishery officer.

(2) If a fishery officer has given a direction under subsection (1) of this section, he or she may also give to the master or any person on board the vessel any reasonable directions in respect of any activity, method, procedure, item, gear, document, fish, aquatic life, seaweed, property, or thing while the vessel is proceeding to port.

Cf. 1983, No. 14, s. 79 (1) (e)
Power to Use Reasonable Force

205. Power to use reasonable force in exercise of certain powers—For the purpose of the enforcement of this Act, other than the exercise of any power under section 201 of this Act, a fishery officer is justified in using such force as may be reasonably necessary to enable the exercise of his or her powers under this Act.

Power to Take Copies of Documents

206. Power to take copies of documents—(1) In exercising powers under this Act, a fishery officer may—
   (a) 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 any such record or document, for such period of time as is reasonable in the circumstances:
   (b) If necessary, require a person to reproduce, or assist the fishery officer to reproduce, in a useable form, information recorded or stored in a document.

(2) Any documents to which section 198A of the Summary Proceedings Act 1957 applies that are copied by a fishery officer under this section shall be dealt with in accordance with section 198A of that Act, and the provisions of that section, with any necessary modifications, shall apply accordingly.

Cf. 1983, No. 14, s. 79 (4)

Provisions Relating to Seizure

207. Powers of seizure—(1) A fishery officer may seize—
   (a) Any vessel, vehicle or other conveyance, fishing gear, implement, appliance, material, container, goods, equipment, or thing which he or she believes on reasonable grounds is being or has been or is intended to be used in the commission of an offence against this Act:
   (b) Any fish, aquatic life, or seaweed which he or she 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 fish, aquatic life, or seaweed with which such fish, aquatic life, or seaweed have been intermixed:
   (c) Any article, record, document, or thing which he or she believes on reasonable grounds is evidence of the commission of an offence against this Act.
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(2) Any property seized under subsection (1) of this section shall be delivered into the custody of the chief executive.

(3) Any documents to which section 198A of the Summary Proceedings Act 1957 applies that are seized by a fishery officer under this section shall be dealt with in accordance with section 198A of that Act, and the provisions of that section, with any necessary modifications, shall apply accordingly.

(4) The decision whether to lay any information or charge for an alleged offence in respect of which any property is seized under subsection (1) of this section shall be made as soon as reasonably practicable after the property is seized.

Cf. 1983, No. 14, s. 80 (1), (2); 1990, No. 29, s. 38 (1)

Provisions Relating to Seized Property

208. Chief executive may release seized property under bond—(1) On application by—

(a) A person from whom property has been seized under section 207 of this Act; or

(b) The owner or person entitled to possession of the property seized,—

the chief executive may, at any time until an information or charge is laid for the alleged offence in respect of which the property was seized, release the property to any such person under bond in such sum and under such sureties and conditions (if any) as the chief executive may specify.

(2) It is a condition of every bond under this section that, upon the forfeiture under this Act of the property that is the subject of the bond, the person to whom the property is released shall forthwith return the property to the custody of the chief executive unless the chief executive advises the person in writing that the property does not have to be so returned.

(3) If any person to whom property is released under subsection (1) of this section fails to comply with the conditions of any bond or with any condition specified by the chief executive,—

(a) The property may be reseized at any time at the direction of the chief executive; and

(b) The provisions of this section shall apply to the property as if it had been seized under section 207 of this Act; and

(c) The chief executive may, in the case of failure to comply with the conditions of any bond, apply to a court for an order for estreat of the bond; and
(d) If the chief executive so applies, the Registrar shall fix a
time and place for the hearing of the application, and
shall, not less than 7 days before the time fixed, cause
to be served on every person bound by the bond, and
every surety, a notice of the time and place so fixed; and

(e) If, on the hearing of any such application, it is proved to
the satisfaction of the Court that any condition of the
bond has not been complied with, the Court may
make an order to estreat the bond to such an amount
as it thinks fit against any person bound thereby, and
any order it thinks fit in relation to any surety on
whom notice is proved to have been served in
accordance with this subsection; and

(f) Any amount payable in accordance with this subsection
shall be recoverable as if it were a fine.

Cf. 1983, No. 14, s. 80 (3), (3A); 1990, No. 29, s. 38 (2)

209. Seized property to be held by the Crown if not
released—All property seized under section 207 of this Act
and (if applicable) the proceeds from the sale of any such
property under section 212 of this Act, except where such
property or proceeds have been forfeited to the Crown under
section 211 of this Act, shall, subject to section 208 (1) of this
Act, be held in the custody of the Crown—

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

(b) If a charge or information is laid for an offence in respect
of which the property was seized, until the
completion of such proceedings, and, if the property
is forfeit, until the disposal of the property under this
Act or such sooner time as the Court may determine.

Cf. 1983, No. 14, s. 80 (6)

210. Crown to release seized property in certain
circumstances—(1) If any property has been seized under
section 207 of this Act, and such property or the proceeds from
the sale of such property under section 212 of this Act remains
in the custody of the Crown, then such property or proceeds
shall forthwith be released from the custody of the Crown—

(a) If a decision is made not to lay an information or charge:

(b) On the acquittal of all persons charged with any offence
for which forfeiture of the property or proceeds is a
consequence of conviction.
(2) If any information or charge has been laid for any alleged offence in respect of which the property was seized under section 207 of this Act and that property, or the proceeds from the sale of such property under section 212 of this Act, remains in the custody of the Crown, the Court may at any time release the property or proceeds, on application by—
   (a) The person from whom the property was seized; or
   (b) The owner or person entitled to the possession of the property seized;
and any such release may be subject to such sureties and conditions as the Court may specify.

Cf. 1983, No. 14, s. 80 (6A), (9); 1990, No. 29, s. 38 (2)

211. Seized property forfeited to the Crown if ownership not established—(1) If the ownership of any property cannot be ascertained by the chief executive within 90 days from the date of seizure, the property seized shall be forfeit to the Crown and shall be disposed of as directed by the chief executive.

(2) If there is a dispute as to the ownership of any property that has been seized under this Act, the chief executive may apply to a court for directions as to the holding and disposal of the property and the Court may give such directions accordingly.

Cf. 1983, No. 14, s. 80 (5)

212. Chief executive may sell perishable seized property—If, in the opinion of the chief executive, any fish, aquatic life, seaweed, or other thing seized under section 207 of this Act may rot, spoil, deteriorate, or otherwise perish, the chief executive may dispose of it in such manner and for such price (if any) as the chief executive may determine.

Cf. 1983, No. 14, s. 80 (4)

213. Protection of the Crown—(1) The Crown shall not be liable to any person for any spoilage or deterioration in the quality of any fish, aquatic life, seaweed, or other thing detained under section 199 of this Act, or seized under section 207 of this Act, or for any loss caused by its disposal under section 212 of this Act.

(2) Notwithstanding any other provisions in this Part of this Act, a fishery officer who at the time of seizure returns to the water any fish, aquatic life, or seaweed seized under section 207 of this Act that he or she believes to be alive, shall not be under any civil or criminal liability to the person from whom the fish,
aquatic life, or seaweed was seized, or to any other person, in the event of a decision being made not to lay an information or charge in respect of the fish, aquatic life, or seaweed or of the person being acquitted of the charge.

Cf. 1983, No. 14, s. 80 (8), (10)

**Crown Caveats**

214. Crown caveats preventing registration of transactions—(1) If—

(a) Any person has been charged with an offence under this Act and conviction for that offence may result in forfeiture of quota under section 255 of this Act; or

(b) A fishery officer believes on reasonable grounds that any person has committed such an offence,—

the chief executive may direct the Registrar to register a caveat in respect of any quota held by that person or by any associated person, at the time of registration of the caveat, and the caveat may apply to a number of quota shares not exceeding the number of quota shares held at the time the offence was committed.

(2) A court may at any time, on application by the owner of any quota, order that any caveat registered in respect of quota in accordance with a direction under subsection (1) of this section shall not apply in respect of the quota or any part of the quota, whether generally or in respect of any specified dealing in the quota, and any such order may be subject to such sureties and conditions as the Court may specify.

(3) A caveat registered in respect of quota in accordance with a direction to which subsection (1)(a) of this section applies shall have effect until all proceedings in respect of the relevant offence have been finally determined.

(4) A caveat registered in respect of quota in accordance with a direction to which subsection (1)(b) of this section applies shall lapse on the expiry of the 30th day after the date of its registration, or at such earlier date as may, at the direction of the chief executive, be specified in the caveat.

(5) Upon application to a court by the chief executive, or any fishery officer, the Court may extend the duration of any caveat, registered in respect of quota in accordance with a direction to which subsection (1)(b) of this section applies, for a period of up to 60 days from the date on which the caveat would otherwise expire, and upon such conditions as the Court may specify.
(6) Any application under subsection (5) of this section shall be made before the expiry of the current caveat and the application shall have the effect of extending the duration of the current caveat until the Court makes an order determining the application.

(7) No application under subsection (5) of this section shall be heard by the Court unless it is satisfied that notice of the application has been served on any owner of quota, in respect of which quota a caveat has been registered in accordance with a direction to which subsection (1)(b) of this section applies, at least 7 days before the hearing of the application.

(8) On any decision being made not to lay an information or charge against the person, the chief executive shall forthwith notify the Registrar and the Registrar shall thereupon cancel any caveat registered in accordance with a direction under subsection (1) of this section.

Cf. 1983, No. 14, ss. 28Q (7), (8), 80A; 1986, No. 34, s. 10; 1990, No. 29, ss. 17 (5), 39 (1); 1991, No. 149, s. 24

General Powers

215. General powers—(1) A fishery officer may do all such acts and things and give such directives as are reasonably necessary for the purposes of exercising any of his or her powers under this Act.

(2) The powers of a fishery officer under this Act are exercisable—

(a) Within New Zealand:

(b) In New Zealand fisheries waters:

(c) Beyond New Zealand fisheries waters to the extent specified in subsection (3) of this section.

(3) Subsection (2)(c) of this section does not authorise a fishery officer to exercise any powers under this Act in respect of any foreign vessel or any person aboard any such vessel unless the fishery officer—

(a) Believes on reasonable grounds that any person on board the vessel has committed an offence in New Zealand fisheries waters; and

(b) Is in fresh pursuit of, or has freshly pursued, the vessel; and

(c) Commenced that pursuit in New Zealand fisheries waters.

Cf. 1983, No. 14, s. 79 (1)(f)
Provisions Relating to Exercise of Powers

216. Protection against self-incrimination—Nothing in this Part of this Act shall be construed so as to require any person to answer any question tending to incriminate himself or herself.

Cf. 1983, No. 14, s.79 (3)

217. Fishery officer to provide identification—A fishery officer exercising any power conferred by this Act shall identify himself or herself and produce evidence that he or she 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.

Cf. 1983, No. 14, s.79 (5)

218. Production of warrant to be sufficient authority to act—The production by any fishery officer, honorary fishery officer, or examiner of any warrant issued to him or her under section 198 of this Act shall, until the contrary is proved, be sufficient authority for any such officer to do any thing which he or she is authorised by this Act to do.

Cf. 1983, No. 14, s. 79 (6)

219. Persons to assist fishery officer—(1) Any fishery officer exercising any of the powers conferred on him or her by this Act may do so with the aid of such assistants as he or she considers necessary for the purpose.

(2) All persons called upon to assist any fishery officer in the exercise of any of the powers conferred on him or her by this Act are hereby authorised to render such assistance.

Cf. 1983, No. 14, s. 81

220. Protection of fishery officer from liability—(1) No fishery officer who does any act under this Act, or omits to do any act required by this Act, shall 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 or she has acted, or omitted to act, in bad faith or without reasonable cause.

(2) A person who, in acting under the directions of a fishery officer in accordance with section 196 (3), does any act under this Act, or omits to do any act required by this Act, 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 or she has acted or omitted to act in bad faith or without reasonable cause.

(3) A person who, while assisting a fishery officer under section 219 of this Act, does any act under this Act, or omits to do any act required by this Act, 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 or she has acted or omitted to act in bad faith.

(4) The Crown shall not be held, directly or indirectly, liable for any such act or omission of any such fishery officer or person, unless the fishery officer or person would himself or herself incur liability for the act or omission.

Cf. 1983, No. 14, s. 83

221. Complaints against fishery officers—(1) Any person who believes that any fishery officer is guilty of misconduct or neglect of duty in the exercise, or alleged exercise, of any power conferred on fishery officers by this Part of this Act, may lodge a complaint in writing with the chief executive.

(2) Every such complaint shall contain details of the alleged misconduct or neglect of duty and the chief executive may, in order to satisfy himself or herself as to the nature of the complaint, require further particulars from the complainant.

(3) The chief executive shall, after receiving a complaint made in accordance with this section and further particulars (if any),—

(a) Notify the fishery officer who is the subject of the complaint; and

(b) Subject to subsection (6) of this section, appoint an investigator to investigate the complaint in accordance with this section.

(4) The investigator shall notify the fishery officer of the investigation and shall, after making inquiries and obtaining the information he or she considers necessary in the circumstances, make a report to the chief executive, which report shall make recommendations as to whether the complaint should be upheld in whole or part.

(5) The chief executive shall, after receiving the investigator's report, and after giving the fishery officer concerned the opportunity to comment on it, decide whether the complaint should be upheld in whole or part, and shall notify the fishery officer and the complainant of his or her decision.
(6) If the chief executive is satisfied that a complaint may, if proven, amount to serious misconduct or serious neglect of duty, the investigator appointed under subsection (3) (b) of this section to inquire into the complaint and report in accordance with subsection (4) of this section shall be a person who—

(a) Is not an employee of the Ministry; and
(b) Has held a practising certificate as a barrister or solicitor for at least 7 years.

(7) The investigator referred to in subsection (6) of this section has the same powers as are conferred on a Commission of Inquiry by the Commissions of Inquiry Act 1908, and all the provisions of that Act, except sections 11 and 12 (which relate to costs), shall apply accordingly.

(8) Nothing in this section requires the chief executive to investigate any complaint which he or she considers is frivolous or vexatious.

Examiners

222. Examiners—(1) The chief executive may appoint any person to be an examiner to assist in the enforcement and administration of Part X of this Act, and of regulations referred to in that Part, by examining and verifying the keeping and contents of accounts, records, returns, and information required to be kept, or made, under that Part or regulations.

(2) Any appointment under subsection (1) of this section may, but is not required to, be made under the State Sector Act 1988.

(3) Each examiner appointed under this section shall be issued with a warrant under section 198 of this Act.

Cf. 1983, No. 14, s. 67B; 1986, No. 34, s. 13 (1); 1990, No. 29, s. 33

PART XII

Observer Programme

223. Observer programme established—(1) There shall be an observer programme established for the purpose of collecting reliable and accurate information for fisheries research, fisheries management, and fisheries enforcement.

(2) The chief executive may appoint any person to be an observer for the purposes of the observer programme under subsection (1) of this section, and an observer so appointed has all the powers of an observer under sections 225 and 227 of this Act.
(3) The chief executive may place any observer appointed under this section on any vessel to observe fishing and the transhipment, transportation, and landing of fish, aquatic life, or seaweed.

(4) An observer may collect any information on fisheries resources, fishing (including catch and effort information), the effect of fishing on the aquatic environment, and the transportation of fish, aquatic life, or seaweed, including—

(a) The species, quantity, size, age, and condition of fish, aquatic life, or seaweed taken;

(b) The methods by which, the areas in which, and the depths at which, fish, aquatic life, or seaweed are taken;

(c) The effects of fishing methods on fish, aquatic life, seaweed, and the aquatic environment (including seabirds and protected species);

(d) All aspects of the operation of any vessel;

(e) Processing, transportation, transhipment, storage, or disposal of any fish, aquatic life, or seaweed;

(f) Any other matter that may assist the chief executive or the Minister to obtain, analyse, or verify information for the purposes of fisheries research, fisheries management, and fisheries enforcement.

(5) No fishery officer or any person with the powers of a fishery officer shall be appointed under subsection (2) of this section.

(6) No person shall be deemed to be employed in the service of the Crown by reason of that person having been appointed as an observer.

Cf. 1983, No. 14, ss. 67c, 67d; 1986, No. 34, s. 13 (1)

224. Chief executive to give notice of intention to place observer on vessel—(1) Before placing any observer on a vessel, the chief executive shall give the owner, master, operator, or licence holder, of or in respect of the vessel, reasonable notice of his or her intention to place observers on the vessel.

(2) Upon receipt of a notice given under subsection (1) of this section, no person shall cause or allow the vessel to which the notice relates to put to sea without having on board the number of observers specified in the notice given under that subsection.

(3) Every person commits an offence and is liable to the penalty set out in section 252 (3) of this Act who contravenes subsection (2) of this section.
(4) For the purposes of this section, the term "reasonable notice" means a notice in writing that specifies a date, not earlier than 5 days after the date of service of the notice, on or after which the vessel is not to be put to sea without having on board the specified number of observers; or such other period or type of notice as may be agreed between the chief executive and the owner, master, operator, or licence holder.

Cf. 1983, No. 14, s. 67E; 1986, No. 34, s. 13 (1)

225. Powers of observers and obligations of persons on vessels carrying observers—(1) The owner, master, or operator of any vessel, or licence holder in respect of any vessel, on which an observer is placed under this Part of this Act shall allow the observer, at any reasonable time, having regard to the operations of the vessel, to—

(a) Have access to the fishing gear and the storage and processing facilities on the vessel:
(b) Have access to any fish, aquatic life, or seaweed (including seabirds and protected species) on board the vessel:
(c) Have access to the bridge and the navigation and communications equipment of the vessel:
(d) Have access to the logs and records of the vessel, whether required to be carried and maintained by or under this Act or otherwise:
(e) Receive and transmit messages and communicate with the shore and other vessels:
(f) Take, measure, and retain samples or whole specimens of any fish, aquatic life, seaweed, or any seabird or protected species caught:
(g) Store samples and whole specimens on the vessel, including samples and whole specimens held in the vessel's freezing facilities.

(2) Every person on board a vessel on which there is an observer commits an offence, and is liable to the penalty set out in section 252 (3) of this Act, who—

(a) Fails to provide reasonable assistance to enable the observer to exercise powers under subsection (1) of this section; or
(b) Hinders or prevents the observer exercising those powers.

Cf. 1983, No. 14, s. 67F; 1986, No. 34, s. 13 (1)

226. Food and accommodation to be provided for observers—(1) The owner, master, or operator of any vessel, or licence holder in respect of any vessel, on which an observer is placed under this Part of this Act shall provide food,
accommodation, and access to any cooking and toilet facilities and amenities to an approved standard and free of charge.

(2) Every person commits an offence and is liable to the penalty set out in section 252 (5) of this Act who contravenes or fails to comply with subsection (1) of this section.

Cf. 1983, No. 14, s. 67c (1); 1986, No. 34, s. 13 (1)

227. Supervision by observers of transhipments, dumping of fish, and operation of conversion factors—
(1) If an observer is on board a vessel—
(a) From which, or to which, any fish, aquatic life, or seaweed are transhipped; or
(b) From which any fish, aquatic life, or seaweed subject to the quota management system are returned to or abandoned in the sea; or
(c) In respect of which any conversion factor certificate may be or has been given under section 188 (2) of this Act; or
(d) Which is taking or has taken fish, aquatic life, or seaweed outside New Zealand fisheries waters,—
the master of the vessel or, in the case of transhipment, the master of each vessel, shall provide such information, and shall allow the observer to carry out such inspections (including sampling and measuring) of the vessel, any fish, aquatic life, or seaweed, taken, processed, transhipped, or landed, and documents, as the observer may require for the purpose of—
(e) Observing the transhipment, abandonment, or return to sea; or
(f) Collecting information on the method of processing, and performance of the vessel in undertaking such processing, in order to determine or monitor any conversion factor; or
(g) Observing the fishing activities of the vessel and the landing and disposal of its catch; or
(h) Taking, measuring, and retaining samples or whole specimens of any fish, aquatic life, seaweed, seabirds, or protected species caught.

(2) An observer may take and make copies of such records, documents, or information as the observer may require for the purposes of subsection (1) of this section.

(3) An observer may store in the vessel’s freezing facilities such samples and whole specimens of any fish, aquatic life, seaweed, seabirds, or protected species as the observer may require for the purposes of subsection (1) of this section.
(4) Every person commits an offence and is liable to the penalty set out in section 252(3) of this Act who contravenes or fails to comply with subsection (1) of this section.

Cf. 1983, No. 14, s. 67H; 1990, No. 29, s. 36

PART XIII
OFFENCES AND PENALTIES

228. Breach of conditions or requirements—(1) Every person commits an offence who contravenes, or fails to comply with, any condition or requirement imposed by the chief executive in respect of any consent, approval, authority, permission, or certificate issued or granted under this Act (other than a requirement to pay a sum of money).

(2) Every person who commits an offence against subsection (1) of this section is liable to the penalty set out in section 252(5) of this Act.

Cf. 1983, No. 14, ss. 93, 107; 1986, No. 34, s. 27(1); 1990, No. 29, s. 51

229. Obstructing fishery officers—(1) Every person commits an offence who—

(a) Resists or obstructs, or aids, abets, incites, or encourages any other person to resist or obstruct,—

(i) Any fishery officer executing his or her powers or duties; or

(ii) Any person assisting a fishery officer in accordance with section 219 of this Act; or

(iii) Any person acting under the directions of a fishery officer in accordance with section 196(3) of this Act; or

(b) Uses threatening language or behaves in a threatening manner towards—

(i) Any fishery officer executing his or her powers or duties; or

(ii) Any person assisting a fishery officer in accordance with section 219 of this Act; or

(iii) Any person acting under the directions of a fishery officer in accordance with section 196(3) of this Act; or

(c) Fails to comply with any lawful requirement of any fishery officer; or

(d) Provides to any fishery officer any particulars that are false or misleading in any material respect; or
(e) Personates or falsely claims to be a fishery officer or a person lawfully assisting a fishery officer.

(2) Every person who refuses to allow any fishery officer, any person assisting a fishery officer in accordance with section 219 of this Act, or any person acting under the directions of a fishery officer in accordance with section 196 (3) of this Act, to exercise any of the powers conferred on that fishery officer or person by this Act shall be deemed to be obstructing that fishery officer or person.

(3) For the avoidance of doubt, this section applies whenever a fishery officer exercises powers under section 215 of this Act, even if such powers are exercised extra-territorially.

(4) Every person who commits an offence against subsection (1) of this section is liable to the penalty set out in section 252 (3) of this Act.

Cf. 1983, No. 14, ss. 95, 107; 1986, No. 34, s. 27 (1); 1990, No. 29, s. 51

230. Neglect or refusal to supply particulars, and improper divulging of information—(1) Every person commits an offence who—

(a) Fails to keep, or provide, any accounts or records, or who neglects or refuses to provide any records, return, or information, when lawfully requested or required to do so under this Act; or

(b) Makes any false or misleading statement, or omits any material information, in any communication, application, record, or return prescribed by or in accordance with this Act, or required for its administration.

(2) Every person who commits an offence against subsection (1) of this section is liable to the penalty set out in section 252 (3) of this Act.

Cf. 1983, No. 14, ss. 96, 107; 1986, No. 34, s. 27 (1)

231. Knowingly using false document to obtain benefit or making false statement—(1) Every person commits an offence who knowingly makes any false or misleading statement, or knowingly omits any information, in any communication, application, record, or return prescribed by or in accordance with this Act, or required for its administration.

(2) Every person commits an offence who knowingly, for the purpose of obtaining any benefit under this Act,—

(a) Uses, deals with, or acts upon; or

(b) Causes any other person to use, deal with, or act upon—
any false communication, application, record, or return prescribed by or in accordance with this Act, or required for its administration.

(3) Every person who commits an offence against subsection (1) or subsection (2) of this section is liable to the penalty set out in section 252 (1) of this Act.

232. Buying, selling, or possessing fish contrary to Act—(1) Every person commits an offence who buys, sells, or possesses any fish, aquatic life, or seaweed taken in contravention of this Act.

(2) Every person commits an offence who buys, sells, or possesses any fish, aquatic life, or seaweed the taking or landing of which has not been recorded or reported in accordance with this Act.

(3) For the purposes of subsections (1) and (2) of this section, fish, aquatic life, or seaweed shall be deemed to be sold if it forms part of a meal and either—

(a) Payment is made for that meal or any part of the meal; or

(b) The meal is supplied to any person who is employed by the person by whom the meal is supplied (whether in accordance with the terms of a contract of service or otherwise).

(4) Every person who commits an offence against subsection (1) or subsection (2) of this section is liable to the penalty set out in section 252 (3) of this Act, except that if, in the case of an individual defendant, the defendant establishes that the fish, aquatic life, or seaweed was purchased or possessed otherwise than for the purpose of sale, the penalty shall be as set out in subsection (5) of that section.

Cf. 1983, No. 14, ss. 97, 107; 1986, No. 34, s. 27 (1)

233. Knowingly engaging in commercial activity, or receiving or possessing fish, in contravention of Act—(1) Every person commits an offence who knowingly, for the purpose of obtaining any benefit under this Act,—

(a) Receives or possesses any fish, aquatic life, or seaweed otherwise than in accordance with this Act; or

(b) Engages in any commercial activity involving the taking, possessing, receiving, procuring, processing, conveying, selling of, or otherwise dealing with, any fish, aquatic life, or seaweed otherwise than in accordance with this Act.
(2) Every person who commits an offence against subsection (1) of this section is liable to the penalty set out in section 252 (1) of this Act.

234. Using hazardous substance to catch or destroy fish—(1) Every person commits an offence who uses, in any New Zealand fisheries waters, any narcotic or hazardous substance or electric fishing device for the purpose of taking any fish, aquatic life, or seaweed.

(2) Every person who commits an offence against subsection (1) of this section is liable to the penalty set out in section 252 (5) of this Act.

Cf. 1983, No. 14, ss. 98, 107; 1986, No. 34, s. 27 (1)

235. Knowingly permitting premises to be used for offence against Act—(1) Every person commits an offence who knowingly permits any premises to be used for the commission of an offence against this Act.

(2) Every person convicted of an offence against subsection (1) of this section is liable to the same penalty as that set out in section 252 of this Act for the offence for which the premises were used.

Cf. 1983, No. 14, ss. 98A, 107; 1990, No. 29, s. 45

Proceedings, Defences, Etc.

236. Proceedings for offences—(1) Any offence against this Act shall be deemed to have been committed in New Zealand.

(2) An information in respect of any offence against this Act may, notwithstanding section 14 of the Summary Proceedings Act 1957, be laid,—

(a) In the case of an offence for which the maximum fine does not exceed $10,000, within 12 months from the time it is alleged the offence occurred:

(b) In the case of an offence for which the maximum fine exceeds $10,000, within 2 years from the time it is alleged the offence occurred.

237. Summons may be served on agent of foreign vessel—(1) Any summons in respect of an offence against this Act that relates to any foreign fishing vessel or foreign-owned New Zealand fishing vessel or foreign-operated fish carrier shall be deemed to have been served on the defendant in accordance with section 24 of the Summary Proceedings Act
1957 if the summons is served, in any one of the ways specified in subsection (1) of that section, on the authorised agent of—
(a) The operator of any foreign-owned New Zealand fishing vessel or any foreign-operated fish carrier; or
(b) The foreign charterparty of any foreign-owned New Zealand fishing vessel; or
(c) The operator of any foreign fishing vessel.

(2) For the purposes of subsection (1) of this section, the authorised agent shall be the person nominated as authorised agent at the time of registration or licensing of the vessel, as the case may be, whether or not the vessel is currently registered or licensed under this Act.

Cf. 1983, No. 14, s. 104 (1), (2), (3), (6); 1987, No. 117, s. 11 (1)

238. Informations relating to certain offences may be heard together—(1) If 2 or more informations charging a defendant with any offence against this Act have been laid, the Court may, notwithstanding any other enactment or rule of law, order that any specified informations be heard together, if satisfied that—
(a) Either—
(i) The offences are founded on the same set of facts; or
(ii) The offences form, or are part of, a series of offences of the same character or similar character; and
(b) It is in the interests of justice that the informations be heard together.

(2) If the Court has made an order under subsection (1) of this section, the Court may, at any subsequent time, direct that any information subject to that order be heard separately if satisfied that to do so is in the interests of justice.

(3) For the purposes of this section, in considering whether it is in the interests of justice to hear any informations together or separately, the Court shall have regard to the likelihood of prejudice to the defendant if any particular information, or combination of informations, is heard together with any other information or combination of informations.

Cf. 1983, No. 14, s. 104A; 1992, No. 90, s. 17

239. Information may charge defendant with any number of offences—(1) Any information may, notwithstanding section 16 of the Summary Proceedings Act 1957, charge the defendant with any number of offences against this Act, if the
offences are founded on the same set of facts, or form, or are part of, a series of offences of the same or similar character.

(2) If any information charges more than one such offence, particulars of each offence charged shall be set out in the information.

(3) All such charges shall be heard together unless the Court, either before or at any time during the hearing, considers it just that any charge should be heard separately and makes an order to that effect.

Cf. 1992, No. 13, s. 166 (5)-(7)

240. Strict liability—In any proceedings for an offence against this Act (other than an offence against section 231 or section 233 or section 235), it shall not be necessary for the prosecution to prove that the defendant intended to commit the offence.

1983, No. 14, s. 105; 1986, No. 34, s. 27 (1)

241. Defence available under this Act—(1) Subject to this section, it is a defence in any proceedings for an offence against this Act (other than an offence against section 231 or section 233 or section 235), if the defendant proves—

(a) That—

(i) The contravention was due to the act or default of another person, or to an accident or to some other cause beyond the defendant's control; and

(ii) The defendant took reasonable precautions and exercised due diligence to avoid the contravention; and

(b) In the case of an offence concerning the taking of any fish, aquatic life, or seaweed in contravention of any provision of this Act prohibiting the taking, or requiring the taking to be under the authority of a licence, permit, or annual catch entitlement, that—

(i) The defendant immediately returned the fish, aquatic life, or seaweed to the waters from which they were taken except where such return was prohibited by this Act; and

(ii) The defendant complied with all the requirements of this Act in respect of the recording and reporting of the taking, return, or landing of the fish, aquatic life, or seaweed.

(2) For the purposes of this section, the term "another person" does not include a director, employee, or agent of the defendant, or the master or any member of the crew of any
vessel in respect of which the defendant is registered as operator.

(3) A defendant is not, without leave of the Court, entitled as part of a defence provided by this section to rely on any of the matters specified in subsection (1) (a) of this section unless the defendant has, not later than 7 days before the date on which the hearing of the proceedings commences, served on the informant a notice in writing identifying the person or the nature of the accident or cause relied on by the defendant.

242. Defence for all quota management stocks—
(1) Subject to subsection (2) of this section, it shall be a defence in any proceedings against a commercial fisher for an offence against section 69 of this Act if, by the close of the 15th day after the end of the month in which the taking of the fish, aquatic life, or seaweed which is the subject of the proceedings occurred, the commercial fisher holds for the relevant stock an amount of annual catch entitlement applicable to the fishing year in which the catch was taken that is greater than or equal to the amount of fish, aquatic life, or seaweed taken by that commercial fisher in that fishing year up to and including the taking of the fish, aquatic life, or seaweed that is the subject of the offence.

(2) The defence provided by this section is available only if the defendant has complied with all the requirements of this Act in respect of the recording and reporting of the taking, return, or landing of the fish, aquatic life, or seaweed.

Cf. 1983, No. 14, s. 105A; 1990, No. 29, s. 50 (1); 1992, No. 90, s. 18

243. Defence for specified quota management stocks—
(1) Subject to subsection (2) of this section, it shall be a defence in any proceedings against a commercial fisher for an offence against section 69 of this Act if the commercial fisher,—

(a) By the close of the 15th day after the end of the fishing year in which the taking of the fish, aquatic life, or seaweed which is the subject of the proceedings occurred, holds for the relevant stock an amount of annual catch entitlement applicable to that fishing year that is greater than or equal to the amount of fish, aquatic life, or seaweed taken by that commercial fisher in that fishing year; or

(b) Has, by the close of the 60th day after the end of the fishing year in which the taking of the fish, aquatic life, or seaweed which is the subject of the
proceedings occurred, satisfied in full all deemed value amounts demanded by the chief executive under section 76 of this Act in respect of fish, aquatic life, or seaweed of that stock taken by that commercial fisher in that fishing year.

(2) The defence provided by this section is not available if—
(a) The offence concerns the taking of any stock which was listed in the Eighth Schedule to this Act when the offence occurred; or
(b) The defendant is a commercial fisher who was subject to section 71 of this Act when the offence occurred; or
(c) The defendant did not comply with the requirements of this Act in respect of the recording and reporting of the taking, return, or landing of the fish, aquatic life, or seaweed.

244. Liability of body corporate—If, in the course of any proceedings against a body corporate for an offence against this Act, it is necessary to establish the state of mind of the body corporate, it is sufficient to show that a director, employee, or agent of the body corporate, acting within the scope of that person's actual or apparent authority, had that state of mind.

245. Liability of companies and persons for actions of agent or employees—(1) Any act or omission on behalf of a person other than a body corporate by—
(a) An agent or employee of that person, or the master or any member of the crew of a vessel registered in the name of that person (whether as operator or notified user); or
(b) Any person at the direction or with the consent or agreement, whether express or implied, of any person referred to in paragraph (a) of this subsection,—
shall be deemed, for the purpose of this Act, also to be the act or omission of the first-mentioned person.

(2) Any act or omission on behalf of a body corporate by—
(a) A director, agent, or employee of that body corporate, or the master or any member of the crew of a vessel registered in the name of that body corporate (whether as operator or notified user); or
(b) Any other person at the direction or with the consent or agreement, whether express or implied, of any
person referred to in paragraph (a) of this subsection—
shall be deemed, for the purpose of this Act, to also be the act or omission of the body corporate.

(3) If any person or body corporate is charged in relation to the act or omission of a person referred to in paragraph (a) or paragraph (b) of subsection (1) or paragraph (a) or paragraph (b) of subsection (2) of this section, any defence available under section 241 of this Act in relation to an offence against this Act is available to that person or body corporate only to the extent that it can be proved in relation to the act or omission of the relevant person referred to in paragraph (a) or paragraph (b) of subsection (1) or paragraph (a) or paragraph (b) of subsection (2) of this section, unless the Court is satisfied that it would be repugnant to justice for that defence to be so limited having regard to—

(a) Any likely or possible benefit accruing to, or detriment suffered by, the person or body corporate from the act or omission in respect of which the proceedings are brought, had the alleged offence remained undetected; and

(b) The purpose or motive of the relevant person referred to in paragraph (a) or paragraph (b) of subsection (1) or paragraph (a) or paragraph (b) of subsection (2) of this section; and

(c) The relationship between the person or body corporate and the relevant person referred to in paragraph (a) or paragraph (b) of subsection (1) or paragraph (a) or paragraph (b) of subsection (2) of this section, or between the person or body corporate and any person appearing or likely to benefit from the alleged offence; and

(d) In the case of a body corporate, whether or not any person responsible for, or closely associated with, the management of the body corporate appears to have benefited from the act or omission, or would have been likely to benefit if the alleged offence had remained undetected.

(4) For the purposes of this section,—

(a) A person may act as an agent of another person or body corporate whether or not the first-mentioned person is employed by the other person or body corporate and whether or not acting for reward:

(b) Any agent or employee of a person acting as an agent shall be deemed to be also acting as an agent for the
other person or body corporate referred to in paragraph (a) of this subsection.

Cf. 1983, No. 14, s. 105c; 1990, No. 29, s. 51

246. Liability of directors and managers—If any body corporate is convicted of an offence against this Act, every director, and every person concerned in the management of the body corporate, shall be guilty of a like offence, if it is proved that the act or omission that constituted the offence took place with the director’s or person’s authority, permission, or consent, or that the director or person knew or should have known that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

Cf. 1983, No. 14, s. 105d; 1990, No. 29, s. 51

247. Presumption as to authority—A return, record, transaction, form, application, or other information purporting to be completed, kept, or provided by or on behalf of any person shall, for the purpose of this Act, be deemed to have been completed, kept, or provided by that person unless the contrary is proved.

Cf. 1983, s. 105e; 1990, No. 29, s. 51

Evidence in Proceedings

248. Certificates and official documents—(1) Subject to subsection (8) of this section, in any proceedings for an offence against this Act—

(a) Any certificate signed by any person holding a public office or exercising a function of a public nature under the law of New Zealand or of a foreign country, stating any matter contained in a public document; or

(b) A public document; or

(c) A certified copy of a public document, which copy contains on its face a statement signed by or under the seal of any of the persons specified in paragraph (a) of this subsection certifying that the document is a true copy of the relevant public document—

shall be admissible in evidence and shall, in the absence of proof to the contrary, be sufficient evidence of its contents.

(2) For the purposes of this Part of this Act, the term “public document” means a document that—
(a) Forms part of the records of the legislative, executive, or judicial branch of the Government of New Zealand, or of a person or body holding a public office or exercising a function of a public nature under the law of New Zealand; or

(b) Forms part of the records of the legislative, executive, or judicial branch of the government of a foreign country, or of a person or body holding a public office or exercising a function of a public nature under the law of a foreign country; or

(c) Forms part of the records of an international organisation whose membership is primarily composed of sovereign states; or

(d) Is being kept by or on behalf of a branch of government, person, body, or organisation referred to in paragraph (a) or paragraph (b) or paragraph (c) of this subsection.

(3) The imprint of a seal that appears on a public document or certificate and purports to be the imprint of the Seal of New Zealand, or the former Public Seal of New Zealand, or one of the seals of the United Kingdom on a public document or certificate relating to New Zealand, is presumed, unless the contrary is proved, to have been sealed as it purports to have been sealed.

(4) The imprint of a seal that appears on a public document or certificate and purports to be the imprint of the seal of a body (including a court or tribunal) exercising a function of a public nature under the law of New Zealand is presumed, unless the contrary is proved, to be the imprint of that seal, and the public document or certificate is presumed, unless the contrary is proved, to have been sealed as it purports to have been sealed.

(5) The imprint of a seal that appears on a public document or certificate and purports to be the imprint of the seal of a person holding a public office or exercising a function of a public nature under the law of New Zealand is presumed, unless the contrary is proved, to be the imprint of that seal, and the public document or certificate is presumed, unless the contrary is proved, to have been sealed as it purports to have been sealed.

(6) A public document, certified copy of a public document, or certificate that purports to have been signed by a person as the holder of a public office or in the exercise of a function of a public nature under the law of New Zealand is presumed,
unless the contrary is proved, to have been signed by that person acting in his or her official capacity.

(7) Subject to subsection (8) of this section, if, in any proceedings for an offence against this Act, the prosecution tenders evidence that has been produced wholly or partly by a machine, device, or technical process, and the machine, device, or technical process is of a kind that ordinarily does what the prosecution asserts the machine, device, or technical process has done, then, in the absence of proof to the contrary, the evidence shall be admissible and sufficient proof that, on the relevant occasion, the machine, device, or technical process operated in the way asserted by the prosecution.

(8) Any certificate referred to in subsection (1) or evidence referred to in subsection (7) of this section shall be admissible only if—

(a) At least 20 working days before the hearing at which the certificate or evidence is to be tendered, a copy of that certificate or summary of that evidence is served, by or on behalf of the prosecutor, on the defendant or the defendant’s agent or counsel, and that person is at the same time informed in writing that the prosecutor does not propose to call the person who signed the certificate or summary as a witness at the hearing; and

(b) The Court has not, on the application of the defendant made within 10 working days after receipt of the certificate or evidence referred to in paragraph (a) of this subsection, ordered, not less than 5 working days before the hearing (or such lesser period as the Court in the special circumstances of the case thinks fit), that the certificate or evidence is inadmissible as evidence in the proceedings.

(9) The Court shall not make an order under subsection (8) of this section unless it is satisfied that there is reasonable doubt as to—

(a) The accuracy of the information contained or referred to in the certificate or summary of evidence; or

(b) The validity of the certificate or summary of evidence.

Cf. 1983, No. 14, s. 106; 1990, No. 29, s. 51; 1991, No. 149, s. 28; 1992, No. 90, s. 19

249. Copies of accounts, records, returns, etc.—(1) A copy of any account, record, return, or information required to be kept, completed, or provided under this Act that purports to be certified by the chief executive or a Registrar as having been
kept, completed, or provided (as the case may require), at or within or in relation to any specified time, date, period, or place, shall be sufficient evidence, in the absence of proof to the contrary, of the fact that the account, record, return, or information was so kept, completed, or provided.

(2) Any copy of a record or other document taken by a fishery officer, or any copy of such a copy, shall, subject to subsection (3) of this section, be admissible, to the same extent as the original record or document would itself be admissible, as evidence of the record or document and of any transactions, dealings, amounts, or other matters contained in the record or the document.

(3) A copy of any account, record, return, or other document referred to in subsection (1) or subsection (2) of this section (including a copy of such a copy) shall be admissible in evidence only if—

(a) The prosecutor or an agent of the prosecutor serves on the defendant, or the defendant's agent or counsel, not less than 20 working days before the hearing at which it is proposed to tender the copy in evidence,—

(i) Notice of the prosecutor's intention to tender the copy in evidence; and

(ii) A copy of the copy which is to be so tendered; and

(b) The Court has not, on the application of the defendant made not less than 10 working days after receipt of the copy referred to in paragraph (a) of this subsection, ordered, not less than 5 working days before the hearing (or such lesser period as the Court in the special circumstances of the case thinks fit), that the copy is inadmissible as evidence in the proceedings.

(4) The Court shall not make an order under subsection (3) of this section unless it is satisfied that there is reasonable doubt as to—

(a) The accuracy of the information contained or referred to in the document; or

(b) The validity of the document.

Cf. 1983, No. 14, s. 106A; 1990, No. 29, s. 51

250. Presumption as to master of vessel—In any proceedings for an offence against this Act, an allegation made in an information or indictment about the identity of the
master of any vessel, at any specified time, shall be presumed to be true in the absence of proof to the contrary.

Cf. 1983, No. 14, s. 106b; 1990, No. 29, s. 51

251. Presumptions to apply whether or not separate or further evidence adduced in support—If it is provided in this Act that any presumption is to apply in respect of any matter, the presumption shall apply, whether or not separate or further evidence is adduced by or on behalf of the informant in support of the relevant presumption.

Cf. 1983, No. 14, s. 106c; 1990, No. 29, s. 51

Penalties

252. Penalties—(1) Every person convicted on indictment of an offence against any of the following provisions of this Act is liable to imprisonment for a term not exceeding 5 years or to a fine not exceeding $250,000, or to both:

(a) Section 231 (1) (knowingly making a false or misleading statement, etc.);
(b) Section 231 (2) (using a false communication, etc. to obtain a benefit);
(c) Section 233 (1) (knowingly receiving or possessing fish for sale or engaging in a commercial activity, otherwise than in accordance with this Act).

(2) Every person convicted of an offence at section 84 (3) (licensing offences by foreign vessels) of this Act is liable to a fine not exceeding $500,000.

(3) Every person convicted of an offence against any of the following provisions of this Act is liable to a fine not exceeding $250,000:

(a) Section 69 (3) (taking otherwise than under authority of an annual catch entitlement);
(b) Section 72 (4) (unlawfully dumping fish);
(c) Section 73 (2) (contravening provision against transferring annual catch entitlement when an imbalance results);
(d) Section 84 (4) (breach of condition of foreign fishing licence);
(e) Section 89 (12) (taking other than under the authority of a fishing permit);
(f) Section 110 (6) (landing fish outside New Zealand);
(g) Section 112 (4) (fishing unlawfully in the territorial sea);
(h) Section 113 (4) (possession of fish by vessels other than New Zealand ships);
(i) Section 191 (6) (unlawfully disposing of fish, etc.):
(j) Section 192 (6) (unlawfully receiving fish, etc.):
(k) Sections 224 (3), 225 (2), 227 (4) (contravening provisions relating to observers):
(l) Section 229 (1) (obstructing fishery officers):
(m) Section 230 (1) (neglecting or refusing to supply particulars or improperly disclosing information):
(n) Section 232 (1) and (2) (buying, selling, or possessing fish contrary to this Act).

(4) Every person convicted of an offence against section 257 (2) of this Act (prohibition of fishing activity in case of reoffending) is liable to imprisonment for a term not exceeding 1 year or to a fine not exceeding $100,000.

(5) Every person convicted of an offence against any of the following provisions of this Act is liable to a fine not exceeding $100,000:

(a) Section 15 (6) (fishing in contravention of a fishing-related mortality measures notice):
(b) Section 16 (6) (fishing in contravention of emergency measures):
(c) Section 74 (12) (fishing without a minimum holding of annual catch entitlement):
(d) Section 92 (6) (breach of condition on fishing permit):
(e) Section 97 (11) (breach of condition on special permit):
(f) Section 103 (7) (using unregistered vessel):
(g) Section 105 (6) (using unregistered vessel for transporting fish):
(h) Section 107 (9) (failure to notify Registrar of Fishing Vessels):
(i) Section 226 (2) (provisions relating to food and accommodation for observers):
(j) Section 228 (1) (contravening conditions or approvals):
(k) Section 232 (1) and (2) (individuals buying, selling, or possessing fish contrary to Act where section 232 (4) applies):
(l) Section 234 (1) (using hazardous substance to catch or destroy fish).

(6) Every person convicted of an offence against any of the following provisions is liable to a fine not exceeding $5,000:

(a) Section 121 (3) (unlawfully releasing sensitive information):
(b) Section 288 (5) (contravening provisions relating to public meetings).

(7) Notwithstanding anything in the Criminal Justice Act 1985, if any person is convicted of an offence against this Act, the Court may, in addition to any other sentence it may
impose, sentence the defendant to serve such specified community-based sentence (as defined in section 2(1) of that Act) as the Court in the circumstances of the case considers appropriate.

Cf. 1983, No. 14, s. 107; 1990, No. 29, s. 51

253. **Imprisonment of foreign persons**—(1) In the absence of an agreement to the contrary made between the Government of New Zealand and the government of another country, nothing in this Act shall be construed as authorising the imposition of a term of imprisonment on any person (other than a New Zealand citizen or a person entitled to reside in New Zealand indefinitely) who is convicted of an offence against this Act in respect of a foreign fishing vessel.

(2) If, but for subsection (1) of this section, a person would be liable to suffer imprisonment for the commission of any offence, the person shall instead of such imprisonment be liable on summary conviction to a fine not exceeding $500,000.

254. **Matters to be taken into account by Court in sentencing**—If any person is convicted of an offence against this Act, the Court shall, in imposing sentence, take into account the purpose of this Act and shall have regard to—

(a) The difficulties inherent in detecting fisheries offences; and

(b) The need to maintain adequate deterrents against the commission of such offences.

255. **Forfeiture of fish, property, or quota on conviction**—(1) In this section and in section 256 of this Act, unless the context otherwise requires,—

“Fish and any proceeds from the sale of such fish” means any fish, aquatic life, or seaweed in respect of which the offence was committed (whether or not seized under section 207 of this Act) and any proceeds from the sale of such fish, aquatic life, or seaweed under section 212 of this Act:

“Property used in the commission of the offence” means any vessel, vehicle or other conveyance, fishing gear, implement, appliance, material, container, goods, equipment, or thing, used in respect of the commission of the offence (whether or not seized under section 207 of this Act); but does not include any quota or annual catch entitlement:
"Quota", in relation to a person convicted of an offence, means the number of quota shares or amount of provisional catch history, for each stock, that is equivalent to the number or amount held by that person, and any person who is an associated person in relation to that person, for the stock at the date of the commission of the offence.

(2) On the conviction of any person for an offence against this Act for which the maximum penalty on the first conviction for that offence is a fine which exceeds $1,000 but does not exceed $5,000, or on the discharge of any person without conviction under section 19 of the Criminal Justice Act 1985 in respect of any offence against this Act,—
(a) Any fish and any proceeds from the sale of such fish; and
(b) Any illegal fishing gear in respect of which the offence was committed (whether or not seized under section 207 of this Act)—
shall be forfeit to the Crown, unless the Court for special reasons relating to the offence thinks fit to order otherwise.

(3) On the conviction of any person for an offence against this Act for which the maximum penalty is a fine which exceeds $5,000 but does not exceed $100,000,—
(a) Any fish and any proceeds from the sale of such fish; and
(b) Any illegal fishing gear in respect of which the offence was committed (whether or not seized under section 207 of this Act);
and
(c) Any property used in the commission of the offence—
shall be forfeit to the Crown, unless the Court for special reasons relating to the offence thinks fit to order otherwise.

(4) On the conviction of any person for an offence against any of sections 230, 231, 233, and 257 (2) of this Act,—
(a) Any fish and any proceeds from the sale of such fish; and
(b) Any property used in the commission of the offence; and
(c) Any quota held by the person and any associated person—
shall be forfeit to the Crown unless the Court for special reasons relating to the offence thinks fit to order otherwise.

(5) If any property, fish, aquatic life, seaweed, or quota is forfeited to the Crown under this Act, such property, fish, aquatic life, seaweed, or quota shall, notwithstanding section 168 of this Act, thereupon vest in the Crown absolutely and free of all encumbrances.

(6) For the avoidance of doubt, it is hereby declared that any vessel used to take or transport fish, aquatic life, or seaweed which is the subject of an offence against section 230 or
section 231 of this Act or an offence against regulations made under section 297 or section 298 or section 299 of this Act relating to—

(a) Making any false or misleading statements in any return; or

(b) Omitting any information in any return; or

(c) Completing, keeping, or providing any return—is property used in the commission of the offence.

(7) At the time of conviction of any offence against this Act, the Court shall determine what, if any, of the following is forfeit under this section:

(a) Fish and proceeds from the sale of fish:

(b) Illegal fishing gear:

(c) Property:

(d) Quota.

(8) For the purposes of section 19 of the Criminal Justice Act 1985, any forfeiture referred to in subsection (3) or subsection (4) of this section shall be deemed to be a minimum penalty in respect of the commission of an offence referred to in that subsection, except to the extent that the Court for special reasons relating to the offence thinks fit to order that the property, illegal fishing gear, fish, and any proceeds from the sale of such fish and quota not be forfeit.

Cf. 1983, No. 14, s. 107b (1), (2), (4), (5); 1990, No. 29, s. 52 (1)

256. Provisions relating to forfeit property—(1) In this section, unless the context otherwise requires,—

"Forfeit property" means any—

(a) Fish and any proceeds from the sale of such fish; or

(b) Property; or

(c) Quota—

forfeit to the Crown under section 255 of this Act:

"Interest" means,—

(a) In the case of quota, an interest in the quota that is recorded on the Quota Register at the time of the forfeiture:

(b) In the case of other forfeit property, a legal or equitable interest in that forfeit property that existed at the time of the forfeiture; but does not include any interest (other than ownership) in any foreign vessel or foreign-owned New Zealand fishing vessel or a foreign-operated fish carrier.
(2) The chief executive shall, within 10 working days after the date of any forfeiture under section 255 of this Act, publicly notify the details of the forfeit property and the right of any person to apply under this section.

(3) Any person claiming an interest in any forfeit property may, within 35 working days after the date of the forfeiture, apply to the Court for relief from the effect of forfeiture on that interest.

(4) Every application under subsection (2) of this section shall contain sufficient information to identify the interest and the property in which it is claimed, and shall include—

(a) A full description of the forfeit property in which the interest is claimed, including reference to any registration or serial number; and

(b) Full details of the interest or interests claimed, including—

(i) Whether the interest is legal or equitable; and

(ii) Whether the interest is by way of security or otherwise; and

(iii) If the interest is by way of security, details of the security arrangement and any other property included in that arrangement; and

(iv) Whether the interest is noted on any register maintained pursuant to statute; and

(v) Any other interests in the property known to the applicant; and

(c) A statement as to whether the applicant is associated (as defined in section 3 of this Act) with any person whose conviction, in respect of offences against this Act, has lead to the forfeiture of the property that is the subject of the application; and

(d) The applicant’s estimate of the value of the forfeit property and of the value of the claimed interest.

(5) The Court shall hear all applications in respect of the same property together, unless it considers that it would not be in the interests of justice to do so.

(6) The Court shall, in respect of every application made under subsection (3) of this section,—

(a) Determine the value of the forfeit property, being the amount the property would realise if sold at public auction in New Zealand; and

(b) Determine the nature, extent, and, if possible, the value of any applicant’s interest in the property; and

(c) Determine whether, in the case of quota that was owned by an associated person before being forfeit under
section 255(4)(c) of this Act, the interest of the associated person was created solely or principally for the purpose of avoiding or defeating the consequences of the application of this Act in respect of forfeiture; and

(d) Determine the cost to the Ministry of the prosecution of the offence which resulted in the forfeiture, and the seizure, holding, and anticipated cost of disposal of the forfeit property, including the court proceedings in respect of that seizure, holding, and disposal.

(7) Having determined the matters specified in subsection (6) of this section, the Court may, after having regard to—

(a) The purpose of this Act; and

(b) The effect of the offence from which the forfeiture arose on the aquatic environment from which the fish, aquatic life, or seaweed was taken or in which the vessel was operating; and

(c) The effect of the offence from which the forfeiture arose on other fishers (whether commercial or otherwise) fishing in the area or for the stock in respect of which the offence occurred; and

(d) The effect of offending of the type from which the forfeiture arose on the relevant aquatic environment; and

(e) The effect of offending of the type from which the forfeiture arose on other fishers (whether commercial or otherwise) fishing in the area or for the stock in respect of which the offence occurred; and

(f) The social and economic effects on the person who owned the property or quota, and on persons employed by that person, of non-release of the property or quota; and

(g) The effect of offending of the type from which the forfeiture arose on fisheries management and administration systems (including the keeping of records and the providing of returns); and

(h) The previous offending history (if any) of the person from whose conviction the forfeiture arose; and

(i) The economic benefits that accrued or might have accrued to the owners of the property or quota through the commission of the offence; and

(j) The prevalence of offending of the type from which the forfeiture arose; and

(k) The cost to the Ministry of the prosecution of the offence which resulted in the forfeiture, and the seizure,
holding, and anticipated cost of disposal of the property or quota, including the court proceedings in respect of that seizure, holding, and disposal,—

and, subject to subsections (8) and (9) of this section, make an order or orders providing relief (either in whole or part) from the effect of forfeiture on any of the interests determined under subsection (6) of this section.

(8) No order shall be made under subsection (7) of this section unless—

(a) It is necessary to avoid manifest injustice; and

(b) The Court is satisfied that, in the case of an order made in respect of an application made by an associated person relating to forfeit quota, the interest was not created solely or principally for the purpose of avoiding or defeating the consequences of the application of this Act in respect of forfeiture.

(9) If the owner of the forfeit property was the person convicted of the offence in respect of which the property was forfeit, no order made under subsection (7) of this section in respect of that forfeit property shall have effect to the extent that it, together with any other order made under that subsection in respect of the same forfeit property, has the effect of allowing less than 40 percent of the value of the forfeit property to remain forfeit to the Crown.

(10) Subsection (9) of this section does not prevent the return of up to 100 percent of the value of any forfeit property to any owner of property other than the person convicted of the offence in respect of which the property was forfeit.

(11) Without limiting subsection (7) of this section, any order under that subsection may order one or more of the following:

(a) The retention of the forfeit property by the Crown:

(b) The return of some or all of the forfeit property to the owner at the time of forfeiture, with or without the prior payment to the Crown of a sum of money:

(c) The sale of some or all of the forfeit property, with directions as to the manner of sale and dispersal of proceeds:

(d) The delivery of some or all of the forfeit property to a person with an interest in the property, with or without directions as to payment of a sum of money to specified persons (including the Crown) prior to such delivery:

(e) The reinstatement (notwithstanding the forfeiture) of any interest that was forfeit or cancelled as a result of a forfeiture.
(12) This section does not require the Crown to pay, or secure the payment of, any sum of money to any person claiming an interest in forfeit property, other than the net proceeds of sale of forfeit property under a court order made under subsection (7) of this section.

(13) For the purpose of assisting the Court in determining any application for relief, the chief executive and any employee or agent of the Ministry is entitled to appear before the Court and be heard.

(14) Any forfeiture under section 255 of this Act, or any payment of a sum of money or delivery of property under subsection (7) of this section, to persons claiming an interest, shall be in addition to, and not in substitution for, any other penalty that may be imposed by the Court or by this Act.

Cf. 1983, No. 14, s. 107c; 1990, No. 29, s. 52 (1)

257. Prohibition of fishing activity in case of reoffending—(1) If any person is convicted of—

(a) Two or more offences against this Act that are offences referred to in subsection (1) or subsection (2) or subsection (3) of section 252 of this Act, and are offences committed on different occasions; or

(b) Three or more offences that are offences referred to in subsection (1) or subsection (2) or subsection (3) or subsection (5) of section 252 of this Act, and are offences committed on different occasions,—

within a period of 7 years, the Court shall, in addition to any other penalty imposed, order—

(c) That the person forfeit any licence, approval, permission, or fishing permit obtained under this Act; and

(d) That the person be prohibited, for a period of 3 years commencing on the date of the most recent conviction, from doing any of the following:

(i) Holding any licence, approval, permission, or fishing permit obtained under this Act:

(ii) Engaging in fishing or any activity associated with the taking of fish, aquatic life, or seaweed:

(iii) Deriving any beneficial income from activities associated with the taking of fish, aquatic life, or seaweed.

(2) Every person commits an offence and is liable to the penalty set out in section 252 (4) of this Act who contravenes or fails to comply with an order made under subsection (1) of this section.
(3) Notwithstanding subsection (1) of this section, the Court may, in the circumstances of any particular case, and upon application being made to it by the person concerned within 30 days after the date of conviction or such extended period as the Court may allow, direct that any particular licence, approval, permission, or fishing permit shall not be forfeit, or that the person shall not be prohibited from engaging in fishing or in any activity associated with the taking of fish, aquatic life, or seaweed or deriving any beneficial income from fishing or any activity associated with the taking of fish, aquatic life, or seaweed.

(4) For the purposes of this section, every conviction in respect of an offence against the Fisheries Act 1983 shall be deemed to be a conviction in respect of an offence against this Act that is referred to in section 252 (3) of this Act.

(5) For the purposes of this section, if—

(a) A person is convicted of assault or of any other offence of which an assault constitutes an element, and the conviction relates to an offence committed on or after the 1st day of April 1990; and

(b) The assault was on a person who was at the time carrying out the duties of a fishery officer under this Act,—that conviction shall be deemed to be a conviction in respect of an offence against this Act that is referred to in section 252 (3) of this Act.

(6) Subsections (1) and (4) of this section do not apply to any offence committed by a person in respect of which—

(a) A conviction was entered on or after the 1st day of November 1990; and

(b) The maximum fine on conviction for a first offence does not (or did not at the time) exceed $5,000.

Cf. 1983, No. 14, s. 107d; 1986, No. 34, s. 27 (1); 1990, No. 29, s. 53

258. Sum equal to deemed value payable if catch returns not completed or provided, or false returns provided—(1) Every person convicted of an offence against—

(a) Section 230 or section 231 of this Act; or

(b) Any regulations made under this Act relating to—

(i) Making any false or misleading statements in any record or return; or

(ii) Omitting any information in any record or return; or

(iii) Completing, keeping, or providing any record or return,—
in respect of the taking of any fish, aquatic life, or seaweed subject to the quota management system, shall, in addition to any fine that may be imposed by the Court, be liable to pay to the Crown, within 20 days after demand is made by the chief executive, a sum of money equal to the deemed value amount that would have been payable if the fish, aquatic life, or seaweed had been included in the reported catch of that person under section 76 of this Act at the time of the offence, and, if that person is not a commercial fisher, that section shall be read as if the person were a commercial fisher.

(2) Any sum demanded under this section shall be recoverable in the same manner as a sum assessed and payable under section 76 of this Act.

259. Rewards to informants—(1) The chief executive may make such payments as the chief executive thinks fit to any person who has supplied information that has assisted in the detection of offences against this Act.

(2) All payments under subsection (1) of this section shall be made from money from time to time appropriated by Parliament for the purpose.

Cf. 1983, No. 14, s. 107E; 1986, No. 34, s. 27 (1)

Minor Offence Procedure

260. Minor offences—(1) If a charge is brought against any person for an offence against this Act which carries a fine not exceeding $1,000, a summons to that person shall not be issued unless the chief executive or a fishery officer satisfies the District Court Registrar that a summons should be issued.

(2) Except where a summons is issued under subsection (1) of this section, all proceedings brought in respect of such an offence shall be commenced by the chief executive, or a fishery officer, by filing a notice of prosecution in the form prescribed for the purposes of section 20A of the Summary Proceedings Act 1957; and the provisions of that section (except subsection (12)), with any necessary modifications, shall apply accordingly.

PART XIV
COST RECOVERY

261. Interpretation—In this Part of this Act, unless the context otherwise requires,—

“Conservation services” means outputs produced by the Minister of Conservation or the Director-General of the Department of Conservation that enable those
persons to perform their statutory powers, duties, and functions related to the adverse effects of commercial fishing on protected species, including—

(a) Research relating to such effects on protected species; and

(b) Research on measures to mitigate the adverse effects of commercial fishing on protected species; and

(c) The development of population management plans under the Marine Mammals Protection Act 1978 and the Wildlife Act 1953:

"Financial year" means a period of 12 months commencing on the 1st day of July and ending with the 30th day of June:

"Fisheries services" means outputs produced for the purpose of this Act; and includes—

(a) The management of fisheries resources, fishing, and fish farming under this Act:

(b) The enforcement of the provisions relating to fisheries resources, fishing, and fish farming in this Act:

(c) Research relating to fisheries resources, fishing, and fish farming, including stock assessment and the effects of fishing on the aquatic environment:

(d) The performance or exercise, by the Minister or the chief executive or any other person, of any function, duty, or power conferred or imposed by this Act or any other enactment relating to fisheries resources, fishing, or fish farming:

"Fishing year" means a period of 12 months commencing on each 1st day of October:

"Outputs" means the goods and services that are produced by a department, Crown entity, Office of Parliament, or any other person or body.

262. Levies—(1) Subject to sections 265 to 267 of this Act, the Governor-General may from time to time, by Order in Council made on the recommendation of the Minister, impose levies on the persons referred to in subsection (2) of this section (or any of those persons) for the purpose of enabling the Crown to recover its costs in respect of one or more fisheries services or conservation services.

(2) Such levies may be imposed only on—

(a) Owners of quota:

(b) Owners of annual catch entitlements:
(c) Licensed fish receivers:
(d) Commercial fishers:
(e) Fish farmers:
(f) Owners, operators, and notified users of New Zealand fishing vessels, and owners and operators of registered fish carriers:
(g) Holders of permits, licences, or other authorities issued by the chief executive under this Act, or issued under the Fisheries Act 1983, and for the time being in force under this Act.

(3) Without limiting the generality of subsection (1) of this section, any such order may—

(a) Prescribe, or provide for the fixing of, different rates of levy in respect of different classes of persons referred to in subsection (2) of this section, species or kinds of fish or aquatic life or seaweed, quantities of fish or aquatic life or seaweed, quota management areas, fishery management areas, or any combination of them:

(b) Prescribe, or provide for the fixing of, different rates of levy based on the value of quota or annual catch entitlement, the port price of fish, aquatic life, or seaweed landed, or on any other differential basis relating to commercial fishing or fish farming:

(c) Specify that a levy shall be payable on the basis of the amount of fish, aquatic life, or seaweed processed or taken, or quota held, during a specified period or on a specified day; or specify any other method for assessing that amount:

(d) Authorise the chief executive to—

(i) Require records and returns to be made and given by persons from whom any levy is payable:

(ii) Prescribe conditions relating to the making and giving of such records and returns:

(iii) Prescribe a date by which, and the place at which, any levy is payable; and prescribe different dates for the payment of different levies:

(e) Authorise the chief executive to prescribe or provide for such other matters as may be necessary or expedient to give effect to any determination under section 266 (8) or section 267 (2) (a) of this Act:

(f) Authorise the chief executive to prescribe or provide for such matters as may be necessary or expedient to administer the collection of any levy imposed under subsection (1) of this section.
263. Under-recovery and over-recovery of costs—
Without limiting anything in section 262 of this Act, the Minister shall, in recommending the making of an Order in Council under that section, have regard to—

(a) The cost of any output in respect of previous financial years that was not recovered or not recoverable, in whole or in part, by any fee, charge, or levy relating to fisheries services or conservation services that was previously imposed under this Act or the Fisheries Act 1983; and

(b) The cost of any output in respect of previous financial years that was over-recovered or over-recoverable, in whole or in part, by any fee, charge, or levy relating to fisheries services or conservation services that was previously imposed under this Act or the Fisheries Act 1983.

264. Other fees, charges, or levies—(1) This Part of this Act does not—

(a) Limit any other provision in this Act that requires the payment, or empowers the imposition, of any fee, charge, or levy relating to fisheries services or conservation services; or

(b) Limit the recovery of costs in respect of fisheries services or conservation services by any means other than a levy under section 262 of this Act.

(2) This Part of this Act does not require the Minister to have regard to the circumstances of any person referred to in section 262 (2) of this Act when recommending the imposition of any fee, charge, or levy relating to fisheries services or conservation services.

265. Certain costs to be borne by the Crown—(1) Subject to this section, the Governor-General may from time to time, by Order in Council made on the recommendation of the Minister, specify the costs to be borne by the Crown in respect of fisheries services and conservation services.

(2) The cost of fisheries services and conservation services, after the costs to be borne by the Crown have been specified in accordance with subsection (1) of this section, shall be recoverable under section 262 of this Act from the persons referred to in subsection (2) of that section (or any of those persons).

(3) Before recommending the making of any Order in Council under this section, the Minister shall commence, or
cause to be commenced, consultation on the level of the costs to be borne by the Crown in respect of fisheries services and conservation services with such persons as the Minister considers are representative of those classes of persons interested in the utilisation of New Zealand fisheries resources while ensuring sustainability, including such persons or organisations as the Minister considers are representative of Maori, environmental interests, commercial interests, and recreational interests.

(4) No order under this section shall be made before the 1st day of July 1998, and thereafter an order may be amended or substituted (other than by way of a minor or technical amendment) only if no such amendment or substitution has been made within the immediately preceding period of 3 financial years.

266. Consultation on fisheries services required before levy order (other than amending order) made—

(1) Notwithstanding that the levies imposed under section 262 of this Act are to recover the cost of fisheries services and conservation services determined in respect of a financial year, any order made under section 262 of this Act may be made to recover those costs during a fishing year.

(2) In each financial year, the Minister shall commence, or cause to be commenced, consultation in accordance with this section, and no order (other than an order to which section 270 (3) of this Act applies) shall be made under section 262 of this Act to recover the Crown's costs in respect of a financial year unless such consultation has been carried out in the financial year preceding that year.

(3) For the purposes of this Part of this Act, the fishing year in which levies shall be recovered pursuant to an order made under section 262 of this Act shall be the fishing year commencing after the financial year in which consultation takes place under this section.

(4) The initial object of consultation under this section is to ascertain, in respect of the following financial year,—

(a) The nature and extent of the fisheries services, and the cost of those services; and

(b) The amount or level or standard of the fisheries services; and

(c) The particular projects and activities entailed in the fisheries services, and the costs and priorities of those projects and activities.
(5) Subject to section 265 of this Act, the final object of consultation under this section is to ascertain the costs to be recovered under section 262 of this Act.

(6) In determining the costs to be recovered under section 262 of this Act, the Minister shall consult on the method by which the costs referred to in paragraphs (a) and (c) of subsection (4) of this section are to be shared or borne by the classes of persons referred to in section 262 (2) of this Act and the rate or level of levies necessary to recover the cost of the fisheries services; and the preceding provisions of this subsection shall be read as requiring the Minister to have regard to—

(a) Fisheries-related fees, levies, and other charges fixed by or under this Act (other than levies imposed under section 262 of this Act) or the Fisheries Act 1983; and

(b) The amount recovered, or recoverable, by such fees, levies, and other charges, and by levies imposed under section 262 of this Act, in respect of the period to which any order made under that section, that is for the time being in force, applies; and

(c) The intervals at which it is proposed that the levies be payable.

(7) The consultation shall be conducted as follows:

(a) In relation to the matters referred to in subsection (4) of this section, the consultation shall be with such persons or organisations as the Minister considers are representative of those classes of persons interested in the utilisation of New Zealand fisheries resources while ensuring sustainability, including such persons or organisations as the Minister considers are representative of Maori, environmental interests, commercial interests, and recreational interests:

(b) In relation to the matters referred to in subsection (6) of this section, the consultation shall be with such persons or organisations as the Minister considers are representative of the classes of persons referred to in section 262 (2) of this Act.

(8) The Minister, after consultation in accordance with subsections (4) to (7) of this section, shall determine the matters to which the consultation related and any matters on which the Minister is not required to consult under section 269 of this Act, and may accordingly recommend the making of an Order in Council under section 262 of this Act.
267. Consultation on conservation services required before levy order (other than amending order) made—
(1) The Minister of Conservation shall from time to time, in conjunction with the consultation carried out under section 266 of this Act by the responsible Minister, commence, or cause to be commenced, consultation in accordance with this section.

(2) The Minister of Conservation, following consultation under this section, shall—
(a) Determine—
(i) The nature and extent of the conservation services, and the cost of those services; and
(ii) The amount or level or standard of the conservation services; and
(iii) The particular projects and activities entailed in the conservation services, and the costs and priorities of those projects and activities; and
(b) Advise the Minister on his or her determination in respect of those matters.

(3) No order (other than an order to which section 270 (3) of this Act applies) relating to conservation services shall be made under section 262 of this Act in respect of any financial year unless the appropriate consultation has been carried out in accordance with this section.

(4) Consultation under subsection (1) of this section shall be with such persons or organisations as the Minister of Conservation considers are representative of those classes of persons interested in New Zealand's fisheries resources, including such persons or organisations as the Minister of Conservation considers are representative of Maori, environmental interests, commercial interests, and recreational interests.

268. Determination of cost of conservation services—
(1) Following the receipt of advice from the Minister of Conservation under section 267 (2) of this Act, the Minister shall determine the method by which the costs referred to in that subsection are to be shared or borne by the classes of persons referred to in section 262 (2) of this Act and the rate or level of levies necessary to recover the cost of those services.

(2) In determining the matters referred to in subsection (1) of this section, the Minister shall—
(a) Consult with such persons or organisations as the Minister considers are representative of those classes of persons referred to in section 262 (2) of this Act; and
(b) Take into account—
(i) Fisheries-related fees, levies, and other charges fixed by or under this Act (other than levies imposed under section 262 of this Act) or the Fisheries Act 1983; and

(ii) The amount recovered, or recoverable, by such fees, levies, and other charges, and by levies imposed under section 262 of this Act, in respect of the period to which any order made under that section, that is for the time being in force, applies; and

(iii) The intervals at which it is proposed that the levies be payable.

(3) Consultation under subsection (2) of this section may be carried out in conjunction with consultation under section 266 (6) of this Act.

269. Consultation on services to be performed by outside agencies—(1) If the Minister or chief executive proposes to enter into any arrangement or contract for the provision of any fisheries services, nothing in section 266 of this Act shall require consultation on the costs of particular projects and activities which are to be the subject of that arrangement or contract, and it shall be sufficient compliance with section 266 (4) (c) of this Act if the Minister consults on groups of projects and activities, whether by fishstock, fishstocks, or otherwise, and the estimated maximum total cost of those groups of projects and activities.

(2) If the Minister or chief executive has entered into any arrangement or contract for the provision of any fisheries services, except where that arrangement or contract is to be materially varied, the Minister or chief executive, as the case may be, shall not be required, during the term of that arrangement or contract, to consult on the fisheries services which are the subject of that arrangement or contract.

270. Levy orders may be amended during year—(1) Subject to subsection (2) of this section, an order made under section 262 of this Act may be amended or revoked at any time and from time to time during any year.

(2) Before recommending the amendment of an order made under section 262 of this Act, the Minister shall consult, or cause to be consulted, such persons or organisations as the Minister considers are representative of those classes of persons referred to in paragraphs (a) and (b) of section 266 (7), and in section 267 (4), of this Act who are affected by the proposed amendment.
(3) Nothing in subsection (2) of this section or in section 262 of this Act requires any consultation to be carried out before the Minister recommends the making of an Order in Council to the extent that it—
   (a) Corrects any typographical error or obvious mistake; or
   (b) Amends the form of any order made under section 262 of this Act.

271. Payment of levies—(1) Levies imposed by an order made under section 262 of this Act shall be payable in accordance with the order or, if the order does not make such provision, within 20 days after the receipt of a demand from the chief executive.

   (2) The chief executive may remit, waive, or defer the payment of any levy, in whole or in part,—
   (a) To correct an administrative error made in calculating the amount due; or
   (b) If the chief executive and the person liable to pay the amount due have entered into an arrangement to that effect.

272. Levies to be separately accounted for—All levies imposed under section 262 of this Act are to be—
   (a) Collected; and
   (b) Paid into a Crown Bank Account; and
   (c) Separately accounted for.

273. Caveats on quota—(1) If any person who holds any quota—
   (a) Is liable to pay any levy imposed under section 262 of this Act the payment of which has not been waived under section 271 of this Act or section 18 of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995; and
   (b) Does not pay the outstanding amount of the levy within 2 months after the date by which payment of the levy is due or within the time allowed under section 271 of this Act, then, regardless of whether or not the levy has been imposed on that person as a quota owner, the chief executive, after giving that person notice in writing of his or her intention to do so, may direct that a caveat be registered over any quota held by that person.

   (2) The chief executive—
(a) Shall direct that a caveat entered in a register under this section be withdrawn if the outstanding amount (including any additional amount payable under section 18 of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995) is paid in full to the chief executive:

(b) May direct that a caveat entered in a register under this section be withdrawn if the chief executive and the person liable to pay the outstanding amount of the levy enter into an arrangement or agreement for repayment of that amount.

Cf. 1983, No. 14, s. 107j; 1994, No. 87, s. 4

274. Priority of debts—(1) For the purposes of Schedule 8c to the Companies Act 1955, every levy (including any amount by which the levy has been increased under section 18 of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995) payable under this Part of this Act shall have the priority accorded to sums referred to in clause 5 of that Schedule.

(2) For the purposes of the Seventh Schedule to the Companies Act 1993, every levy (including any amount by which the levy has been increased under section 18 of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995) payable under this Part of this Act shall have the priority accorded to sums referred to in clause 5 of that Schedule.

(3) For the purposes of section 104 of the Insolvency Act 1967, every levy (including any amount by which the levy has been increased under section 18 of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995) payable under this Part of this Act shall have the priority accorded to sums referred to in subsection (1)(e) of that section 104.

Cf. 1983, No. 14, s. 107k; 1994, No. 87, s. 4

275. Suspension of permit or fish receiver's licence where levies unpaid—(1) If any person who holds any fishing permit or fish receiver's licence or controlled fishery licence—

(a) is liable to pay any levy imposed under section 262 of this Act the payment of which has not been waived under section 271 of this Act or section 18 of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995; and

(b) Does not pay the outstanding amount of the levy within 2 months after the date by which payment of the levy is due,—
then, regardless of whether or not the levy has been imposed on that person as a holder of such a permit or licence, the chief executive, after giving that person notice in writing of his or her intention to do so, may, by notice in writing to that person, suspend any fishing permit or fish receiver’s licence or controlled fishery licence held by that person.

(2) If the holder concerned holds 2 or more fishing permits or fish receiver’s licences or controlled fishery licences, or holds any combination of 2 or more of them, the chief executive may suspend such of them as he or she considers appropriate.

(3) A fishing permit or fish receiver’s licence or controlled fishery licence suspended under this section shall have no effect during the period of the suspension.

(4) The chief executive—

(a) Shall lift a suspension under this section if the outstanding amount of the levy (including any additional amount payable under section 18 of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995) is paid to the chief executive:

(b) May, conditionally or unconditionally, lift a suspension under this section if the chief executive and the person liable to pay the outstanding amount of the levy enter into an arrangement or agreement for repayment of that amount.

(5) A court may at any time, on application by the holder of a fishing permit or fish receiver's licence or controlled fishery licence suspended under this section, by order lift the suspension, and any such order may be subject to such sureties and conditions as the Court may specify.

(6) The chief executive shall notify the Registrar of Permits of every suspension and of every lifting of a suspension under this section.

Cf. 1983, No. 14, s. 107L; 1994, No. 87, s. 4.

PART XV

FISHERIES ADMINISTRATION

National Fisheries Advisory Council

276. Minister may establish National Fisheries Advisory Council—(1) The Minister may from time to time establish an advisory committee, to be known as the National Fisheries Advisory Council, to advise the Minister on any matter from time to time determined by the Minister for the purpose of this Act.
(2) The Minister may authorise the Council to make such inquiries, conduct such research, and make such reports, as may assist the Council in advising the Minister.

(3) Without limiting subsection (1) or subsection (2) of this section, the Minister may require the Council to advise him or her on—

(a) Ensuring sustainability, including the setting of total allowable catches and other sustainability measures;

(b) The utilisation of New Zealand’s fisheries resources, including the setting of total allowable commercial catches and the introduction of new species into the quota management system:

(c) Fisheries research, including the establishment of priorities, standards, and specifications for such research:

(d) Fisheries administration services, including planning and the establishment of priorities, standards, and specifications for such services:

(e) Enforcement issues, including the establishment of standards and specifications for enforcement.

277. Members—(1) The Minister may from time to time appoint to be members of the National Fisheries Advisory Council—

(a) If appropriate, a representative of Chatham Islanders; and

(b) Such other members from time to time determined by the Minister after consultation with—

(i) The Minister of Maori Affairs, the Minister of Conservation, the Minister of Research, Science, and Technology, and the Minister for the Environment; and

(ii) Such persons or organisations as the Minister considers are representative of classes of persons having an interest in the particular matter for which the Council is being established, including Maori, environmental, commercial, and recreational interests.

(2) Every member of the Council shall hold office during the pleasure of the Minister.

(3) Any member of the Council may resign his or her office at any time by notice in writing to the Minister.

(4) The Minister may make any appointment of a member subject to the condition that the member assist and provide advice only in respect of a specified matter and, in that case, the member shall comply with that condition.
278. Chairperson—(1) The Minister shall appoint one of the members of the National Fisheries Advisory Council to be chairperson of the Council.

(2) The chairperson shall be responsible for supervising and directing the work of the Council.

279. Remuneration of members—(1) The National Fisheries Advisory Council is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(2) Members of the Council shall be paid, 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.

(3) No person shall be deemed to be employed in the service of the Crown by reason of being a member of the Council.

280. Secretarial services—(1) The chief executive shall provide such secretarial, recording, accounting, and clerical services as may be necessary to enable the National Fisheries Advisory Council to discharge its functions.

(2) All expenses incurred in respect of the functions of the Council shall be paid out of money appropriated for that purpose by Parliament.

281. Certain powers of Minister not to be delegated—The Minister shall not delegate to any person the power—

(a) To appoint or renew the appointment of members of the National Fisheries Advisory Council under section 277 of this Act; or

(b) To remove any member of the Council from office under that section.

282. Reports—(1) The National Fisheries Advisory Council, when from time to time directed by the Minister, shall provide the Minister and the chief executive with a general report of the operations of the Council.

(2) As soon as practicable after receiving any general report referred to in subsection (1) of this section, the Minister shall lay before the House of Representatives a copy of that report.
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Catch History Review Committee

288. Catch History Review Committee established— (1) There is hereby established the Catch History Review Committee.

(2) After consultation with such persons as the Minister considers are representative of those classes of persons having an interest in the matters dealt with by section 284 of this Act, the Minister shall, by notice in the Gazette, appoint persons who—

(a) Have held a practising certificate as a barrister and solicitor for at least 7 years; and

(b) Are not employees of the Ministry—

to be members of the Catch History Review Committee, and appoint one of them to be chairperson of the Committee responsible for supervising and directing the work of the Committee.

(3) An appointment under subsection (2) of this section shall be for a term not exceeding 5 years.

Cf. 1983, No. 14, s. 28A (1)-(4); 1986, No. 34, s. 9; 1990, No. 29, s. 4

284. Functions of Committee— (1) The Catch History Review Committee shall hear and determine appeals made under section 51 of this Act, except that if the chief executive—

(a) Has decided that a person is ineligible to receive provisional catch history because the chief executive believes the person to be an overseas person; and

(b) Has advised the Committee of that decision,—

the Committee shall not hear any appeal made by that person unless the High Court declares the person not to be an overseas person.

(2) All appeals to the Committee shall be heard by a member sitting alone unless the chairperson of the Committee otherwise directs, and a member of the Committee sitting alone in such a case has such powers and functions of the Committee as may be necessary for that purpose.

(3) The Committee shall not create or allocate provisional catch history in respect of fish, aquatic life, or seaweed unless it was actually taken and reported by a commercial fisher.

(4) The Committee shall not order the allocation or transfer of any quota.

(5) The Committee has all such powers as are necessary or expedient to enable it to carry out its functions.
285. **Members**—(1) Any member of the Catch History Review Committee may resign his or her office at any time by notice in writing to the Minister.

(2) Any member of the Committee may be removed from office at any time by the Minister on the ground of disability, bankruptcy, neglect of duty, or misconduct of the member proved to the satisfaction of the Minister.

Cf. 1983, No. 14, ss. 13 (4)-(6), 28A (5); 1986, No. 34, s. 9

286. **Defect in appointment**—The proceedings of the Catch History Review Committee shall not be invalidated merely because of the subsequent discovery that some defect existed in the appointment of any member.

Cf. 1983, No. 14, ss. 17, 28A (5); 1986, No. 34, s. 9

287. **Committee may regulate its own procedure**—Except as expressly otherwise provided in this Act, the Catch History Review Committee may regulate its procedure in such manner as it thinks fit.

288. **Hearings to be held in public except in certain circumstances**—(1) Except as provided by subsections (2) to (4) of this section, hearings of the Catch History Review Committee shall be held in public.

(2) The Committee 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) If the Committee 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 Committee may, on the application of any party to the proceedings, order that the whole or any part of the hearing shall be in private and that all persons present shall keep confidential any evidence, document, or information provided in relation to that hearing.

(4) In any case where a hearing is conducted in private, the Committee 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.
(5) Every person commits an offence and is liable to the penalty set out in section 252 (6) of this Act who contravenes an order made under subsection (3) of this section.

Cf. 1983, No. 14, ss. 18 (1), (2), (3), (5), 28A (5); 1986, No. 34, s. 9

289. Fees and travelling allowances—(1) The Catch History Review Committee is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(2) Members of the Catch History Review Committee shall be paid, 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.

(3) No person shall be deemed to be employed in the service of the Crown by reason of the person's appointment under section 283 of this Act as a member of the Committee.

Cf. 1983, No. 14, ss. 19, 28A (5); 1986, No. 34, s. 9

290. Administration of Committee—(1) The chief executive shall provide such secretarial, recording, accounting, and clerical services as may be necessary to enable the Catch History Review Committee to discharge its functions.

(2) All expenses incurred in respect of the functions of the Catch History Review Committee shall be paid out of money appropriated for that purpose by Parliament.

Cf. 1983, No. 14, ss. 20, 28A (5); 1986, No. 34, s. 9

291. Representation of parties—(1) The chief executive shall be a party to all proceedings before the Catch History Review Committee and shall be entitled to appear and be heard either in person or by counsel or agent, and shall have the right to produce evidence and cross-examine witnesses.

(2) Every person who lodges an appeal under section 51 of this Act shall be a party to those proceedings before the Catch History Review Committee and shall be entitled to appear and be heard either in person or by counsel or agent, and shall have the right to produce evidence and cross-examine witnesses.

(3) Any person may make a written submission about any appeal made under section 51 of this Act if the submission is about any matter that is relevant and may assist the Committee in making a decision.
(4) Any person who makes a written submission under subsection (3) of this section and wishes to appear at the hearing may do all or any of the following with the permission of the Committee, namely, appear either by counsel or agent, produce and examine evidence, cross-examine witnesses, and present a submission.

(5) The Committee shall grant permission under subsection (4) of this section only if it considers that any appearance is necessary in the interests of justice, and any person to whom such permission is granted shall be a party to the proceedings.

Cf. 1983, No. 14, ss. 22, 28A (8), (9); 1986, No. 34, s. 9

292. Evidence before Committee—(1) The Catch History Review Committee 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 but, unless expressly otherwise provided in this Act, the Committee shall not receive in evidence any records or returns required to be provided under this Act or the Fisheries Act 1983 that either have not been provided to the chief executive or were provided to the chief executive after the date by which they were required to be provided.

(2) The Committee may, if it thinks fit, in respect of any matter before it,—

(a) Examine on oath or otherwise all or any of the following:
   (i) The appellant:
   (ii) Any other party (including any person granted permission under section 291 (4) of this Act):
   (iii) Any person whose evidence has been received by the Committee under subsection (1) of this section:

(b) Require any person to verify by statutory declaration any statement made by him or her with respect to the proceedings.

(3) Any proceedings (including any application made or information filed before the commencement of any proceedings) before the Committee shall be judicial proceedings for the purposes of this Act or any other Act (including the Crimes Act 1961).

Cf. 1983, No. 14, ss. 23, 28A (5); 1986, No. 34, s. 9

293. Decision of Committee—(1) In considering any matter before it, the Catch History Review Committee shall—
(a) Confin[e] itself to the evidence, written submissions received under section 291 (3) of this Act, submissions presented by the parties, and its own expertise and knowledge; and

(b) Exclude any member's personal knowledge of the matter gained otherwise than through the hearing of the matter before the Committee.

(2) Every decision of the Committee shall—

(a) Be in writing; and

(b) State the reasons for the decision; and

(c) Be notified to the parties, and the relevant Registrar of Quota; and

(d) Be available to the public, except that the Committee may—

(i) Delete information that it considers commercially sensitive:

(ii) Make copies of the decision available on payment of a reasonable charge.

(3) The Committee shall record its decisions in a register.

(4) Every decision of the Committee shall be final unless challenged by an application for review under Part I of the Judicature Amendment Act 1972.

(5) Notwithstanding any other enactment or rule of law, a court shall not hear or determine, and no person shall make or commence, any application or other proceedings whatever in respect of a decision or purported decision of the Committee unless the application is, or the proceedings are, made or commenced within 3 months after the date of the decision or purported decision.

(6) Every decision of the Committee shall contain a statement as to the effect of subsections (4) and (5) of this section.

Cf. 1983, No. 14, s. 28; 1986, No. 34, s. 10; 1989, No. 159, s. 55; 1992, No. 137, s. 2

Administration Generally

294. Use of outside agencies in performance of functions under Act—(1) The chief executive may perform his or her functions, duties, and powers,—

(a) By his or her own employees; or

(b) By entering into an arrangement or contract with any other agency or any other instrument of the Crown or any corporation sole, body of persons (whether corporate or unincorporate), or individual.
(2) Before deciding to perform any function, duty, or power by an arrangement or contract under subsection (1) of this section, the chief executive shall take into account the following matters:

(a) Whether the function, duty, or power might be more efficiently provided by the chief executive's own employees:

(b) The desirability of retaining institutional knowledge within the Ministry:

(c) Whether entering into such an arrangement or contract will limit the chief executive's ability to adequately meet his or her statutory obligations.

(3) In deciding how to perform any function, duty, or power under subsection (1) (b) of this section, the chief executive shall give due consideration to the advantages and disadvantages of different options.

(4) Before entering into any arrangement or contract under subsection (1) (b) of this section, the chief executive may, after consultation with the Minister, set standards or specifications or both which shall be complied with by the other party to the arrangement or contract.

(5) No arrangement or contract under subsection (1) (b) of this section between the chief executive and any other party (other than an agency of the Crown or other instrument of the Crown) shall provide for that other party (or person acting on behalf of that other party) to perform or exercise any function, duty, or power that—

(a) Is conferred or imposed on fishery officers (but not on honorary fishery officers or examiners) by or under Part VI of the Fisheries Act 1983 or this Act; or

(b) Relates to the prosecution of any fisheries-related offence;—

and any such arrangement or contract is invalid to the extent that it contravenes the preceding provisions of this subsection.

(6) Nothing in this section or in any arrangement or contract entered into under the authority of this section relieves the chief executive of the obligation to perform or ensure the performance of any function, duty, or power imposed on the chief executive by this Act or any other Act.

295. Notification of appointments and places for provision of information—(1) The chief executive may, by notice in the Gazette,—

(a) Notify the appointment of any person or organisation to any position under this Act; and
(b) Notify that any person or organisation shall perform any of the powers, functions, and duties of the chief executive under any arrangement or contract under section 294 (1) (b) of this Act; and

(c) Appoint places where notices, objections, requests, applications, accounts, records, returns, and other information and documents shall be provided or received under this Act, including places for the purpose of the electronic transmission of accounts, records, returns, transactions, information, notices, objections, requests, applications, and other documents.

(2) Notwithstanding anything to the contrary in this Act, any notice, objection, request, application, account, record, return, or any other information or document that is required by or under this Act to be provided at any particular place appointed by a notice under subsection (1) of this section shall be deemed not to have been properly provided until it has been received at that place.

(3) Notwithstanding anything to the contrary in this Act, any notice, objection, request, application, account, record, return, or any other information or document that is required by or under this Act to be provided in a prescribed or approved manner or form, or accompanied by a prescribed fee, shall be deemed not to have been properly provided until it has been completed and provided in the prescribed or approved manner or form, or accompanied by the prescribed fee.

(4) Subject to subsection (4) of section 294 of this Act, if the chief executive enters into any arrangement or contract under subsection (1) (b) of that section,—

(a) Any function, duty, or power of the chief executive that forms the subject of the arrangement or contract, and is required by any enactment, regulation, instrument, or document to be performed by the chief executive, may, subject to the terms and conditions of that arrangement, be carried out at such place and by such person with whom the chief executive has entered into the arrangement or contract as the chief executive may specify by notice in the Gazette under subsection (1) of this section:

(b) Any person with whom the chief executive has entered into the arrangement or contract may, subject to the terms and conditions of the arrangement or contract, give, provide, or demand any notice, account, record, return, information, demand, or any other thing in
relation to any function, duty, or power of the chief executive that forms the subject of the arrangement or contract, and is required by any enactment, regulation, instrument, or document to be given, provided, or demanded by the chief executive.

296. Electronic transmission—(1) For the purpose of this Act, the chief executive may approve the transmission of accounts, records, returns, transactions, information, notices, objections, requests, applications, or other documents provided for under this Act by means of electronic transmission.

(2) An approval under subsection (1) of this section—

(a) May relate to any person or any one or more classes of person:

(b) May relate to any one or more classes of accounts, records, returns, transactions, information, notices, objections, requests, applications, or other documents:

(c) May specify the person or organisation to whom the accounts, records, returns, transactions, information, notices, objections, requests, applications, or other documents shall be transmitted:

(d) May specify the method of transmission that may be used:

(e) Shall be subject to such conditions and other provisions (if any)—

(i) As may be set out for the purposes of this section in regulations made under section 297 of this Act; or

(ii) Determined by the chief executive.

(3) The chief executive may alter or revoke any approval given under subsection (1) of this section.

PART XVI

MISCELLANEOUS PROVISIONS

297. General 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) Regulating or controlling fishing and the possession, processing, and disposal of fish, aquatic life, or seaweed including any of the following:

(i) Regulating, authorising, or prohibiting the taking or possession of any fish, aquatic life, or seaweed of any stock or species:
(ii) Regulating, authorising, or prohibiting the taking or possession of fish, aquatic life, or seaweed from any area:

(iii) Regulating or prohibiting the taking or possession of fish, aquatic life, or seaweed at any time, or for any period:

(iv) Regulating or prohibiting the taking or possession of fish, aquatic life, or seaweed smaller, or larger, than a specified size:

(v) Regulating or prohibiting the taking, possession, or disposal of any fish, aquatic life, or seaweed that is in any specified condition or exhibits specified physical characteristics:

(vi) Regulating or prohibiting the return of fish, aquatic life, or seaweed to any waters:

(vii) Regulating or prohibiting any method of fishing:

(viii) Regulating or prohibiting the possession or use of any kind of gear, equipment, or device used for, or related to, fishing:

(ix) Regulating or prohibiting the use of fishing vessels or fish carriers:

(x) Regulating the number or weight of any fish, aquatic life, or seaweed that may be taken or possessed, whether by reference to any period or on any other basis whatever; and prohibiting the taking or possession of any number or weight of fish, aquatic life, or seaweed that exceeds the specified maximum number or weight:

(xi) Regulating the methods, equipment, and devices to be used for determining the size or weight of any fish, aquatic life, or seaweed:

(xii) Regulating the methods, equipment, and devices that may be used to process fish, aquatic life, or seaweed; and prohibiting the processing of fish, aquatic life, or seaweed otherwise than by that method or by use of such equipment or devices:

(xiii) Regulating the methods by, or the circumstances under which, fish, aquatic life, or seaweed may be held, stored, conveyed, or identified, including the use of any containers, marks, or labels:

(b) Providing for the management and control of commercial fishing for any stock that is not within the quota management system but for which a total catch limit has been set under section 11 of this Act by way of
individual catch entitlements, and authorising the chief executive to allocate individual catch entitlements for any such stock by notice in the Gazette:

(c) Providing for the issue, refusal, renewal, suspension, revocation, surrender, or modification of licences to receive fish, aquatic life, or seaweed by the chief executive, and the imposing of conditions on such licences, whether by the chief executive or otherwise, for persons who wish to act as fish receivers and to purchase or otherwise acquire or be in possession, in prescribed circumstances, of fish, aquatic life, or seaweed taken for the purpose of sale:

(d) Requiring, or authorising the chief executive to require,—

(i) Any applicant for any licence, permit, approval, or other authority under this Act; or

(ii) The holder of any such authority—

to provide to the chief executive such information as the chief executive may reasonably require for the purpose of this Act:

(e) Defining the vessels or classes or types of vessels to which any regulations are to apply:

(f) Conferring, and making any provisions with respect to, rights of appeal or review against decisions made under the regulations:

(g) Prescribing details and conditions relating to the registration of fishing vessels and fish carriers and related matters, the method or methods of identifying fishing vessels and fish carriers, the 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 vessels, and the identification marks on sails, nets or seines, and other gear used in fishing, by vessels or otherwise:

(h) Prescribing the accounts, records, returns, and information that any person or class of persons may be required to keep or provide under Part X of this Act or any other provision of this Act, and providing for—

(i) The manner and form in which such accounts, records, returns, and information are to be kept or provided:
(ii) The time for or within which such accounts, records, returns, and information are to be kept or provided:

(iii) The person by or to whom such accounts, records, returns, and information are to be kept or provided:

(iv) The places where such accounts, records, returns, and information are to be kept or provided:

(i) Making, for the purpose of this Act, rules and other provisions with respect to the manner and order in which catch is to be balanced against annual catch entitlements or individual catch entitlements, including rules—

(i) Prescribing the manner of calculating reported catch and the information or evidence to be used as the basis for calculating such catch:

(ii) To be applied in the balancing of annual catch entitlements or individual catch entitlements against reported catch:

(iii) Providing for remissions or refunds of deemed value amounts, and remissions of annual catch entitlements transferred to the chief executive under section 78 of this Act:

(j) Prescribing for the auditing of licensed fish receivers, including regulations—

(i) Requiring every licensed fish receiver to provide one or more certificates of system audit in respect of the receiving, accounting, and other systems required by this Act to be maintained by the licensed fish receiver, and requiring every licensed fish receiver to provide a description and details of such systems operated by that person:

(ii) Specifying the frequency with which certificates of system audit and other documentation should be provided to the chief executive:

(iii) Specifying the type or class of persons who may be approved by the chief executive to conduct audits and issue certificates of system audit:

(iv) Providing for the issuing of circulars and notices by the chief executive in relation to the processes and methods of system audit to be applied by approved persons:

(k) Making such provision as may be necessary or expedient for the purpose of giving effect to any determination
in relation to any dispute made under section 123 of this Act:

(l) Prescribing forms and other documents required for the purpose of this Act:

(m) Prescribing the matters in respect of which fees or charges are payable under this Act, the amounts of those fees or charges, or the method or rates by which they are to be assessed, the persons liable for payment of those fees or charges, and the circumstances in which the Minister or the chief executive or Registrar may remit or waive payment of the whole or any part of those fees or charges:

(n) Creating offences in respect of the contravention of, or non-compliance with, any regulations made under this Act; and providing for the imposition of fines not exceeding $100,000, including the imposition of different fines in respect of a first offence, a second offence, and subsequent offences:

(o) Implementing any provisions of, or giving effect to, any bilateral or multilateral treaty, convention, or agreement to which New Zealand is a signatory or a party, and any understanding concluded by the Government of New Zealand and the government of any other country; and declaring any such regulations to apply beyond the outer limits of New Zealand fisheries waters in respect of any New Zealand citizen, person entitled to reside in New Zealand indefinitely, body incorporated in New Zealand, or any New Zealand ship or vessel registered under this Act:

(p) Prescribing matters to which the Minister shall have regard in deciding whether the granting of permission under section 56 (3) of this Act is in the national interest:

(q) Providing for the operation of registers under sections 98 and 124 of this Act, including the electronic transmission of information:

(r) Prescribing functions, duties, and powers of Registrars appointed under this Act, and specifying which of those functions, duties, and powers (if any) a Deputy Registrar appointed under this Act may not exercise:

(s) Prescribing such particulars and matters as are required to be shown in the Permit Register, the Fishing Vessel Register, a Quota Register, and an Annual Catch Entitlement Register:
(t) Specifying reasons on the basis of which applications to correct a register may be made under section 164 of this Act, and on the basis of which a registrar may correct a register under section 165 of this Act:

(u) Setting out conditions and other provisions that apply to approvals given under section 296 of this Act for the electronic transmission of accounts, records, returns, transactions, information, notices, objections, requests, applications, or other documents:

(v) Prescribing circumstances in which, and times and places at which, a commercial fisher or a person authorised to fish in New Zealand fisheries waters under Part V of this Act is to notify the Ministry that the commercial fisher or person is intending to land any fish, aquatic life, or seaweed:

(w) Closing an area or areas to commercial fishing, or prohibiting a method or methods of commercial fishing within an area or areas, for the purpose of better providing for recreational fishing for a stock under section 311 of this Act:

(x) Prescribing the matters required to be notified to commercial fishers under section 80 (1) of this Act:

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

(2) Without limiting anything in subsection (1) of this section, any such regulations may—

(a) Authorise the Minister or the chief executive to issue or impose, as the case may be, any authority, approval, requirement, prohibition, restriction, condition, direction, instruction, order, permit, notice, or circular:

(b) Exempt from compliance with or the application of any provisions of the regulations any person or species or vessel, or authorise the Minister or the chief executive to grant such exemptions as the regulations may specify.

(3) Without limiting anything in this section or section 299 (1) of this Act, regulations made under this section may apply in respect of any fishing to which Part V of this Act applies.

298. Regulations relating to sustainability measures—Without limiting the generality of section 297 of this Act, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:
(a) Implementing any sustainability measure or the variation of any sustainability measure set or varied under section 11 of this Act, and such regulations may be made for all or any of the purposes referred to in that section:

(b) If there is no applicable approved population management plan for the time being in force under section 14F of the Wildlife Act 1953 or section 3E of the Marine Mammals Protection Act 1978, imposing such measures as may be necessary or expedient to avoid, remedy, or mitigate the effect of fishing-related mortality on any protected species, which measures may include setting a limit on fishing-related mortality:

(c) If there is an applicable approved population management plan for the time being in force under section 14F of the Wildlife Act 1953 or section 3E of the Marine Mammals Protection Act 1978, imposing such measures as may be necessary or expedient—

(i) To ensure that the maximum allowable fishing-related mortality level set by the relevant population management plan is not exceeded:

(ii) To further avoid, remedy, or mitigate any adverse effects of fishing on the relevant protected species:

(d) Requiring, or authorising the Minister or the chief executive to require, any person or class of persons specified in section 189 of this Act to provide the Minister or the chief executive with such information relating to fishing-related mortality as the Minister or the chief executive may require for the purpose of this Act, including regulations requiring the information to be provided in a specified manner.

299. Regulations relating to foreign licensed access—
(1) Without limiting the generality of section 297 of this Act, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) Prescribing, in relation to licences under section 83 of this Act,—

(i) The manner of applying for licences:

(ii) The form of applications for licences:

(iii) The terms for which licences may be granted:
(b) Providing for the production of such licences by licensees to specified New Zealand authorities when required to do so, and the inspection of licences by such authorities:

(c) Requiring applicants for licences, and licensees, to designate authorised agents in New Zealand in respect of foreign fishing vessels:

(d) Making such other provision as may be necessary or expedient to ensure that foreign fishing vessels are used for fishing within the exclusive economic zone only in accordance with the terms and conditions of their licences:

(e) Prescribing the amount of the fees, charges, and royalties payable to the Crown under Part V of this Act or the method by which they are to be assessed, including different fees, royalties, or charges for different classes of foreign fishing vessels (whether by reference to size, catch, method of fishing, function, or otherwise), and their method of payment; and prescribing the circumstances in which any such fee, charge, or royalty, or any part of any fee, charge, or royalty may be refunded:

(f) Prescribing particular types of highly migratory stock, and regulating, in a manner not inconsistent with Part V of this Act, fishing for that stock within the zone:

(g) Creating offences for breaches of any such regulations; and imposing in respect of such offences—

(i) In the case of an owner or operator of a foreign fishing vessel, fines not exceeding $500,000:

(ii) In the case of a licensee or master of a foreign fishing vessel, fines not exceeding $250,000:

(h) Prescribing the forms of notices and the procedures (including procedures and approval methods for the service of notices) to be followed for the purposes of Part V of this Act.

(2) Regulations made under this section may make different provision for different parts of the exclusive economic zone and for different stocks.

(3) Regulations made under subsection (1) (e) of this section shall be made on the recommendation of the Minister and, in recommending the making of such regulations, the Minister may take into account the cost of implementing the provisions of this Act with respect to foreign fishing vessels within the exclusive economic zone, including the cost of managing
fisheries resources, fisheries research, and the administration
and enforcement of this Act and other relevant enactments.

Cf. 1977, No. 28, s. 22; 1980, No. 146, s. 2 (2)

300. Dockside monitoring—(1) Without limiting the
generality of section 297 of this Act, the Governor-General
may, by Order in Council, make regulations for all or any of
the following purposes:

(a) Requiring that fish, aquatic life, or seaweed be landed at
designated landing sites or designated weighing
stations, at specified times, with an appointed person
present:

(b) Providing for the designation of sites by the chief
executive as landing sites or weighing stations, and
providing for different sites to be so designated for
different classes of vessels, stocks, or commercial
fishers:

(c) Requiring any owners, operators, or masters of vessels, or
any permit holders, or any of them, to notify
appointed persons of the intention to land fish, aquatic life, or seaweed:

(d) Providing for the appointment of persons to inspect
catch, and to monitor and verify the accuracy of any
information recorded in the catch, effort, and landing
returns (or other prescribed returns), and for the
resignation or removal of such persons:

(e) Empowering appointed persons to give directions as to
the manner in which fish, aquatic life, or seaweed, or
any prescribed returns, are to be presented for
inspection:

(f) Prescribing the form of documents to be completed, the
time and manner in which such documents are to be
completed, and the persons to whom completed
documents are to be sent.

(2) The Crown, the chief executive, and appointed persons
shall not be liable for any loss or damage caused as a result of
any person lawfully carrying out functions or duties conferred
or imposed by regulations made for any purpose referred to in
subsection (1) of this section.

301. Regulations relating to freshwater fish farming—
Without limiting the generality of section 297 of this Act, the
Governor-General may from time to time, by Order in Council,
make regulations for all or any of the following purposes:
(a) Authorising persons, to be registered for the purpose, to construct and maintain ponds as fish farms for breeding and rearing fish (other than trout), aquatic life, or seaweed for sale subject to such conditions as are specified in the regulations:

(b) Regulating the operation of fish farms subject to such conditions as are specified in the regulations, and prohibiting the operation of any such fish farm, and the sale, disposal, transport, or export of any fish, aquatic life, or seaweed 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 are required to hold and the conditions with which they are 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 or facilities for processing or storing any fish, aquatic life, or seaweed reared on the farm:

(e) Providing for the application for, issue, revocation, renewal, variation, and transfer of licences in respect of any such operation, and the form and contents of any such licence; and prescribing the fees payable in advance in respect of any such matter relating to any such licence and the fees payable annually or six-monthly in advance for the continued validity of any such licence:

(f) Specifying the species, sub-species, varieties, or hybrids of fish, aquatic life, or seaweed 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, aquatic life, or seaweed, and the methods of feeding:

(g) Regulating or prohibiting the sale, possession, disposal, or processing of any such fish, aquatic life, or seaweed:

(h) Providing for the keeping by the licensee of any fish farm of records of fish, aquatic life, or seaweed acquired, kept, and disposed of, and for the keeping of records relating to those fish, aquatic life, or seaweed by any other licensee or other person:
Prescribing the measures to be taken to avoid the outbreak, or on an outbreak, of any disease among the fish, aquatic life, or seaweed, 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, aquatic life, or seaweed, whether with or without payment of compensation.

Cf. 1983, No. 14, s. 91; 1991, No. 149, s. 26 (1)

302. **General provisions as to regulations**—(1) Any regulations made under this Act may apply generally throughout New Zealand fisheries waters or be made to apply only within such area or areas as may be defined for the purpose by the regulations.

(2) All authorities, approvals, requirements, conditions, directions, instructions, orders, permits, notices, and circulars issued or imposed under regulations made under this Act shall have effect according to their tenor and shall be complied with by all persons affected thereby.

303. **Certain notices to have status of regulations**—(1) Subject to subsection (2) of this section, every notice given under this Act and required to be published in the Gazette is hereby deemed for the purposes of the Acts Interpretation Act 1924 and the Acts and Regulations Publication Act 1989 to be a regulation.

(2) Subsection (1) of this section does not apply to any notice given under any of sections 11, 13, 16, 20, 56, 60, 77, 175, 188, 283, 307, 341, 350, 368, and 369 of this Act.

Cf. 1983, No. 14, s. 92A; 1986, No. 34, s. 26

304. **Circulars**—(1) Regulations under this Act may provide for the promulgation from time to time by the chief executive of circulars specifying 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 chief executive or a fisheries officer, it shall be deemed so to have been approved if it is in conformity with general criteria relating to it specified in a circular or circulars promulgated.
pursuant to such regulations and for the time being in force:

(b) Accomplished, demonstrated, carried on, or provided for to the satisfaction of the chief executive or a fishery officer, it shall be deemed so to have been accomplished, demonstrated, carried on, or provided for if it is in conformity with general criteria relating to it specified in a circular or circulars promulgated pursuant to such regulations and for the time being in force:

(c) Accomplished, demonstrated, carried on, or provided for to an extent that, in the opinion of the chief executive or a fishery officer, meets or tends to meet some particular result, it shall be deemed so to have been accomplished, demonstrated, carried on, or provided for if it is in conformity with general criteria relating to it specified in a circular or circulars promulgated pursuant to such regulations and for the time being in force.

(3) The powers of the chief executive or a fishery officer to approve or be satisfied of, or to take any action in relation to (a prerequisite to the taking of which action is that he or she may have a particular opinion about), any act, plan, proposal, matter, system, process, or thing shall not be limited or affected by any matter contained in a circular promulgated pursuant to such regulations.

Cf. 1983, No. 14, s. 92

305. Application of Commodity Levies Act 1990—Notwithstanding anything in the Commodity Levies Act 1990, that Act shall apply to any fish, aquatic life, or seaweed, and any other commodity (as defined in that Act) to which this Act applies with the following modifications:

(a) It shall be sufficient compliance with section 5 (2) (ac) of that Act if the ballot paper described the proposal clearly, specifying in relation to it all the matters required by section 6 (1) of that Act to be specified in a levy order, and the Minister is satisfied that the ballot paper indicated that the imposition of the levy was proposed to be on the basis of one of the following:

   (i) Quota shares in respect of the commodity:
   (ii) The landed value of the commodity:
   (iii) The greenweight or meatweight of the commodity:
(b) It shall be sufficient compliance with paragraph (af) and paragraphs (ah) to (ak) of section 5 (2) of that Act if the Minister is satisfied that, during such period before the support referendum as the Minister thinks fit, the quota shares held, or the value of commodity landed, or the greenweight or meatweight of the commodity landed, by supporters was more than half of the quota shares held, value of commodity landed, or greenweight or meatweight of the commodity landed, as the case may be, by all participants:

(c) The enhancement of fisheries resources shall be a purpose for which a levy may be spent under section 10 (2) of that Act.

Provisions Relating to Notices

306. Giving of notices, etc.—(1) Except as otherwise specified in this Act, if under this Act any notice or other document is to be given, served on, or furnished to any person, that notice or other document may be—
   (a) Given to the person personally; or
   (b) Sent by registered post to the person at the person's usual or last known place of business or abode; or
   (c) Given personally to any other person authorised to act on behalf of the person; or
   (d) Sent by registered post to that other person at that other person's usual or last known place of business or abode; or
   (e) Except in the case of any notice or document to be given or served in the course of or for the purpose of any proceedings for an offence against this Act, sent by post to the person, or any other person authorised to act on the person's behalf, at that person's or other person's usual or last known place of business or abode; or
   (f) Except in the case of any notice or document to be given or served in the course of or for the purpose of any proceedings for an offence against this Act, sent by electronic transmission to the person, or any other person authorised to act on the person's behalf, at that person's or other person's usual or last known address; and, for the purposes of this paragraph,—
      (i) The term "electronic transmission" means any transmission of information sent electronically; and includes any transmission sent by facsimile, electronic mail, or electronic data transfer:
(ii) The term "address" means a facsimile number or an electronic mail address.

(2) Any notice or other document so sent by post or registered post shall be deemed to have been given, served, or received 7 days after the date on which it was posted, unless the person to whom it was posted proves that, otherwise than through that person's fault, the notice or document was not received.

Cf. 1983, No. 14, s. 88A; 1990, No. 29, s. 41

307. Ornamental fish—For the purpose of this Act, the chief executive may from time to time, by notice in the Gazette, declare any species of fish, aquatic life, or seaweed to be or to no longer be ornamental fish.

308. Protection of the Crown, etc.—(1) No transfer of quota or annual catch entitlement by the chief executive under any of sections 22, 23, 26, 52, and 67 of this Act—
(a) Shall be regarded as placing the Crown or any other person in breach of, or default under, any contract or arrangement relating to quota or annual catch entitlements, except to the extent that specific provision to the contrary is made in the relevant contract or other arrangement; or
(b) Shall invalidate any contract or other arrangement in relation to quota or annual catch entitlements, or be regarded as giving rise to a right for any person to terminate or cancel any such contract or other arrangement, except to the extent that specific provision to the contrary is made in the relevant contract or other arrangement; or
(c) Shall be regarded as otherwise making the Crown guilty of a civil wrong.

(2) Nothing effected or authorised by—
(a) Any provision of this Act that contains or provides for measures to ensure sustainability (including sustainability measures, conditions on permits, special permits, or licences for the purpose of ensuring sustainability, and the varying of any total allowable commercial catch as a direct consequence of a variation in the corresponding total allowable catch); or
(b) Any provision of this Act that contains or provides for measures relating to the introduction of a stock to the quota management system (including the setting of
the total allowable commercial catch and transitional provisions for bringing under this Act any species or classes of fish, aquatic life, or seaweed that were, immediately before the commencement of Part IV of this Act, subject to Part II\(\alpha\) of the Fisheries Act 1983); or

(c) Any of sections 11, 13, 14, 15, 16, 22, 23, 25, 26, 38, 45, 47, 52, 53, 54, 56, 57, 67, 81, 82, 147, 148, 168, 289, 319, 320, 321, 329, 338, 339, 340, 352, 362, 367, 368, and 369 of this Act; or

(d) Any provision of the Fisheries Act 1983 that is amended or enacted by this Act—shall be regarded as making the Crown liable to pay compensation or damages to any person.

309. Power to withhold compensation where amounts owing to Crown—(1) Notwithstanding anything in section 280l. of the Fisheries Act 1983 but subject to subsection (2) of this section, if any person has failed to pay any fee or other amount (other than a fine) due by that person to the Crown under or in respect of any matter under this Act or the Fisheries Act 1983, the Crown may defer payment of any compensation payable to that person under Part II\(\alpha\) of that Act until the amount so due is paid.

(2) The amount of any compensation payment deferred under subsection (1) of this section shall not exceed the amount so due.

310. Southern scallop enhancement programmes—(1) Any person or organisation may develop an enhancement programme for the southern scallop fishery, after consultation with the Minister and such other persons or organisations as the Minister considers to be representative of the classes of persons having an interest in the southern scallop fishery, including Maori, environmental, commercial, and recreational interests.

(2) No enhancement programme developed under subsection (1) of this section shall be implemented in the southern scallop fishery, or varied, without the prior written approval of the Minister of Fisheries, which approval may be given subject to such conditions as the Minister may specify, and the payment of such fee (if any) as the Minister may impose for the purpose of approving the enhancement programme, and shall specify the person or organisation who
shall be responsible for the implementation of the enhancement programme.

(3) Any enhancement programme approved under this section may be reviewed by the Minister and varied, from time to time, with the further approval of the Minister granted under subsection (2) of this section.

(4) Where the person or organisation responsible for implementation of the enhancement program fails to implement the approved enhancement program in accordance with any conditions the Minister has specified in giving his or her approval under subsection (2) of this section, or where, in the opinion of the Minister, the enhancement programme, once implemented, fails to enhance the fishery, the Minister may cancel the enhancement programme, in whole or in part, and, upon cancellation in whole, the Minister may recommend the removal of the stock from the Third Schedule to this Act in accordance with section 14 of this Act.

(5) Nothing in any enhancement programme prevents the Minister from taking any sustainability measure under Part III of this Act in respect of the southern scallop fishery.

311. Areas closed to commercial fishing methods—

(1) The Minister may, where—

(a) Catch rates by recreational fishers for a stock are low; and

(b) Such low catch rates have a significant adverse effect on the ability of recreational fishers to take their allowance for that stock; and

(c) The low catch rates are due to the effect of commercial fishing for the stock in the area or areas where recreational fishing for the stock commonly occurs; and

(d) A dispute regarding the matter has been considered under Part VII of this Act and the Minister is satisfied that all parties to the dispute have used their best endeavours in good faith to settle the dispute but have failed to do so,—

after consulting with such persons or organisations as the Minister considers are representative of those classes of persons who have an interest in the matter, recommend the making of regulations under section 297 of this Act that close an area or areas to commercial fishing for that stock, or prohibit a method or methods of commercial fishing in an area or areas for that stock for the purpose of better providing for recreational fishing for that stock, provided that such regulations are not inconsistent with the Maori Fisheries Act 1989, the Treaty of
Waitangi (Fisheries Claims) Settlement Act 1992, or Part IX of this Act.

(2) After determining to recommend the making of regulations under subsection (1) of this section, the Minister shall, as soon as practicable, give to the parties consulted in accordance with that subsection reasons in writing for his or her decision.

312. Prohibition on taking southern scallops for sale outside scallop season—(1) No person shall take any scallops from the southern scallop fishery, for the purpose of sale, except during the southern scallop season.

(2) No person shall take any scallops, for the purpose of sale, from any part of fishery management area 7 that is outside the southern scallop fishery.

(3) For the purposes of this Part of this Act, the Minister may from time to time, by notice in the Gazette,—

(a) Specify any southern scallop season before the season commences:

(b) Vary any southern scallop season while it is current.

313. Closure of southern scallop fishery—(1) If the chief executive is satisfied that, for the purpose of enhancing the southern scallop fishery or ensuring that scallop stocks are harvested efficiently, any part or parts of the fishery ought to be closed to commercial fishing, he or she may from time to time, by notice in the Gazette, prohibit commercial fishers from taking scallops from such part or parts of the fishery as may be specified in the notice.

(2) Every prohibition under subsection (1) of this section shall have effect for the remainder of the southern scallop season to which it applies.

PART XVII
Repeals and Amendments

314. Repeals of provisions of Fisheries Act 1983—(1) The following provisions of the Fisheries Act 1983 are hereby repealed:

(a) Section 2 (the interpretation section):

(b) Section 2A (as inserted by section 3 of the Fisheries Amendment Act 1986) (which provides that the Act binds the Crown):
(c) Section 3 (which relates to the application of the Act to the exclusive economic zone):

(d) Section 3A (as inserted by section 4 of the Fisheries Amendment Act 1986) (which relates to references to the weight of fish):

(e) Sections 13 to 28, Part III, and section 102A (as inserted by section 48 of the Fisheries Amendment Act 1990) (which relate to the Fisheries Authority and to controlled fisheries):

(f) Section 28A (as inserted by section 9 of the Fisheries Amendment Act 1986) (which relates to the Quota Appeal Authority):

(g) Section 28CA (as inserted by section 5 (1) of the Fisheries Amendment Act 1990) (which relates to the total allowable commercial catch for rock lobster):

(h) Sections 28e, 28f, 28g, 28h, 28i, 28j, 28k, 28l, 28m, and 28n (as inserted by section 10 of the Fisheries Amendment Act 1986), section 28o except for subsections (4), (5), (6), and (7) (as inserted by section 10 of the Fisheries Amendment Act 1986 and section 14 (1) of the Fisheries Amendment Act 1990), and section 28x (as inserted by section 68 of the Maori Fisheries Act 1989) (which sections relate to provisional maximum individual transferable quota):

(i) Sections 28ea, 28fa, 28ga, 28ha, 28ja, 28ka, 28na, and 28oa (as inserted by sections 51 to 59 of the Maori Fisheries Act 1989) and section 28oc (as inserted by section 15 of the Fisheries Amendment Act 1990) (which sections relate to provisional maximum transferable term quotas for rock lobster):

(j) Sections 28of, 28og, and 28oi to 28oo (as inserted by section 15 of the Fisheries Amendment Act 1990) and section 28oh (as substituted by section 8 of the Fisheries Amendment Act 1991) (which sections relate to compensation for reductions in quota over a specified transitional period):

(k) Section 28zca (as inserted by section 10 of the Fisheries Amendment Act (No. 2) 1992) (which is a special provision in relation to quota balances):

(l) Section 28zca (as inserted by section 3 of the Fisheries Amendment Act (No. 3) 1992) (which limits the powers of the Quota Appeal Authority and of courts in certain cases):

(m) Part IIa (as inserted by section 10 of the Fisheries Amendment Act 1986) and Schedule 1a (which
provisions relate to commercial fishing on the quota management system):

(n) Sections 28ZM, 28ZZE, and 28ZZF (as inserted by section 13 of the Fisheries Amendment Act (No. 2) 1992) (which sections relate to the scallop fishery):

(o) Part IIb (as so inserted) (which relates to the quota management system for the southern scallop fishery):

(p) Part IIIA (as inserted by section 74 of the Maori Fisheries Act 1989) (which relates to tahiapure-local fisheries):

(q) Sections 55 to 61 (as substituted by section 13 of the Fisheries Amendment Act 1986), and sections 100, 101, 102, and 107A (as substituted by section 27 (1) of the Fisheries Amendment Act 1986) (which sections relate to vessels used in fishing, and their registration):

(r) Sections 62 to 64 (as substituted by section 13 of the Fisheries Amendment Act 1986) (which relate to permits and special permits):

(s) Section 65 (as substituted by section 13 of the Fisheries Amendment Act 1986) and sections 84 to 87 (which sections relate to closed seasons, other restrictions, pollution, and research and development):

(t) Section 66 (as substituted by section 33 (1) of the Fisheries Amendment Act 1990) and section 96 (as substituted by section 27 (1) of the Fisheries Amendment Act 1986) (which sections relate to records and returns and the supplying of particulars):

(u) Sections 67 and 67A (as substituted by section 13 of the Fisheries Amendment Act 1986) and section 97 (as substituted by section 27 (1) of the Fisheries Amendment Act 1986) (which sections relate to the disposal and acquisition of fish by commercial fishermen, and the buying, selling, or possession of fish):

(v) Section 67B (as substituted by section 13 of the Fisheries Amendment Act 1986), section 95 (as substituted by section 27 (1) of the Fisheries Amendment Act 1986), and Part VI (comprising sections 76 to 83) (which provisions relate generally to fishery officers and examiners):

(w) Sections 67C to 67G (as substituted by section 13 of the Fisheries Amendment Act 1986) and section 67H (as inserted by section 36 of the Fisheries Amendment Act 1990) (which sections relate generally to scientific observers):
(x) Part IVA (comprising sections 671 to 67s) (as inserted by section 6 of the Fisheries Amendment Act 1993), sections 101A and 101B (as inserted by section 8 of that Act), sections 105AA and 105AB (as inserted by section 9 of that Act), section 107AA (as inserted by section 10 of that Act), and section 107DA (as inserted by section 11 of that Act) (which provisions relate to marine farming):

(y) Section 88 and section 105A (as inserted by section 50(1) of the Fisheries Amendment Act 1990) (which relate to the limitation of the Act in certain cases and to defences available under the Act):

(z) Section 88A (as inserted by section 41 of the Fisheries Amendment Act 1990) (which relates to the giving of notices):

(za) Sections 89 to 92 and section 92A (as inserted by section 26 of the Fisheries Amendment Act 1986) (which sections relate to regulations and notices having the status of regulations):

(zb) Section 93 (as substituted by section 27(1) of the Fisheries Amendment Act 1986) and section 107 (as substituted by section 51 of the Fisheries Amendment Act 1990) (which sections are the general offence and general penalty provisions):

(zc) Section 98 (as substituted by section 27(1) of the Fisheries Amendment Act 1986) (which specifies an offence relating to explosives, etc.):

(zd) Section 98A (as inserted by section 45 of the Fisheries Amendment Act 1990) (which specifies an offence relating to the use of premises):

(ze) Section 99 (as substituted by section 27(1) of the Fisheries Amendment Act 1986) (which deals with the ownership and possession of fish taken from a vessel):

(zf) Sections 103 and 103A (as inserted by section 49 of the Fisheries Amendment Act 1990) (which specify circumstances in which fish are deemed to have been acquired or possessed for purposes of sale):

(zg) Sections 104 and 107E (as substituted by section 27(1) of the Fisheries Amendment Act 1986), section 104A (as inserted by section 17 of the Fisheries Amendment Act (No. 2) 1992), section 105 (as so substituted), and sections 105b to 106c (as inserted by section 51 of the Fisheries Amendment Act 1990) (which sections deal
with various technical matters relating to proceedings under the Act):

(zh) Section 107B (as substituted by section 52 (1) of the Fisheries Amendment Act 1990) (which relates to forfeiture of property and quota):

(zl) Section 107c (as so substituted) and section 107D (as substituted by section 27 (1) of the Fisheries Amendment Act 1986) (which relate to the treatment of forfeited property or quota, and further forfeiture on subsequent offences):

(zj) Sections 107EA to 107EG (as inserted by section 3 of the Fisheries Amendment Act 1994) and sections 107J to 107L (as substituted by section 4 of that Act) (which sections relate to levies and their recovery):

(zk) Section 107EH (as inserted by section 5 of the Fisheries Amendment Act 1995) (which provides for the application of the Commodity Levies Act 1990) (but excluding any levy orders made in accordance with that section):

(zl) Sections 108 and 109 (as added by section 29 of the Fisheries Amendment Act 1986), and the Second and Third Schedules (which deal with repeals, revocations, amendments, and savings):

(zm) The First Schedule to the Fisheries Act 1983 (which relates to fisheries management plans):

(zn) Schedule 1D (as inserted by section 28 of the Fisheries Amendment Act (No. 2) 1992 and Schedule 1DA (as inserted by section 6 of the Fisheries Amendment Act 1995) (which Schedules relate to the southern scallop fishery and to quota management areas and the total allowable commercial catch for paua):

(zo) Schedule 1E (as inserted by section 5 of the Fisheries Amendment Act 1994 and substituted by the Fisheries (Crown Contribution) Order 1995) (which specifies fisheries costs to be borne by the Crown).

(2) The following enactments are hereby consequentially repealed:

(a) Sections 10 (2) (a), 11 to 26, 28 (2), 28 (3), 29, and 32A of the Territorial Sea and Exclusive Economic Zone Act 1977:

(b) The Territorial Sea and Exclusive Economic Zone Amendment Act 1980:

(c) The Territorial Sea and Exclusive Economic Zone Amendment Act 1985:
(d) So much of the Second Schedule to the Conservation Act 1987 as relates to the Fisheries Act 1983:

(e) The Fisheries Amendment Act 1986:

(f) So much of Part A of the First Schedule to the State-Owned Enterprises Amendment Act 1987 as relates to the Fisheries Act 1983:

(g) So much of the First Schedule to the Public Finance Act 1989 as relates to the Fisheries Act 1983:

(h) Part II of the Maori Fisheries Act 1989:

(i) The Second Schedule to the Maori Fisheries Act 1989:

(j) The Fisheries Amendment Act 1990:

(k) Part VII of the Conservation Law Reform Act 1990:

(l) The Fisheries Amendment Act (No. 2) 1990:

(m) So much of the Eighth Schedule to the Resource Management Act 1991 as relates to the Fisheries Act 1983:

(n) The Fisheries Amendment Act 1991:

(o) The Fisheries Amendment Act (No. 2) 1992:

(p) Sections 21 to 38 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992:

(q) The Fisheries Amendment Act (No. 3) 1992:

(r) The Fisheries Amendment Act 1993:

(s) The Fisheries Amendment Act 1994:

(t) So much of the Fourth Schedule to the Maritime Transport Act 1994 as relates to the Territorial Sea and Exclusive Economic Zone Act 1977:

(u) The Fisheries Amendment Act (No. 2) 1994:

(v) Section 13 of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995:


(4) Without limiting anything in the Acts Interpretation Act 1924, the repeal of any enactment by this section does not affect any amendment made to any enactment by any of the following enactments:

(a) Section 108 (5) of the Fisheries Act 1983:

(b) Section 30 of the Fisheries Amendment Act 1986:

(c) Sections 57 and 58 of the Fisheries Amendment Act 1990:

(d) Section 31 of the Fisheries Amendment Act 1991:

(e) Part II of the Fisheries Amendment Act (No. 2) 1992:

(f) Section 37 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.

(2) The Short Title of the said Act is hereby consequentially amended by omitting the word "Fishing", and substituting the word "Seafood".

(3) Every reference in any enactment to the Fishing Industry Board Act 1963 is hereby consequentially amended by omitting the word "Fishing", and substituting the word "Seafood".

(4) Section 2 of the said Act is hereby amended by omitting from the definition of the term "Board" the word "Fishing", and substituting the word "Seafood".

(5) Section 3 of the said Act, and the heading immediately above that section, are hereby amended by omitting the words "New Zealand Fishing Industry Board" wherever they occur, and substituting in each case the words "New Zealand Seafood Industry Board".

(6) The New Zealand Seafood Industry Board established by section 3(1) of the Fishing Industry Board Act 1963 (as amended by this section) is hereby declared to be the same body as the New Zealand Fishing Industry Board established by that section and in existence immediately before the commencement of this section.

(7) Every reference to the New Zealand Fishing Industry Board in any Act, regulation, rule, order, other enactment, agreement, deed, instrument, application, notice, or other document whatever shall hereafter be read as a reference to the New Zealand Seafood Industry Board.

316. Amendments to other enactments—(1) The Acts specified in the Twelfth Schedule to this Act are hereby amended in the manner indicated in that Schedule.

(2) The amendments set out in Part I of the Twelfth Schedule to this Act shall be deemed to have come into force on the 1st day of July 1995.

(3) The amendments set out in Part II of the Twelfth Schedule to this Act shall be deemed to have come into force on the 1st day of October 1995.

(4) The remaining parts of the Twelfth Schedule to this Act shall come into force on one or more dates appointed under section 1(2) of this Act.
317. Amendments to Fisheries (Catch Against Quota) Regulations 1995—(1) The Second Schedule to the Fisheries (Catch Against Quota) Regulations 1993 (S.R. 1993/28) is hereby amended by revoking rules 1 and 2, and substituting the following rules:

"1. For the purposes of allocating landed catch to catch rights and calculating the transfer of catch rights consequent on any quota event, the catch rights of a holder may be represented by quota parcels.

"A quota parcel is a representation of the types of catch right held by a holder and is designed to ensure that, on the transfer of quota, the catch rights being transferred are representative of the catch rights held by the transferor.

"If quota is being transferred,—

"(a) In the case of catch rights other than established underfishing entitlements, the tonnage of catch rights and the categories to be transferred shall be transferred proportionately to the tonnages applicable to the quota from which the transfer occurs; and

"(b) In the case of established underfishing entitlements, the tonnage of catch rights shall be transferred only to the extent necessary to prevent the transferor holding an amount of established underfishing entitlements in excess of that permitted by section 28v of this Act.

"For the purposes of calculating the amount of established underfishing entitlements to be transferred under paragraph (b) of this rule, the amount of established underfishing entitlements to be retained by the transferor shall be calculated in relation to the holdings of the transferor after the quota to which the transfer relates has been transferred.

"A given quota holding may be represented by one or more quota parcels.

"2. Because the catch right categories of given quota parcels may be the same, but the available catch rights may be different, no amalgamation of quota parcels shall occur unless the categories of catch rights are the same and the available catch right categories are the same.

"2A. Subject to rule 2, the chief executive shall amalgamate—

"(a) All quota parcels, and the catch rights of those parcels, owned and held by a quota holder; and

"(b) All catch allocated against those quota parcels within the appropriate catch right categories."
(2) Subsection (1) of this section shall be deemed to have come into force on the 1st day of April 1993.

(3) The Second Schedule to the Fisheries (Catch Against Quota) Regulations 1993 may hereafter be amended as if the amendments effected by this section had been effected by regulation and not by this section.


(a) By omitting from clauses 3(1), 4, 5(1), 7, and 11 the words “an annual” wherever they occur, and substituting in each case the word “monthly”:

(b) By omitting from clauses 3(2) and 5(2) the word “annual” wherever it occurs, and substituting in each case the word “monthly”.

(2) The Fisheries (Cost Recovery Levies) Order 1995 is hereby amended by revoking clause 9, and substituting the following clause:

“9. Compliance audit levy—There shall be payable to the Crown in respect of—

“(a) Every guaranteed minimum individual transferable quota; and

“(b) Every individual transferable quota; and

“(c) Every guaranteed minimum transferable term quota; and

“(d) Every transferable term quota—

an annual levy for each tonne or part of a tonne of quota at the appropriate rate according to the species or class of fish, aquatic life, or seaweed as specified in Part G of the Schedule to this order.”

(3) Clause 10 of the Fisheries (Cost Recovery Levies) Order 1995 is hereby amended by omitting the words “the annual levy”, and substituting the words “, on the last day of every month during which that person owns the fishing vessel, the monthly”.

(4) The Fisheries (Cost Recovery Levies) Order 1995 is hereby amended—

(a) By revoking clause 11:

(b) By revoking the Schedule, and substituting the Schedule set out in the Tenth Schedule to this Act.

(5) Nothing in this section shall affect the liability of any person to pay the levies imposed by the Fisheries (Cost Recovery Levies) Order 1995 before its revocation.
(6) The Fisheries (Cost Recovery Levies) Order 1995 may hereafter be amended as if the amendments effected by this section had been effected by regulation and not by this section.

(7) Subsections (1) to (5) of this section shall be deemed to have come into force on the 1st day of December 1995.

319. Amendments to Fisheries (Quota Management Areas, Total Allowable Catches, and Catch Histories) Notice 1986—(1) Clause 3 of the Fisheries (Quota Management Areas, Total Allowable Catches, and Catch Histories) Notice 1986 (S.R. 1986/267) is hereby amended by revoking subclause (2), and substituting the following subclauses:

“(2) The quota management areas (other than paua quota management areas) referred to by name and reference number in the First Schedule to this notice are the fishery management areas having the same reference number and described in the First Schedule to the Fisheries Act 1996.

“(2A) The quota management areas for paua referred to by name and reference number in the First Schedule to this notice are the quota management areas for paua having the same reference number and described in Part III of the First Schedule to the Fisheries Act 1996.”

(2) The Second Schedule to the Fisheries (Quota Management Areas, Total Allowable Catches, and Catch Histories) Notice 1986 is hereby revoked.

(3) The Fisheries (Quota Management Areas, Total Allowable Catches, and Catch Histories) Notice 1986 is hereby amended by omitting each expression set out in the first column of the following table wherever it occurs, and substituting in each case the expression set out opposite that expression in the second column of that table:

<table>
<thead>
<tr>
<th>Expressions to be Omitted</th>
<th>Expressions to be Substituted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Barracouta (<em>Thyrsites atun</em>)</td>
<td>Barracouta (<em>Thyrsites atun</em>)</td>
</tr>
<tr>
<td>Elephant Fish (<em>Callorhynchus milii</em>)</td>
<td>Elephant Fish (<em>Callorhynchus milii</em>)</td>
</tr>
<tr>
<td>Flatfish (<em>Rhomboseola plebeia; Pelotretis flavilatus; Pelorhamphus novaezelandiae; Rhomboseola leporina; Colistium guntheri; Colistium nudipinnis; Rhomboseola retiara; Rhomboseola tapirina</em>)</td>
<td>Flatfish (<em>Rhomboseola plebeia; Pelotretis flavilatus; Pelorhamphus novaezelandiae; Rhomboseola leporina; Colistium guntheri; Colistium nudipinnis; Rhomboseola retiara; Rhomboseola tapirina</em>)</td>
</tr>
<tr>
<td>Gemfish (<em>Rexea solandri</em>)</td>
<td>Gemfish (<em>Rexea spp.</em>)</td>
</tr>
<tr>
<td>Gurnard (<em>Chelidonichthys kumu</em>)</td>
<td>Red Gurnard (<em>Chelidonichthys kumu</em>)</td>
</tr>
<tr>
<td>Expressions to be Omitted</td>
<td>Expressions to be Substituted</td>
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<tr>
<td>Hapuku and Bass combined (Polyprion oxygeneios; Polyprion moene)</td>
<td>Hapuku (Polyprion oxygeneios) and Bass (Polyprion americanus [= Polyprion moene])</td>
</tr>
<tr>
<td>Oreo Dories (Allocyttus spp.; Pseudocyttus maculatus; Neocyttus rhomboidalis)</td>
<td>Oreo (Allocyttus spp.; Pseudocyttus maculatus; Neocyttus rhomboidalis)</td>
</tr>
<tr>
<td>Red Cod (Pseudophycis bacchus)</td>
<td>Red Cod (Pseudophycis bacchus)</td>
</tr>
<tr>
<td>School Shark (Galeorhinus australis)</td>
<td>School Shark (Galeorhinus galeus)</td>
</tr>
<tr>
<td>Snapper (Chrysophrys auratus)</td>
<td>Snapper (Pagrus auratus [= Chrysophrys auratus])</td>
</tr>
<tr>
<td>Stargazer (Kathetostoma giganteum)</td>
<td>Stargazer (Kathetostoma spp.)</td>
</tr>
<tr>
<td>Tarakihi (Nemadactylus macropterus)</td>
<td>Tarakihi (Nemadactylus sp. commonly referred to as &quot;King Tarakihi&quot;; Nemadactylus macropterus)</td>
</tr>
<tr>
<td>Trevally (Caranx georgianus)</td>
<td>Trevally (Pseudocaranx dentex [= Caranx georgianus])</td>
</tr>
</tbody>
</table>

(4) Nothing in this section shall be regarded as conferring any new rights in respect of any species or classes of fish, aquatic life, or seaweed.

(5) The Fisheries (Quota Management Areas, Total Allowable Catches, and Catch Histories) Notice 1986 may hereafter be amended as if the amendments effected by this section had been effected by notice and not by this section.

320. Amendment to Fisheries (Jack Mackerel Quota Management Areas, Total Allowable Catches, and Catch Histories) Notice (No. 2) 1987—(1) Clause 2 (2) of the Fisheries (Jack Mackerel Quota Management Areas, Total Allowable Catches, and Catch Histories) Notice (No. 2) 1987 (S.R. 1987/327) is hereby amended by omitting the words "notice published in the Gazette of 1986 at page 412", and substituting the words "First Schedule to the Fisheries Act 1996."

(2) The Fisheries (Jack Mackerel Quota Management Areas, Total Allowable Catches, and Catch Histories) Notice (No. 2) 1987 may hereafter be amended as if the amendments effected by this section had been effected by notice and not by this section.

321. Amendment to Fisheries (Squid Quota Management Areas, Total Allowable Catches, and Catch Histories) Notice 1987—(1) Clause 2 (2) of the Fisheries
[Squid Quota Management Areas, Total Allowable Catches, and Catch Histories] Notice 1987 (S.R. 1987/305) is hereby amended by omitting the words "notice published in the Gazette of 1986 at page 412", and substituting the words "First Schedule to the Fisheries Act 1996."

(2) The Fisheries (Squid Quota Management Areas, Total Allowable Catches, and Catch Histories) Notice 1987 may hereafter be amended as if the amendments effected by this section had been effected by notice and not by this section.

Savings and Transitional Provisions

322. Relationship between offence provisions of Fisheries Act 1983 and this Act—(1) If there is any inconsistency between any provision of the Fisheries Act 1983 or the Territorial Sea and Exclusive Economic Zone Act 1977 (whether the provision has effect by virtue only of this Act or otherwise) and any provision of this Act (in so far as the provisions of this Act are in force), the provision of this Act shall prevail to the extent of the inconsistency.

(2) Until the repeal of sections 76 to 80, sections 81 to 83, and section 95 of the Fisheries Act 1983, the provisions of those sections shall—

(a) Continue to apply; and

(b) Apply in relation to the enforcement and administration of the provisions of this Act as if the provisions of this Act were provisions of the Fisheries Act 1983.

(3) On the commencement of Part XI of this Act, that Part shall apply in relation to the provisions of the Fisheries Act 1983 as if those provisions were provisions of this Act.

(4) Without limiting anything in the Acts Interpretation Act 1924, the provisions of the Fisheries Act 1983 shall, notwithstanding their repeal by section 314 of this Act, continue to apply to proceedings in respect of any offence against the Fisheries Act 1983 committed before the commencement of section 252 of this Act.

(5) On the commencement of section 252 of this Act, sections 254 and 256 of this Act shall apply in respect of offences against the Fisheries Act 1983 that are committed on or after the commencement of that section 252, as if the offences against the Fisheries Act 1983 were offences against this Act, save that any person convicted of such an offence shall be liable to the penalty applicable to that offence on the date of the commission of that offence.

(6) For the purposes of subsection (5) of this section, section 256 of this Act shall apply in respect of all property, fish,
proceeds, quota, or interest in quota, forfeit or ordered to be forfeit to the Crown under section 107B of the Fisheries Act 1983.

323. Savings relating to regulations, etc.—All regulations made under section 89 of the Fisheries Act 1983 (whether or not made exclusively under that section) and in force immediately before the commencement of this section are hereby deemed to be validly made under section 297 of this Act if validly made under the Fisheries Act 1983.

324. Savings relating to rock lobster regulations—The Fisheries (Rock Lobster Total Allowable Commercial Catch) Order 1996 (S.R. 1996/23) shall, until amended or revoked, continue in force and apply as if it were a valid notice made under section 280B of the Fisheries Act 1983 varying a total allowable commercial catch; and any notice made under that section of that Act or under section 20 of this Act may revoke the Fisheries (Rock Lobster Total Allowable Commercial Catch) Order 1996.

325. Savings related to fish farming regulations—All regulations made under section 91 of the Fisheries Act 1983 (whether or not made exclusively under that section) and in force immediately before the commencement of this section are hereby deemed to be validly made under section 301 of this Act if validly made under the Fisheries Act 1983.

326. Savings related to territorial sea and exclusive economic zone—All regulations made under section 22 of the Territorial Sea and Exclusive Economic Zone Act 1977 (whether or not made exclusively under that section) and in force immediately before the commencement of this section are hereby deemed to be validly made under section 299 of this Act if validly made under that Act.

327. Savings related to commodity levy orders—On the date of commencement of section 305 of this Act, all commodity levy orders made under the Commodity Levies Act 1990 in accordance with section 107EH of the Fisheries Act 1983, and in force immediately before that date, shall continue in force as if made in accordance with that section.

328. Savings relating to licences, approvals, and authorisations—Every licence, permit, approval, authority,
notice, certificate, circular, direction, instrument, or other thing that—
(a) Was issued, granted, given, or otherwise made under any provision of the Fisheries Act 1983, or any regulations made under that Act, that continues to apply by virtue of this Act; and
(b) Had effect or purported to have effect immediately before the commencement of this section—
shall be deemed to be valid and to have been issued, granted, given, or otherwise made under the corresponding provision of this Act or of regulations made under this Act.

829. Validation of certain decisions relating to permits—(1) Every decision and every purported decision of the Director-General of Agriculture and Fisheries—
(a) Made in respect of the issue, variation, refusal, revocation, or cancellation of any fishing permit under section 63 or any special permit under section 64 of the Fisheries Act 1983; and
(b) Made before the 1st day of October 1992—
is hereby declared to be and always to have been valid.
(2) Every decision and every purported decision of the chief executive (whether made by the chief executive or the Director-General of Agriculture and Fisheries)—
(a) Made in respect of the issue, variation, refusal, revocation, or cancellation of any fishing permit under section 63 or special permit under section 64 of the Fisheries Act 1983; and
(b) Made on or after the 1st day of October 1992 but before the commencement of this section—
is hereby declared to be and always to have been valid.
(3) Subsection (1) of this section does not apply to a decision or purported decision referred to in that subsection if the decision or purported decision is being challenged in or is otherwise subject to any court proceedings commenced before the date of commencement of this section.
(4) Subsection (2) of this section does not apply to a decision or purported decision referred to in that subsection if—
(a) The decision or purported decision is being challenged in or is otherwise subject to any court proceedings commenced before the date of commencement of this section; or
(b) The applicant for the permit which was the subject of a decision or purported decision referred to in that subsection—
(i) Has, before the commencement of this section, lodged with the chief executive; or
(ii) Within 12 months after the commencement of this section, lodges with the chief executive—a notice requesting the chief executive to review that decision or purported decision.

(5) Notwithstanding anything in section 93 of this Act or in section 65 (13) of the Fisheries Act 1983, if a person has been or is granted a special permit under section 64 (1)(c) of that Act or section 97 (1)(c) of this Act, being a special permit granted to rectify an administrative error, the following provisions shall apply:

(a) The chief executive may from time to time, but is not obliged to, issue to the person an appropriate fishing permit in place of the special permit;

(b) Upon the commencement of a fishing permit issued to any person under this subsection, the special permit held by that person shall be deemed to be revoked.

330. Certain fishing restrictions may affect quota management areas—A provision of any regulation made under this Act, or of any notice made under section 15 or section 16 or under regulations made under section 186 of this Act, is not invalid merely because it conflicts with section 28b (5) of the Fisheries Act 1983.

331. Savings relating to fishery officers, examiners, and observers—(1) Every person who, immediately before the commencement of section 196 of this Act, held office as a fishery officer appointed under the State Sector Act 1988 pursuant to section 76 (1) of the Fisheries Act 1983 is hereby deemed to be a fishery officer appointed under the State Sector Act 1988 pursuant to section 196 (1) of this Act.

(2) Every person who, immediately before the commencement of section 197 of this Act, held office as an honorary fishery officer under section 77 of the Fisheries Act 1983 is hereby deemed to be appointed as an honorary fishery officer under section 197 of this Act.

(3) Every person who, immediately before the commencement of section 222 of this Act, held office as an examiner under section 67b of the Fisheries Act 1983 is hereby deemed to be appointed as an examiner under section 222 of this Act.

(4) Every person who, immediately before the commencement of section 223 of this Act, held office as a
scientific observer under section 67D of the Fisheries Act 1983 is hereby deemed to be appointed as an observer under section 223 of this Act.

332. Transitional provisions relating to registration of vessels where consent required under section 57(8) of Fisheries Act 1983—(1) Subject to subsection (7) of this section, this section applies to any application to register a vessel under section 57 of the Fisheries Act 1983 where—
(a) The application is made on or after the 1st day of March 1997 and before the commencement of Part VI of this Act; and
(b) The vessel is not registrable under that section 57 without consent under subsection (8) of that section.
(2) If this section applies, the Registrar referred to in section 57 of the Fisheries Act 1983 shall not register the vessel under that section 57 unless the chief executive has consented under this section to the registration of the vessel under that section.
(3) The owner of the vessel shall provide to the chief executive the name and address of a person (other than a person who requires consent under section 57(8) of the Fisheries Act 1983) who shall, for the purposes of section 57 of that Act, be the authorised agent of the person from whom the owner has, by virtue of a lease, a sublease, a charter, a subcharter, or otherwise, for the time being obtained possession and control of the vessel.
(4) In considering whether to consent under this section to the registration of a vessel, the chief executive shall have regard to—
(a) The previous offending history (if any) of the owner of the vessel, or foreign charter party, master, or crew, in relation to fishing activities, whether within the jurisdiction of New Zealand or another country or in international waters; and
(b) The nature of the charter or other agreement with the owner (if any); and
(c) Such other matters as the chief executive considers relevant;—
and, if the owner has provided the details referred to in subsection (8) of this section, the chief executive may grant consent under this section either unconditionally or subject to such conditions as the chief executive thinks fit to impose.
(5) If the Registrar is satisfied that the chief executive has consented under this section to the registration of a vessel under section 57 of the Fisheries Act 1983, the Registrar shall,
as soon as practicable, register the vessel in accordance with
that section.

(6) If the chief executive consents under subsection (4) of this
section to the registration of any vessel, the following provisions
apply while the vessel is in New Zealand fisheries waters:

(a) For the purposes of the Minimum Wage Act 1983, the
Wages Protection Act 1983, and such provisions of
any other enactments as are necessary to give full
effect to those Acts, a person engaged or employed
to do work on the vessel who holds a work permit
under the Immigration Act 1987 shall be deemed to
be an employee:

(b) For the purposes of the Minimum Wage Act 1983, the
Wages Protection Act 1983, and such provisions of
any other enactments as are necessary to give full
effect to those Acts, the employer of a person
referred to in paragraph (a) of this subsection shall be
deemed to be,—

(i) If the owner of the vessel is the employer or
contractor of those persons, the owner:

(ii) In any other case, the person from whom the
owner has, by virtue of a lease, a sublease, a charter,
a subcharter, or otherwise, for the time being
obtained possession and control of the vessel:

(c) Labour Inspectors within the meaning of the Employment
Contracts Act 1991 may exercise their powers under
that Act and under the enactments referred to in
paragraph (a) of this subsection within New Zealand
fisheries waters in respect of any person deemed to
be an employee or employer by virtue of paragraph
(a) or paragraph (b) of this subsection:

(d) If the owner of any vessel is not the employer by virtue of
paragraph (b) of this subsection, then, not-
withstanding any responsibility that may rest with
the employer, the authorised agent referred to in
subsection (3) of this section shall be responsible
under the enactments referred to in paragraph (a) of
this subsection for providing any information and
records to any Labour Inspector exercising powers
under those Acts:

(e) The authorised agent referred to in subsection (3) of this
section may be served with any documents requiring
service under any of the enactments referred to in
paragraph (a) of this subsection and such service shall
be deemed to be service on the employer:
(f) The Employment Tribunal and the Employment Court may exercise jurisdiction in respect of any employment relationship that arises by virtue of paragraphs (a) and (b) of this subsection as if it were a lawful employment relationship subject to New Zealand law.

(7) Where—
(a) A vessel to which subsection (1)(b) of this section applies has current registration under section 57 of the Fisheries Act 1983 as at the 1st day of March 1997; and
(b) The application for that registration was made before the 1st day of March 1997,—

that vessel’s registration shall be deemed to lapse on the close of the 30th day of September 1997 unless, before that date, the consent of the chief executive is obtained under subsection (4) of this section as if the application for the registration had been made on or after the 1st day of March 1997.

(8) For the purposes of this section, the term “owner” has the same meaning as in section 2 of the Fisheries Act 1983.

333. Cancellation of registration to which section 332 applies—(1) If the chief executive has decided, on reasonable grounds and after receipt of advice from the Secretary of Labour, that a breach of any statutory provisions referred to in section 332 (6) has occurred, the chief executive shall, as soon as practicable, notify the Registrar referred to in section 57 of the Fisheries Act 1983 of that occurrence and that Registrar shall immediately cancel the registration of that vessel.

(2) For the purposes of subsection (1) of this section, reasonable grounds for a belief that a breach has occurred includes—
(a) Advice from the Secretary of Labour that a decision or order of the Employment Tribunal or Employment Court has been made to that effect;
(b) Advice from the Secretary of Labour to the effect that any information or records requested, whether from an authorised agent in accordance with section 332 (3) of this Act or from the employer, have not been provided.

334. Conversion of transferable term quota (rock lobster)—(1) All transferable term quota (within the meaning of the Fisheries Act 1983) that—
(a) Was owned by any person immediately before the commencement of this section; and

(b) Relates to packhorse rock lobster or spiny rock lobster in a particular quota management area—is hereby declared to be individual transferable quota under Part II A of that Act for that species in that quota management area.

(2) The conversion of quota by subsection (1) of this section does not constitute an allocation of new quota for the purposes of any enactment or rule of law.

(3) All quota allocated under section 280 A of the Fisheries Act 1983 after the commencement of this subsection, as a result of an appeal to which section 335 (1) of this Act applies, shall be allocated in the form of individual transferable quota under Part II A of the Fisheries Act 1983.

(4) All individual transferable quota to which this section applies shall be perpetual even though it has been converted from quota that was declared by section 28BA of the Fisheries Act 1983 to be subject to the quota management system established under that Act for a period of 25 years commencing on the 1st day of April 1990.

(5) For the avoidance of doubt, it is hereby declared that sections 28E and 28OE (1)(a) of the Fisheries Act 1983 do not apply and have never applied to transferable term quota under the Fisheries Act 1983 or to individual transferable quota for rock lobster created under this section.

335. Savings relating to quota appeals—(1) Subject to section 334 of this Act, all applications for review or proceedings in respect of the allocation of any provisional maximum transferable term quota for rock lobster (within the meaning of the Fisheries Act 1983) that were, immediately before the commencement of this section,—

(a) Filed in, or in progress before, any court; or

(b) In progress before the Quota Appeal Authority by virtue of an order of any court,—

may be continued (including the referral of any proceedings from any court back to the Quota Appeal Authority), completed, and enforced under sections 28EA, 28I, 28JA, 28KA, 28NA, and 280A of that Act, and accordingly those provisions, where applicable, shall be deemed to apply to and (if repealed) to continue in force in respect of those proceedings.

(2) All applications for review or proceedings in respect of the allocation of any provisional maximum individual transferable quota (within the meaning of the Fisheries Act
that were, immediately before the commencement of this section,—

(a) Filed in, or in progress before, any court; or

(b) In progress before the Quota Appeal Authority by virtue of an order of any court,—

may be continued (including the referral of any proceedings from any court back to the Quota Appeal Authority), completed, and enforced as if sections 28E, 28I, 28J, 28K, 28N, and 28O of that Act were in force, and accordingly those provisions, where applicable, shall be deemed to apply to and (if repealed) to continue in force in respect of those proceedings.

(3) For the avoidance of doubt, it is hereby declared that section 28ZGA of the Fisheries Act 1983 shall continue to apply to all applications and proceedings referred to in this section.

336. **Savings relating to quota appeals after commencement of section 66**—(1) Notwithstanding anything in section 335 of this Act, any application or proceedings referred to in that section in respect of the allocation of provisional maximum individual transferable quota or provisional maximum transferable term quota (within the meaning of the Fisheries Act 1983) that were, immediately before the commencement of section 66 of this Act,—

(a) Filed in, or in progress before, any court; or

(b) In progress before the Quota Appeal Authority by virtue of an order of any court,—

may be continued (including the referral of any proceedings from any court back to the Quota Appeal Authority), completed, and enforced on or after the commencement of this section under sections 28E, 28EA, and 28I of that Act, and accordingly those provisions, where applicable, shall be deemed to apply to and (if repealed) to continue in force in respect of those proceedings, subject to the following modifications, namely,—

(c) Any reference in those provisions to the Quota Appeal Authority shall be read as a reference to the Catch History Review Committee; and

(d) Notwithstanding anything in section 284 of this Act, the Catch History Review Committee shall hear and determine the appeals referred to in this subsection as if it were the Quota Appeal Authority acting under section 28I of the Fisheries Act 1983, and any determination of the Catch History Review
Committee shall be given effect to by the chief executive in accordance with section 337 of this Act.

(2) For the avoidance of doubt, sections 28J, 28JA, 28K, 28KA, 28N, 28NA, 28O, and 28OA of the Fisheries Act 1983 shall not apply to any proceedings referred to in this section.

(3) For the avoidance of doubt, it is hereby declared that section 28ZGA of the Fisheries Act 1983 shall continue to apply to all applications and proceedings referred to in this section.

(4) The provisions of section 291 (3), (4), and (5) of this Act shall apply to any applications or proceedings before the Catch History Review Committee under this section.

337. Transitional provisions relating to decisions of Catch History Review Committee—(1) At the close of the last day of a fishing year in which a person’s provisional maximum individual transferable quota or provisional maximum transferable term quota has been finally determined, the chief executive shall—

(a) Calculate that person’s entitlement (if any) to additional individual transferable quota for the stock as follows:

(i) If provisional maximum individual transferable quota or provisional maximum transferable term quota in respect of the same stock has been reduced under section 28N (1) or section 28NA (1) of the Fisheries Act 1983, the person’s additional individual transferable quota shall be calculated in accordance with the following formula:

\[(a \times b) + c = d\]

where—

a is the additional provisional maximum individual transferable quota or provisional maximum transferable term quota allocated by the Catch History Review Committee; and

b is the total of provisional maximum individual transferable quota or the total of provisional maximum transferable term quota immediately after it was reduced under section 28N (1) or section 28NA (1) of the Fisheries Act 1983; and
c is the total of provisional maximum individual transferable quota or the total of provisional maximum transferable term quota immediately before it was reduced under section 28N (1) or section 28NA (1) of the Fisheries Act 1983; and

d is the person's additional entitlement to individual transferable quota:

(ii) If such a reduction in the provisional maximum individual transferable quota or provisional maximum transferable term quota has not been made in respect of the same stock, the person's entitlement to additional individual transferable quota is equal to the additional provisional maximum individual transferable quota or provisional maximum transferable term quota allocated by the Catch History Review Committee; and

(b) Translate the person's entitlement to additional individual transferable quota for the stock under paragraph (a) of this subsection into quota shares in accordance with subsection (2) of this section; and

(c) Either,—

(i) To the extent that the Crown has sufficient unencumbered individual transferable quota to satisfy the person's entitlement to additional individual transferable quota for the stock, transfer to the person in the form of individual transferable quota an amount of its own individual transferable quota that is sufficient to satisfy that entitlement; or

(ii) To the extent that the Crown does not have sufficient unencumbered individual transferable quota to satisfy the person's entitlement to additional individual transferable quota for the stock, deduct from all quota owners (including the Crown in respect of its encumbered quota) on a pro rata basis sufficient quota so that, after adding the quota so obtained to the Crown's unencumbered individual transferable quota holdings, the Crown has sufficient quota to satisfy each person's entitlement to additional quota for the stock, and then transfer to the person in the form of individual transferable quota an amount of quota that is sufficient to satisfy that entitlement.

(2) For the purposes of subsection (1) (b) of this section, quota shall be translated in accordance with the following formula:
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\[ a + (b + c + d) \times 100,000,000 = e \]

where—

a is the amount of additional individual transferable quota (expressed in kilogrammes) for the stock concerned that the person would be entitled to receive under subsection (1)(a) of this section; and

b is the total allowable commercial catch for the stock (expressed in kilogrammes); and

c is the total of additional individual transferable quota for the stock (expressed in kilogrammes) that has previously been allocated under this section; and

d is the sum of the amounts under item a where there is more than one person to be allocated quota under this section; and

e is the number of quota shares which the quota owner is entitled to be allocated under this section.

(3) Any reduction in provisional maximum individual transferable quota in accordance with subsection (1)(a) of this section shall, for the purposes of section 23 of this Act, be deemed to be a reduction under section 28N of the Fisheries Act 1983.

(4) If an amount of quota is transferred to a person under subsection (1)(c) of this section, the chief executive shall, as soon as reasonably practicable after that transfer is effected, notify—

(a) Every affected quota owner of the total number of quota shares registered as owned by that quota owner immediately after that transfer; and

(b) The relevant Registrar of the total number of quota shares registered as owned by every affected quota owner immediately after that transfer.

(5) For the purposes of section 63 of this Act, the chief executive shall make any adjustments to the register entries in respect of any person's quota that may be necessary as a consequence of a transfer of quota under this section following any adjustments made under paragraph (b) of that section.

(6) Except as otherwise provided by this Act, the provisions of this Act shall apply to all transfers of quota under this section as if it were a transfer of quota under section 52 of this Act.

338. Transitional fishing year for packhorse rock lobster—(1) Notwithstanding section 2 of this Act, for the purpose of this Act and the Fisheries (Catch Against Quota)
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Regulations 1993, the period of 18 months commencing on the 1st day of April next following the commencement of this section is hereby deemed to be a fishing year in relation to packhorse rock lobster (*Jasus verreauxi*).

(2) Notwithstanding section 2 of this Act, for the purposes of this Act and the Fisheries (Catch Against Quota) Regulations 1993, the fishing year for packhorse rock lobster (*Jasus verreauxi*) shall, after the expiration of the fishing year defined by subsection (1) of this section, be a period of 12 months commencing on the 1st day of October in every year.

339. Transitional provisions relating to monthly and opening balances—Notwithstanding the repeal of section 28ZCA of the Fisheries Act 1983 by section 314 of this Act, it is hereby declared that—

(a) The objection procedure set out in section 28ZCA of the Fisheries Act 1983 applies, and has always applied, only to assessments of monthly and opening balances made by the chief executive in respect of any period ending before the 1st day of April 1993:

(b) The review procedure set out in the Fisheries (Catch Against Quota) Regulations 1993 applies, and has always applied, in respect of any period commencing on or after that date.

340. Taking of fish, aquatic life, or seaweed in excess of quota, and carrying forward of unused quota—(1) If, in the fishing year ending in the calendar year in which section 28v of the Fisheries Act 1983 is repealed by section 314 of this Act, the total tonnage of fish, aquatic life, or seaweed specified in any quota was not taken, the holder of that quota is not entitled to take in the next fishing year, in addition to any amount authorised by the quota, the tonnage that was not taken.

(2) If, in the fishing year ending in the calendar year in which section 28v of the Fisheries Act 1983 is repealed by section 314 of this Act, an amount of fish, aquatic life, or seaweed was taken in excess of quota under an authority given under subsection (1) or a permission given under subsection (2) of section 28v of the Fisheries Act 1983, the amount of fish, aquatic life, or seaweed that may be taken under that quota in the next fishing year shall not be reduced by the amount of that excess.

(3) Nothing in this section shall apply unless and until section 66 of this Act is in force.
841. Confirmation of quota—(1) On or before the commencement of Part VIII of this Act, the chief executive shall give written notice to—

(a) Each quota holder of all the details shown in respect of the holder in any register kept under section 28p of the Fisheries Act 1983, as at a date specified for the purpose in the notice; and

(b) Every person who has been allocated guaranteed minimum individual transferable quota or guaranteed minimum transferable term quota under the Fisheries Act 1983 of the amount of the guaranteed minimum individual transferable quota or guaranteed minimum transferable term quota held by that person as at a date specified in the notice; and

(c) The persons referred to in paragraph (a) or paragraph (b) of this subsection, of their right to apply to the chief executive, before a date specified by the chief executive in the notice for the purpose, for a review of the details notified to that person under that paragraph.

(2) Where a person applies to the chief executive for a review of the details notified to that person under subsection (1) of this section, in accordance with the notice referred to in paragraph (c) of that subsection, the chief executive shall review those details as soon as reasonably practicable and confirm or modify the details.

(3) If a person has been notified under subsection (1) of this section of details referred to in that section, but does not seek a review of those details before the close of the date specified in the notice for the purposes of the review, the details notified to the person shall, as from the date specified in the notice under subsection (1)(a) of this section, be deemed to be correct.

(4) For the purposes of subsection (1) of this section, the chief executive may notify details to the same person on one or more occasions and may state details as shown on the relevant register at different dates, but,—

(a) If those details are deemed under subsection (3) of this section to be correct; or

(b) If the person applies for a review of those details in accordance with this section and the chief executive confirms those details,—

then the details which formed the subject of the relevant notification under subsection (1) of this section—
(c) Shall not be reviewed under that subsection to the extent that the details relate to any period before the date specified in the notice under subsection (1)(a) of this section; and

(b) Shall not be the subject of any review under the Fisheries (Catch Against Quota) Regulations 1993.

(5) On and from a date to be notified by the chief executive by notice in the Gazette, the chief executive shall refuse to receive for registration—

(a) Any notifications of the transfer or lease of quota (other than a lease of quota for the purposes of section 28ZF or section 28ZG or section 105A(2) of the Fisheries Act 1983, expressed to take effect in the fishing year in which the notice is published, for those stocks in respect of which the the fishing year begins on 1 October); and

(b) Documents relating to such transactions or leases.

(6) After the date notified in the Gazette under subsection (5) of this section, the chief executive may make such entries in the relevant register kept under section 28p of the Fisheries Act 1983 and do such other things as may be necessary for the purposes of—

(a) Giving effect to any decision under subsection (2) of this section relating to any detail referred to in subsection (1)(a) of this section; or

(b) Giving effect to any translation of guaranteed maximum individual transferable quota or guaranteed maximum transferable term quota into individual transferable quota under section 342 of this Act; or

(c) Registering any transaction received by the chief executive before the date notified in the Gazette under subsection (5) of this section.

(7) Notwithstanding anything in this section, if in any year, on or after a date to be notified by the chief executive by notice in the Gazette, the chief executive receives any transfers of annual catch entitlements which are expressed to take effect on the 1st day of October in that year, the chief executive shall forward those transfers to the relevant Registrar of Annual Catch Entitlements on the 1st day of October in that year, in the order in which they were received, as if those transfers were forward transfers under section 133 of this Act.

(8) No notice referred to in subsection (7) of this section shall be made before the date of the making of the Order in Council bringing section 66 of this Act into effect.
(9) Notwithstanding anything in the Fisheries Act 1983 or this Act, no transaction or lease referred to in subsection (5)(a) of this section that was entered into at any time after the date specified by notice in the Gazette under subsection (5) of this section shall have any effect under this Act.

342. Guaranteed minimum individual transferable quota—(1) This section applies to every person who, immediately before the date notified by the chief executive under section 341 (5) of this Act, was fishing against guaranteed minimum individual transferable quota or guaranteed minimum transferable term quota (other than guaranteed minimum individual transferable quota or guaranteed minimum transferable term quota which has been replaced by individual transferable quota under section 280 (8) or section 280A (5) of the Fisheries Act 1983).

(2) On or after the date notified by the chief executive in the Gazette under section 341 (5) of this Act, but before the conversion of holdings from the old register to the new register under section 343 of this Act, the chief executive shall, in relation to every person to whom this section applies,—

(a) Calculate the person's entitlement to individual transferable quota under the Fisheries Act 1983 in the following manner and order:

(i) Determine the person's holdings of guaranteed minimum individual transferable quota or guaranteed minimum transferable term quota for each stock:

(ii) If the person's holding of guaranteed minimum individual transferable quota or guaranteed minimum transferable term quota for a stock determined under subparagraph (i) of this paragraph is a negative amount, cancel that holding:

(iii) If the person's holding of guaranteed minimum individual transferable quota or guaranteed minimum transferable term quota for a stock determined under subparagraph (i) of this paragraph is a positive amount, the person's entitlement is equivalent,—

(A) if provisional maximum individual transferable quota or provisional maximum transferable term quota in respect of the same stock has been reduced under section 28N (1) or section 28NA (1) of the Fisheries Act 1983, to the
total provisional maximum individual transferable quota or provisional maximum transferable term quota, as the case may be, for that stock owned by the person immediately after the reduction under that section was applied to that person’s quota holding; or

(B) In any other case, to the amount of provisional maximum individual transferable quota or provisional maximum transferable term quota for the stock that is held by that person when the calculation is made; and

(b) Allocate to that person an amount of individual transferable quota for the stock that is sufficient to satisfy that entitlement, and the total allowable commercial catch for that stock shall be increased if necessary.

(3) Any reduction in provisional maximum individual transferable quota in accordance with subsection (2)(a)(iii)(A) of this section shall be deemed to be a reduction under section 28N of the Fisheries Act 1983 for the purpose of gaining preferential allocation rights under section 23 of this Act.

(4) If the chief executive allocates individual transferable quota to any person under subsection (2)(b) of this section, the chief executive shall, as soon as reasonably practicable thereafter but before the conversion of holdings from the old register to the new register under section 343 of this Act, cause the relevant register under section 28p of the Fisheries Act 1983 to be amended accordingly.

(5) If any individual transferable quota allocated under subsection (2)(b) of this section is subject to any court proceedings, a Registrar of Quota shall enter in the Quota Register a caveat in accordance with section 149 of this Act in respect of that quota until those proceedings are completed, determined, or otherwise disposed of.

348. Conversion of holdings from old register to new register—(1) On the 1st day of October in the calendar year in which Part VIII of this Act comes into force, but before actioning any other quota transactions, the chief executive shall convert the individual transferable quota owned by each person into quota shares in accordance with subsection (2) of this section and direct the Registrar of Quota to record in the
relevant Quota Register the number of quota shares owned by that person.

(2) Quota shall be converted in accordance with the following formula:

\[(a + b) \times 100,000,000 = c\]

where—

\(a\) is the amount of individual transferable quota (expressed in kilogrammes) for the stock concerned that was owned by the quota owner under the Fisheries Act 1983 as at the close of the 30th day of September immediately preceding the commencement of Part VIII of this Act; and

\(b\) is the total allowable commercial catch for the stock (expressed in kilogrammes) as at the close of that 30th day of September; and

\(c\) is the number of quota shares to which the quota owner is entitled for the stock concerned under this section.

(3) Notwithstanding anything in any other enactment or rule of law, the conversion of quota under this section does not constitute an allocation of new quota.

(4) As soon as practicable after the Registrar, in accordance with this section, records in the relevant Quota Register the number of quota shares owned by a person, the Registrar shall notify that person of the number of quota shares registered as being owned by that person.

344. Savings relating to balancing—(1) On the repeal of Part IIA of the Fisheries Act 1983 by section 314 of this Act, the following provisions of that Act shall continue to have effect notwithstanding that repeal:

(a) The provisions of section 28zd relating to the payment of deemed values:

(b) The provisions of section 28ze relating to the assessment of deemed values under section 28zd:

(c) The provisions of section 28zf relating to the refund or remittance of deemed values:

(d) The provisions of section 28zc relating to the entering into of a lease or sublease of quota instead of the payment of deemed values:

(e) The provisions of section 105A relating to defences in proceedings for taking unauthorised fish, aquatic life, or seaweed;—
but those provisions shall continue to have effect only in respect of the fishing year immediately preceding the fishing year in which this section comes into force.

(2) Without limiting subsection (1) of this section, the Fisheries (Catch Against Quota) Regulations 1993 (as amended by section 317 of this Act) shall continue to have effect for the purposes of this section, but those regulations shall continue to have effect only in respect of the fishing year immediately preceding the year in which this section comes into force.

345. Transitional register—(1) For the purposes of this Part of this Act, notwithstanding the repeal of Part II A of the Fisheries Act 1983 by section 314 of this Act, the register established under section 28p of that Act shall continue to have effect in respect of—

(a) Transfers of individual transferable quota that take effect on or after the 1st day of October in the year in which Part VIII of this Act comes into force and are notified to the chief executive before the date notified in the Gazette under section 341 (5) of this Act; and

(b) Every lease of individual transferable quota that begins or ends on or after that 1st day of October in the year in which Part VIII of this Act comes into force and is notified to the chief executive before the date notified in the Gazette under section 341 (5) of this Act.

(2) The register established under section 28p of the Fisheries Act 1983 shall hereafter be known as the Transitional Register of Leases and Forward Transfers of Quota (or the Transitional Register).

(3) Any party to any lease recorded in the Transitional Register of Leases and Forward Transfers of Quota may, with the consent of the other parties to that lease, reduce the term of that lease.

(4) Any party to any lease recorded in the Transitional Register may assign to any other person that party's rights, interests, and obligations in respect of that lease.

(5) No reduction of term under subsection (3) or assignment under subsection (4) of this section has any effect until that reduction of term or assignment, as the case may be, is registered by the chief executive on the Transitional Register.

(6) No reduction of term under subsection (3) or assignment under subsection (4) of this section shall be registered on the Transitional Register unless—

(a) A party referred to in the applicable subsection applies in the approved form to the chief executive and the
application is accompanied by the prescribed fee (if any); and

(b) In the case of an assignment, the chief executive is satisfied that the assignee of that lease holds a number of quota shares (the quota weight equivalent of which is not less than the quantity of quota subject to the lease) for the stock which forms the subject matter of the lease.

(7) In the case of any transfer or lease registered on the Transitional Register,—

(a) If the total allowable commercial catch for the stock concerned is reduced under section 20 of this Act, the amount of quota to which the transfer or lease relates shall be reduced in the same proportion as the reduction in the total allowable commercial catch for the stock bears to the total allowable catch for the stock immediately before the reduction; but

(b) No transferee or lessee of the individual transferable quota for the stock that is subject to the transfer or lease is entitled to any additional individual transferable quota or annual catch entitlements under this Act merely because the total allowable commercial catch for that stock has been increased under section 20 of this Act.

(8) If—

(a) Any determination of an appeal under section 336 of this Act necessitates a deduction of quota shares from any person in accordance with subsection (1)(d) of that section; and

(b) That person has entered into any lease or any other arrangement in relation to quota that is recorded on the Transitional Register whereby any other person is or may become entitled to acquire from that person any amount of quota shares under section 348 of this Act or annual catch entitlement under section 347 of this Act,—

the amount of quota or annual catch entitlement which that other person is entitled to acquire, as recorded on that register, shall be reduced in the same proportion that the deduction of quota shares of the holder of the quota bears to the total quota shares of the holder immediately before the deduction.

(9) For the purposes of this section, the term “lease” includes a sublease.
346. Provisions relating to registration of caveats in respect of leases—(1) If a lease is registered on the Transitional Register of Leases and Forward Transfers of Quota under section 345 of this Act, and—

(a) The lease commenced before the commencement of this section or is expressed to commence on a date after the commencement of this section; and

(b) The lease is for a term comprising 2 or more fishing years that begin after the commencement of this section or a shorter term beginning in one such fishing year and ending in a later fishing year,—
the chief executive shall direct the Registrar of Quota to enter a caveat over a number of quota shares for the stock to which the lease relates that have the quota weight equivalent of the quota which forms the subject of that lease (as registered on the Transitional Register), and the caveat shall have the effect specified in section 148 of this Act.

(2) The chief executive shall direct the Registrar of Quota to remove any caveat registered under subsection (1) of this section over any stock the chief executive may specify, on the expiry of the term of the lease referred to in that subsection, whether the lease expires by the effluxion of time or otherwise.

(3) If a lease on the Transitional Register is varied for any reason, the chief executive shall direct the Registrar of Quota to amend the caveat registered under this section over any stock the chief executive may specify, as required to ensure that the number of quota shares which are subject to the caveat have, at all times, the quota weight equivalent of the quota which forms the subject of that lease (as registered on the Transitional Register).

(4) Without limiting subsection (2) of this section, if any quota subject to a caveat under this section is transferred to any person, the chief executive shall direct the Registrar of Quota to remove the caveat and register a caveat over such number of the transferee's quota shares as the chief executive shall specify which have the quota weight equivalent of the quota which forms the subject of that lease.

(5) If a lease is registered on the Transitional Register under section 345 of this Act and the lessor of the quota which forms the subject of the lease ceases to own a number of quota shares having the quota weight equivalent of the quota which forms the subject of that lease,—

(a) The chief executive shall direct the Registrar of Quota to not register a caveat against any specified quota shares under subsection (1) of this section; and
(b) The chief executive shall direct the Registrar of Quota to cancel the registration of that lease on the Transitional Register; and
(c) The lease shall cease to have any effect under this Act.

347. Provisions relating to registration of leases—(1) If any lease recorded in the Transitional Register of Leases and Forward Transfers of Quota under this Act has a commencement date that is on or after the commencement of Part VIII of this Act, the chief executive shall direct the Registrar of Annual Catch Entitlement to transfer from the lessor to the lessee under that lease,—
(a) On the commencement date of the lease, an amount of annual catch entitlement equivalent to the amount of the individual transferable quota for the stock that is subject to the lease as recorded in the Transitional Register; and
(b) If the lease is still in force, on the 1st day of the fishing year following the fishing year in which the lease commenced, and on the 1st day of every subsequent fishing year while the lease remains in force, an amount of annual catch entitlement equivalent to the amount of the individual transferable quota for the stock that is subject to the lease as recorded in the Transitional Register.

(2) If any lease recorded in the Transitional Register under this Act—
(a) Has a commencement date that is before the 1st day of October in the year in which Part VIII of this Act comes into force; and
(b) Has a termination date that is on or after that 1st day of October,—
the chief executive shall direct the Registrar of Annual Catch Entitlement to transfer, subject to section 67 of this Act, from the lessor to the lessee under that lease,—
(c) On that 1st day of October, an amount of annual catch entitlement equivalent to the amount of the individual transferable quota that is subject to the lease (as recorded in the Transitional Register); and
(d) If the lease is still in force, on the 1st day of the fishing year following that 1st day of October, and on the 1st day of every subsequent fishing year while the lease remains in force, an amount of annual catch entitlement equivalent to the amount of the
individual transferable quota that is subject to the lease (as recorded in the Transitional Register).

(3) Subject to section 346 (5) of this Act, if a lessor referred to in subsection (2) of this section does not own an amount of annual catch entitlement equal to or in excess of the amount of quota that is subject to the lease (as recorded in the Transitional Register), the Registrar of Annual Catch Entitlement shall not transfer an amount of annual catch entitlement to the lessee under subsection (3) of this section.

(4) If a lease registered on the Transitional Register under section 345 of this Act expires or otherwise ceases to have effect, the lessor is not entitled to receive a transfer back of any annual catch entitlement transferred to the lessee under subsection (2) of this section.

(5) For the purposes of section 64 of this Act, any transfer of annual catch entitlements under this section shall be actioned immediately following the allocation of annual catch entitlements referred to in paragraph (c) of that section and before the registration of any forward transfers referred to in paragraph (d) of that section are actioned.

(6) Except as otherwise provided in subsection (5) of this section, a transfer of annual catch entitlements under this section shall be actioned in the order in which it is received, subject to the following provisions:

(a) The transfer shall be actioned after the allocation of additional annual catch entitlement under section 67 of this Act:

(b) The transfer shall be actioned before any other transfers in respect of annual catch entitlements for that stock have been actioned.

348. Provisions relating to the registration of forward transfers of quota—(1) All forward transfers of quota recorded on the Transitional Register of Leases and Forward Transfers of Quota shall, for the purposes of section 132 of this Act, be regarded as having been presented for registration on the day on which they are intended to take effect, and, for the purposes of section 158 of this Act, shall be actioned in the order in which they were notified to the Ministry under section 28q of the Fisheries Act 1983 and, except as otherwise provided in subsection (2) of this section, the Registrar of Quota shall action those transactions before any other quota transactions presented for registration on the day the forward transfer is intended to take effect.
(2) If the forward transfer of quota is intended to take effect at the beginning of a fishing year, the Registrar of Quota shall, for the purposes of section 64 of this Act, action the transaction after any variations of the total allowable commercial catch are actioned but before the generation of annual catch entitlements is actioned.

(3) If insufficient unsecured quota for the relevant stock is available to cover the forward transfer, or the application fails to comply with section 132 of this Act, the application shall be regarded as a defective application and shall have no effect under this Act.

(4) For the purposes of this section, the number of quota shares to be transferred under this section shall be calculated in accordance with the following formula:

\[(a + b) \times 100,000,000 = c\]

where—

a is the amount of individual transferable quota (expressed in kilogrammes) for the stock subject to the transfer (as shown in the Transitional Register); and

b is the total allowable commercial catch for the stock (expressed in kilogrammes); and

c is the number of quota shares for the stock that are the subject of the transfer.

549. Provisions relating to caveats, etc., over converted quota—(1) If quota converted under this Part of this Act was subject to a caveat under section 107 of the Fisheries Act 1983 immediately before the conversion, the Registrar of Quota shall register the caveat as if it were a caveat under section 273 of this Act and it shall have effect under this Act according to its tenor.

(2) If quota converted under this Part of this Act was subject to any directions under section 80A of the Fisheries Act 1983 immediately before the conversion, the Registrar of Quota shall register a caveat against that quota under section 214 (1) (b) of this Act and that caveat shall apply under this Act until the period for which the directions were given, or extended under that section, has expired.

(3) If quota converted under this Part of this Act was subject to any prohibitions under section 28Q (7) of the Fisheries Act 1983 immediately before the conversion, the Registrar of Quota shall register a caveat under section 214 (1) (a) of this Act against that quota and that caveat shall apply under this Act until the period for which those prohibitions, and any
modification of those prohibitions under section 28Q (8) of the Fisheries Act 1983, has expired.

(4) Court orders applying to any quota converted under this Part of this Act that had effect immediately before the conversion shall be registered as if they were orders under section 149 (1) (b) of this Act in respect of a corresponding number of quota shares for the stock.

(5) If, immediately before the date notified under section 341 (5) of this Act, a lease could not be transferred under section 28Q (7) of the Fisheries Act 1983 (whether by virtue of section 28Q (7) or section 28Q (8) of that Act), the chief executive shall record that prohibition on transfer on the Transitional Register, and that prohibition on transfer shall apply according to its tenor.

350. Transitional period for registration of mortgages—(1) Subject to this section, at any time before the 1st day of October in the calendar year in which Part VIII of this Act commences, a party to a mortgage over quota issued under the Fisheries Act 1983 may, by application in the approved form accompanied by the prescribed fee (if any), apply to have the mortgage registered in the Quota Register under sections 136 to 146 of this Act when those sections come into force.

(2) For the purposes of subsection (1) of this section, the chief executive shall, by notice in the Gazette, specify—

(a) A person or class of persons to whom and a place or places at which applications can be made; and

(b) A date, which shall be not less than 6 months before the 1st day of October in the year in which Part VIII of this Act commences, after which parties to mortgages may make applications for registration.

(3) For the purposes of section 136 (3) of this Act, the number of quota shares to be charged at the time of registration of the mortgage shall be calculated as follows:

(a) If the mortgage purports to charge all quota of a stock owned by the mortgagor, the mortgage registered shall charge the number of quota shares of that stock held by the mortgagor on the date of registration of the mortgage under this Act:

(b) If the mortgage purports to charge a specified amount of quota for a stock, the Registrar of Quota shall first determine, in accordance with section 343 of this Act, the number of quota shares to be allocated for that specified amount of quota, and,—
(i) If the mortgagor owns not less than that number of shares for the stock on the date of registration, the mortgage registered under this Act shall charge that number of shares:

(ii) If the mortgagor owns less than that number of shares for the stock on the date of registration, the mortgage registered under this Act shall charge that lesser number of shares.

(4) The Registrar of Quota shall, on the 1st day of October in the calendar year in which Part VIII of this Act commences, register in the Register of Quota the mortgages in respect of which applications have been made in accordance with this section.

(5) Notwithstanding section 158 of this Act, but subject to section 136 of this Act, the Registrar of Quota shall register mortgages under this section in the chronological order in which they were executed.

(6) For the purposes of section 64 of this Act, any mortgage to be registered under this section shall be registered immediately after the necessary adjustments to quota referred to in paragraph (b) of that section and before the registration of any forward transfers referred to in section 348 of this Act are actioned.

851. Special provisions relating to stocks with a fishing year beginning on 1 April—(1) Notwithstanding any other provision of this Act,—

(a) In the year in which section 66 of this Act comes into force, annual catch entitlements for stocks whose fishing year begins on the 1st day of April shall be generated in accordance with that section of this Act on the 1st day of October in that year:

(b) In every subsequent year, annual catch entitlement for stocks whose fishing year begins on the 1st day of April shall be generated in accordance with that section on the first day of the respective fishing years for those species.

(2) For the purpose of this Act, all allocated catch and detected catch in excess of the quota for any stock, as calculated for any person in accordance with the Fisheries (Catch Against Quota) Regulations 1993 and relating to the period beginning on 1st day of April and ending on the 30th day of September in the year in which section 66 of this Act comes into force, shall—
(a) Be deemed to be reported catch of that stock taken by that person; and
(b) Be balanced against any annual catch entitlement for that stock generated on that 1st day of October; and
(c) Be registered in that person’s name.

352. Existing agreements to fish against another person’s quota—(1) Every written authority referred to in section 28za (2) (c) of the Fisheries Act 1983 and in force on the 30th day of September in the year in which Part VIII of this Act commences is hereby cancelled on and from that date.

(2) Nothing in this section affects anything done or omitted to be done before the cancellation of any written authority referred to in section 28za (2) (c) of the Fisheries Act 1983 under subsection (1) of this section.

353. Statutory debts under Fisheries Act 1983—Notwithstanding the repeal of any provision of the Fisheries Act 1983 by section 314 of this Act, all fees, charges, levies, and other amounts payable under the repealed provision or any regulation, order, notice, direction, or other instrument made or issued under that provision, and unpaid as at the repeal of that provision, shall continue to be due and payable as if that provision had not been repealed and, for the purposes of the provisions of this Act relating to the non-payment or recovery of any amount payable under this Act, are hereby deemed to be amounts payable under this Act.

354. Regulations in respect of transitional provisions—Without limiting the generality of section 297 of this Act, the Governor-General may from time to time, by Order in Council, make regulations under that section prescribing transitional and savings provisions relating to the coming into force of this Act, which may be in addition to or in place of any of the provisions of this Part of this Act; and, without limiting the generality of the preceding power, any such regulations may provide that, subject to such conditions as are specified in the regulations, during a specified transitional period—
(a) Specified provisions (including definitions) of this Act shall not apply:
(b) Specified terms used in this Act, whether or not the terms are defined by this Act, shall have the meanings set out in the regulations:
(c) Specified provisions repealed or amended by this Act, or specified provisions of regulations, Orders in Council,
notices, permits, approvals, authorisations, consents, or rights made or given thereunder shall continue to apply.

355. Expiry of section 354—Section 354 of this Act shall expire—

(a) On a date to be appointed by the Governor-General by Order in Council; or

(b) On the close of the 30th day of September 2000,—whichever first occurs, and, as from the close of that date of expiry, section 354 of this Act shall be deemed to have been repealed.

356. Dispute resolution—(1) Until a statement of procedure for the resolution of disputes exists under section 115 of this Act, it is sufficient compliance with the requirements of paragraphs (a) and (b) of section 117 (1) of this Act if the Minister is satisfied that the parties to a dispute have been unable to resolve the dispute.

(2) Part VII of this Act shall be deemed to apply to disputes about the effects of fishing or fish farming on the fishing activities of any person who has a current fishing interest provided for or authorised by or under the Fisheries Act 1983.

357. Provision relating to minimum quota holdings—Every person who, immediately before the repeal of section 28s of the Fisheries Act 1983 by section 314 of this Act, was entitled to take under quota or a lease of quota under the Fisheries Act 1983 an amount of fish, aquatic life, or seaweed less than the applicable minimum holding set out in section 28s (1) of that Act, shall be subject to section 74 of this Act as if that amount of quota had been allocated to that person under this Act.

358. Provisions relating to permissions granted to overseas quota owners under section 28z of Fisheries Act 1983—(1) Every declaration published under section 28z (4) of the Fisheries Act 1983 and in force immediately before the date of the repeal of that provision shall have effect on and from that date as if it were a declaration published under section 56 (2) of this Act.

(2) Every permission granted under section 28z (9) of the Fisheries Act 1983 and in force immediately before the date of the repeal of that provision shall have effect on and from that
date as if it were a permission granted under section 57 (3) of this Act.

359. Provision relating to aggregation limit consents granted under section 28w of Fisheries Act 1983—Every consent granted under section 28w (3) of the Fisheries Act 1983 and in force immediately before the date of the repeal of that section shall have effect, to the extent necessary, on and from that date as if it were a consent granted under section 60 (1) of this Act.

360. Provisions relating to taiapure-local fisheries—
(1) Every taiapure-local fishery established under Part IIIA of the Fisheries Act 1983 and in force immediately before the commencement of Part IX of this Act shall be deemed to have been established under Part IX of this Act.

(2) Every proposal for, notice of, or inquiry into, any taiapure-local fishery that was commenced under Part IIIA of the Fisheries Act 1983, and was pending or in progress immediately before the commencement of Part IX of this Act, shall be deemed to have been commenced and to be pending or in progress, as the case may require, under Part IX of this Act.

361. Transitional offences and penalties—
(1) Notwithstanding any other provision of this Act, every person who commits an offence against section 15 (3) or section 16 (5) or section 121 (3) of this Act, or against any regulations made under this Act, shall, if section 252 of this Act is not in force on the date of the commission of the offence, be liable,—

(a) In the case of an offence against section 15 (3) or section 16 (5) of this Act, to a fine not exceeding $100,000:

(b) In the case of an offence against section 121 (3) of this Act, to a fine not exceeding $5,000:

(c) In the case of an offence against regulations made under this Act, to—

(i) The fine specified in the relevant regulations (but subject to a limit of $100,000); or

(ii) If no fine is specified in the relevant regulations, to a fine not exceeding $100,000.

(2) Notwithstanding any other provision of this Act, offences referred to in subsection (1) of this section shall be deemed to be offences against the Fisheries Act 1983 and the provisions of that Act (including provisions relating to proceedings, defences,
and penalties), where applicable and with the modifications set out in subsection (3) of this section and any other necessary modifications, shall apply in respect of such offences accordingly.

(3) For the purposes of applying to offences referred to in subsection (1) of this section the provisions of the Fisheries Act 1983 relating to forfeiture,—

(a) Section 107A (3) of that Act is deemed to apply to offences referred to in subsection (1) (a) of this section; and

(b) Section 107A (4) of that Act is deemed to apply to offences referred to in subsection (1) (b) of this section; and

(c) Section 107A (3) of that Act is deemed to apply to offences referred to in subsection (1) (c) of this section for which the maximum fine exceeds $5,000; and

(d) Section 107A (4) of that Act is deemed to apply to offences referred to in subsection (1) (c) of this section for which the maximum fine does not exceed $5,000.

362. **Allocation of quota for bait**—(1) Not less than 4 months before the commencement of Part IV of this Act, the chief executive shall give written notice to each person who—

(a) At the date of the giving of the notice, holds a current fishing permit; and

(b) Reported on any catch landing return or catch and effort landing return (within the meaning of the Fisheries (Reporting) Regulations 1990) the taking of any fish of any of the species named in the Eleventh Schedule to this Act for use as bait during the period commencing on the 1st day of October 1991 and ending with the close of the 30th day of September 1992; and

(c) Specified in such return the species of fish taken for use as bait and the area from which the fish were taken—of the total weight of each of the species that the chief executive considers the permit holder has lawfully reported as taken for use as bait in that period.

(2) The permit holder may, on or before the date specified in the notice (being a date not less than 30 working days after the notice is sent), object to the total weight of such species notified to that person as having been reported as being taken for use as bait on the basis that the total weight so notified differs from the total weight recorded in the returns specified in subsection (1) of this section.

(3) Any permit holder who fails to object to any matter specified in any notice under subsection (1) of this section, or
fails to do so on or before the date specified for the purpose in the notice, shall be deemed to have accepted that matter as being correctly notified.

(4) The chief executive shall determine any objection received on or before the date specified for the purpose in the notice, and shall notify the permit holder of the result of that determination, including any adjustment to the total weight of any species notified to that permit holder.

(5) Immediately before the commencement of Part IV of this Act, but after the determination of all objections under subsection (4) of this section, the chief executive shall allocate to all permit holders notified under subsection (1) of this section an amount of individual transferable quota under the Fisheries Act 1983 for the relevant species, which amount shall be equivalent to the total weight notified to that permit holder under subsection (1) of this section or determined by the chief executive under subsection (4) of this section, as the case may be.

(6) Individual transferable quota allocated under subsection (5) of this section shall, subject to subsection (7) of this section, have no effect for the purposes of the Fisheries Act 1983, but shall be converted into quota shares in accordance with section 339 of this Act on the same date as all other individual transferable quota is so converted.

(7) The total allowable commercial catch for any stock for which any individual transferable quota is allocated under subsection (5) of this section shall be deemed to be increased by the amount of quota so allocated on and from the date of such allocation.

(8) Notwithstanding any other enactment or rule of law, a court shall not hear or determine, and no person shall make or commence, any application or other proceedings in respect of a determination or purported determination of the chief executive under subsection (4) of this section, or an allocation or purported allocation of, or any failure to allocate, any quota under subsection (5) of this section.

(9) For the purposes of this section, the chief executive shall only use returns received on or before the 15th day of October 1994 (including the determination of any objection).

368. Allocation of quota—(1) Subject to this Act, sections 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 44, 45, 46, 47, 48, 49, 51, 52, 53, 54, and 55 and sections 283 to 296 of this Act shall apply to the allocation of quota declared by notice in the Gazette under section 28a of the Fisheries Act 1983 to be subject
to the quota management system under Part II A of that Act on
and from a date specified in the notice, being a date on or after
the 1st day of October 1996.

(2) For the purposes of this section,—

(a) Any reference in the sections referred to in subsection (1)
of this section to a notice made under section 18 of
this Act shall be read as a reference to the notice
under section 28b of the Fisheries Act 1983:

(b) Any reference in the sections referred to in subsection (1)
of this section to an overseas person shall be read as a
reference to a person subject to section 28z of the
Fisheries Act 1983:

(c) Any reference in the sections referred to in subsection (1)
of this section to quota shares shall be read as
referring to individual transferable quota, provisional
individual transferable quota, or both, as the case
may be:

(d) Any reference in the sections referred to in subsection (1)
of this section to the Registrar of Quota shall be read
as a reference to the chief executive, and every
reference to the Register of Quota shall be read as a
reference to the registers maintained under section
28p of the Fisheries Act 1983, in each case until Part
VIII of this Act comes into force:

(e) The references in sections 35 (6) and 39 (2) of this Act to
the quota weight equivalent of 80,000,000 shares
shall be read as references to 80 percent of the total
allowable commercial catch:

(f) The reference in section 44 (1) of this Act to 20,000,000
shares of individual transferable quota shall be read
as a reference to an amount of individual transferable
quota equivalent to 20 percent of the total allowable
commercial catch:

(g) The reference in section 46 of this Act to levies payable
under Part XIV or to deemed value amounts shall be
read as references to levies payable under the
Fisheries Act 1983 and to deemed values demanded
under section 28zd of the Fisheries Act 1983,
respectively, until the commencement of Part XIV or
Part IV of this Act, as the case may be:

(h) Section 47 (1) (a) of this Act shall be read as if the words
"The number of shares the quota weight equivalent
of" were omitted, and there were substituted the
words "An amount of individual transferable quota":
Section 47 (1) (b) of this Act shall be read as if the words "The number of shares that bears the same proportion to the 80,000,000 shares of quota" were omitted, and there were substituted the words "An amount of individual transferable quota that bears the same proportion to the 80 percent of the total allowable commercial catch".

The chief executive shall not notify any person of the matters specified in paragraphs (c) and (d) of section 48 of this Act, but instead shall notify each person of the amount of individual transferable quota or provisional individual transferable quota allocated to that person, as the case may be.

Further provisions relating to allocation of quota—(1) Any provisional individual transferable quota allocated under this Act while Part II A of the Fisheries Act 1983 is in force has all the characteristics of, and is to be treated for all purposes of that Act as if it were, individual transferable quota except that it is not transferable.

The provisions of sections 28s, 28w, and 28z of the Fisheries Act 1983 shall apply to quota allocated under section 47 of this Act in accordance with section 363 of this Act as if it were quota allocated under section 28o of the Fisheries Act 1983.

Section 28v of the Fisheries Act 1983 shall not apply to any quota allocated under section 47 of this Act in accordance with section 363 of this Act.

The reference to "fishery management area" in section 28w (3) of the Fisheries Act 1983 shall be read as a reference to a fishery management area set out in the First Schedule to this Act.

Cost recovery—(1) Until the repeal of the Fisheries Act 1983 by section 314 of this Act, the terms "conservation services" and "fisheries services" in section 261 of this Act both include outputs produced for the purposes of the Fisheries Act 1983.

Before the commencement of Parts IV, VI, VIII, and XVI of this Act, levies may be imposed under section 262 of this Act on all or any of the persons referred to in section 107EA (2) of the Fisheries Act 1983 (as it read immediately before the passing of this Act).

Before the commencement of Part V of this Act, levies may be imposed under section 262 of this Act to recover the cost of managing fisheries under the Marine Farming Act 1971
or the Territorial Sea and Exclusive Economic Zone Act 1977, as if that activity were a fisheries service as defined in section 261 of this Act.

(4) Any Order in Council made under section 107\textsubscript{EA} of the Fisheries Act 1983 and in force immediately before the commencement of Part XIV of this Act—

(a) Shall continue to have effect according to its tenor;

(b) May be amended or revoked or replaced by an Order in Council made under section 262 of this Act.

(5) Nothing in this section or in section 107\textsubscript{EC} of the Fisheries Act 1983 requires any consultation to be carried out before the Minister recommends the making of an Order in Council referred to in subsection (4) (b) of this section—

(a) Correcting any typographical error or obvious mistake; or

(b) Amending the form of any order made under section 107\textsubscript{EA} of the Fisheries Act 1983.

(6) Notwithstanding anything in subsection (4) (a) of this section or any Order in Council made under section 107\textsubscript{EA} of the Fisheries Act 1983 that remains in force by virtue of that subsection (4) (a), an order under section 262 of this Act may impose levies in respect of fisheries services and conservation services provided during any period beginning on or after the commencement of section 262 of this Act even if—

(a) Levies are also payable under section 107\textsubscript{EA} of the Fisheries Act 1983 in respect of the fisheries services and conservation services to which the order under section 262 of this Act applies:

(b) The order under section 262 of this Act applies to any period to which the order under section 107\textsubscript{EA} of the Fisheries Act 1983 applies.

366. Southern scallop enhancement programme—

(1) Any enhancement programme determined by the Minister and having effect under section 28\textsubscript{ZZE} of the Fisheries Act 1983 immediately before the commencement of this section shall be deemed to be an enhancement programme approved by the Minister for the purposes of section 310 of this Act, but section 28\textsubscript{ZZG} shall continue to apply to that enhancement programme.

(2) The enhancement programme referred to in subsection (1) of this section may hereafter be varied in accordance with section 310 of this Act.

367. Allocation of jack mackerel quota—(1) Each person named in the first column of Part I of the Ninth Schedule to this Act is hereby allocated the amount of individual
transferable quota for jack mackerel stated in the third column of that Schedule opposite that person's name.

(2) Each person named in the first column of Part II of the Ninth Schedule to this Act is hereby allocated the amount of individual transferable quota for jack mackerel stated in the third column of that Schedule opposite that person's name.

(3) The allocations referred to in subsection (1) of this section relate to a quota management area comprising the areas described as fishery management areas 1 and 2 in Part I of the First Schedule to this Act.

(4) The allocations referred to in subsection (2) of this section relate to a quota management area comprising the areas described as fishery management areas 3, 4, 5, and 6 in Part I of the First Schedule to this Act.

(5) Notwithstanding the Fisheries (Jack Mackerel Quota Management Areas, Total Allowable Catches, and Catch Histories) Notice (No. 2) 1987 or any entitlement that, immediately before the commencement of this section, existed in respect of jack mackerel quota to which that notice related, no person is entitled to be allocated individual transferable quota for jack mackerel quota in any quota management area referred to in subsection (3) or subsection (4) of this section unless the allocation is authorised by this section.

868. Allocation of Nelson-Marlborough dredge oyster quota—(1) On the commencement of this section, Nelson-Marlborough dredge oysters shall become subject to the quota management system under Part IIa of the Fisheries Act 1983.

(2) Each person named in the first column of Part III of the Ninth Schedule to this Act is hereby allocated the amount of individual transferable quota for dredge oysters stated in the third column of that Schedule opposite that person's name.

(3) The initial total allowable commercial catch for Nelson-Marlborough dredge oysters shall be 505 tonnes.

(4) For the avoidance of doubt, the initial total allowable commercial catch referred to in subsection (3) of this section may be altered from time to time under section 20 of this Act or section 280B of the Fisheries Act 1983.

(5) No person shall take any Nelson-Marlborough dredge oysters for the purpose of sale except during the Nelson-Marlborough dredge oyster season.

(6) The Minister may, by notice in the Gazette,—

(a) Specify any Nelson-Marlborough dredge oyster season before the season commences; and
(b) Extend or shorten any Nelson-Marlborough dredge oyster season while it is current.

369. Allocation of Northland scallop quota—(1) On the commencement of this section, Northland scallops shall become subject to the quota management system under Part IIA of the Fisheries Act 1983.

(2) Each person named in the first column of Part IV of the Ninth Schedule to this Act is hereby allocated the amount of individual transferable quota for Northland scallops stated in the third column of that Schedule opposite that person’s name.

(3) The initial total allowable commercial catch for Northland scallops shall be 188.561 tonnes.

(4) For the avoidance of doubt, the initial total allowable commercial catch referred to in subsection (3) of this section may be altered from time to time under section 20 of this Act or section 280B of the Fisheries Act 1983.

(5) No person shall take any Northland scallops for the purpose of sale except during the Northland scallop fishery season.

(6) The Minister may, by notice in the Gazette,—

(a) Specify any Northland scallop fishery season before the season commences; and

(b) Extend or shorten any Northland scallop fishery season while it is current.

370. Transitional provision relating to performance of functions by outside agencies—(1) Subject to subsection (2) of this section, for the purposes of section 294 of this Act, powers, duties, and functions conferred by or under the Fisheries Act 1983 on persons other than the chief executive shall be deemed to be powers, duties, and functions of the chief executive.

(2) Subsection (1) of this section does not apply to powers, duties, and functions of—

(a) The Governor-General; or

(b) The Minister; or

(c) A fishery officer; or

(d) The Fisheries Authority.
FIRST SCHEDULE

PART I

FISHERY MANAGEMENT AREAS DEFINED

Fishery Management Area 1—Auckland (East)

All that area of New Zealand fisheries waters enclosed by a line—

(a) Commencing on the mean high-water mark of the North Island at the northermost point of Cape Runaway (approximately 37° 32.3' S and approximately 177° 59.0' E); then

(b) Proceeding north along the line of this longitude to the exclusive economic zone boundary (approximately 33° 27.7' S and approximately 177° 59.0' E); then

(c) Proceeding in a generally north-westerly direction along the exclusive economic zone boundary to a point on the line of longitude of the easternmost point of North Cape on the mean high-water mark of the North Island (approximately 30° 58.1' S and approximately 173° 02.8' E); then

(d) Proceeding south along the line of this longitude to the mean high-water mark of the North Island at the easternmost point of North Cape (approximately 34° 24.8' S and approximately 173° 02.8' E); then

(e) Proceeding in a generally south-easterly direction along the mean high-water mark of the North Island to the point of commencement.

Fishery Management Area 2—Central (East)

All that area of New Zealand fisheries waters enclosed by a line—

(a) Commencing on the mean high-water mark of the North Island at the northermost point of Cape Runaway (approximately 37° 32.3' S and approximately 177° 59.0' E); then

(b) Proceeding north along the line of this longitude to the exclusive economic zone boundary (approximately 33° 27.7' S and approximately 177° 59.0' E); then

(c) Proceeding in a generally south-easterly direction along the exclusive economic zone boundary to the easternmost point of the exclusive economic zone boundary nearest 34° 22.1' S and 179° 29.6' E; then

(d) Proceeding in a generally easterly direction directly to the westernmost point of the exclusive economic zone boundary nearest 34° 34.2' S and 179° 51.2' W; then

(e) Proceeding in a generally south-easterly direction along the exclusive economic zone boundary to latitude 42° 10.0' S (longitude approximately 171° 59.1' W); then

(f) Proceeding west along the 42° 10.0' S line of latitude to longitude 174° 42.0' E; then

(g) Proceeding in a generally north-westerly direction directly to the Brothers Island light (approximately 41° 06.2' S and 174° 26.5' E); then

(h) Proceeding in a generally easterly direction directly to the mean high-water mark of the North Island at the westernmost point of Te Paokapo at the northern end of Titahi Bay (approximately 41° 06.0' S and approximately 174° 50.0' E); then
FIRST SCHEDULE—continued

PART I—continued

FISHERY MANAGEMENT AREAS DEFINED—continued

(i) Proceeding in generally southerly, easterly, and north-easterly directions along the mean high-water mark along the western, southern, and eastern coasts of the North Island to the point of commencement.

Fishery Management Area 3—South East (Coast)

All that area of New Zealand fisheries waters enclosed by a line—
(a) Commencing at a point 42° 10.0' S and 176° 00.0' E; then
(b) Proceeding south along the 176° 00.0' E line of longitude to latitude 46° 00.0' S; then
(c) Proceeding in a generally south-westerly direction directly to a point 48° 19.0' S and 170° 31.0' E; then
(d) Proceeding in a generally north-westerly direction directly to the mean high-water mark of the South Island at the southernmost point of Slope Point (approximately 46° 40.5' S and approximately 169° 00.0' E); then
(e) Proceeding in a generally north-easterly direction along the mean high-water mark of the South Island to latitude 42° 10.0' S (approximately 175° 56.5' E, near Clarence Point); then
(f) Proceeding east along the 42° 10.0' S line of latitude until reaching the point of commencement.

Fishery Management Area 4—South East (Chatham Rise)

All that area of New Zealand fisheries waters enclosed by a line—
(a) Commencing at a point 42° 10.0' S and 176° 00.0' E; then
(b) Proceeding south along the 176° 00.0' E line of longitude to latitude 46° 00.0' S; then
(c) Proceeding east along the 46° 00.0' S line of latitude to the exclusive economic zone boundary (longitude approximately 171° 46.7' W); then
(d) Proceeding in a generally northerly direction along the exclusive economic zone boundary to latitude 42° 10.0' S (longitude approximately 171° 59.1' W); then
(e) Proceeding west along the line of latitude 42° 10.0' S to the point of commencement.

Fishery Management Area 5—Southland

All that area of New Zealand fisheries waters enclosed by a line—
(a) Commencing on the mean high-water mark of the west coast of the South Island at the westernmost point of Awarua Point (approximately 44° 15.6' S and approximately 168° 03.1' E); then
(b) Proceeding along the mean high-water mark of the South Island in generally southwesterly and easterly directions to the southernmost point of Slope Point (approximately 46° 40.5' S and approximately 169° 00.0' E); then
(c) Proceeding in a generally south-easterly direction directly to a point 48° 19.0' S and 170° 81.0' E; then
(d) Proceeding in a generally south-westerly direction directly to a point 49° 00.0' S and 169° 00.0' E; then
FIRST SCHEDULE—continued

PART I—continued

FISHERY MANAGEMENT AREAS DEFINED—continued

(e) Proceeding west along the 49° 00.0' S line of latitude to the exclusive economic zone boundary (at longitude approximately 161° 26.2' E); then

(f) Proceeding in a generally northerly direction along the exclusive economic zone boundary to the same latitude as the point of commencement (approximately 44° 15.6' S and approximately 162° 12.9' E); then

(g) Proceeding east along the line of this latitude to the point of commencement.

Fishery Management Area 6—Sub-Antarctic

All that area of New Zealand fisheries waters enclosed by a line—

(a) Commencing at a point 46° 00.0' S and 176° 00.0' E; then

(b) Proceeding in a generally south-westerly direction directly to a point 48° 19.0' S and 170° 31.0' E; then

(c) Proceeding in a generally south-westerly direction directly to a point 49° 00.0' S and 169° 00.0' E; then

(d) Proceeding west along the 49° 00.0' S line of latitude to the exclusive economic zone boundary (longitude approximately 161° 26.2' E); then

(e) Proceeding in generally southerly, easterly, and north-easterly directions along the exclusive economic zone boundary to latitude 46° 00.0' S east of the South Island (approximate longitude 171° 46.7' W); then

(f) Proceeding west along the 46° 00.0' S line of latitude to the point of commencement.

Fishery Management Area 7—Challenger/Central (Plateau)

All that area of New Zealand fisheries waters enclosed by a line—

(a) Commencing on the mean high-water mark of the west coast of the South Island at the westernmost point of Awarua Point (approximately 44° 15.6' S and approximately 168° 03.1' E); then

(b) Proceeding west along the line of this latitude to the exclusive economic zone boundary (approximate longitude 162° 12.9' E); then

(c) Proceeding in a generally north-easterly direction along the exclusive economic zone boundary to the easternmost point of the exclusive economic zone boundary nearest 37° 35.6' S and 170° 05.7' E; then

(d) Proceeding in a generally south-easterly direction directly to a point 40° 32.0' S and 174° 20.0' E; then

(e) Proceeding in a generally southerly direction directly to the Brothers Island light (approximately 41° 06.2' S and approximately 174° 26.5' E); then

(f) Proceeding in a generally southerly direction directly to a point 42° 10.0' S and 174° 42.0' E; then

(g) Proceeding west along the 42° 10.0' S line of latitude to the mean high-water mark of the South Island near Clarence Point (approximate longitude 178° 56.5' E); then
FIRST SCHEDULE—continued

PART I—continued

Fishery Management Areas Defined—continued

(h) Proceeding along the mean high-water mark of the South Island in generally northerly, westerly, and south-westerly directions to the point of commencement.

Fishery Management Area 8—Central (Egmont)

All that area of New Zealand fisheries waters enclosed by a line—

(a) Commencing on the mean high-water mark of the west coast of the North Island at the westernmost point of Tirua Point (approximately 38° 23.3' S and approximately 174° 38.0' E); then

(b) Proceeding in a generally north-westerly direction directly to the easternmost point of the exclusive economic zone boundary near 37° 35.6' S and 170° 05.7' E; then

(c) Proceeding in a generally south-easterly direction directly to a point at 40° 32.0' S and 174° 20.0' E; then

(d) Proceeding in a generally south-easterly direction directly to the Brothers Island light (approximately 41° 06.2' S and approximately 174° 26.5' E); then

(e) Proceeding in an easterly direction directly to the mean high-water mark of the North Island at the westernmost point of Te Paokapo at the northern end of Titahi Bay (approximately 41° 06.0' S and approximately 174° 50.0' E); then

(f) Proceeding in a generally northerly direction along the mean high-water mark of the North Island to the point of commencement.

Fishery Management Area 9—Auckland (West)

All that area of New Zealand fisheries waters enclosed by a line—

(a) Commencing on the mean high-water mark of the west coast of the North Island at the westernmost point of Tirua Point (approximately 38° 23.3' S and 174° 38.0' E); then

(b) Proceeding in a generally westerly direction directly to the easternmost point of the exclusive economic zone boundary nearest 37° 35.6' S and 170° 05.7' E; then

(c) Proceeding in a generally northerly direction along the exclusive economic zone boundary to a point on the line of longitude of the easternmost point of North Cape on the mean high-water mark of the North Island (approximately 30° 53.1' S and approximately 173° 02.8' E); then

(d) Proceeding south along the line of this longitude to the mean high-water mark of the North Island at the easternmost point of North Cape (approximately 43° 24.8' S and 173° 02.8' E); then

(e) Proceeding in generally westerly and south-easterly and southerly directions along the mean high-water mark along the north and west coasts of the North Island to the point of commencement.

Fishery Management Area 10—Kermadec

All that area of New Zealand fisheries waters enclosed by a line—

(a) Commencing at the easternmost point of the exclusive economic zone boundary nearest 34° 22.1' S and 179° 29.6' E; then
FIRST SCHEDULE—continued

PART I—continued

FISHERY MANAGEMENT AREAS DEFINED—continued

(b) Proceeding in generally north-westerly, northerly, easterly, and southerly directions along the exclusive economic zone boundary to the westernmost point of the exclusive economic zone boundary nearest 34° 34.2' S and 179° 51.2' W; then

c) Proceeding in a generally westerly direction directly to the point of commencement.

PART II

ADDITIONAL FISHERY MANAGEMENT AREAS DEFINED

Fishery Management Area 2A—Central (Gisborne)

All that area of New Zealand fisheries waters within Fishery Management Area 2—Central (East) lying north of the 40° 30.0' S line of latitude.

Fishery Management Area 2B—Central (Wairarapa)

All that area of New Zealand fisheries waters within Fishery Management Area 2—Central (East) enclosed by a line—

(a) Commencing at a point on the mean high-water mark of the east coast of the North Island at latitude 40° 30.0' S, near Herbertville (longitude approximately 176° 33.3' E); then

(b) Proceeding east along latitude 40° 30.0' S to the exclusive economic zone boundary (longitude approximately 175° 04.0' W); then

(c) Proceeding in a generally south-easterly direction along the exclusive economic zone boundary to a point at latitude 42° 10.0' S (longitude approximately 171° 59.1' W); then

(d) Proceeding west along the line of latitude 42° 10.0' S to a point on a line drawn between the mean high water-mark of the North Island at the southernmost point of Cape Palliser (at approximately 41° 36.8' S and approximately 175° 17.0' E) and a point at 43° 08.0' S and 173° 57.0' E, joining this line at approximately 174° 47.7' E; then

(e) Proceeding in a generally north-easterly direction directly to the mean high-water mark of the North Island at the southernmost point of Cape Palliser (at approximately 41° 36.8' S and approximately 175° 16.4' E); then

(f) Proceeding in a generally north-westerly direction along the mean high-water mark of the North Island to the point of commencement.

Fishery Management Area 3A—Central/Challenger/South-East
(Cook Strait/Kaikoura)

All that area of New Zealand fisheries waters enclosed by a line—

(a) Commencing on the mean high-water mark of the west coast of the North Island at the westernmost point of Te Paokapo at the northern end of Titahi Bay (approximately 41° 06.0' S and approximately 174° 50.0' E); then

(b) Proceeding in generally southerly and easterly directions along the mean high-water mark of the North Island to the southernmost point of Cape Palliser (approximately 41° 36.8' S and approximately 175° 16.4' E); then
ADDITIONAL FISHERY MANAGEMENT AREAS DEFINED—continued

(c) Proceeding in a generally southerly direction directly to a point 43°08.0' S and 173°57.0' E; then

(d) Proceeding in a generally south-westerly direction directly to the mean high-water mark of the east coast of the South Island at the easternmost point of Steep Head (approximately 43°44.5' S and approximately 173°07.5' E); then

(e) Proceeding in a generally northerly direction along the mean high-water mark of the South Island to West Head (approximately 41°13.0' S and approximately 174°19.4' E); then

(f) Proceeding in a generally easterly direction directly to the mean high-water mark of Arapawa Island at East Head (approximately 41°12.8' S and approximately 174°19.0' E); then

(g) Proceeding along the eastern mean high-water mark of Arapawa Island in a generally northerly direction to the northernmost point of Cape Koamaru (approximately 41°05.4' S and approximately 174°28.0' E); then

(h) Proceeding in a generally easterly direction directly to the Brothers Island light (approximately 41°06.2' S and approximately 174°26.5' E); then

(i) Proceeding in a generally easterly direction directly to the point of commencement.

Fishery Management Area 3B—South-East (Strathallan)

All that area of New Zealand fisheries waters within Fishery Management Area 3—South East enclosed by a line—

(a) Commencing on the mean high-water mark of the east coast of the South Island at the easternmost point of Steep Head (approximately 43°44.5' S and approximately 173°07.5' E); then

(b) Proceeding in a generally north-easterly direction directly to a point 43°08.0' S and 173°57.0' E; then

(c) Proceeding in a generally north-easterly direction directly to a point 42°10.0' S and 174°47.7' E; then

(d) Proceeding east along the 42°10.0' S line of latitude to longitude 176°00.0' E; then

(e) Proceeding south along the 176°00.0' E line of longitude to latitude 46°00.0' S; then

(f) Proceeding west along the 46°00.0' S line of latitude to the mean high-water mark of the South Island (approximate longitude 170°15.8' E, approximately 3.5 miles north of Taieri Mouth); then

(g) Proceeding in a generally north-easterly direction along the mean high-water mark of the South Island to the point of commencement.

Fishery Management Area 5A—South-East (Otago/Southland)

All that area of New Zealand fisheries waters enclosed by a line—

(a) Commencing at a point on the mean high-water mark of the east coast of the South Island at 46°00.0' S (approximately 170°15.8' E, approximately 3.5 miles north of Taieri Mouth); then
(b) Proceeding east along the line of latitude 46° 00.0' S to longitude 176° 00.0' E; then
(c) Proceeding in a generally south-westerly direction directly to a point 48° 19.0' S and 170° 31.0' E; then
(d) Proceeding in a generally south-westerly direction directly to a point 49° 00.0' S and 169° 00.0' E; then
(e) Proceeding west along the line of latitude 49° 00.0' S to the exclusive economic zone boundary (approximate longitude 161° 26.2' E); then
(f) Proceeding in a generally northerly direction along the exclusive economic zone boundary to a point due west of the westernmost point of Awarua Point on the mean high-water mark of the west coast of the South Island (approximately 44° 15.6' S and approximately 162° 12.9' E); then
(g) Proceeding east along the line of this latitude to the mean high-water mark of the west coast of the South Island at the westernmost point of Awarua Point (approximately 44° 15.6' S and approximately 168° 03.1' E); then
(h) Proceeding in generally south-westerly, easterly, and north-easterly directions along the mean high-water mark of the South Island to the point of commencement.

Fishery Management Area 7A—Challenger (North)

All that area of New Zealand fisheries waters within Fishery Management Area 7—Challenger/Central (Plateau) enclosed by a line—

(a) Commencing on the mean high-water mark of the west coast of the South Island at latitude 42° 00.0' S, near the mouth of Belfast Creek (approximate longitude 171° 24.0' E); then
(b) Proceeding west along the 42° 00.0' S line of latitude to the exclusive economic zone boundary (approximate longitude 164° 42.5' E); then
(c) Proceeding in a generally north-easterly direction along the exclusive economic zone boundary to the easternmost point of the exclusive economic zone boundary nearest 37° 55.6' S and 170° 05.7' E; then
(d) Proceeding in a generally south-easterly direction directly to a point 40° 32.0' S and 174° 20.0' E; then
(e) Proceeding in a generally southerly direction directly to the Brothers Island light (approximately 41° 06.2' S and approximately 174° 26.5' E); then
(f) Proceeding in a generally westerly direction directly to the mean high-water mark of Arapawa Island at the northernmost point of Cape Koamaru (approximately 41° 05.4' S and approximately 174° 23.0' E); then
(g) Proceeding along the eastern high-water mark of Arapawa Island in a generally southerly direction to East Head (approximately 41° 12.8' S and approximately 174° 19.4' E); then
FIRST SCHEDULE—continued
PART II—continued
ADDITIONAL FISHERY MANAGEMENT AREAS DEFINED—continued

(h) Proceeding in a generally westerly direction directly to the mean high
water mark of the South Island at West Head (approximately
41°13.0' S and approximately 174°19.4' E); then

(i) Proceeding along the mean high-water mark of the South Island in
genearly westerly and south-westerly directions to the point of
commencement.

Fishery Management Area 7B—Challenger (South)
All that area of New Zealand fisheries waters within Fishery Management
Area 7—Challenger/Central (Plateau) lying south of the 42°00.0' S line of
latitude.

PART III
QUOTA MANAGEMENT AREAS
Spiny Rock Lobster (CRA) Management Areas

Quota Management Area CRA1—Northland
All that area of New Zealand fisheries waters enclosed by a line—

(a) Commencing on the mean high-water mark of the North Island at the
north-eastermost point of Te Arai Point (approximately
36°09.5' S and 174°39.1' E); then

(b) Proceeding in a generally northerly then south-easterly direction along
the mean high-water mark of the North Island to the south-
westernmost point of North Head (approximately 36°23.9' S and
174°02.7' E) off Kaipara Harbour; then

(c) Proceeding west along the line of this latitude to the exclusive
economic zone boundary (longitude approximately 168°59.4' E); then

(d) Proceeding in generally north-easterly then south-westerly directions
along the exclusive economic zone boundary to latitude
33°20.0' S off the north-east coast of the North Island (longitude
approximately 177°51.0' E); then

(e) Proceeding in a generally south-westerly direction directly to the point
of commencement.

Quota Management Area CRA2—Bay of Plenty
All that area of New Zealand fisheries waters enclosed by a line—

(a) Commencing on the mean high-water mark of the North Island at the
north-eastermost point of Te Arai Point (approximately
36°09.5' S and 174°39.1' E); then

(b) Proceeding in a generally south-easterly direction along the mean high-
water mark of the North Island to the latitude of the East Cape
Lighthouse (approximately 37°41.4' S and approximately
178°32.8' E); then

(c) Proceeding in a generally north-easterly direction directly to the
exclusive economic zone boundary at latitude 35°00.0' S
(longitude approximately 178°58.2' W); then

(d) Proceeding in a generally north-westerly direction along the exclusive
economic zone boundary to the westernmost point of the
FIRST SCHEDULE—continued

PART III—continued

QUOTA MANAGEMENT AREAS—continued

exclusive economic zone boundary nearest 34° 34.2' S and
179° 51.2' W; then
(e) Proceeding in a generally north-westerly direction directly to the
easternmost point of the exclusive economic zone boundary
nearest 34° 22.1' S and 179° 29.6' E; then
(f) Proceeding in a generally westerly direction along the exclusive
economic zone boundary to latitude 33° 20.0' S (longitude
approximately 177° 51.0' E); then
(g) Proceeding in a generally south-westerly direction directly to the point
of commencement.

Quota Management Area CRA3—Gisborne

All that area of New Zealand fisheries waters enclosed by a line—
(a) Commencing on the mean high-water mark of the east coast of the
North Island on the latitude of the East Cape Lighthouse
(approximately 37° 41.4' S and approximately 178° 32.8' E); then
(b) Proceeding in a generally southerly direction along the mean high-
water mark of the North Island to the westernmost point of the
eastern river bank of the Wairoa River mouth (approximately
39° 04.0' S and approximately 177° 24.2' E); then
(c) Proceeding in a generally south-easterly direction directly to a point
44° 00.0' S 178° 30.0' E; then
(d) Proceeding in a north-westerly direction to the westernmost point on
the exclusive economic zone boundary nearest 40° 21.0' S and
177° 57.0' W; then
(e) Proceeding along the exclusive economic zone boundary in a generally
northerly direction to latitude 35° 00.0' E (longitude approxi-
mately 178° 58.2' S); then
(f) Proceeding in a generally south-westerly direction directly to the point
of commencement.

Quota Management Area CRA4—Wellington/Hawkes Bay

All that area of New Zealand fisheries waters enclosed by a line—
(a) Commencing on the mean high-water mark of the east coast of the
North Island at the southwesternmost point of the eastern river
bank at the Wairoa River mouth (approximately 39° 04.0' S and
approximately 177° 24.2' E); then
(b) Proceeding in generally southerly, westerly, then northerly directions
along the mean high-water mark of the North Island to the
westernmost point of the southern bank of the Manawatu River
mouth (at approximately 40° 28.5' S and approximately
175° 12.2' E); then
(c) Proceeding in a westerly direction along the line of this latitude to
longitude 174° 30.0' E; then
(d) Proceeding south along the 174° 30.0' E line of longitude to latitude
41° 30.0' S; then
(e) Proceeding in a generally south-easterly direction directly to a point
44° 00.0' S and 178° 30.0' E; then
(f) Proceeding in a generally northerly direction directly to the point of commencement.

Quota Management Area CRA5—Canterbury/Marlborough

All that area of New Zealand fisheries waters enclosed by a line—

(a) Commencing on the mean high-water mark of the South Island at the easternmost point of Bush End Point (approximately 40° 32.9’ S and approximately 173° 00.6’ E); then

(b) Proceeding in generally south-easterly then south-westerly directions along the mean high-water mark of the South Island to the latitude of the Waitaki River South Head Aero Beacon (approximately 44° 57.3’ S and 171° 07.8’ E); then

(c) Proceeding in a generally south-easterly direction directly to a point at 47° 30.0’ S and 175° 00.0’ E; then

(d) Proceeding in a generally north-easterly direction directly to a point at 44° 00.0’ S and 178° 30.0’ E; then

(e) Proceeding in a generally north-westerly direction directly to a point at 41° 30.0’ S and 174° 30.0’ E; then

(f) Proceeding north along the 174° 30.0’ E line of longitude to the latitude of the westernmost point of the southern bank of the Manawatu River mouth on the mean high-water mark of the North Island (approximately 40° 28.5’ S); then

(g) Proceeding in a generally westerly direction directly to the point of commencement.

Quota Management Area CRA6—Chatham Islands

All that area of New Zealand fisheries waters enclosed by a line—

(a) Commencing at the westernmost point of the exclusive economic zone boundary nearest 40° 21.0’ S and 177° 57.0’ W; then

(b) Proceeding along the exclusive economic zone boundary in generally easterly, southerly and westerly directions to the northernmost point on the exclusive economic zone boundary nearest 51° 41.4’ S and 174° 31.7’ E; then

(c) Proceeding in a generally north-westerly direction directly to a point at 49° 00.0’ S and 173° 00.0’ E; then

(d) Proceeding in a generally north-easterly direction directly to a point at 47° 30.0’ S and 175° 00.0’ E; then

(e) Proceeding in a generally north-easterly direction directly to a point at 44° 00.0’ S and 178° 30.0’ E; then

(f) Proceeding in a generally north-easterly direction directly to the point of commencement.

Quota Management Area CRA7—Otago

All that area of New Zealand fisheries waters enclosed by a line—

(a) Commencing on the mean high-water mark of the South Island at the latitude of the Waitaki River South Head Aero Beacon (approximately 44° 57.3’ S and approximately 171° 07.8’ E); then

(b) Proceeding in a generally southerly direction along the mean high-water mark of the South Island to the southernmost point of Long
FIRST SCHEDULE—continued

PART III—continued

QUOTA MANAGEMENT AREAS—continued

Point (approximately 46° 34.8' S and approximately 169° 34.7' E); then
(c) Proceeding in a generally south-easterly direction directly to a point
49° 00.0' S and 175° 00.0' E; then
(d) Proceeding in a generally north-easterly direction directly to a point
47° 30.0' S and 175° 00.0' E; then
(e) Proceeding in a generally north-westerly direction directly to the point
of commencement.

Quota Management Area CRA8—Southern

All that area of New Zealand fisheries waters enclosed by a line—
(a) Commencing on the mean high-water mark of the South Island at the
southernmost point of Long Point (approximately 46° 34.8' S and
approximately 169° 34.7' E); then
(b) Proceeding in generally southerly, westerly, then northerly directions
along the mean high-water mark of the South Island to the north­
westernmost point of Abut Head (approximately 48° 06.4' S and
approximately 170° 15.5' E); then
(c) Proceeding in a north-westerly direction directly to the exclusive
economic zone boundary at latitude 40° 30.0' S (longitude
approximately 167° 23.1' E); then
(d) Proceeding in generally southerly, easterly, then northerly directions
along the exclusive economic zone boundary until reaching the
northernmost point of the exclusive economic zone boundary
nearest 51° 41.4' S and 174° 51.7' E; then
(e) Proceeding in a generally north-westerly direction directly to a point
49° 00.0' S and 173° 00.0' E; then
(f) Proceeding in a north-westerly direction directly to the point of
commencement.

Quota Management Area CRA9—Westland/Taranaki

All that area of New Zealand fisheries waters enclosed by a line—
(a) Commencing on the mean high-water mark of the South Island at the
north-westernmost point of Abut Head (approximately 48° 06.4' S and
approximately 170° 15.5' E); then
(b) Proceeding in a generally northerly direction along the mean high­
water mark of the South Island to the easternmost point of Bush
End Point (approximately 40° 32.9' S and approximately
178° 00.6' E); then
(c) Proceeding in a generally easterly direction directly to a point at the
latitude of the westernmost point of the southern bank of the
Manawatu River (approximately 40° 28.5' S) at longitude
174° 30.0' E; then
(d) Proceeding in an easterly direction directly to the mean high-water
mark of the North Island at the westernmost point of the southern
bank of the Manawatu River mouth (at approximately 40° 28.5' S
and approximately 175° 12.2' E); then
(e) Proceeding in a generally northerly direction along the mean high­
water mark of the North Island to the south-westernmost point of
FIRST SCHEDULE—continued

PART III—continued

QUOTA MANAGEMENT AREAS—continued

North Head of Kaipara Harbour (approximately 36° 23.9' S and approximately 174° 02.7' E); then
(f) Proceeding west along the line of this latitude to the exclusive economic zone boundary (longitude approximately 168° 59.4' E); then
(g) Proceeding in a generally southerly direction along the exclusive economic zone boundary to latitude 40° 30.0' S (longitude approximately 167° 23.1' E); then
(h) Proceeding in a generally south-easterly direction directly to the point of commencement.

Quota Management Area CRA10—Kermadec
All that area of New Zealand fisheries waters lying within Fishery Management Area 10.

Dredge Oyster (OYS) Management Areas

Quota Management Area OYS7—Nelson/Marlborough
All that area of New Zealand fisheries waters enclosed by a line—
(a) Commencing on the mean high-water mark of the South Island at the northernmost point of Cape Farewell (approximately 40° 30.0' S and approximately 172° 41.0' E); then
(b) Proceeding in a generally easterly direction directly to a point 40° 30.0' S and 174° 30.0' E; then
(c) Proceeding south along the 174° 30.0' E line of longitude to the latitude of the easternmost point of West Head on the mean high-water mark of the South Island (approximately 41° 13.0' S); then
(d) Proceeding in a westerly direction to the mean high-water mark of West Head (approximately 41° 13.0' S and approximately 174° 19.4' E); then
(e) Proceeding in a generally north-westerly direction along the mean high-water mark of the South Island to the point of commencement.

Paua (PAU) Management Areas

Quota Management Area PAU1—Auckland
All that area of New Zealand fisheries waters enclosed by a line—
(a) Commencing on the mean high-water mark of the east coast of the North Island at the northernmost point of Cape Runaway (approximately 37° 32.3' S and approximately 177° 59.0' E); then
(b) Proceeding north along the line of this longitude to join the exclusive economic zone boundary (approximately 33° 27.7' S and approximately 177° 59.0' E); then
(c) Proceeding in generally north-westerly then southerly directions along the exclusive economic zone boundary to the easternmost point of the exclusive economic zone boundary nearest 37° 35.6' S and 170° 05.7' E; then
FIRST SCHEDULE—continued
PART III—continued

QUOTA MANAGEMENT AREAS—continued

(d) Proceeding in a generally easterly direction directly to the mean high-water mark of the North Island at the westernmost point of Tirua Point (approximately 38° 23.3'S and approximately 174° 38.0'E); then

(e) Proceeding in generally northerly, easterly, and south-westerly directions along the mean high-water mark of the North Island to the point of commencement.

Quota Management Area PAU2—Central

All that area of New Zealand fisheries waters enclosed by a line—

(a) Commencing on the mean high-water mark of the east coast of the North Island at the northernmost point of Cape Runaway (approximately 37° 52.3'S and approximately 177° 59.0'E); then

(b) Proceeding north along the line of this longitude to the exclusive economic zone boundary (approximately 38° 27.7'S and approximately 177° 59.0'E); then

(c) Proceeding in a generally south-easterly direction along the exclusive economic zone boundary to the easternmost point of the exclusive economic zone boundary nearest 34° 22.1'S and 179° 29.6'E; then

(d) Proceeding in a generally easterly direction directly to the westernmost point of the exclusive economic zone boundary nearest 34° 34.2'S and 179° 51.2'W; then

(e) Proceeding in a generally south-easterly direction along the exclusive economic zone boundary to latitude 42° 10.0'S (longitude approximately 171° 59.1'W); then

(f) Proceeding west along latitude 42° 10.0'S to longitude 174° 42.0'E; then

(g) Proceeding in a generally northerly direction directly to a point 40° 52.0'S and 174° 20.0'E; then

(h) Proceeding in a generally north-westerly direction directly to the easternmost point of the exclusive economic zone boundary nearest 37° 35.6'S and 170° 05.7'E; then

(i) Proceeding in a generally easterly direction directly to the mean high-water mark of the North Island at the westernmost point of Tirua Point (approximately 38° 23.3'S and 174° 38.0'E); then

(j) Proceeding in generally southerly, easterly, then northerly directions along the mean high-water mark of the North Island to the point of commencement.

Quota Management Area PAU3—South-East (Kaikoura Coast)

All that area of New Zealand fisheries waters enclosed by a line—

(a) Commencing on the mean high-water mark of the east coast of the South Island at 42° 10.0'S near Clarence Point (longitude approximately 173° 56.5'E); then

(b) Proceeding in an easterly direction along the 42° 10.0'S line of latitude to longitude 176° 00.0'E; then

(c) Proceeding south along the 176° 00.0'E line of longitude to latitude 46° 00.0'S; then
FIRST SCHEDULE—continued

PART III—continued

QUOTA MANAGEMENT AREAS—continued

(d) Proceeding in a generally south-westerly direction directly to a point 46° 55.1’S and 178° 57.0’E; then

(e) Proceeding in a generally north-westerly direction directly to the mean high-water mark of the east coast of the South Island at the latitude of the Waitaki River South Head Aero Beacon (approximately 44° 57.3’S and approximately 171° 07.8’E); then

(f) Proceeding in a generally north-easterly direction along the mean high-water mark of the South Island until reaching the point of commencement.

Quota Management Area PAU4—South-East (Chatham Rise)

All that area of New Zealand fisheries waters lying within Fishery Management Area 4.

Quota Management Area PAU5A—Fiordland

All that area of New Zealand fisheries waters enclosed by a line—

(a) Commencing on the mean high-water mark of the South Island at the westernmost point of Awarua Point (approximately 44° 15.6’S and approximately 168° 03.1’E); then

(b) Proceeding west along the line of this latitude to the Exclusive Economic Zone boundary (approximately 44° 15.6’S and approximately 162° 12.9’E); then

(c) Proceeding in a generally southerly direction along the Exclusive Economic Zone boundary to latitude 49° 00.0’S (longitude approximately 161° 26.2’E); then

(d) Proceeding east along the 49° 00.0’S line of latitude to longitude 166° 05.0’E; then

(e) Proceeding in a generally north-easterly direction directly to a point at 46° 25.7’S and 167° 29.0’E in Foveaux Strait; then

(f) Proceeding in a generally north-easterly direction directly to the mean high-water mark of the South Island at the southernmost point of the western bank of the Waiau River mouth (approximately 46° 11.6’S and approximately 167° 36.9’E); then

(g) Proceeding in generally westerly and north-easterly directions along the mean high-water mark of the South Island to the point of commencement.

Quota Management Area PAU5B—Stewart Island

All that area of New Zealand fisheries waters enclosed by a line—

(a) Commencing at a point at 46° 25.7’S and 167° 29.0’E in Foveaux Strait; then

(b) Proceeding in a generally south-easterly direction directly to a point 47° 41.8’S and 172° 09.5’E; then

(c) Proceeding in a generally south-westerly direction directly to a point 49° 00.0’S and 169° 00.0’E; then

(d) Proceeding west along the 49° 00.0’S line of latitude to longitude 166° 05.0’E; then

(e) Proceeding in a generally north-easterly direction directly to the point of commencement.
FIRST SCHEDULE—continued

PART III—continued

QUOTA MANAGEMENT AREAS—continued

Quota Management Area PAU5D—Southland and Otago

All that area of New Zealand fisheries waters enclosed by a line—
(a) Commencing on the mean high-water mark of the east coast of the South Island at the latitude of the Waitaki River South Head Aero Beacon (approximately 44° 57.3' S and approximately 171° 07.8' E); then
(b) Proceeding in a generally south-easterly direction directly to a point 46° 55.1' S and 178° 57.0' E; then
(c) Proceeding in a generally south-westerly direction directly to a point 47° 41.8' S and 172° 09.5' E; then
(d) Proceeding in a generally north-westerly direction directly to a point 46° 25.7' S and 167° 29.0' E in Foveaux Strait; then
(e) Proceeding in a generally northerly direction directly to the mean high-water mark of the South Island at the southermost point of the western bank of the Waiau River mouth (approximately 46° 11.6' S and approximately 167° 36.9' E); then
(f) Proceeding in a generally easterly then north-easterly direction along the mean high-water mark of the South Island to the point of commencement.

Quota Management Area PAU6—Challenger (Westland)

All that area of New Zealand fisheries waters enclosed by a line—
(a) Commencing on the mean high-water mark of the west coast of the South Island at the westernmost point of Kahurangi Point (approximately 40° 47.0' S and approximately 172° 13.0' E); then
(b) Proceeding west along the line of this latitude to the exclusive economic zone boundary (longitude approximately 167° 04.2' E); then
(c) Proceeding in a generally south-westerly direction along the exclusive economic zone boundary to a point on the latitude of the westernmost point of Awarua Point (approximately 44° 15.6' S and 162° 12.9' E); then
(d) Proceeding east along the line of this latitude to the mean high-water mark of the west coast of the South Island at the westernmost point of Awarua Point (approximately 44° 15.6' S and 168° 03.1' E); then
(e) Proceeding in a generally north-easterly direction along the mean high-water mark of the South Island until reaching the point of commencement.

Quota Management Area PAU6A—Southern

All that area of New Zealand fisheries waters enclosed by a line—
(a) Commencing at a point 46° 00.0' S and 176° 00.0' E; then
(b) Proceeding east along the 46° 00.0' S line of latitude to the exclusive economic zone boundary (approximately 171° 46.7' W); then
(c) Proceeding in generally southerly, westerly, then north-westerly directions along the exclusive economic zone boundary to lie
FIRST SCHEDULE—continued

PART III—continued

QUOTA MANAGEMENT AREAS—continued

generally south-west of the South Island at latitude 49° 00.0' S (approximately 161° 26.2' E); then
(d) Proceeding east along the 49° 00.0' S line of latitude to longitude 166° 05.0' E; then
(e) Proceeding east along the line of latitude 49° 00.0' S to longitude 169° 00.0' E; then
(f) Proceeding in a generally north-easterly direction directly to a point 47° 41.8' S and 172° 09.5' E; then
(g) Proceeding in a generally north-easterly direction directly to a point 46° 53.1' S and 173° 57.0' E; then
(h) Proceeding in a generally north-easterly direction directly to the point of commencement.

Quota Management Area PAU7—Challenger (Nelson/Marlborough)
All that area of New Zealand fisheries waters enclosed by a line—
(a) Commencing on the mean high-water mark of the west coast of the South Island at the westernmost point of Kahurangi Point (approximately 40° 47.0' S and 172° 13.0' E); then
(b) Proceeding west along the line of this latitude to the exclusive economic zone boundary (longitude approximately 167° 05.0' E); then
(c) Proceeding in a generally north-easterly direction along the exclusive economic zone boundary to the easternmost point of the exclusive economic zone boundary nearest 37° 35.6' S and 170° 05.7' E; then
(d) Proceeding in a generally south-easterly direction directly to a point 40° 52.0' S and 174° 20.0' E; then
(e) Proceeding in a generally south-easterly direction directly to a point 42° 10.0' S and 174° 42.0' E; then
(f) Proceeding west along latitude 42° 10.0' S to the mean high-water mark of the east coast of the South Island near Clarence Point (longitude approximately 173° 56.5' E); then
(g) Proceeding in generally northerly, westerly, then south-westerly directions along the mean high-water mark of the South Island to the point of commencement.

Quota Management Area PAU10—Kermadec
All that area of New Zealand fisheries waters lying within Fishery Management Area 10.

Packhorse Rock Lobster (PHC) Management Area

Quota Management Area PHC1—New Zealand
All New Zealand fisheries waters.

Scallops (SCA) Management Areas

Quota Management Area SCA1—Northland Scallop Fishery
All that area of New Zealand fisheries waters enclosed by a line—
First Schedule—continued

Part III—continued

Quota Management Areas—continued

(a) Commencing on the mean high-water mark of the North Island at the easternmost point of Cape Rodney (approximately 36° 16.8' S and approximately 174° 49.3' E); then

(b) Proceeding in a generally south-easterly direction to the mean high-water mark of Great Barrier Island at the northernmost point of Great Barrier Island (approximately 36° 03.1' S and approximately 175° 23.8' E); then

(c) Proceeding east along the line of this latitude to the exclusive economic zone boundary (approximate longitude 177° 48.2' W); then

(d) Proceeding in a generally northerly, westerly then southerly directions along the exclusive economic zone boundary to the latitude of the northernmost point of Tauroa Point on the mean high-water mark of the North Island (approximately 35° 09.8' S and approximately 168° 10.4' E); then

(e) Proceeding east along the line of this latitude to the mean high-water mark of the North Island at the northernmost point of Tauroa Point (approximately 35° 09.8' S and approximately 173° 04.3' E); then

(f) Proceeding in generally northerly, easterly, then southerly directions along the mean high-water mark of the North Island to the point of commencement.

Quota Management Area SCA7—Southern Scallop Fishery

All that area of New Zealand fisheries waters enclosed by a line—

(a) Commencing on the mean high-water mark of the South Island at the northernmost point of Cape Farewell (approximately 40° 30.0' S and approximately 172° 41.0' E); then

(b) Proceeding in a generally easterly direction directly to a point 40° 30.0' S and 174° 30.0' E; then

(c) Proceeding south along the 174° 30.0' E line of longitude to the latitude of the easternmost point of West Head on the mean high-water mark of the South Island (approximately 41° 13.0' S); then

(d) Proceeding in a westerly direction to the mean high-water mark of the South Island at the easternmost point of West Head (approximately 41° 13.0' S and approximately 174° 19.4' E); then

(e) Proceeding in a generally north-westerly direction along the mean high-water mark of the South Island to the point of commencement.

Squid (SQU) Management Areas

Quota Management Area SQU1—Auckland

All New Zealand fisheries waters other than those—

(a) Lying within SQU6 (Southern Islands); or

(b) Lying within SQU10 (Kermadec).
FIRST SCHEDULE—continued

PART III—continued

QUOTA MANAGEMENT AREAS—continued

Quota Management Area SQU6—Southern Islands

All that area of New Zealand fisheries waters enclosed either—
(a) By a line commencing at a point 49° 30.0’ S and 165° 00.0’ E; then
   (i) Proceeding east along the 49° 30.0’ S line of latitude to
       168° 00.0’ E; then
   (ii) Proceeding south along the 168° 00.0’ E line of longitude to
       latitude 51° 30.0’ S; then
   (iii) Proceeding west along the 51° 30.0’ S line of latitude to
       longitude 165° 00.0’ E; then
   (iv) Proceeding north along the 165° 00.0’ E line of longitude to
       the point of commencement; or
(b) By a line commencing at a point 51° 30.0’ S and 168° 00.0’ E; then
   (i) Proceeding east along the 51° 30.0’ S line of latitude to
       171° 00.0’ E; then
   (ii) Proceeding south along the 171° 00.0’ E line of longitude to
       latitude 53° 30.0’ S; then
   (iii) Proceeding west along the 53° 30.0’ S line of latitude to
       longitude 168° 00.0’ E; then
   (iv) Proceeding north along the 168° 00.0’ E line of longitude to
       the point of commencement.

Quota Management Area SQU10—Kermadec

All that area of New Zealand fisheries waters lying within Fishery Management Area 10.
SECOND SCHEDULE

STOCKS WHOSE ABUNDANCE IS HIGHLY VARIABLE

Flatfishes
(Rhombosolea plebeia; Pelotretis flavilatus; Peltorhamphus novaezeelandiae; Rhombosolea leporina; Colistium guntheri; Colistium nudipinnis; Rhombosolea retiaria; Rhombosolea tapirina)

Red cod
(Pseudophycis bachus)

All quota management areas

THIRD SCHEDULE

STOCKS MANAGED WITH AN ALTERNATIVE TOTAL ALLOWABLE CATCH

Southern scallops (Pecten novaezeelandiae) Southern scallop fishery
Squid (Nototodarus sloani; Nototodarus gouldi) All quota management areas
Sections 35 and 39

FOURTH SCHEDULE

STOCKS FOR WHICH PROVISIONAL CATCH HISTORY NOT PRORATED

Snake Bank cockles  
The species Austrovenus stutchburyi in the Home Point to Mangawhai Heads fisheries waters, as defined in regulation 4c(a) of the Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986.

Coromandel scallops  
The species Pecten novaeezelandiae in the Coromandel Scallop Fishery, as defined in the Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986.

Foveaux Strait oysters  
The species Tiostra chilensis in the Foveaux Strait Dredge Oyster Fishery, as defined in the Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986.

Freshwater eels  
The species Anguilla australis, Anguilla dieffenbachii, and Anguilla reinhardtii, in all areas in New Zealand fisheries waters.

Kingfish  
The species Seriola lalandi in all areas in New Zealand fisheries waters.

Kahawai  
The species Arripis trutta in all areas in New Zealand fisheries waters.

Blue mackerel  
The species Scomber australasicus in all areas in New Zealand fisheries waters.

Butterfish  
The species Odax pullus in all areas in New Zealand fisheries waters.

Southern bluefin tuna  
The species Thunnus maccoyii and Thunnus thynnus in all areas in New Zealand fisheries waters.
FIFTH SCHEDULE  
Section 59

SPECIES IN RESPECT OF WHICH ANY PERSON MAY OWN NO MORE THAN 45 PERCENT OF COMBINED TOTAL ALLOWABLE COMMERCIAL CATCHES FOR NEW ZEALAND FISHERIES WATERS

Alfonsino (*Beryx splendens*; *Beryx decadactylus*)  
Barracouta (*Thyrsites atun*)  
Blue warehou (*Seriolella brama*)  
Gemfish (*Rexea* spp.)  
Hake (*Merluccius australis*)  
Hoki (*Macruronus novaezelandiae*)  
Jack mackerel (*Trachurus* spp.)  
Ling (*Genypterus blacodes*)  
Orange roughy (*Hoplostethus atlanticus*)  
Oreos (*Allocyttus* spp.; *Pseudocyttus maculatus*; *Neocyttus rhomboidalis*)  
Packhorse rock lobster (*Jasus verreauxi*)  
Red cod (*Pseudophycis bachus*)  
Silver warehou (*Seriolella punctata*)  
Squid (*Nototodarus sloani*; *Nototodarus gouldi*)

SIXTH SCHEDULE  
Section 72

STOCKS WHICH MAY BE RETURNED TO THE SEA OR OTHER WATERS IN ACCORDANCE WITH STATED REQUIREMENTS

<table>
<thead>
<tr>
<th>Stock</th>
<th>Area</th>
<th>Requirements</th>
</tr>
</thead>
</table>
| Rock lobster          | All New Zealand fisheries waters         | 1. A commercial fisher may return any rock lobster of legal size to the waters from which it is taken if—  
| (Jasus verreauxi,    |                                           | (a) That rock lobster is likely to survive on return; and  
| Jasus edwardsii)     |                                           | (b) The return takes place as soon as practicable after the rock lobster is taken.  
|                       |                                           | 2. A commercial fisher who, otherwise than under the authority of an annual catch entitlement, takes any rock lobster of legal size shall immediately return that rock lobster to the waters from which it was taken with as little injury as possible, unless that rock lobster is dead or unlikely to survive on return.  
|                       |                                           | 3. A commercial fisher shall immediately return any rock lobster to the waters from which it was taken if—  
|                       |                                           | (a) The lobster is carrying external eggs; or  
|                       |                                           | (b) The lobster is in the soft-shell stage, being the stage following moulting when the exoskeleton of the lobster has not reached full hardness; or  
|                       |                                           | (c) The calcified bar or any part of the exoskeleton (the outer shell of
SIXTH SCHEDULE—continued
STOCKS WHICH MAY BE RETURNED TO THE SEA OR OTHER WATERS IN ACCORDANCE WITH STATED REQUIREMENTS—continued

<table>
<thead>
<tr>
<th>Stock</th>
<th>Area</th>
<th>Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Southern scallops (Pecten novaezelandiae)</td>
<td>Southern scallop fishery</td>
<td>A commercial fisher shall immediately return any southern scallop to the waters from which it was taken, if such scallop is taken—(a) During any closed season in the southern scallop fishery; or (b) In any area in which the taking of southern scallops is, at the time, prohibited.</td>
</tr>
<tr>
<td>Northern scallops (Pecten novaezelandiae)</td>
<td>Northland scallop fishery</td>
<td>A commercial fisher shall immediately return any Northland scallop to the waters from which it was taken if the scallop is taken—(a) During any closed season in the Northland scallop fishery; or (b) In any area in which the taking of northern scallops is, at the time, prohibited.</td>
</tr>
<tr>
<td>Dredge oysters (Tiostrea chilensis lutaria)</td>
<td>Nelson-Marlborough dredge oyster fishery</td>
<td>A commercial fisher shall immediately return any dredge oyster to the waters from which it was taken, if such oyster was taken during any closed season in the Nelson-Marlborough dredge oyster fishery.</td>
</tr>
</tbody>
</table>
SEVENTH SCHEDULE

Section 200

AUTHORITY TO ENTER PRIVATE DWELLING HOUSE, ENCLOSED GARDEN, OR CURTILAGE, OR MAORI RESERVATION

I AM SATISFIED having considered:
(a) An application made in writing on oath/affirmation,
(b) An oral application made on oath/affirmation,

THAT THERE ARE REASONABLE GROUNDS FOR REQUIRING ENTRY TO:

[insert address or description of dwelling place, curtilage, or enclosed garden of such a dwelling place, or Maori reservation]

BECAUSE:
(a) The administration and enforcement of the Fisheries Act 1996 requires such entry; or
(b) There are reasonable grounds to believe that an offence is being or has been committed against the Fisheries Act 1996, namely:
[insert details of alleged offence]

And that the following things are at the place specified above:
[insert details of things in respect of which entry is sought].

THIS IS TO AUTHORISE

[insert name(s) of Fishery Officer(s)]
or any other Fishery Officer, at any time, within 30 days [or insert other time period], from the date of this Authority, to enter the said dwelling place, curtilage, or enclosed garden of such dwelling place, or Maori reservation, with the aid of such assistants as are necessary, for the purpose of exercising his/her lawful powers under the Fisheries Act 1996.

This Authorisation authorises entry on one /........... (delete whichever does not apply) occasion within the time period specified.

The requirements of section 200 (4)(e) of the Fisheries Act 1996, shall/shall not (delete whichever does not apply) apply in respect of the execution of this Authority.

I....................................................................................................................... .
give this Authority under section 200 of the Fisheries Act 1996, at.......... this........ day of........................... .

District Court Judge/Justice of the Peace/Registrar of a District Court.
### EIGHTH SCHEDULE

**STOCKS SUBJECT TO MONTHLY BALANCING REGIME**

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<tr>
<th>Stock Type</th>
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<tr>
<td>Packhorse rock lobster</td>
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<tr>
<td><em>(Jasus verreauxi)</em></td>
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<tr>
<td>Paua</td>
<td>All quota management areas</td>
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<tr>
<td><em>(Haliotis australis, Haliotis iris, but not Haliotis virginea)</em></td>
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<tr>
<td>Southern scallops</td>
<td>Southern scallop fishery</td>
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<td><em>(Pecten novaezelandiae)</em></td>
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<tr>
<td>Spiny rock lobster</td>
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<tr>
<td><em>(Jasus edwardsii)</em></td>
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<tr>
<td>Northland scallops</td>
<td>Northland scallop fishery</td>
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<td><em>(Pecten novaezelandiae)</em></td>
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<tr>
<td>Nelson-Marlborough dredge oysters</td>
<td>Nelson-Marlborough dredge oyster fishery</td>
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<tr>
<td><em>(Tiostrea chilensis lutaria)</em></td>
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NINTH SCHEDULE
Sections 367, 368, and 369

QUOTA ALLOCATIONS FOR JACK MACKEREL, NELSON-MARLBOROUGH DREDGE OYSTERS, AND NORTHLAND SCALLOPS

PART I

JACK MACKEREL QUOTA ALLOCATIONS

Quota Management Areas 1 and 2

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NINTH SCHEDULE—continued

QUOTA ALLOCATIONS FOR JACK MACKEREL, NELSON-MARLBOROUGH DREDGE OYSTERS, AND NORTHLAND SCALLOPS—continued

PART I—continued

JACK MACKEREL QUOTA ALLOCATIONS—continued

Quota Management Areas 1 and 2—continued

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### NINTH SCHEDULE—continued

**QUOTA ALLOCATIONS FOR JACK MACKEREL, NELSON-MARLBOROUGH DREDGE OYSTERS, AND NORTHLAND SCALLOPS—continued**

#### PART I—continued

**JACK MACKEREL QUOTA ALLOCATIONS—continued**

**Quota Management Areas 1 and 2—continued**

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**TOTAL** 10,000.00
### NINTH SCHEDULE—continued

**QUOTA ALLOCATIONS FOR JACK MACKEREL, NELSON-MARLBOROUGH DREDGE OYSTERS, AND NORTHLAND SCALLOPS—continued**

**PART II**

**JACK MACKEREL QUOTA ALLOCATIONS**

**Quota Management Areas 3, 4, 5, and 6**

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**NINTH SCHEDULE—continued**

**QUOTA ALLOCATIONS FOR JACK MACKEREL, NELSON-MARLBOROUGH DREDGE OYSTERS, AND NORTHLAND SCALLOPS—continued**

**PART II—continued**

*Jack Mackerel Quota Allocations—continued*

### Quota Management Areas 3, 4, 5, and 6—continued

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**PART III**

*Nelson/Marlborough Dredge Oyster Quota Allocations*

*Nelson/Marlborough Dredge Oyster Fishery*

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## NINTH SCHEDULE—continued

**QUOTA ALLOCATIONS FOR JACK MACKEREL, NELSON-MARLBOROUGH DREDGE OYSTERS, AND NORTHLAND SCALLOPS—continued**

**PART III—continued**

**NELSON/MARLBOROUGH DREDGE OYSTER QUOTA ALLOCATIONS—continued**

**Nelson/Marlborough Dredge Oyster Fishery—continued**

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**PART IV**

**NORTHLAND SCALLOPS QUOTA ALLOCATIONS**

**Northland Scallop Fishery**

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NINTH SCHEDULE—continued

QUOTA ALLOCATIONS FOR JACK MACKEREL, NELSON-MARLBOROUGH DREDGE OYSTERS, AND NORTHLAND SCALLOPS—continued

PART IV—continued

NORTHLAND SCALLOPS QUOTA ALLOCATIONS—continued

*Northland Scallop Fishery—continued*

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TOTAL 188.561
### TENTH SCHEDULE

#### LEVIES

**PART A**

**LEVIES ON QUOTA HOLDERS**

*Fisheries Management Services*

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## TENTH SCHEDULE—continued  
### LEVIES—continued  
#### PART A—continued  
### LEVIES ON QUOTA HOLDERS—continued  
**Fisheries Management Services—continued**

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**Conservation Services**

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AQUACULTURE LEVIES

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### LEVIES—continued

#### PART G

**COMPLIANCE AUDIT LEVY**

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PART G—continued
COMPLIANCE AUDIT LEVY—continued

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| BYX3   | 1.25 |
| BYX7   | 1.25 |
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| FLA7   | 1.79 |
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| GUR8   | 0.75 |
| HPB1   | 2.92 |
| HPB2   | 2.21 |
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#### LEVIES—continued

#### PART G—continued

#### COMPLIANCE AUDIT LEVY—continued

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<td>TAR1</td>
<td>1.87</td>
</tr>
<tr>
<td>TAR2</td>
<td>1.67</td>
</tr>
</tbody>
</table>
### TENTH SCHEDULE—continued

#### LEVIES—continued

#### PART G—continued

#### COMPLIANCE AUDIT LEVY—continued

<table>
<thead>
<tr>
<th>Fish Stock</th>
<th>Levy ($ per licence/certificate)</th>
</tr>
</thead>
<tbody>
<tr>
<td>TAR8</td>
<td>0.96</td>
</tr>
<tr>
<td>TAR4</td>
<td>0.96</td>
</tr>
<tr>
<td>TAR5</td>
<td>0.96</td>
</tr>
<tr>
<td>TAR7</td>
<td>0.96</td>
</tr>
<tr>
<td>TAR8</td>
<td>0.96</td>
</tr>
<tr>
<td>TRE1</td>
<td>1.17</td>
</tr>
<tr>
<td>TRE2</td>
<td>0.83</td>
</tr>
<tr>
<td>TRE3</td>
<td>0.83</td>
</tr>
<tr>
<td>TRE7</td>
<td>0.83</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Shellfish</th>
<th>Levy ($ per vessel)</th>
</tr>
</thead>
<tbody>
<tr>
<td>CRA1</td>
<td>25.00</td>
</tr>
<tr>
<td>CRA2</td>
<td>25.00</td>
</tr>
<tr>
<td>CRA3</td>
<td>25.00</td>
</tr>
<tr>
<td>CRA4</td>
<td>25.00</td>
</tr>
<tr>
<td>CRA5</td>
<td>25.00</td>
</tr>
<tr>
<td>CRA6</td>
<td>25.00</td>
</tr>
<tr>
<td>CRA7</td>
<td>25.00</td>
</tr>
<tr>
<td>CRA8</td>
<td>25.00</td>
</tr>
<tr>
<td>CRA9</td>
<td>25.00</td>
</tr>
<tr>
<td>PAU1</td>
<td>18.88</td>
</tr>
<tr>
<td>PAU2</td>
<td>18.88</td>
</tr>
<tr>
<td>PAU3</td>
<td>18.88</td>
</tr>
<tr>
<td>PAU4</td>
<td>18.88</td>
</tr>
<tr>
<td>PAU5A</td>
<td>18.88</td>
</tr>
<tr>
<td>PAU5B</td>
<td>18.88</td>
</tr>
<tr>
<td>PAU5D</td>
<td>18.88</td>
</tr>
<tr>
<td>PAU6</td>
<td>18.88</td>
</tr>
<tr>
<td>PAU7</td>
<td>18.88</td>
</tr>
<tr>
<td>PHC 1</td>
<td>16.67</td>
</tr>
<tr>
<td>SCA 7</td>
<td>10.83</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Pelagic</th>
<th>Levy ($ per vessel)</th>
</tr>
</thead>
<tbody>
<tr>
<td>JMA 7</td>
<td>0.08</td>
</tr>
</tbody>
</table>

#### PART H

**OFFSHORE FISHING VESSEL LEVY**

<table>
<thead>
<tr>
<th>Description</th>
<th>Levy ($ per vessel)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner of fishing vessel carrying automatic location communicator</td>
<td>111.28</td>
</tr>
</tbody>
</table>
## ELEVENTH SCHEDULE

**BAIT**

<table>
<thead>
<tr>
<th>Common Name</th>
<th>QMS Code</th>
<th>Scientific Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Barracouta</td>
<td>BAR</td>
<td><em>Thyrsites atun</em></td>
</tr>
<tr>
<td>Blue cod</td>
<td>BCO</td>
<td><em>Parapercis colias</em></td>
</tr>
<tr>
<td>Blue moki</td>
<td>MOK</td>
<td><em>Latridopsis ciliaris</em></td>
</tr>
<tr>
<td>Common (blue) warehou</td>
<td>WAR</td>
<td><em>Seriolella brama</em></td>
</tr>
<tr>
<td>Gemfish</td>
<td>SKI</td>
<td><em>Rexea solandri</em></td>
</tr>
<tr>
<td>Grey mullet</td>
<td>GMU</td>
<td><em>Mugil cephalus</em></td>
</tr>
<tr>
<td>Jack mackerel</td>
<td>JMA</td>
<td><em>Trachurus declivis</em></td>
</tr>
<tr>
<td>Red cod</td>
<td>RCO</td>
<td><em>Psuedophycis bachus</em></td>
</tr>
<tr>
<td>Red gurnard</td>
<td>GUR</td>
<td><em>Chelidonichthys kumu</em></td>
</tr>
<tr>
<td>Rig, spotted dogfish</td>
<td>SPO</td>
<td><em>Mustelus lenticulatus</em></td>
</tr>
<tr>
<td>School shark</td>
<td>SCH</td>
<td><em>Galeorhinus galeus</em></td>
</tr>
<tr>
<td>Squid</td>
<td>SQU</td>
<td><em>Nototodarus gouldi;</em></td>
</tr>
<tr>
<td></td>
<td></td>
<td><em>Nototodarus sloanii</em></td>
</tr>
<tr>
<td>Tarakihi</td>
<td>TAR</td>
<td><em>Nemadactylus macropterus</em></td>
</tr>
<tr>
<td>Trevally</td>
<td>TRE</td>
<td><em>Pseudocaranx dentex</em></td>
</tr>
</tbody>
</table>
### TWELFTH SCHEDULE

**Enactments Amended**

**PART I**

**Amendments Deemed to Have Come into Force on 1 July 1995**

<table>
<thead>
<tr>
<th>Enactment</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995, No. 31—The Ministry of Agriculture and Fisheries (Restructuring) Act 1995</td>
<td>By omitting from section 13 (4) (a) the words “or Honorary Fishery Officers” and the words “or on examiners under section 67 of that Act”. By repealing section 15 (1). By inserting in section 16 (1), after the word “All”, the words “inspectors, registrars, officers, and”. By inserting in section 17, before the word “powers” in both places where it occurs, the words “functions or”. By omitting from section 17 the word “any” where it secondly occurs, and substituting the word “the”. By repealing section 20 (b). By inserting, after section 20, the following section: “20A. <strong>Expiry of section 20 (c)</strong>—Section 20 (c) of this Act shall expire 12 months after the date of commencement of this Act and, as from the close of that date, shall be deemed to have been repealed.”</td>
</tr>
</tbody>
</table>
TWELFTH SCHEDULE—continued
ENACTMENTS AMENDED—continued

PART II
AMENDMENTS TO FISHERIES ACT 1983 DEEMED TO HAVE COME INTO FORCE ON 1 OCTOBER 1995

<table>
<thead>
<tr>
<th>Enactment</th>
<th>Amendment</th>
</tr>
</thead>
</table>
| 1983, No. 14—The Fisheries Act 1983 (R.S. Vol. 27, p. 137) | By adding to section 28sD (as inserted by section 8 of the Fisheries Amendment Act (No. 3) 1995), the following subsections:

“(4) Nothing in section 28s of this Act prevents any person holding, selling, purchasing, leasing, or taking on lease less than 3 tonnes of individual transferable quota for paua in PAU5A or PAU5B or PAU5D during the period commencing on the 1st day of October 1995 and ending on the close of the 31st day of January 1996.

“(5) Notwithstanding section 28s of this Act, on the expiry of the period referred to in subsection (4) of this section, any person who holds less than 3 tonnes of individual transferable quota for paua in PAU5A or PAU5B or PAU5D may continue to take paua under that quota.

“(6) For the avoidance of doubt, nothing in this section shall prevent any person from taking shellfish in any area other than in PAU5A or PAU5B or PAU5D, pursuant to any individual transferable quota if—

“(a) That person was lawfully entitled to take shellfish under section 28s of this Act immediately prior to the 1st day of October 1995; and

“(b) That person continues to hold individual transferable quota for that shellfish.” |

By inserting in section 107EH (b) (as inserted by section 5 of the Fisheries Amendment Act 1995), before the expression “(ah) to (ak) of section 5 (2)”, the expression “(af) and”.


**TWELFTH SCHEDULE—continued**

**ENACTMENTS AMENDED—continued**

**PART III**

**AMENDMENTS COMING INTO FORCE ON APPOINTED DATE**

<table>
<thead>
<tr>
<th>Enactment</th>
<th>Amendment</th>
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</table>
| 1958, No. 31—The Wildlife Act 1958 (R.S. Vol. 7, p. 819) | By inserting in the definition of the term "animal" in section 2, after the words "section 7B of this Act", the words "and any marine species declared to be an animal under section 7BA of this Act". By inserting in section 2, in their appropriate alphabetical order, the following definitions:  
"‘Aquatic life’ means any species of plant or animal life which, at any time in the life history of the species, must inhabit water; and includes seabirds (whether or not in an aquatic environment):  
"‘Fishing’—  
(a) Means the catching, taking, or harvesting of fish, aquatic life, or seaweed; and  
(b) Includes—  
(i) Any activity that may reasonably be expected to result in the catching, taking, or harvesting of fish, aquatic life, or seaweed; and  
(ii) Any operation in support of or in preparation for any activities described in this definition:  
‘Fishing-related mortality’ means the accidental death or incidental death of any protected species that occurs in the course of fishing:  
‘Human-induced mortality’ means the death of any marine wildlife that can be attributed directly or indirectly to any human activity:  
‘Marine species’ means any species inhabiting or found in or on the sea or foreshore: |
"‘Marine wildlife’ means any marine species, or individual of a species, defined as wildlife under this Act:

“‘New Zealand fisheries waters’ has the same meaning as in section 2 (1) of the Fisheries Act 1996:

“‘Population management plan’ means a plan approved under section 14F of this Act:

“‘Threatened species’ means any marine wildlife that is for the time being declared by a notice under subsection (1)(a) of this section to be a threatened species.”.

By adding to section 2, as subsection (1A) the following subsection:

“(1A) The Minister, after having regard to any relevant international standards and any relevant standards applying within New Zealand, may from time to time, by notice in the Gazette, declare any species of marine wildlife to be a threatened species for the purposes of this Act.”

By inserting, after section 2A (as inserted by section 2 (1) of the Wildlife Amendment Act 1964), the following section:

“2B. Application of certain provisions restricted—Notwithstanding anything in section 8 of this Act, sections 9 to 14, 14A, 14B, 14C, 14F, and 37 of this Act shall not apply in respect of any wildlife outside the outer limits of the territorial sea of New Zealand.”

By adding to section 8 the words “and New Zealand fisheries waters”.

By inserting, after section 7A (as so inserted), the following section:

“7BA. Marine species—(1) The marine species listed in Schedule 7A to this Act are hereby declared to be animals.

“(2) The Governor-General may from time to time, by Order in Council, —
<table>
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<tr>
<th>Enactment</th>
<th>Amendment</th>
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</table>
| 1953, No. 31—The Wildlife Act 1953 (R.S. Vol. 7, p. 819)—continued | “(a) Include, in Schedule 7A to this Act, the name of any marine species not for the time being listed in that Schedule: “(b) Omit, from Schedule 7A to this Act, the name of any marine species for the time being listed in that Schedule. “(3) Any such Order in Council may be expressed to operate throughout New Zealand or New Zealand fisheries waters or such parts thereof, and for such period or periods, as may be specified.” By inserting, after section 14E (as substituted by section 68 of the Conservation Law Reform Act 1990), the following sections: “14F. Population management plans—(1) The Minister may from time to time approve a population management plan in respect of one or more species, being threatened species or other species of marine wildlife, containing all or any of the following matters in respect of each species: “(a) An assessment of the biology and status of the species: “(b) An assessment of any known fisheries interaction with the species: “(c) An assessment of the degree of risk caused by fishing-related mortality and other human-induced sources of mortality to the species, whether within New Zealand fisheries waters or elsewhere within the range of the species: “(d) An estimate of the range of human-induced mortality for the species which would allow the criteria specified in section 14C of this Act to be met: “(e) An estimate of the range of fishing-related mortality for the
<table>
<thead>
<tr>
<th>Enactment</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1958, No. 31—The Wildlife Act 1953 (R.S. Vol. 7, p. 819)—continued</td>
<td>species which would allow the criteria specified in section 14c of this Act to be met:</td>
</tr>
<tr>
<td></td>
<td>&quot;(f) The maximum allowable level of fishing-related mortality for the species, in New Zealand fisheries waters, which would allow the criteria specified in section 14c of this Act to be met:</td>
</tr>
<tr>
<td></td>
<td>&quot;(g) Subject to section 14H of this Act, if a level has been set under paragraph (f) of this subsection, the maximum allowable level of fishing-related mortality for the species, in specified areas within New Zealand fisheries waters:</td>
</tr>
<tr>
<td></td>
<td>&quot;(h) Recommendations to the Minister of Fisheries on measures to mitigate the fishing-related mortality of the species:</td>
</tr>
<tr>
<td></td>
<td>&quot;(i) Recommendations to the Minister of Fisheries on the standard of information to be collected on fishing-related mortality:</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>&quot;(2) In the case of any marine wildlife ranging outside New Zealand fisheries waters, the maximum allowable level of fishing-related mortality set under paragraph (f) or paragraph (g) of subsection (1) of this section shall be based on a fair and equitable consideration of the proportion that the estimated fishing-related mortality of that species within those waters is to the total estimated fishing-related mortality of that species in all waters (including waters outside New Zealand fisheries waters).</td>
</tr>
</tbody>
</table>
|                                                                           | "14c. Determining maximum allowable level of fishing-related mortality—In determining the maximum allowable level of fishing-related mortality for threatened species or any other marine wildlife under section 14f (1)(f) of this Act, the Minister,—
TWELFTH SCHEDULE—continued
ENACTMENTS AMENDED—continued
PART III—continued
AMENDMENTS COMING INTO FORCE ON APPOINTED DATE—continued

<table>
<thead>
<tr>
<th>Enactment</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1953, No. 31—The Wildlife Act 1953 (R.S. Vol. 7, p. 819)—continued</td>
<td>“(a) In the case of any threatened species, shall determine a level of fishing-related mortality which should allow the species to achieve non-threatened status as soon as reasonably practicable, and in any event within a period not exceeding 20 years: “(b) In the case of any other marine wildlife, shall determine a level of fishing-related mortality which should neither cause a net reduction in the size of the population nor seriously threaten the reproductive capacity of the species. “14H. Determining area-based maximum levels of fishing-related mortality—(1) Area-based limits set under section 14F (1) (g) of this Act shall be set only— “(a) For populations of threatened species that are geographically or genetically discrete; and “(b) For areas corresponding to areas having effect under the Fisheries Act 1996 as fisheries management areas or quota management areas. “(2) In setting any area-based limit for a threatened species under section 14F (1) (g) of this Act, the Minister shall determine a level of fishing-related mortality for a discrete population referred to in subsection (1) of this section which should neither cause a net reduction in the size of the population nor seriously threaten the reproductive capacity of that population. “14I. Procedure for preparation and approval of population management plans—(1) Population management plans shall be prepared and approved as follows:</td>
</tr>
</tbody>
</table>
Enactment | Amendment
---|---
1953, No. 31—The Wildlife Act 1958 (R.S. Vol. 7, p. 819)—continued | "(a) The Director-General shall prepare every population management plan in consultation with every Conservation Board affected by the proposal and with such persons as the Director-General considers are representative of those classes of persons interested in the plan, including such persons or organisations as the Director-General considers are representative of Maori, environmental interests, commercial interests, and recreational interests:

"(b) The Director-General shall then publish notice of the draft plan at least once in each of the daily newspapers published in Auckland, Wellington, Christchurch, and Dunedin, respectively:

"(c) Every notice under paragraph (b) of this subsection shall—

"(i) State that the draft plan is available for inspection at the places and times specified in the notice; and

"(ii) Call upon persons or organisations interested to lodge with the Director-General submissions on the draft before the date specified for the purpose in the notice, being a date not less than 40 working days after the date of the publication of the notice; and

"(iii) Require any person who wishes to be heard in support of the person's submission to so advise the Director-General:

"(d) Any person or organisation may make written submissions to the Director-General on any draft plan, at the place and
TWELFTH SCHEDULE—continued
ENACTMENTS AMENDED—continued
PART III—continued
AMENDMENTS COMING INTO FORCE ON APPOINTED DATE—continued

<table>
<thead>
<tr>
<th>Enactment</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1953, No. 31—The Wildlife Act 1953 (R.S. Vol. 7, p. 819)—continued</td>
<td>before the date specified for the purpose in the notice:</td>
</tr>
<tr>
<td></td>
<td>“(e) From the time of publication of a draft plan until public opinion on it has been made known to the Director-General, he or she shall make the draft available for public inspection during normal office hours, in such places and quantities as are likely to encourage public participation in the development of the proposal:</td>
</tr>
<tr>
<td></td>
<td>“(f) The Director-General shall give every person or organisation who or which, in making submissions on the draft, asked to be heard in support of his or her or its comments a reasonable opportunity of appearing before the Director-General or the Director-General’s representative or representatives:</td>
</tr>
<tr>
<td></td>
<td>“(g) The Director-General, or his or her representative or representatives, may hear submissions from any other person or organisation consulted on the draft:</td>
</tr>
<tr>
<td></td>
<td>“(h) The Director-General shall prepare a summary of the submissions received on the draft and public opinion made known on the draft:</td>
</tr>
<tr>
<td></td>
<td>“(i) After considering such submissions and public opinion, the Director-General may revise the draft:</td>
</tr>
<tr>
<td></td>
<td>“(j) The Director-General shall send to the Minister of Fisheries and to the New Zealand Conservation Authority a copy of the summary prepared under paragraph (h) of this subsection</td>
</tr>
<tr>
<td>Enactment</td>
<td>Amendment</td>
</tr>
<tr>
<td>-----------</td>
<td>-----------</td>
</tr>
<tr>
<td>1953, No. 31—The Wildlife Act 1953 (R.S. Vol. 7, p. 819)—continued</td>
<td>together with a copy of the draft plan:</td>
</tr>
<tr>
<td></td>
<td>“(k) The New Zealand Conservation Authority shall consider the summary of submissions and the draft plan and send to the Minister and the Director-General any comments on the draft:</td>
</tr>
<tr>
<td></td>
<td>“(l) The Director-General, after having regard to any comments received under paragraph (k) of this subsection,—</td>
</tr>
<tr>
<td></td>
<td>“(i) May amend the draft:</td>
</tr>
<tr>
<td></td>
<td>“(ii) Shall send to the Minister the summary prepared under paragraph (h) of this subsection together with a copy of the draft plan:</td>
</tr>
<tr>
<td></td>
<td>“(m) After having regard to—</td>
</tr>
<tr>
<td></td>
<td>“(i) The provisions of sections 14f, 14g, and 14h of this Act; and</td>
</tr>
<tr>
<td></td>
<td>“(ii) All submissions made on the draft plan; and</td>
</tr>
<tr>
<td></td>
<td>“(iii) Such other matters as the Minister considers relevant,—</td>
</tr>
<tr>
<td></td>
<td>the Minister may approve the plan subject to the concurrence of the Minister of Fisheries and refer it to that Minister for concurrence:</td>
</tr>
<tr>
<td></td>
<td>“(n) The Minister of Fisheries may concur to the draft plan after having regard to the impacts of implementing the maximum allowable level of fishing-related mortality on commercial fishing and such other matters as that Minister considers relevant:</td>
</tr>
</tbody>
</table>
| | “(o) The Minister, with the concurrence of the Minister of Fisheries, may approve the plan:
<table>
<thead>
<tr>
<th>Enactment</th>
<th>Amendment</th>
</tr>
</thead>
</table>
| 1953, No. 31—The Wildlife Act 1958 (R.S. Vol. 7, p. 819)—continued | “(p) The approved plan shall be available for public inspection at the head office of the Department of Conservation at such times as may be specified in the notice given in respect of the plan under subsection (2) of this section.  
“(2) The Director-General shall, by notice in the Gazette, specify—  
“(a) The species to which the approved plan relates; and  
“(b) The maximum allowable level of fishing-related mortality specified in the approved plan; and  
“(c) The times at which the approved plan is available for public inspection at the head office of the Department of Conservation.  
“(3) Any approved plan may be amended, and paragraph (a) and paragraphs (l) to (p) of subsection (1) and subsection (2) of this section shall apply to every such amendment with any necessary modifications.”  
By adding to section 63, as subsection (2), the following subsection:  
“(2) Nothing in subsection (1) of this section applies in respect of any marine wildlife.”  
By inserting, after section 63, the following sections:  
“63A. Taking of absolutely or partially protected marine wildlife—  
Every person commits an offence against this Act who without lawful authority (the proof of which shall be on the person charged)—  
“(a) Hunts or kills any absolutely or partially protected marine wildlife; or  
“(b) Buys or processes for sale or sells or otherwise disposes of or has in his or her possession any
TWELFTH SCHEDULE—continued
ENACTMENTS AMENDED—continued
PART III—continued
AMENDMENTS COMING INTO FORCE ON APPOINTED DATE—continued

<table>
<thead>
<tr>
<th>Enactment</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1953, No. 31—The Wildlife Act 1953 (R.S. Vol. 7, p. 819)—continued</td>
<td>absolutely or partially protected marine wildlife or any part thereof; or</td>
</tr>
<tr>
<td></td>
<td>“(c) Robs, disturbs, or destroys, or has in his or her possession the nest of any absolutely or partially protected marine wildlife.</td>
</tr>
<tr>
<td></td>
<td>“63B. Reporting of accidental or incidental death or injury—(1) If any person, in the course of fishing pursuant to a permit, licence, authority, or approval issued, granted, or given under the Fisheries Act 1996, accidentally or incidentally kills or injures any marine wildlife, he or she shall,—</td>
</tr>
<tr>
<td></td>
<td>“(a) If fishing from a vessel, record the event in the vessel’s log and report the event in writing to a ranger, or to such other person as the Director-General may from time to time specify by notice in the Gazette, and in such manner as may be so specified, not later than 48 hours after the arrival of the vessel in port; and</td>
</tr>
<tr>
<td></td>
<td>“(b) In any other case, report the event in writing to a ranger, or to such other person as the Director-General may from time to time specify by notice in the Gazette, and in such manner as may be so specified, as soon as practicable.</td>
</tr>
<tr>
<td></td>
<td>“(2) Any person (other than a person to whom subsection (1) of this section applies) who, by any means whatever, accidentally or incidentally kills or injures any marine wildlife, shall, as soon as practicable, report the event to a ranger or a fishery officer (as defined in section 2 (1) of the Fisheries Act 1996).</td>
</tr>
<tr>
<td></td>
<td>“(8) Every report under subsection (1) or subsection (2) of this section shall include—</td>
</tr>
<tr>
<td>Enactment</td>
<td>Amendment</td>
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<tr>
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| 1953, No. 31—The Wildlife Act 1953 (R.S. Vol. 7, p. 819)—continued | “(a) The location of the area where the event took place; and “(b) The species (if known) of the marine wildlife killed or injured, or a general description of the wildlife; and “(c) A description of the conditions and the circumstances of the event. “(4) In addition to providing the particulars required by subsection (1) or subsection (2) of this section, a person required to report an event to which that subsection applies shall provide to the Director-General such other particulars relating to the event as the Director-General may require for the purposes of this Act. “(5) Every person commits an offence against this Act who contravenes subsection (1) or subsection (2) of this section.” By inserting in section 67 (1), after paragraph (f), the following paragraphs: “(fa) Commits an offence against section 68A of this Act (which relates to the taking of absolutely or partially protected marine wildlife) shall be liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding $250,000 and to a further fine not exceeding $10,000 for every item of marine wildlife (other than coral) in respect of which the offence was committed: “(fb) Commits an offence against section 68B of this Act (which relates to the reporting of accidental or incidental death of absolutely or partially protected wildlife) shall be liable to a fine not exceeding $10,000:”. By inserting, after section 68, the following sections: “68A. Proceedings in respect of offences—Notwithstanding anything to
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<td>1953, No. 81—The Wildlife Act 1953 (R.S. Vol. 7, p. 819)—continued</td>
<td>the contrary in section 14 of the Summary Proceedings Act 1957, proceedings may be taken under this Act against any person for an offence committed at sea or beyond the outer limits of New Zealand fisheries waters at any time within 12 months from the date on which that person first lands in New Zealand after the commission of the offence or, for an offence committed in New Zealand, within 12 months after the date of the commission of the offence.</td>
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"68a. Defences—(1) Where any person (not being a New Zealand citizen) is charged with any offence under this Act, it shall be a defence to the charge if the defendant proves that the act or omission constituting the offence took place beyond the outer limits of New Zealand fisheries waters.

"(2) Where any New Zealand citizen is charged with any offence under this Act, it shall be a defence to the charge if the defendant proves that the act or omission constituting the offence took place beyond the outer limits of New Zealand fisheries waters and did not contravene any international agreement to which effect had been given by regulations made under section 72 of this Act or by any other enactment.

"(3) Where any person is charged with an offence against section 63A of this Act, it is a defence to the charge if the defendant proves that the act or omission constituting the offence took place in circumstances of stress or emergency and was necessary for the preservation, protection, or maintenance of human life.

"(4) Where any person is charged with the killing or injuring or being in possession of any marine wildlife contrary to the provisions of this Act, or any regulations made under it, and the provisions of
TWELFTH SCHEDULE—continued

ENACTMENTS AMENDED—continued

PART III—continued

AMENDMENTS COMING INTO FORCE ON APPOINTED DATE—continued

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<td>1953, No. 31—The Wildlife Act 1953 (R.S. Vol. 7, p. 819)—continued</td>
<td>subsections (1), (2), and (3) of this section do not apply in the circumstances of the case,—</td>
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<td>“(a) It is a defence to the charge if the defendant proves that the death or injury to such wildlife was accidental or incidental, and that the requirements of section 63a of this Act were complied with:</td>
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<td>“(b) It is a defence to the charge if the defendant proves that the death or injury to, or possession of, such wildlife took place as part of a fishing operation and the requirements of section 63a of this Act were complied with.”</td>
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<td>By inserting, after the Seventh Schedule, the following Schedule:</td>
<td>“SCHEDULE 7A”</td>
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<td>“MARINE SPECIES DECLARED TO BE ANIMALS”</td>
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<td></td>
<td>“Black coral: all species in the Order Antipatharia.”</td>
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<td>“Red coral: all species”</td>
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<td>“Spotted black grouper (Epinephelus daemelii)”</td>
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<td>1971, No. 15—The Marine Reserves Act 1971 (R.S. Vol. 22, p. 751)</td>
<td>By repealing the definition of the term “firearm” in section 2, and substituting the following definition:</td>
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<td>&quot;'Firearm' means anything from which any shot, bullet, missile, or other projectile can be discharged (whether or not by force of explosive); and includes any firearm as defined in section 2 of the Arms Act 1983; and 'to shoot' has a corresponding meaning.”</td>
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| By repealing the definition of the term “hunt or kill” in section 2. | By inserting in section 2, after the definition of the term “ranger”, the following definition:
## TWELFTH SCHEDULE—continued
### ENACTMENTS AMENDED—continued
#### PART III—continued
### AMENDMENTS COMING INTO FORCE ON APPOINTED DATE—continued

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(a) Barter and any form of exchange for consideration;

(b) Offering or attempting to sell:

(c) Receiving for sale or having in possession for sale:

(d) Exposing for sale:

(e) Sending or delivering for sale:

(f) Causing or allowing to be sold, offered for sale, or exposed for sale;—

and ‘sale’ and ‘sold’ have corresponding meanings.”. |
| By repealing paragraph (a) of section 5 (1), and substituting the following paragraph: | “(a) Application for the Order in Council is made to the Director-General by one or more of the following:

(i) Any university within the meaning of the Universities Act 1961:

(ii) Any body appointed to administer land subject to the Reserves Act 1977 if such land has frontage to the seacoast:

(iii) Any body corporate or other organisation engaged in or having as one of its objects the scientific study of marine life or natural history:

(iv) Maori iwi or hapu who have tangata whenua status over the area:

(v) The Director-General.”. |
| By repealing sections 18 and 19, and substituting the following sections: | “18. General powers of rangers—

(1) Every ranger may, in the exercise of his or her duty and upon production of his or her warrant of appointment (if so required),—
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| 1971, No. 15—The Marine Reserves Act 1971 (R.S. Vol. 22, p. 751)—continued | “(a) Require any person whom he or she reasonably believes to have committed or to be committing or about to commit an offence against this Act or any regulations made under this Act to refrain or desist from that act:  
“(b) Require any person whom he or she reasonably believes to have committed or to be committing or about to commit an offence against this Act or any regulations made under this Act to give his or her full name and residential address and to produce evidence of those particulars:  
“(c) Pursue and apprehend, without warrant, any person whom he or she reasonably believes to have committed or to be committing an offence against this Act or any regulations made under this Act:  
“(d) Stop any vessel, vehicle, or other conveyance, or any aircraft while on the ground or on the water, or any other device for carriage or transportation, or stop in transit any parcel, package, case, bag, luggage, or other container that is or that he or she reasonably believes to be in the possession of the owner or of any other person (including any carrier or forwarding agent, whether by land, sea, or air), if he or she reasonably believes that any breach of this Act or of any regulation made under this Act has been committed by the owner or by the person in possession thereof or by any other person, and, in the presence of |
TWELFTH SCHEDULE—continued
ENACTMENTS AMENDED—continued
PART III—continued
AMENDMENTS COMING INTO FORCE ON APPOINTED DATE—continued

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<tr>
<td>1971, No. 15—The Marine Reserves Act 1971 (R.S. Vol. 22, p. 751)—continued</td>
<td>the owner or other person or of any servant of any of them, enter and search any such vessel, vehicle, other conveyance, aircraft, or other device, and in such presence open and search any such parcel, package, case, bag, luggage, or other container.</td>
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"(2) The powers of a ranger under this Act shall be exercisable within any marine reserve; and if a ranger is in fresh pursuit of an offender the ranger may, without warrant, apprehend the offender outside a marine reserve and may exercise any power conferred on a ranger by this Act.

"18A. Powers of seizure—(1) A ranger may seize—

"(a) Any vessel or vehicle or other conveyance which he or she believes on reasonable grounds is being or has been used or is intended to be used in the commission of an offence against subsection (1) or subsection (8)(d) of section 181 of this Act that involves the taking of marine life:

"(b) Any fishing gear, implement, appliance, material, container, goods, equipment, or thing which he or she 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 this Act:

"(c) Any marine life which he or she believes on reasonable grounds are being or have been taken, transported, bought, sold, or found in the possession of any person, in contravention of this
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<td>1971, No. 15—The Marine Reserves Act 1971 (R.S. Vol. 22, p. 751)—continued</td>
<td>Act or any regulations made under this Act; or any other marine life with which such marine life has been intermixed:</td>
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<td>“(d) Any article, record, document, or thing which he or she believes on reasonable grounds is evidence of the commission of an offence against this Act or any regulations made under this Act:</td>
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<td>“(e) All nets, traps, firearms, ammunition, explosives, engines, instruments, appliances, equipment, or devices that he or she believes on reasonable grounds are being used or are intended to be used or have been used in breach of this Act or any regulations made under this Act:</td>
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<td>“(f) Any bag, container, or other article that he or she believes on reasonable grounds is being used for the purpose of carrying any marine life or any part of any marine life, or any sand, stones, gravel, or other material illegally taken or had in possession or that he or she believes on reasonable grounds is being so used.</td>
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<td>“(2) Any marine life seized by a ranger shall, if alive and likely to survive, be returned to the reserve, or, if survival is unlikely, shall be disposed of —</td>
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<td>“(a) In such manner and for such price as the Director-General may determine in any specific instance; or</td>
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| | “(b) According to any regulations made under this Act, if disposal is provided for by such regulations.
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| 1971, No. 15—The Marine Reserves Act 1971 (R.S. Vol. 22, p. 751)—continued | "(8) The decision whether or not to lay any information or charge in respect of an alleged offence for which any property is seized under this Act shall be made as soon as reasonably practicable after the property is seized, taken possession of, or detained."

"(4) A ranger who, acting under subsection (2) of this section, at the time of seizure returns to the reserve any marine life that he or she believes to be alive, shall not be under any civil or criminal liability to the person from whom the marine life was seized in the event of a decision being made not to lay an information or charge in respect of the marine life, or of the person being acquitted of the charge.

"18B. Director-General may release seized property under bond—(1) The Director-General may, at any time until an information or charge is laid in respect of the alleged offence for which the property was seized, at his or her discretion or on application by—

"(a) The person from whom the property was seized; or

"(b) The owner or person entitled to the possession of the property seized or any person having a legal or equitable interest in the property,—

release the property to any such person under bond in such sum and under such sureties and conditions (if any) as the Director-General may specify.

"(2) If any person to whom property is released under subsection (1) of this section fails to comply with the conditions of any bond or with any condition specified by the Director-General,—

"(a) The property may be reseized at any time at the direction of the Director-General; and
TWELFTH SCHEDULE—continued
ENACTMENTS AMENDED—continued
PART III—continued
AMENDMENTS COMING INTO FORCE ON APPOINTED DATE—continued

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| 1971, No. 15—The Marine Reserves Act 1971 (R.S. Vol. 22, p. 751)—continued | “(b) The provisions of this section shall thereupon apply to the property as if it had been seized under section 18A of this Act; and
“(c) The Director-General may, in the case of failure to comply with the conditions of any bond, apply to a court presided over by a District Court Judge for an order for estreat of the bond; and
“(d) If the Director-General so applies, the Registrar shall fix a time and place for the hearing of the application, and shall, not less than 7 days before the time fixed, cause to be served on every person bound by the bond a notice of the time and place so fixed; and
“(e) If on the hearing of any such application it is proved to the satisfaction of the Court that any condition of the bond has not been kept, the Court may make an order to estreat the bond to such an amount as it thinks fit to any person bound thereby on whom notice is proved to have been served in accordance with this subsection; and
“(f) Any penalty payable in accordance with this subsection shall be recoverable as if it were a fine.
“18c. Seized property to be held by Crown if not released—All property seized under section 18A of this Act and the proceeds from the sale of any such property under subsection (2) of that section, except if such property or proceeds have been forfeited to the Crown under section 18c of this Act, shall, sub-
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| 1971, No. 15—The Marine Reserves Act 1971 (R.S. Vol. 22, p. 751)—continued | Inj ect to section 18A of this Act, be held in the custody of the Crown—

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

"(b) If such a charge or information is laid for an offence in respect of which the property was seized, until the completion of such proceedings and, if the property is forfeit, until the disposal of the property under this Act or until such sooner time as the Court may determine.

"18D. Crown to release seized property in certain circumstances—(1) If any property has been seized under section 18A(1) of this Act, and that property or the proceeds of sale of the property under that section remains in the custody of the Crown, then such property shall forthwith be released from the custody of the Crown—

"(a) If a decision is made not to lay an information or charge, or on the withdrawal or dismissal of an information or charge; or

"(b) On the acquittal of all persons charged with any offence for which forfeiture of the property or proceeds is a consequence of conviction.

"(2) If any information or charge has been laid for any alleged offence in respect of which the property was seized under section 18A of this Act and that property, or the proceeds from the sale of the property under that section, remains in the custody of the Crown, the Court may at any time release the property or proceeds, on application by—

"(a) The person from whom the property was seized; or
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<td>1971, No. 15—The Marine Reserves Act 1971 (R.S. Vol. 22, p. 751)—continued</td>
<td>“(b) The owner or person entitled to the possession of the property seized or any person having a legal or equitable interest in the property,— and any such release may be subject to such sureties and conditions as the Court may specified.</td>
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<td>1971, No. 15—The Marine Reserves Act 1971 (R.S. Vol. 22, p. 751)—continued</td>
<td>“18e. Seized property forfeited to Crown if ownership not established—(1) If the ownership of any property cannot be established at the time of seizure or within 90 days after the date of seizure, the property seized shall be forfeit to the Crown and shall be disposed of as directed by the Director-General.</td>
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<td>1971, No. 15—The Marine Reserves Act 1971 (R.S. Vol. 22, p. 751)—continued</td>
<td>“(2) If there is a dispute as to the ownership of any property that has been seized under this Act, the Director-General may apply to a District Court for directions as to the holding and disposal of the property and the Court may give such directions accordingly.</td>
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<td>1971, No. 15—The Marine Reserves Act 1971 (R.S. Vol. 22, p. 751)—continued</td>
<td>“(a) Pursuant to this Act, examines or renders ineffective any net, line, pot, gear, tackle, or device which the person has reasonable cause to believe has been set for the purpose of taking marine life in contravention of this Act or any regulations made under this Act, or of any conditions of any permit, authority, or licence issued in respect of the taking; or</td>
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<tr>
<td>1971, No. 15—The Marine Reserves Act 1971 (R.S. Vol. 22, p. 751)—continued</td>
<td>“(b) Does any act under this Act, or any regulations made under this Act, or omits to do any act required by this Act or by any regulations made under this Act,— shall not be under any civil or criminal liability as a result of that act or omission</td>
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| 1971, No. 15—The Marine Reserves Act 1971 (R.S. Vol. 22, p. 751)—continued| on the ground of want of jurisdiction or mistake of law or fact, or any other ground, unless he or she has acted in bad faith or without reasonable cause.  
“(2) The Crown shall not be held directly or indirectly liable for any such act or omission of any such person, unless the person himself or herself would incur liability for the act or omission.  
“18c. Forfeiture of property on conviction—(1) On conviction of any person for any offence against section 181(1) of this Act or on the discharge of any person under section 19 of the Criminal Justice Act 1985 in respect of any such offence,—  
“(a) Any property used in respect of the commission of the offence, including any vessel or vehicle or other conveyance (whether or not the property was seized under section 18A of this Act); and  
“(b) Any marine life in respect of which the offence was committed (whether or not seized under section 18A of this Act); and  
“(c) Any proceeds from the sale of such marine life under section 18A(2) of this Act—may, on the order of the Court, be forfeit to the Crown if the Court thinks fit to so order.  
“(2) On conviction of any person for any offence against section 181 of this Act other than an offence against subsection (1) of that section, or on the discharge of any person under section 19 of the Criminal Justice Act 1985 in respect of any such offence,—  
“(a) Any property used in respect of the commission of the offence other than any vessel or vehicle
or other conveyance (whether or not the property was seized under section 18A of this Act); and

"(b) Any marine life in respect of which the offence was committed (whether or not seized under section 18A of this Act); and

"(c) Any proceeds from the sale of such marine life under section 18A (2) of this Act—may, on the order of the Court, be forfeit to the Crown if the Court thinks fit to so order.

"(3) For the purposes of section 19 of the Criminal Justice Act 1985, any forfeiture referred to in subsection (2) of this section shall be deemed to be a minimum penalty in respect of the commission of an offence referred to in that subsection, except to the extent that the Court for special reasons relating to the offence thinks fit to order that the property, marine life, or proceeds not be forfeit.

"(4) If any property is forfeit to the Crown under this section, the property shall thereupon vest in the Crown absolutely and free of all encumbrances.

"(5) Before disposing of any seized property under this Act, the Director-General shall give the owner notice of the Crown's intention to dispose of the property and if, as at the expiration of 90 days commencing on the date of that notice, the owner has not lodged an appeal against the intended disposal, the Director-General may then dispose of the property; but, if the seized property is perishable, the Director-General may dispose of the property at any time during that 90-day period and hold the proceeds until the expiration of that period.
## TWELFTH SCHEDULE—continued

### ENACTMENTS AMENDED—continued

### PART III—continued

### AMENDMENTS COMING INTO FORCE ON APPOINTED DATE—continued

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| 1971, No. 15—The Marine Reserves Act 1971 (R.S. Vol. 22, p. 751)—continued | "18H. Provisions relating to forfeit property—(1) In this section, unless the context otherwise requires,— "Forfeit property' means any— 
  "(a) Marine life and any proceeds from the sale of marine life; or 
  "(b) Property— forfeiture to the Crown under section 18C of this Act: "Interest' means a legal or equitable interest in that forfeit property that existed at the time of the forfeiture; but does not include any interest (including ownership) in any foreign vessel or foreign-owned New Zealand fishing vessel or a foreign-operated fish carrier. "(2) The Director-General shall, within 10 working days after the date of any forfeiture under section 255 of this Act, publicly notify the details of the forfeit property and the rights of persons to apply under this section. "(3) Any person claiming an interest in any forfeit property may, within 35 working days after the date of the forfeiture, apply to a District Court for relief from the effect of forfeiture on that interest. "(4) Every application under subsection (2) of this section shall contain sufficient information to identify the interest and the property in which it is claimed, and shall include— 
  "(a) A full description of the forfeit property in which the interest is claimed, including reference to any registration or serial number; and 
  "(b) Full details of the interest or interests claimed, including,— 
  "(i) Whether the interest is legal or equitable; and
### Twelfth Schedule—continued
#### Enactments Amended—continued

#### Part III—continued
#### Amendments Coming into Force on Appointed Date—continued

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| 1971, No. 15—The Marine Reserves Act 1971 (R.S. Vol. 22, p. 751)—continued | “(ii) Whether the interest is by way of security or otherwise; and
“(iii) If the interest is by way of security, details of the security arrangement and any other property included in that arrangement; and
“(iv) Whether the interest is noted on any register maintained pursuant to statute; and
“(v) Any other interests in the property known to the applicant; and
“(c) The applicant’s estimate of the value of the forfeit property and of the value of the claimed interest.
“(5) The Court shall hear all applications in respect of the same property together, unless it considers that it would not be in the interests of justice to do so.
“(6) The Court shall, in respect of every application made under subsection (3) of this section,—
“(a) Determine the value of the forfeit property, being the amount the property would realise if sold at public auction in New Zealand:
“(b) Determine the nature, extent, and, if possible, the value of any applicant’s interest in the property:
“(c) Determine the cost to the Department of the prosecution of the offence which resulted in the forfeiture, and the seizure, holding, and anticipated cost of disposal of the forfeit property, including the Court proceedings in respect of that seizure, holding, and disposal.
“(7) Having determined the matters specified in subsection (6) of this section, the Court may, after having regard to—
TWELFTH SCHEDULE—continued
ENACTMENTS AMENDED—continued
PART III—continued
AMENDMENTS COMING INTO FORCE ON APPOINTED DATE—continued

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| 1971, No. 15—The Marine Reserves Act 1971 (R.S. Vol. 22, p. 751)—continued | “(a) The purpose of this Act; and
“(b) The effect of the offence from which the forfeiture arose on the marine reserve; and
“(c) The effect of the offence from which the forfeiture arose on persons who use the marine reserve; and
“(d) The effect of offending of the type from which the forfeiture arose on the marine reserve; and
“(e) The effect of offending of the type from which the forfeiture arose on persons who use the marine reserve; and
“(f) The social and economic effects on the person who owned the property, and on persons employed by that person, of non-release of the property or quota; and
“(g) The previous offending history (if any) of the persons from whose convictions the forfeiture arose; and
“(h) The economic benefits that accrued or might have accrued to the owners of the property through the commission of the offence; and
“(i) The prevalence of offending of the type from which the forfeiture arose; and
“(j) The cost to the Department of the prosecution of the offence which resulted in the forfeiture, and the seizure, holding, and anticipated cost of disposal of the property, including the Court proceedings in respect of that seizure, holding, and disposal; and
“(k) Such other matters as the Court thinks relevant,—
TWELFTH SCHEDULE—continued
ENACTMENTS AMENDED—continued
PART III—continued
AMENDMENTS COMING INTO FORCE ON APPOINTED DATE—continued

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<td>1971, No. 15—The Marine Reserves Act 1971 (R.S. Vol. 22, p. 751)—continued</td>
<td>and, subject to subsections (8) and (9) of this section, make an order or orders providing relief (either in whole or part) from the effect of forfeiture on any of the interests determined under subsection (6) of this section.</td>
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<td>&quot;(8) No order shall be made under subsection (7) of this section, unless it is necessary to avoid manifest injustice.</td>
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<td>&quot;(9) If the owner of the forfeit property was the person convicted of the offence in respect of which the property was forfeit, no order made under subsection (7) of this section in respect of that forfeit property shall have effect to the extent that it, together with any other order made under that subsection in respect of the same forfeit property, has the effect of allowing less than 40 percent of the value of the forfeit property to remain forfeit to the Crown.</td>
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<td>&quot;(10) Subsection (9) of this section does not prevent the return of up to 100 percent of the value of any forfeit property to any owner of property other than the person convicted of the offence in respect of which the property was forfeit.</td>
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<td>&quot;(11) Without limiting subsection (7) of this section, any order under that subsection may order one or more of the following:</td>
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<td>&quot;(a) The retention of the forfeit property by the Crown:</td>
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<td>&quot;(b) The return of some or all of the forfeit property to the owner at the time of forfeiture, with or without the prior payment to the Crown of a sum of money:</td>
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<td>&quot;(c) The sale of some or all of the forfeit property, with directions as to the manner of sale and dispersal of proceeds:</td>
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| | "(d) The delivery of some or all of the forfeit property to a person with an interest in the prop-
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<td>property, with or without directions as to payment of a sum of money to specified persons (including the Crown) prior to such delivery:</td>
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<td>&quot;(e) The reinstatement (notwithstanding the forfeiture) of any interest that was forfeit or cancelled as a result of a forfeiture.</td>
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<td>&quot;(12) This section does not require the Crown to pay, or secure the payment of, any sum of money to any person claiming an interest in forfeit property, other than the net proceeds of sale of forfeit property under a court order made under subsection (7) of this section.</td>
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<td>&quot;(13) For the purpose of assisting the Court in determining any application for relief, the Director-General and any employee or agent of the Ministry is entitled to appear before the Court and be heard.</td>
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<td></td>
<td>&quot;(14) Any forfeiture under section 18(3) of this Act, or any payment of a sum of money or delivery of property under subsection (7) of this section, to persons claiming an interest, shall be in addition to, and not in substitution for, any other penalty that may be imposed by the Court or by this Act.</td>
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<td>&quot;18.' Offences—(1) Every person commits an offence against this Act and is liable to imprisonment for a term not exceeding 3 months or to a fine not exceeding $250,000, or to both, who, without lawful authority or reasonable excuse, takes or removes from a marine reserve for commercial purposes any marine life.</td>
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|                                               | "(2) Every person commits an offence against this Act and is liable to imprisonment for a term not exceeding 3 months or to a fine not exceeding $50,000, or to both, who, without lawful authority or reasonable excuse, discharges or causes
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<th>Enactment</th>
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<tr>
<td>1971, No. 15—The Marine Reserves Act 1971</td>
<td>to be discharged or deposits, whether directly or indirectly, in or into a marine reserve any toxic substance or pollutant or other substance or article of any kind injurious to marine life.</td>
</tr>
<tr>
<td>(R.S. Vol. 22, p. 751)—continued</td>
<td>&quot;(3) Every person commits an offence against this Act and is liable to imprisonment for a term not exceeding 3 months or to a fine not exceeding $10,000, or to both, who, without lawful authority or reasonable excuse,—</td>
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<td>&quot;(a) Introduces in or into a marine reserve any living organism; or</td>
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<td>&quot;(b) Wilfully damages or wilfully injures any marine life, or wilfully damages the foreshore or seabed, or any of the natural features in a marine reserve; or</td>
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<td>&quot;(c) Uses in a marine reserve any explosive; or</td>
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<td>&quot;(d) Takes or removes from a marine reserve any marine life, mineral, sand, shingle, or other natural material or thing of any kind.</td>
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<td></td>
<td>&quot;(4) Every person commits an offence against this Act and is liable to imprisonment for a term not exceeding 3 months or to a fine not exceeding $5,000, or to both, who, without lawful authority or reasonable excuse,—</td>
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<td>&quot;(a) Discharges any firearm in or into a marine reserve; or</td>
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<td>&quot;(b) Erects any structure in or over a marine reserve; or</td>
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<td></td>
<td>&quot;(c) Wilfully interferes with or wilfully disturbs in a marine reserve any marine life, foreshore or seabed, or any of the natural features.</td>
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<td>&quot;(5) Every person commits an offence against this Act and is liable to imprisonment for a term not exceeding 3 months or to a fine not exceeding $2,500, or to</td>
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</table>
| 1971, No. 15—The Marine Reserves Act 1971 (R.S. Vol. 22, p. 751)—continued | both, who, without lawful authority or reasonable excuse,—

"(a) Deposits or throws in or into a marine reserve any rubbish, except in a place or receptacle approved and provided by the Director-General; or

"(b) Uses, sells, or otherwise disposes of, or is in possession of, any marine life, mineral, gravel, sand, or other substance or thing whatever knowing the same to have been removed unlawfully from a reserve; or

"(c) Fails to comply with any requirement of a ranger under section 18 (1) of this Act; or

"(d) After being required under section 18 (1) (b) of this Act to give his or her name and residential address or to produce evidence of any of those particulars,—

"(i) Gives an untrue or fictitious name or address, or gives such a general description of his or her place of abode as is illusory for the purposes of discovery; or

"(ii) Gives false evidence of his or her full name and address; or

"(e) Impersonates or falsely pretends to be a ranger; or

"(f) Obstructs, threatens, or attempts to intimidate a ranger, or uses language that is abusive or threatening to a ranger, or behaves in a manner threatening to a ranger, while the ranger is acting in the exercise of his or her powers or the discharge of his or her duties under this Act; or
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<tr>
<td>1971, No. 15—The Marine Reserves Act 1971 (R.S. Vol. 22, p. 751)—continued</td>
<td>“(g) Gives, or agrees to give, or offers to any such ranger any gift or consideration as an inducement or reward for any act done or to be done, or any forbearance observed or to be observed, or any favour shown or to be shown, by that ranger, or being a ranger accepts or agrees to accept or solicits any such gift or consideration.</td>
</tr>
<tr>
<td>1978, No. 80—The Marine Mammals Protection Act 1978 (R.S. Vol. 84, p. 709)</td>
<td>“(6) A person shall be deemed to have taken or removed marine life for commercial purposes if he or she is found in possession of an amount exceeding 3 times the amateur individual limit (if any) prescribed in respect of that marine life in regulations made under the Fisheries Act 1996.</td>
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<td>“18J. Additional penalty for removing substance from or damaging reserve—(1) Any person convicted of an offence against section 18I of this Act shall, in addition to any penalty for which the person may be liable under this Act, pay to the Department the full market value of any substance removed from, or for the damage done to, the reserve or to any marine life growing or being in the reserve.</td>
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<td>“(2) The value or damage or cost shall be assessed by a District Court Judge, and shall be recoverable in the same manner as a fine.”</td>
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<td>By repealing section 21.</td>
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<td>By omitting from section 24 (2) (f) (as added by section 60 of the Conservation Law Reform Act 1990) the expression “$200”, and substituting the expression “$2,500”.</td>
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<td>By inserting in section 2 (1), in their appropriate alphabetical order, the following definitions:</td>
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| | “‘Aquatic life’ means any species of plant or animal life which, at any
time in the life history of the species, must inhabit water; and includes seabirds (whether or not in an aquatic environment):

"Fishing":

"(a) Means the catching, taking, or harvesting of fish, aquatic life, or seaweed; and

"(b) Includes—

"(i) Any activity that may reasonably be expected to result in the catching, taking, or harvesting of fish, aquatic life, or seaweed; and

"(ii) Any operation in support of or in preparation for any activities described in this definition:

"Fishing-related mortality' means the accidental death or incidental death of any marine mammal in the course of fishing:

"Human-induced mortality' means the death of any marine mammal that can be attributed directly or indirectly to any human activity:

"Population management plan' means a plan approved under section 3E of this Act:

"Threatened species' means any marine mammal that is for the time being declared by notice under subsection (3) of this section to be a threatened species:"

By omitting from the definition of the term "New Zealand fisheries waters" in section 2 (1) the words "Fisheries Act 1908", and substituting the words "Fisheries Act 1996".
### Enactment and Amendment

<table>
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<tr>
<th>Enactment</th>
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<tbody>
<tr>
<td>1978, No. 80—The Marine Mammals Protection Act 1978 (R.S. Vol. 34, p. 709)</td>
<td>By adding to section 2 the following subsection:</td>
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<td>“(3) The Minister, after having regard to any relevant international standards and any relevant standards within New Zealand, may from time to time, by notice in the Gazette, declare any species of marine mammal to be a threatened species for the purposes of this Act.”</td>
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<td>By inserting, after section 80 (as inserted by section 107 of the Conservation Law Reform Act 1990), the following sections:</td>
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<td>“3E. Population management plans — (1) The Minister may from time to time approve a population management plan in respect of one or more species, being threatened species or other species of marine mammal, containing all or any of the following matters in respect of each species:</td>
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<td>“(a) An assessment of the biology and status of the species:</td>
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<td>“(b) An assessment of any known fisheries interaction with the species:</td>
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<td>“(c) An assessment of the degree of risk caused by fishing-related mortality and other human-induced sources of mortality to the species, whether within New Zealand fisheries waters or elsewhere within the range of the species:</td>
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<td>“(d) An estimate of the range of human-induced mortality for the species which would allow the criteria specified in section 3f of this Act to be met:</td>
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<td>“(e) An estimate of the range of fishing-related mortality for the species which would allow the criteria specified in section 3f of this Act to be met:</td>
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| 1978, No. 80—The Marine Mammals Protection Act 1978 (R.S. Vol. 34, p. 709)—continued | “(f) The maximum allowable level of fishing-related mortality for the species, in New Zealand fisheries waters, which would allow the criteria specified in section 5 of this Act to be met: 
“(g) Subject to section 5 of this Act, if a level has been set under paragraph (f) of this subsection, the maximum allowable level of fishing-related mortality for the species, in specified areas within New Zealand fisheries waters: 
“(h) Recommendations to the Minister of Fisheries on measures to mitigate the fishing-related mortality of the species: 
“(i) Recommendations to the Minister of Fisheries on the standard of information to be collected on fishing-related mortality. 
“(2) In the case of any marine mammals ranging outside New Zealand fisheries waters, the maximum allowable level of fishing-related mortality set under paragraph (f) or paragraph (g) of subsection (1) of this section shall be based on a fair and equitable consideration of the proportion that the estimated fishing-related mortality of marine mammals within those waters bears to the total estimated mortality of marine mammals in all waters (including waters outside New Zealand fisheries waters). 
“(3f) Determining maximum allowable level of fishing-related mortality—In determining the maximum allowable level of fishing-related mortality for threatened species or any other marine mammals under section 5 of this Act, the Minister,— 
“(a) In the case of any threatened species, shall determine a level
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<tr>
<td>1978, No. 80—The Marine Mammals Protection Act 1978 (R.S. Vol. 34, p. 709)—continued</td>
<td>of fishing-related mortality which should allow the species to achieve non-threatened status as soon as reasonably practicable, and in any event within a period not exceeding 20 years:</td>
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<td>“(b) In the case of any other marine mammal, shall determine a level of fishing-related mortality which should neither cause a net reduction in the size of the population nor seriously threaten the reproductive capacity of the species.</td>
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<td>“3c. Determining area-based maximum levels of fishing-related mortality—(1) Area-based limits set under section 3e (1)(g) of this Act shall be set only—</td>
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<td>“(a) For populations of threatened species that are geographically or genetically discrete; and</td>
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<td>“(b) For areas corresponding to areas having effect under the Fisheries Act 1996 as fisheries management areas or quota management areas.</td>
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<td>“(2) In setting any area-based limit for a threatened species under section 3e (1)(g) of this Act, the Minister shall determine a level of fishing-related mortality for a discrete population referred to in subsection (1) of this section which should neither cause a net reduction in the size of the population nor seriously threaten the reproductive capacity of that population.</td>
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<td>“3h. Procedure for preparation and approval of population management plans—(1) Population management plans shall be prepared and approved as follows:</td>
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| 1978, No. 80—The Marine Mammals Protection Act 1978 (R.S. Vol. 84, p. 709)—continued | "(a) The Director-General shall prepare every population management plan in consultation with every Conservation Board and with such persons as the Director-General considers are representative of those classes of persons interested in the plan, including such persons or organisations as the Director-General considers are representative of Maori, environmental interests, commercial interests, and recreational interests:

"(b) The Director-General shall then publish notice of the draft plan at least once in each of the daily newspapers published in Auckland, Wellington, Christchurch, and Dunedin, respectively:

"(c) Every notice under paragraph (b) of this subsection shall—
  "(i) State that the draft plan is available for inspection at the places and times specified in the notice; and
  "(ii) Call upon persons or organisations interested to lodge with the Director-General submissions on the draft before the date specified for the purpose in the notice, being a date not less than 40 working days after the date of the publication of the notice; and
  "(iii) Require any person who wishes to be heard in support of the person's submission to so advise the Director-General:

"(d) Any person or organisation may make written submissions to the Director-General on any draft plan, at the place and
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<tr>
<td>1978, No. 80—The Marine Mammals Protection Act 1978 (R.S. Vol. 34, p. 709)</td>
<td>before the date specified for the purpose in the notice:</td>
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<td>“(e) From the time of publication of a draft plan until public opinion on it has been made known to the Director-General, he or she shall make the draft available for public inspection during normal office hours, in such places and quantities as are likely to encourage public participation in the development of the proposal:</td>
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<td>“(f) The Director-General shall give every person or organisation who or which, in making submissions on the draft, asked to be heard in support of his or her or its comments a reasonable opportunity of appearing before the Director-General or the Director-General’s representative or representatives:</td>
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<td>“(g) The Director-General, or his or her representative or representatives, may hear submissions from any other person or organisation consulted on the draft:</td>
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<td>“(h) The Director-General shall prepare a summary of the submissions received on the draft and public opinion made known on the draft:</td>
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<td>“(i) After considering such submissions and public opinion, the Director-General may revise the draft:</td>
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<td>“(j) The Director-General shall send to the Minister of Fisheries and to the New Zealand Conservation Authority a copy of the summary prepared under paragraph (h) of this subsection:</td>
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</table>
1978, No. 80—The Marine Mammals Protection Act 1978 (R.S. Vol. 34, p. 709)—continued

### TWELFTH SCHEDULE—continued

#### ENACTMENTS AMENDED—continued

#### PART III—continued

#### AMENDMENTS COMING INTO FORCE ON APPOINTED DATE—continued

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<th>Enactment</th>
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</table>
| 1978, No. 80—The Marine Mammals Protection Act 1978 (R.S. Vol. 34, p. 709)—continued | together with a copy of the draft plan:

"(k) The New Zealand Conservation Authority shall consider the summary of submissions and the draft plan and send to the Minister and the Director-General any comments on the draft:

"(l) The Director-General, after having regard to any comments received under paragraph (k) of this subsection,—

"(i) May amend the draft:

"(ii) Shall send to the Minister the summary prepared under paragraph (h) of this subsection together with a copy of the draft plan:

"(m) After having regard to—

"(i) The provisions of sections 3e, 3f, and 3c of this Act; and

"(ii) All submissions made on the draft plan; and

"(iii) Such other matters as the Minister considers relevant,—

the Minister may approve the plan subject to the concurrence of the Minister of Fisheries and refer it to that Minister for concurrence:

"(n) The Minister of Fisheries may concur with the draft plan after having regard to the impacts of implementing the maximum allowable level of fishing-related mortality on commercial fishing and such other matters as that Minister considers relevant:

"(p) The approved plan shall be available for public inspection at the
TWELFTH SCHEDULE—continued
ENACTMENTS AMENDED—continued
PART III—continued
AMENDMENTS COMING INTO FORCE ON APPOINTED DATE—continued

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| 1978, No. 80—The Marine Mammals Protection Act 1978 (R.S. Vol. 34, p. 709)—continued | head office of the Department of Conservation at such times as may be specified in the notice given in respect of the plan under subsection (2) of this section. “(2) The Director-General shall, by notice in the Gazette, specify— “(a) The species to which the approved plan relates; and “(b) The maximum allowable level of fishing-related mortality specified in the approved plan; and “(c) The times at which the approved plan is available for public inspection at the head office of the Department of Conservation. “(3) Any approved plan may be amended, and paragraph (a) and paragraphs (l) to (p) of subsection (1) and subsection (2) of this section shall apply to every such amendment with any necessary modifications.” By repealing subsection (1) of section 9, and substituting the following subsection: “(1) Every person commits an offence and is liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding $250,000, and to a further fine not exceeding $10,000 for every marine mammal in respect of which the offence was committed, who takes, has in possession, exports, imports, has on board any vessel, vehicle, aircraft, or hovercraft, or has control of any marine mammal, otherwise than under this Act or a permit.” By inserting in section 16, after the word “accidentally” wherever it occurs, the words “or incidentally”.

By omitting from section 16 the word “accident” wherever it occurs, and substituting in each case the word “event”.

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| 1978, No. 80—The Marine Mammals Protection Act 1978 (R.S. Vol. 34, p. 709)—continued | By omitting from section 16 the words “the Director-General or an officer” (as substituted by section 65 (1) of the Conservation Act 1987) wherever they occur, and substituting in each case the words “an officer or a fishery officer (as defined in section 2 (1) of the Fisheries Act 1996)”.
By inserting in section 16, after subsection (3), the following subsection:
“(3A) In addition to providing the particulars required by subsection (1) or subsection (2) of this section, a person required to report an event to which that subsection applies shall provide to the Director-General such other particulars relating to the event as the Director-General may require for the purposes of this Act.”
By omitting from section 23 (3) (a) the expression “$5,000”, and substituting the expression “$30,000”.
By omitting from section 23 (3) (b) the expression “$1,000”, and substituting the expression “$10,000”.
By inserting in section 26 (4), after the words “was accidental”, the words “, or incidental,”.
By omitting from section 30 (2) the words “enhance, protect, allocate, or manage any fishery controlled by the Fisheries Act 1983”, and substituting the words “use, conserve, enhance, or develop any fisheries resources controlled under the Fisheries Act 1996”.
By repealing subparagraph (iii) of section 61 (2) (a), and substituting the following subparagraph:
“(iii) Regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other...
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By repealing subparagraph (iii) of section 66 (2) (c), and substituting the following subparagraph:
“(iii) Regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taipure, mahinga mataitai, or other non-commercial Maori customary fishing); and”.
By repealing subparagraph (iii) of section 74 (2) (b), and substituting the following subparagraph:
“(iii) Regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taipure, mahinga mataitai, or other non-commercial Maori customary fishing),—”.

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<tr>
<td>1994, No. 104—The Maritime Transport Act 1994</td>
<td>By inserting in section 27 (1), after the words “other than”, the words “persons to be employed or engaged in fishing within the meaning of the Fisheries Act 1996 and”</td>
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### TWELFTH SCHEDULE—continued

**ENACTMENTS AMENDED—continued**

**PART IV**

**AMENDMENTS TO PRIVACY ACT 1993**

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<tr>
<td>1993, No. 28—The Privacy Act 1993</td>
<td>By adding to the appropriate columns in Part I of the Second Schedule, the following item:</td>
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<td>&quot;Fisheries Act Sections 98, 124&quot;</td>
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**PART V**

**AMENDMENTS TO TERRITORIAL SEA AND EXCLUSIVE ECONOMIC ZONE ACT 1977**

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<tr>
<td>1977, No. 28—The Territorial Sea and Exclusive Economic Zone Act 1977 (R.S. Vol. 27, p. 877)</td>
<td>By repealing the definitions of the terms &quot;fish&quot;, &quot;fishery&quot;, &quot;fishing&quot;, &quot;fishing craft&quot;, &quot;foreign fishing craft&quot;, &quot;licence&quot;, &quot;licensee&quot;, &quot;master&quot;, &quot;owner&quot;, &quot;shellfish&quot;, &quot;take&quot;, and &quot;total allowable catch&quot; in section 2 (1). By repealing section 32, and substituting the following section:</td>
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<td>&quot;32. Onus of proof in respect of certain offences—If, in any proceedings under this Act, a defendant is charged with having contravened any provision in any regulations made under this Act under which a licence or permit, or the consent of any person, is required for the doing of any act, the defendant has the onus of proving that at the time to which the charge relates, the requisite licence, permit, or consent was duly held.&quot;</td>
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TWELFTH SCHEDULE—continued
ENACTMENTS AMENDED—continued

PART VI
AMENDMENTS TO SUMMARY PROCEEDINGS ACT 1957

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<tr>
<td>1957, No. 9—The Summary Proceedings Act 1957 (R.S. Vol. 9, p. 583)</td>
<td>By adding to the appropriate columns in Part II of the First Schedule, the following item:</td>
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<td>&quot;The Fisheries Act 1996 (1) and (2) Knowingly making a false or misleading statement or using a false document to obtain a benefit</td>
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<td>231 (1) and (2) Knowingly receiving or possessing fish for sale or engaging in a commercial activity, otherwise than in accordance with the Act.&quot;</td>
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PART VII
AMENDMENTS TO FISHERIES ACT 1983 AND OTHER ACTS

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<tr>
<td>1983, No. 14—The Fisheries Act 1983 (R.S. Vol. 27, p. 137)</td>
<td>By inserting in paragraph (a) of the definition of the term &quot;fishing year&quot; in section 2 (1) (as substituted by section 48 (1) of the Maori Fisheries Act 1989), after the words &quot;Southern Scallop Fishery&quot; (as inserted by section 2 (2) of the Fisheries Amendment Act (No. 2) 1992), the words &quot;and in the Northland scallop fishery (as defined in the Fisheries Act 1996)&quot;.</td>
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<td>By repealing the definition of the term &quot;Southern Scallop Fishery&quot; in section 2 (1) (as inserted by section 2 (1) of the Fisheries Amendment Act (No. 2) 1992), and substituting the following definition: &quot;Southern scallop fishery has the same meaning as it has in the Fisheries Act 1996: &quot;.</td>
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| 1983, No. 14—The Fisheries Act 1983 (R.S. Vol. 27, p. 137)—continued | By omitting from section 28BA (2) the words “in the Third Schedule to that Act”, and substituting the words “by the same reference number in Part III of the First Schedule to the Fisheries Act 1996”. By omitting from section 280E (1) the words “other than rock lobster”. By omitting from section 28c (2) the expression “section 28c”, and substituting the expression “section 280b”. By omitting from section 28c (1) the words “other than rock lobster”. By repealing subsections (1) (b) and (3) of section 28d. By inserting in section 280b (1), after the words “section 28c (1) of this Act”, the words “or any total allowable commercial catch for rock lobster”.
By omitting from section 28ZM (3) (a) the word “Determine”, and substitute the word “Specify”.
By inserting in section 28ZM (3) (b), after the word “Extend”, the words “or shorten”.
By adding to section 28v (11) (as added by section 8 (2) of the Fisheries Amendment Act (No. 2) 1992) the words “or in respect of southern scallops taken on or after the 1st day of October 1994, northern scallops, or Nelson-Marlborough dredge oysters.”
By adding to section 28ZA (2) (as substituted by section 18 of the Fisheries Amendment Act 1991) the expression “; but—” and the following lines: “an authority referred to in paragraph (c) of this subsection authorises the taking of fish under the authority of the holder’s or lessee’s quota only in the year in which the authority is furnished to the Registrar in accordance with subparagraph (iii) of that paragraph.”
By adding to section 28ZA (as inserted by section 10 of the Fisheries Amendment Act (No. 2) 1992) the words “or any total allowable commercial catch for rock lobster”. |
| | |
TWELFTH SCHEDULE—continued
ENACTMENTS AMENDED—continued
PART VII—continued
AMENDMENTS TO FISHERIES ACT 1983 AND OTHER ACTS—continued

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| 1983, No. 14—The Fisheries Act 1983 (R.S. Vol. 27, p. 187)—continued | Act (No. 2) 1992) the following subsection:

“(11) Nothing in this section applies to the assessment of any balance that is a monthly balance or opening balance, and is a balance in respect of any period commencing on or after the 1st day of April 1998, and this subsection shall be deemed to have come into force on the 1st day of October 1992.”

By repealing subsection (2) of section 28zm (as enacted by section 13 of the Fisheries Amendment Act (No. 2) 1992).

By omitting from section 28zm (3) (as so enacted) the words “, after consultation with the Southern Scallop Fishery Advisory Committee,”.

By repealing section 28zz (as so enacted).

By omitting from section 28zz (as so enacted) the words “the Southern Scallop Fishery Advisory Committee and such other”, and substituting the word “such”.

By omitting from section 56 (as substituted by section 13 of the Fisheries Amendment Act 1986) the words “designate officers of the Ministry”, and substituting the words “appoint any suitable persons”.

By adding to section 56 (as so substituted), as subsections (2) and (3), the following subsections:

“(2) Any appointment under subsection (1) of this section may, but is not required to, be made under the State Sector Act 1988.

“(3) The chief executive may at any time, by notice in writing, revoke any appointment made under this section if there is any disability, bankruptcy, neglect of duty, or misconduct of the appointee proved to the satisfaction of the chief executive, and the revocation shall take effect on the date specified for the purpose in the notice.”

By inserting in section 62 (as substituted by section 13 of the Fisheries Amendment Act 1986), after subsection (1A) (as inserted by section 31 of the Fisheries Amendment Act 1990), the following subsections:

"(1AA) Notwithstanding subsection (1A) of this section, no person shall take any freshwater eels by any method unless that person is—

(a) The holder of a fishing permit that authorises the taking of freshwater eels; or

(b) A person who is an employee or agent of the holder of that fishing permit and is named in an agreement approved by the responsible chief executive under subsection (1AB) of this section—and the taking is in accordance with that permit.

(1AB) The responsible chief executive may approve an agreement for the purpose of subsection (1AA) of this section if—

(a) The agreement is submitted to the responsible chief executive in the approved form and is accompanied by the prescribed fee (if any); and

(b) The agreement is signed by all persons for whom authority to take freshwater eels under the fishing permit is being sought and by the holder of the fishing permit; and

(c) The number of persons for whom authority to take freshwater eels under the fishing permit is being sought does not exceed the total number of persons permitted by the responsible chief executive in accordance
### TWELFTH SCHEDULE—continued

#### ENACTMENTS AMENDED—continued

#### PART VII—continued

#### AMENDMENTS TO FISHERIES ACT 1983 AND OTHER ACTS—continued

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"(1AC) The responsible chief executive may approve a variation of an agreement approved under subsection (1AB) of this section that adds or deletes the name of any person to or from the agreement, if—

"(a) The variation is submitted to the responsible chief executive in the approved form and is accompanied by the prescribed fee (if any); and

"(b) The variation is signed by the persons for whom new authority to take freshwater eels under the fishing permit is being sought and by the holder of the fishing permit; and

"(c) The number of persons who will have authority to take freshwater eels under the fishing permit will not exceed the total number of persons permitted by the responsible chief executive in accordance with subsection (1AE) of this section.

"(1AD) An agreement under subsection (1AB) of this section, or a variation under subsection (1AC) of this section, shall not take effect until approved by the responsible chief executive.

"(1AE) The responsible chief executive may set a condition on a fishing permit limiting the total number of persons who may be named in any agreement under subsection (1AB) of this section.

"(1AF) No person shall at any time hold more than one fishing permit referred to in subsection (1AA) (a) of this section.

"(1AG) No fishing permit referred to in subsection (1AA) (a) of this section is transferable.

"(1AH) For the purposes of subsections (1AA) to (1AC) of this section, freshwater
**TWELFTH SCHEDULE—continued**

**ENACTMENTS AMENDED—continued**

**PART VII—continued**

**AMENDMENTS TO FISHERIES ACT 1983 AND OTHER ACTS—continued**

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<td>1983, No. 14—The Fisheries Act 1983 (R.S. Vol. 27, p. 137)—continued</td>
<td>eels are the species <em>Anguilla australis</em>, <em>Anguilla dieffenbachii</em>, and <em>Anguilla reinhardtii</em>, in all areas in New Zealand fisheries waters.” By adding to subsection 62(1a) (as inserted by section 31 of the Fisheries Amendment Act 1990) the expression “; or” and the following paragraph: &quot;(c) Takes any freshwater eels in contravention of subsection (1AA) of this section.” By adding to section 64, the following subsection: “(4) Notwithstanding anything in section 67A of this Act, it shall be lawful to possess, buy, or otherwise dispose of, any fish, aquatic life, or seaweed where that fish, aquatic life, or seaweed has been obtained from the holder of a permit issued under this section and in accordance with the method of disposal provided for under that permit.” By repealing the Third Schedule. By omitting from section 7 (4) the word “scallops”, and substituting the words “southern scallops, northland scallops, and Nelson-Marlborough dredge oysters”. By omitting from section 7 (4) the words “to which any”, and substituting the words “to which any relevant”.</td>
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<td>1983, No. 14—The Fisheries Act 1983 (R.S. Vol. 27, p. 137)</td>
<td>By omitting from section 28zd (1) the words &quot;at a time when the fisherman has a current right to take any species or class of fish subject to the quota management system,&quot;. By adding to section 28zd (2A) the expression &quot;; and&quot; and the following paragraph: &quot;(c) Is liable for the deemed value amount incurred in respect of fish taken in excess of a written authority under section 28ZA (2) (c) of this Act.&quot;</td>
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<td>1983, No. 14—The Fisheries Act 1983 (R.S. Vol. 27, p. 137)</td>
<td>By repealing subsection (2) of section 28b, and substituting the following subsection: “(2) If the Minister makes any declaration under subsection (1) of this section in respect of any species or class of fish for any quota management area within which there is a controlled fishery for that species or class of fish, that controlled fishery shall cease to have effect in respect of that species or class of fish on and from the date specified in the notice as the date on which the species or class of fish is to become subject to the quota management system.” By omitting from section 28b (5) the words “Except as provided in section 28m of this Act, no”, and substituting the word “No”. By adding to section 28b the following subsection: “(7) If the Minister is satisfied that separate populations of any species that occur in the waters around the Chatham Islands can, for fisheries management purposes, be managed effectively as a unit, a notice under subsection (1) of this section may create around the Chatham Islands a separate quota management area for that species.” By repealing subsections (2), (3), and (4) of section 28c.</td>
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This Act is administered in the Ministry of Fisheries.