

**Version
as at 1 November 2022**

Fisheries Amendment Act (No 2) 1992

Public Act 1992 No 90
Date of assent 1 October 1992

Fisheries Amendment Act (No 2) 1992: repealed, on 1 November 2022, pursuant to section 22 of the Fisheries Amendment Act 2022 (2022 No 56).

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Note

Changes authorised by subpart 2 of Part 3 of the Legislation Act 2019 have been made in this consolidation. See the notes at the end of this consolidation for further details.

This Act is administered by the Ministry for Primary Industries.

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Schedule

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An Act—

- (a) To make better provision for the enhancement and management of the Southern Scallop Fishery; and**
- (b) To make better provision for the recognition of Maori fishing rights; and**
- (c) To facilitate the entry of Maori into, and the development by Maori of, the business and activity of fishing; and**
- (d) To amend the Fisheries Act 1983 and the Maori Fisheries Act 1989**

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 Amendment Act (No 2) 1992, and shall be read together with and deemed part of the Fisheries Act 1983 (hereinafter referred to as the principal Act).
- (2) Except as provided in sections 5(4), 8(4), 9(4), and 12(2) of this Act, this Act shall come into force on the 1st day of October 1992.

Part 1
Amendments to principal Act

2 Interpretation

This section inserted the definitions of **Annual allowable catch**, **Meatweight**, **Scallop**, **Scallop spat**, **Southern scallop fishery**, **Southern scallop fishery Advisory Committee**, and **Southern scallop season**, and amended the definitions of **Fishing year**, **Quota management area** and **quota management system**, in s 2(1) of the principal Act.

Subsection (3) was consequentially repealed, as from 23 June 1998, by section 35(6) Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

3 Part 2A not to apply to Southern Scallop Fishery

This section inserted s 28AB of the principal Act.

4 Reduction of total allowable commercial catch

This section amended s 28OD(8) of the principal Act.

5 Transfers and leases of individual transferable quotas

This section substituted s 28Q(2) of the principal Act.

6 Minimum holdings of quota and interest in quota

This section repealed s 28S(8) and amended s 28S(9) of the principal Act.

7 Power of Crown to acquire, hold, transfer, lease, or cancel quotas

This section amended s 28U of the principal Act.

8 Taking of fish in excess of quota, and carrying forward of unused quota

- (1) This subsection repealed s 28V(3) of the principal Act.
- (2) This subsection inserted s 28V(11) of the principal Act.
- (3) Nothing in this section affects any rights under section 28V of the principal Act (as so substituted) that have accrued before the commencement of this section.
- (4) This section shall come into force on the 1st day of April 1993.

9 Fish subject to quota fishing cannot be taken for sale other than under quota

(1) This subsection amended s 28ZA(2B) of the principal Act.

(2) This subsection inserted s 28ZA(4)(d) of the principal Act.

(3) This subsection amended s 28ZA(4) of the principal Act.

(4) Subsections (2) and (3) of this section shall be deemed to have come into force on the 1st day of October 1990.

10 Special provision in relation to quota balances

This section inserted s 28ZCA of the principal Act.

11 Commercial fishermen may be required to pay deemed value of excess or unauthorised quota fish

(1) These subsections inserted s 28(2A), (2B), (2C) and (3) of the principal Act.

(2) These subsections inserted s 28(2A), (2B), (2C) and (3) of the principal Act.

(3) Notwithstanding anything in the principal Act, subsections (2A) to (3) of section 28ZD of that Act (as inserted by subsections (1) and (2) of this section) shall be deemed to apply on and from the 1st day of October 1990, except that, in respect of the period commencing on the 1st day of October 1990 and ending with the close of the 30th day of September 1992, the lessor shall not be liable for the deemed value payment in respect of that fish if, during the term of the lease, the lessee did not exercise rights in respect of that lease that were greater than the rights which, but for the operation of section 28Q(11) of this Act (as inserted by section 5(2) of this Act), would have been exercisable by the lessee after the previous catch taken by the lessor had been taken into account.

(4) The Fisheries Amendment Act 1992 is hereby consequentially repealed.

12 Amount of deemed value to be returned to fisherman where quota subsequently obtained

(1) This subsection substituted s 28ZF(2) of the principal Act.

(2) This section shall be deemed to have come into force on the 1st day of October 1990.

13 New Part 2B inserted

This section inserted a new Part 2B into the principal Act.

Miscellaneous provisions

14 Declaration of controlled fisheries

(1) *Consolidated*

- (2) Section 11 of the Fisheries Amendment Act 1986 is hereby consequentially repealed.
- (3) Every Order in Council made under section 30(6) of the principal Act (as it read immediately before the commencement of this Act) shall have effect as if it were an order made under section 30(6)(b) of the principal Act (as substituted by subsection (1) of this section).

15 Records and returns

This section amended s 66(1)(b) of the principal Act.

16 Regulations

This section amended s 89 of the principal Act.

17 Informations relating to certain offences may be heard together

This section inserted s 104A of the principal Act.

18 Defences available to commercial fishermen taking unauthorised fish

This section amended s 105A(2) of the principal Act.

19 Certificates and official documents

This section amended s 106(1)(a)(vi) of the principal Act.

20 Forfeiture of property and quota on conviction

This section amended s 107B of the principal Act.

21 Variation of resource rentals

This section amended s 107G(1)(a) of the principal Act.

22 Amounts payable under Act recoverable as statutory debts

This section inserted s 107I of the principal Act.

23 New Schedule 1D inserted

This section inserted Schedule 1D into the principal Act.

24 Revocations

- (1) The Fisheries (Southern Scallop Fishery Quota) Regulations 1992 are hereby revoked.
- (2) The Fisheries (Southern Scallop Fishery Quota Allocation) Notice 1992 is hereby revoked.
- (3) Notwithstanding subsections (1) and (2) of this section or anything in section 28ZZ of the principal Act, the holders of individual quotas denoted by the quota registration numbers 9160054, 9060081, 9160099, and 9060079 may continue to take scallops under the authority of such quota until the allocations

referred to in Part 5 of Schedule 1D to this Act have been made by the Maori Fisheries Commission; but, when such an allocation to a holder has been made, that holder shall not take scallops except under the authority of that allocation.

Transitional provisions

25 Catches taken under individual quota deemed taken under individual transferable quota

Notwithstanding anything in the principal Act, or any regulations made under that Act,—

- (a) For the purposes of calculating the amount of scallops that may be taken under the authority of quota in the fishing year ending with the close of the 31st day of March 1993, all scallops taken from the Southern Scallop Fishery in the period beginning on the 18th day of August 1992 under the authority of an individual quota, shall be deemed to have been taken under the authority of an individual transferable quota granted under Part 2B of the principal Act;
- (b) Resource rentals payable under the principal Act in respect of scallops shall, until the close of the 31st day of March 1993, continue to be paid on the basis of catch.

26 Scallop Enhancement Project Trust Account

- (1) Subject to subsections (2) and (3) of this section, the Director-General shall, as soon as practicable, close the Scallop Enhancement Project Trust Account established by the Ministry.
- (2) The Director-General shall pay into the Ministry's departmental account the sum of \$60,000.
- (3) The Director-General shall pay the balance remaining in the Trust Account to the trust account established under section 28ZZG of the principal Act (as inserted by section 13 of this Act).

27 Validation of levy

All money collected by the Ministry by way of a levy of \$5.50 per tonne of scallops taken from the Southern Scallop Fishery, being a levy imposed in respect of an additional amount of 96 tonnes of scallops made available by the Crown in October 1991, is hereby deemed to be and always to have been lawfully collected.

28 Savings

- (1) Nothing in this Act limits or affects any regulations made under the principal Act and in force immediately before the commencement of this Act.

- (2) Nothing in this Act affects any conviction entered before the commencement of this Act in respect of an offence against the principal Act or regulations made under that Act.
- (3) In the case of any charge laid against any person for an alleged offence against the principal Act or regulations made under that Act, being a charge—
 - (a) Laid on or after the 1st day of April 1990 and before the date of the making of regulations made under paragraphs (ka) and (kb) of section 89(1) of that Act; and
 - (b) Laid in respect of fish taken before the date of the making of the regulations referred to in paragraph (a) of this subsection,—
the following provisions shall apply:
 - (c) The fact that the regulations referred to in paragraph (a) of this subsection had not been made before the fish were taken shall not in itself be a ground for dismissing the charge;
 - (d) Any balance used by the Ministry to establish the amount of fish taken by the defendant or the catching rights available at the end of any month, and the basis on which that balance was calculated or assessed, shall not be invalid by reason only that the regulations referred to in paragraph (a) of this subsection had not been made before the fish were taken.
- (4) Nothing in this Act shall render any person liable to conviction of any offence against the principal Act, or any regulations made under that Act, on account of any act or omission which did not constitute an offence at the time it occurred.

Part 2

Amendments to Maori Fisheries Act 1989

29 Part to be read with Maori Fisheries Act 1989

This Part of this Act shall be read together with and deemed part of the Maori Fisheries Act 1989 (hereinafter in this Part of this Act referred to as the principal Act).

30 Allocation of quota for Southern Scallop Fishery

This section inserted s 44A of the Maori Fisheries Act 1989.

31 Stamp duty exemption

This section amended s 46 of the Maori Fisheries Act 1989.

Schedule

New Schedule 1D inserted into principal Act

Section 23

Consolidation notes

1 *General*

This is a consolidation of the Fisheries Amendment Act (No 2) 1992 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *About this consolidation*

This consolidation is not an official version of the legislation under section 78 of the Legislation Act 2019.

3 *Amendments incorporated in this consolidation*

Fisheries Amendment Act 2022 (2022 No 56): section 22