

Fisheries (International Fishing and Other Matters) Amendment Bill

Government Bill

As reported from the Primary Production Committee

Commentary

Recommendation

The Primary Production Committee has examined the Fisheries (International Fishing and Other Matters) Amendment Bill and recommends that it be passed. We recommend all amendments unanimously.

Introduction

This bill would amend the Fisheries Act 1996 to enable New Zealand to better meet its management and compliance obligations in relation to international fisheries, particularly for preventing illegal, unreported, and unregulated (IUU) fishing. The bill also seeks to improve the efficiency and clarity of the legislation and associated decision-making processes related to international fisheries. In particular, it aims to improve:

- the monitoring and regulation of New Zealand-flagged vessels operating outside New Zealand waters
- New Zealand's capacity to combat IUU fishing
- the high seas fishing permitting regime for fishing operators and decision-makers
- the efficiency and effectiveness of actions against international fisheries violations.

New Zealand's current legislative framework for international fisheries management and compliance was established through Part 6A of the Fisheries Act 1996. Since then, IUU fishing has emerged as a global threat. International obligations have sought to keep pace to strengthen the sustainable conservation and management of

fishery resources, and various binding and non-binding international instruments have been developed to eliminate IUU fishing.¹

By better meeting international obligations and expectations, the bill aims to strengthen New Zealand's reputation as a responsible fishing nation and ensure it can continue to access high-value seafood markets. It would do this by amending New Zealand's international permitting regime, enabling more effective action against offending, and strengthening measures to prevent IUU fishing. These amendments would improve New Zealand's ability to regulate activities by its vessels outside its waters and to investigate fisheries violations by foreign-flagged and stateless vessels.

The Ministry for Primary Industries is responsible for administering the Fisheries Act. Decision-making responsibilities in the Act, and this bill, rest with the chief executive of that ministry.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss all minor or technical amendments.

Criteria for issuing international fishing permits

Evidence of authorisation by foreign country

Clause 29 of the bill would replace section 113H of the Act with new sections 113H, 113HA, and 113HB, which apply to the issuing of international fishing permits. Section 113H would enable the chief executive to issue a fishing permit for the high seas, or for the national fisheries jurisdiction of a foreign country. Permits are issued in accordance with the criteria set out in section 113HA.

We consider that the bill as introduced could cause confusion for those applying for permits for the national fisheries jurisdiction of a foreign country. The criteria do not clearly state that, to be able to obtain this type of international fishing permit, applicant vessels must have authorisation from the relevant coastal state to fish within their waters.

To avoid doubt for applicants, we recommend inserting subsection (2A) in new section 113HA. This would make clear that the chief executive must be satisfied that

¹ The Foreign Affairs, Defence and Trade Committee of the 53rd Parliament discussed these developments in detail in its report, *Inquiry into illegal, unregulated, and unreported fishing*, in August 2023.

a vessel applying for a permit under section 113H(b) is authorised by the relevant foreign country to fish within its national jurisdiction.

Previous non-compliance

Section 113HB sets out other matters that the chief executive may consider before issuing an international fishing permit, even if the criteria in section 113HA have been met. In the bill as introduced, the chief executive may “have regard to” previous non-compliance by any relevant person or crew member of the applicant vessel, regardless of where it has occurred.

Some submitters considered that the bill should require the chief executive to consider any IUU fishing as grounds for refusing to issue a fishing permit, regardless of where the offence has occurred. In practice, before issuing an international fishing permit, the ministry conducts a risk assessment to consider any previous non-compliance by the applicant. This information is submitted to the chief executive to support their decision-making.

We agree that the bill could better empower the chief executive to decline an applicant on the basis of non-compliance. However, we do not believe that a chief executive should be required to consider non-compliance, or that a permit should be automatically declined where there has been non-compliance. This would go beyond what is required under international standards. It would also depart from the risk-based assessments undertaken by the ministry, and would not take into account the severity of the offence as part of decision-making.

To strike the right balance, we recommend amending section 113HB(1) and (2) to clarify that the chief executive may “take into account” any previous non-compliance, in any jurisdiction.

Conditions for suspending or revoking international fishing permits

Request by a foreign country to revoke a permit

Clause 36 would amend section 113N to enable the chief executive to suspend or revoke an international fishing permit. The bill as introduced provides for this in two circumstances:

- if there is evidence that the effectiveness of international conservation and management measures has been undermined
- at the request of a foreign country, if the permit is for that country’s fisheries jurisdiction.

Submitters suggested amending the bill so that permits could be suspended or revoked for offending at the request of a foreign country, even after the vessel has left its waters. The bill as introduced also does not explicitly provide that, at the request of a foreign country, the permit can be revoked for high seas fishing operations, if it was granted for both the foreign jurisdiction and the high seas. We think the absence of such a provision could limit the chief executive’s ability to ensure that vessels adhere to international fisheries management obligations.

To better align with the policy intent, we consider that the bill should explicitly state that when a foreign state (where a permit applies) requests the suspension or revocation of a permit, the chief executive can suspend or revoke the permit in its entirety, not only in respect of the foreign country. This would ensure that New Zealand can exercise its responsibilities to ensure that vessels do not undermine the effectiveness of international conservation and management measures.

We therefore recommend amending proposed new section 113N(2A) to empower the chief executive to fully suspend or revoke an international fishing permit at the request of a foreign country whose authorisation was relied on to issue the permit.

Suspected serious offending against domestic fisheries laws

Submitters suggested that the chief executive should also be empowered to suspend or revoke a permit in response to suspected offending in New Zealand waters. We consider that this would enable greater oversight and accountability of actions taken by vessels in New Zealand's exclusive economic zone (EEZ). However, we agree that the power to suspend or revoke should only be enabled in relation to the most serious of suspected offending, given that decision-making is at the chief executive's discretion.

Therefore we recommend inserting paragraph (b) in section 113N(2A) to allow the chief executive to suspend or revoke a permit where the chief executive "believes on reasonable grounds that an offence has been committed". We recommend inserting section 113N(5) to define the term "offence" in terms of section 252(1)(a), (b), or (c) of the Act. The offences under these sections are: knowingly making a false or misleading statement, using a false communication to obtain a benefit, or knowingly acting in contravention of the Act to obtain a benefit.

Timeframe for invoking the defence against offending in another coastal state

Clause 31 would amend section 113J, which provides a defence for vessels that have failed to comply with conditions and regulations in the fisheries jurisdiction of a foreign country. Section 113J(4) of the bill would require defendants to serve a notice in writing on the prosecutor, if intending to rely on the defence, within 30 days after the service of the summons.

One submitter considered the proposed section unnecessarily restrictive because it would not give defence counsel enough time to prepare to disclose their defence. The submitter requested instead that the notice period be tied to the progress of the case. We agree that this would strike a better balance between the interests of the defence and prosecution, so that both parties have the appropriate time to prepare their case. We consider that defence counsel will likely need time to research other states' fisheries laws.

We note that other recent legislation sets a 20-working-day timeframe for the provision of notice after a non-guilty plea.² A timeframe of 20 days should generally fit

within the timing between non-guilty pleas and case review hearings (where used) in courts.

We recommend amending section 113J(4) to set the deadline for a notice of defence as 20 working days after the defendant pleads not guilty (or any later time with leave of the court).

Detaining a vessel in port

Clause 42 would insert new sections 113UA to 113UD which relate to investigations of serious violations. The proposed sections empower high seas fisheries inspectors to detain a foreign-flagged vessel in port that is being investigated for committing a serious violation and has been directed to port, and to search a vessel while it is detained.

The bill would introduce two situations in which the chief executive must direct the release of a vessel detained in port:

- if the authorities of the vessel's flag State³ request the vessel's release (section 113UA(5)(a))
- on payment of a bond that the chief executive considers is reasonable (section 113UA(5)(b)).

The United Nations Convention on the Law of the Sea (UNCLOS) requires a coastal State to release a foreign vessel detained in relation to an offence in its EEZ on the posting of a reasonable bond. The UN Fish Stocks Agreement requires a coastal State to release a foreign flagged vessel detained in relation to an offence on the high seas if the flag State so requests. International law does not permit coastal States to require a bond to release a foreign flagged vessel that has been detained in port in relation to an offence on the high seas.

We consider that, as introduced, the bill does not clearly set out the circumstances in which a detained vessel must be released. Further, we think the proposed section needs to better align with international law, particularly UNCLOS and the Fish Stocks Agreement.

We recommend amending section 113UA(5) to clarify that, if the serious violation took place on the high seas, the vessel must be released on request of the vessel's flag State, and if the violation took place in New Zealand's EEZ, the vessel must be released on payment of a bond.

² See, for example, section 82D of the Commerce Act 1986, as amended in 2021.

³ The flag State of a vessel is the jurisdiction in which it is registered, and is considered the nationality of the vessel.

Appendix

Committee process

The Fisheries (International Fishing and Other Matters) Amendment Bill was referred to the committee on 28 March 2024.

We called for submissions on the bill with a closing date of 15 May 2024. We received and considered submissions from 6 interested groups and individuals. We heard oral evidence from 2 submitters at hearings in Wellington and via videoconference.

Advice on the bill was provided by the Ministry for Primary Industries. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Mark Cameron (Chairperson)

Steve Abel

Miles Anderson

Jo Luxton

Suze Redmayne

Cushla Tangaere-Manuel

Catherine Wedd

Related resources

The documents received as advice and evidence are available on the Parliament website.

**Fisheries (International Fishing and Other Matters)
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Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Shane Jones

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The Parliament of New Zealand enacts as follows:

- | | | |
|----------|---|---|
| 1 | Title
This Act is the Fisheries (International Fishing and Other Matters) Amendment Act 2023 . | |
| 2 | Commencement
This Act comes into force 6 months after Royal assent. | 5 |

**Part 1
Amendments to Fisheries Act 1996**

- | | | |
|--|---|----|
| 3 | Principal Act
This Part amends the Fisheries Act 1996. | 10 |
| <i>Amendments to Part 1 (preliminary provisions)</i> | | |
| 4 | Section 2 amended (Interpretation) | |
| (1) | In section 2(1), insert in their appropriate alphabetical order:
beneficial owner has the meaning set out in section 113BA
final IUU vessel list has the meaning set out in section 113B
international fishing permit means a permit issued under section 113H | 15 |

International Fishing Permit Register means the International Fishing Permit Register kept under section 98(1)(c)

- (2) In section 2(1), definition of **commercial fisher**, replace paragraph (b) with:
- (b) for the purposes of sections 72 and 75, includes—
- (i) a person who holds an international fishing permit for the high seas; and 5
 - (ii) a person using a New Zealand ship who—
 - (A) holds an international fishing permit for taking a highly migratory species in the national fisheries jurisdiction of a foreign country; and 10
 - (B) in the judgement of the chief executive, holds a valid authority from the foreign country to take the highly migratory species in that national fisheries jurisdiction
- (3) In section 2(1), repeal the definitions of—
- (a) **high seas fishing permit**; and 15
 - (b) **High Seas Permit Register**.

Amendments to Part 4 (quota management system)

5 Section 32 amended (Criteria of eligibility to receive provisional catch history for quota management stock)

- (1) Replace section 32(1)(a)(iii) with: 20
- (iii) in the case of any highly migratory species outside New Zealand fisheries waters or tuna inside New Zealand fisheries waters, at any time during any applicable qualifying year, held the relevant authority to take the stock; or
- (2) After section 32(1), insert: 25
- (2A) For the purposes of **subsection (1)(a)(iii)**, **relevant authority** means any of the following:
- (a) a fishing permit issued under section 63 of the Fisheries Act 1983 or under section 91 that authorised the holder to take the stock:
 - (b) in relation to any time before **section 5** of the Fisheries (International Fishing and Other Matters) Amendment Act **2022** came into force,—
 - (i) a high seas fishing permit under section 113H that authorised the holder to take the stock; or 30
 - (ii) what in the judgement of the chief executive was a valid authority to take the stock using a New Zealand ship in the national fisheries jurisdiction of a foreign country: 35
 - (c) in relation to any later time,—

- (i) an international fishing permit for the high seas that authorised the holder to take the stock; or
- (ii) both—
 - (A) an international fishing permit for the national fisheries jurisdiction of a foreign country that authorised the holder to take the stock; and 5
 - (B) what in the judgement of the chief executive was a valid authority under the law of that country to take the stock using a New Zealand ship in that national fisheries jurisdiction. 10

6 Section 32A amended (Application of Part 4 to estate of deceased fishing permit holder)

- (1) Replace section 32A(3) with:
- (3) Where this Part requires that a person, at the date of publication of a notice under section 18, hold a fishing permit that is current before eligibility for provisional catch history or quota can be determined or provisional catch history or quota allocated, it is sufficient if the deceased held a current fishing permit at the date of the deceased's death. 15
- (2) In section 32A(4), replace “a high seas fishing permit” with “an international fishing permit”. 20

7 Section 35 amended (Notification of eligibility to receive provisional catch history)

Replace section 35(1)(b) with:

- (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 because— 25
 - (i) 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
 - (ii) the person is not an overseas person or, if an overseas person, either has obtained consent under the overseas investment fishing provisions to acquire provisional catch history or quota or is exempt from the requirement for that consent; and 30

8 Section 45 amended (Criteria of eligibility to receive quota)

- (1) Replace section 45(a)(i) with: 35
 - (i) a holder of a relevant authority; or
- (2) Repeal section 45(a)(ii).
- (3) In section 45, insert as subsection (2):

Part 1 cl 9		Fisheries (International Fishing and Other Matters) Amendment Bill	
(2)	In this section, relevant authority means any of the following:		
(a)	a fishing permit:		
(b)	an international fishing permit for the high seas:		
(c)	both—		
(i)	an international fishing permit for the national fisheries jurisdiction of a foreign country; and	5	
(ii)	what in the judgement of the chief executive is a valid authority under the law of that country to fish using a New Zealand ship in that national fisheries jurisdiction.		
9	Section 46 amended (Withholding of quota for non-payment of cost recovery levies or deemed values)	10	
	In section 46, replace “high seas fishing permit” with “an international fishing permit”.		
10	Section 49A amended (Surrender of quota to Crown)		
	In section 49A, replace “high seas fishing permit” with “international fishing permit”.	15	
11	Section 51 amended (Rights of appeal)		
(1)	In section 51(1)(b)(i), replace “fishing permit or high seas fishing permit (or authorisation referred to in section 45(a)(i)) or controlled fishery licence” with “relevant authority (as defined in section 32(2A))”.	20	
(2)	Replace section 51(1)(b)(iv) with:		
(iv)	a decision of the chief executive to the effect that the person is or is not eligible to be allocated quota under section 35(1)(b)(ii)(A) either because that person held or did not hold a fishing permit as at the date of the publication of the notice under section 18 declaring the stock to be a quota management stock; or	25	
12	Section 76 amended (Catch to be counted against annual catch entitlement)		
(1)	In section 76(1)(a), replace “a high seas fishing permit” with “an international fishing permit for the high seas”.	30	
(2)	Replace section 76(1)(b) with:		
(b)	was a person using a New Zealand ship who—		
(i)	held an international fishing permit for taking highly migratory species in the national fisheries jurisdiction of a foreign country; and	35	
(ii)	in the judgement of the chief executive, held a valid authority from the foreign country to fish against New Zealand’s national		

allocation of highly migratory species in that national fisheries jurisdiction.

Amendments to Part 6 (access to fishery)

- 13 Section 94 amended (Right of review against decisions made under delegated authority)** 5
- (1) In section 94, replace “a fishing permit or high seas fishing permit” with “a fishing permit or an international fishing permit”.
 - (2) In section 94, replace “the fishing permit or high seas fishing permit” with “the fishing permit or international fishing permit”.
 - (3) In section 94, after “designated by the chief executive”, insert “(the reviewer)”. 10
 - (4) In section 94, insert as subsections (2) to (4):
 - (2) A reviewer must make a decision on a review that relates to an international fishing permit by the end of the 40th working day after the chief executive receives the application for review. 15
 - (3) If the review also relates to the application of **section 113HA(5)** (relevant vessels and persons must not be on final IUU vessel list), the reviewer must consult in accordance with **section 113HA(6)(c)** before making the decision.
 - (4) The time limit under **subsection (2)** does not include the following periods (if any): 20
 - (a) the period that—
 - (i) starts when the reviewer requests further information from the applicant; and
 - (ii) ends when the reviewer receives the information:
 - (b) the period that— 25
 - (i) starts when the reviewer starts to consult in accordance with **section 113HA(6)(c)**; and
 - (ii) ends when the consultation is complete:
 - (c) the period that—
 - (i) starts when the reviewer provides the applicant with an opportunity to comment on a draft decision; and 30
 - (ii) ends when the reviewer receives the applicant’s comments on the draft decision.

14 Section 98 amended (Registers)

In section 98(1)(c) and (4), replace “High Seas Permit Register” with “International Fishing Permit Register”. 35

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Part 1 cl 15	
15	Section 101A amended (Matters to be shown in High Seas Permit Register)
(1)	In the heading to section 101A, replace “ High Seas Permit Register ” with “ International Fishing Permit Register ”.
(2)	In section 101A, replace “High Seas Permit Register” with “International Fishing Permit Register”. 5
16	Section 102 amended (Access to registers)
	In section 102(1), replace “High Seas Permit Register” with “International Fishing Permit Register”.
17	Section 113 amended (Possession of fish, etc, by vessels that are not New Zealand ships) 10
	After section 113(1)(a)(ii), insert:
	(iii) the vessel entered New Zealand fisheries waters to comply with a direction under section 113U(3) to bring the vessel to a port; or
18	Section 113A repealed (All fishing within foreign fishing jurisdiction to be authorised) 15
	Repeal section 113A.
<i>Amendments to Part 6A (high seas fishing)</i>	
19	Part 6A heading replaced
	Replace the Part 6A heading with: 20
<div> Part 6A International fishing </div>	
20	Section 113B amended (Interpretation)
(1)	In section 113B, insert in their appropriate alphabetical order:
	beneficial owner has the meaning set out in section 113BA 25
	final IUU vessel list means a list that—
(a)	identifies vessels that a global, regional, or subregional fisheries organisation or arrangement determines have been used to carry out or assist IUU fishing; and
(b)	has been adopted by the global, regional, or subregional fisheries organisation or arrangement as the final version of the list; and 30
(c)	is published on, or available via a link that is published on, an Internet site maintained by or on behalf of the Ministry
	IUU fishing has the meaning set out in section 113BB

notified global, regional, or subregional fisheries organisation or arrangement means a global, regional, or subregional fisheries organisation or arrangement that is notified in accordance with section 113C

ship without nationality means a vessel that—

- (a) is not registered in, or otherwise entitled to fly the flag or display the marks of registry of, any State; or
- (b) sails under the flags of 2 or more States, or under the flags of a State, using them according to convenience

undermine the effectiveness of international conservation and management measures has the meaning set out in **section 113BC**

- (2) In section 113B, definition of **foreign high seas inspector**, before “global, regional, or subregional fisheries organisation or arrangement”, insert “notified”.

- (3) In section 113B, replace the definition of **global, regional, or subregional fisheries organisation or arrangement** with:

global, regional, or subregional fisheries organisation or arrangement means an agreement or arrangement established to conserve and manage the fish stocks of an area, region, or subregion

- (4) In section 113B, replace the definition of **international conservation and management measures** with:

international conservation and management measures means measures adopted by a global, regional, or subregional fisheries organisation or arrangement to conserve or manage 1 or more species of living marine resources

21 New sections 113BA to 113BC inserted

After section 113B, insert:

113BA Meaning of beneficial owner

- (1) In this Part, **beneficial owner**, in relation to a vessel, means any of the following persons:

- (a) if the vessel is owned by an unlisted company, a person who directly or indirectly owns or controls—
 - (i) at least 25% of the ordinary shares in the company; or
 - (ii) shares that in aggregate carry the right to exercise or control the exercise of at least 25% of the voting power at a meeting of the company:
- (b) if the vessel is owned by a body corporate other than a company, a person who directly or indirectly has the right to exercise or control the exercise of at least 25% of the voting power at a meeting of the body corporate:

- (c) if the vessel is partnership property, a person who directly or indirectly—
 - (i) has a beneficial interest in or entitlement to at least 25% of the partnership's income or assets; or
 - (ii) has the right to exercise or control the exercise of at least 25% of the voting power at a meeting of the partnership: 5
 - (d) if the vessel is trust property, a person who directly or indirectly—
 - (i) has a beneficial interest in or entitlement to at least 25% of the trust property of the trust; or
 - (ii) controls the trust: 10
 - (e) in any other case, a person who has effective ownership or control of the vessel (other than by being the vessel's owner, operator, or master).
- Meaning of unlisted company*
- (2) For the purposes of **subsection (1)(a)**, an **unlisted company** is a company that is not a party to a listing agreement with a stock exchange (as defined in section 2(1) of the Companies Act 1993). 15
- Meaning of control of trust*
- (3) For the purposes of **subsection (1)(d)(ii)**, a person **controls** a trust if the person has a power (whether exercisable alone, jointly with another person, or with the consent of another person) under the instrument creating the trust or by law to do 1 or more of the following: 20
- (a) dispose of, advance, lend, invest, pay, or apply trust property:
 - (b) vary or terminate the trust:
 - (c) add or remove a person as a beneficiary or to or from a class of beneficiaries: 25
 - (d) appoint or remove trustees or give another person control over the trust:
 - (e) direct, withhold consent to, or veto the exercise of a power referred to in **paragraphs (a) to (d)**.
- Exceptions*
- (4) Neither a court of law nor the Crown is considered to— 30
- (a) control a trust as the result of having a power referred to in **subsection (3)**; or
 - (b) have effective control of a vessel as described in **subsection (1)(e)** as the result of having any power in relation to the vessel.
- (5) A person under the age of 18 years is not considered to be a beneficial owner of a vessel in any circumstances. 35

113BB Meaning of IUU fishing

- (1) In this Part, **IUU fishing** means fishing that—

- (a) is illegal, unreported, or unregulated, as those terms are defined in **sub-sections (2) to (4)**; or
 - (b) otherwise comes within the definition of IUU fishing (or an equivalent term or terms) as defined by either or both of the following:
 - (i) a relevant global, regional, or subregional fisheries organisation or arrangement: 5
 - (ii) the law of the national fisheries jurisdiction in which the fishing is carried out.
- (2) Fishing is **illegal** if 1 or more of the following apply:
 - (a) the fishing is carried out by a vessel— 10
 - (i) whose flag State is party to a relevant global, regional, or subregional fisheries organisation or arrangement; and
 - (ii) in contravention of an international conservation and management measure of the organisation or arrangement that is binding on the flag State: 15
 - (b) the fishing is carried out in the national fisheries jurisdiction of a country without the permission of that country or in contravention of its law:
 - (c) the fishing otherwise contravenes either or both of the following:
 - (i) international obligations that apply to the fishing, including obligations undertaken by co-operating non-members of a relevant global, regional, or subregional fisheries organisation or arrangement: 20
 - (ii) domestic laws that apply to the fishing.
- (3) Fishing is **unreported** if it is not reported, or is misreported, in contravention of either or both of the following: 25
 - (a) reporting procedures of a relevant global, regional, or subregional fisheries organisation or arrangement that apply to the fishing:
 - (b) domestic laws that apply to the fishing.
- (4) Fishing is **unregulated** if—
 - (a) there is a relevant global, regional, or subregional fisheries organisation or arrangement, and— 30
 - (i) the fishing is carried out by a ship without nationality; or
 - (ii) the fishing—
 - (A) is carried out by a vessel whose flag State is not bound by the international conservation and management measures of the organisation or arrangement; and 35
 - (B) is inconsistent with 1 or more of those measures; or

- (b) there is no relevant global, regional, or subregional fisheries organisation or arrangement, and the fishing is inconsistent with State responsibilities for the conservation of living marine resources under international law.
- (5) In this section,—
- co-operating non-member**, in relation to a relevant global, regional, or subregional fisheries organisation or arrangement, means a State that—
- (a) is not a party to the organisation or arrangement; but
- (b) has undertaken to comply with international conservation and management measures of the organisation or arrangement
- relevant global, regional, or subregional fisheries organisation or arrangement**, in relation to fishing, means a global, regional, or subregional fisheries organisation or arrangement that—
- (a) is responsible for a fish stock that is affected by the fishing; and
- (b) covers the area, region, or subregion of the high seas in which the fishing is carried out.
- 113BC Meaning of undermine effectiveness of international conservation and management measures**
- (1) In this Part, **undermine the effectiveness of international conservation and management measures** means to carry out a relevant activity that the chief executive considers undermines the effectiveness of international conservation and management measures.
- (2) A **relevant activity** is an activity that constitutes 1 or more of the following:
- (a) IUU fishing:
- (b) transshipping or participating in fishing operations with a vessel that is on a final IUU vessel list:
- (c) fishing using a ship without nationality:
- (d) fishing without a licence, permit, or other authorisation required under the law of the country in whose national fisheries jurisdiction the fishing is carried out:
- (e) taking a stock in contravention of a prohibition imposed by or under this Act:
- (f) the contravention of a condition of an international fishing permit:
- (g) the contravention of any other requirement imposed by or under this Act or other legislation on—
- (i) the size of fish, aquatic life, or seaweed that may be transhipped or landed; or
- (ii) records and reports required in relation to the taking of fish, aquatic life, or seaweed:

<p>(h) falsifying a document, or using a false or invalid document, that is required by or under this Act or other legislation that relates to the management of fisheries:</p> <p>(i) falsifying or concealing the identity or registration of, or markings on, a vessel in contravention of requirements imposed by or under this Act:</p> <p>(j) concealing, tampering with, or disposing of evidence that is relevant to an investigation under—</p> <p style="padding-left: 20px;">(i) this Act; or</p> <p style="padding-left: 20px;">(ii) the law of another country (in relation to fishing in the national fisheries jurisdiction of that country):</p> <p>(k) obstructing a fisheries officer, a high seas fishery inspector, or an observer in the performance or exercise of their functions, duties, or powers under this Act:</p> <p>(l) any other fishing-related activity that contravenes or is inconsistent with either or both of the following:</p> <p style="padding-left: 20px;">(i) the law of the country in whose national fisheries jurisdiction the activity is carried out; or</p> <p style="padding-left: 20px;">(ii) an international conservation and management measure of a relevant global, regional, or subregional fisheries organisation or arrangement (as defined in section 113BB(5)).</p> <p>(3) In determining whether a relevant activity undermines the effectiveness of international conservation and management measures, the chief executive must have regard to—</p> <p style="padding-left: 20px;">(a) the degree of culpability of the owner, operator, notified user, or master of the vessel on or from which the activity was carried out; and</p> <p style="padding-left: 20px;">(b) the harm that was or may be done to the environment as a result of the activity; and</p> <p style="padding-left: 20px;">(c) the value of the fish, aquatic life, or seaweed taken in connection with the activity; and</p> <p style="padding-left: 20px;">(d) the extent to which the activity contravened or was inconsistent with the measures; and</p> <p style="padding-left: 20px;">(e) the extent to which the activity was repeated; and</p> <p style="padding-left: 20px;">(f) any other matter the chief executive considers relevant.</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p>
<p>22 Section 113C amended (Notification and certification by Secretary of Foreign Affairs and Trade)</p> <p>Replace section 113C(1) and (2) with:</p> <p>(1) The Secretary of Foreign Affairs and Trade may from time to time, by notice in the <i>Gazette</i>, give notice of a global, regional, or subregional fisheries organisation or arrangement.</p>	<p>35</p>

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(2)	A notice given under subsection (1) must specify where a copy of the constitution of the organisation or a copy of the arrangement, as the case may be, may be obtained.		
23	Cross-heading above section 113D replaced		
	Replace the cross-heading above section 113D with:		5
	<i>Requirements relating to international fishing</i>		
24	New section 113DAAA inserted (All fishing within foreign jurisdiction to be in accordance with local law)		
	Before section 113D, insert:		
	113DAAA All fishing within foreign jurisdiction to be in accordance with local law		10
(1)	No New Zealand national, and no person using a ship that is registered under the Ship Registration Act 1992 or that flies the New Zealand flag, may take or transport fish, aquatic life, or seaweed in the national fisheries jurisdiction of a foreign country unless the fish, aquatic life, or seaweed is taken or transported under, and in accordance with, the laws of that jurisdiction.		15
(2)	Every person who contravenes subsection (1) commits an offence and is liable to the penalty set out in section 252(3).		
(3)	<i>See also</i> section 113D (which relates to permitting and other requirements on the use of a New Zealand ship to take (for sale) or transport fish, etc, in the national fisheries jurisdiction of a foreign country).		20
25	Section 113D amended (Taking and transportation of fish, etc, on high seas using New Zealand ships)		
(1)	In the heading to section 113D, replace “ on high seas ” with “ outside New Zealand fisheries waters ”.		25
(2)	In section 113D(1) and (2), after “on the high seas”, insert “or in the national fisheries jurisdiction of a foreign country”.		
(3)	In section 113D(1)(a) and (2)(a), replace “high seas fishing permit” with “international fishing permit”.		
(4)	In section 113D(2)(b)(i) and (4), replace “a high seas fishing permit” with “an international fishing permit”.		30
(5)	In section 113D(2)(b)(ii), after “laws of that State”, insert “and the international fishing permit”.		
26	Section 113F amended (Exemption from section 113E)		
(1)	Replace section 113F(1)(c) and (d) with:		35
(c)	the vessel to which the application relates has not been used to engage in—		

	<ul style="list-style-type: none"> (i) a relevant activity at any time within the 3 years immediately before the application was made; or (ii) a relevant activity that occurred at any earlier time and is the subject of— <ul style="list-style-type: none"> (A) an ongoing prosecution for an offence against this Part; or (B) a sentence that has not been served or a fine that has not been paid for an offence against this Part. 	5
(2)	After section 113F(1), insert:	
(1A)	For the purposes of subsection (1)(c) ,—	
	<ul style="list-style-type: none"> (a) a vessel is used to engage in a relevant activity if it is used for fishing or transportation in a manner that undermines the effectiveness of international conservation and management measures: (b) a prosecution is ongoing until any rights of appeal against conviction or sentence are exhausted or have expired. 	10
27	Cross-heading above section 113G replaced	15
	Replace the cross-heading above section 113G with:	
	<i>Issue of international fishing permits</i>	
28	Section 113G amended (Application for high seas fishing permit)	
(1)	In the heading to section 113G, replace “ high seas fishing permit ” with “ international fishing permit ”.	20
(2)	In section 113G, replace “a high seas fishing permit” with “an international fishing permit”.	
29	Section 113H replaced (Issue of high seas fishing permit)	
	Replace section 113H with:	
113H	Chief executive may issue international fishing permit for high seas or national fisheries jurisdiction	25
	The chief executive may issue an international fishing permit for either or both of the following:	
	<ul style="list-style-type: none"> (a) the high seas: (b) the national fisheries jurisdiction of a foreign country. 	30
113HA	Criteria that must be met before international fishing permit is issued	
(1)	Before issuing an international fishing permit, the chief executive must be satisfied that the criteria set out in this section are met.	
	<i>Applicant vessel must be registered</i>	
(2)	The applicant vessel must be registered—	35

- (a) under the Ship Registration Act 1992; and
- (b) in the Fishing Vessel Register as either a fish carrier or a fishing vessel.
- Applicant vessel must be authorised by relevant foreign country (section 113H(b) permits)*
- (2A) For an international fishing permit under **section 113H(b)**, the applicant vessel must be authorised by the relevant foreign country to fish within that country's national fisheries jurisdiction. 5
- Applicant vessel must not have undermined effectiveness of international conservation and management measures*
- (3) The applicant vessel must not have been used to engage in— 10
- (a) a relevant activity at any time within the 3 years immediately before the application was made; or
- (b) a relevant activity that occurred at any earlier time and is the subject of—
- (i) an ongoing prosecution for an offence against this Part; or 15
- (ii) a sentence that has not been served or a fine that has not been paid for an offence against this Part.
- (4) For the purposes of **subsection (3)**,—
- (a) a vessel is used to engage in a **relevant activity** if it is used for fishing or transportation in a manner that undermines the effectiveness of international conservation and management measures: 20
- (b) a prosecution is **ongoing** until any rights of appeal against conviction or sentence are exhausted or have expired.
- Relevant vessels and persons must not be on final IUU vessel list*
- (5) None of the following may be listed on a final IUU vessel list: 25
- (a) the applicant vessel;
- (b) a relevant person;
- (c) a vessel linked to a relevant person.
- (6) However, **subsection (5)** does not apply to a listing on a final IUU vessel list if— 30
- (a) New Zealand is not a party to the global, regional, or subregional fisheries organisation or arrangement that adopted the final IUU vessel list; and
- (b) the chief executive is satisfied that the applicant vessel, relevant person, or vessel linked to a relevant person was listed on the final IUU vessel list as the result of an unfair process (for example, because an adversely affected party was not given a reasonable opportunity to comment on the proposal to list the vessel or person); and 35

<p>(c) before being satisfied of that matter, the chief executive consults—</p> <p style="padding-left: 40px;">(i) the global, regional, or subregional fisheries organisation or arrangement that adopted the final IUU vessel list; and</p> <p style="padding-left: 40px;">(ii) if the listing relates to a vessel that is not a New Zealand ship, the flag State of that other vessel.</p> <p>(7) In this section and section 113HB,—</p> <p>applicant vessel means the vessel to which the application for the international fishing permit relates</p> <p>relevant person means a person who is 1 or more of the following in relation to the applicant vessel:</p> <p style="padding-left: 40px;">(a) owner:</p> <p style="padding-left: 40px;">(b) beneficial owner:</p> <p style="padding-left: 40px;">(c) operator:</p> <p style="padding-left: 40px;">(d) foreign charterparty:</p> <p style="padding-left: 40px;">(e) notified user:</p> <p style="padding-left: 40px;">(f) master</p> <p>vessel linked to a relevant person means a vessel (other than the applicant vessel) in relation to which a relevant person is 1 or more of the following:</p> <p style="padding-left: 40px;">(a) owner:</p> <p style="padding-left: 40px;">(b) beneficial owner:</p> <p style="padding-left: 40px;">(c) operator:</p> <p style="padding-left: 40px;">(d) foreign charterparty:</p> <p style="padding-left: 40px;">(e) notified user:</p> <p style="padding-left: 40px;">(f) master.</p> <p>113HB Other considerations before international fishing permit is issued</p> <p>(1) Before issuing an international fishing permit, the chief executive may have regard to <u>The chief executive may, but is not required to, issue an international fishing permit, taking into account—</u></p> <p style="padding-left: 40px;">(a) previous non-compliance (if any) by a relevant person or a crew member of the applicant vessel with requirements that—</p> <p style="padding-left: 80px;">(i) are imposed by or under this Act or other legislation; and</p> <p style="padding-left: 80px;">(ii) relate to fishing or transportation; and</p> <p style="padding-left: 40px;">(aa) <u>that an operator may—</u></p> <p style="padding-left: 80px;">(a) <u>owe the Crown a levy payable under Part 14; or</u></p> <p style="padding-left: 80px;">(b) <u>have unpaid and overdue deemed value amounts of more than \$1,000; or</u></p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p>
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- (c) hold a fishing permit that is subject to conditions by virtue of or under section 78(1) or (2); and
- (b) any other matters that the chief executive considers relevant.
- (2) The chief executive may ~~have regard to~~ take into account the non-compliance whether it occurred within the national fisheries jurisdiction of New Zealand or another country or on the high seas. 5
- (3) ~~The chief executive may, but is not required to, issue an international fishing permit to a person even though that person may—~~
- (a) ~~owe the Crown a levy payable under Part 14; or~~
- (b) ~~have unpaid and overdue deemed value amounts of more than \$1,000; or~~ 10
- (c) ~~hold a fishing permit that is subject to conditions by virtue of or under section 78(1) or (2).~~
- (4) **Subsections (1) and (2)** do not apply to non-compliance that must be considered under **section 113HA(3)**.
- 30 Section 113I amended (Term and content of high seas fishing permit)** 15
- (1) In the heading to section 113I, replace “**high seas fishing permit**” with “**international fishing permit**”.
- (2) In section 113I(1) and (2), replace “A high seas fishing permit” with “An international fishing permit”.
- 31 Section 113J amended (Compliance with conditions and regulations)** 20
- (1) In section 113J(1) and (2), replace “a high seas fishing permit” with “an international fishing permit”.
- (2) After section 113J(2), insert:
- (3) Without limiting the application of section 241, it is a defence to any offence under subsection (2) if the defendant proves that— 25
- (a) the defendant was in the national fisheries jurisdiction of a foreign country when the contravention occurred; and
- (b) the contravention was necessary to comply with the law of the foreign country.
- (4) A defendant is not, without leave of the court, entitled to rely on the defence unless the defendant has, within 20 working days after pleading not guilty to the offence ~~within 30 days after the service of the summons~~, served on the prosecutor a notice in writing that specifies— 30
- (a) the relevant law of the foreign country; and
- (b) the reasons why the contravention was necessary to comply with the law. 35

- 32 Section 113K amended (Conditions of high seas fishing permit)**
- (1) In the heading to section 113K, replace “**high seas fishing permit**” with “**international fishing permit**”.
 - (2) In section 113K(1), replace “A high seas fishing permit” with “An international fishing permit”. 5
 - (3) In section 113K(1)(r), after “international conservation and management measures”, insert “that have been adopted by a notified global, regional, or sub-regional fisheries organisation or arrangement”.
 - (4) In section 113K(2) and (4), replace “a high seas fishing permit” with “an international fishing permit”. 10
 - (5) In section 113K(3)(a), replace “the high seas fishing permit holder” with “the international fishing permit holder”.
- 33 Section 113L amended (High seas fishing permit to be carried on vessel)**
- (1) In the heading to section 113L, replace “**High seas fishing permit**” with “**International fishing permit**”. 15
 - (2) In section 113L(1), replace “a high seas fishing permit” with “an international fishing permit”.
- 34 Section 113M amended (Notification of change of ownership of vessel)**
- In section 113M(1), replace “a high seas fishing permit” with “an international fishing permit”. 20
- 35 Cross-heading above section 113N replaced**
- Replace the cross-heading above section 113N with:
- Suspension and revocation of international fishing permits*
- 36 Section 113N amended (Chief executive may suspend or revoke high seas fishing permit)** 25
- (1) In the heading to section 113N, replace “**high seas fishing permit**” with “**international fishing permit**”.
 - (2) In section 113N(1), (2), and (3), replace “a high seas fishing permit” with “an international fishing permit”.
 - (3) In section 113N(2)(c), after “permit holder”, insert “, or any person authorised to fish under the authority of the permit,”. 30
 - (4) After section 113N(2)(c), insert:

(ca) there is evidence that the permit holder, or any person authorised to fish under the authority of the permit, has undermined the effectiveness of international conservation and management measures; or
 - (5) After section 113N(2), insert: 35

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(2A) The chief executive may also suspend or revoke an international fishing permit— for the national fisheries jurisdiction of a foreign country at the request of that country.	
(a) <u>at the request of a foreign country whose authorisation to fish in its national fisheries jurisdiction was relied on to issue the permit; or</u>	5
(b) <u>if the chief executive believes on reasonable grounds that an offence has been committed in relation to the vessel to which the permit relates by the permit holder, or any person authorised to fish under the authority of the permit.</u>	
(6) In section 113N(4), replace “the high seas fishing permit” with “the international fishing permit”.	10
(7) <u>After section 113N(4), insert:</u>	
(5) <u>In subsection (2A)(b), offence means an offence committed within the national fisheries jurisdiction of New Zealand for which a penalty under section 252(1)(a) to (c) would apply on conviction.</u>	15
37 Section 113O amended (Procedure to be followed before suspending or revoking permit)	
In section 113O, replace “a high seas fishing permit” with “an international fishing permit”.	
38 Section 113P amended (Effect of suspension or revocation of permit)	20
(1) In section 113P(1) and (2), replace “a high seas fishing permit” with “an international fishing permit”.	
(2) In section 113P(1)(a), replace “the high seas fishing permit” with “the international fishing permit”.	
39 Section 113S amended (Powers of high seas fishery inspectors in relation to foreign vessels)	25
In section 113S(1), replace “global, regional, or subregional fisheries organisation or arrangement” with “notified global, regional, or subregional fisheries organisation or arrangement”.	
40 New section 113SA inserted (Powers of high seas fishery inspectors to verify nationality of vessels)	30
After section 113S, insert:	
113SA Powers of high seas fishery inspectors to verify nationality of vessels	
(1) This section applies if a high seas fishery inspector—	
(a) intends to board and inspect a vessel for the purposes of section 113S; but	35

- | | | |
|-----|--|----|
| (b) | suspects on reasonable grounds that section 113S(1)(b) may not apply to the vessel because it is a ship without nationality. | |
| (2) | The high seas fishery inspector may board and inspect the vessel for any evidence relevant to whether it has nationality and, if so, what the nationality is. | 5 |
| (3) | In exercising those powers, the high seas fishery inspector must— | |
| (a) | give the master of the vessel evidence of the inspector’s identity and of the fact that the inspector is a high seas fishery inspector; and | |
| (b) | provide to the master of the vessel a copy of a report on the boarding and inspection, including any objection or statement that the master has advised the high seas fishery inspector that the master wishes to have included in the report. | 10 |
| (4) | If, after exercising those powers, the high seas fishery inspector is satisfied that the vessel is— | |
| (a) | a ship without nationality, section 113R applies as if the vessel were registered under the Ship Registration Act 1992 or flying the New Zealand flag; | 15 |
| (b) | a ship with nationality, sections 113S and 113T to 113V apply according to their terms (except that section 113T(1)(a) does not require the high seas fisheries inspector to again give evidence of their identity and position as a high seas fishery inspector to the master of the vessel). | 20 |

41 Section 113U amended (Investigation of serious violations)

Replace the heading to section 113U with “**Investigation of serious violations: powers to remain on and direct vessel to port**”.

42 New sections 113UA to 113UD inserted

25

After section 113U, insert:

113UA Investigation of serious violations: power to detain vessel at port

- | | | |
|-----|--|----|
| (1) | This section applies to a vessel that is directed to a port under section 113U(3). | |
| (2) | A high seas fishery inspector may detain the vessel at the port for as long as is reasonably necessary to enable the inspector to investigate the serious violation (<i>but see subsection (5)</i>). | 30 |
| (3) | The high seas fishery inspector must notify the chief executive of the detention as soon as practicable after the detention starts. | |
| (4) | The chief executive must, as soon as practicable after receiving the notice, advise the authorities of the vessel’s flag State of— | 35 |
| (a) | the name and location of the port at which the vessel is detained; and | |
| (b) | the results of the investigation carried out in relation to the vessel. | |
| (5) | The chief executive must direct the release of the vessel,— | |

- (a) if they believe on reasonable grounds that the serious violation took place on the high seas, on request of the vessel's flag State~~if the authorities of the vessel's flag State request the vessel's release~~; or
- (b) if they believe on reasonable grounds that the serious violation took place in New Zealand fisheries waters, on payment of a bond that the~~chief executive considers~~they consider is reasonable, having regard to—
- (i) the gravity of the serious violation under investigation; and
- (ii) if the serious violation constitutes an offence under this Act, the applicable penalty; and
- (iii) the value of the vessel and its cargo.
- 113UB Investigation of serious violations: search powers while vessel at port**
- (1) This section applies to a vessel that is detained at a port under **section 113UA(2)**.
- (2) A high seas fishery inspector may, for the purpose of investigating the serious violation and at any reasonable time, inspect 1 or more of the following:
- (a) the vessel;
- (b) the vessel's authorisation to fish, or transport fish, aquatic life, or seaweed, in the relevant area of the high seas;
- (c) the vessel's fishing gear and equipment;
- (d) the vessel's facilities;
- (e) fish and fish products on the vessel;
- (f) the vessel's records and other relevant documents.
- (3) A high seas fishery inspector may, for the purposes of inspecting any of those things, do 1 or more of the following:
- (a) open, or direct any person to open, a thing that may be inspected;
- (b) take any sample of a thing that may be inspected, for forensic or other scientific testing;
- (c) conduct a remote access search (as defined in section 3(1) of the Search and Surveillance Act 2012);
- (d) take or make, in accordance with section 206, a copy of a record or document that may be inspected.
- (4) Part 4 of the Search and Surveillance Act 2012 (other than subparts 2 and 3 and sections 118 to 120, 173, and 174) applies in respect of the powers conferred by this section.
- (5) This section is subject to **section 113UC** (search warrant required to enter living quarters or conduct remote access search).

113UC Investigation of serious violations: search warrant required to enter living quarters or conduct remote access search	
(1) A high seas fishery inspector must not exercise a power under section 113UB to do either or both of the following without a search warrant:	
(a) enter any living quarters on a vessel:	5
(b) conduct a remote access search.	
(2) A high seas fishery inspector must apply for a search warrant in accordance with subpart 3 of Part 4 of the Search and Surveillance Act 2012.	
(3) An issuing officer (as defined in section 3(1) of the Search and Surveillance Act 2012) must not issue a search warrant unless the officer is satisfied that the high seas fishery inspector has reasonable grounds for requiring, as the case may be,—	10
(a) entry into the living quarters:	
(b) the conduct of a remote access search.	
(4) Subparts 1, 3, 7, 9, and 10 of Part 4 of the Search and Surveillance Act 2012 apply.	15
(5) In this section, living quarters —	
(a) means an area of a vessel in which people live; but	
(b) does not include—	
(i) a communal area (for example, a mess deck or canteen); or	20
(ii) a work area (for example, the bridge or the master’s office).	
113UD Investigation of serious violations: powers to detain, question, etc, master and crew	
(1) This section applies if—	
(a) a vessel is detained at a port under section 113UA(2) ; and	25
(b) the authorities of the vessel’s flag State request or consent to the exercise of 1 or more specified powers.	
(2) The high seas fishery inspector may, for the purpose of investigating the serious violation and at any reasonable time, exercise any specified power in relation to which the authorities have made a request or given their consent.	30
(3) The specified powers are the powers to do 1 or more of the following in relation to the vessel’s master or a member of its crew (a person):	
(a) detain the person on board the vessel:	
(b) direct the person to any other place for questioning and detain the person at that location:	35
(c) question the person:	

- 26

- 46 Section 113Y amended (Chief executive may withdraw authorisation to fish under high seas fishing permit)**
- (1) In the heading to section 113Y, replace “**high seas fishing permit**” with “**international fishing permit**”.
- (2) In section 113Y(2), replace “the high seas fishing permit” with “the international fishing permit”. 5
- 47 Section 113Z amended (Administrative penalties for high seas fisheries offences)**
- (1) In the heading to section 113Z, replace “**high seas fisheries offences**” with “**offences outside New Zealand fisheries waters**”. 10
- (2) Replace section 113Z(2) with:
- (2) The chief executive may cause notice in writing, in the approved form, to be served on a person if the chief executive has reasonable cause to believe that—
- (a) an offence to which this section applies may have been committed by that person; and 15
- (b) either of the following applies:
- (i) if the alleged offence is an offence against section 113J(2) (contravening a condition of an international fishing permit), it is not a serious offence:
- (ii) in any other case, the alleged offence is minor; and 20
- (c) having regard to the previous conduct of the vessel and of that person, it would be appropriate to impose a penalty under this section.
- (2A) In considering whether there is reasonable cause to believe that an alleged offence against section 113J(2) is not a serious offence, the chief executive must have regard to— 25
- (a) the degree of culpability of the person; and
- (b) the harm that was or may be done to the environment as a result of the alleged offence; and
- (c) the value of the fish, aquatic life, or seaweed taken in connection with the alleged offence; and 30
- (d) the extent to which the alleged offence contravened the condition; and
- (e) the extent to which the alleged offence was repeated; and
- (f) any other matter the chief executive considers relevant.
- 48 New section 113ZCA inserted (Publication of decisions on administrative penalties)** 35
- After section 113ZC, insert:

113ZCA Publication of decisions on administrative penalties

The chief executive must, for each penalty imposed under section 113ZC, publish the following on an Internet site maintained by or on behalf of the Ministry:

- (a) the date and location of the offence; and 5
- (b) the nature of the offence; and
- (c) the name of each person on whom the penalty was imposed; and
- (d) the name of the vessel involved in the offence; and
- (e) the matters considered by the chief executive under **section 113Z(2A)** when considering whether the alleged offence was not a serious offence or was minor; and 10
- (f) the amount of the penalty imposed.

49 Section 113ZC amended (Amount of administrative penalty)

- (1) Replace section 113ZC(1) with:
- (1) If a person admits an offence under section 113ZB, the chief executive may impose on the person a monetary penalty not exceeding— 15
 - (a) one-half of the maximum monetary penalty, if the offence is against section 113J(2) (contravening a condition of an international fishing permit):
 - (b) one-third of the maximum monetary penalty, in any other case. 20
- (1A) Before imposing the penalty, the chief executive must take into account any submissions made by the person under section 113ZB.
- (2) After section 113ZC(5), insert:
- (6) In this section, **maximum monetary penalty** means the maximum monetary penalty to which the person would be liable if they were convicted of the offence by a court. 25

50 Section 113ZD amended (Visits by foreign ships)

In section 113ZD(2), after “undermined”, insert “the effectiveness of”.

51 Section 113ZE amended (Consent of Attorney-General required for certain proceedings)

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In section 113ZE(1)(a), replace “section 113A” with “**section 113DAAA**”.

52 Section 113ZF amended (Authorised agent)

In section 113ZF, replace “a high seas fishing permit” with “an international fishing permit”.

Amendments to Part 10 (recordkeeping, reporting, disposal of fish, and provisions relating to taking and possession of fish for purpose of sale)

53 Section 189 amended (Persons who are required to keep records and returns)

In section 189(i), replace “high seas fishing permits” with “international fishing permits”. 5

54 Section 191 amended (Disposal of fish by commercial fishers)

In section 191(1A) and (5)(e), replace “a high seas fishing permit” with “an international fishing permit”.

Amendments to Part 13 (offences and penalties) 10

55 Section 229 amended (Obstructing fishery officers)

(1) In the heading to section 229, after “**fishery officers**”, insert “**or high seas fishery inspectors**”.

(2) In section 229(1)(a)(i) and (ii), (b)(i) and (ii), (c), (d), and (e), after “fishery officer”, insert “or high seas fishery inspector” in each place. 15

(3) Replace section 229(1)(a)(iii) with:

- (iii) any person acting under the directions of—
 - (A) a fishery officer in accordance with section 196(3); or
 - (B) a high seas fishery inspector in accordance with section 113Q(2) and (3); or
- 20

(4) Replace section 229(1)(b)(iii) with:

- (iii) any person acting under the directions of—
 - (A) a fishery officer in accordance with section 196(3); or
 - (B) a high seas fishery inspector in accordance with section 113Q(2) and (3); or
- 25

(5) Replace section 229(2) with:

- (2) Every person who refuses to allow—
 - (a) any fishery officer or high seas fishery inspector; or
 - (b) any person assisting a fishery officer or high seas fishery inspector in accordance with section 219; or
 - (c) any person acting under the directions of—
 - (i) a fishery officer in accordance with section 196(3); or
 - (ii) a high seas fishery inspector in accordance with section 113Q(2) and (3)—
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to exercise any of the powers conferred on that fishery officer, high seas fishery inspector, or person by this Act is deemed to be obstructing that fishery officer, high seas fishery inspector, or person.

56 New section 235A inserted (Assisting, etc, IUU-listed vessel)

After section 235, insert:

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235A Assisting, etc, IUU-listed vessel

(1) This section applies to conduct carried out in New Zealand, in New Zealand fisheries waters, on the high seas, or in the national fisheries jurisdiction of a foreign country.

(2) The owner, beneficial owner, operator, notified user, and master of a New Zealand fishing vessel each commit an offence if the vessel is used to—

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(a) assist an IUU-listed vessel with fishing for fish or with processing fish; or

(b) tranship fish to or from an IUU-listed vessel.

(3) A New Zealand national commits an offence who—

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(a) assists an IUU-listed vessel with fishing for fish or with processing fish; or

(b) tranships fish to or from an IUU-listed vessel; or

(c) is engaged or employed as, or otherwise is, a master or crew member of an IUU-listed vessel; or

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(d) provides, or enters into an agreement to provide, a master or crew for an IUU-listed vessel; or

(e) is, or enters into an agreement to be, the operator or owner of an IUU-listed vessel; or

(f) is, or enters into an agreement that would have the effect of making the New Zealand national, the beneficial owner of an IUU-listed vessel.

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Defence

(4) Without limiting the application of section 241, it is a defence to any offence under **subsection (2) or (3)(a) to (d)** if the defendant proves that the contravention—

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(a) was necessary—

(i) to save or prevent danger to human life; or

(ii) to avert a serious threat to the vessel; or

(iii) in the case of *force majeure* caused by stress of weather, to secure the safety of the vessel; and

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(b) was a reasonable step to take in all the circumstances; and

- (c) was likely to result in less harm to the human life or vessel referred to in **paragraph (a)** than would otherwise have occurred; and
- (d) was done in a way that minimised the likelihood of harm to other human life, other vessels, and to fish and aquatic life.
- (5) A defendant is not, without leave of the court, entitled to rely on the defence unless the defendant has, within 30 days after the service of the summons, served on the prosecutor a notice in writing that specifies—
- (a) the reasons why the contravention was necessary and was a reasonable step to take in the circumstances; and
- (b) the harm that was likely to occur but for the contravention; and
- (c) how the contravention was done in a way that minimised the likelihood of harm to other human life, other vessels, and to fish, aquatic life, and seaweed.
- Consent of Attorney-General required for certain proceedings*
- (6) **Subsection (7)** applies to proceedings for an offence under this section that is carried out on the high seas or in the national fisheries jurisdiction of a foreign country.
- (7) Despite anything in any other enactment, proceedings for the offence may not be instituted in any court except with the consent of the Attorney-General and on the Attorney-General's certificate that it is expedient that the proceedings should be instituted.
- Definitions*
- (8) In this section,—
- assist** means to carry out any action with or in support of an IUU-listed vessel in relation to fishing; for example,—
- (a) sharing catch or fishing gear with an IUU-listed vessel:
- (b) net-sharing with an IUU-listed vessel (where **net-sharing** is the use by one vessel of a purse seine to catch fish that is then collected from the sea and stored in the hold of another vessel):
- (c) sharing the co-ordinates of a fish aggregating device with an IUU-listed vessel (where a **fish aggregating device** is a floating device that attracts fish):
- (d) providing fuel to an IUU-listed vessel, including providing assistance with the logistics of loading and distributing the fuel among tanks on the vessel:
- (e) providing fishing-related personnel, fishing gear, and other fishing-related supplies at sea to an IUU-listed vessel:
- (f) transporting fish that have been caught by an IUU-listed vessel and have not previously been landed

IUU-listed vessel means a vessel that is on a final IUU vessel list.

57 Section 252 amended (Penalties)

- (1) In section 252(3)(ha), replace “section 113A(2)” with “**section 113DAAA(2)**”.
- (2) In section 252(3)(hb), replace “on high seas” with “outside New Zealand fisheries waters”.
- (3) After section 252(3)(n), insert:
 - (na) **section 235A(2)** (New Zealand fishing vessel assisting or transhipping with IUU-listed vessel):
 - (nb) **section 235A(3)** (New Zealand national assisting, transhipping with, being crew of, etc, IUU-listed vessel):
- (4) In section 252(5)(hb) and (hc) and (6)(a), replace “high seas fishing permit” with “international fishing permit”.

58 Section 269 amended (Suspension of permit, licence, or registration where levies unpaid) 15

- (1) In section 269(1) and (4), delete “or controlled fishery licence”.
- (2) In section 269(3), delete “or controlled fishery licences”.
- (3) In section 269(7), delete “controlled fishery licence,”.

Amendment to Part 16 (miscellaneous provisions)

59 Section 297 amended (General regulations) 20

In section 297(1)(s), replace “High Seas Permit Register” with “International Fishing Permit Register”.

Amendment to Schedule 1AA (transitional, savings, and related provisions)

60 Schedule 1AA amended

- In Schedule 1AA,— 25
- (a) insert the Part set out in the **Schedule** of this Act as the last Part; and
 - (b) make all necessary consequential amendments.

Amendment to Schedule 10 (levies)

61 Schedule 10 amended

In Schedule 10, repeal Part D. 30

Part 2 Consequential amendments

Subpart 1—Amendments to Search and Surveillance Act 2012

62 Principal Act

Section 63 amends the Search and Surveillance Act 2012. 5

63 Schedule amended

In the Schedule, before the item relating to section 199(1) of the Fisheries Act 1996, insert:

113UB	High seas fishery inspector may inspect vessel that is detained at a port under section 113UA(2) of Fisheries Act 1996	All (except subparts 2 and 3 and sections 118 to 120, 173, and 174)
113UC	High seas fishery inspector may enter living quarters or conduct remote access search under power conferred by section 113UB of Fisheries Act 1996 if authorised to do so by issuing officer	Subparts 1, 3, 7, 9, and 10
113UD	High seas fishery inspector may question and require documents from master and crew members of vessel detained at a port under section 113UA(2) of Fisheries Act 1996	Subpart 5

Subpart 2—Amendments to instruments made under Fisheries Act 1996

Fisheries (Commercial Fishing) Regulations 2001 10

64 Principal regulations

Section 65 amends the Fisheries (Commercial Fishing) Regulations 2001.

65 Schedule 2 amended

In Schedule 2, clause 13(f), replace “high seas fishing permits” with “international fishing permits”. 15

Fisheries (Electronic Monitoring on Vessels) Regulations 2017

66 Principal regulations

Section 67 amends the Fisheries (Electronic Monitoring on Vessels) Regulations 2017.

67 Regulation 3 amended (Interpretation) 20

In regulation 3, definitions of **permit** and **permit holder**, replace “a high seas fishing permit” with “an international fishing permit for the high seas”.

Fisheries (Location and Inspection of Registers) Notice 2014

68 Principal notice

Section 69 amends the Fisheries (Location and Inspection of Registers) Notice 2014.

69 Clause 3 amended (Meaning of registers)

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In clause 3, replace “High Seas Permit Register” with “International Fishing Permit Register”.

Fisheries (Registers) Regulations 2001

70 Principal regulations

Section 71 amends the Fisheries (Registers) Regulations 2001.

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71 Regulation 8 amended (Particulars to be shown in High Seas Permit Register)

(1) In the heading to regulation 8, replace “**High Seas Permit Register**” with “**International Fishing Permit Register**”.

(2) In regulation 8, replace “High Seas Permit Register” with “International Fishing Permit Register”.

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Fisheries (Reporting) Regulations 2017

72 Principal regulations

Sections 73 to 75 amend the Fisheries (Reporting) Regulations 2017.

73 Regulation 3 amended (Interpretation)

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In regulation 3, definition of **permit holder**, replace paragraph (a)(ii) with:

- (ii) a person who holds an international fishing permit issued under **section 113H(a)** of the Act for the high seas; and

74 Regulation 7AAA amended (Trip start reports)

After regulation 7AAA(2), insert:

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- (3) For the purposes of this regulation, **permit holder** includes a person who holds an international fishing permit issued under **section 113H(b)** of the Act for the national fisheries jurisdiction of a foreign country.

75 Regulation 7AAAB amended (Trip end reports)

After regulation 7AAAB(2), insert:

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- (3) For the purposes of this regulation, **permit holder** includes a person who holds an international fishing permit issued under **section 113H(b)** of the Act for the national fisheries jurisdiction of a foreign country.

*Fisheries (Western and Central Pacific Ocean Highly Migratory Fish Stocks)
Regulations 2003*

76 Principal regulations

Sections 77 and 78 amend the Fisheries (Western and Central Pacific Ocean Highly Migratory Fish Stocks) Regulations 2003.

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77 Regulation 6 amended (Register)

In regulation 6(2)(r), replace “New Zealand High Seas Fishing Permit” with “international fishing permit”.

78 Regulation 7 amended (Authorisation to fish for highly migratory fish stocks in Convention area)

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In regulation 7(1)(b)(i), replace “a New Zealand High Seas Fishing Permit” with “an international fishing permit”.

Schedule
New Part 4 inserted into Schedule 1AA

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Part 4	
Provisions relating to Fisheries (International Fishing and Other Matters) Amendment Act 2023	
9	<p>Meaning of commencement</p> <p>In this Part, commencement means the date on which this Part comes into force.</p>
10	<p>Existing high seas fishing permits continue as international fishing permits</p> <p>(1) An existing high seas fishing permit continues as an international fishing permit for the high seas.</p> <p>(2) The permit is subject to the same terms and conditions, and the same expiry date, as applied immediately before commencement.</p> <p>(3) In this clause, existing high seas fishing permit means a high seas fishing permit that was in effect immediately before commencement.</p>
11	<p>Review against decisions made under delegated authority</p> <p>Section 94(2) to (4) does not apply to a review that is started before commencement in relation to a high seas fishing permit.</p>
12	<p>Applications for high seas fishing permits</p> <p>This Act as in force immediately before commencement continues to apply to an application for a high seas fishing permit that is made before commencement.</p>
13	<p>High Seas Permit Register continues as International Fishing Permit Register</p> <p>The High Seas Permit Register, as it is immediately before commencement, continues as the International Fishing Permit Register.</p>

Legislative history

3 August 2023
28 March 2024

Introduction (Bill 263–1)
First reading and referral to Primary Production Committee