

Fisheries (Auckland and Kermadec Areas Commercial Fishing) Amendment Regulations (No 3) 2001

Pursuant to section 297 of the Fisheries Act 1996, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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1 Title

- (1) These regulations are the Fisheries (Auckland and Kermadec Areas Commercial Fishing) Amendment Regulations (No 3) 2001.
- (2) In these regulations, the Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986¹ are called “the principal regulations”.

2 Commencement

These regulations come into force on 1 October 2001.

3 Interpretation

- (1) Regulation 2(1) of the principal regulations is amended by revoking the definitions of **albacore tuna, bigeye tuna, blue mackerel, blue maomao, blue mussel, brown bullhead catfish, butterfish, cardinal fish, catseye, conger eel, cooks turban, dog cockle, dredge oyster, durvillea, ecklonia, flying fish, gigartina, gracilaria, grandfather hapuku, horse mussel, king clam, kingfish, koheru, koi, lamprey, leatherjacket, lessonia, limpet, longfinned eel, macrocystis, mud snail, pacific oyster, pink maomao, porae, porphyra, prawn, pterocladia, ray’s bream, red snapper, rock cod, rock oyster, scampi, sea cucumber, sea hare, sea horse, sea tulip, shortfinned eel, skate and ray, skipjack tuna, slender tuna, southern bluefin tuna, spiny dogfish, sponge, surf clam, ulva, undaria, whelk, yellowfin tuna, and zostera**.
- (2) Regulation 2(1) of the principal regulations is amended by revoking the definition of **commercial fisherman**, and substituting the following definition:
“**commercial fisher** means—
“(a) any person who takes any fish, aquatic life, or seaweed for the purposes of sale:
“(b) any person who is engaged in any capacity on a New Zealand fishing vessel:
“(c) any person who has a fishing permit issued under section 91 of the Fisheries Act 1996 entitling the person to take any species or class of fish, aquatic life, or seaweed.”

¹ SR 1986/216

4 References to commercial fisher substituted for references to commercial fisherman

Regulations 2A, 3, 4 to 4F, 5 to 5C, 5E to 15A, 16 to 20B, 21 to 22B, and 23 of the principal regulations are amended by omitting the words “commercial fisherman” wherever they appear, and substituting in each case the words “commercial fisher”.

5 Taking of shortbill spearfish and sailfish prohibited in Auckland Fishery Management area

Regulation 20B(2) of the principal regulations is amended by omitting the word “Director-General”, and substituting the words “chief executive”.

6 Targeting of certain fish, aquatic life, and seaweed prohibited, unless specially authorised

Regulation 20C of the principal regulations is revoked.

7 Fish, aquatic life and seaweed that may be taken subject to competitive or individual quotas, method restrictions, etc

Regulation 20D of the principal regulations is revoked.

8 New regulation 24 substituted

The principal regulations are amended by revoking regulation 24, and substituting the following regulation:

“24 Offences

- “(1) A person commits an offence and is liable on summary conviction to a fine not exceeding \$20,000 if the person acts in contravention of, or fails to comply with, any of regulations 4A to 4E, 4G, 5A to 5C, 5E, 7, 9, 10, 14, 18, or 22A.
- “(2) A person commits an offence and is liable on summary conviction to a fine not exceeding \$100,000 if the person acts in contravention of, or fails to comply with, any of regulations 2A to 4, 4F, 5, 5F, 6, 8, 10A, 11 to 13, 15, 15A, 16, 17, 18A to 20B, 20E, 21, 22, 22B, or 23.”

9 Other amendments to principal regulations

The principal regulations are amended in the manner indicated in the Schedule.

10 Revocations

The following regulations are revoked:

- (a) regulation 5 of the Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986, Amendment No 1 (SR 1986/251):
- (b) regulation 8 of the Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986, Amendment No 3 (SR 1989/291):
- (c) regulations 12 and 13 of the Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986, Amendment No 7 (SR 1993/279):
- (d) Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986, Amendment No 8 (SR 1994/181):
- (e) regulation 3 of the Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986, Amendment No 10 (SR 1995/158):
- (f) regulation 4 of the Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986, Amendment No 13 (SR 1996/279):
- (g) regulation 5 of the Fisheries (Auckland and Kermadec Areas Commercial Fishing) Amendment Regulations 2001 (SR 2001/65):
- (h) Fisheries (Auckland and Kermadec Areas Commercial Fishing) Amendment Regulations (No 2) 2001 (SR 2001/157).

Schedule
**Other amendments to principal
regulations**

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Regulation 5

Omit from subclauses (1) and (3) the words “regulation 47 of the Fisheries (Commercial Fishing) Regulations 1986” and substitute in each case the words “regulation 71 of the Fisheries (Commercial Fishing) Regulations 2001”.

Regulation 5C

Omit the words “regulation 21(1) of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulation 31(1) of the Fisheries (Commercial Fishing) Regulations 2001”.

Regulation 5F

Omit the words “regulation 21 of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulation 31(1) of the Fisheries (Commercial Fishing) Regulations 2001”.

Regulation 13

Omit the words “regulation 21 of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulation 31(1) of the Fisheries (Commercial Fishing) Regulations 2001”.

Regulation 14

Omit the words “regulation 22 of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulation 61 of the Fisheries (Commercial Fishing) Regulations 2001”.

Regulation 16

Omit from subclauses (1), (2), and (3) the words “regulation 42 of the Fisheries (Commercial Fishing) Regulations 1986” and substitute in each case the words “regulation 65 of the Fisheries (Commercial Fishing) Regulations 2001”.

Regulation 22B(3)

Omit the words “regulation 22(1) of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulation 32(1) of the Fisheries (Commercial Fishing) Regulations 2001”.

Martin Bell,

Acting for Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 October 2001, amend the Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986 to make them more consistent with the Fisheries Act 1996. The main features of the amendments are as follows:

- a definition of **commercial fisher** is substituted for the definition of **commercial fisherman**:
- a reference to the chief executive is substituted for a reference to the Director-General:
- the prohibition on targeting certain fish, aquatic life, and seaweed is omitted. This matter is now covered by the Fisheries (Commercial Fishing) Regulations 2001:
- the 2-tier penalty band in regulation 24 for offences against the regulations, which has maximum fines of \$5,000 and \$10,000, is replaced by a 2-tier band that has maximum fines of \$20,000 and \$100,000.

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