

Fisheries Amendment Bill

Government Bill

As reported from the Primary Production Committee

Commentary

Recommendation

The Primary Production Committee has examined the Fisheries Amendment Bill and recommends that it be passed. We recommend all amendments unanimously.

Introduction

The Fisheries Amendment Bill would amend the Fisheries Act 1996. The amendments proposed by the bill are intended to modernise and strengthen New Zealand's fisheries management system, and encourage sustainable commercial fishing practices. The bill would:

- empower the Minister for Oceans and Fisheries to establish pre-set decision rules for sustainability measures
- amend commercial fishing rules related to the landing and returning of fish
- empower the Minister to require or permit fish to be returned to sea
- introduce a graduated offences and penalties regime
- extend requirements for the use of on-board camera monitoring to include fishing and fishing-related activities including sorting, processing, and discarding of fish.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. Other than noting the following matter regarding the power to consolidate certain secondary legislation, we are satisfied that our concerns have been addressed. We have no issues regarding the legislation's design to bring to the attention of the House.

Certain secondary legislation may be consolidated

Clause 26 would replace section 303 of the Act to allow certain secondary legislation or published instruments made by the same maker to be consolidated. The maker would be the Minister or the chief executive of the Ministry for Primary Industries. Consolidation would involve revoking existing instruments and making new instruments with the same effect. Any further effect of the new instrument would be authorised by the relevant empowering provisions. Only the new or amended parts of the consolidated instruments would need to satisfy the requirements for making those parts. The parts that had been revoked and remade would only need to satisfy the requirements for publication.

The Regulations Review Committee noted that proposed new section 303 would operate as a bespoke regulation-making power and suggested that it be identified as such. This would ensure that the usual presentation requirements and parliamentary scrutiny would apply. It recommended that we seek advice about the reason for not identifying proposed new section 303 as a power to make secondary legislation.

We have carefully considered the points raised, and on balance do not propose amending clause 26 of the bill. This is because proposed new section 303 would rely on other provisions in the Act to authorise the revocation or making of instruments to enable consolidation. The other provisions that would be relied on by new section 303 impose the requirements for presentation and for parliamentary scrutiny of instruments that are secondary legislation.

Proposed amendments

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

Pre-set decision rules for sustainability measures

Section 11 of the Fisheries Act empowers the Minister for Oceans and Fisheries to set sustainability measures for fish stocks and areas. A sustainability measure may relate to:

- the catch limit for a stock
- the size, sex, or biological state of fish, aquatic life, or seaweed
- the areas from which fish, aquatic life, or seaweed may be taken
- the fishing methods by which fish, aquatic life, or seaweed may be taken.

Clause 5 of the bill would insert new section 11AAA to allow the Minister to make pre-set decision rules for fish stocks and areas. Within these rules, a sustainability measure may be set or varied. The purpose of pre-set decision rules is to enable the fisheries management system to respond more promptly to changes in fish stock abundance.

We recommend several changes to proposed new section 11AAA, outlined below.

Required content of pre-set decision rules

As introduced, proposed new section 11AAA does not prescribe any form or content requirements for pre-set decision rules, other than that they would specify an approved range or limit. We believe it is important for people to understand clearly how pre-set decision rules would be made, and what the rules would seek to address. We are also concerned that, without these requirements, new section 11AAA might allow for more Ministerial discretion than is necessary. We recommend inserting new section 11AAA(1A) to require that pre-set decision rules specify:

- the management objectives for the stock or area concerned
- a target biomass level for the stock concerned (if any)
- a threshold above or below which the Minister may make a response in respect of the stock or area concerned
- the responses that the Minister is authorised to make.

We consider that our amendment would reflect the purpose of pre-set decision rules and strengthen the Minister's accountability for their decision-making. We also recommend a consequential amendment to clause 4(2), section 2(1), to define "pre-agreed response".

Minister must consider certain matters

Proposed new section 11AAA(2) would require that, before making, amending, or replacing a pre-set decision rule, the Minister would need to comply with section 11(1) to (2A) of the Act, as if they were setting a sustainability measure. These provisions require the Minister to consider a number of matters, such as the natural variability of the fish stock concerned, regional plans, and relevant fisheries plans.

For robustness of decision-making, we believe the Minister should also consider those matters when applying, revoking, or reviewing a pre-set decision rule. We recommend amending proposed section 11AAA(2) to this effect.

Requiring the periodic review of pre-set decision rules

Proposed new section 11AAA(5) provides that a pre-set decision rule would expire either according to the date specified in the rule, or when it is revoked or replaced by the Minister. We are concerned that a rule could apply indefinitely.

We recommend inserting new section 11AAA(4A) to require the Minister to review each pre-set decision rule within 5 years of being made or within 5 years of the last review. We also recommend inserting section 11AAA(5)(c) so that failure to conduct a review within the prescribed timeframe would result in the rule automatically being revoked.

We recommend a related amendment to insert section 11AAA(5A), to require that the Minister notify the persons consulted under new sections 12(2)(a) and 12(2)(b) that a pre-set decision rule has been revoked. The Minister would also need to provide, in writing, the reasons for revoking the rule.

Sustainability measures

Clause 6 of the bill would insert section 11(7) to allow the Minister to set or vary a sustainability measure in accordance with a pre-set decision rule, without the need to comply with existing sections 11(1), 11(2), 11(2A), and 11(5). This is because the Minister would have already considered these provisions when establishing the relevant pre-set decision rule.

We are concerned that it is possible for considerable change to occur within a fish stock or area in the time between the establishment of a rule and the setting or varying of a corresponding sustainability measure. We believe the requirement for the Minister to consider subsections (1), (2), (2A), and (5) (if applicable) should be retained. We recommend replacing proposed section 11(7) to this effect.

Consultation requirements

Clause 8 would replace section 12. New section 12 would specify the circumstances in which the Minister would need to consult interested persons. The Minister would be required to carry out consultation before making, amending, or replacing a pre-set decision rule. We believe consultation should also occur before a rule is reviewed or revoked. This would avoid any potential uncertainty as to whether a rule remained in place. We recommend amending proposed section 12 to this effect.

Total allowable catch

Clause 9(1) would insert new section 13(2)(aaa) to allow the Minister to set a total allowable catch in accordance with a pre-set decision rule. A total allowable catch set under new section 13(2)(aaa) would need to:

- be set with regard to the interdependence of stocks
- not be inconsistent with the objective of maintaining a stock at or above the level at which it can produce the maximum sustainable yield.

We consider that the generality of the proposed criteria in new section 13(2)(aaa) would not reflect the Minister's duty under the Act to ensure the sustainability of fisheries resources. We believe a total allowable catch set in accordance with a pre-set decision rule should be subject to the same decision-making process as any other total allowable catch.

We therefore recommend amending clause 9(1) to delete proposed section 13(2)(aaa), and insert instead sections 13(4), 13(4A), and 13(4B), so that the Minister would be required to have regard to the matters set out in subsections (2), (2A) if applicable, and (3). These provisions require that a total allowable catch is set:

- to maintain, restore to, or move toward or above a level at which a stock can produce the maximum sustainable yield
- with regard to the interdependence of stocks
- using the best available information.

Setting or varying total allowable commercial catch

As introduced, clause 12 would insert new section 20(6) to allow the Minister to set or vary a total allowable commercial catch in accordance with the range or limit specified in a pre-set decision rule, and without complying with section 20(1) to (5) of the Act. We recommend deleting proposed section 20(6), and instead inserting new section 20(2A). This would mean that the Minister could only adjust the total allowable commercial catch in the manner explicitly specified by the pre-agreed response contained in the relevant pre-set decision rule. Our proposed new section 20(2A) would also be subject to subsections (1) to (5).

We recommend a related amendment to clause 21. It would provide that consultation would not be required if the Minister had, when making the pre-set decision rule, already allowed for non-commercial fishing interests and other mortality to that stock.

Landing and discards

Clause 14 would insert new section 72A to empower the Minister to make instruments that would require, or permit, specific stocks or species to be returned to sea. The Minister could make an instrument if satisfied that:

- the stock or species has an acceptable likelihood of survival if returned or abandoned
- retaining the stock or species will have a negative economic value
- the return or abandonment is for a biological, fisheries management, or ecosystem purpose, and the stock or species has an acceptable likelihood of survival.

Acceptable likelihood of survival

Determining the likelihood of survival of a species or stock returned to sea would be an evidence-based process. We understand that there would be some discretion in determining what is considered an “acceptable” likelihood, and would be dependent on the stock or species in question. In considering the acceptable likelihood of survival for the purpose of making an instrument under proposed section 72A(2)(a), we believe the Minister should be required to have regard to:

- the sustainability of the stock or species
- the method by which the stock or species is taken
- the handling practices for the stock or species taken
- the social, cultural, and economic factors the Minister considers relevant.

We recommend inserting new section 72A(2A) to this effect.

Negative economic value

We are concerned that “negative economic value” is not specific enough and is open to subjective interpretation. The intent of the negative economic value exception is to allow commercial fishers to discard catch that would damage existing catch (for example, an ammoniating species), or that has been unavoidably damaged (for

example, by disease or predation). We recommend amending proposed new section 72A(2)(b) to delete reference to “negative economic value”.

Offences and penalties

The existing offences and penalties regime was established more than two decades ago and was based on a limited ability to monitor compliance and detect illegal behaviour. Low-level offences are seldom prosecuted because the penalties are disproportionately high. The bill would introduce a graduated offences and penalties regime, which is designed to allow for more effective and frequent enforcement by the ministry.

Offences related to landing and discards

Clause 13(1) would replace section 72(1) to (4). New section 72(1) would prohibit a commercial fisher from returning or abandoning catch to the sea or other waters. However, new section 72(2) provides that, if required by an instrument under new section 72A, catch must be immediately returned to the sea. Similarly, new section 72(3) provides that catch would be allowed to be returned to sea if permitted by an instrument under new section 72A.

New section 72(4) would make it an offence to breach subsection (1) by returning, abandoning, or retaining fish. We believe that proposed section 72(4) is somewhat confusing, as it could be interpreted to stipulate that a commercial fisher would be contravening the prohibition on returning or abandoning catch by retaining the respective catch.

We recommend amending proposed new section 72(4) to set out separate offences for each of the following actions:

- returning or abandoning fish that must be landed
- landing fish that must be returned
- returning fish that must be returned, but in breach of the conditions of its return
- returning fish that may be returned, but in breach of the conditions of its return.

Defence available to prosecution for return or abandonment

Clause 13(2) would insert new section 72(5)(ba) to make available a defence to a prosecution if fish or aquatic life was returned or abandoned to ensure the safety of a marine mammal, protected shark or ray species, or any other protected species specified by the Minister. We recommend an amendment so that this defence would be available to a fisher that reasonably believed it was necessary to return or abandon catch in order to ensure the safety of a marine mammal, protected shark or ray species, or any other protected species specified by the Minister.

Regulations for demerit points

Clause 24 would insert new section 298A to allow for a demerit points system to be established by regulations. This would target low-level repeat offending, similar to the demerit points system used for land transport driving offences and penalties.

New section 298A(1)(a) would enable the demerit points system to apply to fishing permit holders and vessel masters, but also others such as owners and caveators of quota and annual catch entitlements, people who sell fish, and people who own premises where fish is sold.

We recommend an amendment so that any demerit points system could only apply to fishing permit holders and vessel masters, as these are the classes of persons who are responsible for fishing operations and decision-making.

We also recommend several other amendments to clause 24 that would improve the workability of the proposed demerit points system. These amendments would provide that demerit points:

- may only be recorded for infringement offences
- would expire after 3 years
- would be subject to review and appeal processes.

Issues not resulting in amendments

Criteria for determining the applicable penalty for an offence

We spent some time discussing the proposed offences and penalties regime. Some of us are concerned in particular about the criteria that would be used to determine the penalty for an offence against new sections 72(1) to (3). The financial penalty imposed would depend on whether an offence concerned 50 or fewer fish, or more than 50. We enquired whether consideration had been given to specifying other criteria that should be considered, such as the species the offending related to, and the value of the species. We were advised that species-specific criteria set out in primary legislation could result in a lack of flexibility and an inability to respond appropriately to changing criteria. In addition, environmental, economic, and recreational interests could value a species differently.

We also sought assurance that the Ministry for Primary Industries would exercise its judgement appropriately in regards to compliance and enforcement. The ministry said its approach to compliance is based on the “VADE” model.¹ The model has four components: voluntary compliance, assisted compliance, directed compliance, and enforced compliance. These components are sequential in their severity, and designed to incentivise voluntary compliance. We were advised that when determining the appropriate enforcement action, a number of factors would be considered. These include:

- a fisher’s compliance history
- the severity of the consequences of the offending
- whether the prosecution is considered to be in the public interest.

¹ Further information about the Ministry for Primary Industries’ VADE compliance model.

We note that the penalties in the bill would be the maximum penalties. The Sentencing Act 2002 requires a court to take into account any aggravating or mitigating factors when determining the applicable penalty for an offence. In addition, section 254 of the Fisheries Act 1996 requires that a court take into account the Act's purpose, among other things, when imposing a sentence. We were advised that this would likely include consideration of the species of fish an offence relates to.

Some of us remain concerned that the bill would not explicitly direct the ministry to take a pragmatic approach to enforcement. The National Party and ACT Party members would prefer that the ministry be required to have regard to the species concerned, and the value of that species, when determining the applicable penalty for an offence against new section 72(1) to (3).

ACT Party differing view

The ACT Party generally supports this bill. However, there are two clauses we believe require amendment. Clause 13(1), proposed new section 72(1) to (3) would establish a two-tiered offence structure whereby certain discarding would attract a lesser penalty for 50 fish or fewer, and a greater penalty for more than 50 fish. The precise limit of 50 fish is arbitrary and does not adequately reflect any assessment of risk to the sustainability of a fish stock, or the loss of economic value.

For example, the discarding of 51 pilchards and the discarding of 51 bluefin tuna would be treated the same, despite the two species having very different economic values per fish. A better solution would be to regulate the number of acceptable discards according to the risks those discards would pose to the sustainability of the fishery. If assessments of the sustainability of particular fisheries have already been made, then the ability to develop this regulation is already there.

Clause 13(3) overturns the basic restraint on state power that a person is innocent until proven guilty, and the burden of proving that any exceptions apply would lie on the defendant. This replaces the presumption of innocence with a presumption of criminality, whereby defendants are to be convicted of an offence unless they can prove their innocence. This is a major step, and requires a compelling reason from the Government to override basic liberties. Absent any compelling reason, we believe that clause 13, proposed new section 72(5)(ba) be removed from the bill.

The ACT Party also opposes clause 20. Clause 20 means that, on the second offence convicted in the same or separate proceedings, the maximum penalty of \$250,000 and automatic forfeiture would apply. This would apply even if the offence prosecuted was relatively minor. It would also apply in the same proceeding, so a person facing two offences in the same proceeding risks the maximum penalty. This conflicts with natural justice, which means that a person has the right to reform after their first offence. This clause overturns that by making it a maximum penalty potentially in the first proceeding. It is also disproportionate—a defendant would not know what the likely penalties will be if they face more than one offence in their first proceeding. This highlights the problem in clause 13 regarding the 50 fish limit—a person guilty

of discarding more than 50 low value fish would face the same penalty as someone guilty of discarding more than 50 high value or endangered fish.

Ultimately, the ACT Party generally supports the bill. However, we maintain concern that the bill as it stands may have unforeseen effects for the fisheries industry and problematises fundamental procedures of natural justice.

Green Party of Aotearoa New Zealand differing view

The Green Party supports much in the bill but considers it a lost opportunity to make some of the legislative changes needed to reduce the substantial environmental impacts of fishing. The bill could have strengthened the ecosystem approach to fisheries management which has been much talked about but is not well codified in law. It could have amended section 10 (Information principles) of the Fisheries Act 1996 to enable effective implementation of the precautionary principle. The bill as amended by select committee does not take sufficient account of the issues raised in public submissions.

Pre-set decision rules

Pre-set decision rules are set by the Minister for the purpose of setting and adjusting sustainability measures, total allowable catches, and total allowable commercial catches.

Advisers say that pre-set decision rules are an additional tool alongside existing processes and are “intended to improve the agility of the system to operate”. We were advised that only 399 of the 642 fish stocks in the quota management system are actively monitored and managed and that the ministry has the capacity to adjust catch limits for between 20 and 30 stocks annually.

Changes recommended by the committee would require review of a pre-set decision rule after 5 years, make their content more certain by requiring that the rules must specify the management objectives for the stock or area concerned, and that the Minister must comply with the sustainability measures in section 11 when setting or changing a pre-set decision rule.

Thousands of seabirds, hundreds of fur seals, dozens of New Zealand sea lions, turtles, and other supposedly “protected” species continue to be caught and killed as bycatch by the commercial fishing industry each year. The bill is an opportunity to amend section 9 (Environmental principles) and section 11 (Sustainability measures) to require more attention to measures to reduce bycatch of protected species when setting the total allowable catch and when making or amending any pre-set decision rules. The Green Party believes that the bill should add a new environmental principle to section 9, to require persons exercising powers, functions, and duties under the Act to take into account the need to avoid bycatch of protected species. When setting or varying sustainability measures under section 11, the Minister should also be required to take into account the need to specify effective measures which fishers must implement to reduce bycatch of protected species. These changes to the bill and the Act should help reduce the unacceptably high death toll of “protected” and often threat-

ened species, from the antipodean albatross to the pakake/whakahao/New Zealand sea lion.

Even with the committee's recommended amendments, the Green Party believes the rules remain too focused on single stocks, and on the setting of the total allowable catch as the primary tool to ensure sustainability. They rely too heavily on catch per unit effort data which may not accurately represent stock abundance, and on maintaining or moving stocks to levels that will produce a maximum sustainable yield—a framework that effectively encourages maximum exploitation of fish.

While the pre-set decision rules “streamline” decision-making to provide for more flexibility in fisheries management, they also reduce the opportunity for public input, for checking government and industry fisheries data against external information, and they reduce ministerial accountability. The Green Party does not support the Minister being able to vary the total allowable catch through a pre-agreed response as provided for in clause 9 and changes to section 13(4) of the Act because public consultation is not required on the application of that response.

Discards and dumping

The proposed new rules around landing and discards are intended to help discourage dumping and high grading, ensure all fish caught by commercial fishers are reported and accounted for, and encourage fishers to avoid fish they do not want to catch and make the best use of the fish they catch. The Green Party considers that clause 14, which inserts section 72A, and particularly new section 72A(2A), which sets out the factors the Minister must have regard to in considering exceptions to the landing rules, are too broad. Requiring the Minister to have regard to paragraph (d) “the social, cultural and economic factors the Minister considers relevant” provides too much discretion for the Minister and undermines the intent of the new landing and discards provisions. The Green Party believes that proposed new section 72A(2A)(d) should be deleted.

New Zealand National Party differing view

The National Party remains concerned that too many of the operational implications of the bill have been left to regulations and associated instruments. The details of the regulations themselves are yet to be developed and would follow consultation with affected stakeholders. Many times in discussions with advisers, we were told that it was their expectation that pragmatic outcomes will occur. However, there was resistance whenever we sought to clarify that in the primary legislation. As noted earlier, whilst an improvement on the current framework, the proposed offences and penalties regime does not give us comfort that it would be applied in a pragmatic manner. The National Party members believe that, when setting fines for discards under proposed new sections 252(3A), 252(5)(ba), and 252(5A), regard should be had to matters including the species and value.

The National Party members also have concerns about the landing and discards regime proposed by the bill. The bill proposes that discards back to sea can occur within a very strict set of exceptions which, depending on the pragmatism of the Min-

ister when setting exceptions through an instrument, may have a disproportionate effect on inshore fishers. The National Party signals to advisers that the priority should be achieving a workable outcome that focuses on the benefits of cameras on-board vessels to assist with transparent on-board performance, rather than a strict interpretation of the primary legislation.

The National Party will be watching the operationalisation of the proposed bill closely, to ensure the right balance is struck between ongoing improvements in fishing practices, and ensuring viable inshore and deepwater commercial fisheries.

Appendix

Committee process

The Fisheries Amendment Bill was referred to the committee on 5 May 2022. We called for submissions on the bill with a closing date of 17 June 2022. We received and considered 498 submissions from interested groups and individuals. We heard oral evidence from 56 submitters at hearings in Wellington and by videoconference.

We received advice on the bill from 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. The Regulations Review Committee reported to us on the powers contained in clause 26.

Committee membership

Jo Luxton (Chairperson)

Mark Cameron

Nicola Grigg

Barbara Kuriger

Steph Lewis

Anna Lorck

Angela Roberts

Tim van de Molen

Glen Bennett and Todd Muller participated in our consideration of this bill.

Hon Eugenie Sage participated in our consideration of this bill under Standing Order 214(4).

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon David Parker

Fisheries Amendment Bill

Government Bill

Contents

	Page
1 Title	2
2 Commencement	3
3 Principal Act	3

Part 1

Substantive provisions

4	Section 2 amended (Interpretation)	3
5	New section 11AAA inserted (Pre-set decision rules for sustainability measures)	3
	11AAA Pre-set decision rules for sustainability measures	3
6	Section 11 amended (Sustainability measures)	4
7	Section 11A amended (Fisheries plans)	5
8	Section 12 replaced (Consultation)	5
	12 Consultation	5
9	Section 13 amended (Total allowable catch)	6
10	Section 14 amended (Alternative total allowable catch for stock specified in Schedule 3)	7
11	Section 14B amended (Alternative total allowable catch for certain stocks)	7
12	Section 20 amended (Setting and variation of total allowable commercial catch)	7
<u>12A</u>	<u>Section 21 amended (Matters to be taken into account in setting or varying any total allowable commercial catch)</u>	<u>8</u>
13	Section 72 amended (Dumping of fish prohibited)	8
14	New section 72A inserted (Minister may require or permit fish or <u>other animal that is aquatic life</u> to be returned or abandoned)	10

	72A	Minister may require or permit fish or <u>other animal that is aquatic life to be returned or abandoned</u>	10
15		Section 113K amended (Conditions of high seas fishing permit)	11
16		Section 191 amended (Disposal of fish by commercial fishers)	11
17		Section 192 amended (Restrictions on purchase or acquisition of fish by certain persons)	11
18		Section 223 amended (Observer programme established)	12
19		Section 227A amended (Installation and maintenance of equipment on vessels may be required)	12
20		Section 252 amended (Penalties)	12
21		Section 255A amended (Forfeiture for infringement offence)	13
22		Section 255C amended (Forfeiture for section 252(2), (3), and (5) offences, offences carrying fine of \$100,000, repeat offences, and serious non-commercial offences)	13
22A		Section 257 amended (Prohibition of fishing activity in case of <u>reoffending</u>)	13
23		Section 297 amended (General regulations)	14
24		New section 298A inserted (Regulations relating to demerit points)	15
	298A	Regulations relating to demerit points against specified persons described in section 189	15
25		Section 302A repealed (<i>Gazette</i> notices may be consolidated)	16
26		Section 303 replaced (Certain secondary legislation may be consolidated)	16
	303	Certain secondary legislation or published instruments may be consolidated	16

Part 2

Repeal and consequential amendments

27	Schedule 1AA amended	18
28	Schedule 6 repealed	18
29	Repeal of Fisheries Act 1983	18
30	Consequential amendments to principal Act	18
31	Consequential amendments to secondary legislation	18

Schedule 1

New Part 3 inserted into Schedule 1AA

Schedule 2

Consequential amendments to principal Act

Schedule 3

Amendments to secondary legislation

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Fisheries Amendment Act **2022**.

2 Commencement

This Act comes into force on ~~1 October 2022~~ 1 November 2022.

3 Principal Act

This Act amends the Fisheries Act 1996.

Part 1 Substantive provisions

5

4 Section 2 amended (Interpretation)

- (1) In section 2(1), definition of **fisheries services**, after paragraph (d), insert:

(e) the provision, installation, and maintenance of electronic and other equipment on fishing vessels to observe fishing and related activities, including— 10

(i) the return, abandonment, processing, or sorting of fish:

(ii) transportation connected with fishing:

(iii) measures to avoid, remedy, or mitigate fishing-related mortality:

(f) the submission, storage, and review of electronic and other data from activities described in **paragraph (e)** 15

- (2) In section 2(1), insert in ~~its~~ their appropriate alphabetical order:

pre-agreed response means a response specified in a pre-set decision rule under **section 11AAA(1A)(d)**

pre-set decision rule means a rule made under **section 11AAA** 20

5 New section 11AAA inserted (Pre-set decision rules for sustainability measures)

~~In Part 3, before~~ Before section 11, insert:

11AAA Pre-set decision rules for sustainability measures

- (1) The Minister may— 25

(a) ~~make rules that specify an approved range or limits within which any sustainability measure for 1 or more stocks or areas may be set or varied (the pre-set decision rules):~~

(b) ~~amend, replace, or revoke any pre-set decision rules.~~

- (1) The Minister may make rules within which any sustainability measure for 1 or more stocks or areas may be set or varied (the pre-set decision rules). 30

- (1A) Pre-set decision rules must specify—

(a) the management objectives for the stock or area concerned; and

(b) a target biomass level for the stock concerned (if any); and

	(c) <u>a threshold above or below which the Minister may make a response in respect of the stock or area concerned; and</u>	
	(d) <u>the responses that the Minister is authorised to make.</u>	
(1B)	<u>Pre-set decision rules may include transitional and savings provisions that the Minister considers necessary concerning the coming into force of the rules.</u>	5
(2)	Before making, amending, <u>applying, revoking, reviewing,</u> or replacing pre-set decision rules (but not when revoking or applying pre-set decision rules) , the Minister must comply with section 11(1) to (2A) as if the Minister were setting a sustainability measure for the relevant stock or area.	
(3)	<i>See section 20(6)(b)</i> for requirements in section 21(1) that relate to the making of pre-set decision rules that enable a total allowable commercial catch to be set or varied under the rules.	10
(4)	For the purposes of this section, sustainability measures include measures referred to in section 11 and total allowable commercial catches.	
(4A)	<u>The Minister must review a pre-set decision rule within the following periods (the 5-year review periods):</u>	15
	(a) <u>within 5 years after the date on which the rule is made:</u>	
	(b) <u>within 5 years after the date on which the rule is last reviewed.</u>	
(5)	Without limiting subsection (1), pre-set decision rules —	
	(a) expire at the close of the date or period specified in the rules or (if their expiry is not provided for) when revoked or replaced:	20
	(b) may include transitional and savings provisions that the Minister considers necessary concerning the coming into force of the rules.	
(5)	<u>Pre-set decision rules are revoked on the earliest of the following:</u>	
	(a) <u>at the close of the date or period specified in the rules:</u>	25
	(b) <u>on the date on which the rules are revoked or replaced:</u>	
	(c) <u>if the Minister has not reviewed a pre-set decision rule in accordance with subsection (4A), at the close of the applicable 5-year review period.</u>	
(5A)	<u>The Minister must notify the persons referred to in section 12(2)(a) and (b) as soon as practicable that a pre-set decision rule has been revoked.</u>	30
(6)	Pre-set decision rules (except instruments that revoke pre-set decision rules) are secondary legislation (<i>see</i> Part 3 of the Legislation Act 2019 for publication requirements).	
6	Section 11 amended (Sustainability measures)	35
	After section 11(6), insert:	
(7)	Despite subsections (1) to (5), the Minister may, without further authority than this subsection and without complying with subsections (1), (2), (2A), and (5),	

	make an instrument that sets or varies any sustainability measure for 1 or more stocks or areas if the sustainability measure is within an approved range or limits specified in pre-set decision rules.	
(7)	<u>The Minister may make an instrument that sets or varies any sustainability measure for 1 or more stocks or areas in accordance with a pre-agreed response after—</u>	5
	(a) <u>taking into account the matters in subsections (1) and (2A); and</u>	
	(b) <u>having regard to the matters in subsection (2), and if applicable, subsection (5).</u>	
(8)	An instrument made under subsection (7) is secondary legislation (<i>see</i> Part 3 of the Legislation Act 2019 for publication requirements).	10
7	Section 11A amended (Fisheries plans)	
	After section 11A(3)(b)(ii), insert:	
	(iii) pre-set decision rules:	
8	Section 12 replaced (Consultation)	15
	Replace section 12 with:	
12	Consultation	
(1)	Subsection (2) applies before the Minister—	
	(a) does anything under any of sections 11(1) or (4), 11A(1), 13(1), (4), or (7), 14(1), (3), or (6), 14B(1), and 15(1) or (2); or	20
	(b) makes, amends, <u>reviews, revokes, or replaces</u> pre-set decision rules under section 11AAA (but not when revoking or applying pre-set decision rules); or	
	(c) recommends the making of an Order in Council under section 13(9), 14(8), or 14A(1).	25
(2)	In that case, the Minister must—	
	(a) consult with any persons or organisations that the Minister considers are representative of those classes of persons having an interest in the stock or the effects of fishing on the aquatic environment in the area concerned, including Maori, environmental, commercial, and recreational interests; and	30
	(b) provide for the input and participation of tangata whenua having—	
	(i) a non-commercial interest in the stock concerned; or	
	(ii) an interest in the effects of fishing on the aquatic environment in the area concerned; and	35
	(c) for the purposes of paragraph (b) , have particular regard to kaitiakitanga.	

- (3) The Minister must, as soon as practicable, give to the parties consulted in accordance with **subsection (2)** reasons in writing for—
- (a) making, amending, revoking, or replacing pre-set decision rules; or
 - (b) setting or varying any sustainability measure; or
 - (c) approving, amending, or revoking any fisheries plan.
- (4) This section does not apply in respect of emergency measures under section 16.

5

9 Section 13 amended (Total allowable catch)

- (1) Before section 13(2)(a), insert:

- (aaa) ~~is within an approved range or limits specified in pre-set decision rules, and the catch—~~
- (i) ~~is set having regard to the interdependence of stocks; and~~
 - (ii) ~~is not inconsistent with the objective of maintaining the stock at or above, or moving the stock towards or above, a level that can produce the maximum sustainable yield; or~~

10

- (1) Replace section 13(4) with:

15

- (4) The Minister may, by notice in the *Gazette*, vary any total allowable catch set for any quota management stock under this section by increasing or reducing the total allowable catch.

- (4A) The Minister may make an instrument that sets or varies the total allowable catch for any quota management stock in accordance with a pre-agreed response.

20

- (4B) The Minister must have regard to the matters specified in subsections (2), (2A) (if applicable), and (3) when setting or varying a total allowable catch under **subsection (4) or (4A).**

- (1A) In section 13(5), replace “or subsection (4),” with “, **(4)**, or **(4A)**”.

25

- (2) In section 13(6), after “subsection (7)”, insert “or **(7A)**”.

- (3) After section 13(7), insert:

- (7A) Despite subsections (1) and (7), after considering information about the abundance during the current fishing year of any stock listed in Schedule 2 and after having regard to the matters specified in subsections (2), (2A) (if applicable), and (3) in **subsection (2)(aaa)**, the Minister may make an instrument under pre-set decision rules that sets or varies increases, in accordance with a pre-agreed response, the total allowable catch for any stock listed in Schedule 2 with effect from any date in the fishing year in which the instrument is published as may be stated in the instrument.

30

35

- (4) In section 13(8), after “subsection (7)”, insert “or **(7A)**”.

10 Section 14 amended (Alternative total allowable catch for stock specified in Schedule 3)

(1) In section 14(5), after “subsection (6)”, insert “or **(6A)(b)**”.

(2) After section 14(6), insert:

(6A) Despite subsections (1) and (6),—

(a) after being satisfied that it is appropriate to achieve the purpose of this Act, the Minister may make an instrument under pre-set decision rules that sets or varies the total allowable catch for any stock listed in Schedule 3 with effect on and from the first day of the next fishing year for the stock concerned:

(b) after considering information about the abundance during the current fishing year of any stock listed in Schedule 3 and being satisfied that it is appropriate to achieve the purpose of this Act, the Minister may make an instrument under pre-set decision rules that ~~varies~~ increases, in accordance with a pre-agreed response, the total allowable catch for any stock listed in Schedule 3 with effect on and from any date in the year in which the instrument is published as may be stated in the instrument.

(3) In section 14(7), after “subsection (6)”, insert “or **(6A)(b)**”.

11 Section 14B amended (Alternative total allowable catch for certain stocks)

After section 14B(6), insert:

(6A) Despite subsections (1) and (6), but in accordance with subsections (2) and (3), the Minister may make an instrument under pre-set decision rules that sets or varies the total allowable catch for any stock to which this section applies with effect ~~from any date in the~~ on and from the first day of the next fishing year ~~in which the instrument is published as may be stated in the instrument~~ for the stock concerned.

12 Section 20 amended (Setting and variation of total allowable commercial catch)

After section 20(5), insert:

(6) Despite subsections (1) to (5),—

(a) the Minister may, subject to **paragraph (b)**, ~~make an instrument that sets or varies a total allowable commercial catch for 1 or more stocks or areas within an approved range or limits specified in pre-set decision rules:~~

(b) ~~the Minister must have allowed for the interests described in section 21(1)(a) and (b) (whether in the course of making the rules or before setting or varying that catch):~~

(c) ~~the requirements in section 21(2) and (3) (to consult, and give written reasons to, the interested persons and organisations) do not apply.~~

(1) After section 20(2), insert:

(2A) The Minister may make an instrument that sets or varies a total allowable commercial catch for 1 or more quota management stocks in accordance with a pre-agreed response.

(2) In section 20(3), replace “and (2)” with “to **(2A)**”.

5

12A Section 21 amended (Matters to be taken into account in setting or varying any total allowable commercial catch)

After section 21(2), insert:

(2A) Subsection (2) does not apply if the Minister allowed for the matters specified in subsection (1)(a) and (b) when making the pre-set decision rules.

10

13 Section 72 amended (Dumping of fish prohibited)

(1) Replace section 72(1) to (4) with:

(1) A commercial fisher must not return to or abandon in the sea or any other waters any fish or other animal that is aquatic life that is subject to the quota management system, except as provided in **subsection (2) or (3)**.

15

(2) A commercial fisher who takes any fish or other animal that is aquatic life subject to the quota management system must, if required by an instrument made under **section 72A(2)(c)**,—

(a) immediately return it to, or abandon it in, the sea or waters from which it was taken; and

20

(b) comply with the conditions and requirements (if any) specified in that instrument.

(3) A commercial fisher who takes any fish or other animal that is aquatic life subject to the quota management system may return it to, or abandon it in, the sea or waters from which it was taken if—

25

(a) the return is permitted by an instrument made under **section 72A(2)(a) or (b)**; and

(b) they comply with the conditions and requirements (if any) specified in that instrument.

(4) Every person commits an offence and is liable to the applicable penalty set out in ~~imposed by~~ **section 252(3A), (5)(ba), or (5A)** if the person, ~~in contravention of~~ **subsection (1)**,—

30

(a) returns, abandons, or retains—

(i) 50 or fewer fish; or

(ii) 50 or fewer animals or plants that are aquatic life; or

35

(b) returns, abandons, or retains—

(i) more than 50 fish; or

(ii) more than 50 animals or plants that are aquatic life.

- (a) in contravention of **subsection (1)**, in respect of fish or another animal that is aquatic life not listed in an instrument made under **section 72A(2)(c)**, returns or abandons—
- 5
- (i) 50 or fewer fish or other animals that are aquatic life in any 24-hour period; or
- (ii) more than 50 fish or other animals that are aquatic life in any 24-hour period; or
- (b) in contravention of **subsection (2)(a)**, fails to return or abandon—
- 10
- (i) 50 or fewer fish or other animals that are aquatic life in any 24-hour period; or
- (ii) more than 50 fish or other animals that are aquatic life in any 24-hour period; or
- (c) in contravention of **subsection (2)(b)**, fails to comply with conditions or requirements in respect of the return or abandonment of—
- 15
- (i) 50 or fewer fish or other animals that are aquatic life in any 24-hour period; or
- (ii) more than 50 fish or other animals that are aquatic life in any 24-hour period; or
- (d) in contravention of **subsection (3)(b)**, fails to comply with conditions or requirements in respect of the return or abandonment of—
- 20
- (i) 50 or fewer fish or other animals that are aquatic life in any 24-hour period; or
- (ii) more than 50 fish or other animals that are aquatic life in any 24-hour period.
- (2) After section 72(5)(b), insert:
- 25
- (ba) the commercial fisher believed on reasonable grounds that the return or abandonment of the fish or other animal that is aquatic life was ~~returned or abandoned~~ necessary to ensure the safety of—
- 30
- (i) a marine mammal (as defined in section 2(1) of the Marine Mammals Protection Act 1978); or
- (ii) fish of the species of *Chordata* listed in Schedule 7A of the Wildlife Act 1953 as Chondrichthyes (cartilaginous fishes); or
- (iii) any other protected species specified by the Minister in an instrument made under this paragraph.
- (3) Replace section 72(7) and (8) with:
- 35
- (7) In proceedings for an offence relating to a contravention of **subsection (4)**,—
- (a) the prosecutor need not assert in the charging document that the exceptions set out in **subsection (2) or (3)** or the defence in **subsection (5)(ba)** do not apply; and

(b)	the burden of proving that any of the exceptions set out in subsection (2) or (3) or the defence in subsection (5)(ba) applies lies on the defendant.	
(8)	An instrument made under subsection (5)(ba)(iii) is secondary legislation (<i>see</i> Part 3 of the Legislation Act 2019 for publication requirements).	5
14	New section 72A inserted (Minister may require or permit fish or <u>other animal that is aquatic life to be returned or abandoned</u>)	
	After section 72, insert:	
72A	Minister may require or permit fish or <u>other animal that is aquatic life to be returned or abandoned</u>	10
(1)	The Minister may make instruments for the purposes of section 72(2) or (3) in accordance with this section.	
(2)	An instrument made under this section may—	
(a)	permit a stock or species to be returned to or abandoned in the sea or other waters from which it was taken if <u>the Minister is</u> satisfied that the stock or species has an acceptable likelihood of survival if returned or abandoned in the manner specified by the instrument; or	15
(b)	permit a stock or species to be returned to or abandoned in the sea or other waters from which it was taken if <u>the Minister is</u> satisfied that the retention of the stock or species will have a negative economic value, including a stock or species that—	20
(i)	would damage other stocks or species taken by the commercial fisher if retained (for example, an ammoniating species); or	
(ii)	is are damaged as a result of unavoidable circumstances (for example, diseased or predated fish); or	25
(c)	require a stock or species to be returned to or abandoned in the sea or other waters from which it was taken if <u>the Minister is</u> satisfied that the return or abandonment is for a biological, a fisheries management, or an ecosystem purpose and the stock or species has an acceptable likelihood of survival if returned or abandoned in the manner specified by the instrument.	30
(2A)	<u>In considering the acceptable likelihood of survival of a stock or species under subsection (2)(a), the Minister must have regard to—</u>	
(a)	<u>the sustainability of the stock or species; and</u>	
(b)	<u>the method by which the stock or species is taken; and</u>	35
(c)	<u>the handling practices for the stock or species taken; and</u>	
(d)	<u>the social, cultural, and economic factors that the Minister considers relevant.</u>	
(3)	The instrument may also—	

- (a) provide that it applies to the stocks or species, or classes of stocks or species, specified in the instrument by reference to size, weight, or other physical characteristics:
- (b) provide that it applies in relation to—
- (i) the fishing methods, the use of fishing gear, or in the circumstances specified in the instrument; or
 - (ii) the classes of fishing methods, fishing gear, or circumstances specified in the instrument:
- (c) impose conditions and requirements that the Minister considers appropriate.
- (4) An instrument made under this section may be amended, replaced, or revoked.
- (5) Before making, amending, replacing, or revoking an instrument under this section, the Minister must consult any persons or organisations that the Minister considers are representative of the classes of persons having an interest in the proposed action.
- (6) The decision to make an instrument under this section must be notified in the *Gazette*.
- (7) An instrument made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).
- 15 Section 113K amended (Conditions of high seas fishing permit)**
- Replace section 113K(1)(n) with:
- (n) the provision, installation, and maintenance of electronic and other equipment to observe any fishing and related activities described in **paragraph (e)** of the definition of fisheries services in section 2(1), and the payment of any associated prescribed fees and charges by the permit holder:
- 16 Section 191 amended (Disposal of fish by commercial fishers)**
- Replace section 191(1) with:
- (1) No commercial fisher may sell or otherwise dispose of fish, aquatic life, or seaweed, taken by the commercial fisher in that capacity, except—
- (a) to a licensed fish receiver; or
 - (b) as provided in subsection (2) or (5); or
 - (c) by an approved alternative method of disposal in accordance with regulations made under section 297.
- 17 Section 192 amended (Restrictions on purchase or acquisition of fish by certain persons)**
- After section 192(5)(c), insert:

- (d) a person using an approved method of disposal in accordance with regulations made under section 297.

18 Section 223 amended (Observer programme established)

After section 223(3), insert:

- (3A) In deciding whether to place an observer on board a vessel and the appropriate period of observer presence on the vessel, the chief executive may— 5
- (a) have regard to the number of demerit points recorded against any person described in section 189(a) to (f), (i), or (j) (including the owner, master, operator, or licence holder in respect of the vessel) under regulations made under **section 298A**; and 10
- (b) fix a period of observer presence on the vessel in accordance with any regulations made under that section.

19 Section 227A amended (Installation and maintenance of equipment on vessels may be required)

- (1) In section 227A, replace “fishing and transportation” with “fishing and related activities described in **paragraph (e)** of the definition of fisheries services in section 2(1)”. 15
- (2) In section 227A, insert as subsection (2):
- (2) **Subsection (1)** includes power to require that specified equipment be operated throughout or at any time during a vessel’s voyage. 20

20 Section 252 amended (Penalties)

- (1) Repeal section 252(3)(b).
- (2) After section 252(3), insert:
- (3A) Every person convicted, whether in the same or separate proceedings, of 2 or more offences against **section 72(4)(a), (b), (c), or (d) or (b)** (unlawfully returning, abandoning, or retaining fish or other animals that are aquatic life in any 24-hour period on any day) committed within a period of 3 years is liable to a fine not exceeding \$250,000 in respect of the second offence and each subsequent offence committed within that period. 25
- (3) After section 252(5)(b), insert: 30
- (ba) **section 72(4)(b)(a)(ii), (b)(ii), (c)(ii), or (d)(ii)** (unlawfully returning, abandoning, or retaining more than 50 fish or other animals or plants that are aquatic life in any 24-hour period on any day):
- (4) After section 252(5), insert:
- (5A) Every person convicted of an offence against **section 72(4)(a)(a)(i), (b)(i), (c)(i), or (d)(i)** (unlawfully returning, abandoning, or retaining 50 or fewer fish or other animals or plants that are aquatic life in any 24-hour period on any day) is liable to a fine not exceeding \$10,000. 35

21 Section 255A amended (Forfeiture for infringement offence)

In section 255A(1), after “infringement offence against this Act”, insert “(other than an offence in respect of the taking or possession of fish or another animal that is aquatic life by a commercial fisher)”.

22 Section 255C amended (Forfeiture for section 252(2), (3), and (5) offences, offences carrying fine of \$100,000, repeat offences, and serious non-commercial offences) 5

(1) In section 255C(1)(a), after “section 252(2) or (3) or (5)”, insert “(other than an offence referred to in **section 252(5)(ba)**)”.

(2) After section 255C(1)(a), insert: 10

(aa) on conviction for a second or subsequent offence referred to in **section 252(3A)**:

(3) In section 255C(1)(b), after “\$100,000”, insert “(other than an offence referred to in **section 252(5)(ba)**)”.

(4) In section 255C(1)(d), after “this Act”, insert “(other than an offence referred to in **section 252(5)(ba) or (5A)**)”. 15

(5) After section 255C(2), insert:

(2A) On conviction of a person for an offence referred to in **section 252(5)(ba)**, the court may order that any property used in the commission of the offence is forfeit to the Crown. 20

(6) In section 255C(3), replace “section 252(2) or (3)” with “section 252(2), (3), **(3A), or (5)(ba)**”.

(7) In section 255C(4), replace “Subsection (2) does” with “Subsections (2) and **(2A)** do”.

22A Section 257 amended (Prohibition of fishing activity in case of reoffending) 25

(1) In section 257(1)(b), after “of section 252”, insert “(other than an offence referred to in section 252(5)(ba))”.

(2) After section 257(1), insert:

(1A) If a person is convicted of offences against **section 72(4)(a), (b), (c), or (d)** and is liable to a fine under section 252(3A), the court must, in addition to any other penalty imposed, make an order— 30

(a) that the person forfeit any licence, approval, permission, or fishing permit obtained under this Act; and

(b) that the person be prohibited, for a period of 3 years commencing on the date of the most recent conviction, from doing any of the following: 35

(i) holding any licence, approval, permission, or fishing permit obtained under this Act:

- (ii) engaging in fishing or any activity associated with the taking of fish, aquatic life, or seaweed:
- (iii) deriving any beneficial income from activities associated with the taking of fish, aquatic life, or seaweed.
- (3) In section 257(2), after “subsection (1)”, insert “or **(1A)**”. 5
- (4) In section 257(3), after “subsection (1)”, insert “and **(1A)**”.
- 23 Section 297 amended (General regulations)**
- (1) After section 297(1)(a)(xiii), insert:
- (xiv) for the purposes of **section 191(1)(c)**,—
- (A) authorising the chief executive to approve alternative methods of disposal of fish, aquatic life, or seaweed: 10
- (B) providing for applications to use an approved alternative method of disposal and prescribing requirements relating to applications:
- (C) prescribing criteria that the chief executive must take into account in considering an application: 15
- (D) prescribing requirements relating to the disposal of fish, aquatic life, or seaweed by an approved method of disposal:
- (E) providing for, and prescribing requirements relating to, the verification of the alternative methods of disposal of fish, aquatic life, or seaweed. 20
- (2) Replace section 297(1)(ca) with:
- (ca) prescribing requirements relating to the provision, installation, and maintenance of electronic and other equipment (including, for the avoidance of doubt, the requirement for a class of person to provide, install, or maintain the equipment) to observe any fishing and related activities described in **paragraph (e)** of the definition of fisheries services in section 2(1), and the payment of any associated prescribed fees and charges: 25
- (3) Replace section 297(1)(na) with:
- (na) prescribing infringement offences against this Act by commercial fishers and other persons, including ~~(without limitation)~~— 30
- (i) offences in respect of fishing and related activities, such as offences in respect of—
- (A) the taking, possession, return, abandonment, processing, or sorting of fish or other animals that are aquatic life: 35
- (B) transportation connected with fishing:
- (C) measures to avoid, remedy, or mitigate fishing-related mortality:

- (ii) offences in respect of reporting and record-keeping requirements:
- (4) After section 297(1)(w), insert:
- (wa) authorising the Minister to set or vary management controls in respect of recreational fishing, including—
- (i) daily limits, maximum legal sizes, and minimum legal sizes for any stocks, species, or fisheries management areas; and
- (ii) conditions and requirements relating to the controls:
- (5) After section 297(3), insert:
- (3A) If the regulations authorise the Minister under **subsection (1)(wa)** to set or vary management controls in respect of recreational fishing,—
- (a) the instrument by which that is done is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and
- (b) the regulations must contain a statement to that effect.
- 24 New section 298A inserted (Regulations relating to demerit points)**
- After section 298, insert:
- 298A Regulations relating to demerit points ~~against specified persons described in section 189~~**
- (1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:
- (a) authorising the Minister or the chief executive to record demerit points ~~for a breach of this Act against any person described in section 189(a) to (f), (i), or (j): against any of the following persons who commit a specified infringement offence:~~
- (i) the master of a vessel:
- (ii) the holder of a fishing permit:
- (b) prescribing the number of demerit points or a graduated scale of demerit points that may be recorded for specified ~~breaches of this Act~~ infringement offences (including a greater number of demerit points for committing a second or subsequent breach ~~infringement offence~~):
- (c) specifying different classes of ~~breaches of this Act~~ infringement offence that are liable to demerit points, ~~including breaches that are infringement offences:~~
- (d) providing for the expiry of recorded demerit points no later than 3 years after the date on which the specified infringement offence is committed:
- (e) prescribing a civil penalty not exceeding \$10,000, which may be a fixed amount or a graduated scale of civil penalties for different levels of recorded demerit points:

(f)	providing for the review of penalties imposed for recorded demerit points:	
(g)	providing for appeals against penalties imposed for recorded demerit points:	
(h)	providing for the period of observer presence on a fishing vessel for the purpose of section 223(3A)(b):	5
(i)	providing for the review of video recordings and associated information made by equipment placed on a fishing vessel under section 227A if a specified number of demerit points is accumulated in relation to activities carried out using the vessel:	10
(j)	providing for the effective operation of the demerit point system under this section, including regulations that—	
	(i) specify how demerit points (including accumulated demerit points) are to be recorded, including the information to be recorded in connection with the recorded demerit points:	15
	(ii) authorise the chief executive to require persons to provide that specified information:	
	(iii) provide for the giving of notices in respect of demerit points.	
(1A)	<u>Regulations made under this section must provide for the matters specified in subsection (1)(f) and (g).</u>	20
(2)	This section does not limit the generality of section 297.	
(3)	Regulations made under this section are secondary legislation (see <u>see</u> Part 3 of the Legislation Act 2019 for publication requirements).	
25	Section 302A repealed (<i>Gazette</i> notices may be consolidated)	
	Repeal section 302A.	25
26	Section 303 replaced (Certain secondary legislation may be consolidated)	
	Replace section 303 with:	
303	Certain secondary legislation or published instruments may be consolidated	
	<i>Secondary legislation made by same maker and with same publishing requirements</i>	30
(1)	The Minister or the chief executive (the maker) may at any time apply this section to any secondary legislation that—	
	(a) the maker has made, or may make, under a provision of this Act, or of regulations made under this Act, by satisfying the same requirements for publishing the secondary legislation; and	35
	(b) is not drafted by the PCO (<i>see</i> section 67 of the Legislation Act 2019).	

- Other instruments made by same maker and with same publishing requirements*
- (2) The Minister or the chief executive (the **maker**) may at any time apply this section to any instruments that—
- (a) the maker has made, or may make, under any provisions of this Act, or of regulations made under this Act, by satisfying the same requirements for publishing the instruments; and 5
 - (b) are not secondary legislation.
- Once this section is applied to specific instruments*
- (3) The powers of the maker to amend or replace the specific instruments (whether given by a specific empowering provision, section 48 of the Legislation Act 2019, or otherwise) authorise the maker to— 10
- (a) revoke any specific instrument that has been made (a **revoked instrument**); and
 - (b) make an instrument under any of the specific empowering provisions (the **new instrument**) that— 15
 - (i) has the same effect that all or part of the revoked instrument or instruments had immediately before being revoked; and
 - (ii) otherwise has any further effect (if any) authorised by the specific empowering provisions (the **new or amended parts**).
- (4) For each part of the new instrument (the **replacement part**) that has the same effect as part of a revoked instrument (the **revoked part**),— 20
- (a) the replacement part must be treated as being made under the specific empowering provision under which the revoked part was made; and
 - (b) any requirements for making the replacement part or for revoking the revoked part, other than the requirements for publication, must be treated as being satisfied to the extent that the requirements for making the revoked part were satisfied when it was made. 25
- (5) To avoid doubt,—
- (a) the new or amended parts of the new instrument (if any) are made under the relevant specific empowering provisions; and 30
 - (b) any requirements of the relevant specific empowering provisions must be satisfied in making those parts.
- (6) A revoked instrument continues to have effect, as if it had not been revoked, in relation to any matter in a period to which the revoked instrument applied.
- (7) In this section,— 35
- instrument** has the meaning given in section 5 of the Legislation Act 2019
- maker**, in relation to an instrument, means the person empowered to make it, as defined by **subsection (1) or (2)**

specific empowering provisions means the provisions of this Act, or of regulations, that—

- (a) empower the making of the specific instruments; and
- (b) are referred to in the subsection under which the maker applies this section to the specific instruments

5

specific instruments means the 1 or more instruments to which the maker applies this section, whether the instruments—

- (a) have been made (and are to be revoked); or
- (b) are able to be made.

Part 2

10

Repeal and consequential amendments

27 Schedule 1AA amended

In Schedule 1AA,—

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

15

28 Schedule 6 repealed

Repeal Schedule 6.

29 Repeal of Fisheries Act 1983

Repeal the Fisheries Act 1983 (1983 No 14).

30 Consequential amendments to principal Act

20

Amend the principal Act as set out in **Schedule 2**.

31 Consequential amendments to secondary legislation

Amend the secondary legislation as set out in **Schedule 3**.

Schedule 1

New Part 3 inserted into Schedule 1AA

s 27

	Part 3	
	Provisions relating to Fisheries Amendment Act 2022	5
	Subpart 1—Preliminary provisions	
3	Interpretation	
	In this Part,—	
	amendment Act means the Fisheries Amendment Act 2022	
	commencement means the date on which this Part comes into force	10
	relevant enactment means an enactment specified in a table in clause 5, 6, or 7 .	
	Subpart 2—Fisheries (Amateur Fishing) Regulations 2013	
4	Continuation of certain regulations	
(1)	This clause applies to the Fisheries (Amateur Fishing) Regulations 2013.	15
(2)	The daily amounts, daily limits, accumulation limits, and minimum sizes specified in the regulations immediately before commencement continue to apply until corresponding limits or sizes are enacted and brought into force by an instrument made by the Minister under the regulations.	
	Subpart 3—Fisheries (Commercial Fishing) Regulations 2001 and associated enactments	20
5	Exemptions in regulations continued for specified period for certain stocks or species	
(1)	This clause is repealed on the earlier of—	
	(a) 30 September 2026:	25
	(b) a date appointed by Order in Council on the recommendation of the Minister.	
(2)	Section 72(1) does not apply to any fish or aquatic life of a stock or species listed in the following table that is taken by a commercial fisher if—	
	(a) a relevant enactment prohibits a person from taking or possessing the fish or aquatic life (whether by reason of a condition, requirement, size limit, or otherwise); and	30

- (b) the fish or aquatic life is returned to or abandoned in the sea or any other waters in accordance with the relevant enactment:

Stock or species	Relevant enactment
	<i>Fisheries (Commercial Fishing) Regulations 2001</i>
Blue cod (<i>Parapercis colias</i>)	Regulation 31
Blue moki (<i>Latridopsis ciliaris</i>)	Regulation 31
Butterfish (<i>Odax pullus</i> , <i>Odax cyanoallix</i>)	Regulation 31
Flatfishes (except sand flounder) (<i>Rhombosolea leporine</i> , <i>Rhombosolea retiaria</i> , <i>Rhombosolea tapirina</i> , <i>Colistium guntheri</i> , <i>Colistium nudipinnis</i> , <i>Pelotretis flavilatus</i> , <i>Peltorhamphus novaezeelandiae</i>)	Regulation 31
Kingfish (<i>Seriola lalandi</i>)	Regulation 31
Red cod (<i>Pseudophycis bachus</i>)	Regulation 31
Red moki (<i>Cheilodactylus spectabilis</i>)	Regulation 31
Sand flounder (<i>Rhombosolea plebia</i>)	Regulation 31
Snapper (<i>Pagrus auratus</i>)	Regulation 31
Tarakihi (<i>Nemadactylus macropterus</i>)	Regulation 31
Trevally (<i>Pseudocaranx dentex</i>)	Regulation 31
Paua (<i>Haliotis iris</i> (ordinary paua))	Regulation 32
Paua (<i>Haliotis australis</i> (yellow foot paua))	Regulation 32
Dredge oysters (<i>Tiostrea chilensis</i>)	Regulation 32
Scallops (<i>Pecten novaezeelandiae</i>)	Regulation 32
Female spiny rock lobster (<i>Jasus edwardsii</i>)	Regulation 37
Male spiny rock lobster (<i>Jasus edwardsii</i>)	Regulation 37
Packhorse rock lobster (<i>Jasus verreauxi</i>)	Regulation 37
Rock lobster (any species of rock lobster)	Regulation 41
Eel (short-finned eel (<i>Anguilla australis</i>) and long-finned eel (<i>Anguilla dieffenbachii</i>))	Regulation 50
Eel (short-finned eel (<i>Anguilla australis</i>) and long-finned eel (<i>Anguilla dieffenbachii</i>))	Regulation 51
	<i>Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986</i>
Coromandel scallops (<i>Pecten novaezeelandiae</i>)	Regulation 22B
	<i>Fisheries (Central Area Commercial Fishing) Regulations 1986</i>
Paddle crabs (<i>Ovalipes catharus</i>)	Regulation 14D
Male spiny rock Lobster (<i>Jasus edwardsii</i>)	Regulation 14K
	<i>Fisheries (Challenger Area Commercial Fishing) Regulations 1986</i>
Scallops (<i>Pecten novaezeelandiae</i>)	Regulation 12B
Paddle crabs (<i>Ovalipes catharus</i>)	Regulation 14E

Stock or species	Relevant enactment
	<i>Fisheries (South-East Area Commercial Fishing) Regulations 1986</i>
Spiny rock lobster (<i>Jasus edwardsii</i>)	Regulation 6
Paddle crab (<i>Ovalipes catharus</i>)	Regulation 11J
Eel (short-finned eel (<i>Anguilla australis</i>) and long-finned eel (<i>Anguilla dieffenbachii</i>))	Regulation 11N
Male short-finned eel (<i>Anguilla australis</i>)	Regulation 11O
	<i>Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986,</i>
Female spiny rock lobster (<i>Jasus edwardsii</i>)	Regulation 5C
Paddle crab (<i>Ovalipes catharus</i>)	Regulation 15H

6 Stocks or species deemed to meet criteria in section 72A

- (1) The Minister may make an instrument under **section 72A** that has effect for a specified period or indefinitely for any stock or species listed in **table 1** without further authority than this subclause and as if the statutory prerequisites for making the instrument had been complied with:

5

Table 1—Stocks or species deemed to meet criteria in **section 72A** for specified period or indefinitely

Stock or species	Relevant enactment
	<i>Fisheries (Commercial Fishing) Regulations 2001</i>
Paua (<i>Haliotis iris</i> (ordinary paua))	Regulation 32
Paua (<i>Haliotis australis</i> (yellow foot paua))	Regulation 32
Dredge oysters (<i>Tiostrea chilensis</i>)	Regulation 32
Scallops (<i>Pecten novaezelandiae</i>)	Regulation 32
Female spiny rock lobster (<i>Jasus edwardsii</i>)	Regulation 37
Male spiny rock lobster (<i>Jasus edwardsii</i>)	Regulation 37
Packhorse rock lobster (<i>Jasus verreauxi</i>)	Regulation 37
Rock lobster (any species of rock lobster)	Regulation 41
Eel (short-finned eel (<i>Anguilla australis</i>) and long-finned eel (<i>Anguilla dieffenbachii</i>))	Regulation 50
Eel (short-finned eel (<i>Anguilla australis</i>) and long-finned eel (<i>Anguilla dieffenbachii</i>))	Regulation 51
	<i>Fisheries Act 1996, Schedule 6</i>
Rock lobster (<i>Jasus verreauxi</i> , <i>Jasus edwardsii</i>) in all New Zealand fisheries waters	
Prawn killer (<i>Ibacus alticrenatus</i>) in all New Zealand fisheries waters	
Paddle crab (<i>Ovalipes catharus</i>) in all New Zealand fisheries waters	
Deepwater crab (<i>Chaceon bicolor</i> , <i>Lithodes murrayi</i> , <i>Neolithodes brodiei</i> , and <i>Jacquinothia edwardsii</i>) in all New Zealand fisheries waters	

Stock or species	Relevant enactment
Cockle (<i>Austrovenus stutchburyi</i>) in all New Zealand fisheries waters except fishery management area 10	
Green-lipped mussel (<i>Perna canaliculus</i>) in quota management areas GLM1, GLM2, GLM3, GLM7A, GLM7B, GLM8, and GLM10	
Green-lipped mussel (<i>Perna canaliculus</i>) in quota management area GLM9	
Pipi (<i>Paphies australis</i>) in all New Zealand fisheries waters except fishery management area 10	
Surf clams (<i>Bassina yatei</i> , <i>Dosinia anus</i> , <i>Dosinia subrosea</i> , <i>Macra discors</i> , <i>Macra murchisoni</i> , <i>Paphies donacina</i> , <i>Spisula aequilatera</i>) in all New Zealand fisheries waters except fishery management areas 6 and 10	
Dredge oyster (<i>Ostrea chilensis</i>) in all New Zealand fisheries waters except quota management area OYU5 and fishery management area 10	
Knobbed whelk (<i>Austrofusus glans</i>) in quota management areas KWH1, KWH2, KWH3, KWH4, KWH5, KWH6, KWH7A, KWH7B, KWH8, and KWH9	
Freshwater eel (<i>Anguilla australis</i> , <i>Anguilla dieffenbachii</i> , and <i>Anguilla reinhardtii</i>) in all New Zealand fisheries waters	
Bladder kelp (<i>Macrocystis pyrifera</i>) in all New Zealand fisheries waters	
Kina (<i>Evechinus chloroticus</i>) in all New Zealand fisheries waters	
(2) The Minister may make an instrument under section 72A that has effect until a date no later than 30 September 2026 for any stock or species listed in table 2 without further authority than this subclause and as if the statutory prerequisites for making the instrument had been complied with:	
Table 2—Stocks or species deemed to meet criteria in section 72A until a date no later than 30 September 2026	
Stock or species	Requirements
Blue shark (<i>Prionace glauca</i>) in all New Zealand fisheries waters	A commercial fisher may return any blue shark to the waters from which it was taken—
	(a) live, if the blue shark is likely to survive on return and the return takes place as soon as practicable after the blue shark was taken; or
	(b) dead or near-dead, if paragraph (a) does not apply.
	For the purposes of paragraph (b) of this requirement, near-dead means unlikely to survive on return.
Chatham Islands scallops (<i>Pecten novaezelandiae</i>) in the Chatham Islands scallop fishery	A commercial fisher must immediately return a Chatham Islands scallop to the waters from which it was taken if the scallop is taken—

Stock or species	Requirements
Coromandel scallops (<i>Pecten novaezelandiae</i>) in the Coromandel scallop fishery	(a) during any closed season in the Chatham Islands scallop fishery; or (b) in any area in which the taking of Chatham Islands scallops is, at that time, prohibited. A commercial fisher must immediately return a Coromandel scallop to the waters from which it was taken if the scallop is taken— (a) during any closed season in the Coromandel scallop fishery; or (b) in any area in which the taking of Coromandel scallops is, at that time, prohibited.
Kingfish (<i>Seriola lalandi</i>) in all New Zealand fisheries waters	A commercial fisher may return a kingfish of legal size to the waters from which it was taken if that fish— (a) is not taken by the method of set netting; and (b) is likely to survive; and (c) is returned to the same waters from which it was taken; and (d) is returned as soon as practicable; and (e) is recorded and reported on catch effort landing returns using an appropriate code.
Mako shark (<i>Isurus oxyrinchus</i>) in all New Zealand fisheries waters	A commercial fisher may return any mako shark to the waters from which it was taken— (a) live, if the mako shark is likely to survive on return and the return takes place as soon as practicable after the mako shark was taken; or (b) dead or near-dead, if paragraph (a) does not apply. For the purposes of paragraph (b) of this requirement, near-dead means unlikely to survive on return.
Northern scallops (<i>Pecten novaezelandiae</i>) in the Northland scallop fishery	A commercial fisher must immediately return any Northland scallop to the waters from which it was taken if the scallop is taken— (a) during any closed season in the Northland scallop fishery; or (b) in any area in which the taking of northern scallops is, at the time, prohibited.
Patagonian toothfish (<i>Dissostichus eleginoides</i>) in all New Zealand fisheries waters	A commercial fisher may return any Patagonian toothfish to the waters from which it was taken if— (a) the Patagonian toothfish is likely to survive on return; and

Stock or species	Requirements
Porbeagle shark (<i>Lamna nasus</i>) in all New Zealand fisheries waters	(b) the return takes place as soon as practicable after the Patagonian toothfish is taken; and (c) in the case of a trawl-caught Patagonian toothfish, it is released only in the presence of an observer. A commercial fisher may return any porbeagle shark to the waters from which it was taken— (a) live, if the porbeagle shark is likely to survive on return and the return takes place as soon as practicable after the porbeagle shark was taken; or (b) dead or near-dead, if paragraph (a) does not apply. For the purposes of paragraph (b) of this requirement, near-dead means unlikely to survive on return.
Queen scallop (<i>Zygochlamys delicatula</i>) in all New Zealand fisheries waters	A commercial fisher may return any queen scallop to the waters from which it is taken if— (a) the queen scallop is likely to survive the return; and (b) the return takes place as soon as practicable after the queen scallop is taken.
Rig (<i>Mustelus lenticulatus</i>) in all New Zealand fisheries waters	A commercial fisher may return any rig to the waters from which it was taken if— (a) the rig is likely to survive on return; and (b) the return takes place as soon as practicable after the rig is taken.
Rough skate (<i>Dipturus nasutus</i>) in all New Zealand fisheries waters	A commercial fisher may return any rough skate to the waters from which it was taken if— (a) that rough skate is likely to survive on return; and (b) the return takes place as soon as practicable after the rough skate is taken.
Scallop (<i>Pecten novaezelandiae</i>) in quota management areas SCA1A, SCA2A, SCA3, SCA5, SCA7A, SCA7B, SCA7C, SCA8A, SCA9A	A commercial fisher may return a scallop of legal size to the waters from which it was taken if the scallop is likely to survive on return.
School shark (<i>Galeorhinus galeus</i>) in all New Zealand fisheries waters	A commercial fisher may return any school shark to the waters from which it was taken if— (a) the school shark is likely to survive on return; and

Stock or species	Requirements
Sea cucumber (<i>Stichopus mollis</i>) in all New Zealand fisheries waters	(b) the return takes place as soon as practicable after the school shark is taken. A commercial fisher may return any sea cucumber to the waters from which it was taken if— (a) that sea cucumber is likely to survive on return; and (b) the return takes place as soon as practicable after the sea cucumber is taken.
Smooth skate (<i>Dipturus innominatus</i>) in all New Zealand fisheries waters	A commercial fisher may return any smooth skate to the waters from which it was taken if— (a) that smooth skate is likely to survive on return; and (b) the return takes place as soon as practicable after the smooth skate is taken.
Southern bluefin tuna (<i>Thunnus maccoyii</i>) in all New Zealand fisheries waters and all waters outside the outer boundary of the exclusive economic zone	A person who is a New Zealand national fishing against New Zealand's national allocation of southern bluefin tuna may return any southern bluefin tuna to the waters from which it was taken if— (a) that southern bluefin tuna is likely to survive on return; and (b) the return takes place as soon as practicable after the southern bluefin tuna is taken.
Southern scallops (<i>Pecten novaezelandiae</i>) in the southern scallop fishery	A commercial fisher may return a southern scallop of legal size to the waters from which it was taken if the scallop is likely to survive on return.
Spiny dogfish (<i>Squalus acanthias</i>) in all New Zealand fisheries waters	A commercial fisher may return any spiny dogfish (whether live or dead) to the waters from which it was taken.
Swordfish (<i>Xiphias gladius</i>) in all New Zealand fisheries waters	A commercial fisher may return any swordfish to the waters from which it was taken if— (a) that swordfish is likely to survive on return; and (b) the return takes place as soon as practicable after the swordfish is taken; and (c) that swordfish has a lower jaw to fork length of less than 1.25 m. For the purposes of this requirement, lower jaw to fork length means the projected straight line distance from the foremost point of the lower jaw to the rear centre edge of the tail (caudal fin).

-
- (3) The Minister may make an instrument for any stock or species listed in **table 1** that includes the same or similar requirements, conditions, or size limits found in the corresponding enactment immediately before commencement.
- (4) The Minister may make an instrument for any stock or species listed in **table 2** that includes the same or similar requirements, conditions, or size limits specified in that table. 5
- (5) On the commencement of an instrument that applies to any of those stocks or species, **subclause (1) or (2)**, as the case may be, ceases to apply to those stocks or species.
- (6) If any of those stocks or species ceases to be subject to an instrument made under **section 72A**, the authority conferred by **subclause (1) or (2)** is not revived and the Minister must comply with the statutory prerequisites before including the stock or species in a subsequent instrument under that section. 10
- Subpart 4—References in this Act to Fisheries Act 1983
- 7 References to Fisheries Act 1983** 15
- The repeal of the Fisheries Act 1983 does not affect the operation of provisions in this Act that refer to any provision of the Fisheries Act 1983.

Schedule 2

Consequential amendments to principal Act

s 30**Section 2(1)**

In the definition of **fisheries services**, delete “or the Fisheries Act 1983”. 5

Section 188(5)

Delete “or section 28W(10) of the Fisheries Act 1983”.

Section 265(a)

Delete “or the Fisheries Act 1983” in each place.

Section 294(5)

10

Delete “by or under Part 6 of the Fisheries Act 1983 or”.

Section 296A(c)(ii)

Delete “by or under the Fisheries Act 1983 or”.

Section 296C(1)

Delete “or the Fisheries Act 1983” in each place. 15

Section 296Z(3)

Delete “or in the Fisheries Act 1983”.

Section 296ZE(2)(a)(i)

Delete “or the Fisheries Act 1983”.

Section 297(1)(nd)

20

Delete “or the Fisheries Act 1983”.

Section 314

Repeal section 314.

Schedule 3

Amendments to secondary legislation

s 31

Part 1

Amendments to Fisheries (Amateur Fishing) Regulations 2013 5

Regulation 4

After regulation 4(1), insert:

- (1A) If there is a conflict between the provisions in an instrument made by the Minister that apply generally and in an instrument made by the Minister that apply or relate to a specific area (**specific provisions**), the specific provisions prevail. 10

New regulations 5A and 5B

After regulation 5, insert:

5A ~~Status of certain instruments~~ Minister may set or vary recreational fishing management controls

- (1) The Minister may make instruments that set or vary any daily limits, accumulation limits, minimum or maximum legal sizes, or other recreational fishing management controls for any fish, aquatic life, or seaweed. 15
- (2) References in these regulations to any recreational fishing management controls specified by an instrument made by the Minister must be treated as references to instruments made under this regulation. 20
- (3) An instrument made under this regulation is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

5B Application of recreational fishing management controls set or varied by Minister

An instrument made by the Minister under **regulation 5A** applies to the type of fish, aquatic life, or seaweed specified in the instrument (whether by reference to a name specified in regulation 8 or to some other name or description specified by the Minister). 25

Regulation 11

Replace regulation 11(1) with: 30

- (1) A person must not, on any day, take or possess more than the daily limit for eels specified in an instrument made by the Minister (the **daily limit for eels**).

Regulation 11A

Replace regulation 11A(1) with:

Regulation 11A—*continued*

- (1) A person must not, on any day, take or possess more than the total quantity of baitfish specified in an instrument made by the Minister (the **daily limit for baitfish**).

Regulation 11B

Replace regulation 11B(1) with:

5

- (1) A person must not, on any day, take or possess more than the daily limit for southern bluefin tuna specified in an instrument made by the Minister (the **daily limit for southern bluefin tuna**).

Regulation 12

Replace regulation 12(1) with:

10

- (1) A person must not, on any day, take or possess more than the daily limit for a species of shellfish specified in an instrument made by the Minister (the **daily limit for a species of shellfish**).

Regulation 13

Replace regulation 13(1) with:

15

- (1) A person must not, on any day, take or possess more than the daily limit for rock lobsters specified in an instrument made by the Minister (the **daily limit for rock lobsters**).

Regulation 14

Replace regulation 14(1) with:

20

- (1) If the circumstances in subclause (2) are met, a person may, on any day, take an additional number of dredge oysters or scallops up to the limit specified for those species in an instrument made by the Minister under regulation 12.

Regulation 15

Replace regulation 15(1) with:

25

- (1) If the circumstances in subclause (2) are met, a person may, on any day, take an additional number of dredge oysters or scallops that is up to 2 times the daily limit specified in an instrument made by the Minister under regulation 12.

Regulation 16

Replace regulation 16(1) and (2) with:

30

- (1) This regulation applies to a person if the person has—
- (a) accumulated paua over a period of more than 1 day; and
 - (b) exceeded the daily limit specified for a species of paua in an instrument made by the Minister under regulation 12; and

Regulation 16—*continued*

- (c) established the defence set out in regulation 157(1).
- (2) The person may, on any day, possess the daily accumulation limit or amount for paua specified in an instrument made by the Minister (the **accumulation limit for paua**).

Regulation 17

5

Replace regulation 17(2) with:

- (2) A person must not, on any day, take or possess more than the daily limit for quinnat salmon specified in an instrument made by the Minister (the **daily limit for quinnat salmon**).

Regulation 17A

10

In regulation 17A, insert as subclause (2):

- (2) If provisions in an instrument made by the Minister that apply generally and in an instrument made by the Minister that apply or relate to a specific area (**specific provisions**) set different daily limits for blue cod in respect of the same area, the provision setting the lowest daily limit applies to the area.

15

New regulations 17B and 17C 17C and 17D

After regulation ~~17A~~ 17B, insert:

17B17C General daily limits for fish, aquatic life, or seaweed

- (1) A person must not, on any day, take or possess more than the limit for a species of fish, aquatic life, or seaweed specified in an instrument made by the Minister (the **general daily limit for a species of fish, aquatic life, or seaweed**). 20
- (2) A person contravenes this subclause if the person, on any day, takes or possesses more than the general daily limit for a species of fish, aquatic life, or seaweed, but not more than 3 times that daily limit.
- (3) A person contravenes this subclause if the person, on any day, takes or possesses more than 3 times the general daily limit for a species of fish, aquatic life, or seaweed. 25
- (4) A person who contravenes—
 - (a) subclause (2) commits an offence and is liable on conviction to a fine not exceeding \$10,000: 30
 - (b) subclause (3) commits a serious non-commercial offence and is liable on conviction to a fine not exceeding \$20,000.

17C17D General accumulation limits for fish, aquatic life, or seaweed

- (1) This regulation applies to a person if the person has—
 - (a) accumulated a species of fish, aquatic life, or seaweed over a period of more than 1 day; and 35

New regulations 17B and 17C 17C and 17D—continued

- (b) exceeded the daily limit specified for that species of fish, aquatic life, or seaweed in an instrument made by the Minister; and
- (c) established the defence set out in regulation 157(1).
- (2) The person may, on any day, possess the daily accumulation limit or amount for a species of fish, aquatic life, or seaweed specified in an instrument made by the Minister (the **general accumulation limit for a species of fish, aquatic life, or seaweed**). 5
- (3) A person contravenes this subclause if the person, on any day, takes or possesses more than the general accumulation limit for a species of fish, aquatic life, or seaweed, but not more than 3 times that limit. 10
- (4) A person contravenes this subclause if the person, on any day, takes or possesses more than 3 times the general accumulation limit for a species of fish, aquatic life, or seaweed.
- (5) A person who contravenes—
 - (a) subclause (2) commits an offence and is liable on conviction to a fine not exceeding \$10,000: 15
 - (b) subclause (3) commits a serious non-commercial offence and is liable on conviction to a fine not exceeding \$20,000.

Regulation 18

In the heading to regulation 18, after “Minimum”, insert “or maximum”. 20

Replace regulation 18(1) with:

- (1) A person must not take or possess a species of fish that is less than the minimum length or exceeds the maximum length for that species specified in an instrument made by the Minister.

Regulation 19

25

Replace regulation 19(1) with:

- (1) A person must not take or possess a species of shellfish (whether entire, chipped, or broken) that is less than the minimum length or exceeds the maximum length for that species specified in an instrument made by the Minister.

Regulation 30

30

Replace regulation 30(3) with:

- (3) For the purposes of subclause (1), a rock lobster of a particular species, whether alive or dead (and, if dead, whether cooked, frozen, or chilled) is undersize if the tail is less than the minimum length or width for that species specified in an instrument made by the Minister. 35
- (4) For the purposes of subclause (1), the Minister’s instrument may specify—

Regulation 30—continued

- (a) different minimum lengths or widths for rock lobsters of each sex or different kinds of rock lobster, or both:
- (b) how to measure the length or width under Schedule 4.

Regulation 55

Replace regulation 55(1)(a) with:

5

- (a) take from the Auckland and Kermadec FMA more than the ~~combined daily limit for fish~~ total quantity of finfish specified in an instrument made by the Minister (the **combined daily limit for finfish**); or

Replace regulation 55(2)(a) with:

- (a) take from the Auckland FMA and Kermadec FMA more than the ~~daily limit for bluenose~~ total quantity of hapuku/bass and kingfish specified in an instrument made by the Minister (the **combined daily limit for bluenose hapuku/bass and kingfish**); or

10

Replace regulation 55(3)(a) with:

- (a) take from the Auckland and Kermadec FMA more than the individual limit specified in an instrument made by the Minister for a species of finfish (the daily limit for a species of finfish); or

15

Regulation 56

Replace regulation 56(1)(a) with:

- (a) ~~take from the Auckland and Kermadec FMA more than the combined daily limit for hapuku/bass and kingfish specified in an instrument made by the Minister (the combined daily limit for hapuku/bass and kingfish); or~~

20

Regulation 57

Replace regulation 57(1)(a) with:

25

- (a) ~~take from the Auckland and Kermadec FMA more than the daily limit for kingfish specified in an instrument made by the Minister (the daily limit for kingfish); or~~

Regulation 58

Replace regulation 58(1)(a) with:

30

- (a) ~~take from the Auckland and Kermadec FMA more than the daily limit for grey mullet specified in an instrument made by the Minister (the daily limit for grey mullet); or~~

Regulation 59

Replace regulation 59(1)(a) with:

35

Regulation 59—continued

- (a) ~~take from the Auckland and Kermadec FMA more than the daily limit for snapper specified in an instrument made by the Minister (the **daily limit for snapper**); or~~

Replace regulation 59(2)(a) with:

- (a) take from the Auckland (West) FMA more than the daily limit for snapper specified in an instrument made by the Minister (the **daily limit for snapper for the Auckland (West) FMA**); or 5

Replace regulation 59(3)(a) with:

- (a) take from the Auckland (East) FMA more than the daily limit for snapper specified in an instrument made by the Minister (the **daily limit for snapper for the Auckland (East) FMA**); or 10

Regulation 60

Replace regulation 60(1)(a) with:

- (a) take from the Auckland Coromandel area more than the daily limit for a species of shellfish specified in an instrument made by the Minister (the **daily limit for a species of shellfish**); or 15

Revoke regulation 60(2).

Regulation 61

Replace regulation 61(1)(a) with:

- (a) take from the Maketu taiapure more than the daily limit for green-lipped mussels specified in an instrument made by the Minister (the **daily limit for green-lipped mussels**); or 20

Regulation 62

Replace regulation 62(1) and (2) with:

- (1) A person must not— 25
- (a) take from the Auckland (West) FMA or the Kermadec FMA any snapper that is less than the minimum length or exceeds the maximum length specified in an instrument made by the Minister; or
- (b) possess any snapper that is less than that minimum length or exceeds the maximum length and is taken from within the Auckland (West) FMA or the Kermadec FMA. 30
- (2) A person must not—
- (a) take from the Auckland (East) FMA any snapper that is less than the minimum length or exceeds the maximum length specified in an instrument made by the Minister; or 35

Regulation 62—*continued*

- (b) possess any snapper that is less than that minimum length or exceeds the maximum length and is taken from within the Auckland (East) FMA.

Regulation 63

Replace regulation 63(1) with:

- (1) A person must not— 5
 - (a) take from the Auckland FMA any blue cod that is less than the minimum length or exceeds the maximum length specified in an instrument made by the Minister; or
 - (b) possess any blue cod that is less than that minimum length or exceeds the maximum length and is taken from within the Auckland FMA. 10

Regulation 78

Replace regulation 78(1)(a) with:

- (a) take from the Central FMA more than the ~~combined daily limit for the species of fish~~ total quantity of finfish specified in an instrument made by the Minister (the **combined daily limit for fish finfish**); or 15

Replace regulation 78(2)(a) with:

- (a) take from the Central FMA more than the ~~daily limit for bluenose~~ total quantity of hapuku/bass and kingfish specified in an instrument made by the Minister (the **combined daily limit for bluenose hapuku/bass and kingfish**); or 20

Replace regulation 78(3)(a) with:

- (a) ~~take from the Central FMA more than the daily limit for blue cod specified in an instrument made by the Minister (the daily limit for blue cod); or~~
- (a) take from the Central FMA more than the individual limit specified in an instrument made by the Minister for a species of finfish (the daily limit for a species of finfish); or 25

Regulation 79

Replace regulation 79(1)(a) with:

- (a) ~~take from the Central FMA more than the combined daily limit for hapuku/bass and kingfish specified in an instrument made by the Minister (the combined daily limit for hapuku/bass and kingfish); or~~ 30

Regulation 80

Replace regulation 80(1)(a) with:

Regulation 80—continued

- (a) ~~take from the Central FMA more than the daily limit for kingfish specified in an instrument made by the Minister (the **daily limit for kingfish**); or~~

Regulation 81

Replace regulation 81(1)(a) with:

5

- (a) ~~take from the Central FMA more than the daily limit for snapper specified in an instrument made by the Minister (the **daily limit for snapper**); or~~

Regulation 81A

Replace regulation 81A(1)(a) with:

10

- (a) take from fishery management area 8—Central (Egmont) more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or

Regulation 82

Replace regulation 82(1) with:

15

- (1) A person must not—
 - (a) take from the Central FMA any snapper that is less than the minimum length or exceeds the maximum length specified in an instrument made by the Minister; or
 - (b) possess any snapper that is less than that minimum length or exceeds the maximum length taken from within the Central FMA.

20

Regulation 83

Replace regulation 83(1) to (3) with:

- (1) A person must not take from the Amateur Taranaki Paua Fishery area any ordinary paua that is less than the minimum length or exceeds the maximum length specified in an instrument made by the Minister. 25
- (2) A person must not possess, inside the Amateur Taranaki Paua Fishery area, any ordinary paua that is less than that minimum length or exceeds the maximum length and is taken from that area.
- (3) A person must not possess, outside the Amateur Taranaki Paua Fishery area, any ordinary paua that is less than that minimum length or exceeds the maximum length and is taken from that area. 30

Regulation 92

Replace regulation 92(1)(a) with:

Regulation 92—continued

- (a) ~~take from the Challenger FMA more than the combined daily limit for the species of fish total quantity of finfish specified in an instrument made by the Minister (the **combined daily limit for fish finfish**); or~~

Replace regulation 92(2)(a) with:

- (a) take from the Challenger FMA more than the daily limit for bluenose total quantity of hapuku/bass and kingfish specified in an instrument made by the Minister (the **combined daily limit for bluenose hapuku/bass and kingfish**); or

Replace regulation 92(3)(a) with:

- (a) ~~take from the Challenger (East) area more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod for the Challenger (East) area**); or~~
- (a) take from the Challenger FMA more than the individual limit specified in an instrument made by the Minister for a species of finfish (the **daily limit for a species of finfish**); or

Regulation 93

Replace regulation 93(1)(a) with:

- (a) ~~take from the Challenger FMA more than the combined daily limit for hapuku/bass and kingfish specified in an instrument made by the Minister (the **combined daily limit for hapuku/bass and kingfish**); or~~

Regulation 94

Replace regulation 94(1)(a) with:

- (a) ~~take from the Challenger FMA more than the daily limit for kingfish specified in an instrument made by the Minister (the **daily limit for kingfish**); or~~

Regulation 95

Replace regulation 95(1)(a) with:

- (a) ~~take from the Challenger FMA more than the daily limit for snapper specified in an instrument made by the Minister (the **daily limit for snapper**); or~~

Regulation 95A

Replace regulation 95A(1)(a) with:

- (a) take from the Challenger (East) area more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or

Replace regulation 95A(5)(a) with:

Regulation 95A—continued

- (a) the defendant possessed no more than the number of blue cod specified for this subclause in an instrument issued by the Minister; and

Regulation 96

Replace regulation 96(1)(a) with:

- (a) take from the Marlborough Sounds area more than the daily limit for snapper specified in an instrument made by the Minister (the **daily limit for snapper**); or

Regulation 97

Replace regulation 97(1)(a) with:

- (a) take from the Challenger FMA more than the daily limit for scallops specified in an instrument made by the Minister (the **daily limit for scallops**); or

Regulation 100

In the heading to regulation 100, after “~~Minimum~~” “**Minimum**”, insert “~~or maximum~~” “**or maximum**”.

Replace regulation 100(1) with:

- (1) A person must not—
- (a) take from the Challenger FMA any sand flounder that is less than the minimum length or exceeds the maximum length specified in an instrument made by the Minister; or
 - (b) possess any sand flounder that is less than that minimum length or exceeds the maximum length and is taken from within the Challenger FMA.

Regulation 101

In the heading to regulation 101, after “~~Minimum~~” “**Minimum**”, insert “~~or maximum~~” “**or maximum**”.

Replace regulation 101(1) with:

- (1) A person must not—
- (a) take from the Challenger FMA any scallop whose shell (whether entire, chipped, or broken) is less than the minimum length or exceeds the maximum length specified in an instrument made by the Minister; or
 - (b) possess any scallop that is less than that minimum length or exceeds the maximum length and is taken from within the Challenger FMA.

Regulation 117

Replace regulation 117(1)(a) with:

Regulation 117—*continued*

- (a) ~~take from the South-East FMA more than the combined daily limit for the species of fish total quantity of finfish specified in an instrument made by the Minister (the combined daily limit for fish finfish); or~~

Replace regulation 117(2)(a) with:

- (a) take from the South-East FMA more than the daily limit for the species of fish total quantity of hapuku/bass and kingfish specified in an instrument made by the Minister (the **combined daily limit for a species of fish hapuku/bass and kingfish**); or

Replace regulation 117(3)(a) with:

- (a) ~~take from the Kaikoura–North Canterbury area more than the daily limit for blue cod specified in an instrument made by the Minister (the daily limit for blue cod for the Kaikoura–North Canterbury area); or~~
- (a) take from the South-East FMA more than the individual limit specified in an instrument made by the Minister for a species of finfish (the **daily limit for a species of finfish**); or

Regulation 118

Replace regulation 118(1)(a) with:

- (a) ~~take from the South-East FMA more than the daily limit for hapuku/bass and kingfish specified in an instrument made by the Minister (the combined daily limit for hapku/bass and kingfish); or~~

Regulation 119

Replace regulation 119(1)(a) with:

- (a) ~~take from the South-East FMA more than the daily limit for kingfish specified in an instrument made by the Minister (the daily limit for kingfish); or~~

Regulation 119A

Replace regulation 119A(1)(a) with:

- (a) ~~take from the Kaikoura–North Canterbury area more than the daily limit for blue cod specified in an instrument made by the Minister (the daily limit for blue cod); or~~

Regulation 120

Replace regulation 120(1)(a) with:

- (a) take from the East Otago taiapure more than the daily limit for shellfish specified in an instrument made by the Minister (the **daily limit for shellfish**); or

Regulation 121

Replace regulation 121(1)(a) with:

- (a) take from the East Otago taiapure more than the daily limit for kina specified in an instrument made by the Minister (the **daily limit for kina**); or

5

Regulation 122

Replace regulation 122(1)(a) with:

- (a) take from the southern part of the East Otago taiapure more than the daily limit for finfish specified in an instrument made by the Minister (the **daily limit for finfish**); or

10

Regulation 122A

Replace regulation 122A(1)(a) with:

- (a) take from the East Otago taiapure more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or

15

Regulation 123

Replace regulation 123(1)(a) with:

- (a) take from the Akaroa Harbour taiapure more than the daily limit for a species of fish or shellfish specified in an instrument made by the Minister (the **daily limit for a species of fish or shellfish**); or

20

Replace regulation 123(2)(a) with:

- (a) take from the Akaroa Harbour taiapure more than the daily limit for finfish specified in an instrument made by the Minister (the **daily limit for finfish**); or

Regulation 123A

25

Replace regulation 123A(1)(a) with:

- (a) take from Te Whata Kai o Rakihouia i Te Tai o Marokura—Kaikōura Marine Area more than the daily limit for a species of fish or shellfish specified in an instrument made by the Minister (the **daily limit for a species of fish or shellfish**); or

30

Replace regulation 123A(2)(a) with:

- (a) take from Te Whata Kai o Rakihouia i Te Tai o Marokura—Kaikōura Marine Area more than the ~~combined daily limit for total quantity of~~ albacore, bluenose, hapuku/bass, kingfish, and ling specified in an instrument made by the Minister (the **combined daily limit for albacore, bluenose, hapuku/bass, kingfish, and ling**); or

35

Replace regulation 123A(3)(a) with:

Regulation 123A—continued

- (a) take from Te Whata Kai o Rakihouia i Te Tai o Marokura—Kaikōura Marine Area more than the ~~daily limit for total quantity of~~ blue shark, hammerhead shark, mako shark, porbeagle shark, seven gill shark, and thresher shark specified in an instrument made by the Minister (the **combined daily limit for game sharks**); or

5

Regulation 123B

Replace regulation 123B(1)(a) with:

- (a) take from Te Whata Kai o Rakihouia i Te Tai o Marokura—Kaikōura Marine Area more than the daily limit for bladder kelp specified in an instrument made by the Minister (the **daily limit for bladder kelp**); or

10

Replace regulation 123B(2)(a) with:

- (a) take from Te Whata Kai o Rakihouia i Te Tai o Marokura—Kaikōura Marine Area more than the combined daily limit for karengo specified in an instrument made by the Minister (the **daily limit for karengo**); or

Regulation 125

15

Replace regulation 125(1) with:

- (1) A person must not, on any day,—
- (a) take from Otago Harbour any quinnat salmon that is less than the minimum length or exceeds the maximum length specified in an instrument made by the Minister; or
- (b) possess any quinnat salmon that is less than that minimum length or exceeds the maximum length and is taken from within Otago Harbour.

20

Regulation 125A

Replace regulation 125A(2) with:

- (2) A person must not, on any day,—
- (a) take from Te Whata Kai o Rakihouia i Te Tai o Marokura—Kaikōura Marine Area any sea perch that is less than the minimum length or exceeds the maximum length specified in an instrument made by the Minister; or
- (b) possess any sea perch that is less than that minimum length or exceeds the maximum length and is taken from within Te Whata Kai o Rakihouia i Te Tai o Marokura—Kaikōura Marine Area.

25

30

Regulation 141

Replace regulation 141(1)(a) with:

- (a) take from the Southland and Sub-Antarctic FMA more than the ~~combined daily limit for the species of fish~~ total quantity of finfish specified

35

Regulation 141—*continued*

in an instrument made by the Minister (the **combined daily limit for fish finfish**); or

In regulation 141(2), replace “subclause (1)” with “an instrument made by the Minister”.

Replace regulation 141(2)(a) with:

5

- (a) take from the Southland and Sub-Antarctic FMA more than the total quantity of hapuku/bass and kingfish specified in an instrument made by the Minister (the **combined daily limit for hapuku/bass and kingfish**);
or

Replace regulation 141(3)(a) with:

10

- (a) ~~take from the Southland and Sub-Antarctic FMA more than the individual daily limit for a species of fish specified in an instrument made by the Minister (the **daily limit for a species of fish**); or~~

- (a) take from the Southland and Sub-Antarctic FMA more than the individual limit specified in an instrument made by the Minister for a species of finfish (the **daily limit for a species of finfish**); or

15

Replace regulation 141(4)(a) with:

- (a) ~~take from Paterson Inlet (Whaka-a-Te-Wera) more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod for Paterson Inlet (Whaka-a-Te-Wera)**); or~~

20

Regulation 142

Replace regulation 142(1)(a) with:

- (a) ~~take from the Southland and Sub-Antarctic FMA more than the daily limit for hapuku/bass and kingfish specified in an instrument made by the Minister (the **combined daily limit for hapku/bass and kingfish**);~~
or

25

Regulation 143

Replace regulation 143(1)(a) with:

- (a) ~~take from the Southland and Sub-Antarctic FMA more than the daily limit for kingfish specified in an instrument made by the Minister (the **daily limit for kingfish**); or~~

30

Regulation 144

Replace regulation 144(1)(a) with:

- (a) take from the Southland FMA more than the daily limit for mussels specified in an instrument made by the Minister (the **daily limit for mussels**); or

35

Regulation 145

In regulation 145(2) and (3), replace “10 scallops” with “the daily limit for scallops” .

Replace regulation 145(4)(a) with:

- (a) take from the Southland and Sub-Antarctic FMA more than the daily limit for scallops specified in an instrument made by the Minister (the **daily limit for scallops**); or 5

Regulation 145A

Replace regulation 145A(1)(a) with:

- (a) take from Paterson Inlet (Whaka a Te Wera) more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or 10

Regulation 146

Replace regulation 146(1)(a) with:

- (a) take from the Fiordland (Te Moana o Atawhenua) marine area more than the daily limit for a species of fish or shellfish specified in an instrument made by the Minister (the **daily limit for a species of fish or shellfish**); or 15

Replace regulation 146(2) with:

- (2) The daily limits for a species of fish or shellfish are subject to the following conditions: 20
 - (a) if applicable, a daily limit includes any fish taken from the internal waters of Fiordland in accordance with regulations 147 and 147A:
 - (b) a daily limit for blue cod is subject to the prohibition set out in regulation 149.

Regulation 147

25

Replace regulation 147(1)(a) with:

- (a) take from the internal waters of Fiordland, or the waters of Milford Sound (as described in the definition of the internal waters of Fiordland in Schedule 18), more than the daily limit for a species of fish or shellfish specified in an instrument made by the Minister (the **daily limit for a species of fish or shellfish**); or 30

Revoke regulation 147(1A).

Replace regulation 147(2) with:

- (2) The maximum daily limit for blue cod specified under subclause (1) is subject to the daily limit for blue cod specified under regulation 147A and the prohibition specified in regulation 149. 35

Regulation 147A

Replace regulation 147A(1)(a) with:

- (a) take from the internal waters of the Doubtful (Patea), Thompson, and Bradshaw Sounds (the **Sounds**) more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or 5

Regulation 155A

Replace regulation 155A(1) with:

- (1) A person must not, on any day,—
 - (a) take from CRA2 more than the daily limit for rock lobsters specified in an instrument made by the Minister (the **daily limit for rock lobsters**); or 10
 - (b) possess more than the daily limit for rock lobsters in CRA2; or
 - (c) take from CRA2 more than the daily limit for spiny rock lobsters specified in an instrument made by the Minister (the **daily limit for spiny rock lobsters**); or 15
 - (d) possess more than the daily limit for spiny rock lobsters in CRA2.

Regulation 155E

Replace regulation 155E(1)(a) with:

- (a) take from the Canterbury blue cod management area more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or 20

Regulation 155F

Replace regulation 155F(1)(a) with:

- (a) take from the Chatham Islands blue cod management area more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or 25

Replace regulation 155F(2) with:

- (2) Despite regulation 20A, a person may possess blue cod that is without a head in the Chatham Islands blue cod management area, provided the blue cod is not less than the minimum length and does not exceed the maximum length specified in an instrument made by the Minister. 30

Regulation 155G

Replace regulation 155G(1)(a) with:

- (a) take from the Kahurangi blue cod management area more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or 35

Regulation 155H

Replace regulation 155H(1)(a) with:

- (a) take from the Kaikōura blue cod management area more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or

5

Regulation 155I

Replace regulation 155I(1)(a) with:

- (a) take from the North Otago blue cod management area more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or

10

Regulation 155J

Replace regulation 155J(1)(a) with:

- (a) take from the South West blue cod management area more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or

15

Regulation 155K

Replace regulation 155K(1)(a) with:

- (a) take from the Southern blue cod management area more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or

20

Replace regulation 155K(2) with:

- (2) Despite regulation 20A, a person may possess blue cod that is without a head in the Southern blue cod management area, provided the blue cod is not less than the minimum length and does not exceed the maximum length specified in an instrument made by the Minister.

25

Regulation 155L

Replace regulation 155L(1)(a) with:

- (a) take from the Tasman blue cod management area more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or

30

Regulation 155M

Replace regulation 155M(1)(a) with:

- (a) take from the Westland blue cod management area more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or

35

Replace regulation 155M(2) with:

Regulation 155M—continued

- (2) Despite regulation 20A, a person may possess blue cod that is without a head in the Westland blue cod management area, provided the blue cod is not less than the minimum length and does not exceed the maximum length specified in an instrument made by the Minister.

Regulation 158

5

Replace regulation 158 with:

158 Limitation on defence in relation to accumulation limits

The defence set out in regulation 157(1) does not apply to a charge of contravening the accumulation limit for any fish, aquatic life, or seaweed specified in an instrument made by the Minister under these regulations.

10

Regulation 159A

Replace regulation 159A(2) with:

- (2) Despite subclause (1), it is a defence to a charge of possessing more than the daily limit for spiny rock lobsters taken from within CRA5 if the defendant satisfies the court that—
- (a) the defendant possessed no more than the number of spiny rock lobsters specified for this subclause in an instrument made by the Minister; and
 - (b) the daily limit for spiny rock lobsters specified under regulation 13(1) was not exceeded; and
 - (c) in the case of spiny rock lobsters held on board or landed from a vessel, the spiny rock lobsters were held in containers or bags that comply with subclause (3).

15

20

Regulation 160

Replace regulation 160(1) with:

- (1) The defence set out in regulation 157(1) does not apply to a charge of possessing more than the daily limit for a species of fish or shellfish specified in an instrument made by the Minister if those fish or shellfish were taken in the Fiordland (Te Moana o Atawhenua) marine area or the internal waters of Fiordland.

25

Replace regulation 160(2)(a) and (b) with:

30

- (a) the defendant possessed no more than the number of rock lobsters specified for this subclause in an instrument made by the Minister; and
- (b) the daily limit for rock lobster specified under regulation 146 was not exceeded; and

Schedules 1 and 2

35

Revoke Schedules 1 and 2.

Schedules 6 to 13

Revoke Schedules 6 to 13.

Schedule 19

In Schedule 19, Part 2, delete “specified in Part 3 of Schedule 6” in each place.

In Schedule 19, Part 3, delete “specified in Schedule 7” in each place.

In Schedule 19, Part 3, delete “specified in Part 3 of Schedule 7” in each place.

In Schedule 19, Part 4, delete “specified in Schedule 8” in each place.

In Schedule 19, Part 4, delete “specified in Part 3 of Schedule 8” in each place.

In Schedule 19, Part 5, delete “specified in Schedule 9” in each place.

In Schedule 19, Part 5, delete “specified in Part 3 of Schedule 9” in each place.

In Schedule 19, Part 6, delete “specified in Schedule 11” in each place.

In Schedule 19, Part 6, delete “specified in Part 3 of Schedule 11” in each place.

In Schedule 19, Part 6, delete “specified in Schedule 12” in each place.

In Schedule 19, Part 6, delete “specified in Schedule 13” in each place.

Part 2**Amendments to Commercial Fishing Regulations 2001****~~New regulation 4A~~**

After regulation 4, insert:

4A Specific fisheries management controls may be set by Minister under section 72A of Act

~~See section 72A of the Act, which authorises the Minister to set fisheries management controls by an instrument made under that section (such as daily limits or size limits for any stocks, species, or fisheries management area).~~

Part 3**Amendment to Fisheries (Licensed Fish Receivers) Regulations 1997****Regulation 2**

In regulation 2, replace the definition of **fish receiving** with:

fish receiving—

- (a) means receiving fish for handling or processing from a commercial fisher in circumstances to which **section 191(1)(c)** or (2) of the Fisheries Act 1996 does not apply; but
- (b) does not include the receiving of fish by the Crown

Part 4

Amendment to Fisheries (Electronic Monitoring on Vessels) Regulations 2017

Regulation 9

Replace regulation 9(1) and (2) with:

- (1) The electronic monitoring equipment on a vessel must be used to—
 - (a) record fishing and related activities, including—
 - (i) the taking, return, abandonment, processing, or sorting of fish or other animals that are aquatic life; and
 - (ii) transportation connected with fishing; and
 - (iii) measures to avoid, remedy, or mitigate fishing-related mortality; and
 - (b) detect and record associated information in accordance with any requirements specified in a circular.
- (2) The video recording must enable the chief executive to, with reasonable accuracy and to the extent specified in a circular,—
 - (a) identify—
 - (i) the type of fish or other animal that is aquatic life, ~~aquatic life, or seaweed~~ taken or transported; and
 - (ii) the types and features of fishing gear used; and
 - (iii) any bycatch mitigation measures adopted or used; and
 - (b) estimate the size and quantity of the fish or other animal that is aquatic life, ~~aquatic life, or seaweed~~ taken, returned, abandoned, processed, sorted, or transported.

Part 5

Amendment to Fisheries (Electronic Monitoring on Vessels) Amendment Regulations 2022

Regulation 9

Replace regulation 9(2) with:

- (2) Replace regulation 9(1) with:
- (1) The electronic monitoring equipment on a vessel must be used to—
 - (a) record monitored fishing and related activities, including—
 - (i) the taking, return, abandonment, processing, or sorting of fish or other animals that are aquatic life; and
 - (ii) transportation connected with monitored fishing; and

Regulation 9—*continued*

- (iii) measures to avoid, remedy, or mitigate fishing-related mortality;
and
- (b) detect and record associated information in accordance with any require-
ments specified in a circular.

Legislative history

13 April 2022
5 May 2022

Introduction (Bill 117–1)
First reading and referral to Primary Production Committee