



Fisheries Amendment Act 2011

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Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Fisheries Amendment Act 2011.

2 Commencement

This Act comes into force on 1 October 2011.

3 Principal Act amended

This Act amends the Fisheries Act 1996.

4 Interpretation

(1) Section 2(1) is amended by repealing the definition of **aquaculture management area**.

(2) Section 2(1) is amended by inserting the following definition in its appropriate alphabetical order:

“**regional council**—

“(a) has the same meaning as in section 5 of the Local Government Act 2002; and

“(b) includes a unitary authority within the meaning of that Act”.

5 Application of Resource Management Act 1991

(1) Section 6 is amended by repealing subsection (2) and substituting the following subsection:

“(2) Subsection (1) does not—

- “(a) prevent a regional council from taking into account the effects of aquaculture activities on fishing or fisheries resources when carrying out its functions under section 30(1)(d) of the Resource Management Act 1991; or
 - “(b) prevent any coastal permit authorising aquaculture activities from being granted.”
- (2) The definition of **fishing sector** in section 6(3) is amended by repealing paragraph (d).

6 **Heading to subpart 1 of Part 9A amended**

The heading to subpart 1 of Part 9A is amended by omitting “aquaculture management areas” and substituting “coastal permits”.

7 **Interpretation**

- (1) Section 186C is amended by repealing the definitions of **determination** and **reservation**.
- (2) Section 186C is amended by inserting the following definitions in their appropriate alphabetical order:

“**application for a coastal permit**—

“(a) means an application for a coastal permit under section 88 of the Resource Management Act 1991; and

“(b) includes—

“(i) an application for a change or cancellation of condition of a coastal permit under section 127 of that Act; and

“(ii) a notice of intention to review conditions under section 128 of that Act

“**coastal permit** means a coastal permit granted under the Resource Management Act 1991 that authorises aquaculture activities to be undertaken in the coastal marine area

“**determination**, in relation to a coastal permit, means a decision by the chief executive that he or she is satisfied that the aquaculture activities authorised by the coastal permit will not have an undue adverse effect on fishing

“**regional council** means a regional council acting as a consent authority under the Resource Management Act 1991

“**reservation**, in relation to a coastal permit, means a decision by the chief executive that he or she is not satisfied that the aquaculture activities authorised by the coastal permit will not have an undue adverse effect on fishing”.

8 New sections 186D to 186GB substituted

Sections 186D to 186G are repealed and the following sections substituted:

“186D Chief executive may seek information or consult certain persons for purposes of making aquaculture decision

- “(1) After receiving a copy of an application for a coastal permit forwarded by a regional council to the chief executive under section 107F of the Resource Management Act 1991, the chief executive may, for the purpose of making an aquaculture decision that may be requested under that Act seek information relevant to the application from—
- “(a) the applicant for or the holder of the coastal permit;
 - “(b) any fisher whose interests may be affected;
 - “(c) persons and organisations that the chief executive considers represent the classes of persons who have customary, commercial, or recreational fishing interests that may be affected by the granting of the coastal permit or change to, or cancellation of, the conditions of the coastal permit.
- “(2) For the purposes of subsection (1), the chief executive—
- “(a) may set a date by which information must be provided and may grant 1 or more extensions of that date if he or she considers it necessary to do so; and
 - “(b) is not required to consider or take into account any information received after that date or extended date (as the case may be).
- “(3) Before making an aquaculture decision under section 186E, the chief executive may consult any of the persons or organisations specified in subsection (1).
- “(4) For the purposes of subsection (3), the chief executive—
- “(a) may set a date by which the consultation is to be completed and may grant 1 or more extensions of that date if he or she considers it necessary to do so; and

- “(b) is not required to consider or take into account any submissions made for the purposes of the consultation received after that date or extended date (as the case may be).

“186E Chief executive to make aquaculture decision

- “(1) Within 20 working days after receiving a request for an aquaculture decision from a regional council under section 114 of the Resource Management Act 1991, the chief executive must—
 - “(a) make a determination; or
 - “(b) make a reservation; or
 - “(c) make 1 or more determinations or reservations or both in relation to different parts of the area to which the request relates.
- “(2) One or both of the following periods are excluded from the period of 20 working days specified in subsection (1) to the extent that the periods could otherwise fall within the period of 20 working days:
 - “(a) a period during which the chief executive is undertaking consultation under section 186D(3);
 - “(b) a period during which the chief executive is, in compliance with section 186F(1), making an aquaculture decision in relation to a prior request.
- “(3) In making an aquaculture decision, the chief executive must have regard to—
 - “(a) information held by the Ministry of Fisheries; and
 - “(b) information supplied, or submissions made, to the chief executive under section 186D(1) or (3); and
 - “(c) information that is forwarded by the regional council; and
 - “(d) any other information that the chief executive has requested and obtained.
- “(4) For the purposes of this section, the chief executive is not required to consider or take into account any information received after receiving the request for an aquaculture decision.
- “(5) Subsection (4) applies subject to section 186D(2) and (4).

“186F Order in which requests for aquaculture decisions to be processed

- “(1) The chief executive must make aquaculture decisions in the same order in which the requests for the decisions are received.
- “(2) For the purposes of subsection (1), the order in which aquaculture decisions must be made in relation to requests for aquaculture decisions received on the same day is determined according to the time when the requests are received.
- “(3) If 2 or more requests for aquaculture decisions are received at the same time from the same regional council, the chief executive must make aquaculture decisions in the order specified by the regional council under section 114(5) of the Resource Management Act 1991.
- “(4) For the purposes of subsections (1) to (3), the chief executive’s aquaculture decision is not to be treated as made until any judicial review of the decision is finally disposed of.
- “(5) The chief executive may make aquaculture decisions in a different order from that required by subsections (1) to (3), but the chief executive may do so only if satisfied that in making an aquaculture decision out of order it will not have an adverse effect on any other aquaculture decision that the chief executive has been requested to make.

“186G Provision of fisheries information relating to stock

For the purposes of this subpart and subpart 4, the chief executive may, by notice in the *Gazette*, specify the manner and form in which fisheries information relating to stocks is to be made publicly available by the Ministry of Fisheries.

“186GA Aquaculture decisions must not be made in relation to certain areas

The chief executive must not make an aquaculture decision in relation to—

- “(a) an area—
- “(i) that is or was subject to a lease, licence, marine farming permit, or spat catching permit that was deemed under section 10, 20, or 21 of the Aquaculture Reform (Repeals and Transitional Provi-

- sions) Act 2004 to be a coastal permit granted under the Resource Management Act 1991; and
- “(ii) where, since the date on which the lease, licence, marine farming permit, or spat catching permit was deemed to be a coastal permit, aquaculture activities have been continuously authorised under that permit or another permit granted under the Resource Management Act 1991; or
 - “(b) an area that is or was subject to the coastal permit referred to in section 20A of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 and where, since the date the coastal permit was deemed to be granted, aquaculture activities have been continuously authorised under the permit or another permit granted under the Resource Management Act 1991; or
 - “(c) an area that is in a *Gazetted* aquaculture area within the meaning of section 35 of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004; or
 - “(d) an area that is subject to a coastal permit to which section 114(6) of the Resource Management Act 1991 applies.

“186GB Matters to be considered before aquaculture decision made

- “(1) In making an aquaculture decision, the chief executive must have regard only to the following matters:
 - “(a) the location of the area that the coastal permit relates to in relation to areas in which fishing is carried out:
 - “(b) the likely effect of the aquaculture activities in the area that the coastal permit relates to on fishing of any fishery, including the proportion of any fishery likely to become affected:
 - “(c) the degree to which the aquaculture activities in the area that the coastal permit relates to will lead to the exclusion of fishing:
 - “(d) the extent to which fishing for a species in the area that the coastal permit relates to can be carried out in other areas:

- “(e) the extent to which the occupation of the coastal marine area authorised by the coastal permit will increase the cost of fishing:
 - “(f) the cumulative effect on fishing of any authorised aquaculture activities, including any structures authorised before the introduction of any relevant stock to the quota management system.
- “(2) If a pre-request aquaculture agreement has been registered under section 186ZH in relation to the area that the coastal permit relates to, the chief executive must not have regard to the undue adverse effects on commercial fishing in respect of any stocks covered by the pre-request aquaculture agreement when having regard to the matters specified in subsection (1).”

9 New section 186H substituted

Section 186H is repealed and the following section substituted:

“186H Requirements for aquaculture decision

- “(1) An aquaculture decision must—
- “(a) be in writing; and
 - “(b) define the areas that are subject to the decision; and
 - “(c) provide reasons for the decision; and
 - “(d) be notified to—
 - “(i) the regional council that requested the decision; and
 - “(ii) the holder of the coastal permit that the decision relates to; and
 - “(iii) the persons and organisations who supplied information to the chief executive under section 186D(1); and
 - “(iv) the persons and organisations consulted by the chief executive under section 186D(3).
- “(2) The fact that an aquaculture decision has been made and where a copy can be obtained must be—
- “(a) notified in the *Gazette*; and
 - “(b) made accessible via the Internet.
- “(3) If the chief executive makes a determination, the determination may—

- “(a) specify any condition of the coastal permit that is material to the decision and that relates to the character, intensity, or scale of the aquaculture activities; and
 - “(b) state that the condition may not be changed or cancelled until the chief executive makes a further aquaculture decision in relation to the area affected by the change or cancellation.
- “(4) If the chief executive makes a reservation, the reservation must also include—
- “(a) whether the reservation relates to customary, recreational, or commercial fishing, or a combination of them; and
 - “(b) if the reservation relates to commercial fishing, the stocks and areas concerned, specifying any stocks subject to the quota management system and any other stock not subject to the quota management system; and
 - “(c) any other matters required by regulations to be included.
- “(5) The chief executive must include, in the notification under subsection (1)(d),—
- “(a) the information specified in subsections (1)(b) and (c), (3), and (4), as appropriate; and
 - “(b) information about where a copy of the determination or reservation can be obtained.”

10 Section 186I repealed
Section 186I is repealed.

11 Judicial review of aquaculture decision

- (1) Section 186J is amended by omitting “3 months after the public notification of the decision” and substituting “30 working days after the notification of the decision under section 186H(2)(a)”.
- (2) Section 186J is amended by adding the following subsection as subsection (2):
- “(2) The chief executive must notify the relevant regional council of—
- “(a) any proceedings brought to seek judicial review of an aquaculture decision; and

“(b) the result of those proceedings, including any appeals.”

12 Heading to subpart 4

The heading to subpart 4 of Part 9A is amended by adding “and compensation declarations”.

13 New section 186ZD substituted

Section 186ZD is repealed and the following section substituted:

“186ZD Interpretation

In this subpart, unless the context otherwise requires,—

“**aquaculture agreement** means 1 or more documents, in the approved form, containing the consents required under section 186ZF

“**compensation declaration** means a statutory declaration to the effect that compensation has been provided, in accordance with sections 186ZN and 186ZQ, to all affected quota owners

“**pre-request aquaculture agreement** means 1 or more documents, in the approved form, containing the consents required under section 186ZM.”

14 New section 186ZE substituted

Section 186ZE is repealed and the following section substituted:

“186ZE Registers of aquaculture agreements, pre-request aquaculture agreements, and compensation declarations

“(1) The chief executive must keep—

“(a) a register of aquaculture agreements; and

“(b) a register of pre-request aquaculture agreements; and

“(c) a register of compensation declarations.

“(2) Sections 186K(2) to (6), 186L, and 186M apply, with all necessary modifications, to each register.”

15 New section 186ZF substituted

Section 186ZF is repealed and the following section substituted:

“186ZF Quota owners whose consent is necessary for aquaculture agreement

- “(1) An aquaculture agreement lodged with the chief executive for registration must—
- “(a) contain the consents required under subsection (2) to the aquaculture activities being undertaken in the area concerned; and
 - “(b) be accompanied by information showing that each registered quota owner has had a reasonable opportunity to consider whether to consent.
- “(2) The consents required are, for each stock specified in a reservation in relation to commercial fishing for stocks subject to the quota management system,—
- “(a) the consents of the registered quota owners of the stock holding not less than 75% of the quota shares for the stock; and
 - “(b) to the extent that the consents referred to in paragraph (a) are given by persons holding 75% or more but less than 100% of the quota shares for the stock, the consent of the High Court in relation to the persons who did not consent.
- “(3) After an aquaculture agreement is registered, no person whose consent is contained in the agreement may revoke the consent, but the consent and the aquaculture agreement itself come to an end when the coastal permit to which they relate comes to an end, unless the coastal permit is replaced by a new permit in accordance with section 165ZH of the Resource Management Act 1991.
- “(4) For the purposes of this section, subsection (2) applies to the persons specified in that subsection as at 5 pm on the date on which the chief executive gives notice of a reservation under section 186H(2)(a) in relation to the coastal permit concerned.”

16 High Court may consent to aquaculture agreement on behalf of non-consenting persons

- (1) Section 186ZG(1) is amended by omitting “(a), (b), or (c)”.
- (2) Section 186ZG(2) is amended by repealing paragraph (b).

17 Lodging aquaculture agreements with chief executive for registration

Section 186ZH(3)(a) and (b) are amended by omitting “fisher” in each place where it appears and substituting in each case “quota owner”.

18 New section 186ZHA inserted

The following section is inserted after section 186ZH:

“186ZHA Lodging compensation declarations with chief executive for registration

- “(1) If a compensation declaration lodged with the chief executive for registration does not comply with this subpart, the chief executive must—
- “(a) return the declaration to the person who lodged it or another person whom the chief executive considers is entitled to receive it; and
 - “(b) provide reasons to the person to whom the declaration is returned as to why the declaration has not been registered.
- “(2) If a compensation declaration lodged with the chief executive for registration complies with this subpart, the chief executive must—
- “(a) register the declaration in the register of compensation declarations kept by the chief executive; and
 - “(b) notify the person who lodged it, or another person whom the chief executive considers is entitled to receive notification, that the declaration has been registered.
- “(3) In deciding whether to register a compensation declaration, the chief executive is entitled to rely on the information in the declaration as sufficient evidence that compensation has been provided to quota owners in accordance with sections 186ZN and 186ZQ, unless the chief executive has notice of evidence to the contrary.”

19 Period within which aquaculture agreements must be lodged for registration

- (1) Section 186ZI(1)(a) is amended by omitting “; and” and substituting “and be accompanied by the prescribed fee; and”.

- (2) Section 186ZI(1) is amended by repealing paragraph (b) and substituting the following paragraph:
 - “(b) within 6 months after the notification of the reservation under section 186H(2)(a) in relation to the coastal permit concerned.”
- (3) Section 186ZI(2)(a) is amended by omitting “consent of all fishers whose consent is” and substituting “consents”.
- (4) Section 186ZI(4) is amended by adding “; and” and also by adding the following paragraph:
 - “(c) the period beginning with the day on which proceedings are brought seeking judicial review of the chief executive’s aquaculture decision and ending on the day on which the proceedings are finally disposed of.”
- (5) Section 186ZI(5) is repealed.

20 New section 186ZIA inserted

The following section is inserted after section 186ZI:

“186ZIA Period within which compensation declaration must be lodged for registration

- “(1) A compensation declaration must be lodged with the chief executive for registration—
 - “(a) on the approved form and be accompanied by the prescribed fees; and
 - “(b) within 6 months after the date of the notification of the reservation under section 186H(2)(a) in relation to the coastal permit concerned.
- “(2) However, the chief executive may give a person a further 3 months to lodge a compensation declaration if the chief executive is satisfied that—
 - “(a) the person has taken reasonable steps to provide compensation to quota owners in accordance with sections 186ZN and 186ZQ; and
 - “(b) the person requires further time to provide the compensation.
- “(3) An extension of time may be granted under subsection (2) only—
 - “(a) once to a person in respect of aquaculture activities in the same area; and

- “(b) if the person concerned applies in writing to the chief executive not later than 1 month before the expiry of the 6-month period specified in subsection (1)(b).
- “(4) The period of 6 months referred to in subsection (1)(b) does not include—
- “(a) any extension of time granted under subsection (2); and
- “(b) the period beginning on the day on which arbitration proceedings are commenced and ending on the day on which the arbitrator makes a determination under section 186ZP(5) or, if the arbitrator does not make a determination under that provision, the day on which the arbitrator makes a determination or decision under section 186ZP(6)(a) or (b); and
- “(c) the period beginning with the day on which proceedings are brought seeking judicial review of the chief executive’s aquaculture decision and ending on the day on which the proceedings are finally disposed of.”

21 No proceedings to be taken against chief executive

Section 186ZJ(1) is amended by omitting “or section 186ZI” and substituting “, 186ZHA, 186ZI, 186ZIA, or 186ZM”.

22 Chief executive must notify regional council of certain matters

- (1) Section 186ZK(2)(c) is amended by adding “or section 186ZIA”.
- (2) Section 186ZK(2)(d) is amended by inserting “or compensation declarations” after “aquaculture agreements”.
- (3) Section 186ZK(2)(d) is amended by adding “or section 186ZIA, as the case may be”.
- (4) Section 186ZK(2)(e) is amended by inserting “or compensation declarations” after “aquaculture agreements”.
- (5) Section 186ZK(2)(f) is amended by inserting “or compensation declarations” after “aquaculture agreements”.
- (6) Section 186ZK(2) is amended by adding the following paragraph:

“(g) the name of the person who made a compensation declaration registered by the chief executive and the area the declaration relates to.”

23 Memorials

(1) Section 186ZL is amended by repealing subsection (1) and substituting the following subsection:

“(1) Subsection (2) applies if the chief executive makes a reservation in relation to commercial fishing for stocks subject to the quota management system under section 186E or section 38 of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004.”

(2) Section 186ZL(2) is amended by adding “on the date of the notification under section 186H(2)(a)”.

(3) Section 186ZL(3)(a) is amended by inserting “in relation to commercial fishing for stocks subject to the quota management system” after “reservation”.

(4) Section 186ZL(3)(b) is amended by inserting “, or compensation declaration,” after “aquaculture agreement”.

(5) Section 186ZL(3)(c) is amended by inserting “or a declaration” after “agreement”.

(6) Section 186ZL(3)(c) is amended by omitting “the allocation of space in the area subject to the reservation for aquaculture activities” and substituting “aquaculture activities being undertaken in the area subject to the reservation”.

(7) Section 186ZL is amended by repealing subsection (4) and substituting the following subsection:

“(4) A memorial recorded in a register under subsection (2) must be cancelled on the expiry of the period specified in section 186ZI(1)(b) or 186ZIA(1)(b) or any extension of those periods under section 186ZI(4) or 186ZIA(4).”

(8) Section 186ZL(5) is repealed.

24 New headings and sections 186ZM to 186ZR inserted

The following heading and section are inserted after section 186ZL:

*“Pre-request aquaculture agreements***“186ZM Pre-request aquaculture agreements**

- “(1) A person who has applied for a coastal permit to undertake aquaculture activities in the coastal marine area may, before a regional council makes a request under section 114 of the Resource Management Act 1991 for an aquaculture decision in relation to the coastal permit, lodge a pre-request aquaculture agreement in relation to the area covered by the application with the chief executive for registration.
- “(2) The pre-request aquaculture agreement must be in the approved form, be accompanied by the prescribed fee, and—
- “(a) relate to 1 or more stocks subject to the quota management system; and
 - “(b) contain the consents required under subsection (3) to the exclusion of the stock from consideration by the chief executive when making an aquaculture decision in relation to the area covered by the application if the coastal permit is granted; and
 - “(c) be accompanied by information showing that each registered quota owner had a reasonable opportunity to consider whether to consent.
- “(3) A pre-request aquaculture agreement must contain, as at 5 pm on the day before the date on which the agreement is lodged for registration, the consent, for each stock included in the agreement, of the registered quota owners of the stock holding not less than 75% of the quota shares for the stock.
- “(4) A person who wishes to lodge a pre-request aquaculture agreement with the chief executive for registration must, at least 20 working days before lodging the agreement, give notice of the person’s intention to lodge the agreement—
- “(a) to each quota owner of stock that is included in the agreement; and
 - “(b) by a notice published in a newspaper circulating in the locality of the proposed coastal permit the agreement relates to.
- “(5) After a pre-request aquaculture agreement is registered, no person whose consent is contained in the agreement may re-

voke the consent, but the consent and the aquaculture agreement itself come to an end—

- “(a) if the application for the coastal permit they relate to is declined or withdrawn; or
 - “(b) if the application is granted, when the coastal permit to which they relate comes to an end, unless the coastal permit is replaced by a new permit in accordance with section 165ZH of the Resource Management Act 1991.
- “(6) Sections 186ZH and 186ZK apply with any necessary modifications as if references to an aquaculture agreement were references to a pre-request aquaculture agreement and references to section 186ZF were references to section 186ZM.
- “(7) A quota holder for a stock, which is the subject of a registered pre-request aquaculture agreement, who did not consent to the agreement is entitled to receive from the applicant in proportion to the quota holder’s shareholding of the stock equivalent entitlements and benefits (whether financial or otherwise), to those that were agreed between the applicant and the persons who consented to the agreement.
- “(8) The High Court may make such orders or give such directions as it thinks fit for the purposes of subsection (7).
- “(9) An order or direction under subsection (8) must not prevent or delay the chief executive making an aquaculture decision.

“Compensation

“186ZN Compensation to be provided by coastal permit holder to affected quota owners if aquaculture agreement not lodged

- “(1) This section applies if—
- “(a) the chief executive has, in relation to a coastal permit, made a reservation in relation to commercial fishing of quota management stock; and
 - “(b) the holder of the coastal permit has not lodged an aquaculture agreement in respect of the stock before the expiry of the period specified in section 186ZI(1)(b) or any extension of that period under section 186ZI(2), subject in either case to section 186ZI(4).

- “(2) If the holder of the permit wishes to undertake aquaculture activities authorised by the permit, the holder must provide to each affected quota owner compensation for the loss of value of the owner’s affected quota as determined by an arbitrator appointed in accordance with section 186ZO.
- “(3) In subsection (2), **quota owner** means a person who is a registered quota owner as at 5 pm on the date on which the relevant reservation is notified in the *Gazette* under section 186H(2)(a).

“186ZO Submission to arbitration

- “(1) The holder of a coastal permit may submit to an arbitrator a request to determine the amount of compensation to be provided under section 186ZN and the provisions of the Arbitration Act 1996 (other than those relating to the appointment of an arbitrator) apply as if this section were an arbitration agreement.
- “(2) For the purposes of the arbitration, an arbitrator is to be appointed—
- “(a) by agreement between the holder of the coastal permit and all the quota owners; but
 - “(b) if they cannot agree, then by the President of the Arbitrators and Mediators Institute of New Zealand Incorporated or a person authorised by the President.

“186ZP Arbitrator to determine preliminary question about economic value of proposed aquaculture activities

- “(1) Before determining the compensation to be provided to quota owners or a class of quota owners, an arbitrator must first determine the question in subsection (2).
- “(2) The question is: which of the following is of materially greater economic value to New Zealand:
- “(a) the proposed aquaculture activities; or
 - “(b) the fishing in relation to which the chief executive has made a reservation.
- “(3) The arbitrator must determine the question on the basis of data and analysis provided by—
- “(a) the holder of the coastal permit; and
 - “(b) the quota owners concerned.

- “(4) In determining the question, the arbitrator must follow the methodology specified in any regulations made under section 186ZR(1)(a).
- “(5) The arbitrator must determine the compensation payable to quota owners if the arbitrator determines the question in favour of the proposed aquaculture activities.
- “(6) The arbitrator must not determine the compensation payable to quota owners if the arbitrator—
 - “(a) determines the question in favour of the fishing in relation to which the chief executive has made a reservation; or
 - “(b) decides that the question cannot be determined one way or the other.

“186ZQ Determination of compensation

- “(1) In determining the compensation to be awarded to quota owners, an arbitrator must follow the methodology specified in any regulations made under section 186ZR(1)(b).
- “(2) For the purposes of section 186ZR(3)(a)(ii), the holder of the coastal permit and quota owners may submit proposals to the arbitrator that set out the maximum extent to which complementary use may be made of the site concerned for particular quota stocks and aquaculture activities.
- “(3) The level of compensation provided under subsection (1) must be the same for each quota share for each quota stock.
- “(4) The compensation awarded under subsection (1) must—
 - “(a) be provided to the persons holding quota for the fish stock subject to the reservation; and
 - “(b) be provided only to quota owners as defined in section 186ZN(3).
- “(5) If, after the arbitrator has made an award, the holder of the coastal permit decides not to proceed with the aquaculture activities, then the holder of the permit must pay the quota owners’ reasonable costs and expenses, as determined by the arbitrator, for participating in the arbitration.

“186ZR Regulations relating to compensation

- “(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing—
- “(a) a methodology for determining the question in section 186ZP(2); and
 - “(b) for the purposes of section 186ZQ, a methodology for calculating the loss in value of affected quota due to the aquaculture activities authorised by a coastal permit.
- “(2) The methodology prescribed under subsection (1)(a) must set out the type of data and analysis required for determining whether the proposed aquaculture activities or the fishing in respect of which the chief executive has made a reservation is of greater economic value to New Zealand.
- “(3) The methodology prescribed under subsection (1)(b) must—
- “(a) provide for compensation to be calculated in proportion to the impact on fishing, including—
 - “(i) increased fishing costs and any consequential disruption costs as a result of the proposed aquaculture activities, including a sum by way of solatium to fishing interests for any adjustments required as a result of the impact of the aquaculture activities; and
 - “(ii) any complementary uses that might exist for the site in accordance with any submissions made under section 186ZQ(2); and
 - “(iii) the loss in value of affected quota, but only in relation to that part of the relevant average annual catch that is estimated would be reduced if the proposed aquaculture activities were to proceed; and
 - “(b) provide for the calculation of compensation to be based on the size of the affected quota holding and the corresponding loss of quota value, including by reference to any recent transfers of the quota or associated annual catch entitlement.”

25 General regulations

Section 297(1) is amended by inserting the following paragraph after paragraph (m):

“(ma) without limiting paragraph (m), prescribing fees and charges payable under this Act in respect of the functions of the chief executive in relation to aquaculture activities or proposed aquaculture activities in the coastal marine area.”.

26 Requirements applying generally to applications and requests under this Act

Section 305B(3) is amended by inserting “or a pre-request aquaculture agreement for registration under section 186ZM” after “section 186ZH”.

27 Amendments to Fisheries Regulations

- (1) The Fisheries (Commercial Fishing) Regulations 2001 are amended in the manner specified in Schedule 1.
 - (2) The Fisheries (Registers) Regulations 2001 are amended in the manner specified in Schedule 2.
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Schedule 1
Amendments to Part 4 of Schedule
2 of Fisheries (Commercial Fishing)
Regulations 2001

s 27(1)

New clause 18A

Insert the following clause after clause 18:

“18A Aquaculture matters

- “(1) The fee payable in relation to the following matters is \$2,008.20:
- “(a) obtaining and analysing information for the purpose of making an aquaculture decision from the time of receipt of the application for a coastal permit to occupy space in the coastal marine area for an aquaculture activity:
 - “(b) an aquaculture decision:
 - “(c) preparing for, and making aquaculture decisions in relation to, changes to the conditions of coastal permits (whether the changes are initiated by the holder of the coastal permit or the consent authority that issued it).
- “(2) The fee payable in relation to the following matters is \$276 plus \$24.15 for each additional stock involved:
- “(a) a decision whether to register a pre-request aquaculture agreement:
 - “(b) registering a pre-request aquaculture agreement:
 - “(c) a decision whether to register an aquaculture agreement or a compensation declaration:
 - “(d) registering an aquaculture agreement or a compensation declaration:
 - “(e) any administration associated with registering an aquaculture agreement, a compensation declaration, or a pre-request aquaculture agreement.”

Clause 20

Omit “clauses 17 or 18” and substitute “clause 17, 18, or 18A(1)”.

Schedule 2
Amendments to Fisheries (Registers)
Regulations 2001

s 27(2)

New regulations 10 to 12 substituted

Revoke regulation 10 and substitute the following regulations:

“10 Information to be entered in aquaculture agreement register

The chief executive must enter the following information in the aquaculture agreement register:

- “(a) the name and address of the regional council in whose region the area is situated that the agreement relates to:
- “(b) a description of the space in the coastal marine area that the aquaculture agreement relates to:
- “(c) the name, address, email address (if any), and client number of each person who has requested the registration of the aquaculture agreement; and the name and client number of, and stocks held by, each quota owner who has consented:
- “(d) the stocks that the aquaculture agreement relates to:
- “(e) details of any consents given by the High Court under section 186ZG of the Act:
- “(f) the date on which the aquaculture agreement was registered:
- “(g) the coastal permit number or coastal permit application number which the aquaculture agreement relates to:
- “(h) the expiry date of the coastal permit that the aquaculture agreement relates to.

“11 Information to be entered in compensation declarations register

The chief executive must enter the following information in the compensation declarations register:

- “(a) the name and address of the regional council in whose region the area is situated that the compensation declaration relates to:
- “(b) a description of the space in the coastal marine area that the compensation declaration relates to:

New regulations 10 to 12 substituted—continued

- “(c) the name, address, email address (if any), and client number of the person who has requested the registration of the compensation declaration; and the name and client number of, and stocks held by, each quota owner who has been provided with compensation:
- “(d) the stocks that the compensation declaration relates to:
- “(e) the date on which the compensation declaration was registered:
- “(f) the coastal permit number or coastal permit application number which the compensation declaration relates to:
- “(g) the expiry date of the coastal permit that the compensation declaration relates to.

“12 Information to be entered in pre-request aquaculture agreement register

The chief executive must enter the following information in the pre-request aquaculture agreement register:

- “(a) the name and address of the regional council in whose region the area is situated that the agreement relates to:
 - “(b) a description of the space in the coastal marine area that the pre-request aquaculture agreement relates to:
 - “(c) the name, address, email address (if any), and client number of each person who has requested the registration of the pre-request aquaculture agreement; and the name and client number of, and stocks held by, each quota owner who has consented:
 - “(d) the stocks that the pre-request aquaculture agreement relates to:
 - “(e) the date on which the pre-request aquaculture agreement was registered:
 - “(f) the coastal permit number or coastal permit application number that the pre-request aquaculture agreement relates to:
 - “(g) the expiry date of the coastal permit that the pre-request aquaculture agreement relates to.”
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Legislative history

16 August 2011	Divided from Aquaculture Legislation Amendment Bill (No 3) (Bill 239–2) by committee of the whole House, and third reading
12 September 2011	Royal assent

This Act is administered by the Ministry of Agriculture and Forestry.
