

Version
as at 28 October 2021



**Animal Products (Regulated Control Scheme—Limited
Processing Fishing Vessels) Regulations 2001**
(SR 2001/334)

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 5th day of November 2001

Present:

Her Excellency the Governor-General in Council

Pursuant to section 166 of the Animal Products Act 1999, Her Excellency the Governor-General, on the recommendation of the Minister given in accordance with section 39 of that Act, and acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

These regulations are administered by the New Zealand Food Safety Authority.

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Regulations

1 Title

These regulations are the Animal Products (Regulated Control Scheme—Limited Processing Fishing Vessels) Regulations 2001.

2 Commencement

These regulations come into force on 20 November 2001.

Part 1

Preliminary provisions

3 Prime purpose of scheme

The prime purpose of this scheme is to control, manage, and eliminate or minimise risk factors associated with certain processing operations carried out on fishing vessels where any of the catch of the fishing vessel is intended to be exported for human consumption without being further processed within New Zealand (other than solely by way of storage or transport or both), to ensure that the resulting fish product is fit for its intended purpose.

4 Application

- (1) Except as otherwise provided in this regulation or in regulation 6, these regulations apply in relation to all fishing vessels that carry out limited processing operations at sea of fish material, where—
 - (a) any of the fish material or fish product is intended to be exported for human consumption as New Zealand product; and
 - (b) that fish material or fish product is not to be delivered to an onshore primary processor, other than solely for storage or transport (or both); and
 - (c) that fish material has been harvested from, or is deemed under section 10 of the Act to have been harvested from, within New Zealand fisheries waters.
- (2) These regulations do not apply to a vessel where processing operations (such as the filleting of finfish) that are additional to limited processing are carried out in relation to product intended for human consumption. All processing operations on such a vessel must be carried out under a registered risk management programme, unless otherwise exempt under the Act.
- (3) All processing of fish material or fish product on board a vessel to which these regulations apply is covered by the requirements of these regulations unless otherwise specified, whether or not that fish material or fish product is intended for export for human consumption.
- (4) The requirements of these regulations apply only to those areas of the fishing vessel—

- (a) where fish material or fish product is processed, held, or stored, including landing and reception areas:
- (b) where processing equipment, packaging materials, and protective clothing are stored:
- (c) that are used for personal hygiene of product handlers where it may affect the suitability for processing of fish material or fitness for intended purpose of resulting fish product.

5 Application to vessels exempt from licensing under Fish Export Processing Regulations 1995

- (1) A fishing vessel that, immediately before the commencement of these regulations, is exempt from licensing under regulation 21(1) of the Fish Export Processing Regulations 1995 is, from the commencement of these regulations until the close of 19 November 2002,—
 - (a) deemed to be a vessel in relation to which these regulations apply; and
 - (b) deemed to be registered under regulation 34.
- (2) In relation to such vessels, their current programmes and documented systems made under the Fish Export Processing Regulations 1995 are deemed to be the operator documented systems required by these regulations.
- (3) The Director-General must as soon as practicable enter on the register kept under regulation 30 of these regulations the details required by regulation 31 in relation to those vessels. The Director-General may require the operators of those vessels to supply such information as may be necessary for the purpose.
- (4) The registration of the vessels expires with the close of 19 November 2002, unless the Director-General renews the registration following an application made under regulation 33 (or unless sooner removed under regulation 37 or surrendered under regulation 38).
- (5) The person having overall management or control of processing operations on a vessel to which this regulation applies may opt to operate under a risk management programme in accordance with regulation 6, rather than under this regulated control scheme.

6 Option of operating under risk management programme

- (1) The person having overall management or control of processing operations on a fishing vessel to which these regulations would otherwise apply may opt to carry out all the limited processing operations on that vessel under a registered risk management programme, rather than under this regulated control scheme.
- (2) The option is effectively exercised by—
 - (a) having a registered risk management programme that covers all the limited processing operations; and

- (b) notifying the Director-General by a means acceptable to the Director-General of the intent to operate under that programme rather than under this scheme.
- (3) Fishing vessels that carry out all their limited processing operations under a registered risk management programme are exempt from the requirements of these regulations, as are their operators.

7 Relationship between this scheme and other regulations, etc

- (1) Nothing in the Animal Products Regulations 2000 applies in relation to the processing operations to which this scheme applies.
- (2) The provisions of any other regulations or specifications made under the Act apply in relation to the processing operations or fish material or fish product to which this scheme applies only if they are expressed to apply to either—
 - (a) this scheme specifically; or
 - (b) regulated control schemes generally, or any applicable category of regulated control scheme.

8 Interpretation

- (1) In these regulations, unless the context otherwise requires,—

accredited verifier means a person currently accredited under section 103 of the Act as a verifier for the purposes of this regulated control scheme

Act means the Animal Products Act 1999

equipment includes—

- (a) the whole or any part of any utensil, machine, fitting, device, instrument, stamp, apparatus, table, or article that is used or available for use in or for the preparing, marking, processing, packing, storing, carrying, or handling of any fish material, fish product, ingredient, additive, or processing aid; and
- (b) any utensil or machine used or capable of being used in the cleaning of any equipment or facilities

essential services includes, without limitation, process gases, lighting, ventilation, and water and waste management

external verification means the process of verification by an accredited verifier, but does not include initial verification

facilities includes amenities, storage areas, landing areas, reception areas, processing areas, and those areas referred to in regulation 4(4)(b) and (c)

fish material, or fish product, includes material or product of all fish species other than bivalve molluscan shellfish

ingredient means any substance, including a food additive, used in the processing of animal product

initial verification means the pre-registration verification process (or pre-renewal of registration verification process) by an accredited verifier provided for in regulation 43

landing area means the area on board a fishing vessel used for taking fish on board, including the fish catching equipment and landing deck

limited processing—

- (a) means—
 - (i) the washing, scaling, gutting, deheading, tubing, tailing, chilling, freezing, storage, packing, or transport of fish material or fish product intended for human consumption;
 - (ii) any other form of processing designated by the Director-General as limited processing under regulation 9;
 - (iii) any combination of such processing;
- (b) does not include the filleting of finfish

limited processing fishing vessel means a fishing vessel registered as such under regulation 34 (or deemed to be registered as such under regulation 5)

maintenance compound means, in relation to any limited processing fishing vessel where fish material or fish product is processed, any substance—

- (a) used for maintaining, repairing, servicing, cleaning, or sanitising equipment or surfaces that may be the source of, or result in, contamination of fish material, fish product, or associated things; or
- (b) used for treating water; or
- (c) used for pest control

New Zealand fisheries waters has the same meaning as in the Fisheries Act 1996

operator, or **fishing vessel operator**, in relation to a limited processing fishing vessel, means the person noted as the operator on the register under regulation 31 as being the person with the overall management or control of processing operations on the vessel

operator documented system means a documented system that complies with the requirements of regulation 39

operator verification means the application of methods, procedures, tests, and other checks by the operator to—

- (a) validate the operator documented system; and
- (b) determine the ongoing compliance and applicability of the operator documented system; and
- (c) revalidate the operator documented system when changes occur that may have a significant impact on the fitness for purpose of fish product or the suitability for processing of fish material

pest includes, without limitation, dogs, cats, birds, rodents, insects, and any other creatures that are likely to transfer contaminants to fish material or fish product; but does not include—

- (a) animals under direct supervision or control for the purpose of maintaining security; or
- (b) fish that are themselves intended for processing or fish material being processed

primary processor includes the licensee of premises licensed under the Meat Act regime

processing area means that area of a fishing vessel where processing operations take place

product handler means a person who has direct contact with fish material, fish product, or other associated things

reception area means the area on board a fishing vessel where fish are held or stored prior to processing, and includes pounds, flumes, and holding tanks

scheme, or regulated control scheme, means these regulations and any associated specifications

specification means a requirement specified by notice under section 167(1) of the Act

specified person means any—

- (a) fishing vessel operator;
- (b) other category of person specified in specifications for the purposes of the relevant requirement of these regulations

waste includes, without limitation, all solids, liquids, and gases that the operator intends to dispose of as being unwanted and that may become a source of contamination or attract pests.

- (2) Any term or expression that is defined in the Animal Products Act 1999, or the Animal Products (Ancillary and Transitional Provisions) Act 1999, and that is used, but not defined, in these regulations, has the same meaning as in those Acts or in the relevant one of those Acts.

Regulation 8(1) **limited processing** paragraph (a)(ii): amended, on 28 October 2021, by regulation 19 of the Legislation Act (Sub-delegated Secondary Legislation) Regulations 2021 (LI 2021/248).

9 Limited processing

- (1) The Director-General may, by notice, designate forms of processing that are to be treated as limited processing for the purposes of this scheme.
- (2) A notice made under this regulation is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this regulation

Publication It is not required to be published

LA19 s 73(2)

Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the secondary legislation.

Regulation 9(1): amended, on 28 October 2021, by regulation 20(1) of the Legislation Act (Sub-delegated Secondary Legislation) Regulations 2021 (LI 2021/248).

Regulation 9(2): inserted, on 28 October 2021, by regulation 20(2) of the Legislation Act (Sub-delegated Secondary Legislation) Regulations 2021 (LI 2021/248).

Part 2

Standards

10 Outline and application of Part

- (1) This Part sets standards for the purposes of this regulated control scheme, and provides for matters in relation to the making of specifications.
- (2) The standards in this Part apply only to fish material and fish product intended for human consumption, except where the specifications specifically apply them to fish material and fish product intended for other purposes.

Standards relating to vessel suitability

11 Requirements for vessel suitability

All operators and other specified persons must ensure that the fishing vessel, facilities, equipment, and essential services for which they are responsible in relation to the processing of fish material or fish product are designed, constructed, located, and equipped to enable suitability of the fish material to be maintained, and the fitness for intended purpose of the fish product to be achieved and maintained, having regard to—

- (a) the fish material or fish product to be processed; and
- (b) the nature of the processes involved; and
- (c) the range of the fish products to be produced.

Standards relating to fitness for purpose

12 Fish material to be suitable for processing into fish product

Fish material used for processing into fish product must be suitable for that purpose.

13 Fish product to be free of certain hazards, objects, materials, and substances

- (1) Taking into consideration its intended use, fish product must be free from—
 - (a) biological, chemical, and physical hazards in amounts that may be directly or indirectly harmful to humans or animals:

- (b) extraneous objects, material, and substances of a kind not expected to be in fish product that is prepared or packed for trade in accordance with good trade practices.
- (2) For the purposes of subclause (1), specifications may specify—
 - (a) unacceptable hazards, objects, materials, and substances in relation to any type or class of fish product:
 - (b) acceptable or unacceptable levels of hazards, objects, materials, and substances in relation to any type or class of fish product.

14 Composition of fish material or product

- (1) All operators and other specified persons must ensure that the composition of the fish material and fish product complies with any relevant composition levels and requirements set out in the specifications.
- (2) Specifications setting composition levels or requirements may include limitations and requirements for ingredients and additives in relation to any type or class of fish material or fish product.

15 Fish product not to be associated with false or misleading representation

Fish product must not be associated with a false or misleading representation of any kind concerning its—

- (a) fitness for intended purpose:
- (b) nature:
- (c) origin:
- (d) composition:
- (e) ingredients or other constituents:
- (f) proportion of ingredients or other constituents.

Standards relating to production, processing, and preparation of fish material and product

16 Fish material and product to be processed in manner that minimises contamination and deterioration

All operators and other specified persons must ensure that fish material and fish product in their charge is processed in a manner that minimises the contamination or deterioration of the fish material or fish product.

17 Operational requirements for facilities, equipment, and essential services

All operators and other specified persons must ensure that the facilities, equipment, and essential services for which they are responsible in relation to the processing of fish material or fish product are operated so as to minimise and manage the exposure of fish material or fish product or associated things to risk factors, having regard to—

- (a) the fish material or fish product to be processed; and
- (b) the operational capability and capacity of the fishing vessel facilities, equipment, and essential services; and
- (c) the range of fish products to be produced.

18 Hygiene of processing environment

- (1) All operators and other specified persons must establish and carry out effective procedures to—
 - (a) ensure appropriate and adequate maintenance, cleaning, and sanitation of facilities, essential services, and equipment (including conveyances); and
 - (b) manage waste; and
 - (c) control pests.
- (2) For the purposes of subclause (1), a procedure is effective if it minimises the exposure of fish material and fish product and associated things to risk factors associated with waste, pests, and inappropriate or inadequate maintenance, cleaning, and sanitation.
- (3) All operators and other specified persons must, in relation to processing areas, ensure that maintenance compounds are stored, handled, and used in a manner that minimises contamination by the maintenance compounds of fish material, fish product, and associated things.
- (4) The Director-General may—
 - (a) by specifications, provide that in certain areas, or for certain uses or equipment, only maintenance compounds that are listed in the specifications or approved by the Director-General may be used;
 - (b) impose conditions on the use of those maintenance compounds, whether in the specifications or in the approval.
- (5) In deciding whether to impose requirements under subclause (4), the Director-General must assess the risk of contamination of fish material or fish product, and the ability to control the risk through conditions.

19 Hygiene of persons whose presence or actions may result in contamination of fish material or fish product

All operators and other specified persons must ensure that persons, including visitors, whose presence or actions may result in contamination of fish material or fish product—

- (a) wear appropriate protective clothing, where necessary; and
- (b) follow an appropriate personal hygiene routine; and
- (c) behave in such a manner as may be necessary or desirable to minimise contamination to fish material, fish product, and associated things.

20 Persons infected by, or carriers of, disease or illness to be excluded from working areas or from handling fish material or product

All operators and other specified persons must ensure that persons, including visitors, who are known to be, or suspected of being, infected by, or a carrier of, a disease or illness of public health concern (including a notifiable infectious disease listed in section A of Part 1 of Schedule 1 of the Health Act 1956) that is likely to be transmitted through fish material, fish product, or associated things are precluded from—

- (a) working in areas where fish material or fish product is processed, if that may result in contamination of fish product; or
- (b) handling fish material, fish product, or associated things that may result in contamination of fish product.

21 Required measuring equipment to be calibrated and function as intended

- (1) All operators and other specified persons must ensure that measuring equipment that is used to carry out a critical measurement is properly calibrated and functions as intended.
- (2) In this regulation, **critical measurement** means a parameter identified as critical in the scheme or operator documented system.

Standards relating to examining, sampling, and testing

22 Fish material and product to be examined, sampled, and tested

All operators and other specified persons must ensure that—

- (a) fish material, fish product, and associated things are examined, sampled, and tested in accordance with any relevant specifications that are appropriate to the class or description of the fish material or fish product or process concerned, or the risk factor to be managed, or any combination of these; and
- (b) any necessary actions arising as a result of the examination, sampling, or testing are taken.

Standards relating to packaging, storing, and handling

23 Packaging requirements for fish material and product

All operators and other specified persons must ensure that any packaging materials (including reusable packaging and inner and outer packaging of any kind) used for fish material, fish product, and associated things are designed, made, stored, and used in a manner that—

- (a) maintains the status of the fish material as suitable for use in processing; and

- (b) maintains the status of the fish product as fit for its intended purpose; and
- (c) minimises contamination of the fish material or fish product.

24 Carriage and delivery requirements for fish material and product

All operators and other specified persons engaged in the carriage and delivery of fish material or fish product on or from a limited processing fishing vessel must as far as practicable ensure that the means of carriage and delivery are designed, made, maintained, and operated to minimise contamination or deterioration of fish material or fish product.

Standards relating to identification, labelling, and record keeping

25 Identification system requirements

All operators and other specified persons required by specifications to do so must have a tracking system that—

- (a) allows for the identification of fish material and fish product; and
- (b) enables the movement of the fish material or fish product to be traced—
 - (i) where required by specifications, from its origin, and through the operator’s fishing vessel to the next recipient of the fish material or product; or
 - (ii) where specifications do not require tracing from origin, from the operator’s fishing vessel to the next recipient of the fish material or product.

26 Labelling and identification requirements

- (1) Fish material and fish product must be labelled or identified in accordance with any relevant specifications.
- (2) Any labelling or identification required by specifications must—
 - (a) clearly relate to the fish material or fish product to which it applies; and
 - (b) contain information that accurately describes or differentiates so as to identify the fish material or fish product to which it applies.

27 Record and return requirements

All records that are required by specifications to be kept and all returns that are required by specifications to be made by any operator or other specified person in respect of fish material, fish product, or associated things must be—

- (a) complete:
- (b) accurate:
- (c) of sufficient quality:
- (d) appropriately stored and readily accessible (in the case of records):

- (e) promptly supplied (in the case of returns).

Part 3

Registration of limited processing fishing vessels

28 Outline of Part

This Part provides for the registration of fishing vessels that carry out limited processing of fish at sea.

29 Obligation to register limited processing fishing vessel

The person with the overall management or control of the processing operations on a fishing vessel to which this scheme applies must ensure that the vessel is registered under this Part, unless all the limited processing operations are carried out under a registered risk management programme.

30 Director-General to maintain register of limited processing fishing vessels

- (1) The Director-General must keep and maintain a register of limited processing fishing vessels that are authorised under this scheme to carry out limited processing.
- (2) The purpose of the register is—
 - (a) to enable members of the public to know which fishing vessels are subject to this regulated control scheme, and who is responsible for various functions under this scheme; and
 - (b) to facilitate the ability of the Director-General to provide official assurances for the entry of fish material and products into overseas markets; and
 - (c) to facilitate the compliance, audit, and other supporting and administrative functions of the Ministry under the Act and this regulated control scheme.
- (3) The Director-General must—
 - (a) keep the register open for public inspection, without fee, during ordinary office hours at the head office of the Ministry and such other places as the Director-General determines; and
 - (b) on request, supply to any person copies of all or part of the register on payment of a reasonable charge for the production of the copy.
- (4) The register may be kept in such manner as the Director-General thinks fit.

31 Matters to be shown in register

The register of limited processing fishing vessels must contain the following particulars in relation to each vessel—

- (a) the name and address (including the electronic address, if available) of the operator of the vessel:
- (b) the name, position, or designation of the person or persons nominated by the operator as responsible for the day-to-day management of the processing operations on the vessel:
- (c) the date on which the vessel was registered, the latest date of renewal of registration, and the period for which the vessel is registered:
- (d) the name and registration number of the vessel:
- (e) the name of the recognised verifying agency responsible for the external verification function in relation to the vessel:
- (f) the most recent date (and periods, if appropriate) of any deregistration or surrender of registration under this scheme:
- (g) a brief indication of the reason for the most recent deregistration (if any):
- (h) such other particulars as may be required by or under this scheme.

32 Application for registration

- (1) An application for registration must be made in writing in a form or manner provided in specifications or approved by the Director-General, and be accompanied by—
 - (a) a copy of, or evidence of, the registration of the fishing vessel under section 103 of the Fisheries Act 1996 (or under its predecessor section 57 of the Fisheries Act 1983):
 - (b) a copy of the initial verification report on the vessel, made by an accredited verifier not more than 3 months before the date of the application for registration:
 - (c) a list of the documents that form the operator documented system, signed by the accredited verifier:
 - (d) the name of the recognised verifying agency that has indicated it is prepared to undertake the external verification functions in respect of the vessel:
 - (e) such further information and other material as may be required by the Director-General:
 - (f) *[Revoked]*
- (2) The application must specify—
 - (a) the operator of the fishing vessel, being the person with the overall management or control of processing operations on the vessel; and
 - (b) the name, position, or designation of a person or persons nominated by the operator as responsible for the day-to-day management of the processing operations on the vessel.

- (3) The applicant must ensure that the list submitted to the Director-General under subclause (1)(c) accurately represents the system at the time of application for registration.
- (4) The Director-General may require an applicant to supply further information or other material before determining whether or not to register a fishing vessel.
- (5) If the information or material is not supplied within 3 months of the date of request, or within such further time as the Director-General allows, the application for registration lapses.

Regulation 32(1)(f): revoked, on 1 July 2010, by regulation 4 of the Animal Products (Regulated Control Scheme—Limited Processing Fishing Vessels) Amendment Regulations 2010 (SR 2010/173).

33 Renewal of registration

- (1) An application for renewal of registration of a limited processing fishing vessel must be made by the operator and received by the Director-General at least 1 month before the expiry of the vessel's current registration.
- (2) Regulations 32, 34, and 35 apply to an application for renewal as if it were an application for registration, with all necessary modifications.
- (3) If the Director-General fails to determine the application for renewal before the date the vessel's current registration expires, the vessel is nevertheless deemed to be registered under this Part until the date the Director-General notifies the operator of his or her determination on the application.

34 Registration of limited processing fishing vessels

- (1) The Director-General must register the fishing vessel if satisfied that—
 - (a) the initial verification report confirms that the vessel meets the suitability requirements, and that the content of the operator documented system for the vessel—
 - (i) complies with the requirements imposed by or under this scheme; and
 - (ii) ensures that, as far as practicable, the fish material is suitable for processing and fish products to be produced on the vessel will be fit for intended purpose; and
 - (iii) is suitable for the processing operations to be carried out on board; and
 - (b) the applicant is a fit and proper person to operate, manage, or control processing operations on a limited processing fishing vessel, taking into account whether the applicant or any directors or managers of the business concerned have been convicted, whether in New Zealand or overseas, of any offence relating to fraud or dishonesty, or relating to management control or business activities in respect of businesses of a kind

- (whether in New Zealand or elsewhere) that are regulated under the Act;
and
- (c) the operator is resident in New Zealand within the meaning of section YD 1 or YD 2 (excluding section YD 2(2)) of the Income Tax Act 2007; and
 - (d) the vessel is registered under section 103 of the Fisheries Act 1996 (or under its predecessor section 57 of the Fisheries Act 1983).
- (2) Registration may be subject to such reasonable conditions as the Director-General may specify, including conditions relating to the commencement of operations on the vessel under this scheme.
- (3) The Director-General must, as soon as practicable after registering a fishing vessel, supply the applicant with—
- (a) a notice of registration specifying—
 - (i) the registration number for the vessel; and
 - (ii) the period of registration; and
 - (iii) any conditions imposed under subclause (2); and
 - (b) a copy of the list submitted to the Director-General under regulation 32(1)(c).
- (4) The Director-General must, as soon as practicable after registering a fishing vessel, supply the operator's recognised verifying agency with a copy of the list submitted to the Director-General under regulation 32(1)(c).
- (5) Registration of a fishing vessel under this regulation continues in force for the period specified on the notice of registration, unless—
- (a) the vessel is deregistered under regulation 37; or
 - (b) the registration is surrendered under regulation 38; or
 - (c) the processing operations on the vessel are no longer under the management or control of the operator specified on the register.

Regulation 34(1)(c): amended, on 1 April 2008 (effective for 2008–09 income year and later), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

35 Refusal to register a fishing vessel

- (1) If, after considering an application and any further information or material supplied under regulation 32, the Director-General proposes to refuse to register a fishing vessel the Director-General must give the applicant—
- (a) a notice containing such particulars as will clearly inform the applicant of the grounds on which the Director-General proposes to refuse to register; and
 - (b) a reasonable opportunity to make written submissions or be heard in respect of the matter.

- (2) Where the Director-General finally determines to refuse to register a fishing vessel, the Director-General must as soon as practicable notify that fact to the applicant in writing, giving reasons.
- (3) If a person acting under the delegated authority of the Director-General declines to register a fishing vessel, the applicant may seek a review of that decision under section 162 of the Act.

36 Registration may not be transferred

- (1) The registration of a limited processing fishing vessel applies only to that particular fishing vessel and to the operator specified in the register, and may not be transferred to a different fishing vessel or operator.
- (2) For the purposes of this regulation, the following circumstances will, except as otherwise specified in specifications, be treated as involving a change in the operator, and so require a new registration of the fishing vessel:
 - (a) a change in the name of a company (but not in a company's shareholding);
 - (b) a change in the members of a partnership (but not in a member's respective shares in the partnership);
 - (c) the death, bankruptcy, receivership, or liquidation of the operator of the limited processing fishing vessel.

37 Deregistration of fishing vessels

- (1) The Director-General may remove a fishing vessel from the register of limited processing fishing vessels if satisfied that—
 - (a) there has been a serious or repeated failure by the operator of the vessel to comply with the duties specified in regulation 42; or
 - (b) the operator fails to comply with any of paragraphs (b), (c), and (d) of regulation 34(1), or fails to comply with any condition imposed under regulation 34(2), being a failure to comply that—
 - (i) arose after the vessel's registration; or
 - (ii) first came to the attention of the Director-General after the vessel's registration; or
 - (c) any failure to pay the registration fee or any other charge or fee prescribed under regulation 48 by the due date has persisted for more than 30 days; or
 - (d) the processing operations on the vessel are no longer managed or controlled by the operator; or
 - (e) the fishing vessel is no longer suitable for the processing activities carried out on board; or
 - (f) the fishing vessel is no longer operating as a limited processing fishing vessel under this scheme; or

- (g) all the limited processing operations are carried out under a registered risk management programme.
- (2) Before removing a fishing vessel from the register, the Director-General must—
 - (a) notify the operator in writing of his or her intention, giving the reasons for that intention and the facts and assumptions on which it is based; and
 - (b) give the operator a reasonable opportunity, within the time specified in the written notice, to provide evidence, information, and submissions as to why the fishing vessel should not be removed from the register.
- (3) After considering the material (if any) supplied by the operator under subclause (2)(b), the Director-General must—
 - (a) make a final decision as to whether or not to remove the fishing vessel from the register; and
 - (b) as soon as practicable, notify the operator of the decision in writing, giving reasons and the facts or assumptions on which the decision is based, in the case of an unfavourable decision.
- (4) If a person acting under the delegated authority of the Director-General deregisters a fishing vessel, the person who was the operator may seek a review of that decision under section 162 of the Act.

38 Surrender of registration

- (1) The operator of a limited processing fishing vessel may at any time surrender registration of the vessel by notice in writing to the Director-General.
- (2) Where the operator ceases to manage or control a limited processing fishing vessel, that operator must, within 14 days of so ceasing,—
 - (a) notify the Director-General in writing of that fact; and
 - (b) surrender the notice of registration to the Director-General; and
 - (c) notify the appropriate recognised verifying agency of that fact.
- (3) At the same time as an operator gives notification under subclause (1) or subclause (2), the operator must also notify the Director-General of how it is proposed to deal with any remaining fish material or product covered by this regulated control scheme.
- (4) The Director-General may approve or agree to any such proposal subject to conditions, and the operator must comply with those conditions.
- (5) On being notified of a surrender of registration under this regulation—
 - (a) the Director-General must record the surrender on the register of limited processing fishing vessels; and
 - (b) the surrender takes effect on and from the date stated in the register.

*Documented systems***39 Contents of operator documented system**

- (1) An operator documented system must cover—
 - (a) the processing for human consumption of fish material or fish product on the limited processing fishing vessel; and
 - (b) if required by specifications, the processing of fish material or fish product for other purposes or in specified situations; and
 - (c) the associated facilities on the limited processing fishing vessel.
- (2) The operator documented system must—
 - (a) identify all fish material and fish product being produced or processed on board the fishing vessel:
 - (b) identify all the processing operations that take place on board the fishing vessel:
 - (c) specify the name, position, or designation of the person with overall responsibility for the documented system:
 - (d) include the documented hazard identification and analysis process, in accordance with regulation 40, for processing operations:
 - (e) include the supporting systems that underpin or support the hazard identification and analysis process, and any documented programmes required by specifications, including—
 - (i) the pest control programme; and
 - (ii) the cleaning and sanitation programme; and
 - (iii) the product handlers training programme; and
 - (iv) the reception of fish material programme:
 - (f) specify the procedures for operator verification to determine that the requirements of the scheme have been met:
 - (g) provide for appropriate corrective actions, including where product is found not fit for intended purpose or is not in accordance with its labelling or identification:
 - (h) make provision to facilitate the activities, freedoms, and access requirements of accredited verifiers:
 - (i) provide for auditable documentation and record-keeping:
 - (j) contain such other matters as are provided for in specifications.

40 Hazard identification and analysis process

- (1) The hazard identification and analysis process referred to in regulation 39(2)(d) is a process designed to identify, control, manage, eliminate, or minimise hazards in relation to—

- (a) the processing on limited processing fishing vessels of fish material and fish product intended for human consumption; and
 - (b) if required by specifications, the processing on such vessels of fish material or fish product for other purposes or in specified situations.
- (2) Accordingly, the operator documented system must demonstrate that the following matters have been taken into account:
- (a) systematic identification of the hazards involved in the processing of fish material or fish product on limited processing fishing vessels, and determination of the significance of those hazards:
 - (b) determination of the points at which the identified hazards of significance occur, and the processes or procedures that will best control them:
 - (c) if the hazards identified under paragraph (a) are not controlled by the supporting systems, or documented programmes or any other requirements provided for in specifications, then there must be—
 - (i) establishment of acceptable parameters of the processes or procedures at the points determined in paragraph (b):
 - (ii) establishment of monitoring procedures to demonstrate control at the points determined in paragraph (b):
 - (iii) identification of the action that will be taken if any of the parameters established are not achieved:
 - (iv) establishment of procedures for the ongoing confirmation that the system is effective in managing the hazards:
 - (v) appropriate and auditable documentation and record keeping:
 - (d) any other matters provided for in specifications.

41 Operator documented systems in conflict with scheme

If there is any conflict between the requirements of an operator documented system and those of any regulations or specifications of this regulated control scheme, whether by reason of failure to amend or update the documented system to reflect any new requirements or otherwise, the requirements of the regulations or specifications prevail.

Part 4 Duties of operators

42 Duties of operators of limited processing fishing vessels

- (1) The operator of a limited processing fishing vessel has the following duties:
- (a) to ensure the facilities and processing operations of the vessel do not contravene the relevant requirements of this scheme and of the operator documented system; including ensuring that—

- (i) the accredited verifier's requirements relating to verification are complied with:
 - (ii) a designated person (or more than 1 person) responsible for the day-to-day management of the processing operations is on board the vessel while the vessel is operating:
 - (iii) the requirements of this scheme and the operator documented system are implemented by the designated person or persons on board the vessel:
 - (iv) a copy of the operator documented system is kept on board the fishing vessel at all times:
 - (v) a set of instructions is kept on board the fishing vessel at all times in a language readily understood by processing personnel so that they may understand and comply with the operator documented system and this scheme:
- (b) to ensure that the operator documented system is not inconsistent with the requirements of this scheme:
 - (c) to adequately implement and resource all processing operations under the scheme, including provision for the instruction, training, and supervision of personnel to ensure the production of fish product that is fit for intended purpose:
 - (d) to ensure that all processing operations under the scheme are commensurate with the capability and the capacity of the vessel, facilities, equipment, and personnel to produce fish product that is fit for intended purpose:
 - (e) to ensure relevant accredited persons have such freedom and access as will allow them to carry out their functions and activities under this Act, including verification functions and activities:
 - (f) where fish product is recalled because it is or may not be fit for its intended purpose, to notify the vessel's recognised verifying agency as soon as practicable after the decision or direction to recall the product is made:
 - (g) to maintain procedures and processes to demonstrate that the record-keeping requirements of and under this scheme in relation to the landing, reception, and processing of the fish material or product are being complied with:
 - (h) to provide an interpreter when required by an accredited person or animal product officer or by the Director-General, when records on board a vessel are not kept in English or persons responsible for processing operations do not speak English.

- (2) The operator must notify the Director-General, in advance where practicable, and otherwise as soon as possible, of any change in the operator's recognised verifying agency.
- (3) The operator must notify the Director-General, in advance where practicable, and otherwise as soon as possible, of any of the matters specified in regulation 37(1)(d) to (g).

Part 5 Verification

43 Initial verification report required for registration

- (1) In preparing the initial verification report required by regulation 32(1)(b), the accredited verifier must, if required by specifications, conduct an onboard assessment of the fishing vessel to assess—
 - (a) the vessel's suitability for the processing operations to be undertaken; and
 - (b) the vessel's compliance with the design and construction requirements of this scheme.
- (2) The applicant must make appropriate arrangements to enable the accredited verifier to undertake the initial verification assessment required.
- (3) The initial verification and the report must be completed by the accredited verifier in accordance with the relevant specifications.

44 External verification procedure

The ongoing performance of operators of limited processing fishing vessels must be externally verified by an accredited verifier at frequencies and intensities specified in the relevant specifications.

Recognised agencies and accredited verifiers

45 Verification competencies

- (1) No person may take responsibility for, or sign, the initial verification report required by regulation 32(1)(b) if the person is not currently accredited under the Act to carry out initial verification functions and activities.
- (2) No person may take responsibility for, or conduct, an external verification required by regulation 44 if the person is not currently accredited under the Act to carry out external verification functions and activities.

46 Recognised agencies and accredited persons

- (1) A fishing vessel operator must ensure that verification functions or activities for limited processing fishing vessels are provided only by an agency recognised under the Act to undertake responsibility for that function or activity.

- (2) A recognised agency must offer and use for verification functions or activities for limited processing fishing vessels the services of only those persons properly accredited under the Act to carry out that function or activity.

Part 6

Miscellaneous provisions

47 Records to be kept

- (1) Every fishing vessel operator must keep such records as will enable the operator, the Director-General, an animal product officer, or an accredited person to readily ascertain—
- (a) that the business is operating in compliance with this regulated control scheme; and
 - (b) the nature and quantity of any fish or fish product handled on board the fishing vessel; and
 - (c) such other details as may be required by the Director-General for the purposes of this scheme and notified to the operator.
- (2) Every operator must, when requested by the Director-General or an animal product officer or person authorised by the Director-General, furnish him or her with the records required to be kept under this scheme. The operator must, if requested, also supply to the Director-General or the animal product officer or person authorised by the Director-General copies of those records.
- (3) If an operator is required to furnish records under subclause (2), the operator must ensure that all records supplied can be accessed by the Director-General or an animal product officer or person authorised by the Director-General, as the case may be.
- (4) An instrument imposing requirements under subclause (1)(c) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements), unless it applies only to 1 or more named persons.

Legislation Act 2019 requirements for secondary legislation made under this regulation

Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)

Disallowance It may be disallowed by the House of Representatives LA19 ss 115, 116

This note is not part of the secondary legislation.

Regulation 47(4): inserted, on 28 October 2021, by regulation 21 of the Legislation Act (Sub-delegated Secondary Legislation) Regulations 2021 (LI 2021/248).

48 Fees

[Revoked]

Regulation 48: revoked, on 1 July 2010, by regulation 5 of the Animal Products (Regulated Control Scheme—Limited Processing Fishing Vessels) Amendment Regulations 2010 (SR 2010/173).

49 Offences

- (1) A person commits an offence for the purposes of section 135(1)(b) of the Act who, without reasonable excuse,—
 - (a) being the person with the overall management or control of limited processing operations on a fishing vessel to which this scheme applies, carries out those operations at any time when the vessel is not registered under Part 3 of these regulations, unless those limited processing operations are covered by a registered risk management programme; or
 - (b) being a fishing vessel operator,—
 - (i) fails to comply with any of the requirements of regulation 42(1)(a)(i) to (v) or 42(1)(b) to (h) (duties of operators); or
 - (ii) fails to notify the Director-General of any matters required to be notified by regulation 42(2) or (3); or
 - (iii) fails to comply with regulation 46(1) (verification functions or activities to be provided only by recognised agency); or
 - (iv) fails to comply with any of the requirements of regulation 47(1), (2), or (3) (keeping and furnishing of records); or
 - (c) fails to comply with any of the following regulations:
 - (i) regulation 38(2)(a) or (c) (notification of operator ceasing to manage or control limited processing fishing vessel) or regulation 38(4) (compliance with conditions):
 - (ii) regulation 45(1) or (2) (verification functions and activities only to be undertaken by accredited persons).
- (2) A person who commits such an offence is liable to the penalty specified in section 135(3) of the Act.

Schedule

Fees

[Revoked]

r 48

Schedule: revoked, on 1 July 2010, by regulation 6 of the Animal Products (Regulated Control Scheme—Limited Processing Fishing Vessels) Amendment Regulations 2010 (SR 2010/173).

Marie Shroff,
Clerk of the Executive Council.

Notes**1 General**

This is a consolidation of the Animal Products (Regulated Control Scheme—Limited Processing Fishing Vessels) Regulations 2001 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Legislation Act (Sub-delegated Secondary Legislation) Regulations 2021 (LI 2021/248): regulations 19–21

Animal Products (Regulated Control Scheme—Limited Processing Fishing Vessels) Amendment Regulations 2010 (SR 2010/173)

Income Tax Act 2007 (2007 No 97): section ZA 2(1)