

## **Fisheries (South-East Area Commercial Fishing) Amendment Regulations (No 3) 2001**

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

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### **Schedule**

#### **Other amendments to principal regulations**

**1 Title**

- (1) These regulations are the Fisheries (South-East Area Commercial Fishing) Amendment Regulations (No 3) 2001.
- (2) In these regulations, the Fisheries (South-East Area Commercial Fishing) Regulations 1986<sup>1</sup> are called “the principal regulations”.

**2 Commencement**

These regulations come into force on 1 October 2001.

**3 Interpretation**

- (1) Regulation 2(1) of the principal regulations is amended by revoking the definition of **Act**, and substituting the following definition:

“**Act** means the Fisheries Act 1996”.

- (2) Regulation 2(1) of the principal regulations is amended by revoking the definitions of **albacore tuna, anchovy, basking shark, bigeye tuna, black shark, conger eel, durvilletia, ecklonia radiata, garfish, gracilaria, jellyfish, lamprey, leatherjacket, lessonia, longfinned eel, macrocystis, mako shark, mud crab, pilchard, porphyra, pterocladia, rat tail, ray’s bream, saury, scampi, sea hare, sea horse, silverside, skipjack tuna, slender tuna, southern bluefin tuna, spiny sea dragon, sprat, stockell-smelt, thresher shark, ulva, undaria, wrasse, yellowfin tuna, and zostera**.
- (3) Regulation 2(1) of the principal regulations is amended by revoking the definition of **commercial fisherman**, and substituting the following definition:

“**commercial fisher** means—

- “(a) any person who takes any fish, aquatic life, or seaweed for the purposes of sale:
- “(b) any person who is engaged in any capacity on a New Zealand fishing vessel:
- “(c) any person who has a fishing permit issued under section 91 of the Fisheries Act 1996 entitling the person to take any species or class of fish, aquatic life, or seaweed”.

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<sup>1</sup> SR 1986/219

- (4) Regulation 2(1) of the principal regulations is amended—
- (a) by omitting from paragraph (b)(ii) of the definition of **fishing trip** the expression “section 101”, and substituting the expression “section 110”; and
  - (b) by omitting from the definition of **measuring device** the word “Director-General”, and substituting the words “chief executive”; and
  - (c) by omitting from the definition of **place or port of registry** the expression “section 57”, and substituting the words “section 103 or section 105”.

**4 References to commercial fisher substituted for references to commercial fisherman**

Regulations 2B to 3A, 3C to 4, 4A, 5 to 6A, 8, 8A, 10, 10A, 10C, 11A, 11C to 11JA, and 11JC to 11M of the principal regulations are amended by omitting the words “commercial fisherman” wherever they appear, and substituting in each case the words “commercial fisher”.

**5 Processing and sale of Otago Concession Area rock lobster**

Regulation 7(d) of the principal regulations is amended by omitting the words “Regional Fishery Officer, Ministry of Agriculture and Fisheries”, and substituting the words “District Compliance Manager, Ministry of Fisheries”.

**6 Tailing at sea permitted in specified area**

Regulation 9 of the principal regulations is amended by omitting the words “the Fisheries Act 1986”, and substituting the words “the Fisheries Act 1983 or the Act”.

**7 New regulation 10AA substituted**

The principal regulations are amended by revoking regulation 10A (as inserted by regulation 3 of the Fisheries (South-East Area Commercial Fishing) Regulations 1986, Amendment No 19), and substituting the following regulation:

**“10AA Shellfish dredges**

- “(1) A commercial fisherman must not use in the Chatham Islands shellfish fishery more than 2 dredges either of which has a bar or bit exceeding 2.5 metres in length.
- “(2) Nothing in regulation 78 of the Fisheries (Commercial Fishing) Regulations 2001 applies in relation to the use of dredges in the Chatham Islands shellfish fishery.”

**8 Targeting of certain fish, aquatic life, and seaweed prohibited, unless specifically authorised**

Regulation 11AA of the principal regulations is revoked.

**9 Species that may be taken subject to competitive or individual quotas, method restrictions, etc**

Regulation 11AB of the principal regulations is revoked.

**10 References to chief executive substituted for references to Director-General**

Regulations 11C, 11E, 11H, 11I, 11JA, 11JC, and 11JD of the principal regulations are amended by omitting the word “Director-General” wherever it appears, and substituting in each case the words “chief executive”.

**11 New regulation 12 substituted**

The principal regulations are amended by revoking regulation 12, and substituting the following regulation:

**“12 Offences**

- “(1) A person commits an offence and is liable on summary conviction to a fine not exceeding \$20,000 if the person acts in contravention of, or fails to comply with, any of the regulations 3(3), 3E, 4B(4), 7(e), 10AA, 10C, 11G, 11K, or 11P(1).
- “(2) A person commits an offence and is liable on summary conviction to a fine not exceeding \$100,000 if the person acts in contravention of, or fails to comply with, any of regulations 2A, 2B, 3(1), (2), or (4), 3A, 3C, 3D, 4, 4A, 4B(1), 5 to 5B, 6, 6A, 7(a) to (d), 7A, 8 to 8B, 10, 10A, 10B, 11A, 11C, 11D to 11F, 11H to 11JA, 11JC, 11JD, 11L to 11O, or 11P(2).”

**12 Other amendments to principal regulations**

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

**13 Revocations**

The following regulations are revoked:

- (a) Fisheries (South-East Area Commercial Fishing) Regulations, Amendment No 11 (SR 1992/234):
- (b) regulation 10 of the Fisheries (South-East Area Commercial Fishing) Regulations, Amendment No 14 (SR 1993/282):
- (c) regulation 3 of the Fisheries (South-East Area Commercial Fishing) Regulations, Amendment No 19 (SR 1995/175):
- (d) regulation 6 of the Fisheries (South-East Area Commercial Fishing) Regulations, Amendment No 21 (SR 1996/272):
- (e) regulation 6 of the Fisheries (South-East Area Commercial Fishing) Amendment Regulations (No 2) 1997 (SR 1997/285):
- (f) regulations 4 and 5 of the Fisheries (South-East Area Commercial Fishing) Amendment Regulations 1998 (SR 1998/300):
- (g) Fisheries (South-East Area Commercial Fishing) Amendment Regulations (No 2) 2001 (SR 2001/158).

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**Schedule**

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**Other amendments to principal  
regulations****Regulation 2A**

Omit the words “regulation 42 of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulation 65 of the Fisheries (Commercial Fishing) Regulations 2001”.

**Regulation 2B**

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

**Regulation 3B**

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

**Regulation 6**

Omit from subclause (1)—

- (a) the words “regulation 27(1) of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulation 37(1) of the Fisheries (Commercial Fishing) Regulations 2001”; and
- (b) the expression “regulation 29” and substitute the expression “regulation 41”.

Omit from subclause (3) the words “regulation 27 of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulation 37 of the Fisheries (Commercial Fishing) Regulations 2001”.

**Regulation 7**

Omit—

- (a) the words “regulation 27 of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulation 37 of the Fisheries (Commercial Fishing) Regulations 2001”; and
- (b) the expression “regulation 29” and substitute the expression “regulation 41”.

**Regulation 7A**

Omit the words “regulation 29(1)(f) of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulation 41(1)(g) of the Fisheries (Commercial Fishing) Regulations 2001”.

**Regulation 9**

Omit the words “regulation 30 of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulation 42 of the Fisheries (Commercial Fishing) Regulations 2001”.

**Regulation 11F(3)**

Omit the words “regulation 24 of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulation 34 of the Fisheries (Commercial Fishing) Regulations 2001”.

**Regulation 11N**

To omit from subclause (4) the words “regulation 21(2) of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulation 31(5) of the Fisheries (Commercial Fishing) Regulations 2001”.

To omit from subclause (5) the words “regulations 31G and 49 of the Fisheries (Commercial Fishing) Regulations 1986” and substitute the words “regulations 52 and 75 of the Fisheries (Commercial Fishing) Regulations 2001”.

Martin Bell,

Acting for Clerk of the Executive Council.

**Explanatory note**

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

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

a definition of **commercial fisher** is substituted for the definition of **commercial fisherman**:

references to the chief executive are substituted for references to the Director-General:

a regulation is re-enacted with a new number to avoid confusion:

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the prohibition on targetting certain fish, aquatic life, and seaweed is omitted. This matter is now covered by the Fisheries (Commercial Fishing) Regulations 2001:

the maximum penalty for the higher band of offences, which was formerly \$10,000, is increased to \$100,000.

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