

Fisheries (Commercial Fishing) Amendment Regulations 2006

Preamble

At Wellington this 27th day of February 2006

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

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1 Title

- (1) These regulations are the Fisheries (Commercial Fishing) Amendment Regulations 2006.
- (2) In these regulations, the Fisheries (Commercial Fishing) Regulations 2001 are called “the principal regulations”.

2 Commencement

These regulations come into force on 30 March 2006.

3 Interpretation

Regulation 3 of the principal regulations is amended by inserting, after the definition of **scallop**, the following definition:

“**seabird scaring device** means a device that is used for the purpose of avoiding or mitigating the effect of fishing-related mortality on seabirds”.

4 New regulations 58A to 58C inserted

The principal regulations are amended by inserting, after regulation 58, the following regulations:

“58A Certain vessels required to carry and use seabird scaring devices

“(1) This regulation and regulations 58B and 58C apply to New Zealand fishing vessels 28 metres or more in overall length that use a trawl net in New Zealand fisheries waters.

“(2) Vessels—

“(a) must carry a seabird scaring device authorised by the chief executive under regulation 58B(1)(a) at all times when fishing; and

“(b) must, subject to any requirements issued by the chief executive under regulation 58B(1)(b) relating to the use of the device, use the device whenever the vessel’s trawl net is in the water.

“58B Circulars relating to seabird scaring devices

“(1) The chief executive may, by notice in the *Gazette*, issue, amend, or revoke a circular—

“(a) authorising seabird scaring devices in relation to any specified class of vessel:

“(b) specifying the standards or requirements (if any) applying in respect of any seabird scaring device.

“(2) Before issuing, amending, or revoking a circular, the chief executive must consult, to the extent that is practicable in the circumstances, with any persons or organisations considered by the chief executive to be representative of the classes of persons or organisations likely to be substantially affected by the circular.

“(3) Circulars may specify different standards or requirements in respect of different types of seabird scaring devices.

“58C Responsibilities of vessel operator or master in relation to seabird scaring devices

“(1) The operator or master of a vessel must ensure that a seabird scaring device authorised by the chief executive under regulation 58B(1)(a)—

“(a) is carried at all times on the vessel when fishing; and

“(b) is used, subject to any requirements issued by the chief executive under regulation 58B(1)(b) relating to the use of the device, whenever the vessel’s trawl net is in the water.

“(2) The operator or master of a vessel required to carry and use a seabird scaring device must ensure that the device—

“(a) complies with any standards or requirements specified by the chief executive under regulation 58B(1)(b); and

“(b) is used in accordance with those standards or requirements.

“(3) The operator or master of a vessel required to carry and use a seabird scaring device must permit inspection of the device at any reasonable time by a fishery officer or an observer appointed under section 223(2) of the Act.”

5 Offences

(1) Regulation 84(2) of the principal regulations is amended by inserting, after the expression “57,”, the expression “58C(2) or (3),”.

(2) Regulation 84(3) of the principal regulations is amended by inserting, after the expression “58,”, the expression “58C(1),”.

Diane Morcom,

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 30 March 2006, amend the Fisheries (Commercial Fishing) Regulations 2001 (“the principal regulations”) by inserting new regulations 58A to 58C, which relate to seabird scaring devices.

New regulation 58A requires New Zealand fishing vessels 28 metres or more in overall length that use a trawl net in New Zealand fisheries waters to—

- carry a seabird scaring device authorised by the chief executive at all times when fishing; and
- use the device, subject to any requirements issued by the chief executive, whenever the vessel’s trawl net is in the water.

New regulation 58B empowers the chief executive to issue circulars—

- authorising seabird scaring devices in relation to any specified class of vessel:
- setting standards or requirements applying to seabird scaring devices.

New regulation 58C sets out the responsibilities of operators and masters of New Zealand fishing vessels in relation to seabird scaring devices.

Regulation 3 of the principal regulations is consequentially amended to insert a definition of seabird scaring device.

Regulation 84(2) of the principal regulations is amended to make it an offence liable on summary conviction to a fine not exceeding \$20,000 for a person who fails to comply with the requirement to—

- use a seabird scaring device that complies with any standards or requirements specified by the chief executive; or
- use a seabird scaring device in accordance with any standards or requirements specified by the chief executive; or
- allow a fishery officer or observer to inspect the device.

Regulation 84(3) of the principal regulations is amended to make it an offence liable on summary conviction to a fine not exceeding \$100,000 for a person who fails to comply with the requirement to—

- carry a seabird scaring device authorised by the chief executive at all times when fishing; and

- use the device, subject to any requirements of the chief executive, whenever the vessel's trawl net is in the water.

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