



## **Fisheries (Commercial Fishing) Amendment Regulations 2009**

Anand Satyanand, Governor-General

### **Order in Council**

At Wellington this 20th day of April 2009

Present:

His Excellency the Governor-General in Council

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

### **Contents**

	Page
1 Title	2
2 Commencement	2
3 Principal regulations amended	2
4 Method of measurement of spiny rock lobster tail	2
5 Use of fyke nets to take eels in South Island fisheries waters	2
6 New regulation 56 substituted	2
56 Pots	2
7 Tubes must be incorporated in fyke nets	3
8 New heading substituted	3
9 Apertures required in rock lobster pots	3
10 New regulation 79A inserted	3

	79A Requirements for pots used for taking blue cod or octopus	3
11	Offences	3
12	Schedule 2 amended	3

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## Regulations

- 1 Title**  
These regulations are the Fisheries (Commercial Fishing) Amendment Regulations 2009.
- 2 Commencement**  
These regulations come into force on 1 June 2009.
- 3 Principal regulations amended**  
These regulations amend the Fisheries (Commercial Fishing) Regulations 2001.
- 4 Method of measurement of spiny rock lobster tail**  
Regulation 38(2)(a) is amended by omitting “accordance” and substituting “accordance”.
- 5 Use of fyke nets to take eels in South Island fisheries waters**  
Regulation 52(1) is amended by omitting “51, 55,” and substituting “55”.
- 6 New regulation 56 substituted**  
Regulation 56 is revoked and the following regulation substituted:

**“56 Pots**

“(1) Commercial fishers must not use for fishing, or have on board a fishing vessel, pots (including holding pots) without their own surface buoys or floats.

“(2) Each pot and surface buoy or float must be clearly, permanently, and legibly marked with the registration number of the vessel from which it is set or transported.”

- 7 Tubes must be incorporated in fyke nets**  
Regulation 75 is amended by omitting “regulation 51 or”.
- 8 New heading substituted**  
The heading above regulation 79 is revoked and the following heading substituted:  
*“Pots”*.
- 9 Apertures required in rock lobster pots**  
Regulation 79 is amended by adding the following subclause:  
“(7) To avoid doubt, this regulation does not prohibit the use or possession of pots without apertures for taking species other than rock lobster.”
- 10 New regulation 79A inserted**  
The following regulation is inserted after regulation 79:  
**“79A Requirements for pots used for taking blue cod or octopus**  
“(1) Commercial fishers must not use or have on board a fishing vessel any pot used to take blue cod unless the pot is constructed entirely of square steel mesh with inside dimensions of no less than 48 mm in width.  
“(2) Commercial fishers must not use or have on board a fishing vessel any pot used to take octopus unless the entrance to the pot is covered and secured by a latch or similar device so that an octopus must force its way into the pot.”
- 11 Offences**  
(1) Regulation 84(2) is amended by omitting “49,”.  
(2) Regulation 84(3) is amended by omitting “or 79(1) to (4)” and substituting “79(1) to (4), or 79A”.
- 12 Schedule 2 amended**  
(1) Clauses 13 and 14 of Schedule 2 are revoked and the following clause is substituted:
- “13 Supervision by observers**  
A fee of \$571.65 (excluding GST) per observer, per day or part of a day, is payable by the vessel operator for the supervision by observers of the following:

- “(a) conversion factors
  - “(b) transhipments. If more than 1 person is liable to pay a fee under this clause in respect of the period during which an observer is on board a vessel, the chief executive may divide the total fee payable between those persons on a proportionate basis, having regard to the percentage of total transhipment hours taken up by each relevant transhipment
  - “(c) in port unloads
  - “(d) high-risk and medium-risk foreign charter vessels
  - “(e) vessels fishing under special permits issued under section 97 of the Fisheries Act 1996
  - “(f) vessels fishing under high seas fishing permits issued under Part 6A of the Fisheries Act 1996
  - “(g) vessels in benthic protection areas as defined in the Fisheries (Benthic Protection Areas) Regulations 2007
  - “(h) vessels where observer supervision has been requested by the owner or operator of a vessel”.
- (2) Clause 15 of Schedule 2 is amended by omitting “22.50” and substituting “28”.

Michael Webster,  
for Clerk of the Executive Council.

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### **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 June 2009, amend the Fisheries (Commercial Fishing) Regulations 2001 by—

- amending regulation 38(2)(a) to correct a spelling mistake:
- consequentially amending regulation 52(1) to omit the reference to regulation 51 (previously revoked):
- substituting *new regulation 56* to prescribe new requirements relating to pots used for taking species:

- consequentially amending regulation 75 to omit the reference to regulation 51:
- adding *new subclause (7)* to regulation 79 (which relates to the apertures required in rock lobster pots) to clarify that regulation 79 does not prohibit the use or possession of pots without apertures for taking species other than rock lobster:
- inserting *new regulation 79A*, which prescribes the requirements of pots used for taking blue cod or octopus:
- consequentially amending regulation 84(2) and (3) (which relate to offences) to omit the reference to regulation 49 (previously revoked) and insert a reference to *new regulation 79A*:
- amending Schedule 2 (which relates to fees) to revoke the fees relating to the supervision of conversion factors (clause 13) and the supervision of transhipments (clause 14), insert a new flat fee relating to the supervision of various matters by observers, and increase the fee relating to the supervision of dumping at sea from \$22.50 to \$28.

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These regulations are administered by the Ministry of Fisheries.

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