

**Reprint
as at 21 September 2001**



**Fisheries (Transitional Provisions)
Regulations (No 3) 2001**
(SR 2001/250)

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 17th day of September 2001

Present:
Her Excellency the Governor-General in Council

Pursuant to sections 297, 354, and 369L 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.

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

These regulations are administered by the Ministry of Fisheries.

Contents

		Page
1	Title	2
2	Commencement	2
3	Interpretation	2
	<i>Fishing permits and vessel registration under 1983 Act</i>	
4	Fishing permits under 1983 Act	3
5	Fishing vessel registrations under 1983 Act	3
	<i>Conversion of provisional quota</i>	
6	Conversion of provisional individual transferable quota into quota shares	4
	<i>Freshwater eel in quota management area ANG13</i>	
7	Change of fishing year for Lake Ellesmere eels (ANG13)	5
8	Requirements relating to deemed values for freshwater eel in ANG13	6
9	Setting catch limit	6
10	Application of section 74 of 1996 Act during transition period	7
	<i>General provisions relating to deemed values</i>	
11	Effective date for deemed value rates set during 1 October to 31 March 2002	7

Regulations

- 1 Title**
These regulations are the Fisheries (Transitional Provisions) Regulations (No 3) 2001.
- 2 Commencement**
- (1) Regulations 3, 4, 5, and 11 come into force on the day after the date on which these regulations are notified in the *Gazette*.
 - (2) The rest of these regulations come into force on 1 October 2001.
- 3 Interpretation**
In these regulations, unless the context otherwise requires,—
1983 Act means the Fisheries Act 1983

1996 Act means the Fisheries Act 1996

transition period, in relation to freshwater eel in quota management area ANG13, has the meaning given to it by regulation 7(1).

*Fishing permits and vessel registration under
1983 Act*

4 Fishing permits under 1983 Act

- (1) This regulation applies in relation to all fishing permits that have effect under the 1983 Act immediately before the commencement of this regulation.
- (2) The chief executive may, by notice in writing to the holder of a fishing permit to which this regulation applies, revoke the permit.
- (3) On giving a notice under subclause (2), the chief executive must issue a new fishing permit under section 91 of the 1996 Act for the balance of the term for which the revoked permit was granted, and on the terms and conditions (if any) that applied to the revoked permit to the extent that they are not inconsistent with the 1996 Act.
- (4) No fee is payable for the re-issue of a fishing permit in accordance with this regulation.
- (5) A fishing permit re-issued in accordance with this regulation expires with the close of the term for which it is re-issued.
- (6) This regulation applies despite anything in sections 91 and 328 of the 1996 Act.

5 Fishing vessel registrations under 1983 Act

- (1) This regulation applies in relation to all fishing vessel registrations that have effect under the 1983 Act immediately before the commencement of this regulation.
- (2) The chief executive may, by notice in writing to the registered owner of a fishing vessel to which this regulation applies, revoke the registration of the vessel.
- (3) After giving notice under subclause (2), the chief executive must re-register the vessel under section 103 of the 1996 Act for the balance of the term for which the revoked registration

- was granted, and on the terms and conditions (if any) that applied to the revoked registration to the extent that they are not inconsistent with the 1996 Act.
- (4) No fee is payable for the re-registration of a fishing vessel in accordance with this regulation or for an application to become a notified user in relation to the vessel for the purposes of the 1996 Act, but only if (in either case) the applicant was the registered owner or one of the registered owners immediately before the commencement of this regulation.
- (5) If a vessel has multiple registered owners,—
- (a) the registered owners must, by notice in writing given to the chief executive (by a date specified in the notice given under subclause (2)), nominate—
 - (i) one of their number to be the operator of the vessel; and
 - (ii) 1 or more of their number to be the notified users of the vessel; and
 - (b) the nominated registered owner must be treated for the purposes of the 1996 Act as the operator in relation to the vessel; but
 - (c) if the registered owners fail to comply with paragraph (a) by the date specified in the notice given under subclause (2) they must be treated for the purposes of the 1996 Act as owners of an unregistered fishing vessel.
- (6) Unless subclause (5) applies, the registered owner must be treated as the operator in relation to the vessel.
- (7) A re-registration of a fishing vessel in accordance with this regulation, and every certificate of notification under the 1996 Act that is issued in relation to the vessel, expires with the close of the term for which the re-registration is granted.
- (8) This regulation applies despite anything in sections 103 and 328 of the 1996 Act.

Conversion of provisional quota

6 Conversion of provisional individual transferable quota into quota shares

Section 343 of the 1996 Act applies in relation to provisional individual transferable quota under the 1983 Act as if the term

individual transferable quota in that section included that provisional individual transferable quota.

*Freshwater eel in quota management area
ANG13*

- 7 Change of fishing year for Lake Ellesmere eels (ANG13)**
- (1) In these regulations, **transition period**, in relation to freshwater eel in quota management area ANG13, means the period commencing on 1 October 2001 and ending with the close of the day immediately preceding the start of the first fishing year specified by Order in Council under section 369L of the 1996 Act.
 - (2) Except as provided in these regulations, during the transition period, all references to the fishing year in the 1996 Act and in any regulations for the time being in force under that Act or the 1983 Act must, in relation to freshwater eel in quota management area ANG13, be read as a reference to the transition period unless the context otherwise requires.
 - (3) Subclause (2) applies to references to a fishing year regardless of how the reference is expressed (for example, it applies to references to “every fishing year”, “the relevant fishing year”, “the current fishing year”, and “any fishing year”).
 - (4) However,—
 - (a) section 67B(2) of the 1996 Act does not apply in relation to any provisions of any Order in Council made before the transition period under section 67B(1) that relate to freshwater eel in quota management area ANG13, and instead those provisions of that order take effect on the commencement of the transition period:
 - (b) during the transition period, the words “the commencement of the fishing year following that in which” in section 188(4)(a) of the 1996 Act must, in relation to freshwater eel in quota management area ANG13, be read as “the commencement of the fishing year following the transition period in which”.
 - (5) During the transition period, the following provisions do not apply in relation to freshwater eel in quota management area ANG13:

- (a) section 128(1)(g) of the 1996 Act:
- (b) regulation 5(2)(d) and (f) of the Fisheries (Registers) Regulations 2001.

8 Requirements relating to deemed values for freshwater eel in ANG13

- (1) The interim deemed value rate and annual deemed value rate to be set under section 75(1) of the 1996 Act for freshwater eel in quota management area ANG13 must be set for the transition period, and that rate applies for that period and any subsequent fishing year until varied under section 75 despite anything in subsection (1) of that section.
- (2) Nothing in section 75(7) of the 1996 Act applies in relation to freshwater eel in quota management area ANG13 while a rate set in accordance with subclause (1) is in force.
- (3) The Fisheries (Deemed Values and Notification of Balances) Regulations 2001 apply in relation to freshwater eel in quota management area ANG13 during the transition period.

9 Setting catch limit

- (1) The total allowable catch to be set under section 13 of the 1996 Act for freshwater eel in quota management area ANG13 must be set for the transition period, and that total allowable catch continues to apply in each fishing year for that stock unless varied under section 13 or until an alteration of the quota management area for that stock takes effect in accordance with sections 25 and 26 of the 1996 Act.
- (2) The total allowable commercial catch to be set under section 20 of the 1996 Act for freshwater eel in quota management area ANG13 must be set for the transition period, and that total allowable commercial catch continues to apply in each fishing year for that stock unless varied under section 20 or until an alteration of the quota management area for that stock takes effect in accordance with sections 25 and 26 of the 1996 Act.

10 Application of section 74 of 1996 Act during transition period

During the transition period, section 74 of the 1996 Act applies in relation to freshwater eel in quota management area ANG13 as if the transition period were an ordinary fishing year for that stock.

General provisions relating to deemed values

11 Effective date for deemed value rates set during 1 October to 31 March 2002

- (1) Despite section 75(7) of the 1996 Act, the Minister must set under section 75 of that Act an annual deemed value rate for a stock with a fishing year commencing on 1 April for the period commencing on 1 October 2001 and ending with the close of 31 March 2002.
- (2) Despite section 75 of the 1996 Act, deemed values set under the 1983 Act for stocks with a fishing year commencing on 1 April are interim deemed values for the purposes of the 1996 Act.
- (3) For the purposes of section 76 of the 1996 Act, a deemed value relating to a stock with a fishing year commencing on 1 April that was demanded but not remitted before 1 October 2001 must be treated as if it were an interim deemed value set under the 1996 Act.
- (4) For the purposes of section 79 of the 1996 Act, a deemed value relating to any stock that was demanded but not remitted before 1 October 2001 does not form part of overdue deemed values.

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, make transitional provisions for the purpose of bringing into force provisions of the Fisheries Act 1996. The provisions relate to—

- the re-issue of fishing permits issued under the Fisheries Act 1983 and re-registration of vessels registered under that Act;
- a transitional fishing year and related measures for freshwater eels in quota management area ANG13;
- the definition of **fishing year** for deemed value purposes relating to stocks that have a fishing year starting on 1 April.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 20 September 2001

Contents

- 1 General
 - 2 Status of reprints
 - 3 How reprints are prepared
 - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
 - 5 List of amendments incorporated in this reprint (most recent first)
-

Notes

1 *General*

This is a reprint of the Fisheries (Transitional Provisions) Regulations (No 3) 2001. The reprint incorporates all the amendments to the regulations as at 21 September 2001, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that have yet to come into force or that contain relevant transitional or savings provisions are also included, after the principal enactment, in chronological order.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions,

see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)
- position of the date of assent (it now appears on the front page of each Act)

- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint
(most recent first)*
