

Version
as at 23 December 2023



Fisheries (Cost Recovery) Rules 2001 (SR 2001/229)

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 10th day of September 2001

Present:

Her Excellency the Governor-General in Council

Pursuant to section 263 of the Fisheries Act 1996, Her Excellency the Governor-General, on the recommendation of the Minister of Fisheries under that section, and acting on the advice and with the consent of the Executive Council, makes the following rules.

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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 rules are administered by the Ministry for Primary Industries.

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Rules

1 Title

These rules are the Fisheries (Cost Recovery) Rules 2001.

2 Commencement

These rules come into force on the day after the date of their notification in the *Gazette*.

3 Interpretation

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

Act means the Fisheries Act 1996

bottom trawling means trawling or dredging for aquatic life using a trawl net or dredge that is designed to come into contact with, and be dragged along, the seabed

certificate of compliance has the meaning given by section 2(1) of the Resource Management Act 1991

costs includes both direct and indirect costs

deepwater benthic research means research, in the exclusive economic zone, relating to—

- (a) avoiding, remedying, or mitigating the adverse effects of bottom trawling on the benthic environment and its biological diversity; or
- (b) the benthic environment and its biological diversity when there is a general public interest in that research

fish-farm licence means a fish-farm licence issued under the Freshwater Fish Farming Regulations 1983

fisheries resources stock assessment research, in relation to any stock, species, or class of fish or fish resource, means research projects that aim to produce information on the stock structure, productivity, distribution, ecology, biomass, or sustainable yields of that stock, species, class, or resource

ICE means individual catch entitlement

inshore finfish—

- (a) includes elephant fish, groper, red cod, rig, school shark, and snapper:
- (b) does not include freshwater eels or blue cod

MHR means the monthly harvest return required by the Fisheries (Reporting) Regulations 2001

monitored vessel means a vessel to which the definition of monitored fishing in the Fisheries (Electronic Monitoring on Vessels) Regulations 2017 applies (*see* regulation 3A and clause 1 of Schedule 1 of those regulations)

monitoring harvest levels means services to monitor the quantity and quality of data received from the reporting of fishing activity under the Act

pelagic fisheries resources includes albacore, jack mackerel, kahawai, skipjack tuna, southern bluefin tuna, kingfish (yellowtail), and other game fish species

permit holder means any person who holds a fishing permit issued under section 91 of the Act

port price means the surveyed average price paid by licensed fish receivers to independent fishers for fish landed to those licensed fish receivers, as set or updated under rule 12

QMS means quota management system

registered fish farmer means a fish farmer registered under Part 9A of the Act

research relating to the protected species population means research required or carried out in the interests of the effective management of any species that is—

- (a) protected under the Wildlife Act 1953 or the Marine Mammals Protection Act 1978; and
- (b) taken as non-targeted species by commercial fishers

resource consent has the meaning given by section 2(1) of the Resource Management Act 1991

shellfish fisheries resources does not include cockles, paua, pipis, rock lobster, or tuatua

TAC means total allowable catch

TACC means total allowable commercial catch.

- (2) In these rules, references to **stocks** includes, where appropriate, references to fishing activities undertaken for the purpose of harvesting those stocks and to the persons carrying out those activities.

Rule 3(1) **bottom trawling**: inserted, on 13 September 2007, by rule 4 of the Fisheries (Cost Recovery) Amendment Rules 2007 (SR 2007/223).

Rule 3(1) **certificate of compliance**: inserted, on 1 July 2022, by rule 4(1) of the Fisheries (Cost Recovery) Amendment Rules 2022 (SL 2022/163).

Rule 3(1) **certificate of compliance**: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Rule 3(1) **coastal permit**: revoked, on 1 July 2022, by rule 4(2) of the Fisheries (Cost Recovery) Amendment Rules 2022 (SL 2022/163).

Rule 3(1) **deepwater benthic research**: inserted, on 13 September 2007, by rule 4 of the Fisheries (Cost Recovery) Amendment Rules 2007 (SR 2007/223).

Rule 3(1) **fish-farm licence**: inserted, on 1 July 2022, by rule 4(1) of the Fisheries (Cost Recovery) Amendment Rules 2022 (SL 2022/163).

Rule 3(1) **monitored vessel**: inserted, on 22 June 2023, by rule 4 of the Fisheries (Cost Recovery) Amendment Rules 2023 (SL 2023/105).

Rule 3(1) **registered fish farmer**: inserted, on 1 January 2006, by rule 3 of the Fisheries (Cost Recovery) Amendment Rules 2005 (SR 2005/321).

Rule 3(1) **resource consent**: inserted, on 1 July 2022, by rule 4(1) of the Fisheries (Cost Recovery) Amendment Rules 2022 (SL 2022/163).

Rule 3(1) **resource consent**: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

3A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

Rule 3A: inserted, on 22 June 2023, by rule 5 of the Fisheries (Cost Recovery) Amendment Rules 2023 (SL 2023/105).

4 Status of rules

These rules are to be followed so far as reasonably practicable in setting any levies under the Act, but failure to accurately predict, estimate, account for, or otherwise quantify any matter referred to in these rules does not invalidate any levies set in accordance with their general tenor.

5 Proportion of costs to be recovered from industry

The proportion of costs to be recovered from the commercial fishing industry for the fisheries or conservation services specified in the first column of Schedule 2 is the proportion set out in the second column of that schedule.

Rule 5: amended, on 22 June 2023, by rule 6 of the Fisheries (Cost Recovery) Amendment Rules 2023 (SL 2023/105).

6 Who must pay levies, and basis for levy

- (1) The persons who must pay levies in respect of the fisheries and conservation services specified in Schedule 2 are, as appropriate,—
 - (a) quota owners, on the basis of the quota weight equivalent in relation to their quota share:
 - (b) ICE holders, on the basis of the amount of ICE held:
 - (c) permit holders, on the basis of the amount of actual catch of non-QMS stock reported on the holders' MHRs:
 - (d) fish farmers (being persons undertaking fish farming under fish-farm licences), on the basis of the number of fish-farm licences held by a fish farmer:
 - (e) fish farmers (being registered fish farmers), on the basis of the number of resource consents, certificates of compliance, or other authorisations held by a fish farmer in relation to a fish farm.
- (2) The levy payable for any fishing year on quota weight equivalent in relation to quota share, ICE held, or actual catch of non-QMS stock reported on a permit holder's MHR is to be calculated for each stock in accordance with the following formula:

$$g \div h$$

where—

- g is the total amount of costs to be recovered from the stock for the fishing year
- h is the total TACC, ICE, or estimated catch likely to be extracted from the stock in the fishing year, as appropriate.

- (3) Levies imposed on the persons specified in subclause (1)(a) to (c) may be expressed as a levy amount per tonne, per kilogram, or per quota share.

Rule 6(1): amended, on 22 June 2023, by rule 7 of the Fisheries (Cost Recovery) Amendment Rules 2023 (SL 2023/105).

Rule 6(1)(d): replaced, on 1 July 2022, by rule 5 of the Fisheries (Cost Recovery) Amendment Rules 2022 (SL 2022/163).

Rule 6(1)(e): replaced, on 1 July 2022, by rule 5 of the Fisheries (Cost Recovery) Amendment Rules 2022 (SL 2022/163).

7 Allocation of costs between stocks for certain industry-wide services

- (1) This rule applies to the following services:
 - (a) the services specified in item 1 of Schedule 2 (which relates to monitoring and offence detection):
 - (b) the services specified in items 2 and 3 of Schedule 2 (which relate to protected species research):

- (c) the services specified in items 4, 4A, and 4B of Schedule 2 (which relate to mitigation, etc, of effects of commercial fishing on the aquatic environment or biological diversity):
 - (d) the services specified in item 9 of Schedule 2 (which relates to the monitoring of harvest levels):
 - (e) the services specified in item 10 of Schedule 2 (which relates to administration and registry services).
- (2) The percentage of the costs to be recovered from each stock in respect of the services listed in subclause (1) is to be determined in accordance with the following formula:

$$a \div b$$

where—

- a is the value of the particular stock, derived by multiplying the total TACC, ICE, or estimated catch for the stock by the port price for that stock
 - b is the total value of all stocks, derived by—
 - (a) multiplying the total TACC, ICE, or estimated catch for each stock by its relevant port price; and
 - (b) adding all the results.
- (3) If, in the case of the services specified in items 2, 3, 4, 4A, and 4B of Schedule 2, the chief executive identifies particular stocks as risk exacerbators in all or any areas to which the services relate, then—
- (a) the costs of those services in these areas are not to be recovered from other stocks; and
 - (b) the costs to be recovered in those areas from the identified stocks are to be determined in accordance with the formula in subclause (2) as if item b related only to the total value of those stocks identified as exacerbators.

Rule 7(1)(a): amended, on 22 June 2023, by rule 8 of the Fisheries (Cost Recovery) Amendment Rules 2023 (SL 2023/105).

Rule 7(1)(b): amended, on 22 June 2023, by rule 8 of the Fisheries (Cost Recovery) Amendment Rules 2023 (SL 2023/105).

Rule 7(1)(c): amended, on 22 June 2023, by rule 8 of the Fisheries (Cost Recovery) Amendment Rules 2023 (SL 2023/105).

Rule 7(1)(c): amended, on 1 April 2008, by rule 4(1) of the Fisheries (Cost Recovery) Amendment Rules 2008 (SR 2008/32).

Rule 7(1)(d): amended, on 22 June 2023, by rule 8 of the Fisheries (Cost Recovery) Amendment Rules 2023 (SL 2023/105).

Rule 7(1)(e): amended, on 22 June 2023, by rule 8 of the Fisheries (Cost Recovery) Amendment Rules 2023 (SL 2023/105).

Rule 7(3): amended, on 22 June 2023, by rule 8 of the Fisheries (Cost Recovery) Amendment Rules 2023 (SL 2023/105).

Rule 7(3): amended, on 1 April 2008, by rule 4(2) of the Fisheries (Cost Recovery) Amendment Rules 2008 (SR 2008/32).

Rule 7(3): amended, on 13 September 2007, by rule 5 of the Fisheries (Cost Recovery) Amendment Rules 2007 (SR 2007/223).

7A Allocation of costs for deepwater benthic research

- (1) Where the cost of all deepwater benthic research for fisheries services does not exceed \$1,000,000 (excluding GST) in any financial year, the percentage of the costs to be recovered from industry in respect of that year is 33.33%.
- (2) Where the cost of all deepwater benthic research for fisheries services exceeds \$1,000,000 (excluding GST) in any financial year, the percentage of costs to be recovered from industry in respect of that year is to be determined in accordance with the following formula:

$$(a \div b) \times 33.33\%$$

where—

- a is \$1,000,000; and
- b is the total cost of all deepwater benthic research for fisheries services in the relevant financial year.

Rule 7A: inserted, on 1 April 2008, by rule 5 of the Fisheries (Cost Recovery) Amendment Rules 2008 (SR 2008/32).

8 Allocation of costs between stocks for observer coverage services

In respect of the observer coverage services specified in item 8 of Schedule 2, the percentage of costs to be recovered from each stock is to be determined in accordance with the following formula:

$$c \div d$$

where—

- c is the number of observer seadays in the relevant fishing year or financial year or other relevant period attributable to the particular stock
- d is the total number of observer sea days during that year or period.

Rule 8: amended, on 22 June 2023, by rule 9 of the Fisheries (Cost Recovery) Amendment Rules 2023 (SL 2023/105).

9 Allocation of costs for stock assessment research

- (1) In respect of the stock assessment research services specified in items 5, 6, and 7 of Schedule 2,—
 - (a) the costs of services attributable to a single stock are to be recovered from that stock:
 - (b) where the services relate to more than 1 stock, the costs are to be recovered from each stock to which the services relate in accordance with—

- (i) the formula in subclause (2), if the chief executive has determined a percentage allocation for the research effort in respect of the particular stock; or
 - (ii) the formula in subclause (3), if the chief executive has not determined such a percentage allocation for the stock.
- (2) If, in respect of services that relate to more than 1 stock, the chief executive has determined a percentage allocation for the research effort in respect of a particular stock, the costs to be recovered from that stock are to be determined in accordance with the following formula:

$$c \times d \times h$$

where—

- c is the total cost of the services (before deduction of any Crown contribution)
 - d is the percentage allocation determined by the chief executive as reflecting the research effort in respect of the particular stock
 - h is the percentage of costs to be recovered from the particular stock, as indicated in the second column of item 5 or the second column of item 6 of the Schedule (whichever is relevant).
- (3) If, in respect of services that relate to more than 1 stock, the chief executive has not determined a percentage allocation for the research effort in respect of a particular stock, the costs to be recovered from that stock are to be determined in accordance with the following formula:

$$(c - e) \times (f \div g) \times h$$

where—

- c is the total cost of the services (before deduction of any Crown contribution)
- e is the sum of any research costs allocated under subclause (2) to other stocks for the services concerned
- f is the value of the particular stock, derived by multiplying the total TAC, ICE, or estimated catch for the stock by the port price for the stock
- g is the total value of all the stocks to which the services relate (other than stocks for which an allocation has been made under subclause (2)), derived by—
 - (a) multiplying the total TAC, ICE, or estimated catch for each stock (other than stocks for which an allocation has been made under subclause (2)) by its relevant port price; and
 - (b) adding all the results
- h is the percentage of costs to be recovered from the particular stock, as indicated in the second column of item 5 or the second column of item 6 of Schedule 2 (whichever is relevant).

Rule 9: substituted, on 26 July 2002, by rule 3 of the Fisheries (Cost Recovery) Amendment Rules 2002 (SR 2002/212).

Rule 9(1): amended, on 22 June 2023, by rule 10 of the Fisheries (Cost Recovery) Amendment Rules 2023 (SL 2023/105).

Rule 9(3) formula: amended, on 22 June 2023, by rule 10 of the Fisheries (Cost Recovery) Amendment Rules 2023 (SL 2023/105).

10 Allocation of costs for aquaculture services

In respect of the aquaculture services specified in item 11 of Schedule 2, costs are to be recovered from—

- (a) fish farmers (being persons undertaking fish farming under fish-farm licences), on the basis of the number of fish-farm licences held by a fish farmer:
- (b) fish farmers (being registered fish farmers), on the basis of the number of resource consents, certificates of compliance, or other authorisations held by a fish farmer in relation to a fish farm.

Rule 10: replaced, on 1 July 2022, by rule 6 of the Fisheries (Cost Recovery) Amendment Rules 2022 (SL 2022/163).

Rule 10: amended, on 22 June 2023, by rule 11 of the Fisheries (Cost Recovery) Amendment Rules 2023 (SL 2023/105).

11 Alterations in levies during fishing year

If it is proposed to alter any levy during a fishing year, the altered levy may be set at a figure that, when averaged with the existing levy, results in an appropriate overall levy amount for the whole fishing year.

12 Port prices

Before 1 October in each year, the chief executive must survey the port prices for each stock and fix a port price that, in the view of the chief executive, is the average port price for that stock.

13 Revocation

The Fisheries (Crown Contribution) Order 1999 (SR 1999/381) is revoked.

Schedule 1

Transitional, savings, and related provisions

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Schedule 1: inserted, on 22 June 2023, by rule 12 of the Fisheries (Cost Recovery) Amendment Rules 2023 (SL 2023/105).

Part 1

Provisions relating to cost recovery for certain services in 2023/2024 and 2024/2025 fishing years

Schedule 1 Part 1: inserted, on 22 June 2023, by rule 12 of the Fisheries (Cost Recovery) Amendment Rules 2023 (SL 2023/105).

1 Interpretation

In this Part,—

fishing year means each of the following:

- (a) the 2023/2024 fishing year:
- (b) the 2024/2025 fishing year

hardware services means installing and maintaining on-board cameras and other equipment on monitored vessels

monitored area means an area—

- (a) described in the third column of clause 1(1) of the table in Schedule 1 of the Fisheries (Electronic Monitoring on Vessels) Regulations 2017; and
- (b) in relation to which the requirements of those regulations apply, or have started to apply, in a fishing year (*see* the first column of that table).

Schedule 1 clause 1: inserted, on 22 June 2023, by rule 12 of the Fisheries (Cost Recovery) Amendment Rules 2023 (SL 2023/105).

2 Allocation of costs for 2023/2024 and 2024/2025 fishing years

- (1) The proportion of costs to be recovered from the commercial fishing industry for hardware services for each fishing year is 100%.
- (2) The costs are to be recovered—
 - (a) from quota owners; and
 - (b) in relation to stocks taken—
 - (i) using monitored vessels; and
 - (ii) in a monitored area; and
 - (c) on a stock-specific basis.
- (3) The percentage of costs to be recovered in relation to each stock is to be determined in accordance with the following formula:

$$a \div b$$

where—

- a is the value of the particular stock, derived by multiplying the total estimated catch for the stock taken using monitored vessels by the port price for that stock
 - b is the total value of all stocks taken using monitored vessels, derived by—
 - (a) multiplying the total estimated catch for each stock taken using monitored vessels by its relevant port price; and
 - (b) adding all the results.
- (4) However, if the chief executive identifies particular stocks as risk exacerbators in all or any fishery area,—
- (a) the costs of hardware services in those areas are not to be recovered from other stocks; and
 - (b) the costs to be recovered in those areas from the identified stocks are to be determined in accordance with the formula in subclause (3) as if item b related only to the total value of those stocks identified as exacerbators.
- (5) For the purposes of this clause, the chief executive may only identify a stock as a risk exacerbator if the stock contributes to 2% or more of the value of the total catch for all stocks taken using monitored vessels in that fishery area.

Schedule 1 clause 2: inserted, on 22 June 2023, by rule 12 of the Fisheries (Cost Recovery) Amendment Rules 2023 (SL 2023/105).

Schedule 2

Apportionment of costs of fisheries and conservation services

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Schedule 2 schedule number: replaced, on 22 June 2023, by rule 13(1) of the Fisheries (Cost Recovery) Amendment Rules 2023 (SL 2023/105).

Services	Percentage of costs to be borne by industry	Allocation between stocks
1 Monitoring and offence detection of commercial fishing activities (except services related in any way to electronic monitoring equipment on monitored vessels)	100%	As in rule 7(2)
2 Research relating to protected species populations where risk to those populations by human intervention has been estimated	$a \div b$, expressed as a percentage, where— a is the risk to the populations posed by commercial fishing in New Zealand fisheries waters: b is the total risk of human interventions on the populations	As in rule 7(2) or (3)
3 Research relating to protected species populations where risk to those populations by human intervention has not been estimated	50%	As in rule 7(2) or (3)
4 Services (including research, other than deepwater benthic research) provided to avoid, remedy, or mitigate that portion of the risk to, or adverse effect on, the aquatic environment or biological diversity of the aquatic environment caused by commercial fishing	100%	As in rule 7(2) or (3)
4A Deepwater benthic research for fisheries services	As in rule 7A(1) and (2)	As in rule 7(2) or (3)
4B Deepwater benthic research for conservation services	100%	As in rule 7(2) or (3)
5 Stock assessment research for stock for which a TAC and a TACC have been set	$a \div b$, expressed as a percentage, where— a is the TACC for the stock b is the TAC for the stock	As in rule 9(1)(a)

Services	Percentage of costs to be borne by industry	Allocation between stocks
6 Stock assessment research for stock for which a TACC or a TAC has not been set	<p>The following percentage, as appropriate, for the stock being researched:</p> <ul style="list-style-type: none"> (a) blue cod—40%: (b) freshwater eels—50%: (c) cockles, pipis, or tuatua—25%: (d) paua or rock lobster—75%: (e) shellfish other than cockles, pipis, tuatua, paua, or rock lobster—90%: (f) inshore finfish other than freshwater eels or blue cod—75%: (g) pelagic fisheries other than kahawai and kingfish—95%: (ga) kahawai—70%: (gb) kingfish—50%: (h) seaweed—25%: (i) all other stocks not specified in paragraphs (a) to (h)—100% 	As in rule 9(1)(a)
7 Stock assessment research across more than one stock	For each stock, the relevant percentage for that stock specified in this column in item 5 or item 6 (which percentage is to be applied to the stock's share of the costs determined in rule 9(2))	As in rule 9(2)
8 Observer coverage (under the observer programme established under section 223 of the Act) that supports fisheries services or conservation services	100%	As in rule 8
9 Monitoring harvest levels	100%	As in rule 7(2)
10 Quota and commercial fishing administration and registry services, including access and introducing new species into QMS	100%	As in rule 7(2)
11 Aquaculture services	100%	As in rule 10
Schedule 2 item 1: amended, on 22 June 2023, by rule 13(2) of the Fisheries (Cost Recovery) Amendment Rules 2023 (SL 2023/105).		
Schedule 2 item 2: amended, on 1 October 2004, by rule 3 of the Fisheries (Cost Recovery) Amendment Rules 2004 (SR 2004/290).		

Schedule 2 item 4: amended, on 13 September 2007, by rule 6(1) of the Fisheries (Cost Recovery) Amendment Rules 2007 (SR 2007/223).

Schedule 2 item 4A: substituted, on 1 April 2008, by rule 6 of the Fisheries (Cost Recovery) Amendment Rules 2008 (SR 2008/32).

Schedule 2 item 4B: inserted, on 1 April 2008, by rule 6 of the Fisheries (Cost Recovery) Amendment Rules 2008 (SR 2008/32).

Schedule 2 item 6: amended, on 26 July 2002, by rule 4 of the Fisheries (Cost Recovery) Amendment Rules 2002 (SR 2002/212).

Schedule 2 item 8: amended, on 1 July 2016, by rule 4 of the Fisheries (Cost Recovery) Amendment Rules 2016 (LI 2016/134).

Marie Shroff,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 12 September 2001.

Notes

1 *General*

This is a consolidation of the Fisheries (Cost Recovery) Rules 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*

Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68): section 6

Fisheries (Cost Recovery) Amendment Rules 2023 (SL 2023/105)

Fisheries (Cost Recovery) Amendment Rules 2022 (SL 2022/163)

Fisheries (Cost Recovery) Amendment Rules 2016 (LI 2016/134)

Fisheries (Cost Recovery) Amendment Rules 2008 (SR 2008/32)

Fisheries (Cost Recovery) Amendment Rules 2007 (SR 2007/223)

Fisheries (Cost Recovery) Amendment Rules 2005 (SR 2005/321)

Fisheries (Cost Recovery) Amendment Rules 2004 (SR 2004/290)

Fisheries (Cost Recovery) Amendment Rules 2002 (SR 2002/212)