



ANALYSIS

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1999, No. 102

An Act to amend the Fisheries Act 1983

[8 September 1999]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement— (1) This Act may be cited as the Fisheries Act 1983 Amendment Act 1999, and is part of the Fisheries Act 1983 (“the principal Act”).

(2) This section and sections 2, 4, and 6 to 10 come into force on the day after the date on which this Act receives the Royal assent.

(3) The rest of this Act comes into force on a date to be appointed by the Governor-General by Order in Council; and 1 or more Orders in Council may be made appointing different dates for different provisions and different purposes.

2. Interpretation—Section 2 (1) of the principal Act is amended by inserting, after the definition of the term “Authority”, the following definition:

“ ‘Beach cast seaweed’ means seaweed of any species that is unattached and cast ashore:”.

3. Fishing permits—(1) Section 63 (13) of the principal Act is amended by repealing paragraph (a), and substituting the following paragraph:

“(a) A fishing permit must not be issued in respect of any species of fish (other than tuna), aquatic life, or seaweed (other than beach cast seaweed), that is not for the time being subject to a quota management system (being established by or under Part IIA or Part IIB), except to a person who—

“(i) Held a fishing permit that was in force on 30 September 1992; and

“(ii) Lawfully took fish, aquatic life, or seaweed under a fishing permit held by that person at any time during the period commencing on 1 October 1990 and ending with the close of 30 September 1992.”.

(2) Section 63 (14) of the principal Act is amended by inserting, after the words “subsection (13) of this section”, the words “and section 63A”.

4. New sections inserted—The principal Act is amended by inserting, after section 63, the following sections:

“**63A. Transfer of permit to estate of deceased fishing permit holder**—(1) Despite section 63 (13), where a fishing permit has been issued under section 63 in respect of any species of fish (other than tuna), aquatic life, or seaweed, that is not for the time being subject to a quota management system, and the fishing permit holder has died, the chief executive may, under section 63 and in accordance with this section, issue a new fishing permit to a person related to the deceased fishing permit holder.

“(2) A new fishing permit may not be issued under section 63 on the death of a fishing permit holder unless an applicant satisfies the chief executive that the applicant—

“(a) Is a person related to the deceased fishing permit holder; and

“(b) At the time of the death of the deceased, was dependent on the income earned by the deceased fishing permit holder, through the use by the deceased of the fishing permit.

“(3) Without limiting any other provision of this Act, any conditions and obligations that applied to the deceased’s fishing permit will apply to any new fishing permit issued under section 63 and in accordance with this section.

“(4) The chief executive may require that any documents or information produced for the purposes of subsection (2) be verified by oath or statutory declaration of the applicant or of some other person related to the deceased fishing permit holder.

“(5) Where the chief executive receives more than 1 application under this section relating to the fishing permit of the same deceased fishing permit holder, the chief executive must allocate the new fishing permit according to—

“(a) The level of dependency referred to in subsection (2); and

“(b) The ability of the applicant to exercise the rights and obligations of fishing permit holders.

“(6) Despite any other provision of this section, no new fishing permit may be issued in accordance with this section if—

“(a) The fishing permit holder died before 1 October 1996; or

“(b) The deceased did not hold a current fishing permit at the date of his or her death.

“(7) For the purposes of this section, a person related to the deceased fishing permit holder means a person connected to the other person by blood relationship, marriage, or adoption; and for the purposes of this subsection—

“(a) Persons are connected by blood relationship if within the second degree of relationship:

“(b) Persons are connected by marriage if one is married to the other, or if one has a relationship in the nature of marriage with the other:

“(c) Persons are connected by adoption if one has been adopted as the child of the other or as a child of a person who is connected by marriage to the other.

“63B. **Expiry of section 63A**—Section 63A expires with the close of 30 September 2007 and, on its expiration, the chief executive must revoke all current fishing permits issued before the close of that date in accordance with that section.”

5. Disposal of fish by commercial fishers—Section 67 (1) of the principal Act is amended by inserting, after the words “dispose of fish”, the words “or beach cast seaweed”.

6. Giving of notices, etc—(1) Section 88A (1) (e) of the principal Act is amended by adding the expression “; or”.

(2) Section 88A (1) of the principal Act is amended by adding the following paragraph:

“(f) Except in the case of any notice or document to be given or served in the course of or for the purpose of any proceedings for an offence against this Act, sent by electronic transmission to the person, or any other person authorised to act on the person’s behalf, at that person’s or other person’s usual or last known address; and, for the purposes of this paragraph,—

“(i) The term ‘electronic transmission’ means any transmission of information sent electronically; and includes any transmission sent by fax, electronic mail, or electronic data transfer:

“(ii) The term ‘address’ means a fax number or an electronic mail address.”

7. Electronic transmission—The principal Act is amended by inserting, after section 88A, the following section:

“88B. (1) For the purpose of this Act, the chief executive may approve the transmission of accounts, records, returns, transactions, information, notices, objections, requests, applications, or other documents provided for under this Act by means of electronic transmission.

“(2) An approval under subsection (1)—

“(a) May relate to any person or any 1 or more classes of person:

“(b) May relate to any 1 or more classes of accounts, records, returns, transactions, information, notices, objections, requests, applications, or other documents:

“(c) May specify the person or organisation to whom the accounts, records, returns, transactions, information, notices, objections, requests, applications, or other documents must be transmitted:

“(d) May specify the method of transmission that may be used:

“(e) Is subject to such conditions and other provisions (if any)—

“(i) As may be set out for the purposes of this section in regulations made under section 89; or

“(ii) Determined by the chief executive.

“(3) The chief executive may alter or revoke any approval given under subsection (1).”

8. Regulations—Section 89(1) of the principal Act is amended by inserting, after paragraph (kc), the following paragraph:

“(kd) Setting out conditions and other provisions that apply to approvals given under section 88B for the electronic transmission of accounts, applications, information, notices, objections, records, requests, returns, transactions, or other documents.”.

9. Certificates and official documents—(1) Section 106 (4) of the principal Act is amended by inserting, after the expression “subsection (1)”, the words “or evidence referred to in subsection (6)”.

(2) Section 106 of the principal Act is amended by adding the following subsection:

“(6) Subject to subsection (4), if, in any proceedings for an offence against this Act, the prosecution tenders evidence that has been produced wholly or partly by a machine, device, or technical process, and the machine, device, or technical process is of a kind that ordinarily does what the prosecution asserts the machine, device, or technical process has done, then, in the absence of proof to the contrary, the evidence is admissible and sufficient proof that, on the relevant occasion, the machine, device, or technical process operated in the way asserted by the prosecution.”

10. Copies of accounts, records, returns, and other documents—(1) Section 106A (3) of the principal Act is amended by inserting, after the expression “subsection (2)”, the words “or evidence referred to in subsection (5)”.

(2) Section 106A of the principal Act is amended by adding the following subsection:

“(5) Subject to subsection (3), if, in any proceedings for an offence against this Act, the prosecution tenders evidence that has been produced wholly or partly by a machine, device, or technical process, and the machine, device, or technical process is of a kind that ordinarily does what the prosecution asserts the machine, device, or technical process has done, then, in the absence of proof to the contrary, the evidence is admissible and sufficient proof that, on the relevant occasion, the machine, device, or technical process operated in the way asserted by the prosecution.”