



## ANALYSIS

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1969, No. 57

**An Act to amend the Fisheries Act 1908**

[17 October 1969]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title**—This Act may be cited as the Fisheries Amendment (No. 2) Act 1969, and shall be read together with and deemed part of the Fisheries Act 1908 (hereinafter referred to as the principal Act).

**2. Interpretation: possession of fish, etc.**—Section 2 of the principal Act (as amended by section 2 (5) of the Fisheries Amendment Act 1959) is hereby further amended by adding to the proviso to subsection (2) the words “or that, although he did know that they were in or on the vessel, vehicle, container, package, thing, or place, he did not know and could not with reasonable diligence have ascertained that the possession of the fish, oysters, or marine mammals would constitute the offence charged against him”.

**3. Apprehension of persons offending against regulations—**Section 52 of the principal Act is hereby amended—

- (a) By inserting in subsection (1), after the words “found offending against this Act”, the words “or against any regulations made under this Part of this Act”:
- (b) By inserting in subsection (1), after the words “found offending against this Part of this Act”, the words “or against any regulations made under this Part”.

**4. Forfeiture of licence—**Section 62 of the principal Act is hereby amended by inserting, after the words “this Part of this Act” where they first appear, the words “or against any regulations made under this Part”.

**5. Regulations relating to freshwater fisheries—**Section 83 of the principal Act (as substituted by section 11 (1) of the Fisheries Amendment Act 1948) is hereby amended by inserting in subsection (2), after paragraph (d), the following paragraph:

- “(dd) Authorising the Secretary for Marine, subject to such conditions as may be prescribed in the regulations, to regulate the use of electric fishing devices for the taking of fish:”.

**6. Interpretation: freshwater fish—**Section 78 of the principal Act (as amended by section 9 (b) of the Fisheries Amendment Act 1948) is hereby further amended by inserting in the definition of the term “fish” in subsection (1), after the words “all fish”, the words “or shellfish (including crustaceans)”.

**7. Honoraria for honorary fishery officers—**Section 9 of the Fisheries Amendment Act 1959 is hereby amended by inserting, after subsection (8), the following subsection:

- “(8A) The Minister may out of money appropriated by Parliament for the purpose pay in any year an honorarium not exceeding \$500 to any honorary fishery officer. No such officer shall by virtue of the payment to him of any such honorarium be deemed to be employed by the Crown for the purposes of the State Services Act 1962 or the Superannuation Act 1956 or for the purposes of any other Act.”

**8. Boat-fishing permits for oyster dredging in Foveaux Strait**—(1) The Fisheries Amendment Act 1963 is hereby amended by inserting, after section 10, the following section:

“10A. (1) In this section—

“‘Dredging’, in relation to oysters, means taking oysters by means of oyster dredges; and ‘to dredge’ has a corresponding meaning:

“‘Special area’ means all that part of the New Zealand fisheries waters in Foveaux Strait—

“(a) Bounded to the west by a right line between Black Rock Point and the westernmost point of Omaui Island; and

“(b) Bounded to the east by a series of right lines commencing at Trig. Station Waituna at the eastern edge of Waituna Lagoon, situated in Block XIV, Oteramika Hundred, and proceeding south-westerly to the most eastern point on Green Island; thence to the most southern point on Ruapuke Island; thence to the northernmost point on Bench Island; and thence to Ackers Point—

as more particularly delineated on the map numbered M.D. 13574 deposited in the head office of the Marine Department at Wellington, and thereon edged red:

“‘Superintendent’ means the Superintendent at Bluff.

“(2) Any owner of a registered fishing boat desiring to obtain a boat-fishing permit authorising that boat to be used in dredging for oysters in the special area in any year shall make an application in the prescribed form to the Superintendent not later than the 1st day of January in that year.

“(3) Every application under subsection (2) or subsection (6) of this section shall be accompanied by—

“(a) The fee prescribed for oyster dredging; and

“(b) A statement in the prescribed form as to the ownership of the boat to which the application relates, which statement shall be verified by statutory declaration of the applicant or, where the applicant is an incorporated company, of the secretary or a director of the company:

“Provided that where an application is made by an incorporated company the application shall include the names and addresses of the shareholders of the company and the number of shares held by each of those shareholders:

“(c) Such other particulars as the Minister from time to time directs.

“(4) No more than 23 boat-fishing permits for oyster dredging in the special area may be in force at any one time.

“(5) Subject to any directions given by the Minister to the contrary, as soon as practicable after the 1st day of January in each year, the Superintendent shall deal with the applications made under subsection (2) of this section in accordance with the following provisions:

“(a) If the number of applications does not exceed the number of permits authorised by subsection (4) of this section, the Superintendent shall, if he is satisfied that an applicant’s fishing boat is suitably equipped for oyster dredging and he has the financial and other means to carry on the business of oyster dredging, forthwith issue in respect of his boat a permit under this section:

“(b) If the number of applications exceeds the number of authorised permits—

“(i) The Superintendent shall give preference to any application made in respect of a fishing boat which he is satisfied was regularly used for oyster dredging in the special area, pursuant to a boat-fishing permit, during the year immediately preceding that to which the application relates and shall forthwith issue in respect of that boat a permit under this section:

“(ii) If after issuing permits in respect of boats which are given preference under subparagraph (i) of this paragraph the total number of authorised permits has not been issued and there is an outstanding application, the Superintendent shall, if he is satisfied that the applicant’s fishing boat is suitably equipped for oyster dredging and that he has the financial and other means to carry on the business of oyster dredging, forthwith issue in respect of the boat a permit under this section; but, if the number of outstanding applications exceeds the number of available permits, the Superintendent shall, as soon as practicable after the said 1st day of January, hold a ballot of those applications:

“(c) Where any ballot is required to be held under this section, the Superintendent shall place the names of the fishing boats specified in the outstanding applications in the ballot and shall draw as many

names as the number of available permits, and shall, as soon as practicable after holding the ballot, issue to the owners of the boats which were successful in the ballot permits under this section:

“(d) Notwithstanding the provisions of paragraph (c) of this subsection, no application shall be eligible to participate in a ballot held under that paragraph unless the Superintendent is satisfied that the boat named in the application is suitably equipped for oyster dredging and that its owner has the financial and other means to carry on the business of oyster dredging:

“(e) Where any ballot is held and the successful owner surrenders his right to a permit, another ballot shall be held if necessary.

“(6) Subject to any directions given by the Minister to the contrary, if during any year a permit issued under this section is cancelled for any reason, that permit shall be allocated in accordance with the following provisions:

“(a) Any owner of a registered fishing boat may make an application in the prescribed form for the available permit to the Superintendent:

“(b) If there is only one application, the Superintendent shall, if he is satisfied that the applicant’s fishing boat is suitably equipped for oyster dredging and he has the financial and other means to carry on the business of oyster dredging, forthwith issue in respect of his boat a permit under this section:

“(c) If there is more than one application and one of the applicants was the holder of the cancelled permit and that permit was cancelled under paragraph (d) or paragraph (e) of subsection (10) of this section, the Superintendent shall give him preference over the other applicants and shall forthwith issue in respect of his fishing boat a permit under this section; but in every other case where there is more than one application, the Superintendent shall, as soon as practicable after the closing date for applications determined by him, hold a ballot of the applications, and the provisions of paragraphs (c), (d), and (e) of subsection (5) of this section shall apply.

“(7) Where a permit is issued under this section to the owner of a registered fishing boat, that permit shall authorise

him to use the boat for oyster dredging in the special area during the year to which the application relates and shall then expire:

“Provided that nothing in this subsection shall authorise any such owner to dredge for oysters in the special area during any prescribed close season for the taking of oysters from that area, or, in any case where a close season has been prescribed in respect of only part of the special area, to dredge for oysters in that part during that close season.

“(8) No boat-fishing permit authorising a registered fishing boat to dredge for oysters in the special area may be issued in any year if there has been in force in that year in respect of that boat a boat-fishing permit authorising the taking of crayfish; and no boat-fishing permit authorising the taking of crayfish from any registered fishing boat may be issued in any year in respect of a registered fishing boat if there has been in force in that year in respect of that boat a boat-fishing permit authorising oyster dredging in the special area.

“(9) On issuing any permit under this section, the Superintendent shall notify in writing to the Secretary for Marine the name and registration number of the boat in respect of which the permit was issued and the name and address of the owner of that boat.

“(10) Without limiting the provisions of section 62 of the principal Act, every boat-fishing permit issued under this section in respect of any registered fishing boat shall be deemed to be cancelled where—

“(a) The Superintendent receives notice in writing from the owner that he desires the permit to be cancelled:

“(b) The owner, being an individual, dies, or, being an incorporated company, is dissolved:

“Provided that, where the owner of any such boat has died, the Superintendent may from time to time extend the permit for such period as he thinks fit:

“Provided also that, where any such boat is owned by two or more persons jointly, or severally in common, the permit shall not be deemed to be cancelled under this paragraph until the death of the survivor of those persons:

“(c) The boat is transferred to or becomes vested in some person other than the sole owner at the time of its registration:

“(d) Subject to paragraph (b) of this subsection, any share in the boat is transferred to or becomes vested in

any person who did not own a share in it at the time of the issue of the permit, or, if the boat is owned by an incorporated company, any share in that company is transferred to any person who did not own a share in the company at the time of the issue of the permit:

“(e) The boat is lost or destroyed, or is for any reason no longer capable of being operated.

“(11) Where any permit issued under this section is cancelled or deemed to be cancelled, the Superintendent shall send particulars of the cancellation to the Secretary for Marine.”

(2) Section 3 of the Fisheries Amendment Act 1963 is hereby consequentially amended by inserting in the definition of the term “boat-fishing permit” in subsection (1), after the words “section 10”, the words “or section 10A”.

(3) Section 10 of the Fisheries Amendment Act 1963 (as amended by section 15 of the Fisheries Amendment Act 1968) is hereby further amended by adding the following subsection:

“(4) Notwithstanding the provisions of subsection (1) of this section, no boat-fishing permit for the taking of oysters by means of dredging from the special area referred to in section 10A of this Act may be issued under this section.”

(4) Section 12 of the Fisheries Amendment Act 1963 is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Notwithstanding the provisions of subsection (1) of this section, it shall not be lawful for any boat to be used in any year for the taking of oysters for the purposes of sale by means of dredging from the special area referred to in section 10A of this Act, unless there is for the time being in force in respect of that boat a boat-fishing permit issued under the said section 10A.”

(5) The said section 12 is hereby further amended by inserting in subsection (2), after the words “of subsection (1)”, the words “or subsection (1A)”.

(6) Section 14 of the Fisheries Amendment Act 1963 is hereby amended by inserting in subsection (1), before the words “Where after the issue of any fishing permit”, the words “Except in the case of a boat-fishing permit issued under section 10A of this Act,”.