



## ANALYSIS

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1992, No. 137

**An Act to amend the Fisheries Act 1983**

[18 December 1992]

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 Amendment Act (No. 3) 1992, and shall be read together with and deemed part of the Fisheries Act 1983 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the day on which it receives the Royal assent.

**2. Decisions of Quota Appeal Authority**—Section 281 of the principal Act (as inserted by section 10 of the Fisheries Amendment Act 1986) is hereby amended by adding the following subsection:

“(4) Notwithstanding anything in the Judicature Amendment Act 1972 or any other enactment or rule of law, no application for review under Part I of that Act challenging a decision of the Quota Appeal Authority and no other proceedings whatever in respect of a decision of the Authority shall be made or commenced by any person, or heard or determined by any court, unless the application is or the proceedings are made or commenced within 3 months after the date on which the person is notified of the decision.”

**3. Limitations on powers of Quota Appeal Authority and courts in certain cases**—(1) The principal Act is hereby amended by inserting, after section 282C (as inserted by

section 29 (1) of the Fisheries Amendment Act 1990), the following section:

“28ZGA. Notwithstanding anything in this Act or any other enactment or rule of law, in respect of any proceedings concerning any species of fish subject to a quota management system at the commencement of this section,—

“(a) Neither the Quota Appeal Authority nor any court shall, in respect of any proceedings whatever filed on or after the 16th day of September 1992, have power—

“(i) To allocate to any person any provisional maximum individual transferable quota, guaranteed minimum individual transferable quota, or individual transferable quota for any species of fish in any quota management area; or

“(ii) To make a declaration or decision concerning the right of any person to such an allocation,— unless that person was, immediately before the date of the relevant declaration under section 28B of this Act, lawfully entitled, through the holding of a fishing permit and all other necessary authorities at that date, to take fish of that species in that area:

“(b) No court or tribunal shall, in respect of any proceedings whatever filed on or after the 16th day of September 1992, review, quash, or call into question—

“(i) Any decision of the Director-General made before that date under section 28E (3) of this Act; or

“(ii) Any decision of the Quota Appeal Authority made under or in respect of section 28I of this Act insofar as the decision relates to any decision of the Director-General under section 28E (3) of this Act:

“(c) No proceedings whatever filed before the 16th day of September 1992 may be amended after that date, to bring within the scope of the proceedings any decision of the Director-General made before that date or any decision of the Quota Appeal Authority under section 28E (3) of this Act:

“(d) No court or tribunal shall, in respect of any proceedings filed on or after the 5th day of October 1992, review, quash, or call into question, or award any damages in respect of, any decision made before the 1st day of October 1986 by or on behalf of the

Director-General under section 63 or section 64 of the principal Act:

“(e) No proceedings whatever filed before the 5th day of October 1992 may be amended after that date to bring within the scope of the proceedings any decision made before the 1st day of October 1986 by or on behalf of the Director-General under section 63 or section 64 of the principal Act.”

(2) Nothing in paragraph (a) or paragraph (b) of section 28ZGA of the principal Act (as inserted by subsection (1) of this section) affects any application for review or other civil proceedings made or commenced before the 16th day of September 1992.

(3) Nothing in paragraph (d) or paragraph (e) of section 28ZGA of the principal Act (as so inserted) affects any civil proceedings filed before the 5th day of October 1992.

**4. Fishing permits**—Section 63 of the principal Act (as substituted by section 13 of the Fisheries Amendment Act 1986) is hereby amended by adding the following subsections:

“(13) Notwithstanding any other provision of this section, in respect of the period beginning on the commencement of this subsection and ending with the close of the 30th day of September 1994, the following provisions shall apply:

“(a) No fishing permit shall be issued 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 (being established by or under Part IIA or Part IIB of this Act), except to a person who held a fishing permit that was in force on the 30th day of September 1992 and caught fish, aquatic life, or seaweed under a fishing permit held by that person at any time during the period commencing on the 1st day of October 1990 and ending with the close of the 30th day of September 1992:

“(b) Where a fishing permit may be issued to such a person, a permit shall only authorise the taking of those species caught as a target species (not being bycatch) under the authority of the permit held by that person during the period specified in paragraph (a) of this subsection:

“(c) In the case of any current fishing permit issued before the commencement of this subsection in respect of any species (other than tuna) not subject to a quota management system (as so established), the

Director-General shall revoke the permit or the relevant conditions of the permit, as the case may require, if satisfied that the holder did not lawfully take that species as a target species (not being bycatch) at any time during the period specified in paragraph (a) of this subsection:

“(d) For the purposes of establishing whether or not a permit holder lawfully took any species during the period specified in paragraph (a) of this subsection, the Director-General shall only accept information from fishing records or returns duly completed and furnished before the 15th day of October 1992 in the prescribed manner or in accordance with requirements made under section 66 (3) of this Act.

“(14) For the purposes of subsection (13) of this section, ‘tuna’ means any fish of the species family *Katsuwonus*, *Euthynnus*, *Thunnus*, *Allothunnus*, or *Gasterochisma*.”

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This Act is administered in the Ministry of Agriculture and Fisheries.

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