



ANALYSIS

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1975, No. 50

An Act to amend the Fishing Industry Board Act 1963

[19 September 1975]

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 Fishing Industry Board Amendment Act 1975, and shall be read together with and deemed part of the Fishing Industry Board Act 1963 (hereinafter referred to as the principal Act).

2. Interpretation—Section 2 of the principal Act is hereby amended by inserting, after the definition of “Board”, the following definition:

“‘Director-General’ means the Director-General of Agriculture and Fisheries.”

3. Act to bind Crown—The principal Act is hereby amended by inserting, after section 2, the following section:

“2A. This Act shall bind the Crown.”

4. Membership of Fishing Industry Board—(1) Section 3 (2) of the principal Act is hereby amended—

(a) By omitting the word “seven”, and substituting the word “eight”:

(b) By adding to paragraph (c) the words “and processors of fish”:

(c) By inserting, after paragraph (e), the following paragraph:

“(f) One member, to be either the Director-General or his nominee, but this member shall not be entitled to vote at any meeting of the Board or to be selected as Chairman pursuant to section 8 (4) of this Act; nor shall he be counted in determining whether a quorum of the Board is present pursuant to section 8 (3) of this Act.”

(2) Section 4 (1) of the principal Act is hereby amended by omitting the words “The members of the Board”, and substituting the words “All members of the Board except the Director-General and his nominee”.

(3) Section 4 (2) (b) of the principal Act is hereby amended by adding the words “or processors of fish”.

(4) Section 6 of the principal Act is hereby amended by omitting subsection (1), and substituting the following subsection:

“(1) Subject to subsection (2) of this section, each member of the Board appointed by the Governor-General shall be appointed for a term not exceeding 3 years, and shall be eligible for reappointment from time to time.”

5. Disqualification for appointment—(1) The principal Act is hereby amended by repealing section 5, and substituting the following section:

“5. (1) No person shall be appointed as Chairman of the Board under section 3 (2) (a) of this Act if he is financially interested in the fishing industry.

“(2) For the purposes of this section, a person shall be deemed to be financially interested in the fishing industry if he—

“(a) Is the owner of or of any share in a fishing boat for the time being registered under Part I of the Fisheries Amendment Act 1963; or

“(b) Is engaged in fishing for the purposes of sale; or

“(c) Is engaged in the business of selling fish, whether by wholesale or retail; or

“(d) Is in partnership with any person specified in paragraphs (a) to (c) of this subsection; or

“(e) Is a member or director or employee of any incorporated company carrying on the business of fishing or of selling fish, whether by wholesale or retail; or

“(f) Is the spouse or employee of any person disqualified under the provisions of this subsection.

“(3) If the Chairman of the Board becomes disqualified under this section for appointment, his office as a member of the Board shall thereupon become vacant, and may be filled in the manner specified in section 7 of this Act.”

(2) Section 7 (2) of the principal Act is hereby amended by omitting the words “a member appointed under paragraph (a) or paragraph (e) of subsection (2) of section 3 of this Act”, and substituting the words “the Chairman”.

6. Committees—Section 9 (3) of the principal Act is hereby amended by repealing the proviso.

7. Functions of Board—Section 10 (1) of the principal Act is hereby amended by revoking paragraph (f), and substituting the following paragraphs:

“(f) To promote, both alone and in collaboration with other agencies, means of ensuring that proper standards are maintained with respect to fish and fish products intended for consumption in New Zealand or for export, both as to the quality thereof and as to the use of hygienic methods in the handling, processing, storage, packaging, and transport thereof and, where appropriate, to establish the form, size, and use of quality marks relating to these standards in accordance with regulations under this Act:

“(fa) To co-ordinate the domestic and export marketing of fish and fish products:

“(fb) To licence exporters of fish and fish products in accordance with regulations under this Act.”.

8. Levy on fish—Section 14 (3) of the principal Act is hereby amended by adding the words “or, in the case of any person who may be liable for the payment of charges in more than one capacity, in relation to any notional price calculated in accordance with regulations under this Act.”

9. Financial—(1) Section 18 of the principal Act is hereby amended by repealing subsections (1) and (2), and substituting the following subsections:

“(1) The Board may from time to time open at any branch or agency of the Bank of New Zealand (whether in New Zealand or elsewhere) such imprest and other subsidiary accounts as it may think necessary or desirable for the exercise of its functions under this Act.

“(2) All bank accounts of the Board shall be operated on only by cheque or other instrument signed by such person or persons as the Board may from time to time appoint for that purpose.”

(2) Section 22 of the principal Act is hereby amended by omitting the words “two hundred dollars” (as substituted by section 7 (1) of the Decimal Currency Act 1964), and substituting the expression “\$500”.

10. Officers and employees of Board—Section 27 of the principal Act is hereby amended by repealing subsections (1) and (2), and substituting the following subsection:

“(1) The Board may appoint such officers and employees as it thinks necessary for the efficient carrying out of its functions under this Act.”

11. Service of notices—Section 33 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) Every notice shall be signed by the Chairman or by such other officers as may from time to time be authorised by the Board to sign notices, and every notice purporting so to be signed shall, in the absence of proof to the contrary, be deemed to have been duly signed by the person or persons purporting to have signed it.”

12. Offences—Section 34 (2) of the principal Act is hereby amended by omitting the words “two hundred dollars” (as substituted by section 7 (1) of the Decimal Currency Act 1964), and substituting the words “\$500 and, where the offence is a continuing one, to a further fine of \$10 for every day on which the offence has continued.”

13. Regulations—(1) Section 35 (1) of the principal Act is hereby amended by inserting, after paragraph (c), the following paragraphs:

“(ca) Providing for the issue, refusal, renewal, suspension, revocation, and modification of licences for exporters of fish and fish products:

“(cb) Prescribing minimum F.O.B. prices or a range of minimum F.O.B. prices for fish and fish products:

“(cc) Providing for the prescribing and notification of the form, size, and use of quality marks established pursuant to section 10 (1) (f) of this Act.”

(2) Section 35 (3) of the principal Act is hereby amended by adding the words “or, in the case of any person who may be liable for the payment of charges in more than one capacity, in relation to any notional price calculated in accordance with regulations under this Act.”

14. Licensing Appeals—The principal Act is hereby further amended by inserting, after section 35, the following section:

“35A. (1) Any person affected by a decision of the Board—

“(a) Refusing an application by him for a licence under regulations under this Act; or

“(b) Refusing an application by him for the renewal of any such licence; or

“(c) Refusing to approve the issue or renewal of any such licence except subject to conditions; or

“(d) Revoking or suspending any such licence—

may, within 28 days after the date on which notice of the decision has been given to him by the Board, appeal to the Supreme Court against the whole or any part of the decision.

“(2) Every such appeal shall be heard and determined by the Administrative Division of the Supreme Court and two assessors (in this section referred to as the Court).

“(3) The assessors in respect of each such appeal shall be appointed by the Minister of Justice. One of them shall be appointed on the nomination of the Board and the other on the nomination of the appellant.

“(4) At the hearing of the appeal, the Court shall hear all evidence tendered and representations made by or on behalf of the appellant, the Board, and other persons which the Court considers relevant to the subject-matter of the appeal.

“(5) The Court may at the hearing receive as evidence any statement, document, information, or matter that may in its opinion assist it to deal effectually with the matters before it, whether or not it would be otherwise admissible in a Court of law.

“(6) The Court in its discretion may, having regard to the interests of all parties concerned and to the public interest, order that the hearing or any part of it shall be held in private.

“(7) The decision of the Judge of the Court and at least one of the assessors shall be the decision of the Court; but if neither of the assessors is in agreement with the Judge, the decision of the Judge shall be the decision of the Court.

“(8) Subject to the provisions of this section, the procedure in respect of any appeal shall be in accordance with rules of Court.

“(9) After hearing the appeal, the Court may—

“(a) Confirm, modify, or reverse the decision or part of the decision appealed against:

“(b) Order that a licence be granted to the appellant, or that any licence which has expired or is due to expire be renewed, or that a licence be restored to its holder, or order the cancellation of any decision of the Board suspending the licence, or make such other order as the case may require:

“Provided that nothing in this subsection shall be construed to give the Court power to review any part of the Board’s decision other than the part against which the appellant has appealed.

“(10) Where the Board revokes any licence issued under any regulations under this Act or refuses to renew any licence on an application for its renewal, the licence shall, notwithstanding the Board’s decision, be deemed to be only suspended pending the disposal of any appeal under this section, or the expiration of the time for lodging notice of appeal, or the withdrawal of any such appeal, whichever last occurs.

“(11) Notwithstanding anything in subsection (10) of this section, the Board in its discretion may decide that a licence which it has revoked or suspended shall remain valid pending the disposal of any appeal or the expiration of the time for lodging an appeal under this section.”