



ANALYSIS

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1978, No. 64

An Act to amend the Fishing Industry Board Act 1963

[16 October 1978]

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 and commencement—(1) This Act may be cited as the Fishing Industry Board Amendment Act 1978, and shall be read together with and deemed part of the Fishing Industry Board Act 1963 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of January 1979.

2. Interpretation—(1) Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “Director-General” (as inserted by section 2 of the Fishing Industry Board Amendment Act 1975), the following definitions:

“‘Exported’, in relation to any fish, means exported from New Zealand for sale, whether in its natural state, a processed state, or manufactured into fish products; and ‘export’, ‘exporter’, and ‘exports’ have corresponding meanings:

“Provided that all fish taken in New Zealand fisheries waters (within the meaning of the Fisheries Act 1908) by or from a New Zealand fishing craft (within the meaning of the Territorial Sea and Exclusive Economic Zone Act 1977) and landed elsewhere than in New Zealand shall be deemed to have been exported from New Zealand for the purposes of this Act:

“‘Exporter’ includes a person who exports on behalf of another person:”.

(2) Section 14 of the principal Act is hereby consequentially amended by omitting from subsection (1), and also from subsection (2), the words “from New Zealand”.

(3) Regulation 2 of the Fish Levy Regulations 1976 is hereby consequentially amended by revoking the definition of the term “Exporter”.

3. Establishment of New Zealand Fishing Industry Board—

(1) The principal Act is hereby further amended by repealing section 3, and substituting the following section:

“3. (1) There is hereby established the New Zealand Fishing Industry Board.

“(2) The New Zealand Fishing Industry Board established by subsection (1) of this section is hereby declared to be the same Board as that established by this Act and called, before the commencement of the Fishing Industry Board Amendment Act 1978, the Fishing Industry Board.

“(3) The Board shall comprise the Director-General or his nominee and 7 other members appointed by the Minister, being—

“(a) One member, to be appointed Chairman of the Board:

“(b) One member nominated by the New Zealand Federation of Commercial Fishermen Incorporated:

“(c) One member nominated by the New Zealand Sharefishermen’s Association Incorporated:

“(d) Two members nominated by the New Zealand Seafood Processors’ Association Incorporated:

“(e) One member nominated by an organisation or organisations appearing to the Minister to be representative of retailers of fish:

“(f) One other member.

“(4) The Board shall be a body corporate with perpetual succession and a common seal, and shall be capable of purchasing or otherwise acquiring, holding, disposing of, and alienating real and personal property, and of suing and being sued, and of doing and suffering all such acts and things as bodies corporate may lawfully do and suffer.

“(5) No member of the Board shall be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962 or the Government Superannuation Fund Act 1956 by reason of his being a member of the Board.”

(2) Section 2 of the principal Act is hereby consequentially amended by repealing the definition of the term “Board”, and substituting the following definition:

“‘Board’ means the New Zealand Fishing Industry Board established by section 3 (1) of this Act.”

(3) Section 5 of the principal Act (as substituted by section 5 (1) of the Fishing Industry Board Amendment Act 1975) is hereby consequentially amended by omitting from subsection (1) the words “under section 3 (2) (a) of this Act”.

(4) Section 4 of the principal Act and subsections (1), (2), and (3) of section 4 of the Fishing Industry Board Amendment Act 1975 are hereby consequentially repealed.

4. Term of office—(1) The principal Act is hereby further amended by repealing section 6 (as amended by section 4 (4) of the Fishing Industry Board Amendment Act 1975), and substituting the following section:

“6. (1) Each member of the Board appointed by the Minister shall so be appointed for a term not exceeding 3 years, and may from time to time be reappointed.

“(2) Notwithstanding anything to the contrary in this Act, every member of the Board, unless he sooner vacates his office under section 5 or section 7 of this Act, shall continue in office until his successor comes into office.”

(2) Section 4 (4) of the Fishing Industry Board Amendment Act 1975 is hereby consequentially repealed.

5. Deputies of members—The principal Act is hereby further amended by inserting, after section 6, the following section:

“6A. (1) If the Minister is satisfied that an appointed member of the Board is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, he may appoint a qualified person to be the deputy of that member during his incapacity.

“(2) Any deputy appointed under this section shall, while he acts as such, be deemed to be a member appointed under the same provision and having the same status as the member of whom he is the deputy.

“(3) No appointment of a deputy and no acts done by him as such, and no acts done by the Board while any deputy is acting as such, shall in any proceedings be questioned on the ground that the occasion for his appointment has not arisen or had ceased.”

6. Extraordinary vacancies—Section 7 of the principal Act is hereby amended by repealing subsections (2) and (3), and substituting the following subsection:

“(2) If any member of the Board dies, or resigns, or is removed from office, the Minister may appoint a person to fill the vacancy for the residue of the term for which the vacating member was appointed; but where the vacating member was appointed under paragraph (b) or paragraph (c) or paragraph (d) or paragraph (e) of section 3 (2) of this Act, the new member shall be appointed in accordance with that paragraph.”

7. New sections substituted—The principal Act is hereby further amended by repealing section 8, and substituting the following sections:

“8. **Meetings of Board**—(1) Meetings of the Board shall be held at times and places appointed by the Board.

“(2) At any meeting of the Board, 5 members, at least one of whom shall be the Chairman, the Director-General or his nominee, shall form a quorum.

“(3) Subject to section 8A (4) of this Act, at any meeting the decision of a majority of the members present shall be the decision of the Board.

“(4) Subject to the provisions of this Act, the Board shall regulate its own procedure.

“8A. Chairman and Deputy Chairman—(1) At the first meeting of the Board after the 1st day of January 1979, and thereafter as the office becomes vacant, the members of the Board shall elect a Deputy Chairman from among their number.

“(2) Unless he sooner ceases to be a member of the Board, or resigns the office of Deputy Chairman, the Deputy Chairman of the Board shall hold office as such for the residue of his term of office as a member but, so long as he remains a member, shall be eligible for re-election from time to time.

“(3) The Chairman, or in his absence the Deputy Chairman, shall preside at all meetings of the Board, but if both are absent from a meeting then the members present shall elect one of their number to preside at that meeting.

“(4) At any meeting of the Board the person presiding shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote.”

8. Levy on fish—(1) Section 14 (3) of the principal Act is hereby amended by omitting the words “or, in the case of any person who may be liable for the payment of any charges in more than one capacity, in relation to any notional price calculated in accordance with regulations made under this Act” (as added by section 8 of the Fishing Industry Board Amendment Act 1975), and substituting the words “or, in the case of fish sold by a wholesaler who is also the fisherman who took them, in relation to a notional price ascertained in accordance with regulations made under this Act”.

(2) Section 35 (3) of the principal Act is hereby consequentially amended by omitting 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” (as added by section 13 (2) of the Fishing Industry Board Amendment Act 1975), and substituting the words “or, in the case of fish sold by a wholesaler who is also the fisherman who took them, in relation to a notional price ascertained in accordance with regulations made under this Act”.

(3) Section 8 and section 13 (2) of the Fishing Industry Board Amendment Act 1975 are hereby consequentially repealed.

9. Additional levy on fish—(1) The principal Act is hereby further amended by inserting, after section 14, the following section:

“14A. (1) In addition to the levy payable under section 14 of this Act, there shall be paid to the Board, by prescribed classes of those persons engaged in the taking of fish for the purposes of sale, in accordance with and at such rate as may be specified in regulations made under this Act, a levy on all fish taken by them and sold in or exported from New Zealand.

“(2) The Board shall pay all amounts received by it in payment of the levy imposed by subsection (1) of this section to such organisations representing persons engaged in the taking of fish for the purposes of sale, and in such proportions, as the Minister from time to time specifies.”

(2) Section 35 of the principal Act is hereby consequentially amended by adding the following subsection:

“(4) Without limiting the generality of subsection (1) of this section, it is hereby declared that regulations made under this Act may provide for the payment to the Board of the levy imposed by section 14A (1) of this Act, in respect of any fish, by persons other than the fishermen who took those fish, and the recovery of the amount of the levy so paid by those persons from those fishermen.”

10. Transitional—(1) The persons holding office as appointed members of the Board immediately before the commencement of this Act shall go out of office upon its commencement, but shall be eligible for reappointment from time to time.

(2) Notwithstanding section 6 of the principal Act, the members of the Board first appointed after the commencement of this Act shall hold office in accordance with the following provisions, but shall be eligible for reappointment from time to time:

- (a) The Chairman shall be appointed for a term of 2 years:
- (b) The member appointed under section 3 (3) (b) of the principal Act shall be appointed for a term of 3 years:
- (c) The member appointed under section 3 (3) (c) of the principal Act shall be appointed for a term of one year:
- (d) Of the members appointed under section 3 (3) (d) of the principal Act, one shall be appointed for a term of 3 years and the other for a term of one year:

- (e) The member appointed under section 3 (3) (e) of the principal Act shall be appointed for a term of 2 years:
- (f) The member appointed under section 3 (3) (f) of the principal Act shall be appointed for a term of one year.

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