

2 *Territorial Sea and Exclusive Economic Zone*

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 Territorial Sea and Exclusive Economic Zone Act 1977. 5

(2) Section 27 of this Act shall come into force on the passing of this Act.

(3) Except as provided in subsection (2) of this section, the provisions of this Act shall come into force on a date to be appointed by the Governor-General by Order in Council. 10

(4) For the purposes of subsection (3) of this section, one or more Orders in Council may be made—

(a) Bringing different provisions of this Act into force on different dates; and 15

(b) Bringing provisions of this Act into force on different dates in respect of specified parts of New Zealand.

2. **Interpretation**—(1) In this Act, unless the context otherwise requires,—

“Bay” means an indentation of the coast such that its area is not less than that of the semi-circle whose diameter is a line drawn across the mouth of the indentation (for the purposes of which definition— 20

(a) The area of an indentation shall be taken to be the area bounded by low-water mark around the shore of the indentation and the straight line joining the low-water marks of its natural entrance points; and 25

(b) Where, because of the presence of islands, an indentation has more than one mouth, the length of the diameter of the semi-circle referred to shall be the sum of the lengths of the straight lines drawn across each of the mouths; and 30

(c) In calculating the area of an indentation, the area of any islands lying within it shall be treated as part of the area of the indentation): 35

“Exclusive economic zone” and “zone” mean the exclusive economic zone of New Zealand described in section 9 of this Act:

“Fish” means every description of fish and shellfish and their young or fry or spawn, except sedentary 40

species as described in paragraph (b) of the definition of the term "natural resources" in section 2 of the Continental Shelf Act 1964:

5 "Fishery" means one or more stocks of fish that can be treated as a unit for the purposes of conservation and management:

"Fishing" means—

(a) Taking any fish; or

10 (b) Engaging in any activity relating to the taking of any fish, including (inter alia) any activity involving the preparation, supply, storage, refrigeration, transportation, or processing of any fish(:) ; or

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15 (c) Engaging in any activity relating to the provision of any services to any fishing craft to enable or assist that craft to engage in fishing:

"Fishing craft" means any vessel, aircraft, hovercraft, submersible craft, or other craft, of whatever size *[and however propelled]*, that is capable of being used for fishing:

20 "Foreign fishing craft" means any fishing craft that is not a New Zealand fishing craft:

25 "Highly migratory species" means species that, in the course of their life cycle, migrate over great distances of ocean:

30 "International agreement" means any bilateral or multilateral treaty, convention, or agreement, to which New Zealand is a party, and any understanding concluded by the Government of New Zealand and the government of any other country:

"Island" means a naturally formed area of land that is surrounded by and above water at mean high-water spring tides:

35 "Licence" means a licence issued under section 15 of this Act in respect of a foreign fishing craft; and "licensed" has a corresponding meaning:

"Licensee" means the person to whom a licence is issued:

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40 "Low-water mark" has the meaning assigned to that expression by section 29 of this Act:

"Low-tide elevation" means a naturally formed area of land that is surrounded by and above water at mean low-water spring tides but is submerged at mean high-water spring tides:

"Master", in relation to a fishing craft, means the person for the time being having command or charge of the craft: 5

"Median line" as between New Zealand and any other country, means a line every point of which is equidistant from the nearest points of the baseline of the territorial sea of New Zealand and the corresponding baseline of that other country: 10

"Minister" means the Minister of Fisheries:

"Nautical mile" means the international nautical mile of 1852 metres: 15

"New Zealand" (except for the purposes of Part II of this Act and section 27 of this Act) includes the Ross Dependency:

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"New Zealand fisheries waters" has the same meaning as it has in section 2 (1) of the Fisheries Act 1908: 20

"New Zealand fishing craft" means a fishing craft—
(a) That is a New Zealand ship within the meaning of section 2 (1) of the Shipping and Seamen Act 1952; or
(b) That is an aircraft registered in New Zealand under the Civil Aviation Act 1964; or
(c) In which no person who is not a New Zealand citizen has any legal or equitable interest (except by way of security only for any advance made by him to the owner): 25 30

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"New Zealand Government ship" has the same meaning as it has in section 2 (1) of the Shipping and Seamen Act 1952: 35

"Owner", in relation to a fishing craft, includes any body of persons, whether incorporated or not, by whom the craft is owned, and any charterer, sub-charterer, lessee, or sub-lessee of the craft:

"Prescribed" means prescribed by regulations made under this Act: 40

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5 "Shellfish" includes every description of molluscs, crustaceans, and echinoderms found in New Zealand fisheries waters, and their young or spawn, but does not include oysters:

"Take" includes—

(a) To take, catch, kill, attract, or pursue by any means or device; and

10 (b) To attempt to do any act specified in paragraph (a) of this definition:

15 "Total allowable catch", with respect to the yield from any fishery, means the amount of fish that will produce from that fishery the maximum sustainable yield, as qualified by any relevant economic or environmental factors, (and taking into account) fishing patterns, the interdependence of stocks of fish, and any generally recommended subregional, regional, or global standards.

20 (2) For the purposes of this Act, permanent harbour works that form an integral part of a harbour system shall be treated as forming part of the coast.

PART I

THE TERRITORIAL SEA OF NEW ZEALAND

25 **3. The territorial sea**—The territorial sea of New Zealand comprises those areas of the sea having, as their inner limits, the baseline described in sections 5 and 6 of this Act and, as their outer limits, a line measured seaward from that baseline, every point of which is distant 12 nautical miles from the nearest point of the baseline.

30 **4. Internal waters**—The internal waters of New Zealand include any areas of the sea that are on the landward side of the baseline of the territorial sea of New Zealand.

35 **5. Baseline of territorial sea**—(1) Except as otherwise provided in section 6 of this Act, the baseline from which the breadth of the territorial sea of New Zealand is measured shall be the low-water mark along the coast of New Zealand, including the coast of all islands.

40 (2) For the purposes of this section, a low-tide elevation that lies wholly or partly within the breadth of sea that would be territorial sea if all low-tide elevations were disregarded for the purpose of the measurement of the breadth of the territorial sea shall be treated as an island.

6. Baseline of territorial sea adjacent to bay—In the case of the sea adjacent to a bay, the baseline from which the breadth of the territorial sea is measured—

- (a) Where the bay has only one mouth and the distance between the low-water marks of the natural entrance points of the bay does not exceed 24 nautical miles, shall be a straight line joining those low-water marks; and 5
- (b) Where, because of the presence of islands, the bay has more than one mouth and the distances between the low-water marks of the natural entrance points of each mouth added together do not exceed 24 nautical miles, shall be a series of straight lines across each of the mouths so as to join those low-water marks; and 10
- (c) Where neither paragraph (a) nor paragraph (b) of this section applies, shall be a straight line 24 nautical miles in length drawn from low-water mark to low-water mark within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length. 15 20 25

7. Bed of territorial sea and internal waters vested in Crown—Subject to the grant of any estate or interest therein (whether by or pursuant to the provisions of any enactment or otherwise, and whether made before or after the commencement of this Act), the seabed and subsoil of submarine areas bounded on the landward side by the low-water mark along the coast of New Zealand (including the coast of all islands) and on the seaward side by the outer limits of the territorial sea of New Zealand shall be deemed to be and always to have been vested in the Crown. 25 30

8. Regulations in territorial sea—Where no other provision is for the time being made by any other enactment for any such purposes, the Governor-General may from time to time, by Order in Council, make regulations (*not inconsistent with any other enactment*) for all or any of the following purposes: 35

- (a) Regulating the conduct of scientific research within the territorial sea: 38
- (b) Prescribing measures for the protection and preservation of the marine environment of the territorial sea: 40

- 5 (c) Regulating the construction, operation, and use of artificial islands (whether permanent or temporary), and other installations and structures in the territorial sea, including the establishment of safety zones around such islands, installations, and structures:
- 10 (d) Regulating the exploration and exploitation of the territorial sea for the production of energy from the water, currents, and winds, and for any other economic purposes:
- 15 (e) Providing for such other matters as are necessary or expedient for giving full effect to the sovereignty of New Zealand in relation to the territorial sea:
- 20 (f) Providing that a breach of any such regulations shall be a criminal offence, and imposing penalties by way of fine not exceeding \$10,000 for any such offences:
- 25 (g) Providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Part of this Act and for its due administration.

PART II

THE EXCLUSIVE ECONOMIC ZONE OF NEW ZEALAND

25 9. The exclusive economic zone—(1) The exclusive economic zone of New Zealand comprises those areas of the sea, seabed, and subsoil that are beyond and adjacent to the territorial sea of New Zealand, having as their outer limits a line measured seaward from the baseline described in sections 5 and 6 of this Act, every point of which line is distant 200 nautical miles from the nearest point of the baseline.

30 (2) Notwithstanding subsection (1) of this section, where—

35 (a) Any part of the median line between New Zealand and any other country is less than 200 nautical miles from the nearest part of the baseline of the territorial sea of New Zealand; and

40 (b) No other outer limit of the exclusive economic zone is for the time being determined by an Order in Council made under subsection (3) or subsection (4) of this section—

that part of the median line shall be an outer limit of the zone.

(3) The Governor-General may from time to time, by Order in Council, declare that any specified provisions of this Part of this Act, and any other specified provisions in

this Act relating to the exclusive economic zone, shall apply to the Ross Dependency, with such modifications and exceptions (if any) as he may specify in the order.

(4) For the purposes of implementing any international agreement, or the arbitral award of any international body, or the judgment of any international Court, or for any other purpose in accordance with international law, the Governor-General may from time to time, by Order in Council, declare that the exclusive economic zone shall not extend to any specified area of the sea, seabed, or subsoil, that would otherwise be included within the exclusive economic zone by virtue of this section. 5 10

10. Seas in zone to be New Zealand fisheries waters—

(1) The seas comprised in the exclusive economic zone shall be part of New Zealand fisheries waters. (*within the meaning of section 2 (1) of the Fisheries Act 1908.*) 15

(2) Except as otherwise provided in subsection (3) of this section, the following enactments shall apply accordingly within the exclusive economic zone:

(a) The Fisheries Act 1908: 20

(b) The Whaling Industry Act 1935.

(3) Notwithstanding any other provision in this section, the following shall not apply within the exclusive economic zone:

(a) Any provision in any enactment referred to in subsection (2) of this section, requiring the licensing or registration of, or the obtaining of permits by, foreign fishing craft for the purpose of fishing: 25

(b) Part II of the Fisheries Act 1908.

11. Calculation of total allowable catch—The Minister shall from time to time determine, in respect of every fishery within the exclusive economic zone, the total allowable catch. 30

12. Calculation of allowable catch by foreign fishing craft—(1) The Minister shall from time to time determine, in respect of the total allowable catch for every fishery within the exclusive economic zone, the portion that New Zealand fishing craft have the capacity to harvest. 35

(2) Where the Minister has determined, in respect of the total allowable catch for a fishery within the exclusive economic zone, the portion that New Zealand fishing craft have the capacity to harvest, the remaining portion shall constitute the allowable catch for that fishery for foreign fishing craft. 40

13. Apportionment of allowable catch for foreign fishing craft—(1) The Minister may from time to time apportion, among countries other than New Zealand, the allowable catch for foreign fishing craft in respect of any fishery within the exclusive economic zone, as determined under section 12 of this Act.

(2) In making an apportionment under subsection (1) of this section, the Minister may take into account (inter alia) the following considerations:

- 10 (a) Whether the fishing craft of countries to which the apportionment applies have engaged habitually in fishing within the exclusive economic zone:
- (b) Whether such countries have co-operated with New Zealand in fisheries research and in the identification of fish stocks within the zone:
- 15 (c) Whether such countries have co-operated with New Zealand in the conservation and management of fisheries resources within the zone, and in the enforcement of New Zealand law relating to such resources:
- 20 (d) The terms of any relevant international agreement:
- (e) Such other matters as the Minister, after consultation with the Minister of Foreign Affairs, determines to be relevant.

25 **14. Prohibition of operation of (unlicensed) unauthorised foreign fishing craft in zone**—No foreign fishing craft shall be used for fishing within the exclusive economic zone except in accordance with a licence issued by the Minister under section 15 of this Act in respect of that fishing craft.

30 **15. Grant of licences**—(1) Subject to subsection (2) of this section, the Minister may grant and issue to the owner of any named foreign fishing craft a licence to fish within the exclusive economic zone.

(2) The Minister shall exercise the powers conferred on him by this section in such a manner as to ensure that—

- 35 (a) The catch that all foreign fishing craft licensed under this section are for the time being authorised to harvest from any fishery within the exclusive economic zone does not exceed the allowable catch for foreign fishing craft for that fishery calculated under section 12 of this Act; and
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(b) The catch that all foreign fishing craft of a particular country licensed under this section are for the time being authorised to harvest from any fishery within the zone does not exceed the apportionment made under section 13 of this Act for that fishery in respect of that country. 5

(3) In granting a licence under this section, the Minister may attach to the licence conditions relating (inter alia) to all or any of the following matters:

(a) The areas within the exclusive economic zone in which fishing is authorised; and 10

(b) The seasons, times, and particular voyages during which fishing is authorised:

(c) The species, size, age, and quantities of fish that may be taken: 15

(d) The methods by which fish may be taken:

(e) The types, size, and amount of fishing gear that may be used or carried by a foreign fishing craft, and the modes of storage of that gear when not in use:

(f) The use, transfer, transhipment, landing, and processing of fish taken: 20

(g) Entry by the foreign fishing craft to New Zealand ports, whether for the inspection of its catch or for other purposes:

(h) The compensation payable to New Zealand citizens or to the *(New Zealand Government)* Crown in the event of any loss or damage caused by the foreign fishing craft to other fishing craft, or their gear or catch, or to fish stocks, or to pipelines or cables, or to other New Zealand interests: 25 30

(i) Statistical and other information required to be given by the foreign fishing craft to the Ministry of Agriculture and Fisheries, including statistics relating to catch and effort and reports as to the positions of the craft: 35

(j) The conduct by the foreign fishing craft of specified programmes of fisheries research:

(k) The training of New Zealand personnel in the methods of fishing employed by the foreign fishing craft and the transfer to New Zealand of technology relating to fisheries: 40

(l) The display on board the foreign fishing craft of the licence issued in respect of it:

- (m) The marking of the foreign fishing craft, and other means for its identification:
- 5 (n) Directions, instructions, and other requirements given or made by New Zealand Government ships or aircraft to the foreign fishing craft that shall be complied with by the craft:
- 10 (o) The placing of New Zealand observers on the foreign fishing craft and the reimbursement to the Ministry of Agriculture and Fisheries by the licensee of the costs of doing so:
- 15 (p) The installation on the foreign fishing craft and maintenance in working order of a transponder or other equipment for the (fixing of its positions or its identification) identification and location of the craft, and of adequate navigational equipment to enable (it to fix its position itself:) its position to be fixed from the craft:
- 20 (q) The carriage on board the foreign fishing craft of specified nautical charts, nautical publications, and nautical instruments:
- (r) Such other matters as the Minister considers necessary or expedient for the conservation or management of fisheries resources within the zone.

25 **16. Renewal of licences**—Subject to section 15 (2) of this Act, the Minister may from time to time renew any licence granted under section 15 of this Act.

30 **17. Variation of licences**—(1) (The) Subject to section 15 (2) of this Act, the Minister may from time to time, where he is satisfied that it is necessary or expedient for the proper regulation of fishing within the exclusive economic zone to do so, vary the terms and conditions of any licence or licences, or class or classes of licence, granted under section 15 of this Act.

35 (2) Notice of every variation of any licence under this section shall be given as soon as practicable to the licensee.

40 **18. Licensing fees**—There shall be payable by every licensee to the Crown in respect of the granting of a licence under section 15 of this Act, or the renewal of a licence under section 16 of this Act, such fee as may from time to time be prescribed.

19. Licensing offences—(1) Where any foreign fishing craft that is not licensed under section 15 of this Act is used for fishing (*in contravention of section 14 of this Act,*) in the exclusive economic zone, each of them the owner, the master, and every crew member of the craft commits an offence against this Act. 5

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(1A) Where any foreign fishing craft that is not licensed under section 15 of this Act displays within New Zealand fisheries waters any marking or other means of identification that indicates that it is licensed under that section, each of them, the owner, the master, and every crew member of the craft commits an offence against this Act. 10

(2) Where any foreign fishing craft is used for fishing within the exclusive economic zone in contravention of any condition of a licence granted in respect of it under section 15 of this Act, each of them the licensee, (*the owner,*) the master, and every crew member of the craft commits an offence against this Act. 15

(3) Every owner or master of a foreign fishing craft who commits an offence specified in subsection (1) or subsection (1A) of this section is liable on summary conviction to a fine not exceeding \$100,000. 20

(4) Every crew member of a foreign fishing craft who commits an offence specified in subsection (1) or subsection (1A) of this section is liable on summary conviction to a fine not exceeding \$5,000. 25

(5) Every licensee, (*owner,*) or master of a foreign fishing craft who commits an offence specified in subsection (2) of this section is liable on summary conviction to a fine not exceeding \$25,000. 30

(6) Every crew member of a foreign fishing craft who commits an offence specified in subsection (2) of this section is liable on summary conviction to a fine not exceeding \$1,500.

(7) In this section, “crew member” does not include a licensee, owner, or master of a foreign fishing craft, or any New Zealand personnel or New Zealand observer on the craft pursuant to a condition attached to a licence under section 15 (3) of this Act. 35

20. Suspension and cancellation of licences—(1) Where the Minister is satisfied that—

- 5 (a) Any foreign fishing craft in respect of which a licence has been granted under section 15 of this Act is being or has been used for fishing within the exclusive economic zone in contravention of any condition of the licence or of any New Zealand law that applies to fishing within the zone; or
- 10 (b) Any licensee, (*owner*,) master, or crew member of a foreign fishing craft has been convicted of an offence against this Act, or against any regulations made under section 21 of this Act, or against any other New Zealand law relating to fishing within the zone—

15 he may suspend the licence of the craft for such period as he shall specify, or cancel the licence.

(2) Where the Minister, after consultation with the Minister of Foreign Affairs, determines that it is necessary or expedient for the proper regulation of fishing within the exclusive economic zone to do so, he may suspend any licence or licences for such period as he shall specify, or cancel any licence or licences.

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25 (3) No determination, variation, suspension, cancellation, or other action of the Minister under subsection (2) of this section shall be reviewable by any Court of law.

(4) While a licence is suspended under this section, it shall have no effect.

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30 20A. Review by Courts—No exercise by the Minister of any power conferred on him by section 17 or section 20 (2) of this Act shall be liable to be challenged, reviewed, quashed, or called in question in any Court on the ground that the conditions for the exercise of the power by him had not arisen or had ceased.

21. Fisheries regulations—(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Prescribing the manner of applying for licences under section 15 of this Act, and for the renewal of such licences under section 16 of this Act, and forms of applications: 5
 - (b) Prescribing the terms of duration of licences: 5
 - (c) Prescribing the forms of licences to be issued by the Minister: 5
 - (d) Prescribing the fees payable to the *(New Zealand Government)* Crown for the issue of licences and for their renewal: 10
 - (e) Providing for the production of licences by licensees to specified New Zealand authorities when required to do so, and the inspection of licences by such authorities: 10
 - (f) Providing for such other measures as are necessary or expedient to ensure that foreign fishing craft are used for fishing within the exclusive economic zone only in accordance with the terms and conditions of their licences: 15
 - (g) Prescribing conditions, not inconsistent with this Act, under which fishing may be undertaken within the zone by foreign fishing craft: 20
 - (h) Prescribing measures, not inconsistent with this Act, for the conservation and management of fisheries resources within the zone: 25
 - (i) Specifying particular types of highly migratory species of fish, and regulating, in a manner not inconsistent with this Act, fishing for those species within the zone, and also, in the case of New Zealand fishing craft, beyond the zone: 30
 - (j) Providing that a breach of any such regulation shall be a criminal offence, and imposing penalties by way of fine not exceeding, in the case of a licensee, owner, or master of a fishing craft, \$10,000 for any such offences and, in the case of any other crew member, \$1,000 for any such offences: 35
 - (k) Prescribing the form of bonds for the purposes of section 24 of this Act.
- (2) Regulations made under this section may make different provisions for different parts of the exclusive economic zone and for different species of fish. 40
- (3) In prescribing fees in regulations made under this section, the Governor-General in Council may—

- 5 (a) Take into account (inter alia) the cost of implementing the provisions of this Act and of the Fisheries Act 1908 with respect to fishing by foreign fishing craft within the exclusive economic zone, including the cost of the conservation and management of fisheries resources, and of fisheries research, and of the administration and enforcement of such enactments; and
- 10 (b) Prescribe different fees for different classes of foreign fishing craft (whether by reference to size, catch, method of fishing, function, or otherwise).

15 **22. Fishing for research, experimental, and sporting purposes**—Notwithstanding section 14 or section 19 of this Act, a foreign fishing craft may be used for fishing within the exclusive economic zone for the purpose of fisheries research or of experimentation or sport, subject always to the prior consent in writing of the Minister to such activity and in accordance with such conditions (if any) as the Minister may impose in giving his consent.

20 **23. Apprehension of offenders**—(1) Where any officer specified in subsection (11) of this section has reasonable cause to believe that an offence against this Act, or against regulations made under section 21 of this Act, or against any other New Zealand law relating to fishing within the exclusive economic zone, has been committed in respect of any foreign fishing craft, he may—

- (a) Stop, board, and search the craft; and
- (b) Inspect, seize, and detain all fish on board the craft; and
- 30 (c) Apprehend any person who he has reason to believe has committed any offence specified in subsection (1) of this section; and
- (d) Where he has reason to believe that any such offence has been committed by the licensee, owner, or master of the craft, seize and detain the craft.

35 (2) Any officer specified in subsection (11) of this section may exercise the powers conferred on him by subsection (1) of this section with the aid of such assistants as he considers to be necessary for the purpose.

(3) Where any foreign fishing craft is detained under subsection (1) of this section, it shall be held in the custody of the Crown until—

(a) A decision is made not to lay any information or charge in respect of the alleged offence for which the craft was detained; or 5

(b) Where such an information or charge is laid, the security required by section 24 of this Act is given in respect of the craft.

(4) The decision whether or not to lay an information or charge in respect of an alleged offence for which a foreign fishing craft is detained under subsection (1) of this section shall be made as soon as reasonably practicable after the craft is detained. 10

(5) The release of a foreign fishing craft from detention shall not affect any subsequent forfeiture of the craft in respect of the conviction of any person for an offence. 15

(6) On the conviction of any licensee, owner, or master of a foreign fishing craft for any offence specified in subsection (1) of this section, the craft shall be forfeited to the Crown, and shall be disposed of in such manner as the Minister shall order, in addition to any fine that may be imposed by any Court on the convicted person. 20

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(7) Where any officer specified in subsection (11) of this section detains any fish under subsection (1) of this section, the fish shall be held in the custody of the Crown until a decision is made not to lay an information or charge in respect of the alleged offence for which it was detained, or where such an information or charge is laid, until the information or charge is determined. 25 30

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(7) Where any fish is detained under subsection (1) of this section, it shall be held in the custody of the Crown (either on board the foreign fishing craft from which it was seized or in such other place as the Minister may direct) until— 35

(a) A decision is made not to lay any information or charge in respect of the alleged offence for which the fish was detained; or

(b) Where such an information or charge is laid, any security required by section 24 of this Act is given in respect of the fish. 40

(7A) The release of any fish from detention shall not affect any subsequent forfeiture of the fish on the conviction of any person for an offence.

5 (7B) The Crown shall not be liable to any person for any deterioration in the quality of any fish detained under subsection (1) of this section, whether such deterioration is caused by the negligence of the Crown or otherwise.

(8) On the conviction of any person for any offence specified in subsection (1) of this section in respect of any 10 fish detained under that subsection, the fish shall be forfeited to the Crown and shall be disposed of in such manner as the Minister shall order, in addition to any fine that may be imposed by any Court on the convicted person.

15 (9) Where any officer specified in subsection (11) of this section apprehends any person under subsection (1) of this section, the officer shall cause the person to be taken as soon as reasonably practicable before a Court to be dealt with in accordance with law.

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20 (9A) Where any foreign fishing craft or fish is held in the custody of the Crown under this section, then on the conviction of any person for any offence specified in subsection (1) of this section in respect of the craft or fish, as the case may be, the costs of the Crown in holding it in custody under this 25 section shall be a debt due to the Crown jointly and severally by each of them the licensee, the owner, and the master of the craft, and shall be recoverable accordingly by the Crown in any Court of competent jurisdiction.

30 (9B) Without limiting any other manner of recovering any debt due to the Crown under subsection (9A) of this section, on the conviction of the licensee, owner, or master of any foreign fishing craft for any offence referred to in that subsection, the Court by which he is convicted may make an order that he shall pay to the Crown any costs for which he 35 is liable under that subsection.

(9C) Subject to subsection (7B) of this section, but notwithstanding any other provision in this section, where any foreign fishing craft or fish has been detained under subsection (1) of this section, then on the acquittal of every 40 person who is charged with any offence for which the craft or fish, as the case may be, are subject to forfeiture under this section, the craft or fish, as the case may require, shall forthwith be released from the custody of the Crown.

(10) Any person who in any way prevents or hinders any officer specified in subsection (11) of this section, or any assistant of the officer, in exercising the powers conferred by this section commits an offence against this Act, and is liable on summary conviction to a fine not exceeding \$10,000. 5

(11) Subsection (1) of this section refers to any of the following officers:

(a) The officer in command of any vessel or aircraft of the New Zealand (*Naval*) Armed Forces:

(b) Any Inspector of Sea Fishing appointed in accordance with section 4 of the Fisheries Act 1908: 10

(c) Any constable:

(d) The master of any New Zealand Government ship (*within the meaning of section 2 (1) of the Shipping and Seamen Act 1952.*) 15

(12) In this section, “foreign fishing craft” includes all equipment on board or used by the craft.

24. Security for release of foreign fishing craft—(1) Where any foreign fishing craft is detained under section 23 of this Act, and an information or charge is laid against the licensee, owner, or master of the craft in respect of the offence for which the craft has been detained, the licensee, owner, or master of the craft may at any time before the determination of the information or charge apply to the Court by which the information or charge will be determined for the release of the craft on the provision of security in accordance with this section. 20 25

(2) On hearing the application, the Court shall order the release of the foreign fishing craft on the execution by any suitable person or persons approved by the Court for the purpose, of a bond in favour of Her Majesty the Queen, in the prescribed form and conditioned in accordance with subsection (4) of this section, in an amount not less than the aggregate of the value of the craft, the costs that the Crown may recover under section 23 (9A) of this Act if the defendant is convicted of the offence, and the maximum fine to which the defendant will be liable if he is convicted of the offence. 30 35

(3) Notwithstanding subsection (2) of this section, the Court may, where it is satisfied that there are special circum-

stances to justify it in doing so, order that the bond shall be in a specified amount that is less than the amount required by that subsection.

- 5 (4) The condition of the bond shall be that if—
(a) The defendant is found not guilty of the information or charge; or
(b) The defendant on being convicted of the information or charge pays in full within 14 days after he is convicted the amount of the fine imposed by the Court, and the amount of all costs due by him to
10 the Crown under section 23 (9A) of this Act, and the foreign fishing craft is within that time surrendered to the Crown for forfeiture—

then the bond shall be of no effect, but that otherwise the
15 bond shall remain in full force and effect.

- (5) The amount specified in the bond shall be recoverable in full as a debt due to Her Majesty the Queen jointly and severally by the person or persons by whom the bond is given, unless the person or persons prove the due performance of
20 the condition on which the bond is defeasible.

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(6) In this section, "foreign fishing craft" includes all equipment on board the craft.

New

- 25 (6) In this section, "foreign fishing craft" includes all equipment on board or used by the craft, and also includes all fish that has been seized from the craft under section 23 (1) of this Act and is detained on board the craft in the custody of the Crown under that section.

30 25. **General regulations in zone—(1)** Where no other provision is for the time being made by any other enactment for any such purposes, the Governor-General may from time to time, by Order in Council, make regulations (*not inconsistent with any other enactment*) for all or any of the
35 following purposes:

- (a) Regulating the conduct of scientific research within the exclusive economic zone;
(b) Prescribing measures for the protection and preservation of the marine environment of the zone;
40 (c) Regulating the construction, operation, and use of artificial islands (whether permanent or temporary),

and of other installations and structures within the zone, including the establishment of safety zones around such islands, installations, and structures:

- (d) Regulating the exploration and exploitation of the zone for the production of energy from the water, currents, and winds, and for any other economic purposes: 5
- (e) Providing for such other matters as are necessary or expedient for giving full effect to the sovereign rights of New Zealand in relation to the zone: 10
- (f) Providing that a breach of any such regulations shall be a criminal offence, and imposing penalties by way of fine not exceeding \$10,000 for any such offences:
- (g) Providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Part of this Act (other than matters for which regulations may be made under section 21 of this Act) and for its due administration. 15

Struck Out

(2) Regulations made under this section may declare that the provisions of any enactment (whether made before or after the passing of this Act) shall apply, with such modifications and exceptions (if any) as may be specified in the regulations,— 20

- (a) Within the exclusive economic zone; or 25
- (b) Within any specified part of the zone; or
- (c) To acts and omissions within the zone—

and the provisions of that enactment (with such modifications and exceptions, if any) shall apply accordingly as if the zone or the specified part of the zone were within the territorial limits of New Zealand. 30

26. (Offences in zone deemed to be committed in New Zealand) General provisions as to offences in zone—(1) Any offence against this Act that is committed within the exclusive economic zone shall be deemed to have been committed in New Zealand. 35

New

(2) Where any licensee, owner, master, or crew member of a foreign fishing craft is charged with any offence specified in section 19 of this Act or in any regulations made under section 21 of this Act, in respect of any activity described in 40

paragraph (b) or paragraph (c) of the definition of the term "fishing" in section 2 (1) of this Act, it shall be a defence to the charge if the defendant proves that such activity related only to fish taken beyond the outer limits of the exclusive economic zone.

PART III

MISCELLANEOUS PROVISIONS

27. **Interim and transitional measures**—(1) Pending the coming into force of Part II of this Act, the Governor-General may from time to time, by Order in Council, (*prescribe*) make regulations prescribing interim or transitional measures for the conservation and management of fisheries resources beyond the territorial sea of New Zealand but within 200 nautical miles of the baseline described in sections 5 and 6 of this Act, and for the limitation of fishing by foreign fishing craft in any areas to which those measures relate.

New

(2) Regulations made under this section may provide that a breach of any such regulations shall be a criminal offence, and may impose penalties by way of fine not exceeding \$100,000 for any such offences, and may declare that any such offences shall be deemed to have been committed within New Zealand.

28. **Modifications to give effect to international agreement**—The Governor-General may, from time to time, by Order in Council, limit any provision of this Act relating to the exclusive economic zone so far as it is necessary to do so to give full effect to any convention that is adopted by the Third United Nations Conference on the Law of the Sea.

29. **Official charts**—

Struck Out

(1) For the purposes of this Act, the low-water mark in any specified area shall be the line of low water at mean low-water spring tides as depicted on the largest scale New Zealand Government nautical chart for the time being of that area, or, where no such chart of that area exists, the largest scale British Admiralty chart for the time being of that area.

(2) In any proceedings in any Court, a certificate purporting to be signed by an officer of the New Zealand Naval Forces authorised by the Secretary of Defence or a Deputy Secretary of Defence that—

(a) Any specified New Zealand Government nautical chart of any area is the largest scale New Zealand Government nautical chart for the time being of that area; or

(b) No New Zealand Government nautical chart for any area exists and that any specified British Admiralty chart of that area is the largest scale British Admiralty chart for the time being of that area—

shall be admissible as evidence of the matters stated in the certificate.

New

(1) For the purposes of this Act, in any proceedings in any Court the line of low water for any area depicted on the charts held in the Territorial Limits Chart Folio held by the Royal New Zealand Navy Hydrographic Office shall be sufficient evidence of the line of the low-water mark for that area.

(2) For the purposes of this Act, in any proceedings in any Court, a certificate purporting to be signed by an officer of the New Zealand Naval Forces authorised by the Secretary of Defence or the Deputy Secretary of Defence that any specified chart is a chart referred to in subsection (1) of this section shall be admissible as evidence of the matters stated in the certificate.

(3) Every person signing any such certificate shall, in the absence of proof to the contrary, be presumed to be duly authorised to sign it.

30. Onus of proof in respect of offences—In any criminal proceedings under this Act where a defendant is charged with having (contravened section 14) committed an offence specified in section 19 of this Act, or with having contravened any other provision in any regulations made under this Act under which a licence or permit, or the consent of any person is required for the doing of any act, the onus shall be on the defendant to prove that at the time to which the charge relates, (he held) the requisite licence, permit, or consent was duly held.

31. Amendments, repeal, and savings—(1) The enactments specified in the Schedule to this Act are hereby amended in the manner indicated in that Schedule.

New

- 5 (1A) Unless in any case the context otherwise requires, every reference in any other enactment or in any regulation, rule, order, agreement, deed, instrument, application, notice, licence, or other document whatsoever, in force at the commencement of this section,—
- 10 (a) To the territorial sea of New Zealand as defined by section 3 of the Territorial Sea and Fishing Zone Act 1965, or to the fishing zone of New Zealand established by section 8 of that Act, shall hereafter be read as a reference to the territorial sea of New Zealand as defined by section 3 of this Act:
- 15 (b) To the internal waters of New Zealand as defined by section 4 of that Act, shall hereafter be read as a reference to the internal waters of New Zealand as defined by section 4 of this Act.
- 20 (2) The Territorial Sea and Fishing Zone Act 1965 is hereby repealed.
- (3) Except as expressly provided by this Act, the provisions of this Act are in addition to and not in substitution for the provisions of every other enactment, and accordingly nothing
- 25 in this Act shall limit or derogate from the provisions of any other enactment.
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Section 31**SCHEDULE**

ENACTMENTS AMENDED

| Enactment Amended | Amendment |
|---|---|
| <p>1908, No. 65—The Fisheries Act 1908 (1957 Reprint, Vol. 5, p. 261)</p> | <p>By inserting after section 1, but before the heading "Part I—Sea Fisheries", the following section:</p> <p>"1A. Application of Act to exclusive economic zone—(1) Nothing in this Act shall be construed—</p> <p>"(a) To require the licensing or registration or obtaining of a permit by a foreign fishing craft for the purpose of fishing within the exclusive economic zone of New Zealand; or</p> <p>"(b) To authorise the making of any regulations in derogation of the provisions of the Territorial Sea and Exclusive Economic Zone Act 1977, or of any regulations made under that Act, relating to fishing; or</p> <p>"(c) To authorise the boarding, search, seizure, taking of possession, detention, or forfeiture under this Act of any such foreign fishing craft, or of any equipment or fish on board the craft, or the arrest of any crew member of such craft, in respect of any offence relating to fishing in the exclusive economic zone; or</p> <p>"(d) To authorise the imposition of a term of imprisonment on any crew member of any such foreign fishing craft in respect of any such offence.</p> <p>"(2) Where, but for the provisions of subsection (1) of this section, a person would be liable to suffer imprisonment for the commission of any offence, he shall instead of such imprisonment be liable on summary conviction to a fine not exceeding in the case of any licensee, owner, or master of the foreign fishing craft \$10,000, and not exceeding in the case of any other crew member of the foreign fishing craft \$1,000.</p> <p>"(3) Any offence against this Act that is committed within the exclusive eco-</p> |

SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

| Enactment Amended | Amendment |
|--|--|
| 1908, No. 65—The Fisheries Act 1908 (1957 Reprint, Vol. 5, p. 261)— <i>continued</i> | <p>conomic zone of New Zealand shall be deemed to have been committed in New Zealand.</p> <p>“(4) In this section, the terms ‘exclusive economic zone’, ‘fish’, ‘fishing’, and ‘foreign fishing craft’ have the meanings assigned to them by <u>section 2 (1)</u> of the Territorial Sea and Exclusive Economic Zone Act 1977.”</p> <p>By omitting the definition of the term “New Zealand fisheries waters” in section 2 (1) (as inserted by section 11 of the Territorial Sea and Fishing Zone Act 1965), and substituting the following definition:</p> <p>“‘New Zealand fisheries waters’ means—</p> <p>“(a) All waters in the exclusive economic zone of New Zealand (as described in <u>section 9</u> of the Territorial Sea and Exclusive Economic Zone Act 1977;</p> <p>“(b) All waters of the territorial sea of New Zealand (as defined by <u>section 3</u> of that Act;</p> <p>“(c) All internal waters of New Zealand (as defined by <u>section 4</u> of that Act); and</p> <p>“(d) The waters of every lake, river, and stream where fish indigenous to New Zealand are found.”</p> |
| 1924, No. 11—The Acts Interpretation Act 1924 (Reprinted 1966, Vol. 3, p. 1973) | <p>By repealing section 67 (1) (as inserted by section 11 of the Territorial Sea and Fishing Zone Act 1965).</p> <p>By omitting from the definition of the term “territorial sea of New Zealand” in section 4 (as inserted by section 11 of the Territorial Sea and Fishing Zone Act 1965) the words “and Fishing Zone Act 1965”, and substituting the words “and Exclusive Economic Zone Act 1977”.</p> |
| 1937, No. 27—The Petroleum Act 1937 | <p>By omitting from section 29 (as inserted by section 3 of the Petroleum Amendment Act 1975) the words “Fishing Zone Act 1965”, and substituting the words “Exclusive Economic Zone Act 1977”.</p> |

SCHEDULE—continued

ENACTMENTS AMENDED—continued

| Enactment Amended | Amendment |
|--|--|
| 1950, No. 34—The Harbours Act 1950 (Reprinted 1966, Vol. 3, p. 2395) | By omitting from section 2 (2) (as inserted by section 11 of the Territorial Sea and Exclusive Economic Zone Act 1965) the words "Fishing Zone Act 1965", and substituting the words "Exclusive Economic Zone Act 1977". |
| 1961, No. 43—The Crimes Act 1961 | By omitting from the definition of the term "New Zealand" in section 2 (1) (as inserted by section 11 of the Territorial Sea and Fishing Zone Act 1965) the words "and Fishing Zone Act 1965", and substituting the words "and Exclusive Economic Zone Act 1977". |
| 1963, No. 69—The Fisheries Amendment Act 1963 | By omitting from section 12A (1) (as inserted by section 11 of the Fisheries Amendment Act 1967) the words "ship within the meaning of the Shipping and Seamen Act 1952", and substituting the words "fishing craft within the meaning of section 2 (1) of the Territorial Sea and Exclusive Economic Zone Act 1977". |
| | In section 12A (4) (as so inserted)— |
| | (a) By omitting from paragraph (a) the figures "\$5,000", and substituting the figures "\$100,000": |
| | (b) By omitting from paragraph (b) the figures "\$500", and substituting the figures "\$5,000". |
| | By adding, after section 12A (4) (as so inserted) the following subsection: |
| | "(5) In this section, "New Zealand fisheries waters" does not include the exclusive economic zone of New Zealand (as described in section 9 of the Territorial Sea and Exclusive Economic Zone Act 1977)." |
| 1964, No. 28—The Continental Shelf Act 1964 | By omitting from section 2 the definition of the term "continental shelf", and substituting the following definition: "Continental shelf" means the seabed and subsoil of those submarine areas that extend beyond the territorial limits of New Zealand, throughout the natural prolongation of the land territory of New Zealand, to the outer edge of the continental margin, or to a distance |

SCHEDULE—*continued*

ENACTMENTS AMENDED—*continued*

| Enactment Amended | Amendment |
|--|---|
| 1964, No. 28—The Continental Shelf Act 1964— <i>continued</i> | <p>of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured (as described in sections 5 and 6 of the Territorial Sea and Exclusive Economic Zone Act 1977) where the outer edge of the continental margin does not extend to that distance.”</p> <p>By adding to section 2 the following definition:</p> <p>“‘Mineral’ includes coal.”</p> <p>By renumbering section 2 as subsection (1) of that section, and adding the following subsection:</p> <p>“(2) For the purposes of implementing any international agreement, or for any other purpose in accordance with international law, the Governor-General may from time to time, by Order in Council, delineate the actual boundaries of the continental shelf.”</p> |
| 1966, No. 5—The Submarine Cables and Pipelines Protection Act 1966 | <p>By omitting from the definition of the term “low-water mark”, in section 2, the words “Fishing Zone Act 1965”, and substituting the words “Exclusive Economic Zone Act 1977”.</p> <p>By omitting from section 7 (2) the words “fishing zone of New Zealand”, and substituting the words “exclusive economic zone of New Zealand (as described in section 9 of the Territorial Sea and Exclusive Economic Zone Act 1977)”.</p> |
| 1967, No. 49—The Fisheries Amendment Act 1967 | By repealing section 4 (2). |
| 1968, No. 27—The Fisheries Amendment Act 1968 | By repealing section 8 (3). |
| <i>New</i> | |
| 1971, No. 15—The Marine Reserves Act 1971 | <p>In the definition of the term “area”, in section 2,—</p> <p>(a) By omitting from paragraph (a) (i) the words “as defined by section 3 of the Territorial Sea and Fishing Zone Act 1965”:</p> |

New

| | |
|---|---|
| <p>1971, No. 29—The Marine Farming Act 1971</p> | <p>(b) By omitting from paragraph (a) (ii) the words “that Act”, and substituting the words “the Territorial Sea and Exclusive Economic Zone Act 1977”.</p> <p>In the definition of the term “area”, in section 2 (1),—</p> <p>(a) By omitting from paragraph (a) (i) the words “as defined by section 3 of the Territorial Sea and Fishing Zone Act 1965”:</p> <p>(b) By omitting from paragraph (a) (ii) the words “that Act”, and substituting the words “the Territorial Sea and Exclusive Economic Zone Act 1977”.</p> |
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