



## Fisheries (Transitional Provisions) Regulations (No 2) 2001

Silvia Cartwright, Governor-General

### Order in Council

At Wellington this 23rd day of July 2001

Present:  
The Right Hon Helen Clark presiding in Council

Pursuant to sections 297 and 354 of the Fisheries Act 1996, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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## **Regulations**

### **1 Title**

These regulations are the Fisheries (Transitional Provisions) Regulations (No 2) 2001.

### **2 Commencement**

These regulations come into force on 1 October 2001.

### **3 Application**

- (1) Regulations 6 to 9 apply during the period beginning on the date of commencement of these regulations and ending with the close of 1 October 2002.
- (2) Regulations 10 to 13 apply during the period beginning on the date of commencement of these regulations and ending with the close of 30 September 2002.

### **4 Expiry**

- (1) These regulations (other than regulations 10 to 13) expire at the close of 1 October 2002.
- (2) Regulations 10 to 13 expire at the close of 30 September 2002.

### **5 Interpretation**

In these regulations, unless the context otherwise requires,—

**1983 Act** means the Fisheries Act 1983

**1996 Act** means the Fisheries Act 1996

**application period**, in relation to any regulation in these regulations, means the period specified in regulation 3 during which the regulation applies.

### *Transitional period for registration of mortgages*

### **6 Regulations to replace section 350 of 1996 Act during application period**

Regulations 7 to 9 have effect in place of section 350 of the 1996 Act during the application period.

### **7 Transitional period for registration of mortgages**

- (1) During the period beginning on the day after the date specified in subclause (2)(b) and ending with the close of 30 September

2002, a party to a mortgage over quota may, by application in the approved form accompanied by the prescribed fee (if any), apply to have the mortgage registered in the Quota Register on 1 October 2002 under sections 136 to 146 of the 1996 Act.

- (2) For the purposes of subclause (1), the chief executive must, by notice in the *Gazette*, specify—
- (a) a person or class of persons to whom, and a place or places at which, applications may be made; and
  - (b) a date, which must be not less than 3 months before 1 October 2002, after which parties to mortgages may make applications for registration.

## **8 Number of quota shares**

For the purposes of section 136(3) and (4) of the 1996 Act, the number of quota shares to be charged at the date and time of registration of the mortgage must be calculated as follows:

- (a) if the mortgage purports to charge all quota of a stock owned by the mortgagor, the mortgage registered charges the number of quota shares of that stock owned by the mortgagor at the date and time of registration of the mortgage under the 1996 Act that are not subject to any caveat or other mortgage registered under the 1996 Act;
- (b) if the mortgage purports to charge a specified number of quota shares for a stock,—
  - (i) if, at the time of registration, the number of quota shares owned by the mortgagor that are not subject to any caveat or other mortgage registered under the 1996 Act, is equal to or greater than the number of quota shares specified, the mortgage registered charges that specified number of quota shares;
  - (ii) if, at the time of registration, the number of quota shares owned by the mortgagor that are not subject to any caveat or other mortgage registered under the 1996 Act, is less than the number of quota shares specified, the mortgage registered charges that lesser number of shares;
- (c) if the mortgage purports to charge a specified amount of quota for a stock (expressed in kilograms or whole oyster numbers), the chief executive must ascertain the

number of quota shares that is the quota weight equivalent to that amount of quota at the time of registration of the mortgage under the 1996 Act, and—

- (i) if, at the time of registration, the number of quota shares owned by the mortgagor that are not subject to any caveat or other mortgage registered under the 1996 Act, is equal to or greater than the number of quota shares ascertained by the chief executive under this paragraph, the mortgage registered charges that number of quota shares ascertained by the chief executive:
- (ii) if, at the time of registration, the number of quota shares owned by the mortgagor that are not subject to any caveat or mortgage registered under the 1996 Act, is less than the number of quota shares ascertained by the chief executive under this paragraph, the mortgage registered charges that lesser number of shares.

## **9 Registration of mortgages**

- (1) The chief executive must, on 1 October 2002, register in the Quota Register the mortgages in respect of which applications have been made in accordance with these regulations.
- (2) Despite section 158 of the 1996 Act, but subject to section 136 of that Act, the chief executive must register mortgages under these regulations in the chronological order in which they were executed.
- (3) For the purposes of section 63 of the 1996 Act (and any regulations specifying the order in which the chief executive must action transactions specified in the regulations for the purposes of section 63), any mortgage to be registered under these regulations must be registered—
  - (a) after the replacement of caveats under section 154 of the 1996 Act; and
  - (b) before the necessary adjustments to quota under section 22 or section 23 of the 1996 Act.

## **10 Certain provisions concerning mortgages not to apply**

During the application period, unless the context otherwise requires,—

- (a) sections 127(1)(k), 136 to 146, 148(2)(b), and 170(1)(b) of the 1996 Act do not apply; and
- (b) any reference in the 1996 Act or in any regulations made under that Act to those provisions (except these regulations) must be disregarded.

## **11 Certain references relating to mortgages not to apply**

During the application period, unless the context otherwise requires,—

- (a) the definitions of **mortgage**, **mortgagee**, **mortgagor**, and paragraph (b) of the definition of **transaction** in section 2(1) of the 1996 Act do not apply; and
- (b) any reference to the definitions specified in **paragraph (a)** that appears in the 1996 Act or any regulations made under that Act (except these regulations) must be disregarded; and
- (c) any reference to mortgaging or charging in the 1996 Act or any regulations made under that Act (except these regulations) must be disregarded.

## **12 Application of provisions to the High Seas Permit Register**

(1) During the application period, unless the context otherwise requires,—

- (a) sections 98(1), 98(4), 98(5), 101A, and 102 of the 1996 Act do not apply to the High Seas Permit Register;
- (b) any reference to the provisions specified in **paragraph (a)** that appears in the 1996 Act or any regulations made under that Act (except these regulations) must, in relation to the High Seas Permit Register, be disregarded.

## **13 Transitional provision relating to controlled fisheries and marine farming**

During the application period, repealed provisions in the 1983 Act containing references to anything in Part III, Part IVA, or sections 101A, 101B, 102A, 105AA, 105AB, 107AA, or 107DA of the 1983 Act (which relate to controlled fisheries and marine farming) continue in force for the purpose of giving effect to those provisions of the Fisheries Act 1983 (relating to marine farming and controlled fisheries) that remain in force.

Marie Shroff,  
Clerk of the Executive Council.

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### **Explanatory note**

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on 1 October 2001—

- provide new transitional arrangements for the registration of mortgages under the Fisheries Act 1996, to facilitate the commencement of the remaining parts of that Act;
  - make transitional arrangements relating to the High Seas Permit Register, to facilitate the commencement of the remaining parts of the Fisheries Act 1996;
  - make transitional arrangements relating to controlled fisheries and marine farming under the Fisheries Act 1983.
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Date of notification in *Gazette*: 26 July 2001.

These regulations are administered in the Ministry of Fisheries.

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