

1959/186



THE FISHERIES (GENERAL) REGULATIONS 1950,
AMENDMENT NO. 5

COBHAM, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 25th day of November
1959

Present:

THE RIGHT HON. W. NASH, C.H., PRESIDING IN COUNCIL

PURSUANT to the Fisheries Act 1908, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. (1) These regulations may be cited as the Fisheries (General) Regulations 1950, Amendment No. 5, and shall be read together with and deemed part of the Fisheries (General) Regulations 1950* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the seventh day after the date of their notification in the *Gazette*.

Interpretation

2. (1) Regulation 4 of the principal regulations is hereby amended by revoking the definition of the term "fish", and substituting the following definition:

"'Fish' includes every description of fish and of shellfish found in New Zealand waters, and their young or fry or spawn; but does not include salmon, or trout, or other acclimatised fish, or whitebait, or oysters, or toheroa:".

(2) Regulation 4 of the principal regulations is hereby further amended by revoking the definition of the term "Secretary", and substituting the following definition:

"'Secretary' means the Secretary for Marine appointed under the Shipping and Seamen Act 1952; and includes his deputy:".

(3) Regulation 4 of the principal regulations is hereby further amended by inserting, after the definition of the term "sell", the following definition:

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

(4) Regulation 4 of the principal regulations is hereby further amended by revoking the definition of the term "take", and substituting the following definition:

"Take" and all references thereto—

- "(a) Include taking, catching, killing, or pursuing by any means or device; and
- "(b) In relation to shellfish, also include their removal or extraction or separation from the bed of any tidal waters; and
- "(c) Also include the attempt to take."

(5) Regulation 4 of the principal regulations is hereby further amended by adding the following subclause as subclause (2) thereof:

"(2) For the purposes of these regulations fish, or any parts thereof, shall be deemed to be in the possession of any person when that person has, alone or jointly with any other person, possession of or control over the fish, or the parts thereof, or possession of or control over any vessel, vehicle, container, package, thing, or place in or on which are the fish, or the parts thereof:

"Provided that, in any proceedings for an offence against these regulations, being an offence relating to the possession of any fish, or any parts thereof, found in or on any vessel, vehicle, container, package, thing, or place in the possession or under the control of the defendant, alone or jointly with any other person, it shall be a good defence if the defendant satisfies the Court that he had no knowledge that they were in or on that vessel, vehicle, container, package, thing, or place."

Nets and Net Fishing

3. The following regulations are hereby revoked—

- (a) Regulations 35 to 37 and regulations 44 to 52 of the principal regulations;
- (b) Regulation 53 of the principal regulations as substituted by regulation 10 of the Fisheries (General) Regulations 1950, Amendment No. 1;
- (c) Regulations 54 to 60 and regulations 62 and 63 of the principal regulations;
- (d) Regulation 10 of the Fisheries (General) Regulations 1950, Amendment No. 1.

4. Regulation 43 of the principal regulations, as substituted by regulation 9 of the Fisheries (General) Regulations 1950, Amendment No. 1, is hereby amended by revoking paragraph (b) of subclause (1), and substituting the following paragraph:

"(b) Use any net for taking fish in the waters of Lake Ellesmere lying within an arc of a circle having a radius of approximately three-quarters of a mile around the centre of the mouth of—

- "(i) The Irwell River; or
- "(ii) Harts Creek; or
- "(iii) The Selwyn River; or
- "(iv) No. 2 Drain; or
- "(v) The Halswell River,—

the points where that circular arc meets the shore of the lake being indicated in each case by posts painted in alternate black and yellow bands, such bands being approximately 12 in. in height, each such post being surmounted by a triangular plate, painted yellow."

Trawling

5. (1) Regulation 80 of the principal regulations is hereby amended by omitting from paragraph (b) of subclause (12) the words "1st day of March", and substituting the words "last day of February".

(2) Regulation 80 of the principal regulations is hereby further amended by revoking paragraph (b) of subclause (19) and substituting the following paragraph:

"(b) All those waters of Hawke Bay lying off the coast of the County of Hawke Bay extending seaward a distance of 3 nautical miles from high-water mark of the mainland, bounded to the north by a line running due east from the mouth of the Waipuka Stream, near Ocean Beach township, to the south by a line running due east from the mainland through the southernmost point of Karamea (otherwise known as Red Island)."

Crayfish

6. (1) The principal regulations are hereby further amended by revoking regulation 94, as amended by regulation 14 of the Fisheries (General) Regulations 1950, Amendment No. 1, and as further amended by regulation 7 of the Fisheries (General) Regulations 1950, Amendment No. 2, and substituting the following regulation:

"94. No person shall take any crayfish of less length than 10 in. from tip of the rostral spine (or beak) between the eyes to the tip of the tail measured in a middle straight line along the back with the crayfish spread as nearly as possible flat."

(2) Regulation 14 of the Fisheries (General) Regulations 1950, Amendment No. 1, and regulation 7 of the Fisheries (General) Regulations 1950, Amendment No. 2, are hereby revoked.

7. (1) The principal regulations are hereby further amended by revoking regulation 95, as amended by regulation 15 of the Fisheries (General) Regulations 1950, Amendment No. 1, and substituting the following regulation:

"95. No person shall sell, purchase, or have in possession any crayfish, whether fresh or in a cooked state, of less length than 10 in. from the tip of the rostral spine (or beak) between the eyes to the tip of the tail measured in a middle straight line along the back with the crayfish spread as nearly as possible flat."

(2) Regulation 15 of the Fisheries (General) Regulations 1950, Amendment No. 1, is hereby revoked.

8. Regulation 95A of the principal regulations, as inserted by subclause (1) of regulation 16 of the Fisheries (General) Regulations 1950, Amendment No. 1, is hereby amended by omitting the expression "5 $\frac{3}{4}$ in.", and substituting the expression "6 in."

9. (1) The principal regulations are hereby further amended by revoking regulation 96, as amended by subclause (2) of regulation 16 of the Fisheries (General) Regulations 1950, Amendment No. 1, and substituting the following regulation:

"96. (1) Regulation 94 hereof shall apply to the taking of any crayfish in or from the waters of the sea described in subclause (2) of this regulation as if the length specified in regulation 94 hereof was 6 in.

“(2) The waters of the sea referred to in subclause (1) of this regulation are the following:

“All waters of the sea within 1 marine league of the coast of the South Island between the mouth of the Waitaki River and the mouth of the Waipati River (north of Chaseland’s Mistake).

“(3) Subject to the provisions of regulation 97 hereof regulation 95 hereof shall apply to any sale or purchase made or to the having in possession at any place within those parts of New Zealand described in subclause (5) of this regulation of any crayfish taken in the waters of the sea described in subclause (2) of this regulation as if the length specified in regulation 95 hereof was 6 in.

“(4) Nothing in regulation 95A hereof shall be deemed to apply to any sale or purchase made or to the having in possession at any place within those parts of New Zealand described in subclause (5) of this regulation of the tail of any crayfish taken in the waters of the sea described in subclause (2) of this regulation.

“(5) The parts of New Zealand referred to in subclauses (3), (4), and (6) of this regulation are the following—

“(a) The Provincial District of Otago, excluding thereout the counties of Southland, Wallace, Fiord, and Stewart Island and the boroughs and town districts situated within the boundaries of those counties—that is to say excluding the area known as Southland:

“(b) That part of the Provincial District of Canterbury south of the Rangitata River.

“(6) Notwithstanding the foregoing provisions of this regulation, no person shall, without the written permit of the Minister, at any place within those parts of New Zealand described in subclause (5) of this regulation, pack for export any crayfish being 6 in. or more but not exceeding 10 in. in length measured in the manner described in regulation 94 hereof, or the tail of any such crayfish. The following provisions shall apply to those permits:

“(a) Every such permit shall be subject to such conditions as may be specified therein:

“(b) Any such permit may be revoked or varied at any time by the Minister:

“(c) The Minister shall not grant any such permit, unless he is satisfied that, during the period for which it is granted, there will be more crayfish being 6 in. or more but not exceeding 10 in. in length available for sale than can be sold within the parts of New Zealand described in subclause (5) of this regulation.”

(2) Subclause (2) of regulation 16 of the Fisheries (General) Regulations 1950, Amendment No. 1, is hereby revoked.

10. (1) The principal regulations are hereby further amended by revoking regulation 97, as amended by regulation 17 of the Fisheries (General) Regulations 1950, Amendment No. 1, and substituting the following regulation:

“97. No person shall sell any crayfish, whether fresh or in a cooked state, of less length than 10 in. from the tip of the rostral spine (or beak) between the eyes to the tip of the tail, measured in a middle

straight line along the back with the crayfish spread as nearly as possible flat, in those parts of New Zealand described in subclause (5) of regulation 96 for resale in any other part of New Zealand."

(2) Regulation 17 of the Fisheries (General) Regulations 1950, Amendment No. 1, is hereby revoked.

11. Regulation 97A of the principal regulations, as inserted by regulation 18 of the Fisheries (General) Regulations 1950, Amendment No. 1, is hereby amended—

(a) By omitting the expression "5 $\frac{3}{4}$ in.", and substituting the expression "6 in.":

(b) By omitting the expression "subclause (4)" and substituting the expression "subclause (5)".

12. The principal regulations are hereby further amended by revoking regulation 98 and substituting the following regulation:

"98. No person shall take any crayfish which is in the soft-shell stage."

13. The principal regulations are hereby further amended by revoking regulation 100A, as inserted by regulation 19 of the Fisheries (General) Regulations 1950, Amendment No. 1, and substituting the following regulation:

"100A. (1) No person shall in any part of New Zealand take any crayfish which is carrying external eggs.

"(2) No person shall remove any of the external eggs from any female crayfish or from any crayfish tail.

"(3) Every person taking any female crayfish the taking of which is forbidden by either subclause (1) or subclause (7) of this regulation, shall immediately return it alive with as little injury as possible into the water from which it was taken.

"(4) No person shall buy, sell, expose for sale, or have in possession any female crayfish or crayfish tail which is carrying external eggs.

"(5) No person shall buy, sell, expose for sale, or have in possession any female crayfish or crayfish tail from which any of the external eggs have been removed by artificial means.

"(6) No person shall buy, sell, expose for sale, or have in possession any crayfish or crayfish tail from which any of the pleopods or swimmerets have been removed.

"(7) No person shall, at any time during the months of July, August, and September in any year, in the waters of the sea described in subclause (1) of regulation 100c hereof, take any female crayfish."

14. Regulation 100c of the principal regulations, as substituted by regulation 8 of the Fisheries (General) Regulations 1950, Amendment No. 2, is hereby amended by revoking subclause (2).

15. (1) The principal regulations are hereby further amended by revoking regulation 100E, as inserted by regulation 9 of the Fisheries (General) Regulations 1950, Amendment No. 2, and substituting the following regulation:

"100E. (1) No person shall take by any means whatsoever more than one dozen crayfish on any one day or be in possession of more than one dozen crayfish taken on any one day.

“(2) No persons who are associated together shall take by any means whatsoever more than 30 crayfish on any one day or be in possession of more than 30 crayfish taken on any one day:

“Provided that if only two persons are associated together they shall not take on any one day more than one dozen crayfish for each such person or be in possession of more crayfish taken on any one day than one dozen for each such person.

“(3) Where the provisions of subclause (2) of this regulation are contravened in the case of an association of persons, every one of the persons so associated together shall be deemed to have committed an offence against this regulation.

“(4) No person shall in any one day, in any one vehicle or in any one boat, convey or have on board that vehicle or boat more than 30 crayfish.

“(5) The provisions of this regulation shall not apply to—

“(a) The holder of a fisherman’s licence who is engaged in taking crayfish pursuant to the terms of the licence; or

“(b) The owner of a licensed fishing boat who is engaged in taking crayfish from that boat pursuant to the terms of the boat licence issued in respect thereof; or

“(c) Any crayfish taken by any of the persons mentioned in paragraphs (a) and (b) of this subclause.

“(6) The burden of proving that this regulation does not apply because of the provisions of subclause (5) shall lie on the defendant.”

(2) Regulation 9 of the Fisheries (General) Regulations 1950, Amendment No. 2, is hereby revoked.

Shellfish

16. (1) The principal regulations are hereby further amended by revoking regulation 106, as substituted by regulation 10 of the Fisheries (General) Regulations 1950, Amendment No. 2, and substituting the following regulation:

“106. (1) No person shall take in any one day shellfish (other than scallops) exceeding in quantity one 4-gallon lot measured in their shell or be in possession of shellfish (other than scallops) taken in any one day exceeding in quantity one 4-gallon lot measured in their shell.

“(2) The provisions of this regulation shall not apply to—

“(a) The holder of a fisherman’s licence who is engaged in taking shellfish pursuant to the terms of the licence; or

“(b) The owner of a licensed fishing boat who is engaged in taking shellfish from that boat pursuant to the terms of the boat licence issued in respect thereof; or

“(c) Any shellfish taken by any of the persons mentioned in paragraphs (a) and (b) of this subclause.

“(3) The burden of proving that this regulation does not apply because of the provisions of subclause (2) shall lie on the defendant.”

(2) Regulation 10 of the Fisheries (General) Regulations 1950, Amendment No. 2, is hereby revoked.

17. The principal regulations are hereby further amended by revoking regulation 106c, as inserted by regulation 20 of the Fisheries (General) Regulations 1950, Amendment No. 1, and substituting the following regulation:

“106c. (1) No person shall take more than three dozen scallops in any one day or be in possession of more than three dozen scallops taken in any one day.

“(2) The provisions of this regulation shall not apply to—

“(a) Any person duly licensed to take scallops who is engaged in taking them pursuant to the terms of the licence; or

“(b) Any scallops taken by a person duly licensed to take them.

“(3) The burden of proving that this regulation does not apply because of the provisions of subclause (2) shall lie on the defendant.”

Flatfish

18. The principal regulations are hereby further amended by revoking regulation 106E, as substituted by regulation 21 of the Fisheries (General) Regulations 1950, Amendment No. 1, and substituting the following regulation:

“106E. (1) No person shall take by any means whatsoever more than two dozen flatfish on any one day or be in possession of more than two dozen flatfish taken on any one day.

“(2) No persons who are associated together shall take by any means whatsoever more than five dozen flatfish on any one day or be in possession of more than five dozen flatfish taken on any one day:

“Provided that if only two persons are associated together they shall not take on any one day more than two dozen flatfish for each such person or be in possession of more flatfish taken on any one day than two dozen for each such person.

“(3) Where the provisions of subclause (2) of this regulation are contravened in the case of an association of persons, every one of the persons so associated together shall be deemed to have committed an offence against this regulation.

“(4) No person shall in any one day, in any one vehicle or in any one boat, convey or have on board that vehicle or boat more than five dozen flatfish.

“(5) The provisions of this regulation shall not apply to—

“(a) The holder of a fisherman's licence who is engaged in taking flatfish pursuant to the terms of the licence; or

“(b) The owner of a licensed fishing boat who is engaged in taking flatfish from that boat pursuant to the terms of the boat licence issued in respect thereof; or

“(c) Any flatfish taken by any of the persons mentioned in paragraphs (a) and (b) of this subclause.

“(6) The burden of proving that this regulation does not apply because of the provisions of subclause (5) shall lie on the defendant.”

Returns of Fish and Shellfish Caught

19. Regulation 109 of the principal regulations is hereby amended—

(a) By inserting in paragraph (a), after the words “fishing boat”, the words “or, not being the holder of a fisherman's licence, from the shore”:

(b) By inserting in paragraph (b), after the words “fishing boat”, the words “or from the shore by any person other than the holder of a fisherman's licence”:

- (c) By adding to paragraph (c), as added by regulation 23 of the Fisheries (General) Regulations 1950, Amendment No. 1, the words "or any fish otherwise than from any vessel or boat, unless he has ascertained that it has come from the holder of a fisherman's licence".

20. The principal regulations are hereby further amended by revoking regulation 112 and substituting the following regulation:

"112. The production by any fishery officer of his warrant of appointment shall be sufficient authority for his acting in accordance with the provisions of regulation 111 hereof."

T. J. SHERRARD,
Clerk of the Executive Council.

EXPLANATORY NOTE

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

These regulations make miscellaneous amendments to the Fisheries (General) Regulations 1950. The principal amendments are as follows:

- (a) Regulation 2 provides new definitions of the terms "fish", "Secretary", "shellfish", and "take". It also contains certain new provisions relating to offences involving the possession of fish, or any parts thereof.
- (b) Regulation 3 revokes certain local provisions which are now covered by general provisions.
- (c) Regulation 4 limits the waters of Lake Ellesmere in which using a net to take fish is prohibited to the waters in the vicinity of the mouths of five named rivers. The posts used for marking certain points are described.
- (d) Regulation 5 reduces by one day the period during which trawling is prohibited in the waters of the Hauraki Gulf. It also amends the description of certain waters of Hawke Bay in which trawling is prohibited.
- (e) Regulations 6 and 7 re-enact in an amended form certain provisions relating to the measurement of crayfish.
- (f) Regulation 8 increases the size limit of crayfish tails to 6 in.
- (g) Regulation 9 imposes a size limit of 6 in. on crayfish taken in certain South Island waters specified in the regulation. The area where these crayfish and their tails can be sold has been extended. Crayfish between 6 in. and 10 in. in length, and the tails of any such crayfish cannot be packed for export in this area unless the Minister is satisfied that there are more crayfish between 6 in. and 10 in. in length available for sale than can be sold in the area.
- (h) Regulations 10 and 11 make consequential amendments.
- (i) Regulation 98 of the principal regulations makes it an offence for any person *knowingly* to take any crayfish which is in the soft-shell stage. The effect of regulation 12 of these regulations is to place on the fisherman the onus of ascertaining whether crayfish taken are in the soft-shell stage and of returning such crayfish alive to the water.
- (j) Regulation 100A of the principal regulations has been re-enacted in an amended form so as to include as an offence the removal by any person of *any* of the external eggs, pleopods, or swimmerets from any crayfish or crayfish tail. It is also an offence to sell any crayfish after *any* of the external eggs, pleopods, or swimmerets have been removed.
The taking of female crayfish in the waters off the south and west coasts of the South Island is prohibited during the months of July, August, and September (regulation 13).
- (k) Regulation 14 revokes a provision which prohibited the use, in the waters off the south and west coasts of the South Island, of crayfish traps and other similar devices while trawl nets were carried.

- (l) Regulation 15 limits the number of crayfish which may be taken on any one day by unlicensed persons. The existing provision limits the number of traps which may be used at the same time.
- (m) Regulation 16 makes it an offence to be in possession of more than the permitted quantity of shellfish (other than scallops) taken in any one day by other than a person duly licensed in that behalf.
- (n) Regulation 17 re-enacts in amended form the existing provisions relating to the number of scallops which may be taken in any one day. The principal change provides that it is not an offence to have in possession more than the permitted number of scallops if they have been taken by a person duly licensed in that behalf.
- (o) Regulation 18 provides that where only two persons are associated together the maximum number of flatfish which they may take in a day is two dozen for each person. The existing provision allows persons associated together to take five dozen flatfish in a day, irrespective of the number of persons associated together.
Under regulation 106E of the principal regulations, which is re-enacted in an amended form, it is an offence in any one day to knowingly convey or have on board any one vehicle or boat more than five dozen flatfish. The effect of regulation 18 is to remove the requirement of knowledge as an essential ingredient of the offence. Persons licensed to take flatfish and flatfish taken by them are excluded from the scope of regulation 106E.
- (p) Regulation 19 provides that only the holder of a fisherman's licence may take fish for sale from the shore.
- (q) Regulation 20 makes an amendment consequential on an earlier amendment.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 26 November 1959.

These regulations are administered in the Marine Department.