



ANALYSIS

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1994, No. 87

An Act to amend the Fisheries Act 1983

[1 October 1994

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Fisheries Amendment Act 1994, and shall be read together with and deemed part of the Fisheries Act 1983 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of October 1994.

2. Fishing permits—(1) Section 63 (13) of the principal Act (as added by section 4 of the Fisheries Amendment Act (No. 3) 1992) is hereby amended—

- (a) By omitting the words “in respect of the period beginning on the commencement of this subsection and ending with the close of the 30th day of September 1994”, and substituting the words “on and after the 1st day of October 1994”:
- (b) By omitting from paragraph (a) the word “caught”, and substituting the words “lawfully took”:
- (c) By omitting from paragraph (d) the word “species”, and substituting the word “fish”.

(2) Notwithstanding anything in section 63 of the principal Act, in the case of any person who, at the close of the 30th day of September 1994, held a special permit referred to in subsection (3) of this section, the following provisions shall apply:

- (a) The Director-General may, but is not obliged to, issue to the person an appropriate fishing permit in place of the special permit:
- (b) Where the Director-General issues a fishing permit to any person under this subsection, the special permit held by that person shall be deemed to be revoked as from the commencement of the day on which the fishing permit becomes effective.

(3) Subsection (2) of this section applies to every special permit issued pursuant to section 64 (1) (c) of the principal Act during the period commencing on the 18th day of December 1992 and ending with the close of the 30th day of September 1994, being a special permit granted for one or more of the following purposes:

- (a) To rectify an administrative error:
- (b) To reflect a change in the holder’s legal personality:
- (c) To recognise a demonstrated record of investigation or development:
- (d) To recognise a commitment in the form of investment:
- (e) To recognise a debilitation by illness or injury:
- (f) To recognise a commitment to international sporting events:
- (g) To allow individual quota holders who did not hold a permit authorising the taking of jack mackerel in quota management areas 1 and 3 to continue their fishing operations.

3. New sections inserted—The principal Act is hereby amended by inserting, after section 107E (as substituted by section 27 (1) of the Fisheries Amendment Act 1986), the following headings and sections:

“Cost Recovery

“107EA. **Levies**—(1) Subject to sections 107EB to 107ED of this Act, in respect of any period commencing on or after the 1st day of October 1995, the Governor-General may from time to time, by Order in Council made on the recommendation of the Minister (given with the concurrence of the Minister of Conservation in the case of any levy in respect of any conservation services referred to in paragraph (d) of this subsection), impose levies on the persons referred to in subsection (2) of this section (or any of them) for the purpose of enabling the Crown to recover its costs in respect of one or more of the following:

“(a) The management of fisheries under this Act or the Marine Farming Act 1971 or the Territorial Sea and Exclusive Economic Zone Act 1977:

“(b) The enforcement of the provisions relating to fisheries in this Act or any other Act referred to in paragraph (a) of this subsection:

“(c) Research relating to fisheries:

“(d) The provision of conservation services, being—

“(i) Research relating to the effects on any species protected by any enactment specified in the First Schedule to the Conservation Act 1987 of bycatch resulting from commercial fishing:

“(ii) The management measures necessary to avoid, remedy, or mitigate the adverse effects of commercial fishing on any species referred to in subparagraph (i) of this paragraph:

“(iii) Any other research or management measures necessary to enable the Minister of Conservation to perform his or her functions and duties under any enactment, where the research or management arises because of the existence of commercial fishing:

“(e) The performance or exercise of any other function, duty, or power conferred or imposed by any enactment relating to fisheries:

“(f) Any matter relating to fisheries that arises out of any agreement reached under section 107EC (5) of this Act.

“(2) Such levies may be imposed only on—

“(a) Any holder of any quota (being a person to whom a quota has been issued or transferred and, in any case where a quota has been leased, including a

person who, but for the lease, would for the time being be entitled to take fish under the quota, but not being a lessee of Crown held quota where the lessee is the holder of a licence issued under the Territorial Sea and Exclusive Economic Zone Act 1977):

“(b) Any licensed fish receiver (being a person who holds a licence under the Fisheries (Licensed Fish Receivers) Regulations 1986) and any holder of any certificate of recognition issued or renewed under those regulations:

“(c) Any holder of any fishing permit:

“(d) Any holder of any special permit issued under section 64 of this Act:

“(e) Any holder of any marine farming permit:

“(f) Any holder of a lease or licence issued under the Marine Farming Act 1971:

“(g) Any holder of any spat-catching permit:

“(h) Any owner of any fishing vessel:

“(i) Any holder of any licence issued under Part II of the Territorial Sea and Exclusive Economic Zone Act 1977:

“(j) Any holder of any controlled fishery licence:

“(k) Any holder of any other permit or licence issued under this Act.

“(3) Without limiting the generality of subsection (1) of this section, any such order may—

“(a) Prescribe, or provide for the fixing of, different rates of levy in respect of different classes of persons referred to in subsection (2) of this section, species or kinds of fish or aquatic life or seaweed, quantities of fish or aquatic life or seaweed, quota management areas, fishery management areas, or any combination of them:

“(b) Prescribe, or provide for the fixing of, different rates of levy based on the value of quota, the port price of fish or aquatic life or seaweed landed, or on any other differential basis whatever relating to commercial fishing:

“(c) Specify that a levy shall be payable on the basis of the amount of fish or aquatic life or seaweed processed or taken, or quota held, during a specified period or on a specified day; or specify any other method for assessing that amount:

- “(d) Require records and returns to be made and furnished by persons by whom any levy is payable, and prescribe conditions relating to the making and furnishing of such records and returns:
- “(e) Prescribe a date by which, and the place at which, any levy is payable; and prescribe different dates for the payment of different levies; or authorise the Director-General to fix any such date or dates or place:
- “(f) Authorise the Minister to remit or waive the payment of any levy, in whole or in part,—
- “(i) To correct an administrative error made in calculating the amount due; or
- “(ii) Where the Minister and the person liable to pay the amount due have entered into an arrangement for payment of that amount:
- “(g) Subject to section 107EB (3) of this Act, increase or reduce any specified percentage set out in Schedule 1E to this Act, or add to, omit, amend, or substitute any provision in that Schedule, or omit the Schedule and substitute a new Schedule:
- “(h) Prescribe or provide for such other matters as may be necessary or expedient to give effect to any determination under section 107EC of this Act.
- “(4) Nothing in this section limits any other provision in this Act that requires the payment of, or empowers the imposition of, any fee, charge, levy, or rental relating to commercial fishing.
- “107EB. **Certain costs to be borne by the Crown**—(1) The Crown shall bear the costs of the required services referred to in paragraphs (a) to (c) of section 107EC (2) of this Act to the extent specified in Schedule 1E to this Act.
- “(2) Both—
- “(a) The balance of the costs of such required services (being the amount outstanding after the Crown’s contribution has been deducted); and
- “(b) Any costs arising from any agreement reached under section 107EC (5) of this Act—
- shall be recoverable under section 107EA of this Act from the persons referred to in subsection (2) of that section.
- “(3) Schedule 1E to this Act shall not be amended or substituted by Order in Council before the expiry of the period of 3 years beginning 12 months after the commencement of this section and, subject to section 107EC of this Act, thereafter

it may be so amended or substituted only if no such amendment or substitution has been made within the immediately preceding period of 3 years.

“107EC. Consultation required before levy order (other than amending order) made—(1) In each year, the Minister shall commence, or cause to be commenced, consultation in accordance with this section and no Order in Council (other than an order to which section 107ED of this Act applies) shall be made under section 107EA of this Act in any year unless such consultation has been carried out in that year in accordance with this section.

“(2) The initial object of consultation under this section is to ascertain, in respect of the following fishing year,—

“(a) The nature and extent of the required services, and the conservation services referred to in section 107EA (1)(d) of this Act (in this section referred to as the conservation services), and the cost of those services; and

“(b) The amount or level or standard of the required services and the conservation services; and

“(c) The particular projects and activities entailed in the required services and the conservation services, and the costs of such projects and activities; and

“(d) The method by which the costs referred to in paragraphs (a) and (c) of this subsection are to be shared or borne by persons referred to in section 107EA (2) of this Act and the rate or level of levies necessary to recover the cost of the required services and the conservation services; and the foregoing provisions of this paragraph—

“(i) Shall be read as requiring that there be taken into account—

“(A) Fisheries-related fees, levies, and other charges fixed by or under this Act (other than levies imposed under section 107EA of this Act) or the Marine Farming Act 1971 or the Territorial Sea and Exclusive Economic Zone Act 1977 (other than royalties under section 18 of that Act); and

“(B) The amount recovered, or recoverable, by such fees, levies, and other charges, and by levies imposed under section 107EA of this Act, in respect of the period to which any order made under the said

section 107EA, that is for the time being in force, applies; and

“(C) The intervals at which it is proposed that the levies be payable; and

“(ii) Shall be subject to the limitations imposed by section 107EB of this Act.

“(3) The final object of consultation under this section is to ascertain the costs to be recovered under section 107EA of this Act.

“(4) The consultation shall be conducted as follows:

“(a) In relation to the matters referred to in paragraphs (a), (b), and (c) of subsection (2) of this section, the consultation shall be with—

“(i) Such persons or organisations as the Minister considers are representative of persons interested in the management and conservation of New Zealand fisheries and fisheries resources within New Zealand and New Zealand fisheries waters, including (but not limited to) persons or organisations as the Minister considers are representative of Maori, environmental interests, commercial interests, and recreational interests; and

“(ii) The Minister of Conservation, if any levy is proposed in respect of the conservation services:

“(b) In relation to the matters referred to in paragraph (d) of subsection (2) of this section, the consultation shall be with—

“(i) Such persons or organisations as the Minister considers are representative of persons likely to be affected by the proposed cost recovery; and

“(ii) The Minister of Conservation, if any levy is proposed in respect of the conservation services.

“(5) The Minister and the persons and organisations referred to in subsection (4) (b) of this section may agree that any activity or project, that is not a required service, be included in the consultation on the cost sharing method referred to in subsection (2) (d) of this section and be funded by way of a levy under section 107EA of this Act.

“(6) The Minister, after consultation in accordance with subsections (2) to (4) of this section, shall determine the matters to which the consultation related and may accordingly recommend the making of an Order in Council under section 107EA of this section.

“(7) In this section, the term ‘required services’ means—

- “(a) The management of fisheries under this Act or the Marine Farming Act 1971 or the Territorial Sea and Exclusive Economic Zone Act 1977:
- “(b) The enforcement of the provisions relating to fisheries in this Act or any other Act referred to in paragraph (a) of this subsection:
- “(c) Research relating to fisheries:
- “(d) The performance or exercise, by the Minister or the Director-General or any person employed in the Ministry, of any other function, duty, or power conferred or imposed by any enactment relating to fisheries.

“107ED. **Consultation required before amending levy order made**—(1) Except as provided in subsection (2) of this section, before recommending the amendment of an Order in Council made under section 107EA of this Act, the Minister shall consult, or cause to be consulted, the persons or organisations referred to in paragraphs (a) and (b) of section 107EC (4) of this Act who are affected by the proposed amendment.

“(2) Nothing in subsection (1) of this section or in section 107EC of this Act requires any consultation to be carried out before the Minister recommends the making of an Order in Council—

- “(a) Correcting any typographical error or obvious mistake;
or
- “(b) Amending the form of any order made under section 107EA of this Act.

“107EE. **Levy orders may be amended during fishing season**—Subject to section 107ED of this Act, an Order in Council made under section 107EA of this Act may be amended or revoked at any time and from time to time during any fishing year.

“107EF. **Payment of levies**—Levies imposed by an Order in Council made under section 107EA of this Act shall be payable to the Director-General in accordance with the order or, if the order does not make such provision, either—

- “(a) In the case of a monthly levy, not later than the 20th day of each month; or
- “(b) In any other case, within 20 days after the receipt of a demand from the Director-General.

“107EG. **Levies to be separately accounted for**—The Minister shall ensure that all levies imposed under section 107EA of this Act are—

- “(a) Collected; and
- “(b) Paid into a Crown Bank Account; and
- “(c) Separately accounted for.”

4. New sections substituted—The principal Act is hereby amended by repealing section 107I (as inserted by section 22 of the Fisheries Amendment Act (No. 2) 1992), and substituting the following heading and sections:

“Provisions Relating to Debts

“107I. Amounts payable under Act recoverable as statutory debts—(1) Every amount (other than a fine or a penalty ordered by a Court to be paid in respect of an offence under this Act or any amount fixed under section 107C (2) of this Act) that is payable under this Act to the Crown or the Minister or the Director-General shall be deemed to be a statutory debt within the meaning of section 13A of the Ministry of Agriculture and Fisheries Act 1953 and may be recovered in any Court of competent jurisdiction.

“(2) Notwithstanding anything in the said section 13A and without limiting anything in subsection (5) of that section, where, in respect of any amount or class of amount deemed by subsection (1) of this section to be a statutory debt within the meaning of that section,—

“(a) An error has been made in calculating the amount due;
or

“(b) The Minister and the person liable to pay the amount due have entered into an arrangement for payment of that amount,—

the Minister may waive or defer the payment of all or any part by which the debt or any debt of that class has been or is liable to be increased under subsection (2) of the said section 13A.

“107J. Caveats on quota—(1) Where any person who holds any fishing quota under this Act,—

“(a) Is liable to pay any levy imposed under section 107EA of this Act, the payment of which has not been waived under section 107I (2) of this Act; and

“(b) Does not pay the outstanding amount of the levy within 2 months after the date by which payment of the levy is due or within the time allowed under section 107I (2) of this Act,—

then, regardless of whether or not the levy has been imposed on that person as a quota holder, the Director-General, after giving that person notice in writing of his or her intention to do

so, may cause to be entered in the appropriate register under section 28P or section 28ZR of this Act a caveat forbidding any dealing in any quota held by that person.

“(2) Every caveat under this section shall be—

“(a) In a form prescribed by the Director-General; and

“(b) Contain a description sufficient to identify the quota holder; and

“(c) State the outstanding amount of levy owed by the quota holder.

“(3) Upon entry in a register of a caveat under subsection (1) of this section, the Director-General shall cause particulars of the caveat to be notified in a manner provided in section 88A of this Act to each person entered in the register as a holder of the quota concerned.

“(4) The Director-General—

“(a) Shall withdraw a caveat entered in a register under subsection (1) of this section if the outstanding amount (including any additional amount payable under section 13A of the Ministry of Agriculture and Fisheries Act 1953) is fully paid to the Ministry:

“(b) May, conditionally or unconditionally, withdraw a caveat entered in a register under subsection (1) of this section if the Director-General and the person liable to pay the outstanding amount of the levy enter into an arrangement or agreement for repayment of that amount.

“(5) So long as a caveat remains in force in respect of any quota,—

“(a) No transfer or lease of that quota or of any interest in that quota shall be registered under section 28P or section 28Q or section 28ZR or section 28ZS of this Act; and

“(b) No transfer or lease of that quota or of any interest in that quota shall confer any right to take fish on the transferee or lessee under that quota or interest; and

“(c) No transfer or lease of that quota or of any interest in that quota shall be effective against the Crown in the event of forfeiture of the quota or interest pursuant to section 107B of this Act,—

except to the extent that the Court orders otherwise under subsection (6) of this section.

“(6) The Court may at any time, on application by—

“(a) The holder of quota to which subsection (5) of this section applies; or

“(b) Any person having an interest in such quota,—

order that any or all of the provisions of that subsection shall not apply in respect of the quota, whether generally or in respect of any specified dealing in the quota. Any such order may be subject to such sureties and conditions as the Court may specify.

“107K. Priority of debts—(1) For the purposes of Schedule 8C of the Companies Act 1955, any levy (including any amount by which the levy has been increased under section 13A of the Ministry of Agriculture and Fisheries Act 1953) payable under section 107^{EA} of this Act shall have the priority accorded to sums referred to in clause 5 of that Schedule.

“(2) For the purposes of the Seventh Schedule to the Companies Act 1993, any levy (including the amount of any such increase) payable under section 107^{EA} of this Act shall have the priority accorded to sums referred to in clause 5 of that Schedule.

“(3) For the purposes of section 104 of the Insolvency Act 1967, any levy (including any amount of any such increase) payable under section 107^{EA} of this Act shall have the priority accorded to sums referred to in subsection (1) (e) of the said section 104.

“107L. Suspension of permit or fish receiver’s licence where levies unpaid—(1) Where any person who holds any fishing permit or fish receiver’s licence or controlled fishery licence under this Act—

“(a) Is liable to pay any levy imposed under section 107^{EA} of this Act, the payment of which has not been waived under section 107^I (2) of this Act; and

“(b) Does not pay the outstanding amount of the levy within 2 months after the date by which payment of the levy is due,—

then, regardless of whether or not the levy has been imposed on that person as a holder of such a permit or licence, the Director-General, after giving that person notice in writing of his or her intention to do so, may, by notice in writing to that person, suspend any fishing permit or fish receiver’s licence or controlled fishery licence held by that person.

“(2) Where the holder concerned holds 2 or more fishing permits or fish receiver’s licences or controlled fishery licences, or holds any combination of 2 or more of them, the Director-General may suspend such of them as he or she considers appropriate.

“(3) Every fishing permit or fish receiver’s licence or controlled fishery licence suspended under this section shall

cease to have any force or effect during the period of suspension.

“(4) The Director-General—

“(a) Shall lift a suspension under this section if the outstanding amount (including any additional amount payable under section 13A of the Ministry of Agriculture and Fisheries Act 1953) is paid to the Director-General:

“(b) May, conditionally or unconditionally, lift a suspension under this section if the Director-General and the person liable to pay the outstanding amount of the levy enter into an arrangement or agreement for repayment of that amount.

“(5) A Court may at any time, on application by the holder of a fishing permit or fish receiver’s licence or controlled fishery licence suspended under this section, by order lift the suspension. Any such order may be subject to such sureties and conditions as the Court may specify.”

5. New Schedule 1E inserted—The principal Act is hereby amended by inserting, after Schedule 1D (as inserted by section 23 of the Fisheries Amendment Act (No. 2) 1992), the Schedule 1E set out in the First Schedule to this Act.

6. Transitional levies in respect of period before commencement of first levy order under section 107EA of principal Act—(1) The levies imposed by the Second Schedule to this Act shall be payable to the Crown in accordance with the provisions of that Schedule.

(2) The Ministry shall collect all levies imposed by this section and those amounts shall be separately accounted for.

(3) Sections 107I to 107L of the principal Act (as substituted by section 4 of this Act), with any necessary modifications, shall apply in respect of any levy payable under this section.

(4) The amounts specified in Parts B, C, E, F, G, and H of the Second Schedule to this Act are inclusive of any goods and services tax payable under the Goods and Services Tax Act 1985.

(5) The Governor-General may from time to time, by Order in Council, amend the Second Schedule to this Act by—

- (a) Adding any new item:
- (b) Omitting any item:
- (c) Amending any item.

7. Expiry of section 6 and Second Schedule—Section 6 of this Act and the Second Schedule to this Act shall expire on a date to be appointed by the Governor-General by Order in Council and shall, as from their expiry, be deemed to have been repealed.

8. Repeals and amendments—(1) Sections 28ZC, 28ZZB, 107F, 107G, and 107H of the principal Act, Schedules 1B and 1C to that Act, and Part II of Schedule 1D to that Act, are hereby repealed.

(2) The Fish Royalties Act 1985 and the Fish Royalties Amendment Act 1986 are hereby repealed.

(3) The following enactments are hereby consequentially repealed:

(a) Section 28 of the Fisheries Amendment Act 1986:

(b) Sections 28, 55, and 56 of the Fisheries Amendment Act 1990:

(c) Sections 6 (3), 6 (4), 10 (3), 10 (6), 12 (2), and 29 of the Fisheries Amendment Act 1991:

(d) Section 21 of the Fisheries Amendment Act (No. 2) 1992:

(e) Section 36 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.

(4) The principal Act is hereby amended in the manner indicated in the Third Schedule to this Act.

9. Crown not liable for effects of Act—Nothing authorised or effected by this Act shall be regarded as making the Crown or any other person liable to pay compensation to any person or as otherwise making the Crown or any person guilty of a civil wrong.

10. Saving—Notwithstanding the repeal of section 28zc of the principal Act by section 8 (1) of this Act, any amount payable to any person under subsection (4A) of that section (being the remission of any part of any resource rental payment) in respect of any period ending with the close of the 30th day of September 1994 shall be paid in accordance with that section if an application in respect of the amount is received by the Director-General not later than the close of the 31st day of December 1994.

SCHEDULES

Section 5

FIRST SCHEDULE

NEW SCHEDULE 1E INSERTED IN PRINCIPAL ACT

Section 107EB

"SCHEDULE 1E

PART A

FISHERIES RELATED COSTS TO BE BORNE BY CROWN

Item	Crown Contribution
Stock assessment costs associated with—	
(a) Inshore fisheries research	10 percent
(b) Shellfish research	10 percent
(c) Pelagic fisheries research	5 percent
Management measures dealing with interfaces and resolving conflicts between commercial interests and between commercial and non-commercial interests	25 percent
Detection of fisheries offences	13 percent
Prosecutions	100 percent
Management of all Crown held fisheries quota	100 percent
Management of licensing of foreign licensed nations under the Territorial Sea and Exclusive Economic Zone Act 1977	100 percent
Costs of all other required services as defined in section 107EC (7) of this Act (other than research relating to deep water and middle depth stock assessment research, and stock assessment methodologies)	32.07 percent
Costs of conservation services referred to in section 107EA (1) (d) of this Act	00.00 percent

For the purposes of this Part of this Schedule,—

‘Inshore fisheries’ means fish of the species specified as inshore species in Part B of this Schedule:

‘Pelagic fisheries’ means fish of the species specified as pelagic species in Part B of this Schedule:

‘Prosecutions’ means proceedings that have been commenced by the laying of an information or the presentation of an indictment:

‘Shellfish’ does not include squid (*Nototodarus gouldi* and *Nototodarus sloanii*).

FIRST SCHEDULE—continued

NEW SCHEDULE 1E INSERTED IN PRINCIPAL ACT—continued

"SCHEDULE 1E—continued

PART B

TABLES OF INSHORE AND PELAGIC SPECIES SPECIFIED FOR PURPOSES OF PART A OF THIS SCHEDULE

COMMON NAME	SPECIES CODE	SCIENTIFIC NAME
	<i>Inshore Species</i>	
Alfonsino	BYX	<i>Beryx splendens</i> , <i>B. decadactylus</i>
Blue cod	BCO	<i>Parapercis colias</i>
Blue moki	MOK	<i>Latridopsis ciliaris</i>
Bluenose	BNS	<i>Hyperoglyphe antarctica</i>
Butterfish, greenbone	BUT	<i>Odax pullus</i>
Common (blue) warehou	WAR	<i>Seriola lalandi</i>
Conger eel	CON	<i>Conger spp.</i>
Elephant fish	ELE	<i>Callorhynchus milii</i>
Flatfish:		
Black flounder	BLF	<i>Rhombosolea retiaria</i>
Brill	BRI	<i>Colistium guntheri</i>
Greenback flounder	GFL	<i>Rhombosolea tapirina</i>
Lemon sole	LSO	<i>Pelotretis flavilatus</i>
New Zealand sole	ESO	<i>Peltorhampus novaezeelandiae</i>
Sand flounder	SFL	<i>Rhombosolea plebeia</i>
Turbot	TUR	<i>Colistium nudipinnis</i>
Yellowbelly flounder	YBF	<i>Rhombosolea leporina</i>
Giant stargazer	STA	<i>Kathetostoma giganteum</i>
Grey mullet	GMU	<i>Mugil cephalus</i>
Groper:		
Bass	BAS	<i>Polyprion moeone</i>
Hapuku	HAP	<i>Polyprion oxygeneios</i>
John dory	JDO	<i>Zeus faber</i>
Leatherjacket	LEA	<i>Pariaka scaber</i>
Long-finned fresh-water eel	LFE	<i>Anguilla dieffenbachii</i>
Octopus	OCT	<i>Octopus maorum</i>
Parore	PAR	<i>Girella tricuspidata</i>
Porae	POR	<i>Nemadactylus douglasi</i>
Quinnat salmon	SAM	<i>Oncorhynchus tshawytscha</i>
Red cod	RCO	<i>Pseudophycis bachus</i>
Red gurnard	GUR	<i>Chelidonichthys kumu</i>
Red moki	RMO	<i>Chelodactylus spectabilis</i>
Rig, spotted dogfish	SPO	<i>Mustelus lenticulatus</i>
Rough skate	RSK	<i>Raja nasuta</i>
School shark	SCH	<i>Galeorhinus galeus</i>
Sea perch, Jock Stewart, Scarpee	SPE	<i>Helicolenus percoides</i>
Short-finned freshwater eel	SFE	<i>Anguilla australis</i>
Snapper	SNA	<i>Pagrus auratus</i>

FIRST SCHEDULE—*continued*NEW SCHEDULE 1E INSERTED IN PRINCIPAL ACT—*continued*"SCHEDULE 1E—*continued*PART B—*continued*TABLES OF INSHORE AND PELAGIC SPECIES SPECIFIED FOR PURPOSES OF
PART A OF THIS SCHEDULE
—*continued*

COMMON NAME	SPECIES CODE	SCIENTIFIC NAME
<i>Inshore Species</i>		
Spiny dogfish	SPD	<i>Squalus acanthias</i>
Spotted gurnard	JGU	<i>Pterygotrigla picta</i>
Spotted stargazer	SPZ	<i>Genyagnus monopterygius</i>
Tarakihi	TAR	<i>Nemadactylus macropterus</i>
Trevally	TRE	<i>Pseudocaranx dentex</i>
Yellow-eyed mullet	YEM	<i>Aldrichetta forsteri</i>
<i>Pelagic Species</i>		
Albacore	ALB	<i>Thunnus alalunga</i>
Anchovy	ANC	<i>Engraulis australis</i>
Bigeye tuna	BIG	<i>Thunnus obesus</i>
Blue (English) mackerel	EMA	<i>Scomber australasicus</i>
Broadbill swordfish	SWO	<i>Xiphias gladius</i>
Butterfly tuna	BTU	<i>Gasterochisma melampus</i>
Garfish	GAR	<i>Hyporhamphus ihi</i>
Jack mackerel	JMA	<i>Trachurus declivis</i> , <i>T. novaezeelandiae</i> , <i>T. murphyi</i>
Kahawai	KAH	<i>Arripis trutta</i> , <i>A. xylabion</i>
Kingfish (yellowtail)	KIN	<i>Seriola ialandi</i>
Northern bluefin tuna	NTU	<i>Thunnus thynnus</i>
Pilchard	PIL	<i>Sardinops neopilchardus</i>
Ray's bream	RBM	<i>Brama brama</i>
Skipjack tuna	SKI	<i>Katsuwonus pelamis</i>
Southern bluefin tuna	STN	<i>Thunnus maccoyi</i>
Sprats	SPR	<i>Sprattus antipodum</i> , <i>S. muelleri</i>
Yellowfin tuna	YFN	<i>Thunnus albacares</i>
Striped marlin	STM	<i>Tetrapturus audax</i>
Black marlin	BKM	<i>Makaira indica</i>
Blue marlin	BEM	<i>Makaira nigricans</i> , <i>Makaira mazara</i>
Blue shark	BWS	<i>Prionace glauca</i>
Mako shark	MAK	<i>Isurus oxyrinchus</i> "

SECOND SCHEDULE

Section 6

TRANSITIONAL LEVIES PAYABLE UNTIL EXPIRY OF SECTION 6

PART A

GENERAL PROVISIONS

1. Interpretation—(1) In this Schedule,—

“Coromandel scallop fishery permit holder” means any person who holds a fishing permit entitling that person to take scallops in the Coromandel scallop controlled fishery:

“Holder”, in relation to quota,—

(a) Means any person to whom the quota has been issued or transferred; and

(b) In any case where the quota has been leased, includes any person who, but for the lease, would for the time being be entitled to take fish, aquatic life, or seaweed under the quota; but does not include a lessee of Crown held quota where the lessee is the holder of a licence issued under the Territorial Sea and Exclusive Economic Zone Act 1977:

“Set net” includes a gill net, drift net, trammel net, or any other sort of net which acts by enmeshing, entrapping, or entangling any fish:

“Set net permit holder” means any person who holds a fishing permit under section 63 of the principal Act entitling that person to take fish, aquatic life, or seaweed by means of a set net:

“Southern blue whiting permit holder” means any person who holds a fishing permit under section 63 of the principal Act, or a special permit issued pursuant to section 64 of that Act, entitling that person to take southern blue whiting (*Micromesistius australis*):

“Tuna fishing permit holder” means any person who holds a fishing permit issued under section 63 of the principal Act entitling that person to take tuna as defined in subsection (14) of that section.

(2) Expressions used in this Schedule and also in Part I or Part II of the Fisheries (Reporting) Regulations 1990, but not defined in subclause (1) of this clause, have the same meanings as in that Part of those regulations.

2. Levies on quota holders—(1) There shall be payable to the Crown in respect of—

- (a) Every guaranteed minimum transferable quota; and
- (b) Every individual transferable quota; and
- (c) Every guaranteed minimum transferable term quota; and
- (d) Every transferable term quota,—

an annual levy for each tonne or part of a tonne of quota at the appropriate rate according to the species or class of fish, aquatic life, or seaweed as specified in Part B of this Schedule.

(2) The annual levy shall be payable in equal instalments on the last day of each calendar month and shall be payable by the person who is the holder of the quota on the date concerned.

(3) The annual levy shall be payable irrespective of whether or not the fish, aquatic life, or seaweed to which the quota relates is taken.

3. Levies on permits—(1) There shall be payable by every set net permit holder and every tuna fishing permit holder an annual levy of the amount specified in relation to such holders in Part C of this Schedule.

SECOND SCHEDULE—*continued*TRANSITIONAL LEVIES PAYABLE UNTIL EXPIRY OF SECTION 6—*continued*PART A—*continued*GENERAL PROVISIONS—*continued*

(2) The annual levy shall be payable 20 days after the receipt of a demand from the Director-General.

4. Compensation levy—(1) In respect of the period commencing on the first day of October 1994 and ending with the close of the 30th day of September 1995, there shall be payable to the Crown in respect of—

- (a) Every guaranteed minimum individual transferable quota; and
- (b) Every individual transferable quota (including southern scallop quota under Part IIb of the principal Act); and
- (c) Every guaranteed minimum transferable term quota; and
- (d) Every transferable term quota; and
- (e) The taking of, by any commercial fisherman, any oysters or scallops (other than scallops to which Part IIb of the principal Act applies),—

an annual compensation levy for each tonne or part of a tonne at the appropriate rate according to the species or class of fish, aquatic life, or seaweed as specified in Part D of this Schedule.

(2) The annual compensation levy shall be payable on demand made by the Director-General, in instalments on the last days of December 1994 and March 1995, respectively, and thereafter shall be payable, on demand made by the Director-General, monthly on the last days of each month until this provision expires or is sooner repealed.

(3) The levies payable in respect of the quota specified in paragraphs (a) to (d) of subclause (1) of this clause shall be payable by every holder of such quota.

(4) The levies payable in respect of the shellfish specified in paragraph (e) of subclause (1) of this clause shall be payable by every commercial fisherman who takes any such shellfish.

(5) Subject to subclause (6) of this clause, the compensation levy shall be payable at the higher of the 2 rates specified in Part D of this Schedule where the holder or any lessee or other person who is authorised to take fish under the quota has the use of a foreign owned New Zealand fishing vessel at any time during the fishing year.

(6) Where subclause (5) of this clause applies, the Minister shall, subject to subclause (7) of this clause, waive or remit the difference between the compensation levy at the higher rate and the compensation levy at the lower rate in respect of so much of the quota as authorises the taking of any fish that the Minister is satisfied were taken using a vessel that was not, at the time the fish were taken, a foreign owned New Zealand fishing vessel.

(7) The waiver or remission of part of any compensation levies under subclause (6) of this clause shall be granted only on an application for remission or waiver of the payment of any compensation levies that is received by the Minister within 2 months after the date of the Director-General's demand for payment of the levies.

(8) In the case of compensation levies payable in respect of quota, the levy shall be payable irrespective of whether or not the fish to which the quota relates is taken.

SECOND SCHEDULE—*continued*TRANSITIONAL LEVIES PAYABLE UNTIL EXPIRY OF SECTION 6—*continued*PART A—*continued*GENERAL PROVISIONS—*continued*

(9) For the purposes of this clause, the term “holder”, in relation to quota,—

- (a) Means the person to whom a quota is issued or transferred and who for the time being would be entitled to take fish under the quota if the rights under the quota had not been leased to any other person; and
- (b) Includes any lessee from the Crown of the right to take fish under a quota other than a lessee of quota who uses foreign fishing craft licensed under the Territorial Sea and Exclusive Economic Zone Act 1977 to take the fish; but
- (c) Does not include any other lessee of the right to take fish under a quota, the Crown, or the Director-General acting on behalf of the Crown.

5. Charter vessel levy—(1) Every commercial fisherman who takes any fish, aquatic life, or seaweed of the type specified in Part E of this Schedule using a foreign chartered fishing vessel (being a vessel registered with the consent of the Director-General under section 57 (8) of the principal Act) shall pay an annual levy for each tonne or part of a tonne of fish, aquatic life, or seaweed so landed, at the appropriate rate of levy specified in that Part.

(2) The levy payable under this clause shall be payable monthly on the last day of the month in which the fish, aquatic life, or seaweed is taken.

6. Controlled fishery licence levy—(1) Every holder of a controlled fishery licence for the Foveaux Strait Dredge Oyster Fishery shall pay the annual levy specified in Part F of this Schedule.

(2) The levy payable under this clause shall be payable monthly on the last day of the month, irrespective of whether or not any shellfish have been taken under the authority of the licence.

7. Non-ITQ levies—(1) Every commercial fisherman who takes any fish, aquatic life, or seaweed specified in Part G of this Schedule shall pay an annual levy for each tonne or part of a tonne of fish, aquatic life, or seaweed so taken, at the appropriate rate of levy specified in that Part.

(2) The levy payable under this clause shall be payable monthly on the last day of the month in which the fish, aquatic life, or seaweed is taken.

8. Levies on individual catch limits—(1) There shall be payable by every southern blue whiting permit holder and every Coromandel scallop fishery permit holder an annual levy for each tonne or part of a tonne of the individual catch limit specified in the holder’s fishing permit at the appropriate rate specified in Part H of this Schedule.

(2) The annual levy shall be payable in equal instalments on the last day of each calendar month.

(3) The annual levy shall be payable irrespective of whether or not the individual catch limit specified in the holder’s permit is taken.

SECOND SCHEDULE—*continued*TRANSITIONAL LEVIES PAYABLE UNTIL EXPIRY OF SECTION 6—*continued*

PART B

LEVIES ON EACH TONNE OR PART THEREOF OF QUOTA

Fisheries Management Services

Fishstock	Total Levy	Fishstock	Total Levy
BAR1	14.91	GMU2	42.46
BAR10	0.00	GMU3	42.46
BAR4	14.91	GMU7	42.46
BAR5	14.91	GUR1	29.24
BAR7	14.91	GUR10	0.00
BCO1	103.96	GUR2	29.24
BCO10	0.00	GUR3	29.24
BCO2	103.96	GUR7	29.24
BCO3	103.96	GUR8	29.24
BCO4	65.71	HAK1	39.72
BCO5	103.96	HAK10	0.00
BCO7	103.96	HAK4	39.72
BCO8	103.96	HAK7	39.72
BNS1	64.49	HOK1	27.91
BNS10	0.00	HOK10	0.00
BNS2	64.49	HPB1	86.52
BNS3	64.49	HPB10	0.00
BNS7	64.49	HPB2	67.80
BNS8	64.49	HPB3	67.80
BYX1	42.46	HPB4	44.66
BYX10	0.00	HPB5	67.80
BYX2	42.46	HPB7	67.80
BYX3	42.46	HPB8	67.80
BYX7	42.46	JDO1	75.50
BYX8	42.46	JDO10	0.00
CRA1	774.25	JDO2	75.50
CRA10	0.00	JDO3	75.50
CRA2	774.25	JDO7	75.50
CRA3	774.25	JMA10	0.00
CRA4	774.25	JMA7	12.99
CRA5	774.25	LIN1	36.35
CRA6	774.25	LIN10	0.00
CRA7	774.25	LIN2	36.35
CRA8	774.25	LIN3	36.35
CRA9	774.25	LIN4	36.35
ELE1	42.46	LIN5	36.35
ELE10	0.00	LIN6	36.35
ELE2	42.46	LIN7	36.35
ELE3	42.46	MOK1	29.24
ELE5	42.46	MOK10	0.00
ELE7	42.46	MOK3	29.24
FLA1	56.78	MOK4	29.24
FLA10	0.00	MOK5	29.24
FLA2	56.78	OEO1	17.55
FLA3	56.78	OEO10	0.00
FLA7	56.78	OEO3A	17.55
GMU1	42.46	OEO4	38.54
GMU10	0.00	OEO6	17.55

SECOND SCHEDULE—*continued*TRANSITIONAL LEVIES PAYABLE UNTIL EXPIRY OF SECTION 6—*continued*PART B—*continued*LEVIES ON EACH TONNE OR PART THEREOF OF QUOTA—*continued**Fisheries Management Services—continued*

Fishstock	Total Levy	Fishstock	Total Levy
ORH1	64.56	SPO1	64.49
ORH10	0.00	SPO10	0.00
ORH2A	112.98	SPO2	49.07
ORH2B	107.78	SPO3	64.49
ORH3A	69.66	SPO7	64.49
ORH3B	351.93	SPO8	49.07
ORH7A	94.78	SQU10T	0.00
ORH7B	64.56	SQU1J	23.24
PAU1	1,020.41	SQUIT	23.24
PAU10	0.00	SQU6T	23.24
PAU2	1,020.41	STA1	36.95
PAU3	1,020.41	STA10	0.00
PAU4	1,020.41	STA2	36.95
PAU5	1,020.41	STA3	36.95
PAU6	223,886.28	STA4	29.24
PAU7	1,020.41	STA5	36.95
PHC1	288.95	STA7	36.95
RCO1	21.69	STA8	36.95
RCO10	0.00	SWA1	23.57
RCO2	21.69	SWA10	0.00
RCO3	21.69	SWA3	23.57
RCO7	21.69	SWA4	23.57
SCA7	182.44	TAR1	53.98
SCH1	35.85	TAR10	0.00
SCH10	0.00	TAR2	49.07
SCH2	35.85	TAR3	34.74
SCH3	35.85	TAR4	27.03
SCH4	25.92	TAR5	34.74
SCH5	35.85	TAR7	34.74
SCH7	35.85	TAR8	34.74
SCH8	35.85	TRE1	41.24
SKI1	42.75	TRE10	0.00
SKI10	0.00	TRE2	32.42
SKI2	42.75	TRE3	32.42
SKI3	29.42	TRE7	32.42
SKI7	29.42	WAR1	36.08
SNA1	319.68	WAR10	0.00
SNA10	0.00	WAR2	36.08
SNA2	145.13	WAR3	22.74
SNA3	128.61	WAR7	22.74
SNA7	191.15	WAR8	36.08
SNA8	163.36		

SECOND SCHEDULE—*continued*TRANSITIONAL LEVIES PAYABLE UNTIL EXPIRY OF SECTION 6—*continued*PART B—*continued*LEVIES ON EACH TONNE OR PART THEREOF OF QUOTA—*continued**Conservation Services*

Fishstock			Total Levy
HOK1	..	..	0.82
JMA7	..	..	0.17
SQU1J	..	..	1.36
SQU1T	..	..	1.36
SQU6T	..	..	1.36
Southern blue whiting			0.57

PART C

ANNUAL LEVIES ON PERMITS

			\$
1. Set net permit holders	..	..	149.36
2. Tuna fishing permit holders	..	..	149.36

SECOND SCHEDULE—*continued*TRANSITIONAL LEVIES PAYABLE UNTIL EXPIRY OF SECTION 6—*continued*

PART D

COMPENSATION LEVIES

Species or Class of Fish	Rate of compensation levy per tonne of quota held where person does not have use of any foreign owned New Zealand fishing vessel at any time during the fishing year	Rate of compensation levy per tonne of quota held where person has use of any foreign owned New Zealand fishing vessel at any time during the fishing year
	\$	\$
<i>Part I—Species or Classes of Fish with Fishing Year Beginning 1 October</i>		
Alfonsino	8.04	16.08
Barracouta	6.32	12.64
Blue cod	16.29	32.58
Blue moki	9.40	18.80
Bluenose	16.29	32.58
Blue warehou	8.77	17.54
Elephant fish	23.80	47.60
Flatfish	16.44	32.88
Gemfish	17.54	35.08
Grey mullet	10.02	20.04
Gurnard	15.03	30.06
Hake	33.83	67.66
Hapuku and bass com- bined	22.55	45.10
Hoki	11.37	22.74
Jack mackerel	6.02	12.04
John dory	21.30	42.60
Ling taken in Sub- Antarctic area	28.71	57.42
Ling taken in any other area	41.34	82.68
Orange roughy	131.54	263.08
Oreo dories	14.79	29.58
Paua	131.54	263.08
Red cod taken in South- East (Coast) area	3.13	6.26
Red cod taken in any other area	9.40	18.80
Rig	18.64	37.27
School shark	15.89	31.78
Silver warehou	31.32	62.64
Snapper	51.36	102.72
Squid taken in Southern Islands area	18.74	62.48
Squid taken in any other area	37.49	124.98
Stargazer taken in South- East (Chatham Rise) area	3.13	6.26
Stargazer taken in any other area	13.57	27.14
Tarakihi	12.63	25.26
Trevally	12.63	25.26

SECOND SCHEDULE—*continued*TRANSITIONAL LEVIES PAYABLE UNTIL EXPIRY OF SECTION 6—*continued*PART D—*continued*COMPENSATION LEVIES—*continued*

Species or Class of Fish	Rate of compensation levy per tonne of quota held where person does not have use of any foreign owned New Zealand fishing vessel at any time during the fishing year	Rate of compensation levy per tonne of quota held where person has use of any foreign owned New Zealand fishing vessel at any time during the fishing year
	\$	\$
<i>Part II—Species or Classes of Fish with Fishing Year Beginning 1 April</i>		
Rock lobster, packhorse	346.50	346.50
Rock lobster, spiny	346.50	346.50
Scallops taken in the Southern Scallop Fishery	313.20	313.20

Part III—Oysters and Scallops

Species or Class of Fish	Rate of compensation levy per tonne of fish taken
Oysters taken by dredging on or after 1 October 1994	\$27.77 per tonne
Scallops taken on or after 1 October 1994 (other than scallops taken in the Southern Scallop Fishery) ..	\$313.20 per tonne (meat weight).

SECOND SCHEDULE—*continued*TRANSITIONAL LEVIES PAYABLE UNTIL EXPIRY OF SECTION 6—*continued*

PART G

NON-ITQ LEVIES

Fishstock							Total Levy
							\$
BUT	..	..	..	..	..	..	75.50
GSH	..	..	..	..	..	..	20.42
LEA	..	..	..	..	..	..	19.32
RIB	..	..	..	..	..	..	19.32
SPE	..	..	..	..	..	..	18.23
SSK	..	..	..	..	..	..	13.80
SPD	..	..	..	..	..	..	13.80
SFE	..	..	..	..	..	..	75.50
LFE	..	..	..	..	..	..	75.50
YEM	..	..	..	..	..	..	22.62
CDL	..	..	..	..	..	..	17.74
FRO	..	..	..	..	..	..	16.08
WWA	..	..	..	..	..	..	31.07
COC	..	..	..	..	..	..	22.71
OYS	..	..	..	..	..	..	26.71
SUR	..	..	..	..	..	..	22.71
PAD	..	..	..	..	..	..	12.06
PPI	..	..	..	..	..	..	22.71
SCA (taken in the Auckland Fisheries Management Area other than from the Coromandel Scallop Fishery)	..	..	..	..	..	..	603.64
SCI	..	..	..	..	..	..	498.04
TUA	..	..	..	..	..	..	22.71
EMA	..	..	..	..	..	..	15.40
KAH	..	..	..	..	..	..	37.58
STN	..	..	..	..	..	..	628.36
ALB	..	..	..	..	..	..	102.56
SKJ	..	..	..	..	..	..	18.73
BIG	..	..	..	..	..	..	143.80
YFN	..	..	..	..	..	..	110.44
SWO	..	..	..	..	..	..	402.44
JMA1	..	..	..	..	..	..	12.99
JMA3	..	..	..	..	..	..	12.99
PZL (shellfish of which the scientific name is <i>Panopea zelandica</i>)	..	..	..	..	..	..	22.71
PSM (shellfish of which the scientific name is <i>Panopea smithae</i>)	..	..	..	..	..	..	22.71

PART H

					\$ per tonne
Southern blue whiting	..	..	..	..	80.44
Coromandel scallops	..	..	..	..	1,599.19

THIRD SCHEDULE

Section 8 (4)

AMENDMENTS TO PRINCIPAL ACT CONSEQUENTIAL ON REPEAL OF
PROVISIONS RELATING TO RESOURCE RENTALS

Provision Amended	Amendment
28of	<p>By omitting from paragraph (b) (ii) of the definition of the term "compensation balance" in subsection (1) (as inserted by section 15 of the Fisheries Amendment Act 1990) the words "resource rentals", and substituting the words "compensation levies".</p> <p>By inserting in subsection (1), after the definition of the term "compensation balance", the following definition: " 'Compensation levy' means the compensation levy imposed by Part A of the Second Schedule to the Fisheries Amendment Act 1994:".</p> <p>By repealing the definition of the term "extended compensation period" in subsection (1) (as substituted by section 6 (3) of the Fisheries Amendment Act 1991), and substituting the following definition: " 'Extended compensation period' means the period commencing on the 1st day of October 1994 and ending with the close of the 30th day of September 1995:".</p> <p>By inserting in subsection (2), after the words "resource rental" in both places where they occur, the words "or compensation levy".</p> <p>By repealing subsection (3) (as added by section 6 (4) of the Fisheries Amendment Act 1991).</p>
28oj	<p>By omitting from subsection (1)(a) (as inserted by section 15 of the Fisheries Amendment Act 1990) the word "during" where it secondly occurs, and substituting the words "in respect of".</p> <p>By repealing paragraph (b) of subsection (1) (as so inserted), and substituting the following paragraph: "(b) All compensation levies paid to the Crown during the extended compensation period (less the amount of any compensation levies refunded in respect of that period</p>

THIRD SCHEDULE—*continued*AMENDMENTS TO PRINCIPAL ACT CONSEQUENTIAL ON REPEAL OF
PROVISIONS RELATING TO RESOURCE RENTALS—*continued*

Provision Amended	Amendment
280j— <i>continued</i>	<p>pursuant to Part A of the Second Schedule to the Fisheries Amendment Act 1994), to the extent that the total amount so paid does not exceed the amount of compensation payable under section 280g of this Act in respect of reductions in quota for hoki as remains unpaid on the 31st day of December 1994; and”.</p>
280L	<p>By omitting from subsection (2) (as so inserted and as amended by section 10 (6) of the Fisheries Amendment Act 1991) the words “or (if appropriate) the extended compensation period”.</p> <p>By omitting from subsection (1) (b) (ii) (as inserted by section 15 of the Fisheries Amendment Act 1990) the words “the 30th day of September 1994”, and substituting the words “all payments by way of the remission of resource rentals, being payments made on applications lodged in accordance with section 10 of the Fisheries Amendment Act 1994, have been made”.</p> <p>By repealing subsection (3) (as so inserted), and substituting the following subsections:</p> <p>“(3) Subject to subsection (4) of this section, where the compensation balance available at the close of the 30th day of September 1994 is insufficient to pay all amounts of compensation payable under sections 280g to 280i of this Act that remain unpaid at that date, that balance shall, after all cases to which section 10 of the Fisheries Amendment Act 1994 apply have been determined in accordance with that section, be paid to the persons to whom compensation is due in accordance with the following priorities:</p> <p>“(a) First, there shall be paid (if the compensation balance is</p>

THIRD SCHEDULE—*continued*AMENDMENTS TO PRINCIPAL ACT CONSEQUENTIAL ON REPEAL OF
PROVISIONS RELATING TO RESOURCE RENTALS—*continued*

Provision Amended	Amendment
280L— <i>continued</i>	<p>sufficient), to each person who has not yet received the amount of compensation that is then due to that person under section 280H of this Act, such amount as may be necessary to bring the level of compensation paid to that person up to that amount:</p> <p>“(b) Secondly, there shall be paid (if the compensation balance is sufficient), to each person who has not yet received the amount of compensation that is then due to that person under section 280I of this Act, such amount as may be necessary to bring the level of compensation paid to that person up to that amount:</p> <p>“(c) Thirdly, there shall be paid in full (if the compensation balance is sufficient), to each person who has not yet received the agreed preliminary percentage of the amount of compensation payable to that person, such amount as may be necessary to bring the level of compensation paid to that person up to that percentage:</p> <p>“(d) To the extent of any remaining compensation balance, the amount to be paid to each person to whom any amount of compensation is still due shall be reduced on a proportionate basis to total the amount of that remaining balance.</p> <p>“(3A) Subject to subsection (4) of this section, where the compensation balance available at the end of the extended compensation period is insufficient to pay all amounts of compensation payable under</p>

THIRD SCHEDULE—*continued*AMENDMENTS TO PRINCIPAL ACT CONSEQUENTIAL ON REPEAL OF
PROVISIONS RELATING TO RESOURCE RENTALS—*continued*

Provision Amended	Amendment
28OL— <i>continued</i>	sections 28OG to 28OI of this Act that remain unpaid at that date, that balance, after all cases to which clause 4 (7) of Part A of the Second Schedule to the Fisheries Amendment Act 1994 apply have been determined, shall be paid to the persons to whom compensation is due in accordance with paragraphs (a) to (d) of subsection (3) of this section.”

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