

FISHERIES AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Fisheries Act 1908.

Clause 1 relates to the Short Title.

Clause 2 amends the interpretation provisions of the principal Act.

Subclause (1) amends the definition of the term "fish" by including within the definition every description of fauna and flora naturally occurring seawards of mean highwater spring tides.

Subclause (2) amends the definition of the term "fishery officer" by including within the definition honorary fishery officers.

Subclause (3) includes aircraft, hovercraft, and other craft within the definition of the term "fishing boat".

Subclause (4) inserts a new definition, that of "international agreement". See also *clause 3 (12)* of the Bill.

Subclause (5) amends the definition of the term "Minister".

Subclause (6): Section 2 (2) of the principal Act provides that persons in possession or control of certain vessels, vehicles, and containers may be deemed to be in possession of any fish or oysters kept or carried in or on those vessels, vehicles, or containers. This subclause extends the class of vehicles by including aircraft and hovercraft.

Subclause (7) relates to consequential repeals.

Clause 3 provides that any person ordered by the commander of a vessel or aircraft of the Armed Forces to carry out any of the duties of an Inspector of Sea Fishing shall have the powers of such an Inspector to carry out those duties.

Clause 4 amends the regulation-making provisions of the principal Act.

Subclause (1) includes, within the classes of objects to which regulations may be declared to apply, classes or types of gear or apparatus.

Subclause (2) includes salmon among those fish for which conditions and restrictions on their taking may be imposed.

Subclause (3) changes the term "crayfish" to "rock lobsters" in section 5 (1) (ddd) of the principal Act.

Subclause (4) is a drafting provision.

Subclause (5) enables the Minister, by notice in the *Gazette*, to vary any close season within prescribed limits.

Subclause (6) provides that quotas of fish caught may be imposed in respect of methods of fishing, as well as on species of fish.

Subclause (7) substitutes a new provision relating to controls over the exporting, buying, or selling of fish, salmon, or oysters.

Subclause (8) substitutes a new provision relating to the quantity of fish or oysters that may be kept on board any vehicle or vessel.

Subclause (9) provides for new provisions relating to the registration of vehicles from which rock lobster may be sold, and also provides for returns to be made to the Director-General in respect of such rock lobster, and in respect of any premises used for processing, storing, retailing, or wholesaling fish, salmon, or oysters.

Subclause (10) extends the regulation-making provisions relating to fixing times and seasons during which fishing may be prohibited, and the modes of fishing which may be used.

Subclause (11) includes fish, oysters, and salmon with those fish which may be the subject of regulations controlling their processing.

Subclause (12) provides for the Minister, by notice in the *Gazette*, to prohibit the taking of fish or oysters during a period prescribed in the regulations.

Subclause (13) enables the Governor-General to make regulations to give effect to any international agreement. Such regulations may be declared to apply in respect of any New Zealand citizen or ship or aircraft wherever they may be.

Subclause (14) is a validation provision.

Subclause (15) relates to consequential repeals.

Clause 5 provides that a fishery officer may enter any boat which he suspects to have been engaged in fishing. The present provision, in section 9 (1) (a) of the principal Act, allows entry only on boats engaged or suspected to be engaged in fishing.

Clause 6 authorises a fishery officer or constable who believes on reasonable grounds that any person may have committed an offence against the principal Act to request that person to give his name and address.

Clause 7 empowers a fishery officer pursuant to a search warrant to take away any fish supposed to be illegally caught from any premises searched.

Clause 8 includes any restaurant, hotel, tavern, or public eating-house among the places which a fishery officer may search; and includes salmon among the fish that may be searched for. The penalty for obstructing a fishery officer has also been increased.

Clause 9 increases the penalties for assaulting fishery officers acting in the execution of their duties, and also includes constables in the provisions of the section.

Clause 10 inserts a new section 60A into the principal Act. The new section makes it an offence for a person to personate or falsely represent himself to be a fishery officer.

Clause 11 expands the provisions of section 77 of the principal Act which provides that nothing in the Act or any regulations made under it shall apply in respect of any of the matters set out in the section. This clause extends the range of activities (which may otherwise be unlawful) for which the Director-General may grant a written permit.

Clause 12 amends the definition of the term "Minister" in relation to freshwater fisheries.

Clause 13: Section 81 of the principal Act authorises officers pursuant to a search warrant to enter certain premises for the purposes of detecting offences against the Act. This clause adds a new subsection (1A) to the section, and allows the officer searching to take away certain things which may be used as evidence in any proceedings.

Clause 14 inserts a new section 82A into the principal Act. The new section provides for the Director-General to take certain actions if an emergency occurs that endangers or may endanger stocks of freshwater fish.

Clause 15 prohibits the placing of oil or chlorinated hydrocarbon pesticide in or near any waters.

Clause 16 makes a drafting amendment to sections 95 and 96 of the principal Act.

Clause 17 increases penalties for offences against the principal Act. The increases are set out in the Schedule to the Bill. The statutory minimum terms of imprisonment for offences against section 58 (2) of the principal Act have been repealed, and substituted by fines or a reduced maximum term of imprisonment.

Clause 18 repeals a spent provision.

Clause 19 makes amendments to the Fisheries Amendment Act 1963. That Act generally relates to the registration of fishing boats and methods of fishing.

Subclause (1) removes the requirement that a tender to a fishing boat has to be small before it is exempt from being separately registered as a fishing boat.

Subclauses (2) to (4) amend section 7 of the Amendment Act. That section relates to the ownership of fishing boats.

Subclause (2) authorises the Minister to impose conditions upon the foreign owner of a fishing boat before the Minister will register it in New Zealand. The conditions may relate to the landing, processing, export, or use of any fish taken, or may require compliance with those provisions of the Shipping and Seamen Act 1952 which relate to the seaworthiness and safety of the fishing boat.

Subclause (3) provides that, for the purposes of registering a fishing boat without obtaining the prior consent of the Minister, a person shall be deemed to be ordinarily resident in New Zealand if that person is a New Zealand citizen who does not hold foreign fishing interests.

Subclause (4) tightens the conditions under which a company may obtain registration of a fishing boat if that company is controlled by persons who are not New Zealand citizens or by persons who are not ordinarily resident in New Zealand. The subclause also provides that, for the purposes of the section, an owner is not to include any charterer, sub-charterer, lessee, or sub-lessee of a foreign fishing boat. A foreign fishing boat is also defined.

Subclauses (5) to (7) make miscellaneous amendments to section 10 of the Amendment Act, which deals with the issue of boat fishing permits.

Subclause (8) makes some similar amendments in respect of shore fishing permits.

Subclause (9) removes oysters from the exemption provisions of section 12 (3) of the Amendment Act. The effect is to require persons taking oysters from the shore for the purposes of sale to hold a shore-fishing permit.

Subclause (10) introduces an exemption from the provisions of section 12 of the Amendment Act by providing that, in certain circumstances, the sale of fish taken during the course of a fishing competition, if sold by public auction for charitable purposes, is not to be an offence.

Subclause (11) removes any doubt that the forfeiture provisions contained in section 53 of the principal Act apply to foreign fishing craft fishing within New Zealand territorial waters.

Subclause (12) increases the penalty for not carrying a fishing permit on board a fishing boat.

Subclause (13) authorises fishery officers to inspect certificates of survey of fishing boats.

Subclause (14): Section 14 (5) of the Amendment Act authorises conditions to be attached to any fishing permit for shellfish. The term "shellfish" as defined in Part I of the principal Act excludes oysters. This subclause includes oysters as shellfish for the purpose of imposing conditions on a fishing permit.

Subclause (15) changes the term "crayfish" to the term "rock lobster".

Subclause (16) extends the regulation-making power under the Amendment Act in requiring returns to be made of all matters relating to the taking of fish, and to fish taken, kept, or disposed of.

Subclause (17) provides that the registration of fishing boats registered as at the commencement of the Bill is not to be cancelled solely because of the amendments made by the clause.

Clause 20 increases the penalties for offences against the Fisheries Amendment Act 1965 (which relates to oyster fishing).

Hon. Mr MacIntyre

FISHERIES AMENDMENT

ANALYSIS

Title	12. Interpretation in relation to freshwater fisheries
1. Short Title	13. Justice may grant warrant to enter certain places
2. Interpretation	14. Emergencies relating to freshwater fisheries
3. Powers of officer in command of vessel or aircraft of Armed Forces	15. Regulations in respect of freshwater fisheries
4. Regulations	16. Offenders to give name and address
5. Officers may enter boats	17. Increasing penalties for offences
6. Apprehension of offenders, and admission to bail	18. Repeal of spent provision
7. Search warrants may be granted	19. Amendments to Fisheries Amendment Act 1963
8. Powers of entry and search	20. Increase in penalties for offences relating to the taking of oysters
9. Obstructing officers	Schedule
10. Personating officers	
11. Limitation of Act	

A BILL INTITULED

An Act to amend the Fisheries Act 1908

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,
5 as follows:

1. Short Title—This Act may be cited as the Fisheries Amendment Act 1979, and shall be read together with and deemed part of the Fisheries Act 1908* (hereinafter referred to as the principal Act).

10 2. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term “fish” (as substituted by section 2 (1) of the Fisheries Amendment Act 1959, and amended by section 11 of the

*Reprinted 1976, Vol. 5, p. 3705

Territorial Sea and Fishing Zone Act 1965 and section 2 (1) (a) of the Fisheries Amendment Act 1971), and substituting the following definition:

“‘Fish’ includes every description of fish and of shellfish found in New Zealand fisheries waters, and their young or fry or spawn; and includes every description of seaweed found in those waters, and its spores, and every description of fauna and flora naturally occurring seawards of mean highwater spring tides; but does not include salmon, trout, oysters, or marine mammals:”.

(2) The said section 2 (1) is hereby further amended by inserting in the definition of the term “fishery officer” after the word “hereof”, the words “and any honorary fishery officer appointed under section 9 (1) of the Fisheries Amendment Act 1959”.

(3) The said section 2 (1) is hereby further amended by omitting from the definition of the term “fishing boat” the word “vessel”, and substituting the words “description of vessel, aircraft, hovercraft, or other craft,”.

(4) The said section 2 (1) is hereby further amended by inserting, after the definition of the term “Inspector”, the following definition:

“‘International agreement’ means any bilateral or multi-lateral 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:”.

(5) The said section 2 (1) is hereby further amended by repealing the definition of the term “Minister” (as substituted by section 6 (1) of the Ministry of Agriculture and Fisheries Act 1972), and substituting the following definition:

“‘Minister’ means the Minister of Fisheries:”.

(6) Section 2 (2) of the principal Act (as substituted by section 30 (1) of the Marine Mammals Protection Act 1978) is hereby amended by inserting, after the word “vehicle,” wherever it occurs, the words “aircraft, hovercraft,”.

(7) The following enactments are hereby consequentially repealed:

(a) Section 2 (1) of the Fisheries Amendment Act 1959:

(b) Section 2 (1) (a) of the Fisheries Amendment Act 1971:

(c) So much of the Second Schedule to the Ministry of Agriculture and Fisheries Amendment Act 1972 as relates to the definition of the term “Minister” in section 2 (1) of the principal Act.

3. Powers of officer in command of vessel or aircraft of Armed Forces—Section 4 of the principal Act is hereby amended by inserting, after subsection (3), the following subsection:

5 “(3A) Where any officer described in subsection (3) of this section has, from time to time, ordered any person under his command to carry out, for such period as he thinks necessary, such of the duties of an Inspector of Sea Fishing as he may specify, the person so ordered shall, for the purpose of carrying out those duties, have all the powers of such an Inspector.”

4. Regulations—(1) Section 5 (1) (c) of the principal Act is hereby amended by omitting the words “classes of boats” from both places where they appear, and substituting in each case the words “classes or types of boats or classes or types of gear or apparatus”.

(2) Section 5 (1) (d) of the principal Act (as amended by section 30 (1) of the Marine Mammals Protection Act 1978) is hereby further amended by inserting, after the word “fish”, the word “salmon”.

20 (3) Section 5 (1) (ddd) of the principal Act (as inserted by section 3 (1) of the Fisheries Amendment Act 1959) is hereby amended by omitting the word “crayfish”, and substituting the words “rock lobsters”.

25 (4) Section 5 (1) (h) (iii) of the principal Act is hereby amended by omitting the words “the same;”, and substituting the words “the same; or”.

(5) Section 5 (1) (h) of the principal Act is hereby further amended by adding the following subparagraphs:

30 “(iv) Authorising the Minister to vary any close season by notice in the *Gazette* within such limits as may be prescribed; or

35 “(v) Authorising the Minister, by notice in the *Gazette* and notwithstanding any close season prescribed in respect of toheroas, to open that season for such period or periods as he thinks fit during the period commencing with the 1st day of August and expiring with the 31st day of October in any year.”

40 (6) Section 5 (1) (ia) of the principal Act (as inserted by section 4 (1) of the Fisheries Amendment Act (No. 2) 1977) is hereby amended by inserting, after the word “fishery”, the words “or method of fishing”.

45 (7) The said section 5 (1) is hereby further amended by repealing paragraph (j) (as substituted by section 3 (2) of the Fisheries Amendment Act 1959, and amended by section 30 (1) of the Marine Mammals Protection Act 1978), and substituting the following paragraph:

“(j) Prohibiting or regulating the exporting, buying, selling, exposing for sale, consigning for sale, transporting, processing, preparing or offering for consumption in any public eating-house, acquiring, receiving, or having in possession any fish, salmon, or oyster, or any part or particular state or condition of any fish, salmon, or oyster:” 5

(8) Section 5 (1) of the principal Act is hereby further amended by repealing paragraph (jj) (as substituted by section 3 (2) of the Fisheries Amendment Act 1959, and amended by section 4 of the Fisheries Amendment Act 1971), and substituting the following paragraph: 10

“(jj) Regulating the quantity of fish or oysters that may at any one time be on board any vehicle or vessel, or be kept or conveyed on any vehicle or vessel or animal or kept in any container, package, or place, or in the possession of any party of persons or of any prescribed number of persons:” 15

(9) The said section 5 (1) is hereby further amended by inserting, after paragraph (jj) (as so substituted), the following paragraphs: 20

“(jja) Providing for the registration with the Director-General of vehicles or conveyances from which rock lobster may be sold, or of premises used for processing, storing, retailing, or wholesaling rock lobsters or salmon: 25

“(jjb) Providing for returns to be made to the Director-General in respect of any vehicle or conveyance from which rock lobster is sold, or in respect of any premises used for processing, storing, retailing, or wholesaling fish, salmon, or oysters:” 30

(10) The said section 5 (1) is hereby further amended by repealing paragraph (m) (as amended by section 30 (1) of the Marine Mammals Protection Act 1978), and substituting the following paragraph: 35

“(m) Fixing the seasons or time or times during which any mode of taking or the use of any apparatus or gear which assists any taking shall be prohibited; or prohibiting or regulating or providing for any specified mode of taking or any apparatus or gear which assists in the taking of fish, salmon, or oysters, or the use, possession, identification, or marking of any specified engines, tackle, gear, nets, or apparatus for taking or assisting in taking the same:” 40 45

(11) Section 5 (1) (mm) of the principal Act (as inserted by section 2 of the Fisheries Amendment Act 1969) is hereby amended—

5 (a) By omitting the words “processing of crayfish”, and substituting the words “processing of fish, oysters, or salmon”:

(b) By omitting the words “parts of crayfish”, and substituting the words “parts of rock lobster”.

(12) The said section 5 (1) is hereby further amended by inserting, after paragraph (o), the following paragraph:

10 “(oa) Fixing, in relation to any prescribed fish or oysters, a period of time during all or any of which the Minister, by notice in the *Gazette*, may prohibit the taking of such prescribed fish or oysters as he
15 may specify in the notice:”.

(13) Section 5 of the principal Act is hereby further amended by adding, after subsection (2) (as added by section 2 (b) of the Fisheries Amendment Act 1948), the following subsection:

20 “(3) For the purpose of giving effect to any international agreement, the Governor-General may make regulations under this section and may declare any such regulation to apply beyond the outer limits of New Zealand fisheries waters in respect of any New Zealand citizen or any New Zealand
25 ship or aircraft.”

(14) Any regulations made under the principal Act before the passing of this Act which would have been valid if this section of this Act had been in force when the regulations were made are hereby validated and declared to have been
30 lawfully made.

(15) The following enactments are hereby consequentially repealed:

(a) Section 3 (2) of the Fisheries Amendment Act 1959:

(b) Section 4 of the Fisheries Amendment Act 1971:

35 (c) So much of the Schedule to the Marine Mammals Protection Act 1978 as relates to sections 5 (1) (j) and 5 (1) (m) of the principal Act.

5. Officers may enter boats—Section 9 (1) (a) of the principal Act is hereby amended by inserting, after the words
40 “so engaged”, the words “or to have been so engaged”.

6. Apprehension of offenders, and admission to bail—
 (1) Section 52 of the principal Act is hereby amended by inserting, after subsection (5) (as added by section 5 of the Fisheries Amendment Act 1948), the following subsection:

“(5A) Any fishery officer or constable who believes on reasonable grounds that any person may have committed an offence against this Act or any regulation made under it may require that person to tell his first or given name, surname, and place of abode.” 5

(2) Section 52 (6) of the principal Act (as so added) is hereby amended by inserting, after the words “subsection (3)”, the words “or subsection (5A)”. 10

(3) Section 52 of the principal Act is hereby further amended by omitting the word “Christian” wherever it occurs, and substituting in each case the words “first or given”. 15

7. Search warrants may be granted—Section 55 (2) of the principal Act is hereby amended by inserting, after the word “aforesaid”, the words “, and any fish, salmon, or oysters supposed to be illegally taken or that may be required as evidence in any proceedings”. 20

8. Powers of entry and search—(1) Section 56 of the principal Act is hereby amended by repealing subsection (1) (as amended by section 16 of the Statutes Amendment Act 1947 and section 24 (1) of the Fisheries Amendment Act 1963), and substituting the following subsection: 25

“(1) Any fishery officer or any constable may at any time, with or without warrant, enter any fish shop and premises (other than a dwellinghouse) attached thereto, or any fish shed or fish factory, smokehouse, restaurant, hotel, tavern, or public eating-house, or any premises, not being a dwellinghouse, where fish, salmon, or oysters are processed, prepared for public consumption, retailed, stored, treated, dressed, canned, or frozen, or any ship, boat, cart, carriage, or conveyance of any kind, or in or upon any public place as defined by the Police Offences Act 1927, and there search for, seize, and take away fish, salmon, or oysters supposed to be illegally taken or that may be required as evidence in any proceedings 30 35

together with any boxes, bags, baskets, and other receptacles opened and examined in the course of such search and any other thing that may be required as evidence in any proceedings.”

5 (2) Section 56 (2) of the principal Act (as substituted by section 10 (1) of the Fisheries Amendment Act 1968, and amended by section 6 (2) of the Fisheries Amendment Act (No. 2) 1977) is hereby further amended by omitting the expression “\$200”, and substituting the expression “\$1,000”.

10 (3) The following enactments are hereby consequentially repealed:

(a) Section 16 of the Statutes Amendment Act 1947:

(b) Section 24 (1) of the Fisheries Amendment Act 1963.

9. **Obstructing officers**—Section 60 of the principal Act
15 (as substituted by section 11 of the Fisheries Amendment Act 1968 and amended by section 9 of the Fisheries Amendment Act (No. 2) 1977) is hereby further amended—

(a) By omitting the expression “\$200”, and substituting
20 the words “\$1,000 in respect of a first offence under this section and \$2,000 in respect of a second offence under this section”:

(b) By inserting, after the words “fishery officer” wherever they appear, the words “or constable”.

10. **Personating officers**—The principal Act is hereby further
25 amended by inserting, after section 60, the following section:

“60A. Every person commits an offence who personates or falsely represents himself to be a fishery officer, or who falsely represents himself to be a person lawfully acting under a fishery officer’s orders or in his aid.”

30 11. **Limitation of Act**—(1) Section 77 (1) (b) of the principal Act is hereby amended by omitting the word “Collector”, and substituting the word “Director-General”.

(2) Section 77 (1) of the principal Act is hereby further
35 amended by repealing paragraph (d) (as added by section 10 of the Fisheries Amendment Act 1967, and amended by section 6 (1) of the Ministry of Agriculture and Fisheries Amendment Act 1972), and substituting the following paragraph:

“(d) Any person taking fish, salmon, or oysters pursuant to a written permit or permission given by the Director-General and subject to such conditions as the Director-General may impose, from any waters using such fishing gear as may be specified in the permit or permission for the purposes of education or research, or the carrying out of trials and experiments with fishing boats or fishing gear or any other apparatus or technique which is capable of being used in connection with the taking of fish, salmon, or oysters, notwithstanding that the taking of those fish may otherwise be unlawful or fishing in those waters or using that gear may otherwise be lawfully prohibited or restricted:

“Provided that all fish, salmon, or oysters taken pursuant to this paragraph shall be disposed of as the Director-General directs.”

(3) Section 10 of the Fisheries Amendment Act 1967 is hereby consequentially repealed.

12. Interpretation in relation to freshwater fisheries—

(1) Section 78 (1) of the principal Act is hereby amended by repealing the definition of the term “Minister” (as substituted by section 6 (1) of the Ministry of Agriculture and Fisheries Act 1972), and substituting the following definition:

“‘Minister’ means the Minister of Fisheries:”

(2) So much of the Second Schedule to the Ministry of Agriculture and Fisheries Amendment Act 1972 as relates to section 78 (1) of the principal Act is hereby consequentially repealed.

13. Justice may grant warrant to enter certain places—

Section 81 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Any officer entering excepted premises pursuant to subsection (1) of this section may there search for, seize, and take away any fish supposed to be illegally taken or that may be required as evidence in any proceedings together with any boxes, bags, baskets, and other receptacles opened and examined in the course of such search and any other thing that may be required as evidence in any proceedings.”

14. Emergencies relating to freshwater fisheries—The principal Act is hereby further amended by inserting, after section 82 (as substituted by section 19 (1) of the Fisheries Amendment Act 1968), the following section:

5 “82A. (1) If at any time an emergency occurs that, in the opinion of the Director-General, endangers or may endanger stocks of fish, the Director-General may, after consultation with the acclimatisation society in the district of which the emergency occurred or the Department of Internal Affairs
10 if the emergency occurred in a district controlled by that Department, give or cause to be given pursuant to subsection (3) of this section, a notice declaring that the taking or possession of fish in or from any specified area or in or from any specified lake, river, stream, drain, dam, pond, or
15 other waters shall be apportioned, restricted, or suspended for such period not exceeding 14 days to such extent and in such manner as may be specified in the notice.

“(2) Any notice given under subsection (1) of this section may be extended for one further period not exceeding 14
20 days by a subsequent notice given before the expiry of the original notice.

“(3) The particulars of any notice given under this section shall be given to all persons or bodies required by the notice to apportion, restrict, or suspend the taking or possession of
25 fish, so far as those persons or bodies can be ascertained, and shall be advertised in at least one general newspaper circulated in the area concerned for a period of not less than 2 days.

“(4) Every notice given under this section shall come into
30 force on a day to be specified, being a day no sooner than the date on which the notice is advertised under subsection (3) of this section for the second time.”

15. Regulations in respect of freshwater fisheries—Section 83 (2A) (a) of the principal Act (as inserted by section 3 (1)
35 of the Fisheries Amendment Act 1969 and amended by section 2 of the Fisheries Amendment Act 1970) is hereby further amended by inserting, after the words “flaxmill refuse”, the words “oil, chlorinated hydrocarbon pesticide,”.

16. Offenders to give name and address—The principal Act is hereby further amended by omitting the word “Christian”,
40 and substituting the words “first or given” in—

(a) Section 95 (as amended by section 6 (1) of the Fisheries Amendment Act 1953):

(b) Section 96 (as amended by section 6 (2) of the Fisheries Amendment Act 1953).

17. Increasing penalties for offences—(1) The principal Act is hereby further amended in the manner indicated in the Schedule to this Act.

(2) Any proceedings commenced (whether before or after the passing of this Act) for an offence against the principal Act or other Act amended by this Act, or any regulations made under any of them, arising out of any act done or omitted before the passing of this Act, shall be heard and determined as if subsection (1) of this section and any other provision in this Act increasing any amount relating to a penalty payable in respect of an offence had not been passed.

18. Repeal of spent provision—(1) Section 11 (3) of the Fisheries Amendment Act 1948 is hereby repealed.

(2) Section 9 of the Statutes Amendment Act 1950 is hereby consequentially repealed.

19. Amendments to Fisheries Amendment Act 1963—(1) The Fisheries Amendment Act 1963 (in this section referred to as the said Act) is hereby amended—

(a) By omitting from the heading to section 4 the word “small”, and substituting the words “tenders and similar”:

(b) By omitting from section 4 the word “small” wherever it occurs:

(c) By omitting from section 4 (2) (b) the word “crayfish”, and substituting the words “rock lobsters”.

(2) Section 7 of the said Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) The conditions the Minister may impose under subsection (1) of this section may include—

“(a) Conditions relating to the landing, processing, export, or use of any fish taken:

“(b) Conditions requiring compliance with those requirements of the Shipping and Seamen Act 1952 that relate to the seaworthiness and safety of the fishing boat,—

and any such conditions may at any time, by notice in writing to an owner of the fishing boat concerned, be varied, added to, or revoked by the Minister.”

(3) Section 7 (3) of the said Act is hereby amended by omitting the words “date, if”, and substituting the words “date if he is a New Zealand citizen who does not hold any legal or equitable interest in a foreign fishing boat or in any business outside New Zealand fisheries waters that relates to the taking, processing, or dealing in fish, salmon, or oysters, or, if not,”.

(4) Section 7 of the said Act is hereby further amended by repealing subsection (4), and substituting the following subsections:

5 “(4) For the purposes of this section, a company shall be deemed to be controlled by one or more persons if, in the opinion of the Director-General, all the voting power at meetings of the company may be exercised by that person or, as the case may be, by those persons:

10 “Provided that, in the exercise of his discretion, the Director-General may disregard a small amount of paid up capital or a nominal value of shares or a small number of allotted shares held by a person in any company.

15 “(5) For the purposes of this section in relation to any foreign fishing boat, the term ‘owner’, notwithstanding the definition of that term in section 3 (1) of this Act, shall not include any charterer, sub-charterer, lessee, or sub-lessee, of the foreign fishing boat.

“ (6) For the purpose of this section, a foreign fishing boat shall be a fishing boat—

20 “(a) That is not a New Zealand ship within the meaning of section 2 (1) of the Shipping and Seamen Act 1952; or

25 “(b) In which any person who is not ordinarily resident in New Zealand has any legal or equitable interest (except by way of security only for any advance made by him to the owner).”

30 (5) Section 10 (1) of the said Act (as amended by section 3 (2) of the Fisheries Amendment Act 1971 and section 6 (1) of the Ministry of Agriculture and Fisheries Amendment Act 1972) is hereby further amended by inserting, after the words “carried on that boat during that year”, the words “and, in respect of any controlled fish (as defined in section 100 (1) of the principal Act), the species of fish and the area or areas from which they may be taken”.

35 (6) The said section 10 (1) of the said Act is hereby further amended by adding the following proviso:

40 “Provided also that the Director-General shall not issue a boat-fishing permit in respect of any fishing boat, being an aircraft, for any method or methods to be used in the taking of rock lobster.”

(7) Section 10 of the said Act is hereby further amended by inserting, after subsection (3) (as added by section 15 of the Fisheries Amendment Act 1968), the following subsection:

“(3A) Where any provisions of the Shipping and Seamen Act 1952 relating to the minimum qualification requirements of any person on any fishing boat or to the manning scales of any fishing boat are not complied with during the currency of any boat-fishing permit issued to the owner of the boat under this section, the permit shall be of no effect until those requirements or scales are complied with or met.” 5

(8) Section 11 (1) of the said Act (as amended by section 3 (3) of the Fisheries Amendment Act 1971 and section 6 (1) of the Ministry of Agriculture and Fisheries Amendment Act 1972) is hereby further amended by adding the words “and, in respect of any controlled fish (as defined in section 100 (1) of the principal Act), the species of fish and the area or areas from which they may be taken” 10

(9) Section 12 (3) of the said Act (as amended by section 7 of the Fisheries Amendment Act 1971) is hereby further amended by omitting from the proviso the words “or oysters” in both places where they occur. 15

(10) Section 12 of the said Act is hereby further amended by repealing subsection (6), and substituting the following subsection: 20

“(6) In this section and in any regulations made under this Act or the principal Act, unless the context otherwise requires, the term ‘sale’ does not include the disposal by public auction of fish taken during the course of a fishing competition, if the competition and the auction are carried out in accordance with any conditions imposed by the Director-General, either generally or specifically, and the proceeds from the auction, less only the auctioneer’s commission (if any) and similar related expenses, are applied to purposes which are cultural, benevolent, philanthropic, or charitable.” 25 30

(11) Section 12A of the said Act (as inserted by section 11 of the Fisheries Amendment Act 1967 and amended by section 33 of the Territorial Sea and Exclusive Economic Zone Act 1977) is hereby further amended by adding the following subsection: 35

“(5) Upon the conviction of any person for an offence under subsection (4) (a) of this section, any fish, salmon, or oysters unlawfully taken which are in the possession of or under the control of any person or on board any vessel, and all vessels, gear, nets, tackle, equipment, and apparatus used in respect of the commission of the offence shall be forfeit to the Crown, and shall be disposed of as the Minister thinks fit.” 40 45

(12) Section 13 of the said Act is hereby amended by omitting the expression "\$40" from both places where it occurs, and substituting in each case the expression "\$250".

5 (13) Section 20 of the said Act (as amended by section 18 of the Fisheries Amendment Act 1968) is hereby further amended—

(a) By inserting in subsection (1) (a)—

(i) After the words "suspects to be so engaged", the words "or to have been so engaged":

10 (ii) After the words "boat-fishing permit", the words "or certificate of survey":

(b) By inserting in subsection (1) (b) after the words "such permit", the words "or certificate":

15 (c) By inserting in subsection (1) (c) (i) after the words "section 5", the words ", section 10 (3) or (3A),":

(d) By inserting in the proviso to subsection (2) after the words "section 5", the words ", section 10 (3) or (3A)," and also by inserting, after the words "section 12", the words ", or section 12A".

20 (14) Section 14 of the said Act is hereby amended by repealing subsection (5), and substituting the following subsection:

25 "(5) Any fishing permit for the taking of shellfish (including oysters) may impose restrictions as to the places or waters from which shellfish (including oysters) may or may not be taken and as to the number or quantity or size of shellfish (including oysters) that may be taken."

30 (15) Section 21 (1) (hh) of the said Act (as inserted by section 13 of the Fisheries Amendment Act 1967) is hereby amended by omitting the word "crayfish" from both places where it occurs, and substituting in each case the words "rock lobster".

35 (16) Section 21 (1) (k) of the said Act is hereby amended by omitting the words "of the fish taken", and substituting the words "relating to the taking of fish and to fish taken, kept, or disposed of".

40 (17) Notwithstanding the amendments effected to section 7 of the said Act by this section, the Director-General, unless the Minister so directs, shall not under section 7 (2) of the said Act cancel the registration of any fishing boat which he would otherwise be required to cancel as a consequence of those amendments; but the Minister may, in respect of any such registered fishing boat, impose conditions pursuant to the said section 7 at any time.

20. Increase in penalties for offences relating to the taking of oysters—The Fisheries Amendment Act 1965 is hereby amended—

- (a) By omitting from section 6 (1) the expression “\$500”, and substituting the expression “\$1,000”: 5
 - (b) By omitting from section 8 the expression “\$500”, and substituting the expression “\$1,000”:
 - (c) By omitting from section 11 the expression “\$200”, and substituting the expression “\$500”:
 - (d) By omitting from section 12 (6) the expression “\$200”, 10 and substituting the expression “\$500”.
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SCHEDULE

Section 17

INCREASE IN PENALTIES FOR OFFENCES

Provision of Principal Act	Amendment
Section 5 (1) (t) (as substituted by section 2 (1) of the Fisheries Amendment Act 1968)	By omitting the expressions "\$2,000", "\$5", and "\$10", and substituting respectively the expressions "\$4,000", "\$10", and "\$20".
Section 47 (as substituted by section 7 of the Fisheries Amendment Act 1968)	By omitting the expression "\$500" from subsections (1) and (2), and substituting in both places the expression "\$1,000".
Section 49 (4) (as substituted by section 4 (1) of the Fisheries Amendment Act 1967)	By omitting the expression "\$500", and substituting the expression "\$1,000".
Section 50 (as substituted by section 8 (1) of the Fisheries Amendment Act 1968)	By omitting the expression "\$500" from subsections (1) and (3), and substituting in both places the expression "\$1,000".
Section 58 (as amended by section 40 (1) of the Criminal Justice Act 1954)	By repealing subsection (2), and substituting the following subsection: “(2) Every person who in any way prevents or hinders any such entry, search, seizing, or taking possession is liable to a fine not exceeding \$1,000 or to imprisonment for any term of not more than 3 months in the case of a first offence, and to a fine not exceeding \$2,000 or to imprisonment for any term of not more than 3 months in the case of a second or any subsequent offence.”
Section 61 (as substituted by section 12 of the Fisheries Amendment Act 1968)	By omitting the expression "\$500", and substituting the expression "\$1,000".
Section 82 (1) (as substituted by section 19 (1) of the Fisheries Amendment Act 1968)	By omitting the expression "\$200", and substituting the expression "\$1,000".
Section 83 (2) (i) (as substituted by section 20 of the Fisheries Amendment Act 1968)	By omitting from subparagraph (i) the expression "\$300", and substituting the expression "\$1,000".
Section 83 (2) (iii) (as substituted by section 20 of the Fisheries Amendment Act 1968)	By omitting from subparagraph (iii) the expression "\$5", and substituting the expression "\$10".

SCHEDULE—*continued*

Schedule 2

INCREASE IN PENALTIES FOR OFFENCES—*continued*

Provision of Principal Act	Amendment
Section 83 (2A) (b) (i) (as inserted by section 3 (1) of the Fisheries Amendment Act 1969)	By omitting the expression "\$2,000", and substituting the expression "\$4,000".
Section 85 (as substituted by section 21 (1) of the Fisheries Amendment Act 1968)	By omitting from subsections (1) and (3) the expression "\$500", and substituting in both places the expression "\$1,000".
Section 98 (as substituted by section 21 (1) of the Fisheries Amendment Act 1968)	By omitting the expression "\$40", and substituting the expression "\$250".