

FISHERIES AMENDMENT BILL (NO. 2)

EXPLANATORY NOTE

THIS Bill amends the Fisheries Act 1908.

Many of the amendments are consequential on the passing of the Fisheries Amendment Act 1977 and the Territorial Sea and Exclusive Economic Zone Act 1977.

The amendments consequential on the Fisheries Amendment Act 1977 give fishery officers the same powers in relation to Part III of the principal Act (controlled fisheries) as they have in relation to Part I (general sea fisheries). Unless a provision has more than one amendment, all amendments relating to the application of these powers are contained in *clause 11* of the Bill.

The amendments consequential on the Territorial Sea and Exclusive Economic Zone Act 1977 (the "EEZ Act") are generally to make the terminology similar in both Acts.

Clause 1 relates to the Short Title.

Clause 2: Subclause (1) inserts a definition of "fishery". The term is used in a new regulation making power in *clause 4 (1)* of the Bill.

Subclauses (2)–(5) apply certain provisions in Part I to Part III of the principal Act.

Clause 3 applies certain provisions in Part I to Part III of the principal Act, and amends terminology to conform with the EEZ Act.

Clause 4: Subclause (1) allows regulations to be made prescribing quotas in New Zealand fisheries waters.

Subclause (2) is a validation provision.

Clauses 5 and 6 apply certain provisions of Part I to Part III of the principal Act.

Clauses 7 and 8 make amendments of a similar nature to those in *clause 3*.

Clause 9 is another application clause.

Clause 10 gives the Minister some discretion in particular cases to allow further licences and permits to be issued notwithstanding that a notice has been given to generally prevent such issue in preparation for declaring a controlled fishery.

Clause 11 is the main clause applying certain provisions of Part I to Part III of the principal Act.

Clause 12 provides that honorary fishery officers may be appointed specifically for the purposes of exercising their powers in controlled fisheries, as well as in general sea fisheries.

Clause 13 effects a repeal to section 5 (2) of the Fisheries Amendment Act 1967 which is consequential on the passing of the EEZ Act.

Hon. Mr Bolger

FISHERIES AMENDMENT (NO. 2)

ANALYSIS

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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 (No. 2) 1977, and shall be read together with and deemed part of the Fisheries Act 1908* (hereinafter referred to as the principal Act).

*Reprinted 1977, Vol. 5, p. 3705

2. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of “fish”, the following definition:

“‘Fishery’ means one or more stocks or parts of stocks, or one or more species, of fish or oysters that can be treated as a unit for the purposes of conservation or management.” 5

(2) The said section 2 (1) is hereby further amended by omitting, from the definition of the term “prescribed”, the words “this Part”. 10

(3) Section 2 (2) of the principal Act (as added by section 2 (5) of the Fisheries Amendment Act 1959, and amended by section 2 of the Fisheries Amendment Act 1969) is hereby further amended by inserting, after the words “this Part” wherever they appear, the words “and Part III”. 15

(4) Section 2 (2A) of the principal Act (as added by section 2 of the Fisheries Amendment Act 1972) is hereby amended by inserting, after the words “this Part” in both places where they appear, the words “and Part III”.

(5) Section 2 (3) of the principal Act (as added by section 2 of the Fisheries Amendment Act 1967) is hereby amended by inserting, after the words “this Part”, in both places where they appear, the words “and Part III”. 20

3. Appointment and powers of fishery officers—(1) Section 4 of the principal Act (as substituted by section 3 of the Fisheries Amendment Act 1967 and amended by section 6 (1) of the Ministry of Agriculture and Fisheries Act 1972) is hereby further amended— 25

(a) By omitting from subsection (1) the words “Part of this Act and regulations made under this Part”, and substituting the words “Act and regulations made under it”: 30

(b) By omitting from the same subsection the words “in this Part”, and substituting the words “in this Act”:

(c) By inserting in subsection (1) after the words “be prescribed”, the words “and shall also be a fishery officer for the purposes of this Part and Part III of this Act”. 35

(2) The said section 4 is hereby further amended by repealing subsection (2). 40

(3) The said section 4 is hereby further amended by repealing subsection (3), and substituting the following subsection:

“(3) Every officer in command of any vessel or aircraft of the New Zealand Armed Forces shall, for the purposes of this Part and of Part III of this Act, be deemed to have been appointed an Inspector of Sea Fishing.”

(4) Section 4 (4) of the principal Act is hereby amended by inserting, after the words “this Part”, the words “and Part III”.

4. Regulations—(1) Section 5 (1) of the principal Act is hereby amended by inserting, after paragraph (i), the following paragraph:

“(ia) Prescribing a quota or total allowable catch for any fish or oysters, or in respect of any fishery, in any part of New Zealand fisheries waters:”.

(2) 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 lawfully made.

5. Apprehension of offenders, and admission to bail—Section 52 of the principal Act is hereby amended—

(a) By omitting from subsection (1) (as amended by section 3 of the Fisheries Amendment Act (No. 2) 1969) the words “this Part of this Act” where they first appear, and substituting the word “it”:

(b) By omitting from the said subsection (1) the words “this Part of this Act” where they secondly appear, and substituting the words “this Act”:

(c) By omitting from the said subsection (1) the words “this Part whose name”, and substituting the words “it whose name”:

(d) By omitting from subsection (3) (as added by section 5 of the Fisheries Amendment Act 1948) the words “this Part of”.

6. Powers of entry and search—(1) Section 56 (1A) of the principal Act (as inserted by section 24 (2) of the Fisheries Amendment Act 1963) is hereby amended by omitting the words “this Part of”.

(2) Section 56 (2) of the principal Act (as substituted by section 10 (1) of the Fisheries Amendment Act 1968) is hereby amended—

- (a) By omitting the words “this Part of”:
- (b) By omitting the words “made under this Part”, and substituting the words “made under it”. 5

7. Seizure and search of ships and boats—Section 58 (1) of the principal Act (as substituted by section 5 (1) of the Fisheries Amendment Act 1967) is hereby amended—

- (a) By omitting the words “The officer in command of any vessel of the New Zealand Naval Forces”, and substituting the words “The officer in command of any vessel or aircraft of the New Zealand Armed Forces”:
- (b) By omitting from paragraph (a) the words “this Part of”:
- (c) By omitting the words “this Part” wherever they appear, and substituting in each case the words “this Act”. 10 15

8. Apprehension of persons on vessels other than New Zealand ships—Section 58A (1) of the principal Act (as inserted by section 6 of the Fisheries Amendment Act 1967) is hereby amended—

- (a) By omitting the words “of the New Zealand Naval Forces”, and substituting the words “or aircraft of the New Zealand Armed Forces”:
- (b) By inserting, after the words “this Part” in both places where they occur, the words “or Part III”:
- (c) By omitting from paragraph (a) the words “ship within the meaning of the Shipping and Seamen Act 1952”, and substituting the words “fishing craft within the meaning of section 2 (1) of the Territorial Sea and Exclusive Economic Zone Act 1977”. 25 30

9. Obstructing officers—Section 60 of the principal Act (as substituted by section 11 of the Fisheries Amendment Act 1968) is hereby amended—

- (a) By omitting the words “Part of this” wherever they appear:
- (b) By omitting the words “under this Part”, and substituting the words “under it”. 35 40

10. Minister may restrict number of licences issued under Part I of principal Act—Section 119 of the principal Act (as added by section 2 of the Fisheries Amendment Act 1977) is hereby amended by adding, as subsection (2), the following
5 subsection:

“(2) Notwithstanding subsection (1) of this section, the Minister may, after a notice has been given under that subsection, authorise the granting or giving of further licences, permissions, or fishing permits under Part I of this Act if
10 he considers it fair and reasonable to do so in the circumstances of any particular case.”

11. Application of Part I of principal Act—(1) The principal Act is hereby further amended—

- 15 (a) By omitting from section 9 (1) (e) of the principal Act (as amended by section 3 (2) of the Fisheries Amendment Act 1967) the words “by this Part of this Act or by regulations made under this Part”, and substituting the words “by this Act or by regulations made under it”:
- 20 (b) By omitting from section 9A (1) (as inserted by section 4 of the Fisheries Amendment Act 1968) the words “this Part of this Act or any regulations made under this Part” in both places where they appear and the words “this Part or any regulations made under this Part”, and substituting in all cases the words
26 “this Act or any regulations made under it”:
- (c) By omitting from section 55 (1) of the principal Act the words “Part of this Act”, and substituting the words “Act or any regulation made under it”:
- 30 (d) By omitting from section 59 the words “this Part of”:
- (e) By inserting in section 62A (as inserted by section 13 of the Fisheries Amendment Act 1968) after the words “this Part” wherever they appear, the words
“or Part III”:
- 35 (f) By omitting from section 67 (2) the words “this Part of”:
- (g) By omitting from section 71A (as inserted by section 2 of the Fisheries Amendment Act 1953) the words
“under Part I” and the words “this Part of”:
- 40 (h) By omitting from section 75 (2) (as amended by section 6 (1) of the Fisheries Amendment Act 1969) the words “this Part of”:

- (i) By inserting in section 77 (1) after the word "Part", the words "or Part III".
- (2) Section 3 (2) of the Fisheries Amendment Act 1967 is hereby consequentially repealed.

12. Honorary fishery officers—(1) The Fisheries Amendment Act 1959 is hereby amended by repealing section 9 (1) (as amended by section 14 of the Fisheries Amendment Act 1968 and section 6 (1) of the Ministry of Agriculture and Fisheries Amendment Act 1972), and substituting the following subsection: 5

"(1) The Director-General may from time to time appoint suitable persons to be honorary fishery officers for the purposes of Part I and Part III of the principal Act, and every person so appointed shall be a fishery officer for the purposes of those Parts. Any such person may be appointed to carry out his duties in relation to all or any particular species of fish in any particular area or generally throughout New Zealand. If a person is appointed in respect of a particular species or a particular area only that species or area shall be described in his warrant of appointment." 10 15 20

(2) Section 14 of the Fisheries Amendment Act 1968 is hereby consequentially repealed.

13. Consequential repeal—Section 5 (2) of the Fisheries Amendment Act 1967 is hereby repealed.