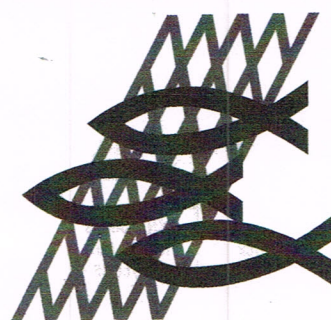


# THE FEDERATION

is a regular column compiled by the New Zealand  
Federation of Commercial Fishermen

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## 28N Rights

**Were you a recipient of 28N rights?  
Do you still retain your 28OE rights?**

*The origin of 28N rights came about as a result of one fisherman, Colin White, raising the question at the local Bay of Plenty Fishermen's Association meeting in Ohope back in the early 1980s.*

"If I give my proposed share of the TAC quota reduction (no TACC in those days) back to the Government for nothing and I don't accept the compensation payment, can I get the quota back for nothing when the quota is increased?"

The request was passed on to Gordon Nicholson who was the then Bay of Plenty Association President and Federation Executive member, who in turn raised the issue at the next Federation Executive meeting in Wellington.

Taffy Martin President and Peter Stevens Secretary, who were the Federation battlers involved in the negotiations, took the request to the Government negotiators and the rest became history.

This is a fine example of the effect of networking within the NZ Federation of Commercial Fishermen (Inc.) working. Where the working fisherman can have his input acted upon to the point of changing the Fisheries Act.

### **How did fishers/ITQ owners receive 28N rights?**

If you did not offer individual transferable quota (ITQ) back to the Crown you did not get offered the compensation back in October 1986. Your ITQ quota was automatically reduced on a proportional basis under Section 28N of the 1983 Fisheries Act.

### **These cuts without payment from the Crown are/(were) your 28N rights**

When a quota species has a TACC in-

#### **By Peter Jones, President**

crease under section 28OB of the Act, then, under section 28OE of the Act:

"the Minister shall first offer the additional quota available on a proportionate basis free of charge to those persons who:

- (i) Had provisional maximum individual transferable quota for that species or class of fish for the relevant area reduced under section 28N of this Act; and
- (ii) Continue to hold any quota for that species or class of fish for that area on the date on which the increase takes effect.

The first portion of the increase goes to the 28N rights holders, and only when the 28N rights are extinguished is the balance of the increase (if any) proportionally allocated to all other holders of quota in that species.

One must remember when quota came into being in 1986, quota owners were to be compensated by the Crown for quota reductions and when quota was increased it was to be tendered by the Crown and sold.

This changed when the Crown was faced with the prospect of large compensation payments on proposed reductions to deepwater fish stocks in October 1989. (Orange roughy ORH3B was reduced from 38,300 tonnes to 27,946 tonnes and ORH7A was reduced from 12,000 tonnes to 2,396 tonnes.)

In 1988/89 the Industry and the Government started negotiating proportional quotas where there would be no compensation for quota reductions and no payment for quota increases.

Industry demanded compensation for the change, and the then Government did not want to pay compensation until court action was threatened. Finally a compensation agreement was negotiated retrospectively in 1990/91 with the compensation being funded over a four year period with an additional year for the "hoki tail". This was funded from the Government banking the resource rentals payments over the five years to pay the compensation agreed on for the change to proportional quotas.

My reason for bringing up the issue of 28N rights is that many people involved in the fisheries today do not realise these 28N rights still exist and you will not get a true percentage quota share until these 28N rights are extinguished.

Many quota owners are under the impression that when the new 1996 Act finally becomes effective and brings in Quota Shares and Annual Catch Entitlement (ACE) their quota shares will stay static regardless of how much ACE is generated.

These owners will need to study the Act more closely as there is more than this one 28N rights exception.

When SPO 3 - rig East Coast South Island was increased on 1 October 2000

there were many quota owners (some in large companies) who pre-calculated what they should get from the increase and were very disappointed when they saw how little they received.

Some Federation members who were finally recipients of their 1986 28N / 28OE rights, received some very irate phone calls from persons who did not realise the quantity of 28N rights that were involved with SPO3. The original cuts were very high in SPO3 at 82.5% of the quota from 1746 tonnes to 305 tonnes, the only higher cut was MOK1 at 83.4%.

These SPO3 28N rights holders have only received what is their right under section 28OE of the Fisheries Act after 14 years of waiting.

Attached is a table provided by the Ministry in November 2000 showing the amount of 1986 28N rights quota cuts in tonnes by species (column 2), the number of owners who took the initial 1986 cut (column 3), the tonnage of 28N rights by species still outstanding now (column 4), and the number of owners who still have outstanding 28N rights in November 2000 (column 5).

The reduction in the numbers of owners from 1986 to 2000 is because many of the 28N rights holders are no longer in the fishing industry. Some have forfeited their 28N rights by changing their identity by setting up other entities such as new partnerships, trusts or companies, or by selling off of the rights holding fish stock. This shows up in the table when one compares the number of owners holding rights on 1 November 2000 (column 5) compared with 1 October 1986 (column 3).

#### See the attached table overleaf:

When one studies the table one realises that many of these species 28OE quota increases will have no outcome on the amount of the species being caught when one studies the additional information of interest columns 6, 7, 8, and 9.

It would be a cost saver for the industry to get the Minister to increase the TACC's in most of these species before the advent of quota shares and ACE. The quantities in most cases are so minor as to have no effect on sustainability and in many instances the species has been undercaught over the last two years by more than the 28N rights.

In some of the instances where the quota has been overcaught, the overcatch has been sustained over a series of years without any detrimental effect on the catch. This is not the case in all species.



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# Outstanding s28n-rights as at 1st November 2000

1/11/00 Details of initial s28N cuts and outstanding s28N rights

1	2	3	4	5
Fishstock	28N Tonnes Initial Cut 01-Oct-86	Number of Owners 01-Oct-86	28N Tonnes Outstanding 01-Nov-00	Number of Owners 01-Nov-00
BAR1	1208.850	143		
BC04	41.500	46	1.200	4
BC07	22.500	48	3.700	10
BNS2	321.862	55	92.502	12
BNS3	71.230	41		
BYX2	429.140	44	16.810	2
BYX3	35.510	14	0.200	1
CRA1	7.219	25		
CRA2	9.719	43		
CRA3	12.008	43		
CRA4	16.342	48		
CRA5	4.988	30		
CRA6	4.518	31		
CRA7	3.460	24		
CRA8	27.200	84		
CRA9	0.954	9		
ELE3	233.623	91		
ELE5	1.600	7		
GMU1	91.600	114	32.800	30
GUR1	129.350	100	84.000	20
GUR3	80.300	103		
GUR7	53.000	92		
HAK7	0.049	1		
HPB1	4.600	25	1.700	9
HPB2	113.404	71	30.204	16
HPB3	170.990	90	36.800	17
HPB7	18.100	44	3.400	11
JDO1	99.400	62	6.300	2
LIN2	51.031	60	4.831	10
LIN3	12.200	33		
LIN7	318.000	82	104.300	14
MOK1	89.100	118		
MOK3	25.290	68	0.600	2
PAU2	1.992	5	0.419	1
PAU3C	0.001	1	0.001	1
PAU4	18.817	10	11.843	4
PAU5	3.320	16		
PAU5A	0.127	1		
PAU5B	0.126	1		
PAU5C	0.010	1	0.010	1
PAU5D	0.127	1		
PAU7	3.760	3		
RC03	500.960	135	133.700	27
SCH1	119.200	149	37.800	24
SCH2	26.600	59	3.300	10
SCH3	146.370	108	38.600	18
SCH5	51.500	47		
SCH7	255.200	116	48.000	20
SCH8	36.200	36	4.000	8
SKI2	128.459	35	16.059	5
SKI3	0.040	1		
SKI7	218.700	21	153.500	6
SNA1	1106.200	389	524.700	67
SNA2	56.500	43		
SNA7	157.400	74	17.372	12
SNA8	1104.800	89	947.900	20
SP01	18.600	75		
SP02	42.300	60	2.244	8
SP03	334.796	146		
SP07	105.600	111		
STA2	11.700	16		
STA3	37.960	65	0.100	1
STA7	1.600	9		
TAR2	56.500	38	17.400	4
TAR3	112.290	76	42.000	18
TAR5	12.500	21		
TRE1	471.200	161	331.900	26
TRE7	333.700	82	229.200	16
WAR2	18.700	33	1.600	3
WAR3	234.390	67	85.000	15

Other pertinent information of interest

1	6	7	8	9
Fishstock	TACC 30-Sep-00 Tonnes	Outstanding 28N Rights as %age of TACC	1999/2000 Catch Tonnes	1998/1999 Catch Tonnes
BAR1				
BC04	757.400	0.158%	460.712	549.978
BC07	70.000	5.286%	26.949	52.183
BNS2	873.300	10.592%	1,135.513	1,003.584
BNS3				
BYX2	1,574.800	1.067%	1,856.001	1,658.434
BYX3	1,010.400	0.020%	741.798	901.905
CRA1				
CRA2				
CRA3				
CRA4				
CRA5				
CRA6				
CRA7				
CRA8				
CRA9				
ELE3				
ELE5				
GMU1	905.317	3.623%	736.512	754.412
GUR1	2,286.500	3.674%	941.208	926.928
GUR3				
GUR7				
HAK7				
HPB1	480.800	0.354%	464.571	433.703
HPB2	265.900	11.359%	229.743	255.646
HPB3	335.100	10.982%	380.807	347.742
HPB7	235.500	1.444%	165.350	218.142
JDO1	704.000	0.895%	518.872	673.795
LIN2	982.000	0.492%	974.629	1,069.952
LIN3				
LIN7	1,960.000	5.321%	3,273.952	3,344.740
MOK1				
MOK3	126.400	0.475%	56.434	75.262
PAU2	121.188	0.346%	121.612	116.497
PAU3C	91.615	0.001%	88.912	92.540
PAU4	326.543	3.627%	318.812	297.423
PAU5				
PAU5A	148.983	0.000%	143.796	147.394
PAU5B	112.187	0.000%	118.199	148.547
PAU5C				
PAU5D	148.983	0.000%	147.074	148.697
PAU7				
RC03	12,389.400	1.079%	4,819.272	13,919.221
SCH1	668.100	5.658%	811.430	783.840
SCH2	198.600	1.662%	249.696	275.347
SCH3	321.900	11.991%	341.081	335.263
SCH5	693.900	0.000%	701.628	713.861
SCH7	533.700	8.994%	639.264	681.723
SCH8	440.600	0.908%	469.329	533.207
SKI2	520.000	3.088%	61.527	16.523
SKI3				
SKI7	300.000	51.167%	106.442	59.021
SNA1	4,499.777	11.661%	4,492.258	4,411.574
SNA2				
SNA7	200.000	8.686%	174.419	142.020
SNA8	1,500.000	63.193%	1,604.182	1,636.181
SP01				
SP02	72.000	3.117%	87.062	86.509
SP03				
SP07				
STA2				
STA3	901.600	0.011%	717.429	641.716
STA7				
TAR2	1,631.800	1.066%	1,738.066	1,594.099
TAR3	1,169.400	3.592%	1,260.021	1,097.968
TAR5				
TRE1	1,504.100	22.066%	1,418.956	1,469.754
TRE7	2,153.300	10.644%	2,245.988	2,149.437
WAR2	576.400	0.278%	422.423	502.948
WAR3	2,530.800	3.359%	2,758.719	1,978.093