

- (2) Without limiting the generality of subsection (1), regulations made under that subsection may—
- (a) declare the relationship between such regulations and general fishing regulations and regulations relating to taiapure-local fisheries; and declare that the first-mentioned regulations are to prevail over the other regulations:
 - (b) empower the Minister to declare, by notice in the *Gazette*, any part of New Zealand fisheries waters to be a mataitai reserve; and any such regulations shall require that, before any such notice is given, the Minister and the tangata whenua shall consult with the local community and the Minister shall have regard to the need to ensure sustainability in relation to the reserve:
 - (c) provide for such matters as may be necessary or desirable to achieve the purpose of this Act in relation to mataitai reserves, including general restrictions and prohibitions in respect of the taking of fish, aquatic life, or seaweed:
 - (d) empower any Maori Committee constituted by or under the Maori Community Development Act 1962, any marae committee, or any kaitiaki of the tangata whenua to make bylaws restricting or prohibiting the taking of fish, aquatic life, or seaweed:
 - (e) empower any such Maori Committee, marae committee, or kaitiaki to allow the taking of fish, aquatic life, or seaweed to continue for purposes which sustain the functions of the marae concerned, notwithstanding any such bylaws.
- (3) The following provisions apply in relation to bylaws made under regulations made under subsection (2)(d):
- (a) every restriction and every prohibition imposed on individuals by such bylaws shall apply generally to all individuals:
 - (b) bylaws shall not come into force until they have been approved by the Minister and have been published in the *Gazette*:
 - (c) the publication in the *Gazette* of bylaws purporting to have been approved under this subsection shall be conclusive evidence that the bylaws have been duly made and approved under this section.

Compare: 1983 No 14 s 89(1)(mb), (1C), (3)(b), (3A), (3B); 1992 No 121 s 34

Section 186(2)(a): substituted, on 23 June 1998, by section 16 of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

186A Temporary closure of fishing area or restriction on fishing methods

- (1) The Minister may from time to time, by notice in the *Gazette*,—
- (a) temporarily close any area of New Zealand fisheries waters (other than South Island fisheries waters as defined in section 186B(9)) in respect of any species of fish, aquatic life, or seaweed; or

- (b) temporarily restrict or prohibit the use of any fishing method in respect of any area of New Zealand fisheries waters (other than South Island fisheries waters as defined in section 186B(9)) and any species of fish, aquatic life, or seaweed.
- (2) The Minister may impose such a closure, restriction, or prohibition only if he or she is satisfied that it will recognise and make provision for the use and management practices of tangata whenua in the exercise of non-commercial fishing rights by—
 - (a) improving the availability or size (or both) of a species of fish, aquatic life, or seaweed in the area subject to the closure, restriction, or prohibition; or
 - (b) recognising a customary fishing practice in that area.
- (3) Before imposing a fishing method restriction or prohibition under subsection (1)(b), the Minister must be satisfied that the method is having an adverse effect on the use and management practices of tangata whenua in the exercise of non-commercial fishing rights.
- (4) A notice given under subsection (1) must be publicly notified.
- (5) A notice given under subsection (1)—
 - (a) may be in force for a period of not more than 2 years and, unless sooner revoked, is revoked at the end of that 2-year period:
 - (b) subject to paragraph (a), may be expressed to be in force for any particular year or period, or for any particular date or dates, or for any particular month or months of the year, week or weeks of the month, or day or days of the week.
- (6) Nothing in subsection (5)(a) prevents a further notice being given under subsection (1) in respect of any species and area before or on or about the expiry of an existing notice that relates to that species and area.
- (7) Before giving a notice under subsection (1), the Minister must—
 - (a) consult such persons as the Minister considers are representative of persons having an interest in the species concerned or in the effects of fishing in the area concerned, including tangata whenua, environmental, commercial, recreational, and local community interests; and
 - (b) provide for the input and participation in the decision-making process of tangata whenua with a non-commercial interest in the species or the effects of fishing in the area concerned, having particular regard to kai-tiakitanga.
- (8) A person commits an offence who, in contravention of a notice given under subsection (1),—
 - (a) takes any fish, aquatic life, or seaweed from a closed area; or

- (b) takes any fish, aquatic life, or seaweed using a prohibited fishing method.
- (9) A person who commits an offence against subsection (8)—
 - (a) is liable to the penalty specified in section 252(6) if—
 - (i) the person is an individual other than a commercial fisher; and
 - (ii) the person satisfies the court that the fish, aquatic life, or seaweed was taken otherwise than for the purpose of sale:
 - (b) is liable to the penalty specified in section 252(5) in every other case.

Section 186A: inserted, on 23 June 1998, by section 17 of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 186A(1)(a): amended, on 1 October 1998, by section 310 of the Ngāi Tahu Claims Settlement Act 1998 (1998 No 97).

Section 186A(1)(b): amended, on 1 October 1998, by section 310 of the Ngāi Tahu Claims Settlement Act 1998 (1998 No 97).

Section 186A(5)(a): replaced, on 17 December 2016, by section 47 of the Statutes Amendment Act 2016 (2016 No 104).

186B Temporary closure of fisheries

- (1) The chief executive may from time to time, by notice in the *Gazette*,—
 - (a) temporarily close any area of South Island fisheries waters in respect of any species of fish, aquatic life, or seaweed; or
 - (b) temporarily restrict or prohibit the use of any fishing method in respect of any area of South Island fisheries waters and any species of fish, aquatic life, or seaweed.
- (2) The chief executive may impose such a closure, restriction, or prohibition only if the chief executive considers that—
 - (a) it is likely to assist in replenishing the stock of the species of fish, aquatic life, or seaweed in the area concerned; or
 - (b) it is likely to assist in recognising and making provision for the use and management practices of *tāngata whenua* in the exercise of non-commercial fishing rights.
- (3) A notice given under subsection (1) must be publicly notified.
- (4) A notice given under subsection (1)—
 - (a) may be in force for a period of not more than 2 years and, unless sooner revoked, is revoked at the end of that 2-year period:
 - (b) subject to paragraph (a), may be expressed to be in force for any particular year or period, or for any particular date or dates, or for any particular month or months of the year, week or weeks of the month, or day or days of the week.