

Fisheries Amendment Bill

Government Bill

Explanatory note

General policy statement

Fishing plays an important role in New Zealand's economy and society, across commercial, recreational, and customary interests. Commercial fishing employs approximately 13,300 people and contributes \$4.2 billion per year in total economic activity, including \$1.35 billion in export revenue for the year ended June 2021. Recreational fishing is a popular activity for both New Zealanders and tourists—about 700,000 people fish each year and spend almost \$1 billion on recreational fishing and related activities. Tangata whenua have a central role in the sustainable use of New Zealand's fisheries resources, as managers/kaitiaki (guardians) and users of customary fisheries, and as recreational and commercial fishers.

In 1986, the Fisheries Act 1983 introduced the New Zealand fisheries management system and the Quota Management System (**QMS**) to provide for the use of fisheries resources while ensuring sustainability. The QMS is a rights-based individual transferable quota system that controls fishing activity through the setting of catch limit, the total allowable catch (**TAC**). The TAC sets the quantity of fish that can be taken for each fish stock per fishing year. The total allowable commercial catch (**TACC**) is the tonnage portion of the TAC set aside for commercial quota once allowances for non-commercial (customary and recreational) interests have been considered as well as allowance made for other sources of fishing mortality. In principle, the QMS creates an incentive for fishers to fish within sustainable limits.

A strong fisheries management system requires commercial fishing to be sustainable, productive, and inclusive. While the QMS has improved the sustainability of many of New Zealand's fisheries, there are fundamental issues with the fisheries management system, which contribute to fish wastage, illegal activity, and lost future economic opportunity. The Fisheries Amendment Bill (the **Bill**) is a Government Bill that will amend the Fisheries Act 1996 (the **Act**). The Bill will require several consequential amendments to the commercial and recreational fishing regulations and supports a

commercial fishing sector that is innovative, and technology driven, has highly selective practices and is responsive to cumulative pressures on the marine environment caused by, for example, climate change.

The specific purposes of the proposals are to ensure New Zealand can be a world leader in fisheries management and respond to—

- changing public expectations about how the marine ecosystem is managed; and
- growing demand for high quality, ethically harvested seafood; and
- advances in information capability and fishing innovations; and
- improvement in knowledge about the environment and the potential effects of fishing on the environment; and
- better understanding of science and fisher behaviour.

The Bill will respond to fundamental issues in the fisheries management system to ensure our fisheries management rules operate together to incentivise good fishing practice. Legislative changes include:

- introducing a graduated offences and penalty regime; and
- amending the rules for commercial fishers that set out what fish must be brought back to port (landed) and what fish may, or must, be returned to sea; and
- a new defence to lawfully return fish to the sea to save protected species; and
- streamlining the processes for adjusting commercial and recreational catch limits; and
- enabling an approval process, established through regulations, that provide for alternative avenues for fishers to dispose of unwanted catch once landed; and
- technical amendments to assist with the roll out of cameras on commercial fishing vessels.

Re-designing fisheries system to improve outcomes

Simplifying landing and returning rules

The current model of landings and discards rules reflect outdated expectations for how fisheries should be managed. The rules are inconsistent and open to interpretation, have enabled commercial fishers to catch too much and discard what they cannot sell, and have not sufficiently incentivised fishers to reduce unwanted catch by improving fishing practices.

The Bill proposes to simplify and strengthen the commercial fishing rules relating to the landing or returning of fish, aquatic life, or seaweed (including a new power authorising the Minister for Oceans and Fisheries (the **Minister**) to create instruments that allow, or in some cases require, stocks or species to be returned). This will require that—

- fish caught, whether they are a QMS species or not, be reported; and

- QMS fish mortality caused by commercial fishing must be accounted for within the fisheries management system; and
- QMS species, live or dead, must be landed unless included in an instrument issued by the Minister for Oceans and Fisheries, in which case they either may or must be returned to the sea or other waters.

Establishing graduated offences and penalties

The offences and penalties regime in the Act for illegal discards is currently based on a low probability of being caught with high consequential penalties for offending when illegal behaviour is detected. This is regardless of the level of offending.

The Bill amends the Act to introduce new graduated offences and penalties that reflect the new rules for commercial fishers. This includes penalties for breaches of the new landings and discards rules, including breaches of any instruments that allow or require stocks or species to be returned, and enables the making of regulations for infringement and demerit points systems. This will ensure fishers are penalised proportionate to their offending.

Allowing return of protected species

The Bill includes a new defence to allow commercial fishers to return catch to the sea to save marine mammals and/or protected species of sharks and rays. It will also enable the Minister to add further protected species to this defence in the future by way of an instrument issued by the Minister.

This new defence will prevent situations like in 2017, where a fisher released their catch to safeguard a pod of dolphins and yet was liable for prosecution by MPI. It will also support and encourage the use of innovative fishing equipment, such as modular harvest systems and associated technology (eg, precision seafood harvesting), which can safely release fish and protected species underwater.

Streamline decision-making

The Bill introduces an ability for the Minister to establish pre-set decision rules for the purpose of setting and adjusting sustainability measures under Part 3 of the Act. These rules will also be used to adjust the total allowable catches for stocks under Part 4 of the Act. Pre-set decision rules will enable better use of the information derived from new technology like on-board cameras and respond more quickly to changes in fish stock abundance.

The pre-set decision rules will specify an approved range or limit within which a sustainability measure for a particular stock or stocks could be set or varied over an approved period.

The Bill also amends the Fisheries (Amateur Fishing) Regulations 2103 by empowering the Minister to specify recreational management controls, such as daily limits and minimum legal sizes, in an instrument. The current limits and sizes will continue to apply until they are replaced with a new instrument.

This would more closely align timeframes for the setting of recreational and commercial management controls and assist in ensuring sustainability and integrity of catch limits.

Extending observation of fishing activities

To improve the effectiveness of on-board cameras, the Bill proposes to clarify that requirements and regulations in relation to specified equipment (including electronic equipment) for observing fishing or transportation extends to the observation of fishing related activities, including sorting, processing, and discarding of fish.

The Bill will amend the Act to clarify that any tools or specified equipment (including electronic equipment) that are used to deliver a service that is itself cost recoverable, are also able to be cost recovered.

Modernising the Fisheries Act

The Bill also repeals the Fisheries Act 1983 as its remaining provisions are redundant.

Departmental disclosure statement

The Ministry for Primary Industries is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2022&no=117>

Regulatory impact statement

The Ministry for Primary Industries produced a regulatory impact statement in October 2021 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- <https://www.mpi.govt.nz/legal/regulatory-impact-statements>
- <https://treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 relates to the Title.

Clause 2 provides that the Bill, when enacted, comes into force on 1 October 2022.

Clause 3 provides that the principal Act amended is the Fisheries Act 1996.

Part 1

Substantive provisions

Clause 4 amends section 2 of the principal Act, which contains definitions of certain terms used in the Act.

Subclause (1) amends the definition of fisheries services to include—

- the provision, installation, and maintenance of electronic and other equipment to observe fishing and related activities (including the return, abandonment, processing, or sorting of fish, transportation connected with fishing, and measures to avoid, remedy, or mitigate fishing-related mortality);
- the submission, storage, and review of electronic and other data from the observer activity.

Subclause (2) inserts a definition of pre-set decision rule. The rules will be made under *new section 11AAA* (inserted by *clause 5*).

Clause 5 inserts *new section 11AAA* into the principal Act and enables the Minister to make pre-set decision rules for sustainability measures. Section 11 of the Act provides that sustainability measures may relate to—

- catch limits (including commercial catch limits) for any stock;
- the size, sex, or biological state of any fish, aquatic life, or seaweed of any stock that may be taken;
- the areas from which any fish, aquatic life, or seaweed of any stock may be taken;
- the fishing methods by which any fish, aquatic life, or seaweed of any stock may be taken;
- the fishing season for any stock, area, fishing method, or fishing vessels.

New section 11AAA(1) enables the Minister to make pre-set decision rules. The rules will enable sustainability measures to be imposed within the range or limits set in the rules.

New section 11AAA(2) requires the Minister to comply with the relevant requirements in section 11 of the principal Act (for setting or varying sustainability measures) before making, amending, or replacing pre-set decision rules. The environmental principles and information principles in sections 9 and 10 of the Act, and consultation requirements in section 12 of the Act (as amended by *clause 8*), will apply also.

New section 11AAA(3) contains a cross-reference to *new section 20(6)(b)*, which requires the Minister to allow for certain interests when making pre-set decision rules that enable a total allowable commercial catch to be set or varied under the rules (*see clause 12*).

New section 11AAA(4) provides that, in this section, sustainability measures include the measures in section 11 of the principal Act and total allowable commercial catches.

New section 1AAA(5) provides for the expiry of pre-set decision rules and transitional matters.

New section 1AAA(6) provides that pre-set decision rules are secondary legislation.

Clause 6 amends section 11 of the principal Act, which relates to the setting and variation of sustainability measures for 1 or more stocks or areas. This clause inserts *new section 11(7)* to enable the Minister to set or vary sustainability measures within a range or limits set in pre-set decision rules, without complying with the requirements in subsections (1), (2), (2A), and (5) that would otherwise apply to the setting of those sustainability measures. The Minister's instrument is secondary legislation.

Clause 7 amends section 11A of the principal Act to provide that fisheries plans may include pre-set decision rules.

Clause 8 replaces section 12 of the principal Act—

- to apply the consultation requirements in that provision to the making, amendment, or replacement of pre-set decision rules (but not when revoking or applying pre-set decision rules);
- to add a requirement to give the parties consulted reasons in writing for the action taken.

Clause 9 amends section 13 of the principal Act, which relates to total allowable catches. This amendment includes in the list of options a total allowable catch that is within a range or limits set in pre-set decision rules, if the catch is set having regard to the interdependence of stocks and is not inconsistent with the objective of maintaining the stock at or above, or moving the stock towards or above, a level that can produce the maximum sustainable yield.

This clause also enables the Minister to use pre-set decision rules to set or vary the total allowable catch for any stock listed in Schedule 2 of the principal Act (stocks whose abundance is highly variable) with effect from any date in the fishing year in which the notice is published.

Clause 10 amends section 14 of the principal Act to enable the Minister to use pre-set decision rules to set or vary a total allowable catch for stock specified in Schedule 3 of the principal Act (stocks managed with an alternative total allowable catch).

Clause 11 amends section 14B of the principal Act to enable the Minister to use pre-set decision rules to set or vary a total allowable catch for stock to which that section applies (stocks specified by Order in Council).

Clause 12 amends section 20 of the principal Act, which relates to the setting or varying of a total allowable commercial catch. This clause inserts *new section 20(6)* to enable the Minister to set or vary any total allowable commercial catch for 1 or more stocks or areas under pre-set decision rules. The requirements in section 21(1)(a) and (b) (specified interests to be allowed for) apply, but not those in section 21(2) or (3) (consultation).

Clause 13 amends section 72 of the principal Act, which relates to the return or abandonment of fish, aquatic life, or seaweed. Section 72 prohibits commercial fishers

from returning to or abandoning in the sea or any other waters any fish, aquatic life, or seaweed of legal size, or for which no legal size is set, that is subject to the quota management system. However, the section also provides that the prohibition does not apply if the stock or species is listed in Schedule 6 of the Act and commercial fishers comply with the requirements set out in that schedule. For example, Schedule 6 provides that a commercial fisher must immediately return a Coromandel scallop to the waters from which it was taken if the scallop is taken during any closed season in the Coromandel scallop fishery or in any area in which the taking of Coromandel scallops is, at that time, prohibited.

Subclause (1) replaces section 72(1) to (4).

New section 72(1) contains a general prohibition against returning or abandoning fish or aquatic life that is subject to the quota management system. This provision is subject to *new section 72(2) and (3)*.

New section 72(2) excludes from the operation of *new section 72(1)* any stock or species required by an instrument made by the Minister under *new section 72A* (inserted by *clause 14*) to be returned to or abandoned in the sea or other waters from which it was taken. This is subject to the condition that the fisher complies with the conditions and requirements (if any) specified in that instrument.

New section 72(3) excludes from the operation of *new section 72(1)* any stock or species permitted by an instrument made by the Minister under *new section 72A* to be returned to or abandoned in the sea or other waters from which it was taken. This is subject to the condition that the fisher complies with the conditions and requirements (if any) specified in that instrument.

New section 72(4) creates graduated offences relating to returning, abandoning, or retaining fish or aquatic life in contravention of *new section 72(1)*.

Subclause (2) amends section 72(5) to provide a defence to a prosecution under the section if fish or aquatic life is returned or abandoned to ensure the safety of a marine mammal, fish of the species of *Chordata* listed in Schedule 7A of the Wildlife Act 1953 as Chondrichthyes (cartilaginous fishes), or any other protected species specified by the Minister in an instrument made under *new section 72(5)(ba)(iii)*. The instruments are secondary legislation.

Subclause (3) replaces section 72(7) and (8).

New section 72(7) provides that a defendant charged with an offence against this section has the burden of proving that an exception or defence applies.

New section 72(8) provides that an instrument made under *new section 72(5)(ba)(iii)* is secondary legislation.

Clause 14 inserts *new section 72A*, which enables the Minister to make instruments that exclude the operation of *new section 72(1)* (inserted by *clause 13*). *New section 72A* replaces the mechanism in Schedule 6 of the principal Act.

New section 72A(1) to (3) enable the Minister to exclude the operation of *new section 72(1)* in 3 different situations as follows:

- by permitting a stock or species to be returned to or abandoned in the sea or other waters from which it was taken if satisfied that the stock or species has an acceptable likelihood of survival if returned or abandoned in the manner specified by the instrument:
- by permitting a stock or species to be returned to or abandoned in the sea or other waters from which it was taken if satisfied that the retention of the stock or species will have a negative economic value (for example, fish that belongs to an ammoniating species or damaged fish):
- by requiring a stock or species to be returned to or abandoned in the sea or other waters from which it was taken if satisfied that the return or abandonment is for a biological, a fisheries management, or an ecosystem purpose and the stock or species has an acceptable likelihood of survival if returned or abandoned in the manner specified by the instrument.

New section 72A(4) provides that an instrument made under this section can be amended, replaced, or revoked.

New section 72A(5) requires the Minister to consult the persons and organisations the Minister considers are likely to be affected before making, amending, replacing, or revoking an instrument under this section.

New section 72A(6) requires the decision to make an instrument under this section to be notified in the *Gazette*.

New section 72A(7) designates instruments made under this section secondary legislation.

Clause 15 replaces section 113K(1)(n) of the principal Act to ensure that a high seas fishing permit can contain a condition relating to the provision, installation, and maintenance of electronic and other equipment to observe any fishing and related activities described in *paragraph (e)* of the definition of fisheries services in section 2(1) of the principal Act (as amended by *clause 4*), and to the payment of any associated prescribed fees and charges by the permit holder.

Clause 16 amends section 191 of the principal Act to provide for alternative methods of disposal of unwanted catch that commercial fishers are required to land but are prohibited from returning or abandoning. Section 191 currently permits disposal of unwanted catch only to a licensed fish receiver or by wharf sale. The amendment will permit disposal of unwanted catch by a method approved by the chief executive in accordance with regulations made under section 297. An associated regulation-making power is included in *clause 23*.

Clause 17 amends section 192 of the principal Act to enable persons to purchase or acquire unwanted catch disposed of using an alternative method referred to in section 191 (as amended by *clause 16*).

Clause 18 amends section 223 of the principal Act to enable the chief executive, when deciding whether to place an observer on board a vessel and the appropriate period of observer presence on the vessel, to—

- have regard to the number of demerit points recorded against a relevant person (as described in section 189(a) to (f), (i), or (j) of the principal Act, including the owner, master, operator, or licence holder in respect of the vessel) under regulations made under *new section 298A*;
- fix a period of observer presence on the vessel in accordance with any regulations made under that section.

Clause 19 amends section 227A of the principal Act to ensure that the chief executive can require fishing vessels to have specified equipment to observe fishing and related activities in accordance with regulations, consistent with changes made by *clause 4* to the definition of fisheries services. The requirement can be applied throughout or at any time during a fishing vessel's voyage.

Clause 20 amends section 252 of the principal Act to specify the penalties for offences affected by the changes made by *clause 13* to section 72 of the Act.

Subclause (1) consequentially repeals section 252(3)(b) because it is replaced by new penalties provided for in this clause.

Subclause (2) inserts *new section 252(3A)*, which provides that a person convicted, whether in the same or separate proceedings, of 2 or more offences against *new section 72(4)(a) or (b)* (unlawfully returning, abandoning, or retaining fish or aquatic life) committed within a period of 3 years is liable to a fine not exceeding \$250,000 in respect of the second offence and each subsequent offence committed within that period. This penalty applies regardless of the number of fish or aquatic life returned, abandoned, or retained.

Subclause (3) inserts in section 252(5) *new paragraph (ba)*, which provides that a person convicted of an offence against *new section 72(4)(b)* (unlawfully returning, abandoning, or retaining more than 50 fish or animals or plants that are aquatic life) is liable to a fine of up to \$100,000.

Subclause (4) inserts *new section 252(5A)*, which provides that a person convicted of an offence against *new section 72(4)(a)* (unlawfully returning, abandoning, or retaining 50 or fewer fish or animals or plants that are aquatic life) is liable to a fine of up to \$10,000.

Clause 21 amends section 255A of the principal Act, which relates to forfeiture for infringement offences, to provide that the forfeiture provisions do not apply to an infringement offence in respect of the taking or possession of fish or aquatic life by a commercial fisher.

Clause 22 amends section 255C, which provides for forfeiture for section 252(2), (3), and (5) offences, offences carrying a fine of up to \$100,000, repeat offences, and serious non-commercial offences.

Subclauses (1), (3), and (4) amend section 255C(1) to disapply the automatic forfeiture provisions in section 255C(2) in the case of non-repeat offences against *new section 72(4)* (unlawfully returning, abandoning, or retaining fish or aquatic life).

Subclause (2) amends section 255C(1) by inserting *new section 255C(1)(aa)* to apply the automatic forfeiture provisions to a conviction for a second or subsequent offence referred to in *new section 252(3A)* (conviction for 2 or more offences against *new section 72(4)(a) or (b)* (unlawfully returning, abandoning, or retaining fish or aquatic life)).

Subclause (5) inserts *new section 255C(2A)* to provide that on conviction for an offence against *new section 72(4)(b)* (unlawfully returning, abandoning, or retaining more than 50 fish or animals or plants that are aquatic life) the court may order that any property used in the commission of the offence is forfeit to the Crown.

Subclause (6) amends section 255C(3) to apply the discretionary forfeiture of quota provision to a conviction for an offence referred to in *new section 252(3A) or (5)(ba)*.

Subclause (7) amends section 255C(4) to disapply the forfeiture provision in *new section 255C(2A)* in the case of a foreign-flagged fishing vessel.

Clause 23 amends section 297 of the principal Act to empower the making of regulations—

- providing for alternative methods of disposal of unwanted fishing catch;
- relating to the provision, installation, and maintenance of electronic and other equipment to observe any fishing and related activities, and the payment of any associated prescribed fees and charges;
- prescribing infringement offences by commercial fishers and other persons in respect of fishing and related activities;
- authorising the Minister to set or vary management controls (such as daily limits and maximum and minimum legal sizes) in respect of recreational fishing.

Clause 24 inserts *new section 298A* to empower the making of regulations relating to demerit points for breaches of the principal Act by persons described in section 189(a) to (f), (i), or (j) of the Act. This applies to persons required to keep accounts and records, and provide returns to the chief executive, in accordance with regulations made under the Act.

Clause 25 repeals section 302A of the principal Act, which is being replaced by part of *new section 303*.

Clause 26 replaces section 303 of the principal Act with *new section 303*. The new section allows certain secondary legislation or published instruments made by the same maker to be consolidated. The maker is the Minister or the chief executive. Consolidation involves revoking 1 or more existing instruments, and making a new instrument with the same effect as the revoked instruments and any further effect authorised by relevant empowering provisions. Only the new or amended parts of the new instrument need to satisfy all the requirements for making those parts. The revoked (and remade) parts need only satisfy the requirements for publication.

Part 2

Miscellaneous provisions

Clause 27 amends the transitional and savings provisions in Schedule 1AA of the principal Act. The amendments are set out in *Schedule 1* of this Bill.

Clause 28 repeals Schedule 6 of the principal Act (stocks which may be returned to the sea or other waters in accordance with stated requirements). The amendments in *clause 14* replace Schedule 6.

Clause 29 repeals the Fisheries Act 1983. *New clause 7* in Schedule 1AA provides that any references in the Fisheries Act 1996 to the Fisheries Act 1983 are not affected by the repeal.

Clause 30 provides that the principal Act is consequentially amended as set out in *Schedule 2* of this Bill.

Clause 31 provides that the secondary legislation listed in *Schedule 3* of this Bill is consequentially amended as set out in that schedule.

Hon David Parker

Fisheries Amendment Bill

Government Bill

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Schedule 1

New Part 3 inserted into Schedule 1AA

Schedule 2

Consequential amendments to principal Act

Schedule 3

Amendments to secondary legislation

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Fisheries Amendment Act **2022**.

2 Commencement

This Act comes into force on 1 October 2022.

3 Principal Act

This Act amends the Fisheries Act 1996.

Part 1 Substantive provisions

- 4 **Section 2 amended (Interpretation)** 5
- (1) In section 2(1), definition of **fisheries services**, after paragraph (d), insert:
- (e) the provision, installation, and maintenance of electronic and other equipment to observe fishing and related activities, including—
 - (i) the return, abandonment, processing, or sorting of fish:
 - (ii) transportation connected with fishing: 10
 - (iii) measures to avoid, remedy, or mitigate fishing-related mortality:
 - (f) the submission, storage, and review of electronic and other data from activities described in **paragraph (e)**
- (2) In section 2(1), insert in its appropriate alphabetical order:
- pre-set decision rule** means a rule made under **section 11AAA** 15
- 5 **New section 11AAA inserted (Pre-set decision rules for sustainability measures)**
- In Part 3, before section 11, insert:
- 11AAA Pre-set decision rules for sustainability measures**
- (1) The Minister may— 20
 - (a) make rules that specify an approved range or limits within which any sustainability measure for 1 or more stocks or areas may be set or varied (the **pre-set decision rules**):
 - (b) amend, replace, or revoke any pre-set decision rules.
 - (2) Before making, amending, or replacing pre-set decision rules (but not when revoking or applying pre-set decision rules), the Minister must comply with section 11(1) to (2A) as if the Minister were setting a sustainability measure for the relevant stock or area. 25
 - (3) *See* **section 20(6)(b)** for requirements in section 21(1) that relate to the making of pre-set decision rules that enable a total allowable commercial catch to be set or varied under the rules. 30
 - (4) For the purposes of this section, **sustainability measures** include measures referred to in section 11 and total allowable commercial catches.
 - (5) Without limiting **subsection (1)**, pre-set decision rules—

<p>(a) expire at the close of the date or period specified in the rules or (if their expiry is not provided for) when revoked or replaced:</p> <p>(b) may include transitional and savings provisions that the Minister considers necessary concerning the coming into force of the rules.</p> <p>(6) Pre-set decision rules (except instruments that revoke pre-set decision rules) are secondary legislation (<i>see</i> Part 3 of the Legislation Act 2019 for publication requirements).</p>	<p>5</p>
<p>6 Section 11 amended (Sustainability measures)</p>	
<p>After section 11(6), insert:</p>	
<p>(7) Despite subsections (1) to (5), the Minister may, without further authority than this subsection and without complying with subsections (1), (2), (2A), and (5), make an instrument that sets or varies any sustainability measure for 1 or more stocks or areas if the sustainability measure is within an approved range or limits specified in pre-set decision rules.</p> <p>(8) An instrument made under subsection (7) is secondary legislation (<i>see</i> Part 3 of the Legislation Act 2019 for publication requirements).</p>	<p>10</p> <p>15</p>
<p>7 Section 11A amended (Fisheries plans)</p>	
<p>After section 11A(3)(b)(ii), insert:</p>	
<p>(iii) pre-set decision rules:</p>	
<p>8 Section 12 replaced (Consultation)</p>	
<p>Replace section 12 with:</p>	
<p>12 Consultation</p>	
<p>(1) Subsection (2) applies before the Minister—</p> <p>(a) does anything under any of sections 11(1) or (4), 11A(1), 13(1), (4), or (7), 14(1), (3), or (6), 14B(1), and 15(1) or (2); or</p> <p>(b) makes, amends, or replaces pre-set decision rules under section 11AAA (but not when revoking or applying pre-set decision rules); or</p> <p>(c) recommends the making of an Order in Council under section 13(9), 14(8), or 14A(1).</p> <p>(2) In that case, the Minister must—</p> <p>(a) consult with any persons or organisations that the Minister considers are representative of those classes of persons having an interest in the stock or the effects of fishing on the aquatic environment in the area concerned, including Maori, environmental, commercial, and recreational interests; and</p> <p>(b) provide for the input and participation of tangata whenua having—</p> <p>(i) a non-commercial interest in the stock concerned; or</p>	<p>25</p> <p>30</p> <p>35</p>

- (ii) an interest in the effects of fishing on the aquatic environment in the area concerned; and
 - (c) for the purposes of **paragraph (b)**, have particular regard to kaitiakitanga.
- (3) The Minister must, as soon as practicable, give to the parties consulted in accordance with **subsection (2)** reasons in writing for— 5
- (a) making, amending, or replacing pre-set decision rules; or
 - (b) setting or varying any sustainability measure; or
 - (c) approving, amending, or revoking any fisheries plan.
- (4) This section does not apply in respect of emergency measures under section 16. 10

9 Section 13 amended (Total allowable catch)

- (1) Before section 13(2)(a), insert:
- (aaa) is within an approved range or limits specified in pre-set decision rules, and the catch—
 - (i) is set having regard to the interdependence of stocks; and 15
 - (ii) is not inconsistent with the objective of maintaining the stock at or above, or moving the stock towards or above, a level that can produce the maximum sustainable yield; or
- (2) In section 13(6), after “subsection (7)”, insert “or **(7A)**”.
- (3) After section 13(7), insert: 20
- (7A) Despite subsections (1) and (7), after considering information about the abundance during the current fishing year of any stock listed in Schedule 2 and after having regard to the matters in **subsection (2)(aaa)**, the Minister may make an instrument under pre-set decision rules that sets or varies the total allowable catch for any stock listed in Schedule 2 with effect from any date in the fishing year in which the instrument is published as may be stated in the instrument. 25
- (4) In section 13(8), after “subsection (7)”, insert “or **(7A)**”.

10 Section 14 amended (Alternative total allowable catch for stock specified in Schedule 3)

- (1) In section 14(5), after “subsection (6)”, insert “or **(6A)(b)**”. 30
- (2) After section 14(6), insert:
- (6A) Despite subsections (1) and (6),—
- (a) after being satisfied that it is appropriate to achieve the purpose of this Act, the Minister may make an instrument under pre-set decision rules that sets or varies the total allowable catch for any stock listed in Schedule 3 with effect on and from the first day of the next fishing year for the stock concerned: 35

- (b) after considering information about the abundance during the current fishing year of any stock listed in Schedule 3 and being satisfied that it is appropriate to achieve the purpose of this Act, the Minister may make an instrument under pre-set decision rules that varies the total allowable catch for any stock listed in Schedule 3 with effect on and from any date in the year in which the instrument is published as may be stated in the instrument. 5
- (3) In section 14(7), after “subsection (6)”, insert “or **(6A)**”.
- 11 Section 14B amended (Alternative total allowable catch for certain stocks)**
- After section 14B(6), insert: 10
- (6A) Despite subsections (1) and (6), but in accordance with subsections (2) and (3), the Minister may make an instrument under pre-set decision rules that sets or varies the total allowable catch for any stock to which this section applies with effect from any date in the fishing year in which the instrument is published as may be stated in the instrument. 15
- 12 Section 20 amended (Setting and variation of total allowable commercial catch)**
- After section 20(5), insert:
- (6) Despite subsections (1) to (5),—
- (a) the Minister may, subject to **paragraph (b)**, make an instrument that sets or varies a total allowable commercial catch for 1 or more stocks or areas within an approved range or limits specified in pre-set decision rules: 20
- (b) the Minister must have allowed for the interests described in section 21(1)(a) and (b) (whether in the course of making the rules or before setting or varying that catch): 25
- (c) the requirements in section 21(2) and (3) (to consult, and give written reasons to, the interested persons and organisations) do not apply.
- 13 Section 72 amended (Dumping of fish prohibited)**
- (1) Replace section 72(1) to (4) with: 30
- (1) A commercial fisher must not return to or abandon in the sea or any other waters any fish or aquatic life that is subject to the quota management system, except as provided in **subsection (2) or (3)**.
- (2) A commercial fisher who takes any fish or aquatic life subject to the quota management system must, if required by an instrument made under **section 72A(2)(c)**,— 35
- (a) immediately return it to, or abandon it in, the sea or waters from which it was taken; and

- (b) comply with the conditions and requirements (if any) specified in that instrument.
- (3) A commercial fisher who takes any fish or aquatic life subject to the quota management system may return it to, or abandon it in, the sea or waters from which it was taken if— 5
- (a) the return is permitted by an instrument made under **section 72A(2)(a) or (b)**; and
- (b) they comply with the conditions and requirements (if any) specified in that instrument.
- (4) Every person commits an offence and is liable to the applicable penalty set out in **section 252(3A), (5)(b), or (5A)** if the person, in contravention of **subsection (1)**,— 10
- (a) returns, abandons, or retains—
- (i) 50 or fewer fish; or
- (ii) 50 or fewer animals or plants that are aquatic life; or 15
- (b) returns, abandons, or retains—
- (i) more than 50 fish; or
- (ii) more than 50 animals or plants that are aquatic life.
- (2) After section 72(5)(b), insert:
- (ba) the fish or aquatic life was returned or abandoned to ensure the safety of— 20
- (i) a marine mammal (as defined in section 2(1) of the Marine Mammals Protection Act 1978); or
- (ii) fish of the species of *Chordata* listed in Schedule 7A of the Wildlife Act 1953 as Chondrichthyes (cartilaginous fishes); or 25
- (iii) any other protected species specified by the Minister in an instrument made under this paragraph.
- (3) Replace section 72(7) and (8) with:
- (7) In proceedings for an offence relating to a contravention of **subsection (4)**,— 30
- (a) the prosecutor need not assert in the charging document that the exceptions set out in **subsection (2) or (3)** or the defence in **subsection (5)(ba)** do not apply; and
- (b) the burden of proving that any of the exceptions set out in **subsection (2) or (3)** or the defence in **subsection (5)(ba)** applies lies on the defendant. 35
- (8) An instrument made under **subsection (5)(ba)(iii)** is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

14 New section 72A inserted (Minister may require or permit fish or aquatic life to be returned or abandoned)

After section 72, insert:

72A Minister may require or permit fish or aquatic life to be returned or abandoned	5
(1) The Minister may make instruments for the purposes of section 72(2) or (3) in accordance with this section.	
(2) An instrument made under this section may—	
(a) permit a stock or species to be returned to or abandoned in the sea or other waters from which it was taken if satisfied that the stock or species has an acceptable likelihood of survival if returned or abandoned in the manner specified by the instrument; or	10
(b) permit a stock or species to be returned to or abandoned in the sea or other waters from which it was taken if satisfied that the retention of the stock or species will have a negative economic value, including a stock or species that—	15
(i) would damage other stock or species taken by the commercial fisher if retained (for example, an ammoniating species); or	
(ii) are damaged as a result of unavoidable circumstances (for example, diseased or predated fish); or	20
(c) require a stock or species to be returned to or abandoned in the sea or other waters from which it was taken if satisfied that the return or abandonment is for a biological, a fisheries management, or an ecosystem purpose and the stock or species has an acceptable likelihood of survival if returned or abandoned in the manner specified by the instrument.	25
(3) The instrument may also—	
(a) provide that it applies to the stocks or species, or classes of stocks or species, specified in the instrument by reference to size, weight, or other physical characteristics:	
(b) provide that it applies in relation to—	30
(i) the fishing methods, the use of fishing gear, or in the circumstances specified in the instrument; or	
(ii) the classes of fishing methods, fishing gear, or circumstances specified in the instrument:	
(c) impose conditions and requirements that the Minister considers appropriate.	35
(4) An instrument made under this section may be amended, replaced, or revoked.	
(5) Before making, amending, replacing, or revoking an instrument under this section, the Minister must consult any persons or organisations that the Minister	

- considers are representative of the classes of persons having an interest in the proposed action.
- (6) The decision to make an instrument under this section must be notified in the *Gazette*.
- (7) An instrument made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements). 5
- 15 Section 113K amended (Conditions of high seas fishing permit)**
- Replace section 113K(1)(n) with:
- (n) the provision, installation, and maintenance of electronic and other equipment to observe any fishing and related activities described in **paragraph (e)** of the definition of fisheries services in section 2(1), and the payment of any associated prescribed fees and charges by the permit holder: 10
- 16 Section 191 amended (Disposal of fish by commercial fishers)**
- Replace section 191(1) with: 15
- (1) No commercial fisher may sell or otherwise dispose of fish, aquatic life, or seaweed, taken by the commercial fisher in that capacity, except—
- (a) to a licensed fish receiver; or
- (b) as provided in subsection (2) or (5); or
- (c) by an approved alternative method of disposal in accordance with regulations made under section 297. 20
- 17 Section 192 amended (Restrictions on purchase or acquisition of fish by certain persons)**
- After section 192(5)(c), insert:
- (d) a person using an approved method of disposal in accordance with regulations made under section 297. 25
- 18 Section 223 amended (Observer programme established)**
- After section 223(3), insert:
- (3A) In deciding whether to place an observer on board a vessel and the appropriate period of observer presence on the vessel, the chief executive may— 30
- (a) have regard to the number of demerit points recorded against any person described in section 189(a) to (f), (i), or (j) (including the owner, master, operator, or licence holder in respect of the vessel) under regulations made under **section 298A**; and
- (b) fix a period of observer presence on the vessel in accordance with any regulations made under that section. 35

- 19 Section 227A amended (Installation and maintenance of equipment on vessels may be required)**
- (1) In section 227A, replace “fishing and transportation” with “fishing and related activities described in **paragraph (e)** of the definition of fisheries services in section 2(1)”. 5
- (2) In section 227A, insert as subsection (2):
- (2) Subsection (1) includes power to require that specified equipment be operated throughout or at any time during a vessel’s voyage.
- 20 Section 252 amended (Penalties)**
- (1) Repeal section 252(3)(b). 10
- (2) After section 252(3), insert:
- (3A) Every person convicted, whether in the same or separate proceedings, of 2 or more offences against **section 72(4)(a) or (b)** (unlawfully returning, abandoning, or retaining fish or aquatic life on any day) committed within a period of 3 years is liable to a fine not exceeding \$250,000 in respect of the second offence and each subsequent offence committed within that period. 15
- (3) After section 252(5)(b), insert:
- (ba) **section 72(4)(b)** (unlawfully returning, abandoning, or retaining more than 50 fish or animals or plants that are aquatic life on any day):
- (4) After section 252(5), insert: 20
- (5A) Every person convicted of an offence against **section 72(4)(a)** (unlawfully returning, abandoning, or retaining 50 or fewer fish or animals or plants that are aquatic life on any day) is liable to a fine not exceeding \$10,000.
- 21 Section 255A amended (Forfeiture for infringement offence)**
- In section 255A(1), after “infringement offence against this Act”, insert “(other than an offence in respect of the taking or possession of fish or aquatic life by a commercial fisher)”. 25
- 22 Section 255C amended (Forfeiture for section 252(2), (3), and (5) offences, offences carrying fine of \$100,000, repeat offences, and serious non-commercial offences)** 30
- (1) In section 255C(1)(a), after “section 252(2) or (3) or (5)”, insert “(other than an offence referred to in **section 252(5)(ba)**)”. 35
- (2) After section 255C(1)(a), insert:
- (aa) on conviction for a second or subsequent offence referred to in **section 252(3A)**:
- (3) In section 255C(1)(b), after “\$100,000”, insert “(other than an offence referred to in **section 252(5)(ba)**)”.

- (4) In section 255C(1)(d), after “this Act”, insert “(other than an offence referred to in **section 252(5)(ba) or (5A)**)”.
- (5) After section 255C(2), insert:
- (2A) On conviction of a person for an offence referred to in **section 252(5)(ba)**, the court may order that any property used in the commission of the offence is forfeit to the Crown. 5
- (6) In section 255C(3), replace “section 252(2) or (3)” with “section 252(2), (3), **(3A), or (5)(ba)**”
- (7) In section 255C(4), replace “Subsection (2) does” with “Subsections (2) and **(2A)** do”. 10
- 23 Section 297 amended (General regulations)**
- (1) After section 297(1)(a)(xiii), insert:
- (xiv) for the purposes of **section 191(1)(c)**,—
- (A) authorising the chief executive to approve alternative methods of disposal of fish, aquatic life, or seaweed: 15
- (B) providing for applications to use an approved alternative method of disposal and prescribing requirements relating to applications:
- (C) prescribing criteria that the chief executive must take into account in considering an application: 20
- (D) prescribing requirements relating to the disposal of fish, aquatic life, or seaweed by an approved method of disposal:
- (E) providing for, and prescribing requirements relating to, the verification of the alternative methods of disposal of fish, aquatic life, or seaweed. 25
- (2) Replace section 297(1)(ca) with:
- (ca) prescribing requirements relating to the provision, installation, and maintenance of electronic and other equipment to observe any fishing and related activities described in **paragraph (e)** of the definition of fisheries services in section 2(1), and the payment of any associated prescribed fees and charges: 30
- (3) Replace section 297(1)(na) with:
- (na) prescribing infringement offences against this Act by commercial fishers and other persons, including (without limitation)—
- (i) offences in respect of fishing and related activities, such as offences in respect of— 35
- (A) the taking, possession, return, abandonment, processing, or sorting of fish:
- (B) transportation connected with fishing:

- (C) measures to avoid, remedy, or mitigate fishing-related mortality:
- (ii) offences in respect of reporting and record-keeping requirements:
- (4) After section 297(1)(w), insert:
- (wa) authorising the Minister to set or vary management controls in respect of recreational fishing, including—
- (i) daily limits, maximum legal sizes, and minimum legal sizes for any stocks, species, or fisheries management areas; and
- (ii) conditions and requirements relating to the controls:
- (5) After section 297(3), insert:
- (3A) If the regulations authorise the Minister under **subsection (1)(wa)** to set or vary management controls in respect of recreational fishing,—
- (a) the instrument by which that is done is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and
- (b) the regulations must contain a statement to that effect.

24 New section 298A inserted (Regulations relating to demerit points)

After section 298, insert:

- 298A Regulations relating to demerit points against specified persons described in section 189**
- (1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:
- (a) authorising the Minister or the chief executive to record demerit points for a breach of this Act against any person described in section 189(a) to (f), (i), or (j):
- (b) prescribing the number of demerit points or a graduated scale of demerit points that may be recorded for specified breaches of this Act (including a greater number of demerit points for a second or subsequent breach):
- (c) specifying different classes of breaches of this Act that are liable to demerit points, including breaches that are infringement offences:
- (d) providing for the expiry of recorded demerit points:
- (e) prescribing a civil penalty not exceeding \$10,000, which may be a fixed amount or a graduated scale of civil penalties for different levels of recorded demerit points:
- (f) providing for the review of penalties imposed for recorded demerit points:
- (g) providing for appeals against penalties imposed for recorded demerit points:

- (h) providing for the period of observer presence on a fishing vessel for the purpose of **section 223(3A)(b)**:
- (i) providing for the review of video recordings and associated information made by equipment placed on a fishing vessel under section 227A if a specified number of demerit points is accumulated in relation to activities carried out using the vessel: 5
- (j) providing for the effective operation of the demerit point system under this section, including regulations that—
 - (i) specify how demerit points (including accumulated demerit points) are to be recorded, including the information to be recorded in connection with the recorded demerit points: 10
 - (ii) authorise the chief executive to require persons to provide that specified information:
 - (iii) provide for the giving of notices in respect of demerit points.
- (2) This section does not limit the generality of section 297. 15
- (3) Regulations made under this section are secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

25 Section 302A repealed (*Gazette* notices may be consolidated)

Repeal section 302A.

26 Section 303 replaced (Certain secondary legislation may be consolidated) 20

Replace section 303 with:

303 Certain secondary legislation or published instruments may be consolidated

Secondary legislation made by same maker and with same publishing requirements

- (1) The Minister or the chief executive (the **maker**) may at any time apply this section to any secondary legislation that—
 - (a) the maker has made, or may make, under a provision of this Act, or of regulations made under this Act, by satisfying the same requirements for publishing the secondary legislation; and 30
 - (b) is not drafted by the PCO (*see* section 67 of the Legislation Act 2019).

Other instruments made by same maker and with same publishing requirements

- (2) The Minister or the chief executive (the **maker**) may at any time apply this section to any instruments that—
 - (a) the maker has made, or may make, under any provisions of this Act, or of regulations made under this Act, by satisfying the same requirements for publishing the instruments; and 35

- (b) are not secondary legislation.
- Once this section is applied to specific instruments*
- (3) The powers of the maker to amend or replace the specific instruments (whether given by a specific empowering provision, section 48 of the Legislation Act 2019, or otherwise) authorise the maker to— 5
- (a) revoke any specific instrument that has been made (a **revoked instrument**); and
- (b) make an instrument under any of the specific empowering provisions (the **new instrument**) that—
- (i) has the same effect that all or part of the revoked instrument or instruments had immediately before being revoked; and 10
- (ii) otherwise has any further effect (if any) authorised by the specific empowering provisions (the **new or amended parts**).
- (4) For each part of the new instrument (the **replacement part**) that has the same effect as part of a revoked instrument (the **revoked part**),— 15
- (a) the replacement part must be treated as being made under the specific empowering provision under which the revoked part was made; and
- (b) any requirements for making the replacement part or for revoking the revoked part, other than the requirements for publication, must be treated as being satisfied to the extent that the requirements for making the revoked part were satisfied when it was made. 20
- (5) To avoid doubt,—
- (a) the new or amended parts of the new instrument (if any) are made under the relevant specific empowering provisions; and
- (b) any requirements of the relevant specific empowering provisions must be satisfied in making those parts. 25
- (6) A revoked instrument continues to have effect, as if it had not been revoked, in relation to any matter in a period to which the revoked instrument applied.
- (7) In this section,—
- instrument** has the meaning given in section 5 of the Legislation Act 2019 30
- maker**, in relation to an instrument, means the person empowered to make it, as defined by **subsection (1) or (2)**
- specific empowering provisions** means the provisions of this Act, or of regulations, that—
- (a) empower the making of the specific instruments; and 35
- (b) are referred to in the subsection under which the maker applies this section to the specific instruments

specific instruments means the 1 or more instruments to which the maker applies this section, whether the instruments—

- (a) have been made (and are to be revoked); or
- (b) are able to be made.

Part 2

5

Repeal and consequential amendments

27 Schedule 1AA amended

In Schedule 1AA,—

- (a) insert the Part set out in **Schedule 1** of this Act as the last Part; and
- (b) make all necessary consequential amendments. 10

28 Schedule 6 repealed

Repeal Schedule 6.

29 Repeal of Fisheries Act 1983

Repeal the Fisheries Act 1983 (1983 No 14).

30 Consequential amendments to principal Act 15

Amend the principal Act as set out in **Schedule 2**.

31 Consequential amendments to secondary legislation

Amend the secondary legislation as set out in **Schedule 3**.

Schedule 1
New Part 3 inserted into Schedule 1AA

s 27

Part 3	
Provisions relating to Fisheries Amendment Act 2022	5
Subpart 1—Preliminary provisions	
3 Interpretation	
In this Part,—	
amendment Act means the Fisheries Amendment Act 2022	
commencement means the date on which this Part comes into force	10
relevant enactment means an enactment specified in a table in clause 5, 6, or 7.	
Subpart 2—Fisheries (Amateur Fishing) Regulations 2013	
4 Continuation of certain regulations	
(1) This clause applies to the Fisheries (Amateur Fishing) Regulations 2013.	15
(2) The daily amounts, daily limits, accumulation limits, and minimum sizes specified in the regulations immediately before commencement continue to apply until corresponding limits or sizes are enacted and brought into force by an instrument made by the Minister under the regulations.	
Subpart 3—Fisheries (Commercial Fishing) Regulations 2001 and associated enactments	20
5 Exemptions in regulations continued for specified period for certain stocks or species	
(1) This clause is repealed on the earlier of—	
(a) 30 September 2026:	25
(b) a date appointed by Order in Council on the recommendation of the Minister.	
(2) Section 72(1) does not apply to any fish or aquatic life of a stock or species listed in the following table that is taken by a commercial fisher if—	
(a) a relevant enactment prohibits a person from taking or possessing the fish or aquatic life (whether by reason of a condition, requirement, size limit, or otherwise); and	30

- (b) the fish or aquatic life is returned to or abandoned in the sea or any other waters in accordance with the relevant enactment:

Stock or species	Relevant enactment
	<i>Fisheries (Commercial Fishing) Regulations 2001</i>
Blue cod (<i>Parapercis colias</i>)	Regulation 31
Blue moki (<i>Latridopsis ciliaris</i>)	Regulation 31
Butterfish (<i>Odax pullus</i> , <i>Odax cyanoallix</i>)	Regulation 31
Flatfishes (except sand flounder) (<i>Rhombosolea leporine</i> , <i>Rhombosolea retiaria</i> , <i>Rhombosolea tapirina</i> , <i>Colistium guntheri</i> , <i>Colistium nudipinnis</i> , <i>Pelotretis flavilatus</i> , <i>Peltorhamphus novaezeelandiae</i>)	Regulation 31
Kingfish (<i>Seriola lalandi</i>)	Regulation 31
Red cod (<i>Pseudophycis bachus</i>)	Regulation 31
Red moki (<i>Cheilodactylus spectabilis</i>)	Regulation 31
Sand flounder (<i>Rhombosolea plebia</i>)	Regulation 31
Snapper (<i>Pagrus auratus</i>)	Regulation 31
Tarakihi (<i>Nemadactylus macropterus</i>)	Regulation 31
Trevally (<i>Pseudocaranx dentex</i>)	Regulation 31
Paua (<i>Haliotis iris</i> (ordinary paua))	Regulation 32
Paua (<i>Haliotis australis</i> (yellow foot paua))	Regulation 32
Dredge oysters (<i>Tiostrea chilensis</i>)	Regulation 32
Scallops (<i>Pecten novaezeelandiae</i>)	Regulation 32
Female spiny rock lobster (<i>Jasus edwardsii</i>)	Regulation 37
Male spiny rock lobster (<i>Jasus edwardsii</i>)	Regulation 37
Packhorse rock lobster (<i>Jasus verreauxi</i>)	Regulation 37
Rock lobster (any species of rock lobster)	Regulation 41
Eel (short-finned eel (<i>Anguilla australis</i>) and long-finned eel (<i>Anguilla dieffenbachii</i>))	Regulation 50
Eel (short-finned eel (<i>Anguilla australis</i>) and long-finned eel (<i>Anguilla dieffenbachii</i>))	Regulation 51
	<i>Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986</i>
Coromandel scallops (<i>Pecten novaezeelandiae</i>)	Regulation 22B
	<i>Fisheries (Central Area Commercial Fishing) Regulations 1986</i>
Paddle crabs (<i>Ovalipes catharus</i>)	Regulation 14D
Male spiny rock Lobster (<i>Jasus edwardsii</i>)	Regulation 14K
	<i>Fisheries (Challenger Area Commercial Fishing) Regulations 1986</i>
Scallops (<i>Pecten novaezeelandiae</i>)	Regulation 12B
Paddle crabs (<i>Ovalipes catharus</i>)	Regulation 14E

Stock or species	Relevant enactment
	<i>Fisheries (South-East Area Commercial Fishing) Regulations 1986</i>
Spiny rock lobster (<i>Jasus edwardsii</i>)	Regulation 6
Paddle crab (<i>Ovalipes catharus</i>)	Regulation 11J
Eel (short-finned eel (<i>Anguilla australis</i>) and long-finned eel (<i>Anguilla dieffenbachii</i>))	Regulation 11N
Male short-finned eel (<i>Anguilla australis</i>)	Regulation 11O
	<i>Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986,</i>
Female spiny rock lobster (<i>Jasus edwardsii</i>)	Regulation 5C
Paddle crab (<i>Ovalipes catharus</i>)	Regulation 15H

6 Stocks or species deemed to meet criteria in section 72A

- (1) The Minister may make an instrument under **section 72A** that has effect for a specified period or indefinitely for any stock or species listed in **table 1** without further authority than this subclause and as if the statutory prerequisites for making the instrument had been complied with:

Table 1—Stocks or species deemed to meet criteria in **section 72A** for specified period or indefinitely

Stock or species	Relevant enactment
	<i>Fisheries (Commercial Fishing) Regulations 2001</i>
Paua (<i>Haliotis iris</i> (ordinary paua))	Regulation 32
Paua (<i>Haliotis australis</i> (yellow foot paua))	Regulation 32
Dredge oysters (<i>Tiostrea chilensis</i>)	Regulation 32
Scallops (<i>Pecten novaezelandiae</i>)	Regulation 32
Female spiny rock lobster (<i>Jasus edwardsii</i>)	Regulation 37
Male spiny rock lobster (<i>Jasus edwardsii</i>)	Regulation 37
Packhorse rock lobster (<i>Jasus verreauxi</i>)	Regulation 37
Rock lobster (any species of rock lobster)	Regulation 41
Eel (short-finned eel (<i>Anguilla australis</i>) and long-finned eel (<i>Anguilla dieffenbachii</i>))	Regulation 50
Eel (short-finned eel (<i>Anguilla australis</i>) and long-finned eel (<i>Anguilla dieffenbachii</i>))	Regulation 51
	<i>Fisheries Act 1996, Schedule 6</i>
Rock lobster (<i>Jasus verreauxi</i> , <i>Jasus edwardsii</i>) in all New Zealand fisheries waters	
Prawn killer (<i>Ibacus alticrenatus</i>) in all New Zealand fisheries waters	
Paddle crab (<i>Ovalipes catharus</i>) in all New Zealand fisheries waters	
Deepwater crab (<i>Chaceon bicolor</i> , <i>Lithodes murrayi</i> , <i>Neolithodes brodiei</i> , and <i>Jacquiniotia edwardsii</i>) in all New Zealand fisheries waters	

Stock or species	Relevant enactment
Cockle (<i>Austrovenus stutchburyi</i>) in all New Zealand fisheries waters except fishery management area 10	
Green-lipped mussel (<i>Perna canaliculus</i>) in quota management areas GLM1, GLM2, GLM3, GLM7A, GLM7B, GLM8, and GLM10	
Green-lipped mussel (<i>Perna canaliculus</i>) in quota management area GLM9	
Pipi (<i>Paphies australis</i>) in all New Zealand fisheries waters except fishery management area 10	
Surf clams (<i>Bassina yatei</i> , <i>Dosinia anus</i> , <i>Dosinia subrosea</i> , <i>Mactra discors</i> , <i>Mactra murchisoni</i> , <i>Paphies donacina</i> , <i>Spisula aequilatera</i>) in all New Zealand fisheries waters except fishery management areas 6 and 10	
Dredge oyster (<i>Ostrea chilensis</i>) in all New Zealand fisheries waters except quota management area OYU5 and fishery management area 10	
Knobbed whelk (<i>Austrofusus glans</i>) in quota management areas KWH1, KWH2, KWH3, KWH4, KWH5, KWH6, KWH7A, KWH7B, KWH8, and KWH9	
Freshwater eel (<i>Anguilla australis</i> , <i>Anguilla dieffenbachii</i> , and <i>Anguilla reinhardtii</i>) in all New Zealand fisheries waters	
Bladder kelp (<i>Macrocystis pyrifera</i>) in all New Zealand fisheries waters	
Kina (<i>Evechinus chloroticus</i>) in all New Zealand fisheries waters	
(2) The Minister may make an instrument under section 72A that has effect until a date no later than 30 September 2026 for any stock or species listed in table 2 without further authority than this subclause and as if the statutory prerequisites for making the instrument had been complied with:	
Table 2—Stocks or species deemed to meet criteria in section 72A until a date no later than 30 September 2026	
Stock or species	Requirements
Blue shark (<i>Prionace glauca</i>) in all New Zealand fisheries waters	A commercial fisher may return any blue shark to the waters from which it was taken—
	(a) live, if the blue shark is likely to survive on return and the return takes place as soon as practicable after the blue shark was taken; or
	(b) dead or near-dead, if paragraph (a) does not apply.
	For the purposes of paragraph (b) of this requirement, near-dead means unlikely to survive on return.
Chatham Islands scallops (<i>Pecten novaezelandiae</i>) in the Chatham Islands scallop fishery	A commercial fisher must immediately return a Chatham Islands scallop to the waters from which it was taken if the scallop is taken—

Stock or species	Requirements
Coromandel scallops (<i>Pecten novaezelandiae</i>) in the Coromandel scallop fishery	<ul style="list-style-type: none"> (a) during any closed season in the Chatham Islands scallop fishery; or (b) in any area in which the taking of Chatham Islands scallops is, at that time, prohibited. <p>A commercial fisher must immediately return a Coromandel scallop to the waters from which it was taken if the scallop is taken—</p> <ul style="list-style-type: none"> (a) during any closed season in the Coromandel scallop fishery; or (b) in any area in which the taking of Coromandel scallops is, at that time, prohibited.
Kingfish (<i>Seriola lalandi</i>) in all New Zealand fisheries waters	<p>A commercial fisher may return a kingfish of legal size to the waters from which it was taken if that fish—</p> <ul style="list-style-type: none"> (a) is not taken by the method of set netting; and (b) is likely to survive; and (c) is returned to the same waters from which it was taken; and (d) is returned as soon as practicable; and (e) is recorded and reported on catch effort landing returns using an appropriate code.
Mako shark (<i>Isurus oxyrinchus</i>) in all New Zealand fisheries waters	<p>A commercial fisher may return any mako shark to the waters from which it was taken—</p> <ul style="list-style-type: none"> (a) live, if the mako shark is likely to survive on return and the return takes place as soon as practicable after the mako shark was taken; or (b) dead or near-dead, if paragraph (a) does not apply.
Northern scallops (<i>Pecten novaezelandiae</i>) in the Northland scallop fishery	<p>For the purposes of paragraph (b) of this requirement, near-dead means unlikely to survive on return.</p> <p>A commercial fisher must immediately return any Northland scallop to the waters from which it was taken if the scallop is taken—</p> <ul style="list-style-type: none"> (a) during any closed season in the Northland scallop fishery; or (b) in any area in which the taking of northern scallops is, at the time, prohibited.
Patagonian toothfish (<i>Dissostichus eleginoides</i>) in all New Zealand fisheries waters	<p>A commercial fisher may return any Patagonian toothfish to the waters from which it was taken if—</p> <ul style="list-style-type: none"> (a) the Patagonian toothfish is likely to survive on return; and

Stock or species	Requirements
Porbeagle shark (<i>Lamna nasus</i>) in all New Zealand fisheries waters	<p>(b) the return takes place as soon as practicable after the Patagonian toothfish is taken; and</p> <p>(c) in the case of a trawl-caught Patagonian toothfish, it is released only in the presence of an observer.</p> <p>A commercial fisher may return any porbeagle shark to the waters from which it was taken—</p> <p>(a) live, if the porbeagle shark is likely to survive on return and the return takes place as soon as practicable after the porbeagle shark was taken; or</p> <p>(b) dead or near-dead, if paragraph (a) does not apply.</p> <p>For the purposes of paragraph (b) of this requirement, near-dead means unlikely to survive on return.</p>
Queen scallop (<i>Zygochlamys delicatula</i>) in all New Zealand fisheries waters	<p>A commercial fisher may return any queen scallop to the waters from which it is taken if—</p> <p>(a) the queen scallop is likely to survive the return; and</p> <p>(b) the return takes place as soon as practicable after the queen scallop is taken.</p>
Rig (<i>Mustelus lenticulatus</i>) in all New Zealand fisheries waters	<p>A commercial fisher may return any rig to the waters from which it was taken if—</p> <p>(a) the rig is likely to survive on return; and</p> <p>(b) the return takes place as soon as practicable after the rig is taken.</p>
Rough skate (<i>Dipturus nasutus</i>) in all New Zealand fisheries waters	<p>A commercial fisher may return any rough skate to the waters from which it was taken if—</p> <p>(a) that rough skate is likely to survive on return; and</p> <p>(b) the return takes place as soon as practicable after the rough skate is taken.</p>
Scallop (<i>Pecten novaezelandiae</i>) in quota management areas SCA1A, SCA2A, SCA3, SCA5, SCA7A, SCA7B, SCA7C, SCA8A, SCA9A	<p>A commercial fisher may return a scallop of legal size to the waters from which it was taken if the scallop is likely to survive on return.</p>
School shark (<i>Galeorhinus galeus</i>) in all New Zealand fisheries waters	<p>A commercial fisher may return any school shark to the waters from which it was taken if—</p> <p>(a) the school shark is likely to survive on return; and</p>

Stock or species	Requirements
Sea cucumber (<i>Stichopus mollis</i>) in all New Zealand fisheries waters	(b) the return takes place as soon as practicable after the school shark is taken. A commercial fisher may return any sea cucumber to the waters from which it was taken if—
Smooth skate (<i>Dipturus innominatus</i>) in all New Zealand fisheries waters	(a) that sea cucumber is likely to survive on return; and (b) the return takes place as soon as practicable after the sea cucumber is taken. A commercial fisher may return any smooth skate to the waters from which it was taken if—
Southern bluefin tuna (<i>Thunnus maccoyii</i>) in all New Zealand fisheries waters and all waters outside the outer boundary of the exclusive economic zone	(a) that smooth skate is likely to survive on return; and (b) the return takes place as soon as practicable after the smooth skate is taken. A person who is a New Zealand national fishing against New Zealand's national allocation of southern bluefin tuna may return any southern bluefin tuna to the waters from which it was taken if—
Southern scallops (<i>Pecten novaezelandiae</i>) in the southern scallop fishery	(a) that southern bluefin tuna is likely to survive on return; and (b) the return takes place as soon as practicable after the southern bluefin tuna is taken. A commercial fisher may return a southern scallop of legal size to the waters from which it was taken if the scallop is likely to survive on return.
Spiny dogfish (<i>Squalus acanthias</i>) in all New Zealand fisheries waters	A commercial fisher may return any spiny dogfish (whether live or dead) to the waters from which it was taken.
Swordfish (<i>Xiphias gladius</i>) in all New Zealand fisheries waters	A commercial fisher may return any swordfish to the waters from which it was taken if— (a) that swordfish is likely to survive on return; and (b) the return takes place as soon as practicable after the swordfish is taken; and (c) that swordfish has a lower jaw to fork length of less than 1.25 m. For the purposes of this requirement, lower jaw to fork length means the projected straight line distance from the foremost point of the lower jaw to the rear centre edge of the tail (caudal fin).

- (3) The Minister may make an instrument for any stock or species listed in **table 1** that includes the same or similar requirements, conditions, or size limits found in the corresponding enactment immediately before commencement.
- (4) The Minister may make an instrument for any stock or species listed in **table 2** that includes the same or similar requirements, conditions, or size limits specified in that table. 5
- (5) On the commencement of an instrument that applies to any of those stocks or species, **subclause (1) or (2)**, as the case may be, ceases to apply to those stocks or species.
- (6) If any of those stocks or species ceases to be subject to an instrument made under **section 72A**, the authority conferred by **subclause (1) or (2)** is not revived and the Minister must comply with the statutory prerequisites before including the stock or species in a subsequent instrument under that section. 10
- Subpart 4—References in this Act to Fisheries Act 1983
- 7 References to Fisheries Act 1983** 15
- The repeal of the Fisheries Act 1983 does not affect the operation of provisions in this Act that refer to any provision of the Fisheries Act 1983.

Schedule 2
Consequential amendments to principal Act

s 30

Section 2(1)

In the definition of **fisheries services**, delete “or the Fisheries Act 1983”. 5

Section 188(5)

Delete “or section 28W(10) of the Fisheries Act 1983”.

Section 265(a)

Delete “or the Fisheries Act 1983” in each place.

Section 294(5)

Delete “by or under Part 6 of the Fisheries Act 1983 or”. 10

Section 296A(c)(ii)

Delete “by or under the Fisheries Act 1983 or”.

Section 296C(1)

Delete “or the Fisheries Act 1983” in each place. 15

Section 296Z(3)

Delete “or in the Fisheries Act 1983”.

Section 296ZE(2)(a)(i)

Delete “or the Fisheries Act 1983”.

Section 297(1)(nd)

Delete “or the Fisheries Act 1983”. 20

Section 314

Repeal section 314.

Schedule 3

Amendments to secondary legislation

s 31

Part 1

Amendments to Fisheries (Amateur Fishing) Regulations 2013 5

Regulation 4

After regulation 4(1), insert:

- (1A) If there is a conflict between the provisions in an instrument made by the Minister that apply generally and in an instrument made by the Minister that apply or relate to a specific area (**specific provisions**), the specific provisions prevail. 10

New regulations 5A and 5B

After regulation 5, insert:

5A Status of certain instruments

- (1) The Minister may make instruments that set or vary any daily limits, accumulation limits, minimum or maximum legal sizes, or other recreational fishing management controls for any fish, aquatic life, or seaweed. 15
- (2) References in these regulations to any recreational fishing management controls specified by an instrument made by the Minister must be treated as references to instruments made under this regulation.
- (3) An instrument made under this regulation is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements). 20

5B Application of recreational fishing management controls set or varied by Minister

An instrument made by the Minister under **regulation 5A** applies to the type of fish, aquatic life, or seaweed specified in the instrument (whether by reference to a name specified in regulation 8 or to some other name or description specified by the Minister). 25

Regulation 11

Replace regulation 11(1) with:

- (1) A person must not, on any day, take or possess more than the daily limit for eels specified in an instrument made by the Minister (**the daily limit for eels**). 30

Regulation 12

Replace regulation 12(1) with:

Regulation 12—*continued*

- (1) A person must not, on any day, take or possess more than the daily limit for a species of shellfish specified in an instrument made by the Minister (the **daily limit for a species of shellfish**).

Regulation 13

Replace regulation 13(1) with:

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- (1) A person must not, on any day, take or possess more than the daily limit for rock lobsters specified in an instrument made by the Minister (the **daily limit for rock lobsters**).

Regulation 14

Replace regulation 14(1) with:

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- (1) If the circumstances in subclause (2) are met, a person may, on any day, take an additional number of dredge oysters or scallops up to the limit specified for those species in an instrument made by the Minister under regulation 12.

Regulation 15

Replace regulation 15(1) with:

15

- (1) If the circumstances in subclause (2) are met, a person may, on any day, take an additional number of dredge oysters or scallops that is up to 2 times the daily limit specified in an instrument made by the Minister under regulation 12.

Regulation 16

Replace regulation 16(1) and (2) with:

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- (1) This regulation applies to a person if the person has—
- (a) accumulated paua over a period of more than 1 day; and
 - (b) exceeded the daily limit specified for a species of paua in an instrument made by the Minister under regulation 12; and
 - (c) established the defence set out in regulation 157(1).
- (2) The person may, on any day, possess the daily accumulation limit or amount for paua specified in an instrument made by the Minister (the **accumulation limit for paua**).

25

Regulation 17

Replace regulation 17(2) with:

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- (2) A person must not, on any day, take or possess more than the daily limit for quinnat salmon specified in an instrument made by the Minister (the **daily limit for quinnat salmon**).

Regulation 17A

In regulation 17A, insert as subclause (2):

- (2) If provisions in an instrument made by the Minister that apply generally and in an instrument made by the Minister that apply or relate to a specific area (**specific provisions**) set different daily limits for blue cod in respect of the same area, the provision setting the lowest daily limit applies to the area. 5

New regulations 17B and 17C

After regulation 17A, insert:

17B General daily limits for fish, aquatic life, or seaweed

- (1) A person must not, on any day, take or possess more than the limit for a species of fish, aquatic life, or seaweed specified in an instrument made by the Minister (the **general daily limit for a species of fish, aquatic life, or seaweed**). 10
- (2) A person contravenes this subclause if the person, on any day, takes or possesses more than the general daily limit for a species of fish, aquatic life, or seaweed, but not more than 3 times that daily limit. 15
- (3) A person contravenes this subclause if the person, on any day, takes or possesses more than 3 times the general daily limit for a species of fish, aquatic life, or seaweed.
- (4) A person who contravenes—
- (a) subclause (2) commits an offence and is liable on conviction to a fine not exceeding \$10,000: 20
- (b) subclause (3) commits a serious non-commercial offence and is liable on conviction to a fine not exceeding \$20,000.

17C General accumulation limits for fish, aquatic life, or seaweed

- (1) This regulation applies to a person if the person has— 25
- (a) accumulated a species of fish, aquatic life, or seaweed over a period of more than 1 day; and
- (b) exceeded the daily limit specified for that species of fish, aquatic life, or seaweed in an instrument made by the Minister; and
- (c) established the defence set out in regulation 157(1). 30
- (2) The person may, on any day, possess the daily accumulation limit or amount for a species of fish, aquatic life, or seaweed specified in an instrument made by the Minister (the **general accumulation limit for a species of fish, aquatic life, or seaweed**). 35
- (3) A person contravenes this subclause if the person, on any day, takes or possesses more than the general accumulation limit for a species of fish, aquatic life, or seaweed, but not more than 3 times that limit.

New regulations 17B and 17C—continued

- (4) A person contravenes this subclause if the person, on any day, takes or possesses more than 3 times the general accumulation limit for a species of fish, aquatic life, or seaweed.
- (5) A person who contravenes—
- (a) subclause (2) commits an offence and is liable on conviction to a fine not exceeding \$10,000: 5
 - (b) subclause (3) commits a serious non-commercial offence and is liable on conviction to a fine not exceeding \$20,000.

Regulation 18

In the heading to regulation 18, after “Minimum”, insert “or maximum”. 10

Replace regulation 18(1) with:

- (1) A person must not take or possess a species of fish that is less than the minimum length or exceeds the maximum length for that species specified in an instrument made by the Minister.

Regulation 19

15

Replace regulation 19(1) with:

- (1) A person must not take or possess a species of shellfish (whether entire, chipped, or broken) that is less than the minimum length or exceeds the maximum length for that species specified in an instrument made by the Minister.

Regulation 30

20

Replace regulation 30(3) with:

- (3) For the purposes of subclause (1), a rock lobster of a particular species, whether alive or dead (and, if dead, whether cooked, frozen, or chilled) is undersize if the tail is less than the minimum length or width for that species specified in an instrument made by the Minister. 25
- (4) For the purposes of subclause (1), the Minister’s instrument may specify—
- (a) different minimum lengths or widths for rock lobsters of each sex or different kinds of rock lobster, or both:
 - (b) how to measure the length or width under Schedule 4.

Regulation 55

30

Replace regulation 55(1)(a) with:

- (a) take from the Auckland and Kermadec FMA more than the combined daily limit for fish specified in an instrument made by the Minister (the **combined daily limit for fish**); or

Replace regulation 55(2)(a) with:

35

Regulation 55—*continued*

- (a) take from the Auckland FMA more than the daily limit for bluenose specified in an instrument made by the Minister (the **daily limit for bluenose**); or

Regulation 56

Replace regulation 56(1)(a) with:

5

- (a) take from the Auckland and Kermadec FMA more than the combined daily limit for hapuku/bass and kingfish specified in an instrument made by the Minister (the **combined daily limit for hapuku/bass and kingfish**); or

Regulation 57

10

Replace regulation 57(1)(a) with:

- (a) take from the Auckland and Kermadec FMA more than the daily limit for kingfish specified in an instrument made by the Minister (the **daily limit for kingfish**); or

Regulation 58

15

Replace regulation 58(1)(a) with:

- (a) take from the Auckland and Kermadec FMA more than the daily limit for grey mullet specified in an instrument made by the Minister (the **daily limit for grey mullet**); or

Regulation 59

20

Replace regulation 59(1)(a) with:

- (a) take from the Auckland and Kermadec FMA more than the daily limit for snapper specified in an instrument made by the Minister (the **daily limit for snapper**); or

Replace regulation 59(2)(a) with:

25

- (a) take from the Auckland (West) FMA more than the daily limit for snapper specified in an instrument made by the Minister (the **daily limit for snapper for the Auckland (West) FMA**); or

Replace regulation 59(3)(a) with:

- (a) take from the Auckland (East) FMA more than the daily limit for snapper specified in an instrument made by the Minister (the **daily limit for snapper for the Auckland (East) FMA**); or

30

Regulation 60

Replace regulation 60(1)(a) with:

Regulation 60—*continued*

- (a) take from the Auckland Coromandel area more than the daily limit for a species of shellfish specified in an instrument made by the Minister (the **daily limit for a species of shellfish**); or

Revoke regulation 60(2).

Regulation 61

5

Replace regulation 61(1)(a) with:

- (a) take from the Maketu taiapure more than the daily limit for green-lipped mussels specified in an instrument made by the Minister (the **daily limit for green-lipped mussels**); or

Regulation 62

10

Replace regulation 62(1) and (2) with:

- (1) A person must not—
 - (a) take from the Auckland (West) FMA or the Kermadec FMA any snapper that is less than the minimum length or exceeds the maximum length specified in an instrument made by the Minister; or 15
 - (b) possess any snapper that is less than that minimum length or exceeds the maximum length and is taken from within the Auckland (West) FMA or the Kermadec FMA.
- (2) A person must not—
 - (a) take from the Auckland (East) FMA any snapper that is less than the minimum length or exceeds the maximum length specified in an instrument made by the Minister; or 20
 - (b) possess any snapper that is less than that minimum length or exceeds the maximum length and is taken from within the Auckland (East) FMA.

Regulation 63

25

Replace regulation 63(1) with:

- (1) A person must not—
 - (a) take from the Auckland FMA any blue cod that is less than the minimum length or exceeds the maximum length specified in an instrument made by the Minister; or 30
 - (b) possess any blue cod that is less than that minimum length or exceeds the maximum length and is taken from within the Auckland FMA.

Regulation 78

Replace regulation 78(1)(a) with:

Regulation 78—continued

- (a) take from the Central FMA more than the combined daily limit for the species of fish specified in an instrument made by the Minister (the **combined daily limit for fish**); or

Replace regulation 78(2)(a) with:

- (a) take from the Central FMA more than the daily limit for bluenose specified in an instrument made by the Minister (the **daily limit for bluenose**); or

Replace regulation 78(3)(a) with:

- (a) take from the Central FMA more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or

Regulation 79

Replace regulation 79(1)(a) with:

- (a) take from the Central FMA more than the combined daily limit for hapuku/bass and kingfish specified in an instrument made by the Minister (the **combined daily limit for hapuku/bass and kingfish**); or

Regulation 80

Replace regulation 80(1)(a) with:

- (a) take from the Central FMA more than the daily limit for kingfish specified in an instrument made by the Minister (the **daily limit for kingfish**); or

Regulation 81

Replace regulation 81(1)(a) with:

- (a) take from the Central FMA more than the daily limit for snapper specified in an instrument made by the Minister (the **daily limit for snapper**); or

Regulation 82

Replace regulation 82(1) with:

- (1) A person must not—
 - (a) take from the Central FMA any snapper that is less than the minimum length or exceeds the maximum length specified in an instrument made by the Minister; or
 - (b) possess any snapper that is less than that minimum length or exceeds the maximum length taken from within the Central FMA.

Regulation 83

Replace regulation 83(1) to (3) with:

- (1) A person must not take from the Amateur Taranaki Paua Fishery area any ordinary paua that is less than the minimum length or exceeds the maximum length specified in an instrument made by the Minister. 5
- (2) A person must not possess, inside the Amateur Taranaki Paua Fishery area, any ordinary paua that is less than that minimum length or exceeds the maximum length and is taken from that area.
- (3) A person must not possess, outside the Amateur Taranaki Paua Fishery area, any ordinary paua that is less than that minimum length or exceeds the maximum length and is taken from that area. 10

Regulation 92

Replace regulation 92(1)(a) with:

- (a) take from the Challenger FMA more than the combined daily limit for the species of fish specified in an instrument made by the Minister (the **combined daily limit for fish**); or 15

Replace regulation 92(2)(a) with:

- (a) take from the Challenger FMA more than the daily limit for bluenose specified in an instrument made by the Minister (the **daily limit for bluenose**); or 20

Replace regulation 92(3)(a) with:

- (a) take from the Challenger (East) area more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod for the Challenger (East) area**); or

Regulation 93

25

Replace regulation 93(1)(a) with:

- (a) take from the Challenger FMA more than the combined daily limit for hapuku/bass and kingfish specified in an instrument made by the Minister (the **combined daily limit for hapuku/bass and kingfish**); or

Regulation 94

30

Replace regulation 94(1)(a) with:

- (a) take from the Challenger FMA more than the daily limit for kingfish specified in an instrument made by the Minister (the **daily limit for kingfish**); or

Regulation 95

35

Replace regulation 95(1)(a) with:

Regulation 95—*continued*

- (a) take from the Challenger FMA more than the daily limit for snapper specified in an instrument made by the Minister (the **daily limit for snapper**); or

Regulation 96

Replace regulation 96(1)(a) with:

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- (a) take from the Marlborough Sounds area more than the daily limit for snapper specified in an instrument made by the Minister (the **daily limit for snapper**); or

Regulation 97

Replace regulation 97(1)(a) with:

10

- (a) take from the Challenger FMA more than the daily limit for scallops specified in an instrument made by the Minister (the **daily limit for scallops**); or

Regulation 100

In the heading to regulation 100, after “Minimum”, insert “or maximum”.

15

Replace regulation 100(1) with:

- (1) A person must not—
 - (a) take from the Challenger FMA any sand flounder that is less than the minimum length or exceeds the maximum length specified in an instrument made by the Minister; or
 - (b) possess any sand flounder that is less than that minimum length or exceeds the maximum length and is taken from within the Challenger FMA.

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Regulation 101

In the heading to regulation 101, after “Minimum”, insert “or maximum”.

25

Replace regulation 101(1) with:

- (1) A person must not—
 - (a) take from the Challenger FMA any scallop whose shell (whether entire, chipped, or broken) is less than the minimum length or exceeds the maximum length specified in an instrument made by the Minister; or
 - (b) possess any scallop that is less than that minimum length or exceeds the maximum length and is taken from within the Challenger FMA.

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Regulation 117

Replace regulation 117(1)(a) with:

Regulation 117—continued

- (a) take from the South-East FMA more than the combined daily limit for the species of fish specified in an instrument made by the Minister (the **combined daily limit for fish**); or

Replace regulation 117(2)(a) with:

- (a) take from the South-East FMA more than the daily limit for the species of fish specified in an instrument made by the Minister (the **daily limit for a species of fish**); or 5

Replace regulation 117(3)(a) with:

- (a) take from the Kaikoura–North Canterbury area more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod for the Kaikoura–North Canterbury area**); or 10

Regulation 118

Replace regulation 118(1)(a) with:

- (a) take from the South-East FMA more than the daily limit for hapuku/bass and kingfish specified in an instrument made by the Minister (the **combined daily limit for hapku/bass and kingfish**); or 15

Regulation 119

Replace regulation 119(1)(a) with:

- (a) take from the South-East FMA more than the daily limit for kingfish specified in an instrument made by the Minister (the **daily limit for kingfish**); or 20

Regulation 120

Replace regulation 120(1)(a) with:

- (a) take from the East Otago taiapure more than the daily limit for shellfish specified in an instrument made by the Minister (the **daily limit for shellfish**); or 25

Regulation 121

Replace regulation 121(1)(a) with:

- (a) take from the East Otago taiapure more than the daily limit for kina specified in an instrument made by the Minister (the **daily limit for kina**); or 30

Regulation 122

Replace regulation 122(1)(a) with:

- (a) take from the southern part of the East Otago taiapure more than the daily limit for finfish specified in an instrument made by the Minister (the **daily limit for finfish**); or 35

Regulation 122A

Replace regulation 122A(1)(a) with:

- (a) take from the East Otago taiapure more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or

5

Regulation 123

Replace regulation 123(1)(a) with:

- (a) take from the Akaroa Harbour taiapure more than the daily limit for a species of fish or shellfish specified in an instrument made by the Minister (the **daily limit for a species of fish or shellfish**); or

10

Replace regulation 123(2)(a) with:

- (a) take from the Akaroa Harbour taiapure more than the daily limit for finfish specified in an instrument made by the Minister (the **daily limit for finfish**); or

Regulation 123A

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Replace regulation 123A(1)(a) with:

- (a) take from Te Whata Kai o Rakihouia i Te Tai o Marokura—Kaikōura Marine Area more than the daily limit for a species of fish or shellfish specified in an instrument made by the Minister (the **daily limit for a species of fish or shellfish**); or

20

Replace regulation 123A(2)(a) with:

- (a) take from Te Whata Kai o Rakihouia i Te Tai o Marokura—Kaikōura Marine Area more than the combined daily limit for albacore, bluenose, hapuku/bass, kingfish, and ling specified in an instrument made by the Minister (the **combined daily limit for albacore, bluenose, hapuku/bass, kingfish, and ling**); or

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Replace regulation 123A(3)(a) with:

- (a) take from Te Whata Kai o Rakihouia i Te Tai o Marokura—Kaikōura Marine Area more than the daily limit for blue shark, hammerhead shark, mako shark, porbeagle shark, seven gill shark, and thresher shark specified in an instrument made by the Minister (the **combined daily limit for game sharks**); or

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Regulation 123B

Replace regulation 123B(1)(a) with:

- (a) take from Te Whata Kai o Rakihouia i Te Tai o Marokura—Kaikōura Marine Area more than the daily limit for bladder kelp specified in an instrument made by the Minister (the **daily limit for bladder kelp**); or

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Replace regulation 123B(2)(a) with:

Regulation 123B—*continued*

- (a) take from Te Whata Kai o Rakihouia i Te Tai o Marokura—Kaikōura Marine Area more than the combined daily limit for karengo specified in an instrument made by the Minister (the **daily limit for karengo**); or

Regulation 125

Replace regulation 125(1) with:

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- (1) A person must not, on any day,—
 - (a) take from Otago Harbour any quinnat salmon that is less than the minimum length or exceeds the maximum length specified in an instrument made by the Minister; or
 - (b) possess any quinnat salmon that is less than that minimum length or exceeds the maximum length and is taken from within Otago Harbour.

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Regulation 125A

Replace regulation 125A(2) with:

- (2) A person must not, on any day,—
 - (a) take from Te Whata Kai o Rakihouia i Te Tai o Marokura—Kaikōura Marine Area any sea perch that is less than the minimum length or exceeds the maximum length specified in an instrument made by the Minister; or
 - (b) possess any sea perch that is less than that minimum length or exceeds the maximum length and is taken from within Te Whata Kai o Rakihouia i Te Tai o Marokura—Kaikōura Marine Area.

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Regulation 141

Replace regulation 141(1)(a) with:

- (a) take from the Southland and Sub-Antarctic FMA more than the combined daily limit for the species of fish specified in an instrument made by the Minister (the **combined daily limit for fish**); or

25

In regulation 141(2), replace “subclause (1)” with “an instrument made by the Minister”.

Replace regulation 141(3)(a) with:

- (a) take from the Southland and Sub-Antarctic FMA more than the individual daily limit for a species of fish specified in an instrument made by the Minister (the **daily limit for a species of fish**); or

30

Replace regulation 141(4)(a) with:

- (a) take from Paterson Inlet (Whaka a Te Wera) more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod for Paterson Inlet (Whaka a Te Wera)**); or

35

Regulation 142

Replace regulation 142(1)(a) with:

- (a) take from the Southland and Sub-Antarctic FMA more than the daily limit for hapuku/bass and kingfish specified in an instrument made by the Minister (the **combined daily limit for hapku/bass and kingfish**); or
- 5

Regulation 143

Replace regulation 143(1)(a) with:

- (a) take from the Southland and Sub-Antarctic FMA more than the daily limit for kingfish specified in an instrument made by the Minister (the **daily limit for kingfish**); or
- 10

Regulation 144

Replace regulation 144(1)(a) with:

- (a) take from the Southland FMA more than the daily limit for mussels specified in an instrument made by the Minister (the **daily limit for mussels**); or
- 15

Regulation 145

In regulation 145(2) and (3), replace “10 scallops” with “the daily limit for scallops”.

Replace regulation 145(4)(a) with:

- (a) take from the Southland and Sub-Antarctic FMA more than the daily limit for scallops specified in an instrument made by the Minister (the **daily limit for scallops**); or
- 20

Regulation 146

Replace regulation 146(1)(a) with:

- (a) take from the Fiordland (Te Moana o Atawhenua) marine area more than the daily limit for a species of fish or shellfish specified in an instrument made by the Minister (the **daily limit for a species of fish or shellfish**); or
- 25

Replace regulation 146(2) with:

- (2) The daily limits for a species of fish or shellfish are subject to the following conditions:
- 30
- (a) if applicable, a daily limit includes any fish taken from the internal waters of Fiordland in accordance with regulations 147 and 147A:
- (b) a daily limit for blue cod is subject to the prohibition set out in regulation 149.
- 35

Regulation 147

Replace regulation 147(1)(a) with:

- (a) take from the internal waters of Fiordland, or the waters of Milford Sound (as described in the definition of the internal waters of Fiordland in Schedule 18), more than the daily limit for a species of fish or shellfish specified in an instrument made by the Minister (the **daily limit for a species of fish or shellfish**); or 5

Revoke regulation 147(1A).

Replace regulation 147(2) with:

- (2) The maximum daily limit for blue cod specified under subclause (1) is subject to the daily limit for blue cod specified under regulation 147A and the prohibition specified in regulation 149. 10

Regulation 147A

Replace regulation 147A(1)(a) with:

- (a) take from the internal waters of the Doubtful (Patea), Thompson, and Bradshaw Sounds (the **Sounds**) more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or 15

Regulation 155A

Replace regulation 155A(1) with: 20

- (1) A person must not, on any day,—
- (a) take from CRA2 more than the daily limit for rock lobsters specified in an instrument made by the Minister (the **daily limit for rock lobsters**); or
- (b) possess more than the daily limit for rock lobsters in CRA2; or 25
- (c) take from CRA2 more than the daily limit for spiny rock lobsters specified in an instrument made by the Minister (the **daily limit for spiny rock lobsters**); or
- (d) possess more than the daily limit for spiny rock lobsters in CRA2.

Regulation 155E 30

Replace regulation 155E(1)(a) with:

- (a) take from the Canterbury blue cod management area more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or

Regulation 155F 35

Replace regulation 155F(1)(a) with:

Regulation 155F—*continued*

- (a) take from the Chatham Islands blue cod management area more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or

Replace regulation 155F(2) with:

- (2) Despite regulation 20A, a person may possess blue cod that is without a head in the Chatham Islands blue cod management area, provided the blue cod is not less than the minimum length and does not exceed the maximum length specified in an instrument made by the Minister. 5

Regulation 155G

Replace regulation 155G(1)(a) with: 10

- (a) take from the Kahurangi blue cod management area more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or

Regulation 155H

Replace regulation 155H(1)(a) with: 15

- (a) take from the Kaikōura blue cod management area more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or

Regulation 155I

Replace regulation 155I(1)(a) with: 20

- (a) take from the North Otago blue cod management area more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or

Regulation 155J

Replace regulation 155J(1)(a) with: 25

- (a) take from the South West blue cod management area more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or

Regulation 155K

Replace regulation 155K(1)(a) with: 30

- (a) take from the Southern blue cod management area more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or

Replace regulation 155K(2) with:

- (2) Despite regulation 20A, a person may possess blue cod that is without a head in the Southern blue cod management area, provided the blue cod is not less 35

Regulation 155K—continued

than the minimum length and does not exceed the maximum length specified in an instrument made by the Minister.

Regulation 155L

Replace regulation 155L(1)(a) with:

- (a) take from the Tasman blue cod management area more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or 5

Regulation 155M

Replace regulation 155M(1)(a) with:

- (a) take from the Westland blue cod management area more than the daily limit for blue cod specified in an instrument made by the Minister (the **daily limit for blue cod**); or 10

Replace regulation 155M(2) with:

- (2) Despite regulation 20A, a person may possess blue cod that is without a head in the Westland blue cod management area, provided the blue cod is not less than the minimum length and does not exceed the maximum length specified in an instrument made by the Minister. 15

Regulation 158

Replace regulation 158 with:

- 158 Limitation on defence in relation to accumulation limits** 20
- The defence set out in regulation 157(1) does not apply to a charge of contravening the accumulation limit for any fish, aquatic life, or seaweed specified in an instrument made by the Minister under these regulations.

Regulation 159A

Replace regulation 159A(2) with: 25

- (2) Despite subclause (1), it is a defence to a charge of possessing more than the daily limit for spiny rock lobsters taken from within CRA5 if the defendant satisfies the court that—
- (a) the defendant possessed no more than the number of spiny rock lobsters specified in an instrument made by the Minister; and 30
- (b) the daily limit for spiny rock lobsters specified under regulation 13(1) was not exceeded; and
- (c) in the case of spiny rock lobsters held on board or landed from a vessel, the spiny rock lobsters were held in containers or bags that comply with subclause (3). 35

Regulation 160

Replace regulation 160(1) with:

- (1) The defence set out in regulation 157(1) does not apply to a charge of possessing more than the daily limit for a species of fish or shellfish specified in an instrument made by the Minister if those fish or shellfish were taken in the Fiordland (Te Moana o Atawhenua) marine area or the internal waters of Fiordland. 5

Replace regulation 160(2)(a) and (b) with:

- (a) the defendant possessed no more than the number of rock lobsters specified in an instrument made by the Minister; and 10
- (b) the daily limit for rock lobster specified under regulation 146 was not exceeded; and

Schedules 1 and 2

Revoke Schedules 1 and 2.

Schedules 6 to 13

Revoke Schedules 6 to 13. 15

Schedule 19

In Schedule 19, Part 3, delete “specified in Schedule 7” in each place.

In Schedule 19, Part 4, delete “specified in Schedule 8” in each place.

In Schedule 19, Part 5, delete “specified in Schedule 9” in each place. 20

In Schedule 19, Part 6, delete “specified in Schedule 11” in each place.

In Schedule 19, Part 6, delete “specified in Schedule 12” in each place.

In Schedule 19, Part 6, delete “specified in Schedule 13” in each place.

Part 2**Amendments to Commercial Fishing Regulations 2001** 25**New regulation 4A**

After regulation 4, insert:

- 4A Specific fisheries management controls may be set by Minister under section 72A of Act** 30
- See section 72A of the Act, which authorises the Minister to set fisheries management controls by an instrument made under that section (such as daily limits or size limits for any stocks, species, or fisheries management area).*

Part 3

Amendment to Fisheries (Licensed Fish Receivers) Regulations 1997

Regulation 2

In regulation 2, replace the definition of **fish receiving** with:

- fish receiving**— 5
- (a) means receiving fish for handling or processing from a commercial fisher in circumstances to which **section 191(1)(c)** or (2) of the Fisheries Act 1996 does not apply; but
 - (b) does not include the receiving of fish by the Crown

Part 4

Amendment to Fisheries (Electronic Monitoring on Vessels) Regulations 2017

Regulation 9

Replace regulation 9(1) and (2) with:

- (1) The electronic monitoring equipment on a vessel must be used to— 15
 - (a) record fishing and related activities, including—
 - (i) the taking, return, abandonment, processing, or sorting of fish; and
 - (ii) transportation connected with fishing; and
 - (iii) measures to avoid, remedy, or mitigate fishing-related mortality; 20
 and
 - (b) detect and record associated information in accordance with any requirements specified in a circular.
- (2) The video recording must enable the chief executive to, with reasonable accuracy and to the extent specified in a circular,— 25
 - (a) identify—
 - (i) the type of fish, aquatic life, or seaweed taken or transported; and
 - (ii) the types and features of fishing gear used; and
 - (iii) any bycatch mitigation measures adopted or used; and
 - (b) estimate the size and quantity of the fish, aquatic life, or seaweed taken, 30
 returned, abandoned, processed, sorted, or transported.