



Fisheries New Zealand

Tini a Tangaroa

Fisheries (Landing and Discard Exceptions) Notice

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TITLE

Fisheries (Landing and Discard Exceptions) Notice

COMMENCEMENT

This Fisheries Notice comes into force on 1 June 2024

REVOCATION

This Fisheries Notice revokes and replaces the Fisheries (Landing and Discard Exceptions) Notice issued on 28 February 2024.

ISSUING AUTHORITY

This Fisheries Notice is issued under section 72A (2) and Schedule 1AA, Part 3, clause 7 of the Fisheries Act 1996.

Dated at Wellington, 17 May 2024

(signed)

Shane Jones
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1 Introduction

This introduction is not part of the Fisheries Notice, but is intended to indicate its general effect.

Purpose

This Fisheries Notice sets out when and how a commercial fisher may or must return or abandon to the sea, or other waters, any fish or other animal that is aquatic life that is subject to the quota management system.

This Fisheries Notice comprises two parts.

- Part 1 of the Notice has no expiry date and remains in force until revoked.
- Part 2 of the Notice expires no later than 30 September 2026 (unless revoked earlier).

Background

Section 72 of the Fisheries Act 1996 prohibits commercial fishers from returning or abandoning to the sea or other waters any fish or other animal that is aquatic life that is subject to the quota management system. The prohibition applies unless the fish or other animal is specified in an instrument made under section 72A of the Act.

Instruments made under section 72A may either permit or require fish or aquatic life to be returned to the sea or other waters. The instruments may also impose conditions and requirements for the return of the fish or aquatic life.

Document History

Version Date	Section Changed	Change(s) Description
1 June 2024	Part 1C	New Part 1C added for the return of damaged or damaging fish.
		New exception added for seven highly migratory species that have been damaged by predation when caught by surface longline.
	Part 1B	Changed clauses 8.1 (2) and (3) – to refer to a commercial fisher and remove reference to national allocation.
	2 - Definition clauses	New species definitions added
1 March 2024	Part 1B – 8	New exception added for Pacific bluefin tuna
1 November 2022	N/A	New Fisheries (Landing and Discard Exceptions) Notice. Commercial landing exceptions previously provided for under Schedule 6 of the Fisheries Act 1996 were moved to either Part 1 or Part 2 of this Notice.

Other information

Regulation 10 of the Fisheries (Reporting) Regulations 2017 sets out the broad requirements for how a commercial fisher should report fish that may or must be returned to or abandoned in the sea. Detailed requirements are set out in the Fisheries (E-logbook Users Instructions and Codes) Circular – see <https://www.mpi.govt.nz/digital-monitoring-resources/>.

Part 5 of the Fisheries (E-logbook Users Instructions and Codes) Circular instructs commercial fishers on what disposal code to use for returns that are permitted or required under this Notice and whether to record them on their Monthly Harvest Return.

The information contained within a border throughout this document is for guidance and is not part of the statutory requirements.

2 Definitions

2.1 General definitions

(1) In this Notice:

Act means the Fisheries Act 1996

(2) Any term that is defined in the Fisheries (Commercial Fishing) Regulations 2001 and is used but not defined in this Notice has the meaning set out in those regulations.

2.2 Fish species definitions

(1) In this Notice:

Bigeye tuna means a fish of the species *Thunnus obesus*

Bladder kelp means a seaweed of the species *Macrocystis pyrifera*

Cockle means a shellfish of the species *Austrovenus stutchburyi*

Deepwater crab means a crustacean of any of the following species:

- a) *Chaceon bicolor*:
- b) *Lithodes murrayi*:
- c) *Neolithodes brodiei*:
- d) *Jacquinothia edwardsii*

Dredge oyster means a shellfish of the species *Ostrea chilensis*

Kina means a shellfish of the species *Evechinus chloroticus*

Kingfish means a fish of the species *Seriola lalandi*

Knobbed whelk means a shellfish of the species *Austrofuscus glans*

Moonfish means a fish of the species *Lampris guttatus*

Pacific bluefin tuna means a fish of the species *Thunnus orientalis*

Paddle crab means a crustacean of the species *Ovalipes catharus*

Patagonian toothfish means a fish of the species *Dissostichus eleginoides*

Pelagic shark means a fish of any of the following species:

- a) *Prionace glauca* (blue shark):
- b) *Isurus oxyrinchus* (mako shark):
- c) *Lamna nasus* (Porbeagle shark)

Pipi means a shellfish of the species *Paphies australis*

Prawn killer means a crustacean of the species *Ibacus alticrenatus*

Ray's bream means a fish of the species *Brama brama*

Rig means a fish of the species *Mustelus lenticulatus*

Rock lobster means a crustacean of either of the following species:

- a) *Jasus edwardsii* (known as spiny or red rock lobster):
- b) *Jasus verreauxi* (also known as packhorse or green rock lobster)

Rough skate means a fish of the species *Dipturus nasutus*

School shark means a fish of the species *Galeorhinus galeus*

Sea cucumber means an echinoderm of the species *Stichopus mollis*

Smooth skate means a fish of the species *Dipturus innominatus*

Southern bluefin tuna means a fish of the species *Thunnus maccoyii*

Spiny dogfish means a fish of the species *Squalus acanthias*

Surf clam means a shellfish of any of the following species:

- a) *Bassina yatei*:
- b) *Dosinia anus*:
- c) *Dosinia subrosea*:
- d) *Mactra discors*:
- e) *Mactra murchisoni*:
- f) *Paphies donacina*:
- g) *Spisula aequilatera*

Swordfish means a fish of the species *Xiphias gladius*.

Yellowfin tuna means a fish of the species *Thunnus albacares*

Guidance

Definitions in other fisheries legislation

The species definitions in 2.2 above are not the only relevant species definitions for this Notice. Both the Fisheries Act 1996 and the Fisheries (Commercial Fishing) Regulations 2001 include definitions of fish and aquatic life that are relevant to this Notice. Those other definitions are not repeated here to avoid unnecessary repetition across the fisheries legislation.

Part 1: Exceptions to landing and discard rules

Part 1A: Species and stocks that must be returned or abandoned

3 Crustaceans

3.1 Rock lobsters in certain states must be returned

- (1) This clause applies to a rock lobster taken from New Zealand fisheries waters.
- (2) A commercial fisher must immediately return a rock lobster to the waters from which it was taken if:
 - a) it is carrying external eggs; or
 - b) it is in the soft-shell stage, being the stage following moulting when the exoskeleton of the lobster has not reached full hardness; or
 - c) the calcified bar or any part of the exoskeleton (the outer shell of the tail) of the first abdominal segment of the tail is in such a state that its tail cannot properly be measured in the manner required under regulations made under section 297 of the Act; or
 - d) in the case of spiny rock lobster, the calcified bar or any part of the exoskeleton (the outer shell of the tail) of the second abdominal segment of the tail is fractured or any part of any pleural spine of the second abdominal segment is broken.

Part 1B: Species and stocks that may be returned or abandoned

4 Crustaceans

4.1 Deepwater crabs may be returned or abandoned

- (1) This clause applies to a deepwater crab taken from New Zealand fisheries waters if taken using potting gear.
- (2) A commercial fisher may return a deepwater crab to the waters from which it was taken if:
 - a) it is likely to survive on return; and
 - b) the return takes place as soon as practicable after it is taken.

4.2 Paddle crabs may be returned or abandoned

- (1) This clause applies to a paddle crab taken from New Zealand fisheries waters if taken using potting gear.
- (2) A commercial fisher may return a paddle crab to the waters from which it was taken if:
 - a) it is likely to survive on return; and
 - b) the return takes places as soon as practicable after it is taken.

4.3 Prawn killer may be returned or abandoned

- (1) This clause applies to a prawn killer taken from New Zealand fisheries waters.
- (2) A commercial fisher may return a prawn killer to the waters from which it was taken if:
 - a) it is likely to survive on return; and
 - b) the return takes place as soon as practicable after it is taken.

4.4 Rock lobsters may be returned or abandoned

- (1) This clause applies to a rock lobster of legal size taken from New Zealand fisheries waters.
- (2) A commercial fisher may return a rock lobster of legal size to the waters from which it was taken if:
 - a) it is likely to survive on return; and
 - b) the return takes place as soon as practicable after it is taken.

5 Shellfish

5.1 Cockles may be returned or abandoned

- (1) This clause applies to a cockle taken from New Zealand fisheries waters except fishery management area 10.
- (2) A commercial fisher may return a cockle to the waters from which it was taken if:
 - a) it is likely to survive on return; and
 - b) the return takes place as soon as practicable after it is taken.

5.2 Dredge oysters may be returned or abandoned

- (1) This clause applies to a dredge oyster of legal size taken from New Zealand fisheries waters except:
 - a) quota management area OYU5; or
 - b) fishery management area 10.
- (2) A commercial fisher may return a dredge oyster to the waters from which it was taken if it is likely to survive on return.

5.3 Green-lipped mussels may be returned or abandoned

- (1) This clause applies to a green-lipped mussel taken from any of the following quota management areas:
 - a) quota management area GLM1:
 - b) quota management area GLM2:
 - c) quota management area GLM3:
 - d) quota management area GLM7A:
 - e) quota management area GLM7B:
 - f) quota management area GLM8:
 - g) quota management area GLM10.
- (2) A commercial fisher may return a green-lipped mussel to the sea if it is likely to survive on return.

5.4 Green-lipped mussels taken from GLM9 may be returned or abandoned (dead or alive)

- (1) This clause applies to a green-lipped mussel taken from quota management area GLM9.
- (2) A commercial fisher may return a green-lipped mussel to the sea.

5.5 Kina may be returned or abandoned

- (1) This clause applies to a kina taken from New Zealand fisheries waters if taken by hand gathering.
- (2) A commercial fisher may return a kina to the waters from which it was taken if it is likely to survive on return.

5.6 Knobbed whelk may be returned or abandoned

- (1) This clause applies to a knobbed whelk taken from any of the following quota management areas:
 - a) quota management area KWH1:

- b) quota management area KWH2:
- c) quota management area KWH3:
- d) quota management area KWH4:
- e) quota management area KWH5:
- f) quota management area KWH6:
- g) quota management area KWH7A:
- h) quota management area KWH7B:
- i) quota management area KWH8:
- j) quota management area KWH9.

- (2) A commercial fisher may return a knobbed whelk to the waters from which it was taken if:
- a) it is likely to survive on return; and
 - b) the return takes place as soon as practicable after it is taken.

5.7 Pipi may be returned or abandoned

- (1) This clause applies to a pipi taken from New Zealand fisheries waters except fishery management area 10.
- (2) A commercial fisher may return a pipi to the seabed from which it was taken if:
- a) it is likely to survive on return; and
 - b) the return takes place as soon as practicable after it is taken.

5.8 Surf clams may be returned or abandoned

- (1) This clause applies to a surf clam taken from New Zealand fisheries waters except:
- a) fishery management area 6; or
 - b) fishery management area 10.
- (2) A commercial fisher may return a surf clam to the waters from which it was taken if:
- a) it is likely to survive on return; and
 - b) the return takes place as soon as practicable after it is taken

6 Eels

6.1 Eels of legal size may be returned or abandoned

- (1) This clause applies to a freshwater eel of legal size taken from New Zealand fisheries waters.
- (2) A commercial fisher may return a freshwater eel of legal size to the waters from which it was taken if:
- a) it is likely to survive on return; and
 - b) the return takes place as soon as practicable after it is taken.

7 Seaweed

7.1 Bladder kelp may be returned or abandoned

- (1) This clause applies to a bladder kelp taken from New Zealand fisheries waters if it was taken as the inevitable consequence of the taking of other fish, aquatic life, or seaweed in accordance with a current fishing permit.
- (2) A commercial fisher may return a bladder kelp to the waters from which it was taken.

8 Finfish

8.1 Pacific bluefin tuna may be returned or abandoned

- (1) This clause applies to Pacific bluefin tuna taken by surface longline or troll gear.
- (2) A commercial fisher may return a Pacific bluefin tuna to the waters from which it was taken if that person:
 - a) determines that the Pacific bluefin tuna is alive immediately prior to the return; and
 - b) determines that the Pacific bluefin tuna is without obvious major external injuries; and
 - c) returns the Pacific bluefin tuna as soon as practicable after it is taken.

Part 1C: Species and stocks that may be returned or abandoned if damaged or damaging (unbalanced)

9 Finfish

9.1 Highly migratory species that may be returned or abandoned if damaged by predation

- (1) This clause applies to the following highly migratory species taken by surface longline:
 - a) Bigeye tuna
 - b) Southern bluefin tuna
 - c) Pacific bluefin tuna
 - d) Yellowfin tuna
 - e) Swordfish
 - f) Moonfish
 - g) Ray's bream
- (2) A commercial fisher may return a fish of a species listed in subclause (1) to the waters from which it was taken if they:
 - a) determine that the fish has been damaged by predation; and
 - b) display the fish to an on-board camera prior to return so that damage is visible.

Guidance

- A commercial fisher is not required to report returns of species or stocks as provided for under Part 1C of this Notice on their Monthly Harvest Return. See Fisheries (E-logbook Users Instructions and Codes) Circular for further information: <https://www.mpi.govt.nz/digital-monitoring-resources/>

Part 2: Expiring exceptions to landing and discard rules

10 Duration of expiring exceptions

10.1 Exceptions continue for specified period unless revoked earlier

- (1) The exceptions set out in Part 2 of this Notice expire on 30 September 2026 (unless revoked earlier).

Part 2A: Species and stocks that must be returned or abandoned

11 Shellfish

11.1 Chatham Islands scallops must be returned

- (1) This clause applies to a scallop taken from quota management area SCA4 (**Chatham Islands scallop fishery**) if taken:
 - 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.
- (2) A commercial fisher must immediately return a Chatham Islands scallop to the waters from which it was taken.

11.2 Coromandel scallops must be returned

- (1) This clause applies to a scallop taken from quota management area SCACS (**Coromandel scallop fishery**) if taken:
 - 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.
- (2) A commercial fisher must immediately return a Coromandel scallop to the waters from which it was taken.

11.3 Northland scallops must be returned

- (1) This clause applies to a scallop taken from quota management area SCA1 (**Northland scallop fishery**) if taken:
 - a) during any closed season in the Northland scallop fishery; or
 - b) in any area in which the taking of Northland scallops is, at that time, prohibited.
- (2) A commercial fisher must immediately return a Northland scallop to the waters from which it was taken.

Part 2B: Species and stocks that may be returned or abandoned

12 Shellfish

12.1 Queen scallops may be returned or abandoned

- (1) This clause applies to a queen scallop taken from New Zealand fisheries waters.
- (2) A commercial fisher may return a queen scallop to the waters from which it was taken if:
 - a) it is likely to survive on return; and
 - b) the return takes place as soon as practicable after it is taken.

12.2 Southern scallops may be returned or abandoned

- (1) This clause applies to a scallop of legal size taken from quota management area SCA7 (**Southern scallop fishery**).
- (2) A commercial fisher may return a scallop of legal size to the waters from which it was taken if it is likely to survive on return.

12.3 Other scallops that may be returned or abandoned

- (1) This clause applies to a scallop of legal size taken from any of the following quota management areas:
 - a) quota management area SCA1A:
 - b) quota management area SCA2A:
 - c) quota management area SCA3:
 - d) quota management area SCA5:
 - e) quota management area SCA7A:
 - f) quota management area SCA7B:
 - g) quota management area SCA7C:
 - h) quota management area SCA8A:
 - i) quota management area SCA9A.
- (2) A commercial fisher may return a scallop of legal size to the waters from which it was taken if it is likely to survive on return.

12.4 Sea cucumbers may be returned or abandoned

- (1) This clause applies to a sea cucumber taken from New Zealand fisheries waters.
- (2) A commercial fisher may return a sea cucumber to the waters from which it was taken if:
 - a) it is likely to survive on return; and
 - b) the return takes place as soon as practicable after it is taken.

13 Finfish

13.1 Kingfish may be returned or abandoned

- (1) This clause applies to a kingfish of legal size taken from New Zealand fisheries waters except kingfish taken using a set net.
- (2) A commercial fisher may return a kingfish of legal size to the waters from which it was taken if:
 - a) it is likely to survive on return; and
 - b) the return takes place as soon as practicable after it is taken.

13.2 Patagonian toothfish may be returned or abandoned

- (1) This clause applies to a Patagonian toothfish taken from New Zealand fisheries waters.
- (2) A commercial fisher may return a Patagonian toothfish to the waters from which it was taken if:
 - a) it is likely to survive on return; and
 - b) the return takes place as soon as practicable after it is taken; and
 - c) in the case of a trawl-caught Patagonian toothfish, it is released only in the presence of an observer.

13.3 Southern bluefin tuna may be returned or abandoned

- (1) This clause applies to a southern bluefin tuna taken from New Zealand fisheries waters and all waters outside the outer boundary of the exclusive economic zone.

- (2) A person who is a New Zealand national fishing against New Zealand's national allocation of southern bluefin tuna may return a southern bluefin tuna to the waters from which it was taken if:
 - a) it is likely to survive on return; and
 - b) the return takes place as soon as practicable after it is taken.

13.4 Swordfish may be returned or abandoned

- (1) This clause applies to a swordfish taken from New Zealand fisheries waters that has a lower jaw to fork length of less than 1.25 metres.
- (2) A commercial fisher may return a swordfish to the waters from which it was taken if:
 - a) it is likely to survive on return; and
 - b) the return takes place as soon as practicable after it is taken.
- (3) **Lower jaw to fork length** in subclause (1) means the projected straight line distance from the foremost point of the lower jaw to the rear centre edge of the tail (caudal fin).

14 Sharks and Rays

14.1 Pelagic sharks that may be returned or abandoned if dead or near dead

- (1) This clause applies to the following species of pelagic shark taken from New Zealand fisheries waters:
 - a) blue shark:
 - b) mako shark:
 - c) porbeagle shark.
- (2) A commercial fisher may return a pelagic shark to the waters from which it was taken if it is dead or near-dead.
- (3) In subclause (2), **near-dead** means unlikely to survive on return.

14.2 Pelagic sharks that may be returned or abandoned if alive

- (1) This clause applies to the following species of pelagic shark taken from New Zealand fisheries waters:
 - a) blue shark:
 - b) mako shark:
 - c) porbeagle shark.
- (2) A commercial fisher may return a pelagic shark to the waters from which it was taken if:
 - a) it is likely to survive on return; and
 - b) the return takes place as soon as practicable after it is taken.

14.3 Rig may be returned or abandoned

- (1) This clause applies to a rig taken from New Zealand fisheries waters.
- (2) A commercial fisher may return a rig to the waters from which it was taken if:
 - a) it is likely to survive on return; and
 - b) the return takes place as soon as practicable after it is taken.

14.4 Rough skate may be returned or abandoned

- (1) This clause applies to a rough skate taken from New Zealand fisheries waters.
- (2) A commercial fisher may return a rough skate to the waters from which it was taken if:
 - a) it is likely to survive on return; and
 - b) the return takes place as soon as practicable after it is taken.

14.5 School sharks may be returned or abandoned

- (1) This clause applies to a school shark taken from New Zealand fisheries waters.
- (2) A commercial fisher may return a school shark to the waters from which it was taken if:
 - a) it is likely to survive on return; and
 - b) the return takes place as soon as practicable after it is taken.

14.6 Smooth skate may be returned or abandoned

- (1) This clause applies to a smooth skate taken from New Zealand fisheries waters.
- (2) A commercial fisher may return a smooth skate to the waters from which it was taken if:
 - a) it is likely to survive on return; and
 - b) the return takes place as soon as practicable after it is taken.

14.7 Spiny dogfish may be returned or abandoned

- (1) This clause applies to a spiny dogfish taken from New Zealand fisheries waters.
- (2) A commercial fisher may return a spiny dogfish to the waters from which it was taken.