

Fisheries Amendment Act (No 2) 2004

Public Act 2004 No 71
Date of assent 12 August 2004

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Fisheries Amendment Act (No 2) 2004.
- (2) In this Act, the Fisheries Act 1996 is called “the principal Act”.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Interpretation

Section 2(1) of the principal Act is amended by inserting, after the definition of **scallop spat**, the following definition:

“**scampi** means any fish of the species *Metanephrops challenger*”.

4 Qualifying years

Section 33 of the principal Act is amended by repealing paragraph (a), and substituting the following paragraph:

- “(a) in the case of a person eligible under section 32(1)(a)(ii) to receive provisional catch history by virtue of a fishing permit issued under section 2(2) of the Fisheries Amendment Act 1994, either—
- “(i) the first consecutive 12 months following the date of issue of the fishing permit; or
 - “(ii) the fishing years commencing respectively on 1 October 1990 and 1 October 1991:”.

5 New heading and sections inserted

The principal Act is amended by inserting, after section 369M, the following heading and sections:

“Introduction of scampi into quota management system

“369N Scampi subject to quota management system

- “(1) On 1 October 2004 scampi in quota management areas SCI1, SCI2, SCI3, SCI4A, SCI5, SCI6A, SCI6B, SCI7, SCI8, SCI9, and SCI10 become subject to the quota management system under Part 4.
- “(2) In this section and sections 369O to 369R,—

- “(a) the references to quota management areas SCI1, SCI2, SCI5, SCI7, SCI8, SCI9, and SCI10 are references to the fishery management areas described by reference to the same numbers in the First Schedule:
 - “(b) the references to SCI3, SCI4A, SCI6A, and SCI6B are references to the scampi quota management areas described by reference to those numbers in Schedule 13.
- “(3) The fishing year for scampi is the 12-month period commencing on 1 October.
- “(4) The total allowable commercial catch and annual catch entitlement for scampi in the quota management areas referred to in subsection (1) are to be expressed in greenweight.

“369O Allocation of provisional catch history

- “(1) Each person named in column 1 of Part 1 of Schedule 14 is allocated the amount of provisional catch history for scampi set out in column 3 of that part of that schedule opposite that person’s name, and those allocations apply to scampi in quota management area SCI1.
- “(2) Each person named in column 1 of Part 2 of Schedule 14 is allocated the amount of provisional catch history for scampi set out in column 3 of that part of that schedule opposite that person’s name, and those allocations apply to scampi in quota management area SCI2.
- “(3) Each person named in column 1 of Part 3 of Schedule 14 is allocated the amount of provisional catch history for scampi set out in column 3 of that part of that schedule opposite that person’s name, and those allocations apply to scampi in quota management area SCI3.
- “(4) Each person named in column 1 of Part 4 of Schedule 14 is allocated the amount of provisional catch history for scampi set out in column 3 of that part of that schedule opposite that person’s name, and those allocations apply to scampi in quota management area SCI4A.
- “(5) Each person named in column 1 of Part 5 of Schedule 14 is allocated the amount of provisional catch history for scampi set out in column 3 of that part of that schedule opposite that

person's name, and those allocations apply to scampi in quota management area SCI5.

“(6) Each person named in column 1 of Part 6 of Schedule 14 is allocated the amount of provisional catch history for scampi set out in column 3 of that part of that schedule opposite that person's name, and those allocations apply to scampi in quota management area SCI6A.

“(7) Each person named in column 1 of Part 7 of Schedule 14 is allocated the amount of provisional catch history for scampi set out in column 3 of that part of that schedule opposite that person's name, and those allocations apply to scampi in quota management area SCI9.

“369P Notification of fishers allocated provisional catch history

“(1) As soon as practicable after the date on which the Fisheries Amendment Act (No 2) 2004 comes into force, the chief executive must notify every person named in Schedule 14 of—

“(a) the amount of provisional catch history allocated to the person under section 369O for each of the quota management areas SCI1, SCI2, SCIS, SCI4A, SCIS, SCI6A, and SCI9; and

“(b) the person's right to appeal under section 51(1) (as read in accordance with section 369R(4)); and

“(c) the requirement that any appeal to the Catch History Review Committee must be lodged not later than the date specified for that purpose in the notification.

“(2) The date referred to in subsection (1)(c) and specified in the notification must be not less than 20 working days after the date of the notification.

“369Q Public notification of provisional catch history allocation

“(1) As soon as practicable after the date on which the Fisheries Amendment Act (No 2) 2004 comes into force, the chief executive must publicly notify—

“(a) that provisional catch history for scampi has been allocated under section 369O; and

“(b) that a person may appeal to the Catch History Review Committee under section 51(1) (as read in accordance with section 369R(4)) if the person—

- “(i) has not been allocated provisional catch history for scampi; and
 - “(ii) believes that he or she is or will be entitled to receive provisional catch history on the grounds specified in that section or is entitled to receive quota for scampi; and
 - “(c) that the appeal must be lodged no later than the date specified for that purpose in the notification.
- “(2) The date referred to in subsection (1)(c) and specified in the notification must be not less than 20 working days after the date of the notification.

“369R Application of certain provisions to scampi

- “(1) Sections 36 and 37 apply in relation to scampi as if the references to ‘20 working days’ in sections 36(2)(b) and 37(2)(b) were instead references to ‘10 working days’.
- “(2) Sections 42 to 44, 46 to 49, 51 to 53, 54(1)(a), (2), and (3), 55, and 283 to 293 apply to the allocation of individual transferable quota for scampi.
- “(3) Section 45 applies to scampi as if the declaration in section 369N(1) were a notice in the *Gazette* under section 18.
- “(4) For the purposes of subsection (2) of this section, section 51 must be read as if, for subsection (1) of that section, there were substituted the following subsection:
 - “ ‘(1) Any person, including the chief executive, may, subject to subsection (3) and on or before the date specified in the notification referred to in section 369P(1)(c) or section 396Q(1)(c), appeal to the Catch History Review Committee against the allocation of provisional catch history under section 369O on the ground that the information used to calculate the provisional catch history—
 - “ ‘(a) was incorrectly recorded by the chief executive; or
 - “ ‘(b) excluded scampi that were lawfully taken and lawfully reported as landed or otherwise lawfully disposed of in eligible returns from the person’s eligible catch during the period commenc-

ing with 1 October 1990 and ending with 30 September 1992.’ ”

- “(5) For the purposes of this section,—
- “(a) **eligible catch** has the meaning given it by section 34(2), as if—
- “(i) the provisional catch history for scampi allocated under section 369O were calculated in a manner consistent with section 34(1)(c); and
- “(ii) the applicable qualifying years were the period commencing with 1 October 1990 and ending with 30 September 1992; and
- “(b) **eligible return** has the meaning given it by section 32(2).”

6 New Schedules 13 and 14 added

The principal Act is amended by adding the Schedules 13 and 14 set out in the Schedule of this Act.

Schedule

s 6

New Schedules 13 and 14 added to principal Act

Schedule 13

s 369N

Quota management areas for particular scampi stocks

Scampi quota management area 3—South East Coast and Western Chatham Islands combined

All that area of New Zealand fisheries waters enclosed by a line—

- (a) commencing at a point 42° 10.0’S and 180° 00.0’; then
- (b) proceeding south along the 180° 00.0’ line of longitude to latitude 46° 00.0’S; then
- (c) proceeding west along the 46° 00.0’S line of latitude to longitude 176° 00.0’E; then
- (d) proceeding in a generally south-westerly direction directly to a point 48° 19.0’S and 170° 31.0’E; then
- (e) proceeding in a generally north-westerly direction directly to the mean high-water mark of the South Island at the southern-

Schedule 13—*continued*

most point of Slope Point (approximately 46° 40.5'S and 169° 00.0'E); then

- (f) proceeding in a generally north-easterly direction along the mean high-water mark of the South Island to latitude 42° 10.0'S (approximately 173° 56.5'E, near Clarence Point); then
- (g) proceeding east along the 42° 10.0'S line of latitude until reaching the point of commencement.

Scampi quota management area 4A—Chatham Islands East

All that area of New Zealand fisheries waters enclosed by a line—

- (a) commencing at point 42° 10.0'S and 180° 00.0'; then
- (b) proceeding south along the 180° 00.0' line of longitude to latitude 46° 00.0'S; then
- (c) proceeding east along the 46° 00.0'S line of latitude to the exclusive economic zone boundary (longitude approximately 171° 46.7'W); then
- (d) proceeding in a generally northerly direction along the exclusive economic zone boundary to latitude 42° 10.0'S (longitude approximately 171° 59.1'W); then
- (e) proceeding west along the line of latitude 42° 10.0'S until reaching the point of commencement.

Scampi quota management area 6A—Auckland Islands

All that area of New Zealand fisheries waters within fishery management area 6—Sub-Antarctic in Part 1 of Schedule 1 of the Fisheries Act 1996 that surround the Auckland Islands within an area bounded by latitude 49° 00'S in the north, and a line from 52° 00'S and 164° 30'E to 51° 30'S and 168° 30'E in the south and by line of longitude at 164° 30'E in the west and 168° 30'E in the east.

Scampi quota management area 6B—Part Sub-Antarctic

All that area of New Zealand fisheries waters within fishery management area 6—Sub-Antarctic in Part 1 of Schedule 1 of the Fisheries Act 1996, excluding scampi quota management area 6A.

Schedule 14
Scampi provisional catch history
allocations

s 369O

1

Quota management area SCI1

Legal name	Client number	Provisional catch history allocation(kgs)
Barine Developments Limited	8920034	1 707
Deadman, Brian Sydney & Lees, Robert Whitelaw trading as Mount Fish Market	8630094	14 280
Howell, Wayne Terrence	8810054	21
Montgomery, Robert Johnstone	8720123	12 793
Petromont Holdings Limited	9120012	696
Simunovich Fisheries Limited	8422209	187 989

2

Quota management area SCI2

Legal name	Client number	Provisional catch history allocation (kgs)
Barine Developments Limited	8920034	69 350
Montgomery, Robert Johnstone	8720123	1 684
Petromont Holdings Limited	9120012	420

Schedule 14—*continued*2—*continued*

Legal name	Client number	Provisional catch history allocation (kgs)
Sanford Limited	8422125	90 717
Simunovich Fisheries Limited	8422209	151 798
Vautier Shelf Company No 14 Limited	9040015	38 509

3

Quota management area SCI3

Legal name	Client number	Provisional catch history allocation(kgs)
Amaltal Fishing Co. Limited	8460042	11 530
Barine Developments Limited	8920034	7 881
Deadman, Brian Sydney & Lees, Robert Whitelaw trading as Mount Fish Market	8630094	9 250
Petromont Holdings Limited	9120012	6 884
Sanford Limited	8422125	4 894

Schedule 14—*continued*3—*continued*

Legal name	Client number	Provisional catch history allocation(kgs)
Simunovich Fisheries Limited	8422209	106 727
Vautier Shelf Company No 14 Limited	9040015	21 213

4

Quota management area SCI4A

Legal name	Client number	Provisional catch history allocation (kgs)
Deadman, Brian Sydney & Lees, Robert Whitelaw trading as Mount Fish Market	8630094	1 669
Petromont Holdings Limited	9120012	4 106
Sanford Limited	8422125	5 860
Simunovich Fisheries Limited	8422209	98 412
Vautier Shelf Company No 14 Limited	9040015	155

Schedule 14—*continued*

5

Quota management area SCI5

Legal name	Client number	Provisional catch history allocation (kgs)
Deadman, Brian Sydney & Lees, Robert Whitelaw trading as Mount Fish Market	8630094	258

6

Quota management area SCI6A

Legal name	Client number	Provisional catch history allocation (kgs)
Amaltal Fishing Co. Limited	8460042	18 350
Barine Developments Limited	8920034	32 675
Deadman, Brian Sydney & Lees, Robert Whitelaw trading as Mount Fish Market	8630094	35 700
Petromont Holdings Limited	9120012	18 884
Sanford Limited	8422125	60 033
Simunovich Fisheries Limited	8422209	130 385
Vautier Shelf Company No 14 Limited	9040015	15 797

Schedule 14—*continued*

7

Quota management area SCI9

Legal name	Client number	Provisional catch history allocation (kgs)
Deadman, Brian Sydney & Lees, Robert Whitelaw trading as Mount Fish Market	8630094	1

Legislative history

17 June 2004	Divided from Fisheries Amendment Bill (No 3) as Bill 109-2A
22 June 2004	Reported from Primary Production Committee (Bill 109-2A)
29 July 2004	Second reading
3 August 2004	Committee of the whole House (Bill 109-3A)
5 August 2004	Third reading