



Fisheries (Commercial Fishing) Amendment Regulations (No 2) 2023

Cindy Kiro, Governor-General

Order in Council

At Wellington this 4th day of September 2023

Present:

Her Excellency the Governor-General in Council

These regulations are made under sections 297 and 304 of the Fisheries Act 1996 on the advice and with the consent of the Executive Council.

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Regulations

1 Title

These regulations are the Fisheries (Commercial Fishing) Amendment Regulations (No 2) 2023.

2 Commencement

These regulations come into force on 5 October 2023.

Part 1

Amendments to Fisheries (Commercial Fishing) Regulations 2001

3 Principal regulations

This Part amends the Fisheries (Commercial Fishing) Regulations 2001.

4 New Part 5A inserted

After Part 5, insert:

Part 5A
Alternative methods of disposal

81A Chief executive may approve alternative method of disposal

The chief executive may approve an alternative method of disposal for the purposes of section 191(1)(c) of the Act only after having taken into account the following matters:

- (a) whether there is a need for a method of disposal other than those specified in section 191(1)(a) and (b) of the Act:
- (b) the extent to which the proposed alternative method of disposal—
 - (i) provides a practical alternative to sale or disposal under section 191(1)(a) and (b) of the Act; and
 - (ii) is administratively simple and efficient to operate; and
 - (iii) is cost-effective for commercial fishers to use:
- (c) whether the proposed alternative method of disposal supports record-keeping, reporting, monitoring, and enforcement under the Act in respect of disposal of fish by commercial fishers.

81B Use of alternative method of disposal

- (1) A commercial fisher may dispose of fish using an alternative method of disposal only if—
 - (a) the alternative method of disposal is approved under regulation 81A; and
 - (b) they are approved under regulation 81C to do so; and
 - (c) they comply with any technical specifications set out in a circular issued under regulation 81D.
- (2) A commercial fisher may apply, in accordance with a circular issued under regulation 81D, to the chief executive for approval to use an alternative method of disposal approved under regulation 81A.

81C Chief executive may approve use of alternative method of disposal

- (1) The chief executive may approve a person to use an alternative method of disposal approved under regulation 81A if the chief executive is satisfied that the person—
 - (a) holds a fishing permit issued under section 91; and
 - (b) is not a licensed fish receiver.
- (2) The chief executive may revoke an approval issued under subclause (1) if the chief executive is satisfied that the holder no longer satisfies the requirements in subclause (1)(a) and (b).

81D Circulars in relation to alternative methods of disposal

- (1) The chief executive may issue, amend, or revoke a circular that does 1 or more of the following:
 - (a) lists the alternative methods of disposal that have been approved under regulation 81A:
 - (b) sets out technical specifications relating to, or relating to the use of, an alternative method of disposal approved under regulation 81A:
 - (c) sets out an application process for the purposes of regulation 81B(2).

- (2) Before issuing, amending, or revoking a circular, the chief executive must consult, to the extent that is practicable in the circumstances, with any persons or organisations considered by the chief executive to be representative of the classes of persons or organisations likely to have an interest in the circular.
- (3) A circular issued under subclause (1) is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this regulation

Publication	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021	LA19 s 74(1)(aa)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

81E Chief executive to review approval of alternative method of disposal

- (1) If the chief executive approves an alternative method of disposal under regulation 81A, the chief executive must, within 5 years of the date of the approval, complete a review of that approval, taking into account—
- the matters described in regulation 81A; and
 - any other matters that the chief executive considers relevant.
- (2) The chief executive may revoke an approval of an alternative method of disposal if the chief executive is satisfied, after completing a review under subclause (1), that it is appropriate to do so.

5 Regulation 84 amended (Offences)

In regulation 84(3), replace “or 79A” with “79A, or 81B(1)(a), (b), or (c)”.

Part 2 Consequential amendments

Subpart 1—Amendments to Fisheries (Reporting) Regulations 2017

6 Principal regulations

This subpart amends the Fisheries (Reporting) Regulations 2017.

7 Regulation 11 amended (Landing reports)

- (1) After regulation 11(2)(aa), insert:
- (ab) the greenweight of the fish or fish product that is disposed of through an alternative method of disposal approved under Part 5A of the Fisheries (Commercial Fishing) Regulations 2001; and
- (2) After regulation 11(3)(b), insert:

- (ba) record the information referred to in subclause (2)(ab) (if applicable) not later than 15 days after disposal is completed; and

Subpart 2—Amendment to Fisheries (Recordkeeping) Regulations 1990

8 Principal regulations

This subpart amends the Fisheries (Recordkeeping) Regulations 1990.

9 Regulation 4 amended (Records to be kept by commercial fishers)

After regulation 4(d), insert:

- (e) a record of all fish disposed of through an alternative method of disposal approved under Part 5A of the Fisheries (Commercial Fishing) Regulations 2001, including the following information:
- (i) the approved alternative method of disposal used to dispose of the fish:
 - (ii) the date on which the fish were disposed of:
 - (iii) the name and address of the place at which the fish were disposed of, and any receipts received in respect of that disposal (if applicable):
 - (iv) the greenweight of fish disposed of.

Rachel Hayward,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 5 October 2023, amend the Fisheries (Commercial Fishing) Regulations 2001. The main effects of the amendments are to provide for the chief executive to approve alternative methods of disposal of fish for the purposes of section 191(1)(c) of the Fisheries Act 1996 and to approve commercial fishers to use an approved alternative method of disposal. The amendments also—

- provide for the chief executive to issue circulars that do 1 or more of the following:
 - list the approved alternative methods of disposal:
 - set out technical specifications in respect of an approved alternative method of disposal:
 - set out an application process for the purposes of *new regulation 81B(2)*; and

- make it an offence to use an alternative method of disposal—
 - that has not been approved; or
 - if the commercial fisher has not been approved to use the alternative method of disposal; or
 - other than in accordance with technical specifications set out in a circular issued under *new regulation 81D*; and
- require the chief executive to review the approval of any alternative method of disposal within 5 years of approval.

The regulations make consequential amendments to the Fisheries (Reporting) Regulations 2017 and the Fisheries (Recordkeeping) Regulations 1990 to establish reporting and recordkeeping requirements for commercial fishers disposing of fish through an approved alternative method of disposal.

Regulatory impact statement

The Ministry for Primary Industries produced a regulatory impact statement on 13 March 2023 to help inform the decisions taken by the Government relating to the contents of this instrument.

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>

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*: 7 September 2023.

These regulations are administered by the Ministry for Primary Industries.