



Fisheries (Transfer of Functions, Duties, and Powers to Commercial Fisheries Services Limited) Order 2023

Cindy Kiro, Governor-General

Order in Council

At Wellington this 7th day of August 2023

Present:

Her Excellency the Governor-General in Council

This order is made under section 296B of the Fisheries Act 1996—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for Primary Industries made after complying with the requirements in section 296B(1) and (3) of that Act.

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Order

1 Title

This order is the Fisheries (Transfer of Functions, Duties, and Powers to Commercial Fisheries Services Limited) Order 2023.

2 Commencement

This order comes into force on 1 October 2023.

3 Interpretation

In this order, unless the context otherwise requires,—

Act means the Fisheries Act 1996

FishServe means Commercial Fisheries Services Limited

transferred function, duty, or power means a function, duty, or power of the chief executive that is transferred to FishServe by this order.

4 FishServe declared to be approved service delivery organisation

FishServe is declared to be an approved service delivery organisation for the period starting on 1 October 2023 and ending on 30 September 2028.

5 Transfer of chief executive's functions, duties, and powers to FishServe

The chief executive's functions, duties, and powers listed in the Schedule are transferred to FishServe on and from 1 October 2023.

6 Certain information and data of FishServe are property of the Crown

All information and data received, held, or generated by FishServe in relation to the performance or exercise of the transferred functions, duties, and powers are the property of the Crown.

7 Rights of the Crown in relation to certain information and data of FishServe

- (1) This clause applies to all information and data received, held, or generated by FishServe in relation to the performance or exercise of the transferred functions, duties, and powers.
- (2) The Crown has, and FishServe must provide to the Crown, at no cost to the Crown, access to the information and data in accordance with standards and specifications issued by the Minister under the Act.
- (3) The Crown has full rights to use the information and data.
- (4) Without limiting subclause (3), the Crown may use the information and data for 1 or more of the following purposes:
 - (a) to further the purpose of the Act:

- (b) to undertake research on matters related to the Act:
 - (c) to provide public access to the information and data as required by the Act:
 - (d) to comply with requirements under the Overseas Investment Act 2005:
 - (e) to comply with legislative requirements relating to archives and statistics.
- (5) This clause does not limit clause 6.

8 Revocation

The Fisheries (Transfer of Functions, Duties, and Powers to Commercial Fisheries Services Limited) Order 2013 (SR 2013/333) is revoked.

Schedule

Functions, duties, and powers transferred to FishServe

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Part 1

Statutory functions, duties, and powers transferred

The functions, duties, and powers in the following sections of the Act:

- (1) section 22(1), (3), and (4):
- (2) section 23(1), (2), (4), (6), and (7):
- (3) section 25(6):
- (4) section 26(3):
- (5) section 36(4) and (5):
- (6) section 37(4):
- (7) section 47(4):
- (8) section 49(2):
- (9) section 58(1):
- (10) section 61(1):
- (11) section 63:
- (12) section 66:
- (13) section 67:
- (14) section 67A:
- (15) section 68(2), (2B), (3), (4), and (6):
- (16) section 78(4):
- (17) section 78A(4)(b):
- (18) section 79(2)(b):
- (19) section 79A(4)(b):
- (20) section 80:
- (21) section 98:
- (22) section 100:
- (23) section 101A:
- (24) section 102:
- (25) section 103(4):
- (26) section 104(2):
- (27) section 105(2) and (3):
- (28) section 107:

- (29) section 124(1) to (3):
- (30) sections 126 to 130:
- (31) section 132:
- (32) section 133:
- (33) section 136(4):
- (34) section 145(3):
- (35) section 146:
- (36) section 148:
- (37) section 149:
- (38) section 152A:
- (39) section 153(3) and (5):
- (40) section 154:
- (41) sections 159 to 163:
- (42) section 165:
- (43) section 166:
- (44) section 296ZAA:
- (45) sections 305A to 305C, but only in relation to any approval, authority, decision, licence, permission, permit, or registration given, made, or completed under a transferred function, duty, or power:
- (46) section 341(7), but only in relation to registering forward transfers of annual catch entitlement:
- (47) section 345:
- (48) section 347:
- (49) section 348.

Part 2

Functions, duties, and powers in regulations transferred

The functions, duties, and powers in the following regulations:

- (1) in the Fisheries (Commercial Fishing) Regulations 2001,—
 - (a) regulation 5(2)(b) and (3):
 - (b) regulation 8(2), but only in relation to certificates for transferred functions, duties, and powers:
- (2) in the Fisheries (Deemed Value and Notification of Balances) Regulations 2001,—
 - (a) regulation 4(1):
 - (b) regulation 5(1):

- (c) regulation 7:
- (3) in the Fisheries (Licensed Fish Receivers) Regulations 1997,—
 - (a) regulation 5:
 - (b) regulation 6:
 - (c) regulation 9A:
 - (d) regulation 10:
 - (e) regulation 11:
- (4) all of the Fisheries (Registers) Regulations 2001 except regulations 9 and 10:
- (5) in the Fisheries (Order of Transactions) Regulations 2001,—
 - (a) regulation 6(3):
 - (b) regulations 7 to 9:
 - (c) regulations 13 to 16:
 - (d) regulations 18 to 20:
- (6) in the Fisheries (Reporting) Regulations 2017,—
 - (a) regulation 3, in relation to client numbers:
 - (b) regulation 13 (except subclause (1)(d)):
 - (c) regulation 14:
 - (d) regulations 19 and 20:
 - (e) regulations 23 to 25:
 - (f) regulation 34, in relation to the persons specified in section 189(a) to (e) of the Act, but excluding holders of special permits and masters and owners of vessels:
 - (g) regulation 35:
 - (h) regulation 44, in relation to reports that are the responsibility of Fish-Serve under this order:
- (7) in the Fisheries (Geospatial Position Reporting) Regulations 2017,—
 - (a) regulation 7(1):
 - (b) the power in regulation 7(4) to cancel the registration of a geospatial position reporting device:
 - (c) the function, duty, or power to receive applications and notify decisions, amendments, and revocations under the regulations.

Part 3

Non-statutory functions, duties, and powers transferred

The following functions, duties, and powers:

- (1) to monitor fishers' compliance with the aggregation limits in section 59 of the Act:
- (2) to monitor fishers' compliance with minimum holdings required by section 74 of the Act:
- (3) to collect information from owners of individual transferable quota and annual catch entitlement before registering transfers of individual transferable quota and annual catch entitlement under sections 132 and 133 of the Act:
- (4) to receive applications for exemption from prohibitions imposed because of breaches of overfishing thresholds:
- (5) to receive applications to register fish carriers:
- (6) to allocate unique identifiers to—
 - (a) persons specified in section 189(a) to (e) of the Act; and
 - (b) persons specified in section 189(f) to (j) of the Act who apply to become clients of the Ministry; and
 - (c) associated persons, masters and owners of vessels, and people who have financial dealings with the Ministry:
- (7) to collect and update information and declarations to identify the details of classes of persons referred to in paragraph (6)(a):
- (8) in relation to a transferred function, duty, or power, to check the following against minimum requirements in the Act and standards and specifications issued by the Minister under the Act:
 - (a) transactions (including applications for permissions, licences, authorisations, approvals, and dealings with quota or annual catch entitlements):
 - (b) permissions, licences, authorisations, or approvals that have been issued:
 - (c) returns and information referred to in section 189 of the Act:
- (9) to develop for approval forms for use in relation to any transferred function, duty, or power:
- (10) to receive and make decisions on applications for licensed fish receivers' licences in accordance with standards and specifications set by the Minister:
- (11) to manage and keep records of any consents granted for overseas investments in fishing quota under the overseas investment fishing provisions of the Act:
- (12) to notify persons who are exempt from minimum holding requirements under section 74(2) of the Act:
- (13) to receive applications to register fishing vessels:
- (14) to monitor overfishing thresholds and determine when conditions imposed under section 78(2) of the Act take effect:
- (15) to notify the relevant persons when conditions imposed under section 78(2) or 78A(1) of the Act cease to apply:

- (16) to administer approvals granted, or conditions imposed, under section 78(6) of the Act:
- (17) to notify applicants of a consent given under section 103A(4) of the Act:
- (18) to receive applications to register geospatial position reporting devices:
- (19) to receive applications for exemptions under the Fisheries (Geospatial Position Reporting) Regulations 2017:
- (20) to notify the holder of a registered geospatial position reporting device of the cancellation of the registration:
- (21) to provide the Minister with statements, reports, agreements, particulars, performance reports, or other information in respect of the transferred functions, duties, and powers to assure the Minister that the functions, duties, and powers are being delivered in accordance with—
 - (a) the Act and regulations made under it; and
 - (b) the standards and specifications issued by the Minister:
- (22) to establish and use a quality assurance programme in relation to reports provided to the Minister:
- (23) to appoint a qualified auditor to audit information to be supplied to the Minister under section 296ZC of the Act:
- (24) to ensure, in relation to the transferred functions, duties, and powers, that the source of a document or information received is identified:
- (25) to ensure that a document produced for the purposes of the Act is the original document:
- (26) to record on the Permit Register conditions imposed under any of sections 78(2) and (6) and 78A(1) of the Act:
- (27) to record on the Permit Register when conditions imposed under any of sections 78(2) and (6) and 78A(1) of the Act cease to apply under section 78(9) or are removed under section 78B of the Act:
- (28) in relation to any transferred function, duty, or power, to ensure that—
 - (a) the date and time at which a document was received, used, or generated is recorded:
 - (b) a document is tracked:
 - (c) a document is maintained securely:
 - (d) the following persons can be identified:
 - (i) persons who have or had access to documents:
 - (ii) persons who have or had the ability to alter documents:
- (29) to issue licensed fish receiver return forms, monthly harvest return forms, licensed fish receiver amendment return forms, and monthly harvest amendment return forms:

- (30) to maintain a database of persons required to furnish licensed fish receiver returns and monthly harvest returns:
- (31) to receive licensed fish receiver returns, licensed fish receiver returns amendments, monthly harvest returns, and monthly harvest returns amendments, and maintain a computerised record of information in them:
- (32) to notify a person who has failed to comply with the requirements to furnish a licensed fish receiver return or a monthly harvest return:
- (33) to notify the Minister of overdue licensed fish receiver returns or monthly harvest returns:
- (34) to request, if appropriate, amendments to licensed fish receiver returns or monthly harvest returns, and to notify the Minister of amendments not made within the time the amendments are requested to be made:
- (35) to validate licensed fish receiver returns and monthly harvest returns in accordance with standards and specifications issued by the Minister:
- (36) to report to the Minister errors and inconsistencies in information supplied to FishServe under a transferred function, duty, or power and used by FishServe in the exercise of the function, duty, or power:
- (37) to monitor and compare reported catch against—
 - (a) catch limits imposed on fishing permits under section 92 of the Act:
 - (b) catch limits set under sections 11 and 15 of the Act:
 - (c) catch limits imposed on foreign vessel licences under section 83 of the Act:
 - (d) catch limits imposed on any special permit issued under section 97 of the Act:
 - (e) catch limits set on foreign vessel approvals under section 112 of the Act:
 - (f) catch limits imposed on a high seas fishing permit under section 113K of the Act:
- (38) to report to the Minister the results of the comparison under paragraph (37):
- (39) to notify eligible commercial fishers of catch against—
 - (a) catch limits imposed on fishing permits under section 92 of the Act:
 - (b) catch limits set under sections 11 and 15 of the Act:
 - (c) catch limits imposed on foreign vessel licences under section 83 of the Act:
 - (d) catch limits imposed on any special permit issued under section 97 of the Act:
 - (e) catch limits set on foreign vessel approvals under section 112 of the Act:
 - (f) catch limits imposed on a high seas fishing permit under section 113K of the Act:

- (40) to collect, process, and maintain statements of reported catch received from commercial fishers to monitor the catch limits referred to in paragraph (39) (except paragraph (39)(e)):
- (41) to monitor and compare reported catch with catch limits imposed under the Act:
- (42) to notify eligible commercial fishers of catch in relation to catch limits imposed under the Act:
- (43) to collect, process, and maintain statements of reported catch from commercial fishers for the purpose of monitoring catch limits imposed under the Act.

Rachel Hayward,
Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order, which comes into force on 1 October 2023,—

- declares Commercial Fisheries Services Limited (**FishServe**) to be an approved service delivery organisation for the period starting on 1 October 2023 and ending on 30 September 2028:
- transfers to FishServe certain functions, duties, and powers of the chief executive of the Ministry for Primary Industries:
- provides that related information and data are the property of the Crown and are subject to certain rights of the Crown.

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*: 10 August 2023.

This order is administered by the Ministry for Primary Industries.