



ANALYSIS

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1971, No. 72

An Act to amend the Fisheries Act 1908

[3 December 1971

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Fisheries Amendment Act 1971, and shall be read together with and deemed part of the Fisheries Act 1908 (hereinafter referred to as the principal Act).

2. Interpretation—(1) Section 2 of the principal Act (as amended by section 2 (1) of the Fisheries Amendment Act 1959, section 11 of the Territorial Sea and Fishing Zone Act 1965, and section 2 (3) of the Fisheries Amendment Act 1959) is hereby further amended—

(a) By inserting in the definition of the term "fish" in subsection (1), after the word "spawn;" the words "and includes every description of seaweed found in those waters, and its spores;"

(b) By inserting in paragraph (b) of the definition of the expression "take" in subsection (1), after the words "In relation to", the word "seaweed,".

(2) The said section 2 is hereby further amended by inserting in subsection (1), after the definition of the term "seals", the following definition:

"'Seaweed' includes all kinds of algae that grow in New Zealand fisheries waters below low water mark, or on tidal lands, and their spores:".

3. Taking and treating of seaweed—(1) The principal Act is hereby further amended by inserting, after section 3A (as inserted by section 23 of the Fisheries Amendment Act 1963), the following section:

"3B. (1) Subject to subsections (2) to (4) of this section, the Minister may in his absolute discretion—

"(a) Cause to be set aside as a specified seaweed area, any area of New Zealand fisheries waters below low water mark, and any area of tidal lands, to be located by means of plans prepared for the purpose, that he considers will sustain the taking of seaweed for the purposes of sale:

"(b) Invite applications, subject to such terms and conditions as he thinks fit (including the payment of such sum of money by each applicant as may be prescribed by regulation), from persons eligible to hold boat or shore fishing permits, for approval to take seaweed from a specified seaweed area for the purposes of sale:

"(c) Approve or decline any application for approval to take seaweed from a specified seaweed area:

"(d) Impose such restrictions or conditions as he thinks fit on any approval, or on any fishing permit which authorises the taking of seaweed from any specified seaweed area, including restrictions or conditions governing the methods or techniques to be used for taking seaweed and the type, size, and quantity of seaweed that may be taken from the whole or any part of the specified seaweed area to which the approval or permit relates, and, by notice in writing given to the holder of the approval or the permit, vary, add to, or revoke any of those restrictions or conditions:

"(e) Revoke any approval to take seaweed from a specified seaweed area, or cancel any fishing permit which authorises the taking of seaweed from a specified seaweed area, if—

“(i) The holder of the approval or the fishing permit fails to comply with any provision of this section, or with any term, condition, or restriction imposed on the approval or fishing permit; or

“(ii) In the opinion of the Minister the holder of the approval or the fishing permit fails to take and treat, or arrange for the treatment of, seaweed satisfactorily from the specified seaweed area to which the approval or fishing permit relates; or

“(iii) The Minister considers that the specified seaweed area to which the approval or fishing permit relates has become unduly depleted or injuriously affected in any way and from whatever cause.

“(2) Applications for approval under this section to take seaweed from any specified seaweed area shall be invited by way of an advertisement which the Minister shall cause to be inserted in a newspaper circulating in the district where the specified seaweed area is located, and each advertisement shall specify a date, being not earlier than 14 days after the date of publication of the advertisement, by which applications shall be required to be received.

“(3) In considering any application for a specified seaweed area, the Minister shall take into account whether the applicant has the ability and resources to erect, or acquire and develop, suitably equipped premises or plant, for the proper treatment of all seaweed taken from the specified seaweed area, or otherwise be able to make suitable arrangements for the proper treatment of the seaweed. It shall be a condition of every approval that, within 1 year after the approval is granted, the holder of the approval shall erect, or acquire and develop, suitably equipped premises or plant for the proper treatment of the seaweed taken from the specified seaweed area, or otherwise make suitable arrangements for the proper treatment of the seaweed, and thereafter, for the term of the approval, shall operate and maintain the premises or plant, or continue the arrangements, to the satisfaction of the Minister.

“(4) No approval to take seaweed from a specified seaweed area shall be granted for a period longer than 10 years from the date when the original application was approved.

“(5) The holder of every approval given by the Minister under this section shall, for the right to take seaweed from

the specified seaweed area to which the approval relates, pay in advance such annual fee as shall be prescribed by regulations.

“(6) No person shall take any seaweed from a specified seaweed area except—

“(a) The approval holder operating in terms of a boat fishing permit or shore fishing permit issued under the Fisheries Amendment Act 1963; or

“(b) The crew of any registered fishing boat that is owned by the approval holder and that is authorised under a current fishing permit to be used for taking seaweed; or

“(c) The holder of a shore fishing permit that authorises the taking of seaweed who is employed by the approval holder to take seaweed from the specified seaweed area to which his approval relates.

“(7) Notwithstanding anything in section 10 or section 11 of the Fisheries Amendment Act 1963, no Superintendent shall issue any fishing permit which authorises the taking of seaweed from a specified seaweed area or any part thereof without prior approval in writing by the Minister under this section. Any such fishing permit which is issued without that approval shall be void.

“(8) No approval to take seaweed from a specified seaweed area shall detract from the rights of any person using the area for recreational or other purposes, other than the taking or harming of seaweed.

“(9) The Minister may in his absolute discretion, in respect of any fishing permit which authorises the taking of seaweed, other than from a specified seaweed area, for the purposes of sale—

“(a) Impose such restrictions or conditions on the fishing permit as he thinks fit, including restrictions or conditions governing the methods or techniques to be used for taking the seaweed, the waters from which the seaweed may be taken, and the type, size, and quantity of seaweed that may be taken, and, by notice in writing to the holder of the fishing permit, vary, add to, or revoke any of those restrictions or conditions.

“(b) Cancel the fishing permit if the holder fails to comply with any restriction or condition imposed on the fishing permit.”

(2) Section 10 of the Fisheries Amendment Act 1963 is hereby consequentially amended by inserting in subsection (1), before the words "On application", the words "Subject to section 3B of the principal Act,".

(3) Section 11 of the Fisheries Amendment Act 1963 is hereby consequentially amended by inserting in subsection (1), after the words "the provisions of", the words "section 3B of the principal Act, and".

4. Regulations—Section 5 of the principal Act is hereby amended by inserting in paragraph (jj), after the word "be", the words "on board any vehicle or vessel, or be".

5. Interpretation of the term "owner"—Section 3 of the Fisheries Amendment Act 1963 is hereby amended by adding to the definition of the term "owner", in subsection (1), the words "and, for the purposes of Part I of this Act, includes any charterer, subcharterer, lessee, or sub-lessee, of the boat:".

6. Ownership of fishing boats—(1) Section 7 of the Fisheries Amendment Act 1963 is hereby amended by inserting in subsection (1), after the word "Minister", the words ", who in his discretion may refuse his consent, or grant it unconditionally or on such conditions as he thinks fit to impose,".

(2) The said section 7 is hereby further amended by inserting in subsection (2), after the words "registered shall", the words ", subject to any conditions imposed by the Minister under subsection (1) of this section,".

(3) The said section 7 is hereby further amended by adding to paragraph (c) of subsection (2) the word "or", and by adding to that subsection the following paragraph:

"(d) Any condition imposed by the Minister under subsection (1) of this section is broken or not complied with."

7. Taking fish for sale without a permit prohibited—Section 12 of the Fisheries Amendment Act 1963 is hereby amended by inserting in the proviso to subsection (3), after the word "respect", the words "to the taking of any seaweed, while it is floating free and unattached or after it has been cast ashore, that belongs to the class Rhodophyceae, and that is of a type used in making agar, or".