



## ANALYSIS

Title	
1. Short Title and commencement	
2. Interpretation	
3. References to weight of fish to be refer- ences to greenweight	
4. Quota Appeal Authority	
5. New sections substituted	
28c. Total allowable commercial catch for species other than rock lobster	species other than rock lobster
28ca. Total allowable commercial catch for rock lobster	28oc. Variation of total allowable commercial catch for rock lobster
28d. Matters to be taken into account in determining or varying any total allowable commercial catch	28od. Reduction of total allowable commercial catch
6. Special provisions in relation to provi- sional maximum transferable term quotas in respect of rock lobster	28oe. Increase in total allowable commercial catch
7. Guaranteed minimum individual trans- ferable quotas	<i>Compensation for Reductions in Quota over Transitional Period</i>
8. Guaranteed minimum transferable term quotas	28of. Interpretation
9. Effect of increase in provisional maxi- mum individual transferable quota by Quota Appeal Authority	28og. Compensation for reductions in individual transferable quota for species other than rock lobster during transi- tional compensation period
10. Effect of increase in provisional maxi- mum transferable term quota by Quota Appeal Authority	28oh. Compensation in respect of initial allocation of trans- ferable term quota for rock lobster
11. Effect of allocation of guaranteed mini- mum individual transferable quota	28oi. Compensation for reduction in transferable term quota for rock lobster
12. Reduction of provisional maximum individual transferable quotas	28oj. Limit on total compensation payable
13. Reduction of provisional maximum transferable term quotas	28ok. Determination of prelimi- nary percentage of compen- sation payable before end of transitional compensa- tion period
14. Allocation of individual transferable quota	28ol. Manner and timing of pay- ment of compensation
15. New headings and sections inserted	28om. Power to withhold compen- sation where amounts owing to Crown
<i>Variation in Total Allowable     Commercial Catch and Consequent     Reduction or Increase in Quota</i>	28on. Additional amounts payable by Crown in respect of goods and services tax
28oa. Variation in total allowable commercial catch for	28oo. Compensation payable with- out further appropriation than this Act
	<i>Dealings in Quota</i>
	16. Registers to be maintained
	17. Transfers and leases of quota

18. Form of transfers and leases of individual transferable quota
19. Minimum holdings of quota and interests in quota
20. Sections repealed
21. Power of Crown to acquire, hold, transfer, lease, or cancel quota
22. Taking of fish in excess of quota, and carrying forward of unused quota
23. Restriction on amount of quota that may be held by any one person
24. Quota not to be allocated to owners of licensed foreign fishing craft
25. Quota not to be allocated to overseas individuals or companies with overseas control
26. Fish subject to quota fishing cannot be taken for sale other than under quota
27. Prohibitions and requirements relating to dumping or retention of quota management system fish
28. Resource rental payable in respect of quota
29. New sections inserted
  - 28zd. Commercial fishermen may be required to pay deemed value of excess or unauthorised quota fish
  - 28ze. Assessment of deemed value of fish
  - 28zf. Amount of deemed value to be returned to fisherman where quota subsequently obtained
  - 28zc. Fisherman may offer lease of quota in lieu of paying deemed value
30. Taking of fish, etc., by other than New Zealand ships
31. Taking fish, etc., commercially without permit prohibited
32. Fishing permits
33. New heading and section substituted
 

*Records, Returns, and Restrictions on Disposal of Fish, etc., by Commercial Fishermen and Others*

  66. Records and returns
34. Disposal of fish by commercial fishermen
35. Restrictions on purchase or acquisition of fish by certain persons
36. Supervision by scientific observers of transhipments, dumping of fish, and operation of greenweight conversion factors
37. Powers of Fishery Officer
38. Powers of seizure
39. Director-General may direct that transfer or lease of quota not to be registered pending laying of information for quota management offence
40. Act not to apply to taking of fish in certain circumstances
41. Giving of notices, etc.
42. Regulations
43. Certain notices to have status of regulations
44. Liability of directors and managers
45. Knowingly permitting premises to be used for offence against Act
46. Ownership and possession of fish
47. Fish taken in New Zealand fisheries waters must be landed in New Zealand
48. Controlled fish and gear deemed to be taken or used in controlled fishery
49. Fish in excess of certain quantities deemed to have been acquired or possessed for purposes of sale
50. Defences available to commercial fisherman taking unauthorised fish
51. New sections inserted
  - 105b. Liability of principal for actions of agent in relation to records and returns
  - 105c. Liability of companies and persons for actions of officers and employees
  - 105d. Liability of directors and managers
  - 105e. Presumption as to authority

*Evidence in Proceedings*

  106. Certificates and official documents
  - 106a. Copies of accounts, records, returns, and other documents
  - 106b. Presumption as to master of fishing vessel
  - 106c. Presumptions to apply whether or not separate or further evidence adduced in support

*Penalties*

  107. Penalties
52. New sections substituted
  - 107b. Forfeiture of property and quota on conviction
  - 107c. Provisions relating to forfeited property and quota
53. Forfeiture of licence, approval, permission, or permit, and banning from industry on second conviction
54. Resource rentals payable in respect of certain fish
55. Variation of resource rentals by Order in Council
56. Schedules substituted
57. Amendments to Maori Fisheries Act 1989
58. Amendments to Fishing Industry Board Act 1963 Schedule

**An Act to amend the Fisheries Act 1983**

[1 April 1990]

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Fisheries Amendment Act 1990, and shall be read together with and deemed part of the Fisheries Act 1983.

(2) Except as otherwise provided in this Act, this Act shall come into force on the day on which it receives the Royal assent.

**2. Interpretation**—(1) Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term “lease” (as inserted by section 2 (4) of the Fisheries Amendment Act 1986), and substituting the following definition:

“‘Lease’, in relation to any individual transferable quota or transferable term quota, includes a sublease.”.

(2) Section 2 (1) of the principal Act is hereby further amended by adding, after the definition of the term “total allowable catch”, the following definition:

“‘Total allowable commercial catch’ means, in relation to a fishery subject to a quota management system under Part IIA of this Act, the total allowable commercial catch for that fishery specified pursuant to section 28C (1) or section 28CA or section 28OB or section 28OC of this Act.”

(3) Section 2 (4) of the Fisheries Amendment Act 1986 is hereby consequentially repealed.

(4) Unless the context otherwise requires, every reference in every other enactment or in any regulation or notice made under the principal Act to the term “total allowable catch” shall, where that reference is in respect of any species or class of fish that is subject to a quota management system under Part IIA of the principal Act, be read as a reference to the term “total allowable commercial catch”; and the total allowable catch applying to any species or class of fish in any area immediately before the commencement of this Act shall, until a new total allowable commercial catch is specified therefor, be the total allowable commercial catch for that species or class of fish in that area.

**3. References to weight of fish to be references to greenweight**—Section 3A of the principal Act (as inserted by section 4 of the Fisheries Amendment Act 1986) is hereby amended by repealing subsection (2), and substituting the following subsections:

“(2) The Minister may from time to time, by notice in the *Gazette*, given after consultation with the Fishing Industry Board, specify conversion factors which shall, except in the case of fish that are subject to a certificate given under subsection (3) of this section, for all purposes and in any proceedings for an offence against this Act or any regulation made or notice given under this Act be used to determine the greenweight of any fish.

“(3) The Director-General may, in respect of any vessel on which fish are processed and frozen, having regard to the method of processing or the processing history of the vessel and after consultation with the owner or master of the vessel, certify in writing conversion factors which shall, in relation to fish taken, processed, or landed by that vessel, for all purposes and in any proceedings for an offence against this Act or any regulation made or notice given under this Act be used to determine the greenweight of any fish taken, processed, or landed by that vessel within the terms of the certificate.

“(4) A certificate given under subsection (3) of this section—

“(a) Shall be notified to the owner or master of the vessel concerned as soon as practicable after it is made:

“(b) Subject to subsection (5) of this section, shall apply in respect of fish taken, processed, or landed after such date or occasion as may be specified in the certificate, and may be expressed to apply for such period or until such date or occasion as may be specified in the certificate:

“(c) May be subject to such terms and conditions, whether as to methods of taking, processing, or packing fish, the presence of scientific observers or Fishery Officers, the recording of catches, or otherwise, as the Director-General thinks fit to impose:

“(d) Subject to subsection (5) of this section, may at any time be revoked by the Director-General by notice in writing, or may be amended by a further certificate given by the Director-General under subsection (3) of this section, with effect from such date or occasion as may be specified in the notice or certificate.

“(5) Any certificate given under subsection (3) of this section, and any revocation made under subsection (4) of this section, shall take effect not earlier than the earliest of the following dates or occasions:

“(a) The commencement of the fishing year following that in which the owner or master of the vessel is notified of the certificate or revocation:

- “(b) The next departure of the vessel from any New Zealand port following the notification of the certificate or revocation:
- “(c) The day on which any scientific observer who is present on the vessel concerned after the owner or master is notified of the certificate or revocation certifies that the current catch of the vessel has been recorded by that observer:
- “(d) Such earlier date as may be agreed between the Director-General and the owner or master of the vessel.”

**4. Quota Appeal Authority**—(1) Section 28A of the principal Act (as inserted by section 9 of the Fisheries Amendment Act 1986) is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) The Quota Appeal Authority shall have the sole function of hearing appeals and making decisions under sections 28H, 28HA, and 28I of this Act in respect of quota management systems that are declared under sections 28B (1) and 28BA (1) of this Act.”

(2) Section 28A of the principal Act is hereby further amended—

- (a) By inserting in subsection (7), after the expression “section 28H”, the expression “or section 28HA”:
- (b) By inserting in subsection (8), after the expression “section 28H”, the expression “or subsection (1) or subsection (2) of section 28HA”:
- (c) By inserting in subsection (9), after the expression “section 28H”, the expression “or subsection (3) or subsection (4) of section 28HA”.

**5. New sections substituted**—(1) The principal Act is hereby amended by repealing sections 28C and 28D (as inserted by section 10 of the Fisheries Amendment Act 1986), and section 28CA (as inserted by section 50 of the Maori Fisheries Act 1989), and substituting the following sections:

**“28c. Total allowable commercial catch for species other than rock lobster**—(1) The Minister may, by notice in the *Gazette*, specify the total allowable commercial catch to be available for commercial fishing for each quota management area in respect of each species or class of fish, other than rock lobster, that is subject to the quota management system.

“(2) The Minister shall, in the notice given under subsection (1) of this section or a subsequent notice in the *Gazette*, specify

the period or periods for which fishing returns are to be used under section 28E (1) of this Act in determining provisional maximum individual transferable quotas.

“(3) The Minister may, in any notice given under subsection (1) of this section,—

“(a) Specify separate total allowable commercial catches for separately defined parts of any quota management area:

“(b) Define total allowable commercial catches by reference to methods of taking fish or the periods within which fish may be taken.

“(4) The Minister may, in the notice given under subsection (1) of this section or a subsequent notice in the *Gazette*, specify an appropriate total allowable commercial catch for the remaining part of the fishing year in which any quota management system is to come into force, having regard to the traditional fishing patterns for the species or class of fish in the quota management area.

“28CA. **Total allowable commercial catch for rock lobster**—The total allowable commercial catch in respect of rock lobster or any species of rock lobster for each quota management area described in the Third Schedule to the Maori Fisheries Act 1989 is that specified, in relation to rock lobster or that species of rock lobster, in the final column of the Second Schedule to that Act as the total allowable commercial catch for that quota management area.

“28D. **Matters to be taken into account in determining or varying any total allowable commercial catch**—(1) When setting or recommending any total allowable commercial catch under section 28c of this Act, or varying or recommending any variation in a total allowable commercial catch under section 28OB or section 28oc of this Act (other than a variation made or recommended pursuant to section 28j or section 28JA of this Act), the Minister shall—

“(a) After having regard to the total allowable catch for the fishery, including any total allowable catch determined under section 11 of the Territorial Sea and Exclusive Economic Zone Act 1977, allow for—

“(i) Maori, traditional, recreational, and other non-commercial interests in the fishery; and

“(ii) Any amount determined under section 12 of the Territorial Sea and Exclusive Economic Zone Act 1977 as the allowable catch for foreign fishing craft:

“(b) Where considering any reduction in a total allowable commercial catch, have regard to—

“(i) Whether or not the imposition of other controls under this Act on the taking of fish would be sufficient to maintain the fish stock at a level where the current total allowable commercial catch could be sustained; and

“(ii) Whether or not a reduction in the level of fishing could be achieved by the Crown’s retaining or obtaining the right to take fish under any appropriate quota and not making those rights available for commercial fishing:

“(c) Where considering any reduction in a total allowable commercial catch as a result of any determination of the allowable catch for foreign fishing craft under section 12 of the Territorial Sea and Exclusive Economic Zone Act 1977, have regard to whether or not the Crown’s obligations under that Act could instead be achieved by—

“(i) The Crown’s obtaining amounts of the relevant quota on lease, for a consideration not exceeding the amounts of resource rentals payable in respect of such quota; and

“(ii) Not making the rights to take fish under any such leased quota available to commercial fishermen within the domestic fishery, thereby leaving available for foreign fishing craft an increased amount of the total allowable catch for the fishery as a whole.

“(2) Before setting or varying, or recommending the setting or variation of, a total allowable commercial catch for any fishery, the Minister shall consult with the Fishing Industry Board and such other persons or organisations as the Minister considers are representative of persons having an interest in the fishery, and have regard to any views expressed by such persons or organisations.”

(2) Section 50 of the Maori Fisheries Act 1989 is hereby consequentially repealed.

(3) For the avoidance of doubt, it is hereby declared that the words appearing in section 28D(1)(a)(i) of the principal Act (as enacted by subsection (1) of this section) shall bear the same meaning as the same words bore in section 28C(1) of the principal Act immediately before its repeal by subsection (1) of this section, and that the use of the term “total allowable commercial catch” in the said section 28D(1) shall not, by

reason of the word “commercial” appearing in that term, be construed as altering that meaning.

**6. Special provisions in relation to provisional maximum transferable term quotas in respect of rock lobster**—(1) Section 28EA (1) of the principal Act (as inserted by section 51 of the Maori Fisheries Act 1989) is hereby amended by omitting the words “period or periods specified in section 28CA (6) of this Act”, and substituting the words “period of 6 years beginning on the 1st day of June 1982 and ending with the close of the 31st day of May 1988”.

(2) Section 28EA of the principal Act (as so inserted) is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Allocations may be made under subsection (1) of this section in respect of rock lobster or any species of rock lobster only to the following persons:

“(a) Persons who, immediately before the 1st day of April 1990, are the holders of controlled fishery licences authorising the taking of rock lobster or that species of rock lobster:

“(b) Persons who, immediately before the 1st day of April 1990, are authorised under section 65 (2) of this Act to take rock lobster, or that species of rock lobster, in the Bay of Plenty rock lobster fishery or the Gisborne rock lobster fishery (as those terms were defined in, respectively, the Controlled Fisheries (Bay of Plenty Rock Lobster Fishery) Order 1985 and the Controlled Fisheries (Gisborne Rock Lobster Fishery) Order 1985).”

(3) Section 28EA of the principal Act (as so inserted) is hereby further amended by omitting from each of paragraphs (a), (b), and (c) of subsection (3), and from subsection (5), the words “period specified in section 28CA of this Act”, and substituting in each case the words “6-year period specified in subsection (1) of this section.”

**7. Guaranteed minimum individual transferable quotas**—Section 28F (1) of the principal Act (as inserted by section 10 of the Fisheries Amendment Act 1986) is hereby amended by omitting the words “total allowable catch”, and substituting the words “total allowable commercial catch”.

**8. Guaranteed minimum transferable term quotas**—Section 28FA (1) of the principal Act (as inserted by section 52 of



the Maori Fisheries Act 1989) is hereby amended by omitting the words “total allowable catch”, and substituting the words “total allowable commercial catch”.

**9. Effect of increase in provisional maximum individual transferable quota by Quota Appeal Authority**—Section 28j of the principal Act (as inserted by section 10 of the Fisheries Amendment Act 1986) is hereby amended—

- (a) By omitting from each of subsections (1), (2), and (4) the words “total allowable catch”, and substituting in each case the words “total allowable commercial catch”:
- (b) By omitting from subsection (2) the expression “section 28c of”:
- (c) By inserting in subsection (4), after the word “*Gazette*”, the words “under section 28ob of this Act”.

**10. Effect of increase in provisional maximum transferable term quota by Quota Appeal Authority**—Section 28ja of the principal Act (as inserted by section 56 of the Maori Fisheries Act 1989) is hereby amended—

- (a) By omitting, from the 5 places where they occur, the words “total allowable catch”, and substituting in each case the words “total allowable commercial catch”:
- (b) By omitting from subsection (2) the expression “section 28ca of”:
- (c) By omitting from subsection (3) the expression “section 28ca (3)”, and substituting the expression “section 28oc”.

**11. Effect of allocation of guaranteed minimum individual transferable quota**—Section 28k(3) of the principal Act (as inserted by section 10 of the Fisheries Amendment Act 1986) is hereby amended by repealing paragraph (a), and substituting the following paragraph:

- “(a) By the same proportion that the total allowable commercial catch determined under subsection (4) of section 28c of this Act (if any) bears to the total allowable commercial catch determined under subsection (1) of that section; or”.

**12. Reduction of provisional maximum individual transferable quotas**—Section 28n(1) of the principal Act (as

inserted by section 10 of the Fisheries Amendment Act 1986) is hereby amended—

- (a) By omitting the expression “total allowable catch” where it twice occurs, and substituting in each case the expression “total allowable commercial catch”:
- (b) By omitting the expression “28i”, and substituting the expression “28j”.

**13. Reduction of provisional maximum transferable term quotas**—(1) Section 28<sub>NA</sub>(1) of the principal Act (as inserted by section 58 of the Maori Fisheries Act 1989) is hereby amended—

- (a) By omitting the expression “total allowable catch” where it twice occurs, and substituting in each case the expression “total allowable commercial catch”:
- (b) By omitting the expression “28i”, and substituting the expression “28jA”.

(2) Section 28<sub>NA</sub>(2) of the principal Act (as so inserted) is hereby amended by inserting, before the words “No compensation”, the words “Except as provided in section 28<sub>OH</sub> of this Act,”.

**14. Allocation of individual transferable quota**—

(1) Section 28<sub>o</sub> of the principal Act (as inserted by section 10 of the Fisheries Amendment Act 1986) is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) To the extent that the total allowable commercial catch first specified under section 28<sub>c</sub>(1) of this Act for any species or class of fish for any area exceeds the total of all provisional maximum individual transferable quota allocated under section 28<sub>E</sub> of this Act in respect of that species or class of fish in that area, individual transferable quota to the amount of that excess shall be deemed to be allocated to the Crown; and in any such case the Crown shall be entitled to hold or deal with such quota under section 28<sub>U</sub> of this Act as if it had been purchased on behalf of the Crown.”

(2) Section 28<sub>o</sub>(2) of the principal Act (as so inserted) is hereby amended by inserting, after the expression “subsection (1)”, the expression “or subsection (1A)”.

(3) Section 28<sub>o</sub>(6) of the principal Act (as so inserted) is hereby amended by repealing paragraph (a), and substituting the following paragraph:

- “(a) By the same proportion that the total allowable commercial catch determined under subsection (4) of section 28<sub>c</sub> of this Act (if any) bears to the total

allowable commercial catch determined under subsection (1) of that section; or”.

(4) Notwithstanding anything in section 28o (1A) of the principal Act (as inserted by subsection (1) of this section), no quota for squid shall be deemed to be allocated to the Crown at any time when the interim order made by the High Court on the 2nd day of November 1987 in certain proceedings commenced by the filing of applications in the Wellington Registry under numbers CP 559/87, 610/87, and 614/87, as subsequently varied by that Court, is in force, except to the extent that any variation to the order so allows; and, until that order is discharged or any variation so allows,—

- (a) The Crown may, to the extent that it is not inconsistent with the interim order or any variation to that order, deal with quota for squid in accordance with section 28τ of the principal Act as if that section had not been repealed by section 20 of this Act; and
- (b) The provisions of the said section 28τ, as in force before its repeal, shall apply accordingly in relation to any such dealings.

**15. New headings and sections inserted**—The principal Act is hereby amended by inserting, after section 28oA (as inserted by section 59 of the Maori Fisheries Act 1989), the following headings and sections:

*“Variation in Total Allowable Commercial Catch and Consequent Reduction or Increase in Quota*

**“28oB. Variation in total allowable commercial catch for species other than rock lobster**—(1) The Minister may at any time, by notice in the *Gazette*, vary any total allowable commercial catch declared under section 28c (1) of this Act, or any total allowable commercial catch varied by notice in the *Gazette* under this subsection.

“(2) When determining to vary any total allowable commercial catch under this section the Minister shall (except in the case of a variation made pursuant to section 28j (4) of this Act) have regard to the matters specified in section 28d of this Act.

“(3) Subject to subsection (4) of this section, every notice made pursuant to subsection (1) of this section shall be made before the commencement of the first fishing year to which it relates and shall come into force on the first day of that fishing year.

“(4) Nothing in subsection (3) of this section shall apply—

“(a) In relation to the fishing year commencing on the 1st day of October 1989; or

“(b) In relation to a notice made pursuant to section 28J (4) of this Act in respect of any allocation or increase of guaranteed minimum individual quota pursuant to subsection (1) of that section.

“(5) Notwithstanding anything in this Act, the Minister shall not, after the commencement of the Fisheries Amendment Act 1990, make any reduction under this section in the total allowable commercial catch for orange roughy in the combined quota management area consisting of quota management areas 3B, 4, 5A and 6 (as defined in the Fisheries (Quota Management Areas, Total Allowable Catches, and Catch Histories) Notice 1986) that exceeds 4,000 tonnes in respect of the fishing year that commenced on the 1st day of October 1989.

“28OC. **Variation of total allowable commercial catch for rock lobster**—(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister, amend the Second Schedule to the Maori Fisheries Act 1989 by omitting the total allowable commercial catch specified, in relation to rock lobster or any species of rock lobster, in the final column of that Schedule against any quota management area, and substituting a new total allowable commercial catch, in relation to rock lobster or any species of rock lobster, in respect of that area.

“(2) Any such Order in Council may give effect to any such amendment by repealing the said Second Schedule and substituting a new schedule in its place.

“(3) When determining to recommend any amendment to a total allowable commercial catch under this section the Minister shall (except in the case of an amendment recommended pursuant to section 28JA (3) of this Act) have regard to the matters specified in section 28D of this Act.

“(4) Subject to subsection (5) of this section, every Order in Council made pursuant to this section shall be made before the commencement of the first fishing year to which it relates and shall come into force on the first day of that fishing year.

“(5) Subsection (4) of this section shall not apply to any Order in Council made pursuant to a recommendation under section 28JA (3) of this Act in respect of any allocation or increase of guaranteed minimum transferable term quota pursuant to subsection (1) of that section.

“28OD. **Reduction of total allowable commercial catch**—(1) Where the total allowable commercial catch for any

class or species of fish for any area is decreased under section 280B or section 280C of this Act, the Director-General shall, subject to subsection (2) of this section, cancel any quota held by the Crown that—

“(a) Relates to that species or class of fish and that area; and

“(b) Has not been leased to any commercial fisherman.

“(2) The Director-General shall not cancel any such Crown quota to the extent that—

“(a) Retention of the quota may be necessary to enable the Crown to give effect to its obligations under the Maori Fisheries Act 1989; or

“(b) Cancellation would reduce the total of individual transferable quotas, or of transferable term quotas, to an amount less than the total allowable commercial catch.

“(3) Where the Crown does not hold any relevant quota, or the cancellation of quota by the Crown is not sufficient to reduce the sum of all quota to the level of the decreased total allowable commercial catch, the quantity of fish that may be taken under the individual transferable quotas or the transferable term quotas to which that total allowable commercial catch applies shall be reduced on a proportionate basis to total the amount of the decreased total allowable commercial catch.

“(4) Where the holder of any quota that is reduced under subsection (3) of this section has leased that quota to any person,—

“(a) The right to take fish thereby conferred on that person shall be reduced proportionately to the reduction in the quota of the holder of the quota; and

“(b) Any right to take fish conferred on any person pursuant to any sublease of the quota shall be reduced proportionately to the reduction in the quota of the person granting the sublease.

“(5) Where the holder of any quota that is reduced under subsection (3) of this section has entered into any lease or any other arrangement in relation to quota whereby any other person is or may become entitled to acquire any amount of quota outright, the amount of quota to which that entitlement relates shall be reduced proportionately to the reduction in the quota of the holder of the quota.

“(6) As soon as practicable after any quota is reduced pursuant to subsection (3) of this section, the Director-General shall—

“(a) Notify all affected quota holders of the reductions made to that person’s quota; and

“(b) Give notice of the effect of the reduction to any lessee or sublessee of the quota.

“(7) Except as provided in section 280G of this Act, no compensation shall be payable for any reduction of quota pursuant to this section.

“(8) No reduction of quota pursuant to subsection (3) or subsection (4) or subsection (5) of this section—

“(a) Shall be regarded as placing the Crown or any other person in breach of, or default under, any contract or other arrangement relating to quota, or as otherwise making them guilty of a civil wrong:

“(b) Shall invalidate any contract or other arrangement in relation to quota, or be regarded as giving rise to a right for any person to terminate or cancel any such contract or other arrangement, except to the extent that specific provision to the contrary is made in relation to any such reduction in the relevant contract or other arrangement.

“280E. **Increase in total allowable commercial catch—**

(1) Where any total allowable commercial catch for any species or class of fish other than rock lobster is increased under section 280B of this Act (not being an increase made pursuant to section 28J of this Act),—

“(a) Subject to subsections (3) and (4) of this section, the Minister shall first offer the additional quota available thereby on a proportionate basis free of charge to those persons who—

“(i) Had provisional maximum individual transferable quota for that species or class of fish for the relevant area reduced under section 28N of this Act; and

“(ii) Continue to hold any quota for that species or class of fish for that area on the date on which the increase takes effect; and

“(b) Where any amount of quota remains unallocated after compliance with paragraph (a) of this subsection, all individual transferable quota for the species or class of fish for the relevant area shall be increased on a proportionate basis to total the amount of the increased total allowable commercial catch.

“(2) Where any total allowable commercial catch for rock lobster or any species of rock lobster is increased under section

280c of this Act (not being an increase recommended pursuant to section 28JA of this Act), all transferable term quota for rock lobster or that species of rock lobster for the relevant area shall be increased on a proportionate basis to total the amount of the increased total allowable commercial catch.

“(3) Any quota offered under subsection (1) (a) of this section shall be offered in amounts such that each person receives not more than the amount of provisional maximum individual transferable quota that was reduced under section 28N of this Act, or lesser proportionate amounts if sufficient quota is not available.

“(4) No offer of quota shall be made under subsection (1) (a) of this section in respect of any quota reduced under section 28OD of this Act.

“(5) The Director-General shall as soon as practicable notify each affected quota holder of the increase made to that person’s quota pursuant to this section.

*“Compensation for Reductions in Quota over Transitional Period*

“28OF. **Interpretation**—(1) In this section and in sections 28OG to 28OO of this Act, unless the context otherwise requires,—

“ ‘Agreed preliminary percentage’ means the percentage determined under section 28OK of this Act in respect of compensation to be payable before the end of the transitional compensation period:

“ ‘Association’ means the New Zealand Fishing Industry Association Incorporated:

“ ‘Commission’ means the Maori Fisheries Commission established under the Maori Fisheries Act 1989:

“ ‘Compensation balance’ means—

“(a) In relation to any particular day falling within the transitional compensation period, the amount by which the total of—

“(i) All amounts referred to in section 28OJ (1) (a) of this Act that are paid on or before that day (less the amount of any resource rentals refunded on or before that day); and

“(ii) All amounts referred to in section 28OJ (1) (c) of this Act that are certified on or before that day; and

“(iii) In respect only of the compensation balance on the last day of the transitional

compensation period, the amount certified in respect of the final quarter of that period in accordance with section 280J (3) of this Act,—

exceeds the total amount of compensation paid on or before that day pursuant to sections 280G to 280L of this Act:

“(b) In relation to any particular day falling within the extended compensation period, the amount by which the total of—

“(i) All amounts referred to in section 280J (1) (a) of this Act that are paid on or before that day (less the amount of any resource rentals refunded during the transitional compensation period on or before that day); and

“(ii) All amounts referred to in section 280J (1) (b) of this Act that are paid on or before that day (less the amount of any resource rentals refunded during the extended compensation period on or before that day), to the extent allowed by that provision; and

“(iii) All amounts referred to in section 280J (1) (c) of this Act that are certified on or before that day; and

“(iv) In respect only of the compensation balance on the last day of the extended compensation period, the amount certified in respect of the final quarter of that period in accordance with section 280J (3) of this Act,—

exceeds the total amount of compensation paid on or before that day pursuant to sections 280G to 280L of this Act:

“‘Extended compensation period’ means the period commencing on the 1st day of October 1994 and ending with the close of—

“(a) The 30th day of September 1995, if the total allowable commercial catch applying to hoki on the 30th day of September 1994 is more than 20 percent but not more than 40 percent lower than that applying on the 1st day of October 1989; or

“(b) The 30th day of September 1996, if the total allowable commercial catch applying to hoki on the



30th day of September 1994 is more than 40 percent but not more than 60 percent lower than that applying on the 1st day of October 1989; or

“(c) The 30th day of September 1997, if the total allowable commercial catch applying to hoki on the 30th day of September 1994 is more than 60 percent lower than that applying on the 1st day of October 1989;—

and where none of paragraphs (a) to (c) of this definition apply there shall be no extended compensation period:

“‘Federation’ means the New Zealand Federation of Commercial Fishermen (Incorporated):

“‘Quarter’ means any period of 3 months ending on the last days of March, June, September, and December in any year:

“‘Transitional compensation period’ means the period commencing on the 1st day of October 1989 and ending with the close of the 30th day of September 1994.

“(2) For the purposes of this section and sections 280G to 280O of this Act, the amount of any resource rental does not include any amount required by section 13A of the Ministry of Agriculture and Fisheries Act 1953 to be paid in respect of the late payment of a resource rental.

**“280G. Compensation for reductions in individual transferable quota for species other than rock lobster during transitional compensation period—**(1) Subject to subsection (5) of this section and to section 280J of this Act, where at any time during the transitional compensation period any reduction in any individual transferable quota for any species or class of fish in any area (other than rock lobster) takes effect pursuant to section 280D(3) of this Act, compensation shall be payable in respect of any such reduction in accordance with this section.

“(2) The amount of any compensation payable under this section shall be such amount as is agreed between the Minister, the Association, the Federation, and the Commission as the agreed price, per tonne, on the 1st day of October 1989, for individual transferable quota for the relevant species or class of fish in the relevant area, having regard to—

“(a) The value of quota for each fishery relative to the values of quota for all other fisheries, in the light of the relationship between the prices at which quota for

each fishery were traded before the 1st day of October 1989; and

“(b) The likely reduction in the aggregate value of the businesses of quota holders and lessees within any fishery for each tonne by which quota for the fishery is reduced, whether determined by reference to—

“(i) The likely tonnage of reductions in quota (if any) for that fishery during the transitional compensation period; or

“(ii) The likely tonnage of reductions in quota for any other fishery during that period, with an appropriate allowance then being made for the relativities referred to in paragraph (a) of this subsection.

“(3) Any amount payable as compensation under this section in respect of any reduction in individual transferable quota shall be payable by the Crown to persons who, on the date of the relevant reduction, were holders of the relevant quota or persons holding any interest in such quota (being an interest held by any such person on the date of commencement of the Fisheries Amendment Act 1990) in such amount or such proportion as may be agreed between the Minister, the Association, the Federation, and the Commission.

“(4) If the Minister, the Association, the Federation, and the Commission are unable to agree on any matter referred to in subsections (2) and (3) of this section by the 30th day of September 1990, or such later date as may be agreed between them, that matter shall be determined by arbitration in accordance with the Arbitration Act 1908.

“(5) Subject to subsections (6) and (7) of this section, any person who would be entitled to compensation under subsection (1) of this section in respect of any reduction in quota for orange roughy may instead elect to receive from the Crown, in respect of all or any part of the tonnage by which the person's quota is reduced, quota for squid in the proportion of 5 tonnes of squid quota to 1 tonne of orange roughy quota.

“(6) Nothing in subsection (5) of this section shall apply at any time when the interim order made by the High Court on the 2nd day of November 1987 in certain proceedings commenced by the filing of applications in the Wellington Registry under numbers CP 559/87, 610/87, and 614/87, as subsequently varied by that Court, is in force, except to the extent that any further variation to the order so allows.

“(7) The Crown shall not be obliged to grant any quota for squid pursuant to an election made under subsection (5) of this

section to the extent that the total of all such grants of quota would exceed the lesser of—

“(a) Fifty percent of the amount of squid quota held by the Crown at such time as the order referred to in subsection (6) of this section is discharged, or is varied to allow elections to be made under subsection (5) of this section; or

“(b) Such amount of quota so held by the Crown at that time as may be required—

“(i) To enable the Crown to give effect to its obligations under the Maori Fisheries Act 1989; and

“(ii) To be made available for foreign fishing craft pursuant to the Territorial Sea and Exclusive Economic Zone Act 1977.

“280H. **Compensation in respect of initial allocation of transferable term quota for rock lobster**—(1) Where the amount of transferable term quota allocated to any person under section 280A of this Act in respect of rock lobster is less than the amount of provisional maximum transferable term quota allocated to that person under section 28EA of this Act, the Crown shall, subject to subsection (2) of this section and to section 280J of this Act, pay compensation to that person in respect of the difference between those allocations at the rate of \$3,000 per tonne.

“(2) The total amount of compensation payable by the Crown under subsection (1) of this section in respect of all persons entitled to compensation under that subsection shall not exceed \$3,000,000, and, to the extent that the liability of the Crown does exceed that amount, the entitlement of each person to compensation shall be reduced proportionately so that the total liability of the Crown does not exceed \$3,000,000.

“280I. **Compensation for reduction in transferable term quota for rock lobster**—(1) Subject to subsection (2) of this section and to section 280J of this Act, where at any time before the 30th day of September 1994 any reduction in any transferable term quota for rock lobster takes effect pursuant to section 280D (3) of this Act, compensation shall be payable by the Crown in respect of any such reduction at the rate of \$12,000 per tonne.

“(2) No compensation shall be payable under subsection (1) of this section to the extent that the reduction (if any) in the total allowable commercial catch for rock lobster during the period commencing on the 1st day of April 1989 and ending

with the 30th day of September 1994 exceeds in total 500 tonnes.

“(3) If any single reduction in the total allowable commercial catch for rock lobster has the effect of causing the 500-tonne limit referred to in subsection (2) of this section to be exceeded, any compensation payable in respect of that reduction shall be decreased on a proportionate basis as if the reduction were only of such amount as would bring the total reduction in the total allowable commercial catch over the period to the level of 500 tonnes.

“280J. **Limit on total compensation payable**—(1) Subject to the provisions of this section, the total amount of compensation payable by the Crown pursuant to sections 280G to 280I of this Act shall not exceed an amount equal to the total of—

“(a) All resource rentals paid to the Crown pursuant to sections 282C and 107F of this Act during the transitional compensation period (less the amount of any resource rentals refunded during that period pursuant to section 282C of this Act); and

“(b) Where the total allowable commercial catch applying to hoki on the 30th day of September 1994 is more than 20 percent lower than that applying on the 1st day of October 1989, all resource rentals paid to the Crown pursuant to sections 282C and 107F of this Act during the extended compensation period (less the amount of any resource rentals refunded during that period pursuant to section 282C of this Act), to the extent that the total amount so paid does not exceed the lesser of—

“(i) Such amount of compensation payable under section 280G of this Act in respect of reductions in quota for hoki as remains unpaid on the 31st day of December 1994; or

“(ii) The total amount of resource rentals that would have been payable during the extended compensation period, if the resource rentals for each year within that period had been increased over the resource rentals for the preceding year by the percentage increase in the Index number of the Consumers Price Index All Groups referred to in section 107G (4A) of this Act; and

“(c) Amounts certified from time to time by the Secretary to the Treasury in respect of each quarter within the

transitional compensation period, and (if appropriate) the extended payment period, in accordance with subsection (3) of this section.

“(2) For the purposes of this section, where, in respect of any lease of quota granted to any person by the Crown,—

“(a) The lease requires the payment of a fixed rental to the Crown; and

“(b) The Crown has undertaken that the lessee will not be otherwise required to meet the cost of any resource rental payable in respect of the quota; and

“(c) The lease grants the lessee the right to acquire the quota outright at the expiry of the lease,—

the resource rental in respect of that quota, during the period the lease is in force, shall be deemed to be the amount of any fixed rental referred to in paragraph (a) of this subsection that is paid during the transitional compensation period or (if appropriate) the extended payment period, and not the amount of any resource rental actually paid in respect of the quota.

“(3) For the purposes of paragraph (c) of subsection (1) of this section,—

“(a) The Secretary to the Treasury shall determine the amounts to be certified under that paragraph in respect of each quarter as if determining an appropriate amount of interest on the average daily compensation balance during the relevant quarter, at the then prevailing interest rate for 5-year government stock; and

“(b) The Secretary shall determine and certify any such amount as soon as practicable after the end of the quarter to which it relates.

**“28OK. Determination of preliminary percentage of compensation payable before end of transitional compensation period—**(1) The Association, the Federation, and the Commission shall, not later than 30 days after—

“(a) Agreement being reached under section 28OG (2) of this Act on the agreed price for all species and classes of fish (other than rock lobster); or

“(b) Where such agreement is not reached, the completion of arbitration in respect thereof under section 28OG (4) of this Act,—

jointly notify the Minister of the preliminary percentage of compensation to be payable by instalments under section 28OL (1) (a) of this Act.

“(2) Where the Association, the Federation, and the Commission fail to notify a preliminary percentage to the Minister under subsection (1) of this section, the Minister may fix the level of the preliminary percentage.

“(3) The preliminary percentage notified or fixed under this section may at any time during the transitional compensation period be reduced by agreement between the Minister, the Association, the Federation, and the Commission.

“(4) Where the preliminary percentage is reduced under subsection (3) of this section,—

“(a) The new preliminary percentage shall not come into effect on any day other than the 1st day of October in any year:

“(b) Any amounts of compensation paid or payable to a person on or after the date on which the reduction comes into effect shall be reduced only in proportion to the amount of the reduction, and shall not take account of any amount of compensation already paid to that person on the basis of the previous preliminary percentage.

“28OL. **Manner and timing of payment of compensation**—(1) Subject to the provisions of this section, compensation payable to any person pursuant to sections 28OG to 28OI of this Act shall be paid by the Crown from any available compensation balance as follows:

“(a) In the case of compensation payable pursuant to section 28OH of this Act in respect of the initial allocation of transferable term quota for rock lobster, the Crown shall pay the full amount of compensation as soon as practicable after the end of the quarter in which the allocation occurred:

“(b) In any other case,—

“(i) The Crown shall pay the agreed preliminary percentage of the compensation in 4 equal quarterly instalments, the first instalment to be paid as soon as practicable after the end of the quarter in which the quota reduction giving rise to the compensation first took effect, and the other 3 instalments to be paid as soon as practicable after the last days of the succeeding 3 quarters; and

“(ii) The balance of the compensation shall be paid as soon as practicable after the 30th day of September 1994.

“(2) Subject to subsections (3) and (4) of this section, where at the end of any quarter within the transitional compensation period the available compensation balance is insufficient to pay all amounts of compensation then due to be paid, that balance shall be paid to the persons to whom compensation is then due in accordance with the following priorities:

“(a) First there shall be paid in full (if the compensation balance is sufficient) any amount of compensation that is payable pursuant to section 280H of this Act in respect of initial allocations of transferable term quota for rock lobster:

“(b) Thereafter there shall be paid in full (if the compensation balance is sufficient) any amount of compensation then due to be paid that is payable pursuant to section 280I of this Act in respect of reductions in transferable term quota for rock lobster:

“(c) Thereafter there shall be paid in full (if the compensation balance is sufficient) any amount of compensation then due to be paid that is payable pursuant to section 280G of this Act in respect of any reduction in quota for species other than rock lobster where—

“(i) The reduction first took effect in a previous fishing year; and

“(ii) The full amount of compensation then due to be paid has not yet been paid:

“(d) To the extent of any remaining compensation balance, there shall be paid proportionately reduced amounts in respect of compensation then due to be paid that is payable pursuant to section 280G of this Act in respect of reductions in quota first taking effect in the fishing year in which the quarter occurs.

“(3) Subject to subsection (4) of this section, where the compensation balance available at the close of the 30th day of September 1994 is insufficient to pay all amounts of compensation payable under sections 280G to 280I of this Act that remain unpaid at that date, that balance, and the compensation balance available at the end of any subsequent quarter occurring within the extended payment period (if any), shall be paid to the persons to whom compensation is due in accordance with the following priorities:

“(a) First there shall be paid in full (if the compensation balance is sufficient), to each person who has not yet received the agreed preliminary percentage of the amount of compensation payable to that person,

such amount as may be necessary to bring the level of compensation paid to that person up to that percentage:

“(b) To the extent of any remaining compensation balance, the amount to be paid to each person to whom any amount of compensation is still due shall be reduced on a proportionate basis to total the amount of that remaining balance.

“(4) Where it is not possible to pay in full any of the amounts referred to in paragraph (a) or paragraph (b) or paragraph (c) of subsection (2) or paragraph (a) of subsection (3) of this section,—

“(a) The amount to be paid to each person under the relevant one of those paragraphs shall be reduced on a proportionate basis to total such amount of the compensation balance as is available to all persons to whom the relevant paragraph applies; and

“(b) The amount of any such reduction shall be payable out of the compensation balance available at the end of the following quarter (if possible) in accordance with the priorities set out in subsection (2) or subsection (3) of this section.

“28OM. **Power to withhold compensation where amounts owing to Crown**—Notwithstanding anything in section 28OL of this Act, where any person has failed to pay any fee or other amount (not being a fine) due by that person to the Crown under or in respect of any matter under this Act, the Crown may defer payment of any compensation payable to that person under this Part of this Act, to an amount not exceeding the amount so due, until the amount so due is paid.

“28ON. **Additional amounts payable by Crown in respect of goods and services tax**—(1) The amounts of any compensation payable under sections 28OF to 28OM of this Act are exclusive of any amount of goods and services tax payable under the Goods and Services Tax Act 1985.

“(2) Where the Crown is required to pay any amount of compensation pursuant to sections 28OF to 28OM of this Act, the amount so required to be paid shall be increased by an additional amount equal to 12.5 percent of that amount in respect of goods and services tax.

“(3) No additional amount referred to in subsection (2) of this section shall be treated as compensation paid or payable for any of the purposes of sections 28OF to 28OM of this Act, and in



particular no such amount shall be taken into account for the purpose of determining—

“(a) Whether or not any maximum amount or limit on compensation referred to in these sections has been reached or exceeded; or

“(b) The amount of any compensation balance.

“2800. **Compensation payable without further appropriation than this Act**—All amounts of compensation payable pursuant to sections 280F to 280M of this Act, and all amounts payable pursuant to section 280N of this Act, shall be payable by the Crown without further appropriation than this section.

*“Dealings in Quota”*

**16. Registers to be maintained**—(1) Section 28P of the principal Act (as inserted by section 10 of the Fisheries Amendment Act 1986 and amended by section 60 of the Maori Fisheries Act 1989) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) The Director-General shall ensure that there is maintained in respect of each quota management area for each species or class of fish a register showing—

“(a) The total allowable commercial catch:

“(b) The individual transferable quota and the transferable term quota allocated to each person:

“(c) Every transfer of an individual transferable quota or of transferable term quota, whether by operation of law or agreement of the parties, that has been notified to the Director-General:

“(d) Every lease under section 28Q of this Act that has been notified to the Director-General.”

(2) Section 60 of the Maori Fisheries Act 1989 is hereby consequentially repealed.

**17. Transfers and leases of quota**—(1) Section 28Q of the principal Act (as inserted by section 10 of the Fisheries Amendment Act 1986 and amended by section 61 of the Maori Fisheries Act 1989) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Except as provided in sections 28s and 28w of this Act, any person who is the holder of an individual transferable quota or of transferable term quota may permanently transfer that quota to any other person or lease the rights of the holder

to any other person for a specified period or a specified tonnage of fish.”

(2) Section 28Q(2) of the principal Act (as so inserted) is hereby amended by omitting the expression “5 days”, and substituting the expression “10 days”.

(3) Section 28Q of the principal Act (as so inserted) is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) No transfer or lease referred to in subsection (1) of this section shall have effect for any of the purposes of this Act to transfer any right (including the right to take fish), obligation, or liability from the transferor or lessor to the transferee or lessee until notification in the approved form of the transfer or lease has been received by the Ministry.”

(4) Section 28Q(6) of the principal Act (as so inserted) is hereby amended by inserting, after the words “individual transferable quota”, the words “or transferable term quota”.

(5) Section 28Q of the principal Act (as so inserted) is hereby further amended by adding the following subsections:

“(7) Where any person who holds individual transferable quota or transferable term quota or any interest as lessee in such quota has been charged with the commission of a quota management offence or an offence relating to returns and records (as those terms are defined in section 107B(1) of this Act),—

“(a) No transfer or lease of that quota or interest in quota shall be registered under section 28P or section 28Q of this Act before the proceedings for the offence are finally determined; and

“(b) No transfer or lease of that quota or interest in quota shall confer any right to take fish on the transferee or lessee under that quota or interest; and

“(c) No transfer or lease of that quota or interest in quota shall be effective against the Crown in the event of forfeiture of the quota or interest pursuant to section 107B of this Act,—

except to the extent that the Court orders otherwise under subsection (8) of this section.

“(8) The Court may at any time, on application by—

“(a) The holder of quota to which subsection (7) of this section applies; or

“(b) By any person having an interest in such quota,—  
order that any or all of the provisions of that subsection shall not apply in respect of the quota, whether generally or in respect of any specified dealing in the quota. Any such order

may be subject to such sureties and conditions as the Court may specify.”

(6) Section 61 of the Maori Fisheries Act 1989 is hereby consequentially repealed.

(7) Subsection (5) of this section shall come into force on a date to be fixed by the Governor-General by Order in Council.

**18. Form of transfers and leases of individual transferable quota**—(1) Section 28R (1) of the principal Act (as inserted by section 10 of the Fisheries Amendment Act 1986) is hereby amended by adding the following paragraph:

“(c) Such other matters as may be required or authorised by regulations made under this Act to be shown.”

(2) Section 28R (2) of the principal Act (as so inserted) is hereby amended by adding the following paragraph:

“(f) Such other matters as may be required or authorised by regulations made under this Act to be shown.”

**19. Minimum holdings of quota and interests in quota**—(1) The principal Act is hereby amended by repealing section 28s (as substituted by section 63 of the Maori Fisheries Act 1989), and substituting the following section:

“28s. (1) Except as provided in subsections (3) to (7) of this section, no person may purchase or take on lease—

“(a) Less than 5 tonne of individual transferable quota for any quota management area for any species or class of finfish unless the total individual transferable quota held or held on lease by that person for all species or classes of finfish (including that quota) in one or more quota management areas is or exceeds 5 tonne:

“(b) Less than 1 tonne of individual transferable quota for any quota management area for any species or class of shellfish unless the total individual transferable quota held or held on lease by that person for all species or classes of shellfish (including that quota) in one or more quota management areas is or exceeds 1 tonne:

“(c) Less than 3 tonne of transferable term quota for rock lobster for any quota management area unless the total transferable term quota held or held on lease by that person for rock lobster (including that quota) in that quota management area is or exceeds 3 tonne.

“(2) Notwithstanding that a person may have purchased or taken on lease not less than the minimum amount of quota specified in subsection (1) of this section, that person shall not take fish pursuant to any such quota at any time when the person has disposed in whole or in part of the right to take fish under the quota (whether by way of lease or otherwise), unless the person has the current right to take fish to an amount not less than that specified in that subsection.

“(3) Nothing in subsection (1) or subsection (2) of this section shall prevent—

“(a) The allocation under section 28F or section 28FA of this Act of guaranteed minimum individual transferable quota or guaranteed minimum transferable term quota or the allocation under section 28O or section 28OA of this Act of individual transferable quota or transferable term quota in amounts less than those specified in subsection (1) of this section; or

“(b) The taking of fish pursuant to any such quota by the person to whom it was allocated at any time when the person has the current right to take fish to an amount not less than—

“(i) The amount so allocated; or

“(ii) If the amount so allocated is subsequently increased pursuant to section 28OE of this Act, the amount of that quota as so increased.

“(4) Nothing in subsection (1) or subsection (2) of this section shall prevent—

“(a) The reduction pursuant to section 28OD of quota to amounts less than those specified in subsection (1) of this section; or

“(b) The taking of fish pursuant to any such reduced quota by the person whose quota was so reduced at any time when the person has the current right to take fish to an amount not less than—

“(i) The amount of the reduced quota; or

“(ii) If the reduced quota is subsequently increased pursuant to section 28OE of this Act, the amount of that quota as so increased.

“(5) Nothing in subsection (1) of this section shall prevent the purchase or taking on lease of individual transferable quotas or transferable term quotas by any person who intends to acquire over a period at least the minimum individual transferable quota or at least the minimum transferable term quota, and who does not take any fish or rock lobster, as the case may be,

pursuant to that quota until the person holds at least the minimum amount of quota specified in that subsection.

“(6) Nothing in subsection (1) of this section shall apply to the holder of any controlled fishery licence issued under Part III of this Act.

“(7) Where any person holds at least the minimum holding of individual transferable quota specified in subsection (1) (b) of this section, that person may purchase or take on lease less than the minimum of any individual transferable quota specified in subsection (1) (a) of this section, and may take fish pursuant to any such quota at any time during which the person has the current right to take shellfish to an amount not less than that specified in subsection (1) (b) of this section.

“(8) Where any person holds at least the minimum holding of transferable term quota specified in subsection (1) (c) of this section, that person may purchase or take on lease less than the minimum of any individual transferable quota specified in subsection (1) (a) of this section, and may take fish pursuant to any such quota at any time during which the person has the current right to take rock lobster to an amount not less than that specified in subsection (1) (c) of this section.

“(9) No person may sell or otherwise dispose of (other than by lease) individual transferable quota or transferable term quota where that sale or disposal would reduce the total individual transferable quota or transferable term quota held by that person to less than—

“(a) Five tonne of finfish; or

“(b) One tonne of shellfish; or

“(c) Three tonne of rock lobster,—

unless all the individual transferable quota for finfish or shellfish or all the transferable term quota for rock lobster, as the case may be, held or leased by the person are disposed of.

“(10) No person may dispose of or grant a lease of, and no person may acquire or take on lease less than 100 kilograms of, any individual transferable quota or transferable term quota, unless, in the case of disposal or granting of a lease, the person disposes of or grants a lease of all the individual transferable quota or transferable term quota held by that person for that species or class of finfish or shellfish or rock lobster, as the case may be, for a quota management area.

“(11) No agreement shall be entered into, whether notified under this Act or otherwise, or if entered into shall not be effective, to the extent that it authorises any person to take any fish subject to a quota management system on behalf of any other person unless the first-mentioned person has the current

right to take fish subject to a quota management system to an amount not less than that specified in paragraph (a) or paragraph (b) or paragraph (c) of subsection (1) of this section.”

(2) Section 63 of the Maori Fisheries Act 1989 is hereby repealed.

**20. Sections repealed**—The principal Act is hereby amended by repealing section 28<sub>T</sub> (as inserted by section 10 of the Fisheries Amendment Act 1986) and section 28<sub>TA</sub> (as inserted by section 64 of the Maori Fisheries Act 1989).

**21. Power of Crown to acquire, hold, transfer, lease, or cancel quota**—Section 28<sub>U</sub> of the principal Act (as substituted by section 65 of the Maori Fisheries Act 1989) is hereby amended—

- (a) By omitting from subsection (4) the words “total allowable catch specified under section 28c of this Act”, and substituting the words “relevant total allowable commercial catch”;
- (b) By omitting from both subsection (5) and subsection (6) the words “total allowable catch”, and substituting in each case the words “relevant total allowable commercial catch”.

**22. Taking of fish in excess of quota, and carrying forward of unused quota**—(1) The principal Act is hereby amended by repealing section 28<sub>v</sub> (as inserted by section 10 of the Fisheries Amendment Act 1986), and substituting the following section:

“28v. (1) Subject to the provisions of this section and the requirements of this Act relating to fishing permits, any holder of an individual transferable quota may in any fishing year take in total not more than 10 percent more fish than is specified in that quota, or such greater amount as may be permitted under subsection (2) of this section.

“(2) The Director-General may, by notice in writing to the person concerned, permit the taking in any fishing year of a specified percentage or amount of fish that is greater than 10 percent more fish than is specified in the quota.

“(3) Nothing in subsection (1) or subsection (2) of this section applies in respect of rock lobster.

“(4) Nothing in subsection (1) or subsection (2) or subsection (6) of this section shall apply to permit the taking in any fishing year of more fish than is specified in the quota—

“(a) By any lessee of the quota, or by any person having the right to take fish under the authority of the quota otherwise than as holder of the quota; or

“(b) By any holder of the quota if, at any time during the fishing year, the quota is leased.

“(5) Where fish are taken in excess of the amount specified in a quota by any person acting under the authority of subsection (1) or subsection (2) of this section, the amount of fish that may be taken under that quota in the next fishing year, whether by that person or by any other person, shall be reduced by the amount of that excess.

“(6) Subject to subsection (4) of this section, where in any fishing year the total tonnage of fish specified in any quota is not taken, the holder of that quota in the next fishing year may, in addition to any amount authorised by the quota, take whichever is the lesser of the following:

“(a) The tonnage that was not taken; or

“(b) Ten percent of the total tonnage specified in the quota in the year in which the total tonnage of fish was not taken.

“(7) Where the right to take any fish is carried forward to the next year under subsection (6) of this section, the tonnage of fish concerned shall not form part of the quota for the purposes of subsection (1) or subsection (2) of this section, and, if the tonnage of fish is not taken in that next year, the right to take the tonnage of fish carried forward shall lapse.

“(8) Where more than one person holds any quota during any fishing year, nothing in subsection (1) or subsection (2) or subsection (6) of this section shall allow the taking in total of more than the amount of fish authorised under the relevant one of those subsections.

“(9) Where—

“(a) Any reduction in any individual transferable quota for any species or class of fish in any area takes effect pursuant to section 280D of this Act on any day during the fishing year commencing on the 1st day of October 1989; and

“(b) The amount of fish already taken in that year by any person under the quota before that day exceeds the reduced amount of the quota,—

the amount of fish that may be taken under that quota in the next fishing year shall be reduced under subsection (5) of this section only to the extent that the amount of fish taken before that day exceeds the amount specified in the quota before it was reduced.

“(10) Where any reduction in any individual transferable quota for any species or class of fish in any area takes effect pursuant to section 28OD of this Act during the fishing year commencing on the 1st day of October 1989, subsection (6) of this section shall apply only to the extent that the total tonnage specified in any quota as at the end of that fishing year has not been taken.”

(2) Nothing in subsection (1) of this section shall apply to restrict the right of any holder or lessee or lessor of quota to take additional fish under the quota to the extent that any lease of the quota was registered under sections 28P and 28Q of the principal Act before the 1st day of April 1990, and section 28V of the principal Act, as in force before its repeal by subsection (1) of this section, shall apply to any such holder, lessee, or lessor in respect of any such registered lease.

(3) Section 66 of the Maori Fisheries Act 1989 is hereby consequentially repealed.

**23. Restriction on amount of quota that may be held by any one person**—(1) Section 28W (1) of the principal Act (as substituted by section 67 (1) of the Maori Fisheries Act 1989) is hereby amended—

(a) By inserting in paragraph (b), after the words “10 percent of”, the words “the total of”:

(b) By inserting in paragraph (c), after the words “35 percent of”, the words “the total of”.

(2) Section 28W (2) of the principal Act (as so substituted) is hereby amended by omitting the expression “section 28T (1) or section 28TA (1)”, and substituting the expression “section 28OE (1)”.

(3) Section 28W of the principal Act (as inserted by section 10 of the Fisheries Amendment Act 1986 and amended by section 67 (2) of the Maori Fisheries Act 1989) is hereby amended by repealing subsections (3) and (4), and substituting the following subsections:

“(3) Notwithstanding subsection (1) of this section, the Minister may from time to time, after consultation with the Fishing Industry Board, by notice in the *Gazette*, consent to any named person holding (whether by allocation or by taking on transfer or lease or by any combination of those means),—

“(a) In any case to which paragraph (a) of subsection (1) of this section applies, not more than a specified percentage which is greater than 35 percent of the total of individual transferable quotas for New



Zealand fisheries waters in respect of any species or class of fish:

“(b) In any case to which paragraph (b) of that subsection applies, not more than a specified percentage which is greater than 10 percent of the total transferable term quotas for any quota management area in respect of spiny rock lobster:

“(c) In any case to which paragraph (d) of that subsection applies, not more than a specified percentage which is greater than 20 percent of the total of individual transferable quotas for any quota management area in respect of any species or class of fish.

“(4) Any consent under subsection (3) of this section may be given subject to such conditions as the Minister may impose, and may be given for any specified year or years or generally.”

(4) Section 28w of the principal Act (as so inserted and amended) is hereby further amended—

(a) By omitting from subsection (5) (a) the words “individual transferable”:

(b) By omitting from both subsection (5) and subsection (6) the expression “or subsection (4)”.

(5) Section 67 (2) of the Maori Fisheries Act 1989 is hereby repealed.

**24. Quota not to be allocated to owners of licensed foreign fishing craft**—Section 28x of the principal Act (as inserted by section 10 of the Fisheries Amendment Act 1986) is hereby amended by omitting the expression “28OA or section 28T or section 28TA”, and substituting the expression “28OE”.

**25. Quota not to be allocated to overseas individuals or companies with overseas control**—Section 28z (5) of the principal Act (as substituted by section 70 of the Maori Fisheries Act 1989) is hereby amended by omitting the expression “28OA or in section 28T or in section 28TA”, and substituting the expression “28OE”.

**26. Fish subject to quota fishing cannot be taken for sale other than under quota**—(1) The principal Act is hereby amended by repealing section 28ZA (as inserted by section 10 of the Fisheries Amendment Act 1986) and section 28ZAA (as inserted by section 71 of the Maori Fisheries Act 1989), and substituting the following heading and section:

*“General*

“28ZA. (1) Except in the case of fish taken pursuant to an arrangement or agreement entered into under section 87 of this Act, no person may take for sale—

“(a) Any fish for which guaranteed minimum individual transferable quota or individual transferable quota have been allocated other than under the authority of a guaranteed minimum individual transferable quota or an individual transferable quota:

“(b) Any fish for which guaranteed transferable term quota or transferable term quota have been allocated other than under the authority of a guaranteed minimum transferable term quota or a transferable term quota.

“(2) For the purposes of this section, a person shall be deemed not to take fish under the authority of any quota unless—

“(a) That person is the holder of the quota; or

“(b) That person is a lessee of the quota; or

“(c) That person is named in a written authority that—

“(i) Is in the prescribed form or a form approved by the Director-General; and

“(ii) Is signed by the holder or lessee (as the case may be) of the quota and the person being authorised to take fish under the authority of the quota; and

“(iii) Has, prior to the fish being taken, been furnished to the Registrar at the port where the vessel to be used to take the fish is registered, or, where fishing is to be carried out otherwise than from a vessel, to the Registrar of the port that is nearest to the area in which the fish are to be taken.

“(3) No person shall take any fish under the authority of any quota other than in accordance with the conditions of an appropriate fishing permit, the conditions and limitations imposed by or under this Act or any regulations or notice made under this Act, and any applicable fishery management plan.

“(4) Where—

“(a) A commercial fisherman takes fish subject to a quota management system without the authority of an appropriate quota, or takes fish in excess of any amount authorised to be taken under any quota; and

“(b) The commercial fisherman has not notified the taking of the fish to a Registrar and surrendered and disposed of the fish in the manner specified in section 105A (1) (c) (ii) of this Act; and

“(c) The commercial fisherman subsequently buys or leases quota that would have authorised the taking of the fish by that fisherman at the date the fish were taken, or enters into an arrangement with another commercial fisherman for the fish to be counted against appropriate quota of that other fisherman,—  
any such fish shall, whether or not any offence has been committed in relation to the fish, and whether or not any defence is available under this Act in respect of any such offence, be attributed to and counted against the relevant quota so bought, leased, or arranged.

“(5) Nothing in subsection (4) of this section authorises the taking of fish without the authority of, or in excess of any amount authorised to be taken under, any quota allocated under this Act.”

(2) Section 71 of the Maori Fisheries Act 1989 is hereby consequentially repealed.

**27. Prohibitions and requirements relating to dumping or retention of quota management system fish—**(1) The principal Act is hereby amended by repealing section 28ZB (as inserted by section 10 of the Fisheries Amendment Act 1986 and amended by section 72 of the Maori Fisheries Act 1989), and substituting the following section:

“28ZB. (1) No commercial fisherman shall return to the sea or abandon in the sea—

“(a) Any rock lobster of legal size that is dead or unlikely to survive if returned to the sea:

“(b) Any other fish of legal size, or for which no legal size is prescribed, that is subject to a quota management system.

“(2) Any commercial fisherman who takes any fish (including rock lobster) subject to a quota management system that is not of legal size shall immediately return that fish to the sea, whether alive or dead.

“(3) Any commercial fisherman who, otherwise than under the authority of any guaranteed minimum transferable term quota or any transferable term quota, takes any rock lobster of legal size shall, unless the rock lobster is dead or unlikely to survive if returned to the sea, immediately return that rock

lobster to the sea with as little injury as possible as soon as practicable after it was taken.

“(4) It shall be a defence to any proceedings for an offence against subsection (1) of this section if the defendant proves that—

“(a) The return was a return of parts of fish or rock lobster lawfully processed at sea; or

“(b) The fish or rock lobster were diseased; or

“(c) The fish or rock lobster were returned or abandoned to ensure the safety of the vessel; or

“(d) The fish or rock lobster were returned or abandoned in accordance with subsection (5) of this section.

“(5) A commercial fisherman may return to or abandon in the sea any fish subject to a quota management system where—

“(a) The fisherman holds the current right under any quota to take those fish from the area in which they were taken; and

“(b) A Fishery Officer or scientific observer was present when the fish were taken; and

“(c) The Fishery Officer or scientific observer authorises the return or abandonment of the fish; and

“(d) The commercial fisherman returns or abandons the fish under the supervision of the Fishery Officer or scientific observer, and complies with such directions of the officer or observer as may be necessary to enable the officer or observer to record the fish being so returned or abandoned.

“(6) Where fish are returned to or abandoned in the sea pursuant to subsection (5) of this section, the amount of the fish, as recorded by a Fishery Officer or scientific observer, shall be included in the returns for the appropriate period required to be made by the fisherman under this Act, and shall be counted against the quota under which the fish were taken.”

(2) Section 72 of the Maori Fisheries Act 1989 is hereby repealed.

### **28. Resource rental payable in respect of quota—**

(1) Section 28zc of the principal Act (as inserted by section 10 of the Fisheries Amendment Act 1986 and amended by section 73 of the Maori Fisheries Act 1989) is hereby amended by repealing subsections (1) to (4), and substituting the following subsections:

“(1) There shall be payable to the Crown in respect of—

“(a) Every guaranteed minimum transferable quota; and

“(b) Every individual transferable quota; and

“(c) Every guaranteed minimum transferable term quota; and

“(d) Every transferable term quota,—  
an annual resource rental for each tonne or part of a tonne of quota at the appropriate rate according to the species or class of fish and the vessel that may be used to take the fish as specified in Schedule 1B to this Act.

“(2) Subject to subsection (4A) of this section, the annual resource rental shall be payable at the higher of the 2 rates specified in Schedule 1B to this Act where the holder or any lessee or other person who is authorised to take fish under the quota has the use of a foreign owned New Zealand fishing vessel at any time during the fishing year.

“(3) Subject to subsections (4A) and (4B) of this section, the annual resource rental shall be payable irrespective of whether or not the fish to which the quota relates is taken.

“(4) The annual resource rental shall be payable in equal instalments on the last days of March, June, September, and December in each year, and shall be payable by the person who is the holder of the quota on the date concerned.

“(4A) Where in respect of any fishing year any person has paid or is liable to pay resource rentals in respect of any quota at the higher of the 2 rates specified for any species or class of fish in Schedule 1B to this Act, the Minister shall waive or remit the difference between the resource rental at that higher rate and the resource rental at the lower rate—

“(a) In respect of so much of the quota as authorises the taking of any fish that the Minister is satisfied were taken using a vessel that was not at the time the fish were taken a foreign owned New Zealand fishing vessel:

“(b) In respect of so much of the quota as remains unused at the end of the fishing year.

“(4B) Where pursuant to section 280D of this Act any reduction in quota takes effect during the fishing year commencing on the 1st day of October 1989, the Minister shall waive or remit so much of the annual resource rental paid or payable before the reduction by any person in respect of the quota so reduced as is equal to the difference between that annual resource rental and the annual resource rental that would be payable in respect of the amount of the reduced quota.”

(2) Section 73 of the Maori Fisheries Act 1989 is hereby consequentially repealed.

**29. New sections inserted**—(1) The principal Act is hereby amended by inserting, immediately after section 28zc (as inserted by section 10 of the Fisheries Amendment Act 1986), the following sections:

**“28zd. Commercial fishermen may be required to pay deemed value of excess or unauthorised quota fish—**

(1) Subject to section 28zg of this Act, a commercial fisherman who, on or after the first day of October 1990, at a time when the fisherman has a current right to take any species or class of fish subject to a quota management system, takes any fish subject to a quota management system without the authority of or in excess of any amount authorised to be taken under the appropriate quota,—

“(a) Shall, unless the fisherman has returned the fish to the sea where such a return is required by subsection (2) or subsection (3) of section 28zb of this Act, include any fish so taken in the returns for the appropriate period required to be made by the fisherman under this Act; and

“(b) Shall, unless the fisherman—

“(i) Has returned the fish to the sea in circumstances in which such a return is required by subsection (2) or subsection (3) of section 28zb of this Act; or

“(ii) Has notified the taking of the fish to a Registrar and surrendered and disposed of the fish in the manner specified in section 105A (1) (c) (ii) of this Act; or

“(iii) Has, not later than 15 days after the end of the calendar month in which the fish were taken, bought, leased, or arranged quota in the manner specified in subparagraph (i) or subparagraph (ii) of section 105A (2) (e) of this Act,—

pay to the Crown, within 20 days of demand being made by notice in writing given by an employee of the Ministry, the deemed value of the fish assessed by the Director-General in accordance with section 28ze of this Act.

“(2) Any amount required to be paid under subsection (1) of this section in respect of the deemed value of any fish shall be payable whether or not the commercial fisherman committed an offence in respect of the fish.

**“28ze. Assessment of deemed value of fish—**(1) For the purposes of section 28zd of this Act the Director-General may

assess the deemed value of any fish taken without authority, and may assess different deemed values in relation to different classes or species of fish, different classes of fishermen, and different areas or circumstances in which fish are taken.

“(2) In assessing the deemed value of any fish the Director-General shall have regard to—

“(a) The market value of the fish to commercial fishermen, to licensed fish receivers, and to consumers:

“(b) Any proceeds or benefit received or likely to be received by the commercial fisherman or any other person in respect of the fish:

“(c) The removal from the commercial fisherman or any licensed fish receiver or person with whom the commercial fisherman is associated of any economic incentive for the taking, processing, or sale of the fish, or from the taking, processing, or sale of fish taken without authority generally:

“(d) The need to provide an incentive for commercial fishermen to land fish taken without authority, particularly where such fish are dead or unlikely to survive if returned to the water.

“(3) For the purposes of making any assessment of deemed value under this section, the Director-General shall where practicable consult with the Fishing Industry Board on—

“(a) The appropriate deemed value, or guidelines for determining the appropriate deemed value, payable for any class or species of fish or class of fisherman:

“(b) The circumstances in which it may be appropriate for a different deemed value to be assessed in relation to any particular area or circumstances in which fish are taken.

“(4) Where any assessment of the deemed value of any fish is made under this section by any officer acting under the delegated authority of the Director-General, the fisherman is entitled to have the decision reviewed by the Director-General, or by an officer designated by the Director-General who was not involved in the making of the original assessment.

“28ZF. **Amount of deemed value to be returned to fisherman where quota subsequently obtained**—(1) The amount of any deemed value paid to the Crown by a commercial fisherman pursuant to section 28ZD of this Act shall be held by the Crown on trust for the fisherman until the trust ends in accordance with this section or the fisherman is sooner refunded the amount of the deemed value.

“(2) Subject to the provisions of this section, a commercial fisherman shall be entitled to a refund or remission of the amount of any deemed value paid or payable by the fisherman under section 28ZD of this Act in respect of any fish caught in any fishing year if, during that fishing year, or not later than 15 days after the end of that fishing year,—

“(a) The fisherman has—

“(i) Bought or leased quota that would have authorised the taking of the fish if it had been held by the commercial fisherman at the time the fish were taken, being quota that applied to and was not otherwise fished in that fishing year; or

“(ii) Entered into an arrangement with another commercial fisherman for the fish to be counted against unused quota for that fishing year of that other fisherman; and

“(b) The fisherman notifies the Director-General accordingly and requests that the deemed value of the fish be refunded or remitted.

“(3) No obtaining or arrangement of quota shall qualify a commercial fisherman to obtain a refund or remission under this section of the amount of the deemed value paid or payable in respect of any fish to the extent that the quota is used to obtain a refund or remission under this section of the amount of deemed value paid or payable in respect of any other fish.

“(4) The amount of any deemed value paid under section 28ZD of this Act in respect of fish taken in any fishing year shall cease to be held on trust on the later of—

“(a) The 20th day of December following the end of that fishing year, where no claim for a refund of that amount has been made under this section; or

“(b) Such date as the Director-General determines that a claim to a refund is not justified, where such a claim has been made under this section.

“(5) Notwithstanding section 69 of the Public Finance Act 1989, no interest shall be payable in respect of any amount that is refundable under this section to the person entitled to the refund.

“28ZG. **Fisherman may offer lease of quota in lieu of paying deemed value**—(1) Any commercial fisherman who, but for this section, could be required under section 28ZD of this Act to pay the deemed value of any fish that is specified as a bycatch species in a notice given under subsection (2) of this section may, not later than 20 days after the end of the month



in which the fish were taken, by notice in writing offer the Director-General a lease or sublease of the right to take fish under any quota held or leased by the fisherman, being fish that are specified in the notice as a target species in relation to that bycatch species.

“(2) The Director-General may, by notice in the *Gazette*, specify in relation to any quota management area—

“(a) Any bycatch species of fish in respect of which a lease of quota for a target species may be accepted in lieu of the payment under section 28ZD of this Act of the deemed value of the fish:

“(b) In relation to any such bycatch species, any target species for which a lease of quota may be so accepted:

“(c) The ratio at which, or other basis on which, a lease of quota of the target species may be accepted in relation to the amount of the bycatch species for which the offer of quota is made.

“(3) In making any notice under subsection (2) of this section, the Director-General shall have regard to—

“(a) The closeness of the association between the bycatch species and the target species in the quota management area; and

“(b) The degree to which there is a disparity between the total allowable commercial catches for the 2 species in the quota management area.

“(4) In considering whether or not to accept any offer made under subsection (1) of this section the Director-General shall have regard to the following matters:

“(a) Whether or not the fish in respect of which the liability to pay the deemed value arose were likely to have been taken as bycatch in the course of taking fish of the target species offered by the commercial fisherman:

“(b) Whether or not the total allowable commercial catch for the species or class of fish in the area taken by the commercial fisherman has been or is likely to be exceeded in the relevant fishing year:

“(c) The market value of the quota offered.

“(5) If the Director-General accepts an offer made under subsection (1) of this section, the commercial fisherman shall not be liable to pay the deemed value of the fish under section 28ZD of this Act.

“(6) If the Director-General does not accept the offer, the Director-General shall notify the fisherman accordingly, and

the fisherman shall be liable to pay the deemed value of the fish in accordance with section 28ZD of this Act upon demand being made under that section.”

(2) This section shall come into force on the 1st day of October 1990.

**30. Taking of fish, etc., by other than New Zealand ships**—Section 60 (1) of the principal Act (as substituted by section 13 (1) of the Fisheries Amendment Act 1986) is hereby amended by inserting, after the word “purposes,”, the words “or for the purpose of receiving fish directly from New Zealand fishing vessels,”.

**31. Taking fish, etc., commercially without permit prohibited**—Section 62 of the principal Act (as substituted by section 13 (1) of the Fisheries Amendment Act 1986) is hereby amended by inserting, after subsection (1), the following subsections:

“(1A) No person shall take any fish, aquatic life, or seaweed under the authority of a permit for the taking of fish, aquatic life, or seaweed otherwise than from a vessel if that person is not named in that permit, unless a written agreement in a prescribed form or a form approved for the purpose by the Director-General authorising the person to take any fish, aquatic life, or seaweed under the authority of the permit—

“(a) Has been signed by the person and the commercial fisherman named in the permit; and

“(b) Has been furnished to the Director-General.

“(1B) Every person commits an offence who—

“(a) Takes any fish, aquatic life, or seaweed in contravention of subsection (1A) of this section; or

“(b) Being the holder of a permit for the taking of fish, aquatic life, or seaweed otherwise than from a vessel, permits any other person to take under the authority of that permit any fish, aquatic life, or seaweed in contravention of subsection (1A) of this section.”

**32. Fishing permits**—Section 63 (2) of the principal Act (as substituted by section 13 (1) of the Fisheries Amendment Act 1986) is hereby amended by adding the words “or a guaranteed minimum transferable term quota or a transferable term quota”.

**33. New heading and section substituted**—(1) The principal Act is hereby amended by repealing section 66 (as substituted by section 13 of the Fisheries Amendment Act 1986 and amended by section 35 (1) of the Official Information Amendment Act 1987), and substituting the following heading and section:

*“Records, Returns, and Restrictions on Disposal of Fish, etc., by Commercial Fishermen and Others*

**“66. Records and returns**—(1) The following persons shall keep such accounts and records and furnish to the Ministry such returns and information as may be required by or under regulations made under this Act to assist the management and conservation of any fishery resource:

“(a) Holders of permits, licences, authorities, or approvals issued under this Act to take fish, aquatic life, or seaweed by any method for any purpose:

“(b) Persons who have the right to take fish under any quota issued under Part IIA of this Act and persons who hold an interest in any such quota:

“(c) Masters and owners of vessels registered under this Act:

“(d) Owners and persons in charge of any premises, vessel (whether or not registered under this Act), or vehicle where fish, aquatic life, or seaweed are received, purchased, stored, transported, processed, sold, or otherwise disposed of:

“(e) Persons engaged in the receiving, purchasing, transporting, processing, storage, sale, or disposal of fish, aquatic life, or seaweed, including persons who are—

“(i) Licensed to receive fish under regulations made pursuant to this Act:

“(ii) Licensed to export fish under the Fishing Industry Board Act 1963:

“(iii) Licensed to process fish under the Meat Act 1981.

“(2) Every holder of a licence issued by the Authority shall, in addition to complying with subsection (1) of this section, keep such accounts and records, and furnish to the Authority such returns and information, as may be required by or under regulations made under this Act to assist the management and conservation of any fishery resource.

“(3) The Director-General or the Authority may, in any particular case or class of cases, require accounts, records, returns, and information additional to those specified in

regulations referred to in subsections (1) and (2) of this section to be kept and furnished by any person specified in those subsections to assist the management and conservation of any fishery resource.

“(4) Any return or information that is required pursuant to this Act to be furnished to any particular office of the Ministry shall be deemed not to have been properly furnished until it has been received at that office.

“(5) Any return or information or agreement that is required pursuant to this Act or any regulations made under this Act to be furnished in a prescribed or approved manner or form shall be deemed not to have been properly furnished until it has been completed and furnished in the prescribed or approved manner or form.

“(6) Except in respect of a prosecution under this Act or any proceedings for the recovery by the Crown of the amount of the deemed value of any fish payable under section 28ZD of this Act, or where a Court so directs, no return or information furnished pursuant to this Act shall be disclosed or used in any proceedings whatever.

“(7) Nothing in subsection (6) of this section shall prohibit the Director-General or any officer authorised by the Director-General in that behalf from communicating to—

“(a) Any officer of the Department of Statistics any information which that officer is authorised by that Department to receive and which the Director-General considers is not undesirable to disclose and is reasonably necessary to enable that officer to carry out any official duty lawfully imposed by the Statistics Act 1975:

“(b) The Commissioner of Inland Revenue any information which the Director-General is lawfully bound to disclose.”

(2) Section 67B(1) of the principal Act (as so enacted) is hereby amended—

(a) By inserting, after the words “of this Act”, the words “, and of regulations referred to in section 66 of this Act,”:

(b) By adding the words “or regulations”.

(3) The Third Schedule to the Official Information Amendment Act 1987 is hereby amended by repealing so much of the item relating to the Fisheries Act 1983 as refers to section 66(3).

(4) This section shall come into force on the 1st day of October 1990.

**34. Disposal of fish by commercial fishermen**—Section 67 of the principal Act (as substituted by section 13 (1) of the Fisheries Amendment Act 1986) is hereby amended by inserting, after subsection (2), the following subsection:

“(2A) A commercial fisherman shall not enter into more than one such transaction with the same person within any 24-hour period.”

**35. Restrictions on purchase or acquisition of fish by certain persons**—(1) Section 67A of the principal Act (as substituted by section 13 (1) of the Fisheries Amendment Act 1986) is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) No person who is not a commercial fisherman or a person deemed to be licensed under regulations made under section 89 (1) (h) of this Act may purchase or otherwise acquire or be in possession of any fish for the purposes of sale, in any form, unless the person purchased or acquired the fish from—

“(a) A commercial fisherman in a transaction referred to in section 67 (2) of this Act; or

“(b) A person licensed or deemed to be licensed under regulations made under section 89 (1) (h) of this Act; or

“(c) The Crown.”

(2) Section 67A of the principal Act (as so substituted) is hereby further amended by adding the following subsection:

“(5) Nothing in this section shall apply in respect of any fish taken legally and served to the person who took the fish and the person’s immediate guests.”

**36. Supervision by scientific observers of transshipments, dumping of fish, and operation of greenweight conversion factors**—The principal Act is hereby amended by inserting, after section 67G (as substituted by section 13 (1) of the Fisheries Amendment Act 1986), the following section:

“67H. (1) Where—

“(a) A scientific observer is on board a vessel—

“(i) From which any fish are transhipped to another vessel; or

“(ii) From which any fish subject to a quota management system are returned to or abandoned in the sea; or

“(iii) In respect of which any greenweight conversion factor certificate has been given pursuant to section 3A (3) of this Act; and

“(b) But for the presence and supervision of a scientific observer (whether required by any provision of this Act or regulation made or notice given under this Act, or by any term or condition imposed by the Director-General in relation to any consent, approval, or certificate), the transshipment or dumping would be in contravention of section 101 or section 28zB or any other provision of this Act or any regulation made under it, or the conversion factor could not be applied within the terms and conditions of the certificate,—

the master of the vessel shall supply such information, and shall allow the scientific observer to carry out such inspections of the vessel, fish taken or processed, and documents, as the scientific observer may require for the purpose of supervising the transshipment, dumping, or processes relevant to determining any greenweight conversion factor.

“(2) Where a scientific observer is supervising any transshipment of fish from one vessel to another, the master of each vessel involved in the transshipment shall allow the observer on board the vessel, and shall supply such information, and allow the observer to carry out such inspections, as the observer may require for the purpose of supervising the transshipment.

“(3) Any regulations made under this Act may prescribe fees in respect of the provision of supervision by a scientific observer in circumstances referred to in subsection (1) of this section, and, notwithstanding section 67C (2) of this Act, may provide for the cost of food and accommodation of the observer, while on the vessel for any period, to be met by the owner of the vessel.”

**37. Powers of Fishery Officer**—(1) Section 79 (1) of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraph:

“(a) Enter, or pass across any land and enter, examine, and search (by stopping or by opening where necessary), any vessel, conveyance of any kind, premises, place, parcel, package, record, or thing, where that Fishery Officer believes, on reasonable grounds,—

“(i) That any offence is being or has been committed against this Act or any regulations made under this Act; and

“(ii) That any fish, aquatic life, or seaweed taken or thing used or intended to be used in contravention of this Act or those regulations, or any record or information required by or under this Act to be furnished, or any article, record, document or thing which there is reasonable ground to believe will be evidence as to the commission of an offence against this Act or those regulations, may be concealed or located or held in that vessel, conveyance, premises, place, parcel, package, record, or thing:”.

(2) Section 79 (1) (b) of the principal Act is hereby amended by omitting the words “(except a private dwelling place)”.

(3) Section 79 (1) (d) of the principal Act is hereby amended by omitting the words “and cause him to be brought before a District Judge to be dealt with by law as soon as practicable”.

(4) Section 79 of the principal Act is hereby amended by inserting, after subsection (5), the following subsection:

“(5A) Where a Fishery Officer arrests a person pursuant to subsection (1) (d) of this section,—

“(a) The officer shall cause the person to be delivered into the custody of a constable as soon as practicable; and

“(b) If the person so delivered into custody is released by a constable without bail pursuant to section 19A of the Summary Proceedings Act 1957, the duties under subsections (3) to (5) of that section relating to the laying and filing of an information shall be the duties of a Fishery Officer and not of a constable.”

(5) Section 79 of the principal Act is hereby amended by adding the following subsection:

“(7) For the purposes of this section, the term “record” includes—

“(a) Any information however recorded or stored, whether manually or by mechanical, electronic, or other means; and

“(b) Any form or other document whether or not it has been completed.”

**38. Powers of seizure**—(1) Section 80 (1) of the principal Act is hereby amended by adding the following paragraph:

“(c) Any article, record, document, or thing that the officer believes on reasonable grounds is evidence of the commission of an offence against this Act or any regulations made under this Act.”

(2) Section 80 of the principal Act is hereby amended by repealing subsections (2) to (6), and substituting the following subsections:

“(2) Any property seized pursuant to subsection (1) of this section shall be delivered into the custody of the Director-General.

“(3) The Director-General may, at any time until an information or charge is laid in respect of the alleged offence for which the property was seized, on application by—

“(a) The person from whom the property was seized; or

“(b) The owner or person entitled to the possession of the property seized,—

release the property to any such person under bond in such sum and under such sureties and conditions (if any) as the Director-General may specify.

“(3A) Where any person to whom property is released under subsection (3) of this section fails to comply with the conditions of any bond or with any condition specified by the Director-General,—

“(a) The property may be resealed at any time at the direction of the Director-General; and

“(b) The provisions of this section shall thereupon apply to the property as if it had been seized pursuant to subsection (1) of this section; and

“(c) The Director-General may, in the case of failure to comply with the conditions of any bond, apply to a Court presided over by a District Court Judge for an order for estreat of the bond; and

“(d) Where the Director-General so applies the Registrar shall fix a time and place for the hearing of the application, and shall, not less than 7 days before the time fixed, cause to be served on every person bound by the bond a notice of the time and place so fixed; and

“(e) If on the hearing of any such application it is proved to the satisfaction of the Court that any condition of the bond has not been kept, the Court may make an order to estreat the bond to such an amount as it thinks fit to any person bound thereby on whom notice is proved to have been served in accordance with this subsection; and

“(f) Any penalty payable in accordance with this subsection shall be recoverable as if it were a fine.

“(4) Where, in the opinion of the Director-General, any fish, aquatic life, or seaweed or other article seized pursuant to



subsection (1) of this section may rot, spoil, or otherwise perish, the Director-General may arrange for its sale in such manner and for such price as the Director-General may determine.

“(5) Where the ownership of any property cannot at the time of seizure be ascertained, the property seized shall be forfeit to the Crown and shall be disposed of as directed by the Director-General after 90 days from the date of seizure if, within that time, it has not been possible to establish the ownership of the property.

“(6) Subject to subsection (3) of this section, all property seized pursuant to subsection (1) of this section and the proceeds from the sale of any such property pursuant to subsection (4) of this section, except where such property or proceeds have been forfeited to the Crown pursuant to subsection (5) of this section, shall be held in the custody of the Crown until—

“(a) A decision is made not to lay any information or charge in respect of the alleged offence for which the property was seized; or

“(b) Where such a charge or information is laid, upon the completion of proceedings in respect of the alleged offence for which the property was seized, or such sooner time as the Court may determine.

“(6A) Where any information or charge has been laid in respect of the alleged offence for which the property was seized pursuant to subsection (1) of this section, and that property remains in the custody of the Crown, the Court may at any time, on application by—

“(a) The person from whom the property was seized; or

“(b) The owner or person entitled to the possession of the property seized,—

release the property to any such person, and any such release may be subject to such sureties and conditions as the Court may specify.”

**39. Director-General may direct that transfer or lease of quota not to be registered pending laying of information for quota management offence—**(1) The principal Act is hereby amended by inserting, after section 80, the following section:

“80A. (1) Where the Director-General—

“(a) Believes on reasonable grounds that any person has committed a quota management offence or an

offence relating to returns and records (as those terms are defined in section 107B (1) of this Act); and

“(b) Is satisfied that an information or charge will be laid against that person in respect of the commission of that offence,—

the Director-General may, at any time before an information or charge is laid in respect of the offence, in writing direct any Registrar that no transfer or lease of any quota or interest in quota held by that person may be registered under section 28P or section 28Q of this Act, and the provisions of section 28Q (7) and (8) of this Act shall thereafter apply in respect of any such quota or interest in quota while the direction is in force.

“(2) A direction given under subsection (1) of this section shall not have effect until it is received by the Registrar, and shall lapse on the expiry of the 30th day after the date on which the direction was given by the Director-General, or at such earlier date as may be specified in the direction.

“(3) On any decision being made not to lay an information or charge against the person, the Director-General shall forthwith notify the Registrar to whom the direction was given that the direction is withdrawn, and the direction shall thereupon cease to have effect.

“(4) The Director-General shall, as soon as practicable after a direction is given or withdrawn under this section, notify the person who is the subject of the direction of that fact.”

(2) This section shall come into force on a date to be fixed by the Governor-General by Order in Council.

**40. Act not to apply to taking of fish in certain circumstances**—(1) Section 88 of the principal Act (as amended by section 22 of the Fisheries Amendment Act 1986) is hereby amended by repealing subsection (1), and substituting the following subsections:

“(1) Nothing in this Act shall apply to any person using a landing net to secure fish lawfully taken with a rod and line.

“(1A) Nothing in this Act shall apply to any person (not being a commercial fisherman) who, having unintentionally taken any fish or aquatic life contrary to the provisions of this Act or any regulation made under this Act,—

“(a) Immediately returns the fish or aquatic life with as little injury as possible to the water, where the fish or aquatic life is still alive; or

“(b) If the fish or aquatic life is dead or unlikely to survive a return to the water, either—

“(i) Immediately returns the fish or aquatic life to the water; or

“(ii) Notifies a Fishery Officer or a Registrar of the taking of the fish or aquatic life as soon as practicable after it was taken, and disposes of the fish or aquatic life or surrenders the fish or aquatic life to the Crown in a manner directed by a Fishery Officer or Registrar.”

(2) Section 22 of the Fisheries Amendment Act 1986 is hereby consequentially repealed.

**41. Giving of notices, etc.**—The principal Act is hereby amended by inserting, after section 88, the following section:

“88A. (1) Except as otherwise specified in this Act or in regulations made under this Act, where pursuant to this Act any notice or other document is to be given, served on, or furnished to any person, that notice or other document may be—

“(a) Given to the person personally; or

“(b) Sent by registered post to the person at the person’s usual or last known place of business or abode; or

“(c) Given personally to any other person authorised to act on behalf of the person; or

“(d) Sent by registered post to that other person at that other person’s usual or last known place of business or abode; or

“(e) Except in the case of any notice or document to be given or served in the course of or for the purpose of any proceedings for an offence against this Act or any regulations made under this Act, sent by post to the person, or any other person authorised to act on the person’s behalf, at that person’s or other person’s usual or last known place of business or abode.

“(2) Any notice or other document so sent by post or registered post shall be deemed to have been given, served, or received 7 days after the date on which it was posted, unless the person to whom it was posted proves that, otherwise than through that person’s fault, the notice or document was not received.”

**42. Regulations**—(1) Section 89 (1) (g) of the principal Act is hereby amended by omitting the words “or total allowable catch” where they twice occur.

(2) Section 89 (1) (ia) of the principal Act (as inserted by section 23 (2) of the Fisheries Amendment Act 1986) is hereby amended—

(a) By inserting, after the words “individual transferable quota”, the words “or transferable term quota”:

(b) By adding, after the words “individual transferable quotas”, the words “or transferable term quotas”.

(3) Section 89 (1) of the principal Act is hereby amended by inserting, after paragraph (k), the following paragraphs:

“(ka) Prescribing the accounts, records, returns, and information that any person or class of person may be required to keep or furnish pursuant to section 66 or any other provision of this Act, and providing for—

“(i) The manner and form in which such accounts, records, returns, and information are to be kept or furnished:

“(ii) The time for or within which such accounts, records, returns, and information are to be kept or furnished:

“(iii) The person to whom or office of the Ministry to which such accounts, records, returns, and information are to be furnished:

“(kb) Specifying for the purposes of Part IIA of this Act rules as to the manner and order in which fish catch is to be counted (or any underfishing is to be credited) against any quota, having regard to the basis on which the quota or any right to take fish under or count fish against the quota is held, the period for which any such quota or right is held, whether or not the quota or right is held by more than one person during any fishing year, the effects of overfishing and the carrying forward of quota pursuant to section 28v of this Act, and other relevant matters; and prescribing circumstances in which or conditions on which any such rules will not apply:

“(kc) Providing for the formal notification to quota holders and lessees of quota of—

“(i) The manner and order in which fish catch has been counted against their quota in respect of any fishing year; and

“(ii) The amount of any underfishing or overfishing to be credited or counted against their quota in the following fishing year pursuant to section 28v of this Act; and

“(iii) The amount of any reduction or increase in quota pursuant to section 28OD or section 28OE of this Act; and

“(iv) Other relevant matters;—  
and providing for the making of objections in respect of matters specified in any such notification.”.

(4) Section 89 (1) of the principal Act is hereby further amended by inserting, after paragraph (m), the following paragraph:

“(ma) Prescribing forms for the purposes of this Act:”.

(5) Section 89 (1A) of the principal Act (as inserted by section 23 (5) of the Fisheries Amendment Act 1986) is hereby amended by inserting, after the words “or individual transferable quota”, the words “or guaranteed minimum transferable term quota or transferable term quota”.

**43. Certain notices to have status of regulations—**Section 92A (2) of the principal Act (as inserted by section 26 of the Fisheries Amendment Act 1986) is hereby amended by omitting the expression “28D, 28J, 28U, 28W, 28Z”, and substituting the expression “28J, 28OB, 28U, 28W, 28Z, 28ZG”.

**44. Liability of directors and managers—**The principal Act is hereby amended by repealing section 94 (as substituted by section 27 (1) of the Fisheries Amendment Act 1986).

**45. Knowingly permitting premises to be used for offence against Act—**The principal Act is hereby amended by inserting, after section 98 (as substituted by section 27 (1) of the Fisheries Amendment Act 1986), the following section:

“98A. (1) Every person commits an offence who knowingly permits any premises, vessel, or vehicle to be used for the purpose of the commission of an offence against this Act or any regulation made or notice given under this Act.

“(2) Section 105 (1) of this Act shall not apply in respect of any proceedings for an offence against subsection (1) of this section.”

**46. Ownership and possession of fish—**Section 99 of the principal Act (as substituted by section 27 (1) of the Fisheries Amendment Act 1986) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Subject to the provisions of any agreement to the contrary that is—

“(a) In the prescribed form or a form approved by the Director-General; and

“(b) Signed by the owner of the vessel and the other party or parties to the agreement; and

“(c) Furnished, before the fish, aquatic life, or seaweed in question are taken, to the Registrar at the port where the vessel is registered,—

all fish (except acclimatised fish), aquatic life, or seaweed taken by any means from a vessel shall, for the purposes of this Act and any regulations made or notice given under this Act, be deemed to be owned by the owner of the vessel.”

**47. Fish taken in New Zealand fisheries waters must be landed in New Zealand**—Section 101 of the principal Act (as substituted by section 27 (1) of the Fisheries Amendment Act 1986) is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) For the purposes of subsection (1) of this section, fish shall be deemed to have been landed at a place outside New Zealand if those fish are landed in New Zealand but—

“(a) Are not delivered to a person who is licensed or deemed to be licensed under regulations made pursuant to section 89 (1) (h) of this Act; and

“(b) Are loaded aboard a vessel or aircraft for export from New Zealand.”

**48. Controlled fish and gear deemed to be taken or used in controlled fishery**—The principal Act is hereby amended by inserting, after section 102 (as substituted by section 27 (1) of the Fisheries Amendment Act 1986), the following section:

“102A. For the purposes of this Act and any regulation made or notice given under this Act, if, in the opinion of a Fishery Officer, any controlled fish was taken from a controlled fishery or any gear or equipment was used in a controlled fishery, being controlled fish, gear, or equipment found on board a fishing vessel by the Fishery Officer, then, in the absence of proof to the contrary, that controlled fish, gear, or equipment, as the case may be, shall be deemed to have been so taken or used.”

**49. Fish in excess of certain quantities deemed to have been acquired or possessed for purposes of sale**—The principal Act is hereby amended by inserting, after section 103

(as substituted by section 27 (1) of the Fisheries Amendment Act 1986), the following section:

“103A. For the purposes of this Act and any regulation made or notice given under this Act, any person who is found in possession of any species or class of fish of an amount or quantity exceeding 7 times the amateur individual daily limit (if any) prescribed in respect of that class or species of fish shall, in the absence of proof to the contrary, be deemed to have acquired or to possess the fish for the purposes of sale.”

**50. Defences available to commercial fisherman taking unauthorised fish**—(1) The principal Act is hereby amended by inserting, after section 105 (as substituted by section 27 (1) of the Fisheries Amendment Act 1986), the following section:

“105A. (1) It shall be a defence in any proceedings against a commercial fisherman for an offence concerning the taking or possession of any fish or aquatic life in contravention of this Act or any regulation made under this Act, if the defendant proves that—

“(a) The defendant did not intend to take the fish or aquatic life; and

“(b) The fish or aquatic life was taken as an inevitable consequence of the lawful taking of other fish or aquatic life; and

“(c) Either—

“(i) Except in the case of any fish or rock lobster whose return to the sea is prohibited by section 28ZB (1) of this Act, the commercial fisherman immediately returned the fish to the sea; or

“(ii) Except in the case of any fish that is not of legal size, the defendant notified a Registrar as soon as practicable of the taking of the fish or aquatic life, and surrendered ownership of the fish or aquatic life to the Crown and disposed of the fish or aquatic life in accordance with the directions of a Registrar.

“(2) It shall be a defence in any proceedings against a commercial fisherman for an offence concerning the taking or possession of any fish (being fish taken on or after the 1st day of October 1990) subject to a quota management system in contravention of this Act or any regulations made under this Act if the defendant proves that—

“(a) At the time the fish were taken by the commercial fisherman, the fisherman had a current right to take any species or class of fish subject to a quota management system; and

- “(b) The commercial fisherman did not intend to take the fish; and
- “(c) The fish were taken as an inevitable consequence of the lawful taking of other fish; and
- “(d) The commercial fisherman has notified the Ministry of the taking of the fish in any return for the appropriate period required to be made under this Act; and
- “(e) The commercial fisherman has either—
- “(i) Not later than 15 days after the end of the calendar month in which the fish were taken, bought or leased quota that would have authorised the taking of the fish if it had been held by the commercial fisherman at the time the fish were taken, and notified a Registrar accordingly; or
- “(ii) Not later than 15 days after the end of the calendar month in which the fish were taken, entered into an arrangement with another commercial fisherman (being a fisherman who has the current right to take fish under any quota) for the fish to be counted against unused quota of that other fisherman, and has notified a Registrar accordingly; or
- “(iii) Where neither subparagraph (i) nor subparagraph (ii) of this paragraph applies, paid to the Crown the deemed value of the fish in accordance with section 28ZD of this Act, or has not been subject to any requirement under that section to pay the deemed value of the fish.”

(2) Section 75 of the Maori Fisheries Act 1989 is hereby deemed to be repealed as from its commencement.

**51. New sections inserted**—The principal Act is hereby amended by repealing sections 106 and 107 (as substituted by section 27 (1) of the Fisheries Amendment Act 1986), and substituting the following sections and headings:

**“105B. Liability of principal for actions of agent in relation to records and returns**—(1) Where a person (in this section referred to as the principal) is required by or under this Act to—

- “(a) Keep any account or record; or
- “(b) Furnish any return or information; or
- “(c) Complete any form; or



“(d) Take any action in relation to the keeping of any account or record or the furnishing of any return or information or the completing of any form,—  
every act or omission of any person acting or purporting to act as agent for the principal in respect of any such requirement shall be deemed for the purposes of this Act to be the act or omission of the principal, unless the principal proves that the person purporting to act as agent had no authority, either express or implied, to act as the principal’s agent for the purpose of keeping any account or record, or furnishing any return or information, or completing any form, or taking any action in respect of such matters, as the case may be.

“(2) Subject to subsection (3) of this section, any defence specified in section 105 (2) of this Act is available to the principal only to the extent that it can be proved in respect of the person in relation to whose act or omission the prosecution is brought.

“(3) A defence specified in section 105 (2) of this Act is available to a principal prosecuted in respect of the act or omission of an agent if the principal satisfies the Court that, having regard to—

“(a) Any likely or possible benefit or detriment arising to the principal from the act or omission in respect of which the prosecution is brought if the alleged offence had remained undetected; and

“(b) The purpose or motive of the agent whose act or omission it was; and

“(c) The relationship between the principal and the agent whose act or omission it was, or between the principal and any person appearing or likely to benefit from the alleged offence; and

“(d) Where the principal is a body corporate, whether or not any person responsible for or closely associated with the management of the body corporate appears to have benefited from the act or omission, or would have been likely to so benefit if the alleged offence had remained undetected; and

“(e) Any action taken by the principal, once aware of the act or omission, in respect of the agent whose act or omission it was or any person appearing likely to benefit from the alleged offence,—

it would be repugnant to justice to apply to the principal the limitation imposed by subsection (2) of this section in relation to any defence provided for in section 105 (2) of this Act.

“(4) For the purposes of this section,—

“(a) A person may act as an agent for a principal whether or not that person is employed by the principal and whether or not acting for reward:

“(b) Any agent of a person acting as agent shall be deemed to be acting as an agent of the principal.

“105c. **Liability of companies and persons for actions of officers and employees**—(1) Every act or omission of any officer or employee of a person, or of the master or any member of the crew of a vessel that is chartered or leased by the person for the purpose of engaging in fishing, shall be deemed for the purposes of this Act to be the act or omission of the person.

“(2) Subject to subsection (3) of this section, any defence specified in section 105 (2) of this Act in relation to a prosecution under this Act or any regulation made under this Act is available to a person only to the extent that it can be proved in respect of the officer, employee, master, or crew member in relation to whose act or omission the prosecution is brought.

“(3) A defence specified in section 105 (2) of this Act is available to a person prosecuted in respect of the act or omission of a person referred to in subsection (1) of this section if the person satisfies the Court that, having regard to—

“(a) Any likely or possible benefit or detriment arising to the person from the act or omission in respect of which the prosecution is brought if the alleged offence had remained undetected; and

“(b) The purpose or motive of the person whose act or omission it was; and

“(c) The relationship between the person and the person whose act or omission it was, or between the person and any person appearing or likely to benefit from the alleged offence; and

“(d) Where the person is a body corporate, whether or not any person responsible for or closely associated with the management of the body corporate appears to have benefited from the act or omission, or would have been likely to so benefit if the alleged offence had remained undetected; and

“(e) Any action taken by the person, or, where the person is a body corporate, by any person responsible for its management, once aware of the act or omission, in respect of the person whose act or omission it was or

any person appearing or likely to benefit from the alleged offence,—

it would be repugnant to justice to apply to the person the limitation imposed by subsection (2) of this section in relation to any defence provided for in section 105 (2) of this Act.”

“105D. **Liability of directors and managers**—Where any body corporate is convicted of an offence against this Act or any offence against any regulation made under this Act, every director and every person concerned in the management of the body corporate shall be guilty of a like offence if it is proved that the act that constituted the offence took place with the person’s authority, permission, or consent, or that the person knew or should have known that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

“105E. **Presumption as to authority**—A return or other information purporting to be furnished by or on behalf of any person shall, for all purposes of this Act, be deemed to have been furnished by that person or by that person’s authority unless the contrary is proved.

*“Evidence in Proceedings*

“106. **Certificates and official documents**—(1) Subject to subsection (4) of this section, in any proceedings for an offence against this Act or against any regulation made under this Act, the following certificates or documents shall be admissible in evidence and shall, in the absence of proof to the contrary, be sufficient evidence of the matter stated in the certificate or of the contents of the document, as the case may require:

“(a) A certificate purporting to be signed by the Director-General or any Registrar to the effect that, on a date specified in the certificate,—

“(i) A vessel specified in the certificate was or was not registered under this Act; or

“(ii) A person specified in the certificate was or was not the owner of a registered fishing vessel specified in the certificate; or

“(iii) A fishing permit, authority, or approval authorising a person named in the certificate to take fish, aquatic life, or seaweed was or was not in force; or

“(iv) A fishing permit, authority, or approval authorising the taking of fish, aquatic life, or

seaweed from a vessel named in the certificate was or was not in force; or

“(v) Any fishing permit, authority, or approval referred to in subparagraph (iii) or subparagraph (iv) of this paragraph was or was not subject to any specified condition attached or relating to the permit, authority, or approval; or

“(vi) Any specified interest in any specified quota allocated under Part IIA of this Act was or was not held by a person named in the certificate; or

“(vii) Any licence relating to the acquisition, storage, processing, or disposal of fish, aquatic life, or seaweed was or was not held by a person named in the certificate; or

“(viii) Any licence referred to in subparagraph (vii) of this paragraph was or was not subject to any specified condition attached or relating to the licence; or

“(ix) Any specified return or information required to be furnished under this Act was or was not furnished:

“(x) Any vessel was or was not subject to a conversion factor certificate given under section 3A (3) of this Act; or

“(xi) Any conversion factor certificate referred to in subparagraph (x) of this paragraph was or was not subject to any specified term or condition:

“(b) A certificate purporting to be signed by the Secretary to the Authority to the effect that, on a date specified in the certificate,—

“(i) A vessel specified in the certificate was not the subject of a boat authority; or

“(ii) The defendant or any other named person was not the holder of a licence or a temporary licence:

“(c) A copy of any licence, boat authority, or other document granted or issued under this Act purporting to be certified as correct by the Secretary to the Authority or the Director-General or any Registrar:

“(d) Any—

“(i) Certificate purporting to be signed by a Chief Surveyor appointed under the Survey Act 1986, or by the Royal New Zealand Naval Hydrographer, and stating the status of any area; or

“(ii) Map, plan, or other such document purporting to be certified as true by a Chief Surveyor or by the Royal New Zealand Naval Hydrographer:

“(e) Any—

“(i) Certificate purporting to be signed by the Registrar of Ships appointed under the Shipping and Seamen Act 1952 that, on a date specified in the certificate, a vessel specified in the certificate was not a New Zealand ship within the meaning of that Act; or

“(ii) Copy of a certificate of registry issued under the Shipping and Seamen Act 1952 which purports to be certified correct by the Registrar of Ships or by any officer duly authorised by the Registrar of Ships in that behalf:

“(f) Any certificate purporting to be signed by a serviceman within the meaning of the Defence Act 1971 and stating—

“(i) The position of any fishing vessel at a date and time specified in the certificate; or

“(ii) That the serviceman is satisfied that the equipment used to determine the position of any fishing vessel was in proper working order and that the equipment was accurate within specifications detailed in the certificate.

“(2) A certificate purporting to be signed by a person referred to in subsection (1) of this section may relate to any 1 or more of the matters with respect to which that person has authority to certify.

“(3) The production of any certificate or copy of any document for the purposes of this section purporting to be signed by any person authorised under this section to sign it shall be prima facie evidence of the certificate or copy without proof of the signature of the person purporting to have signed it.

“(4) Any certificate (not being a certified copy of a document) referred to in subsection (1) of this section shall be admissible in evidence only if—

“(a) At least 14 days before the hearing at which the certificate is to be tendered, a copy of that certificate is served, by or on behalf of the prosecutor, on the defendant or the defendant's agent or counsel, and that person is at the same time informed in writing that the prosecutor does

not propose to call the person who signed the certificate as a witness at the hearing; and

“(b) The Court has not, on the application of the defendant made not less than 7 days before the hearing, ordered, not less than 4 days before the hearing (or such lesser period as the Court in the special circumstances of the case thinks fit), that the certificate should not be admissible as evidence in the proceedings.

“(5) The Court shall not make an order under subsection (4) of this section unless it is satisfied that there is a reasonable doubt as to the accuracy or validity of a certificate.

**“106A. Copies of accounts, records, returns, and other documents—**(1) A copy of any account, record, return, or information required to be kept or furnished pursuant to this Act that purports to be certified by the Director-General or a Registrar as having been kept or furnished (as the case may require), at or within or in relation to any specified time or date or period, shall be sufficient evidence, in the absence of proof to the contrary, of the fact that the account, record, return, or information was so kept or furnished.

“(2) Any copy of a record or other document taken by a Fishery Officer or an examiner under section 79 (4) of this Act, or any copy of such a copy, shall, subject to subsection (3) of this section, be admissible, to the same extent as the original record or document would itself be admissible, as evidence of the record or document and of any transactions, dealings, amounts, or other matters contained in the record or document.

“(3) A copy of a record or document referred to in subsection (2) of this section (including a copy of such a copy) shall be admissible in evidence only if—

“(a) The prosecutor or an agent of the prosecutor serves on the defendant, or the defendant’s agent or counsel, not less than 14 days before the hearing at which it is proposed to tender the copy in evidence,—

“(i) Notice of the prosecutor’s intention to tender the copy in evidence; and

“(ii) A copy of the copy to be so tendered; and

“(b) The Court has not, on the application of the defendant made not less than 4 days before the hearing (or such lesser period as the Court in the special circumstances of the case thinks fit), ordered that

the copy should not be admissible in the proceedings.

“(4) The Court shall not make an order under subsection (3) of this section unless it is satisfied that there is a reasonable doubt as to the accuracy or validity of the copy.

“106B. **Presumption as to master of fishing vessel**—In any proceedings for an offence against this Act or any regulations made under this Act, an allegation made by the informant in any information relating to whether or not any person was the master of any registered fishing vessel at any specified time shall be presumed to be true in the absence of proof to the contrary.

“106C. **Presumptions to apply whether or not separate or further evidence adduced in support**—Where it is provided in this Act that any presumption is to apply in respect of any matter, the presumption shall apply whether or not separate or further evidence is adduced by or on behalf of the informant in support of the relevant allegation or presumption.

#### “Penalties

“107. **Penalties**—(1) Every person who commits an offence against this Act or any regulation made under this Act for which no other penalty is prescribed shall on conviction be liable to a fine not exceeding \$250,000, and, if the offence is a continuing one, to a further fine not exceeding \$1,000 for every day after the first day on which the offence has continued.

“(2) Subject to section 73 (2) of the Public Finance Act 1977, all fines imposed and recovered in proceedings taken by an acclimatisation society for any breach of this Act or any regulations made or notice given under this Act shall be paid to the acclimatisation society in the district of which the fines were received, for the purpose of the distribution, rearing, cultivation, and protection of fish in the district of that society.”

**52. New sections substituted**—(1) The principal Act is hereby amended by repealing sections 107B and 107C (as substituted by section 27 (1) of the Fisheries Amendment Act 1986 and amended by section 86 (1) of the Public Finance Act 1989), and substituting the following sections:

“107B. **Forfeiture of property and quota on conviction**—(1) In this section, unless the context otherwise requires,—

“ ‘Fish’ includes any aquatic life or seaweed:

- “ ‘Offence relating to returns and records’ means an offence against section 66 of this Act or any regulations made under section 89 (1) (ka) of this Act; but does not include an offence for which the maximum penalty does not exceed \$5,000:
- “ ‘Property’ means any vessel, vehicle or other conveyance, fishing gear, implement, appliance, material, container, goods, or equipment; but does not include quota:
- “ ‘Quota’, in relation to a person convicted of an offence, means any guaranteed minimum individual transferable quota or guaranteed minimum transferable term quota (including any right to receive individual transferable quota or transferable term quota attached to the quota) and any individual transferable quota or transferable term quota held or leased by that person, and—
- “(a) Includes any interest held by that person in any quota:
- “(b) Does not include—
- “(i) Any quota or interest in quota acquired by the person after the date of the offence; or
- “(ii) Any quota or interest in quota that, before the date of the conviction, has been transferred or leased otherwise than in circumstances in which the transfer or lease would be ineffective under section 28Q (7) of this Act; or
- “(iii) Any leasehold or other interest in quota that was for a limited period only, where that interest has lapsed by effluxion of time:
- “ ‘Quota management offence’ means—
- “(a) An offence against any of the provisions of Part IIA of this Act; and
- “(b) An offence against—
- “(i) Section 67 (1) of this Act (which relates to the selling of fish by commercial fishermen otherwise than to certain authorised persons); or
- “(ii) Section 67A of this Act (which relates to the purchase or acquisition of fish otherwise than from certain authorised persons); or
- “(iii) Section 101 of this Act (which relates to the landing of fish outside New Zealand),—



where the fish to which the offence relates are subject to a quota management system; and

“(c) An offence against any regulation made under this Act that is specified by this Act or by regulations made under this Act to be a quota management offence;—

but does not include an offence for which the maximum penalty does not exceed \$5,000.

“(2) On the conviction of any person for a quota management offence or an offence relating to returns and records,—

“(a) Any property used in respect of the commission of the offence (whether or not seized pursuant to section 80 of this Act); and

“(b) Any fish in respect of which the offence was committed (whether or not seized pursuant to section 80 of this Act); and

“(c) Any proceeds from the sale of such fish pursuant to section 80 (4) of this Act; and

“(d) Any quota held by the person at the time the offence was committed—

shall be forfeit to the Crown unless the Court for special reasons relating to the offence thinks fit to order otherwise.

“(3) On the conviction of any person for an offence against this Act or regulations made under this Act (not being a quota management offence or an offence relating to records and returns or an offence for which the maximum penalty is a fine not exceeding \$5,000),—

“(a) There shall be forfeit to the Crown, unless the Court for special reasons relating to the offence thinks fit to order otherwise,—

“(i) Any property used in respect of the commission of the offence (whether or not seized pursuant to section 80 of this Act); and

“(ii) Any fish in respect of which the offence was committed (whether or not seized pursuant to section 80 of this Act); and

“(iii) Any proceeds from the sale of such fish pursuant to section 80 (4) of this Act;

“(b) The Court may order that any quota held by the person at the time the offence was committed shall be forfeit to the Crown.

“(4) On the conviction of any person for an offence against this Act or any regulations made under this Act for which the maximum penalty is a fine not exceeding \$5,000, or on the

discharge of any person without conviction pursuant to section 19 of the Criminal Justice Act 1985 in respect of any offence against this Act or any regulations made under this Act,—

“(a) Any fish in respect of which the offence was committed (whether or not seized pursuant to section 80 of this Act); and

“(b) Any proceeds from the sale of such fish pursuant to section 80 (4) of this Act; and

“(c) Any illegal fishing gear in respect of which the offence was committed (whether or not seized pursuant to section 80 of this Act),—

shall be forfeit to the Crown, unless the Court for special reasons relating to the offence thinks fit to order otherwise.

“(5) For the purposes of section 19 of the Criminal Justice Act 1985, any forfeiture referred to in subsection (2) or subsection (3) (a) of this section shall be deemed to be a minimum penalty in respect of the commission of an offence referred to in those subsections, except to the extent that the Court for special reasons relating to the offence thinks fit to order that the property, fish, proceeds, or quota not be forfeit.

“107c. **Provisions relating to forfeited property and quota**—(1) Where any property, fish, proceeds, quota, or interest in quota (hereafter in this section all referred to as property) is forfeit or ordered to be forfeit to the Crown under section 107b of this Act, the Minister may, subject to the provisions of this section, dispose of that property as the Minister thinks fit.

“(2) Any person whose property has been forfeit to the Crown under section 107b of this Act or any person having a legal or equitable interest in such property may apply to the Minister within 30 days of the conviction for the release of the property so forfeit; and the Minister may order the release of such property on payment to the Crown of such amount (if any) as the Minister thinks appropriate, being an amount not exceeding the amount the items otherwise forfeit are estimated by the Director-General to realise if sold by public auction in New Zealand.

“(3) In considering whether or not to release any forfeit property that is quota or an interest in quota, or in determining the amount of any payment upon which such property may be released, the Minister shall have regard to, and may give such weight in respect of each such matter as the Minister thinks fit in the circumstances of the case to, the following matters:

- “(a) The management and conservation of fisheries and fishery resources within New Zealand and New Zealand fisheries waters:
- “(b) The need for adequate deterrents against the commission of offences against this Act and regulations made under this Act:
- “(c) The effect of the offence from which the forfeiture arose on the fishery from which the fish were taken or in which the vessel was, and on other fishermen (whether commercial or amateur) in that fishery:
- “(d) The effect of offending of the type from which the forfeiture arose on the relevant fishery, and on fishermen (whether commercial or amateur) in that fishery:
- “(e) The social and economic effects on the person who held the quota or interest in quota, and persons employed by that person, of non-release of the forfeited quota or interest:
- “(f) The previous offending history (if any) of the person who held the quota or interest in quota:
- “(g) The economic benefits that accrued or might have accrued to the person who held the quota or interest in quota through the commission of the offence:
- “(h) The interest of any other person in the quota concerned:
- “(i) Such other matters as the Minister considers relevant.
- “(4) Any forfeiture directed or redemption payment imposed pursuant to this section shall be in addition to, and not in substitution for, any other penalty that may be imposed by the Court or by this Act.
- “(5) Notwithstanding subsection (2) of this section, where the prosecution was commenced on the information of an officer of an acclimatisation society, the forfeited property shall be disposed of by the Minister to that acclimatisation society for the purposes of sale and may be sold by the society, and the proceeds of sale shall be paid into its funds and applied for the purposes of the society.
- “(6) Nothing in this section or in section 107B of this Act shall prevent the acquisition of any individual transferable quota or transferable term quota or any interest in any individual transferable quota or transferable term quota (including any quota or interest in quota forfeited under section 107B of this Act) from the Crown or any other person.”

(2) The Public Finance Act 1989 is hereby consequentially amended by repealing so much of the Schedule as relates to section 107B (5) of the Fisheries Act 1983.

(3) Sections 76 and 77 of the Maori Fisheries Act 1989 are hereby deemed to be repealed as from their commencement.

(4) Subsections (1) and (2) of this section shall come into force on a date to be fixed by the Governor-General by Order in Council.

**53. Forfeiture of licence, approval, permission, or permit, and banning from industry on second conviction**—(1) Section 107D of the principal Act (as substituted by section 27 (1) of the Fisheries Amendment Act 1986) is hereby amended—

- (a) By inserting in subsection (1), after the words “regulation made under this Act”, the words “(not being an offence referred to in subsection (6) of this section)”;
- (b) By omitting from subsection (1) the words “or notice given under this Act”, and substituting the words “under this Act (not being an offence referred to in subsection (6) of this section)”;
- (c) By inserting in subsection (3), after the words “regulation made under this Act”, the words “(not being an offence referred to in subsection (6) of this section)”.

(2) Section 107D of the principal Act (as so substituted) is hereby further amended by adding the following subsections:

“(5) For the purposes of this section, where—

- “(a) A person is convicted of assault, or of any other offence of which an assault constitutes an element (being an offence committed on or after the 1st day of April 1990); and
- “(b) The assault was on a person who was at the time carrying out the duties of a Fishery Officer or examiner under this Act,—

that conviction shall be deemed to be a conviction in respect of an offence against this Act.

“(6) Nothing in subsection (1) of this section shall apply to any offence committed by a person in respect of which—

- “(a) A conviction is entered on or after the date on which section 52 of the Fisheries Amendment Act 1990 comes into force; and
- “(b) The maximum penalty is a fine not exceeding \$5,000.”

**54. Resource rentals payable in respect of certain fish**—Section 107F (3) of the principal Act (as inserted by section 28 (1) of the Fisheries Amendment Act 1986) is hereby amended by omitting the words “, or in respect of fish taken under the authority of a declaration made under section

28T(3)(d) of this Act”, and substituting the words “or guaranteed minimum transferable term quota or transferable term quota”.

**55. Variation of resource rentals by Order in Council**—(1) Section 107G of the principal Act (as inserted by section 28 (1) of the Fisheries Amendment Act 1986) is hereby amended by inserting, after subsection (4), the following subsection:

“(4A) The resource rental in respect of any species or class of fish for any fishing year beginning on or after the 1st day of October 1989 and ending before the 1st day of October 1994 shall not be increased from the resource rental for that species or class of fish for the preceding year by more than the percentage by which the Index number of the quarterly Consumers Price Index All Groups issued by the Government Statistician for the quarter ending with the 30th day of June immediately preceding the beginning of the fishing year exceeds the Index number so issued for the quarter ending on the preceding 30th day of June.”

(2) Section 107G(7) of the principal Act (as so inserted) is hereby amended—

- (a) By inserting in paragraph (a), after the word “quotas”, the words “or transferable term quotas”;
- (b) By inserting in paragraph (c), after the words “total allowable”, the word “commercial”.

**56. Schedules substituted**—(1) The principal Act is hereby amended by repealing Schedules 1B and 1C (as substituted by the Fisheries (Resource Rentals Variation) Order 1989 and amended by sections 78 and 79 of the Maori Fisheries Act 1989), and substituting the Schedules set out in the Schedule to this Act.

(2) Sections 78 and 79 of the Maori Fisheries Act 1989 are hereby consequentially repealed.

(3) The Fisheries (Resource Rentals Variation) Order 1989 (S.R. 1989/278) is hereby consequentially revoked.

(4) Resource rentals for packhorse and spiny rock lobster taken in the months of December 1989 and of January, February, and March 1990 shall be payable, on or before the 20th day of April 1990, at the rate specified in Part II of Schedule 1B to the principal Act as if that rate of resource rental were still specified as the resource rental for rock lobster in Schedule 1C to the principal Act.

**57. Amendments to Maori Fisheries Act 1989—**

(1) Section 8 of the Maori Fisheries Act 1989 is hereby amended by inserting, after paragraph (a), the following paragraph:

“(aa) From time to time consult with representatives of tribes who have a history or tradition of engagement in the business and activity of fishing, and in the exercise of its functions under this Act take into account the views expressed in such consultations:”.

(2) Section 40 of the Maori Fisheries Act 1989 is hereby amended by repealing paragraphs (a) to (d), and substituting the following paragraphs:

“(a) Shall, before the 31st day of March 1990 or such later date as may be agreed between the Crown and the Commission, transfer to the Commission 2.5 percent of the then existing total allowable catches specified under Part IIA of the Fisheries Act 1983; and

“(b) Shall, in the year ending on the 31st day of October 1990, transfer to the Commission—

“(i) In relation to rock lobster, 5 percent of the then existing total allowable commercial catches for rock lobster specified under Part IIA of the Fisheries Act 1983; and

“(ii) In relation to all other species and classes of fish, 2.5 percent of the then existing total allowable commercial catches specified under Part IIA of the Fisheries Act 1983; and

“(c) Shall, in the year ending on the 31st day of October 1991, transfer to the Commission 2.5 percent of the then existing total allowable commercial catches specified under Part IIA of the Fisheries Act 1983; and

“(d) Shall, in the year ending on the 31st day of October 1992, transfer to the Commission 2.5 percent of the then existing total allowable commercial catches specified under Part IIA of the Fisheries Act 1983.”

(3) Section 40 of the Maori Fisheries Act 1989 is hereby further amended by adding the following subsection:

“(2) In this section and in sections 41 to 43 of this Act, the term ‘total allowable commercial catch’, in relation to any total allowable commercial catch specified in respect of any fishery after the commencement of the Fisheries Amendment Act 1990, includes, in addition to the amount of the catch so specified, any amount determined under section 12 of the Territorial Sea and Exclusive Economic Zone Act 1977 as the allowable catch for foreign fishing craft in the fishery, to the

extent that any such amount has been allowed for under section 28D (1) (a) (ii) of the Fisheries Act 1983 before specifying the total allowable commercial catch.”

(4) Section 41 of the Maori Fisheries Act 1989 is hereby amended—

- (a) By inserting in subsection (2), after the expression “1 month”, the words “, or, in the case of a transfer referred to in section 40 (a) of this Act, such shorter period as may be agreed between the Crown and the Commission,”;
- (b) By inserting in subsection (3), after the words “subsection (1) of this section”, the words “, or, in the case of a transfer referred to in section 40 (a) of this Act, within such later period as may be agreed between the Crown and the Commission”;
- (c) By omitting from subsection (3) (b) the words “total allowable catch”, and substituting the words “total allowable commercial catch”.

(5) Section 42 (a) of the Maori Fisheries Act 1989 is hereby amended by omitting from both subparagraph (i) and subparagraph (ii) the words “total allowable catch”, and substituting in each case the words “total allowable commercial catch”.

(6) Section 43 of the Maori Fisheries Act 1989 is hereby amended—

- (a) By omitting from both subsection (1) and subsection (2) the words “total allowable catch”, and substituting in each case the words “total allowable commercial catch”;
- (b) By inserting in subsection (1), after the words “section 40 (a) of this Act,”, the words “or within such longer period not exceeding 2 months as may be agreed between the Commission and the company,”;
- (c) By inserting in subsection (2), after the words “section 40 of this Act,”, the words “or within such longer period not exceeding 2 months as may be agreed between the Commission and the company,”.

(7) The Second Schedule to the Maori Fisheries Act 1989 is hereby amended—

- (a) By inserting in the heading to the fourth column, after the word “Allowable”, the word “Commercial”;
- (b) By omitting from the fourth column the expression “447”, and substituting the expression “503”;
- (c) By omitting the expression “22” from the third column:

(d) By inserting in the fourth column, in respect of the item relating to packhorse rock lobster, the expression “27”.

(8) The Third Schedule to the Maori Fisheries Act 1989 is hereby amended by omitting the heading and description relating to Quota Management Area 2—Bay of Plenty, and substituting the following heading and description:

*“Quota Management Area 2—Bay of Plenty*

“The area of New Zealand fisheries waters defined on Ministry of Agriculture and Fisheries Map No. 151 (File Reference 20/1/5) held in the Head Office of the said Ministry, and bounded—

“(a) By the mean high-water mark of that part of the shore of the North Island from East Cape Lighthouse (at  $37^{\circ}41.4'S$  and  $178^{\circ}32.8'E$ ) to Te Arai Point (at  $36^{\circ}09.8'S$  and  $174^{\circ}39'E$ ); and

“(b) By a straight line from East Cape Lighthouse (at  $37^{\circ}41.4'S$  and  $178^{\circ}32.8'E$ ) on a true compass bearing of  $45^{\circ}$ ; and

“(c) By a straight line from Te Arai Point (at  $36^{\circ}09.8'S$  and  $174^{\circ}39'E$ ) on a true compass bearing of  $45^{\circ}$ .”

(9) The Third Schedule to the Maori Fisheries Act 1989 is hereby further amended by omitting the heading and description relating to Quota Management Area 3—Gisborne, and substituting the following heading and description:

*“Quota Management Area 3—Gisborne*

“The area of New Zealand fisheries waters defined on the Ministry of Agriculture and Fisheries Map No. 151 (File Reference 20/1/5) held in the Head Office of the said Ministry, and bounded—

“(a) By the mean high-water mark of that part of the shore of the North Island from East Cape Lighthouse (at  $37^{\circ}41.4'S$  and  $178^{\circ}32.8'E$ ) to the Wairoa River entrance (at  $39^{\circ}04'S$  and  $177^{\circ}25'E$ ); and

“(b) By a straight line from East Cape Lighthouse (at  $37^{\circ}41.4'S$  and  $178^{\circ}32.8'E$ ) on a true compass bearing of  $45^{\circ}$ ; and

“(c) By a straight line from the Wairoa River entrance (at  $39^{\circ}04'S$  and  $177^{\circ}25'E$ ) on a true compass bearing of  $160^{\circ}$ .”

**58. Amendments to Fishing Industry Board Act 1963—**  
Section 10 (1) (ka) of the Fishing Industry Board Act 1963 (as



inserted by section 30 (1) of the Fisheries Amendment Act 1986) is hereby amended by inserting, after the word "quotas" where it twice appears, the words "and transferable term quotas".

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Section 56

## SCHEDULE

## NEW SCHEDULES 1B AND 1C TO PRINCIPAL ACT

Sections 282c and 107g

## "SCHEDULE 1B

## RESOURCE RENTALS UNDER QUOTA MANAGEMENT SYSTEM

Species or Class of Fish	Rate of resource rental per tonne of quota held where person does not have use of any foreign owned New Zealand fishing vessel at any time during the fishing year	Rate of resource rental per tonne of quota held where person has use of any foreign owned New Zealand fishing vessel at any time during the fishing year
	\$	\$
<i>Part I—Species or Classes of Fish with Fishing Year Beginning 1 October</i>		
Alfonsino .. .. .	8.04	16.08
Barracouta .. .. .	6.32	12.64
Blue cod .. .. .	16.29	32.58
Blue moki .. .. .	9.40	18.80
Bluenose .. .. .	16.29	32.58
Blue warehou .. .. .	8.77	17.54
Elephant fish .. .. .	23.80	47.60
Flatfish .. .. .	16.44	32.88
Gemfish .. .. .	17.54	35.08
Grey mullet .. .. .	10.02	20.04
Gurnard .. .. .	15.03	30.06
Hake .. .. .	33.83	67.66
Hapuku and bass combined .. .. .	22.55	45.10
Hoki .. .. .	11.37	22.74
Jack mackerel .. .. .	6.02	12.04
John dory .. .. .	21.30	42.60
Ling taken in Sub-Antarctic area	28.71	57.42
Ling taken in any other area	41.34	82.68
Orange roughy .. .. .	131.54	263.08
Oreo dories .. .. .	14.79	29.58
Paua .. .. .	131.54	263.08
Red cod taken in South-East (Coast) area .. .. .	3.13	6.26
Red cod taken in any other area	9.40	18.80
Rig .. .. .	18.64	37.27
School shark .. .. .	15.89	31.78
Silver warehou .. .. .	31.32	62.64
Snapper .. .. .	51.36	102.72
Squid taken in Southern Islands area .. .. .	18.74	62.48
Squid taken in any other area	37.49	124.98
Stargazer taken in South-East (Chatham Rise) area .. .. .	3.13	6.26
Stargazer taken in any other area	13.57	27.14
Tarakihi .. .. .	12.63	25.26

SCHEDULE—*continued*"SCHEDULE 1B—*continued*RESOURCE RENTALS UNDER QUOTA MANAGEMENT SYSTEM—*continued*

Species or Class of Fish	Rate of resource rental per tonne of quota held where person does not have use of any foreign owned New Zealand fishing vessel at any time during the fishing year	Rate of resource rental per tonne of quota held where person has use of any foreign owned New Zealand fishing vessel at any time during the fishing year
	\$	\$
Trevally . . . . .	12.63	25.26
Any other species or class of fish (being fish in respect of which resource rentals are not payable under Part II of this Schedule or Schedule 1c to this Act) . .	3.76	7.52
<i>Part II—Species or Classes of Fish with Fishing Year Beginning 1 April</i>		
Rock lobster, packhorse . . . . .	346.50	346.50
Rock lobster, spiny . . . . .	346.50	346.50

## SCHEDULE 1c

Sections 107F and 107G

## RESOURCE RENTALS WHERE NO QUOTA MANAGEMENT SYSTEM

Species or Class of Fish	Rate of Resource Rental
Oysters taken by dredging on or after 1 October 1989 . . . . .	\$27.77 per tonne
Scallops taken on or after 1 October 1989 . . . . .	\$313.20 per tonne (meat weight)."

This Act is administered in the Ministry of Agriculture and Fisheries.