



ANALYSIS

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1992, No. 33

An Act to make provisions with respect to certain applications and decisions relating to marine farming leases and licences
[28 April 1992]

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

1. Short Title—This Act may be cited as the Marine Farming Amendment Act 1992, and shall be read together with and deemed part of the Marine Farming Act 1971 (hereinafter referred to as the principal Act).

2. Saving of applications for leases or licences—(1) This section applies to every application described in subsection (2) of this section and lodged under section 13 of the principal Act in the period commencing with the 1st day of October 1989 and ending with the 30th day of September 1991, and being—

- (a) An application lodged more than 6 months before the expiration of the term of the marine farming lease or licence concerned, where the application was accepted by the controlling authority but was not finally dealt with; or
- (b) An application lodged 6 months or less before the expiration of the lease or licence, where the application was accepted by the controlling authority but was not finally dealt with; or
- (c) An application lodged 6 months or less before the expiration of the lease or licence, where the

application was not accepted by the controlling authority and was not dealt with.

(2) The applications referred to in subsection (1) of this section are written applications that were lodged with the Ministry of Agriculture and Fisheries and sought the extension of the term of a marine farming lease or licence granted under the principal Act.

(3) Section 426 (1) of the Resource Management Act 1991 (as amended by section 5 of this Act) shall be deemed to apply in respect of every lease and licence that is subject to an application to which this section applies, and the provisions of the principal Act (including section 13) shall apply to such leases and licences in the manner specified in the said section 426 (1) (as so amended) as if the Minister were the controlling authority.

(4) While an application to which this section applies is pending, the holder of the lease or licence to which the application relates shall be deemed to have authority to operate under the lease or licence; and the holder shall be deemed always to have had such authority.

(5) The authority conferred by subsection (4) of this section shall expire,—

(a) In the case of a successful application, when the extension is granted and registered; or

(b) In the case of an application that is declined, when the holder is notified by the controlling authority of his or her or its decision.

(6) For the purposes of this section, every lease or licence that is subject to an application to which this section applies—

(a) Shall be deemed to be and always to have been in force; and

(b) Shall continue in force until the expiration of the authority conferred in respect of that lease or licence by subsection (4) of this section.

3. Validation of extensions granted out of time—

(1) Every extension granted in respect of a lease or licence under section 13 of the principal Act before the 1st day of October 1991, but not registered under section 15 of the principal Act before the expiration of the lease or licence, shall be deemed to be and always to have been lawful.

(2) For the purposes of section 426 of the Resource Management Act 1991 (as amended by section 5 of this Act), every lease or licence to which subsection (1) of this section applies shall be deemed to have been in force immediately

before the commencement of the Resource Management Act 1991 and that section (as so amended) shall apply to it accordingly.

4. Operations under existing leases and licences may continue until application dealt with—(1) This section applies to every application lodged with the Ministry or the relevant controlling authority after the 30th day of September 1991 that seeks an extension of the term of a marine farming lease or licence under the principal Act (as applied by section 426 (1) of the Resource Management Act 1991).

(2) While an application to which this section applies is pending, the holder of the lease or licence to which the application relates shall be deemed to have authority to operate under the licence; and the holder shall be deemed always to have had such authority.

(3) The authority conferred by subsection (2) of this section shall expire,—

(a) In the case of a successful application, when the extension is granted and registered; or

(b) In the case of an application that is declined, when the holder is notified by the controlling authority of his or her or its decision.

(4) For the purposes of this section, every lease or licence that is subject to an application to which this section applies—

(a) Shall be deemed to be and always to have been in force; and

(b) Shall continue in force until the expiration of the authority conferred in respect of that lease or licence by subsection (2) of this section.

5. Amendments to Resource Management Act 1991—

(1) Section 426 (1) of the Resource Management Act 1991 is hereby amended by inserting, before the words “all the provisions of that Act”, the words “, except as provided in subsection (1A),”.

(2) Section 426 of the Resource Management Act 1991 is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) The provisions of the Marine Farming Act 1971 shall apply to leases and licences referred to in subsection (1) with the following modifications:

“(a) Section 13 (2) of that Act (as amended by section 6 (1) of the Ministry of Agriculture and Fisheries Amendment Act 1972) shall be read as if the words

‘before the expiration of the lease’ and the proviso were omitted:

- “(b) Section 13 (4) of that Act (as so amended) shall be read as if the words ‘before the expiration of any licence’ and the proviso were omitted:
- “(c) Every application for the extension of the term of any such lease or licence is required to be made not more than 2 years before the expiration of that lease or licence and not later than the date of the expiration of that lease or licence.”

6. Conflict with other Acts—The provisions of this Act shall apply notwithstanding anything in the principal Act or the Resource Management Act 1991, and notwithstanding that the lease or licence concerned may have expired before the commencement of this Act.

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