

# **Fisheries Amendment Bill (No 3)**

Government Bill

## **Explanatory note**

### **General policy statement**

The underlying objectives of this Bill are to—

- reinforce the quota management system (QMS) as the preferred framework for managing fisheries resources:
- improve certainty in identifying species for QMS management:
- improve the means of allocating quota when a species is introduced into the QMS:
- revise the current regime for authorising access to commercial fisheries:
- introduce scampi into the QMS:
- improve the operation of the Fisheries Act 1996:
- extend the QMS to cover highly migratory species outside New Zealand fisheries waters:
- provide for the transition from green-lipped mussel spat catching permits issued under the Fisheries Act 1983 to management under the QMS.

Given these underlying objectives the Bill specifically does the following—

- removes provisions enabling the use of individual catch entitlements (ICE):
- provides more direction as to when the QMS will be used and provides a transparent process for a stock's introduction into the QMS:

- removes the current moratorium on issuing new permits for non-QMS species:
- implements a new permitting regime for authorising access to commercial fisheries:
- removes ICE as a means of allocating quota when a stock is introduced into the QMS and restricts the stocks to which catch history applies:
- provides a transitional regime to apply to specified species and stocks that will be allocated using catch history and will retain the permit moratorium on issuing new fishing permits:
- introduces scampi into the QMS from 1 October 2004 using the standard allocation framework within the Act to calculate provisional catch history:
- provides for catches of highly migratory species taken outside New Zealand fisheries waters to be counted as catch history for species to be managed in the QMS:
- extends the application of the QMS catch balancing regime to cover highly migratory species outside New Zealand fisheries waters:
- changes the basis on which the Minister may approve foreign licences for fishing for highly migratory species:
- makes a number of technical amendments:
- repeals the ability to provide new spat catching permits for harvest of spat without structures:
- provides a transitional framework to allow existing green-lipped mussel spat catching permit holders to harvest green-lipped mussel spat outside the QMS until 30 September 2006:
- specifies that green-lipped mussel spat taken by permit holders during the transitional period is accounted for under section 21 of the Fisheries Act 1996 as “other mortality to stock caused by fishing”.

### Clause by clause analysis

*Clause 1* is the Title clause. The Bill primarily amends the Fisheries Act 1996.

*Clause 2* provides that the Bill comes into force on 1 October 2004, except for *section 35(3), Part 3, and Schedule 2*, which come into force on the day on which the Bill receives the Royal assent.

*Section 35(3)* is the provision that requires the chief executive to issue replacement fishing permits that reflect the changes made to section 92 of the Act. Since those changes come into force on 1 October 2004 it is appropriate to allow time for this to be done beforehand.

*Part 3 and Schedule 2* deal with the introduction of scampi into the quota management system on 1 October 2004, and some lead-in time is necessary for this. The Part is drafted so that it could if appropriate be split off from the rest of the Bill and its passage accelerated.

## Part 1

### Amendments to principal Act

*Clause 3* amends section 2, the interpretation section. Many of the amendments are relevant to the accommodation of highly migratory species within the quota management system.

The definition of **tender** is tightened up to prevent fishers registering what would normally be their tender vessel as their primary fishing vessel, and then marking the primary fishing vessel as the tender under regulation 16 of the Fisheries (Commercial Fishing) Regulations 2001.

A new definition of **port** is also inserted.

*Clause 4* amends section 14(8) to allow the Minister to use an alternative method to set a total allowable catch for highly migratory species - this may be appropriate to reflect New Zealand's national allocation under an international fisheries agreement.

*Clause 5* repeals sections 17 and 18 of the Act and substitutes new sections and headings. The main new provisions are *new sections 17A and 17B*.

The *new section 17A* provides for the application of Part IV of the Act to a highly migratory species subject to the quota management system that is taken by a New Zealand operator who used a New Zealand ship outside New Zealand fisheries waters, whether on the high seas or in another state's fisheries jurisdiction. In general terms, such operators will be required to report and balance their catch under Part IV of the Act as if it were taken within New Zealand fisheries waters.

The *new section 17B* requires the Minister to consider whether a stock or species should be brought within the quota management

system if he or she is satisfied that the current management of the stock or species is resulting or likely to result in unsustainable fishing, or is not enabling utilisation of the stock or species. Once satisfied of either of those matters, the Minister must bring the stock or species within the quota management system unless he or she determines that the purpose of the Act would be better met by adopting one or more of the sustainability measures set out in section 11(3) of the Act (eg size, area, or fishing method limits).

Special provision is made in *subsection (4)* for stocks listed in the *new Schedule 4C* (which are stocks that, if brought into the quota management system, will have quota allocated on the basis of provisional catch history).

*Clause 6* amends section 19 of the Act, which deals with matters to be included in a notice bringing a stock within the quota management system, by allowing a notice dealing with a stock listed in *Schedule 4C* to remove that stock from the Schedule with effect on the date it comes into the quota management system.

*Clause 7* inserts *new sections 29A and 29B* into the Act.

The new sections provide that quota is to be allocated on the basis of provisional catch history only in the case of—

- stocks or species listed in the *new Schedule 4C*;
- tuna inside New Zealand fisheries waters;
- highly migratory species outside New Zealand fisheries waters.

In all other cases, 80% of quota shares are to be issued to the Crown and 20% to the Treaty of Waitangi Fisheries Commission.

*Clauses 8 and 9* repeal sections 30 and 31 of the Act as overtaken by *new sections 29A and 29B*.

*Clause 10* amends section 32 of the Act, which relates to eligibility criteria for provisional catch history, to remove references to individual catch entitlements and include appropriate references in relation to highly migratory species taken outside New Zealand fisheries waters.

*Clause 11* amends section 32A of the Act, which relates to estates of deceased fishing permit holders, to include high seas fishing permits within the ambit of the section.

*Clause 12* repeals section 32B, which provided that section 32A would expire on 30 September 2007 and that all provisional catch history held by an estate on that date would be cancelled.

*Clause 13* amends section 34 of the Act principally to allow provisional catch history for highly migratory species to be calculated in accordance with regulations, where appropriate to ensure consistency with the method of calculation used by the relevant regional fisheries management organisation in determining New Zealand's national allocation for the relevant stock.

*Clause 14(2)* amends section 35 of the Act, which relates to public notification of eligibility to receive provisional catch history, to require notification only of the fact of allocation and the location where relevant information can be found, rather than publication of the full information itself.

Other amendments to the section are of a consequential nature.

*Clause 15* repeals sections 38 to 41 of the Act. Section 38 is an unnecessary dispute resolution clause in relation to transfers of provisional catch history. Sections 39 to 41 relate to the individual catch entitlement basis for the allocation of provisional catch history.

*Clause 16* amends section 44 of the Act to include a reference to the *new section 29B* and remove a reference to stocks listed in the repealed Schedule 4.

*Clause 17* amends section 45 of the principal Act, which relates to eligibility criteria for quota, to include reference to holders of high seas fishing permits and authorisations to fish in foreign jurisdictions.

*Clause 18* amends section 46 of the Act to allow withholding of quota where a high seas fishing permit has been suspended for non-payment of levies or deemed value amounts.

*Clause 19* amends section 47 of the Act as a consequence of the repeal of sections 50A to 50G, and to provide for the method of allocation where the total allowable commercial catch for a stock is zero.

*Clause 20* removes a cross-reference in section 48 to the repealed section 50C.

*Clause 21* amends section 49 of the Act to remove a reference to the now repealed dispute resolution section 38.

*Clause 22* inserts a *new section 49A* into the Act that allows a person who has quit the industry to surrender their quota to the Crown.

*Clause 23* repeals sections 50A to 50G of the Act, which relate to Fourth Schedule stocks (these are stocks for which compensation is payable when provisional catch history is reduced). The last of these stocks, North Island freshwater eels, kahawai, and southern bluefin tuna, enter the quota management system on 1 October 2004, so the provisions are redundant (although they are continued in force to the extent necessary to complete any processes in relation to those stocks).

*Clause 24* amends section 51 of the Act, which relates to rights of appeal, consequentially upon other changes in the Bill and to include references to high seas fishing permits.

*Clause 25* amends section 52 of the Act, which relates to the effect of a decision to alter provisional catch history, to remove references to dispute resolution under section 38.

*Clause 26* repeals section 53(3) as a consequence of the repeal of sections 50A to 50G and the Fourth Schedule.

*Clause 27* amends section 55 of the Act to remove a reference to transfer disputes under section 38.

*Clause 28* amends section 68 of the Act to allow the Minister to adopt an appropriate allocation mechanism where there is an increase in the total allowable catch for a highly migratory species as a result of an international agreement.

*Clause 29* connects a wrong cross-reference in section 78(2) of the Act.

*Clause 30* amends section 81 of the Act in relation to the calculation of foreign allowable catch, to give the Minister a discretion to set a total allowable catch, to remove the tie to the beginning of a fishing year in calculating the Crown's available annual catch entitlement for a stock, and to remove highly migratory species from the ambit of the section.

*Clause 31* similarly removes highly migratory species from the ambit of section 82 of the Act, which provides for the apportionment of foreign allowable catch for foreign fishing vessels.

*Clause 32* amends section 83 of the Act, which relates to the issue of licences for foreign vessels to fish in the exclusive economic zone, to provide that the Minister may issue a licence to fish for highly

migratory species only if he or she considers that to do so would be consistent with the optimum utilisation of the stock.

*Clause 33* amends section 89 of the Act by repealing and replacing subsections (2A) and (2B). Section 89(2A) provides an exemption from the offence provisions where fishers take species outside the quota management system as the inevitable consequence of taking other fish, aquatic life, or seaweed that they were authorised to take. Under section 89(2B), this exemption was due to expire on 30 September 2004.

With the new permit provisions, this protection is now necessary only in the case of stocks or species listed in the *new Schedule 4C*, and the *new subsection (2A)* provides accordingly.

*Clause 34* amends section 91 of the Act in relation to what a fishing permit authorises. It now authorises the taking of all quota management system (QMS) stocks and all non-QMS stocks or species that are not listed in the *new Schedule 4C*.

It will authorise the taking of *Schedule 4C* stocks only if they are specifically listed on the permit.

*Clause 35(1)* amends section 92 of the Act, which relates to conditions on a fishing permit, to reflect the changes in what a fishing permit authorises.

*Subclauses (2) and (3)* provide for the expiry of existing permits on 1 October 2004 and the issue by the chief executive of replacement permits (without need for application or fee) that reflect the new permit provisions.

*Clause 36* amends section 93 of the Act, which deals with the qualifications for holding a fishing permit and the moratorium on the issue of new permits. The only stocks and species now subject to the moratorium are those listed in the *new Schedule 4C*.

The moratorium will cease to apply to the *Schedule 4C* stocks and species that have been subject to a determination under the *new section 17B(2)*.

*Clause 37* amends section 113S of the Act to clarify that the powers of high seas inspectors apply only to vessels whose flag state is a member of an international fisheries organisation or agreement that New Zealand is also a member of.

*Clause 38* amends section 113W(1) to allow boarding and inspection of New Zealand vessels by foreign inspectors appointed by a state party to the United Nations Fish Stocks Agreement, whether or

not the state concerned has established procedures for boarding and inspection in accordance with that agreement.

In the case of inspectors appointed by states who are not party to the Fish Stocks Agreement, the clause restricts the boarding and inspection powers in section 113W(2) to the case where New Zealand is a member of the same international organisation or arrangement as the state concerned.

*Clause 39* amends section 113ZD of the Act, which requires notification of visits to New Zealand by foreign vessels, to refer to an intention by the master of the vessel to visit a port, as well as New Zealand's internal waters. The exception to the notification requirement in section 113ZD(5) is now limited more strictly to cases of *force majeure*.

*Clause 40* repeals and replaces section 153 of the Act, which sets out the effect of any decrease in or cancellation of quota on quota mortgages or caveats. The present section provides for a proportionate reduction in the quota shares covered by all caveats and mortgages, where there would otherwise be insufficient quota to satisfy the total amount of quota secured. The *new section 153* now provides for reductions in the amount of quota secured on a last on first off basis, with the shares secured by the last-registered mortgage or caveat being reduced to the extent necessary to equal the reduced number of quota shares. If that reduction is insufficient, the next last-registered mortgage or caveat has its security reduced, and so on.

*Clause 41* amends section 163 of the Act as a consequence of the repeal of section 38.

*Clause 42* amends section 198 of the Act, which relates to the warrants and powers of honorary fishery officers, to reflect the fact that most such officers are warranted for geographical areas rather than particular fish stocks.

*Clause 43* amends section 203 of the Act to ensure that fishery officers can require possible offenders to give their legal name, as well as the name by which they are commonly known.

*Clause 44* amends section 252 of the Act to set penalties for breaching section 186B(7) (which relates to temporary closures of areas or fishing method restrictions).

*Clauses 45 and 46* amend sections 255B and 255C of the Act, which relate to forfeiture, to clarify that it is the latter section that applies to offences with a maximum fine of \$100,000, and not the former.



*Clause 47* amends section 256 of the Act to set a minimum value of \$200 before public notification of property forfeit under sections 255B and 255D is required. The amendment also removes the need to publicly notify property forfeit under the section 255A infringement offence provision.

*Clause 48* amends section 260B to allow the chief executive to prescribe the form of fisheries infringement reminder notices. Such notices must include the same or substantially the same particulars as are required for the original infringement notice.

*Clause 49* amends section 294 of the Act, which relates to the use of outside agencies for the performance of functions under the Act, to specifically allow the chief executive to amend or revoke contract standards and specifications set under section 294(4).

*Clause 50* makes a minor amendment to section 295 of the Act to remove the word “properly” as inappropriate or unnecessary.

*Clause 51* inserts a *new section 296ZAA* that allows the chief executive to suspend a permit or refuse services in cases where a person has failed to pay a fee to an approved service delivery organisation.

*Clause 52* inserts into section 297 of the Act regulation-making powers in relation to highly migratory species and infringement offence reminder notices, and removes the existing power in relation to individual catch entitlements.

*Clause 53* amends section 303 of the Act to add notices issued under sections 14, 295, and 296P to the list of notices that do not have the status of regulations, and to remove from that list notices issued under section 296O.

*Clauses 54 and 55* remove references to section 38 from sections 308 and 363 of the Act.

*Clause 56* repeals a number of spent transitional provisions.

*Clause 57* repeals the existing Fourth Schedule and Schedule 4A, which are redundant once the last of the listed stocks enter the quota management system on 1 October 2004, and inserts *new Schedules 4B and 4C* into the Act. *Schedule 4B* lists highly migratory species. *Schedule 4C* sets out species for which quota will be allocated on the basis of provisional catch history, if and when they enter the quota management system.

*Clause 58* revokes Part 5 and Schedule 5 of the Fisheries (Commercial Fishing) Regulations 2001, which relate to authorised stock, as unnecessary under the revised permit system.

*Clause 59* revokes the Fisheries (Allocation of Individual Catch Entitlement) Regulations 1999.

*Clause 60* saves individual catch entitlement as a basis for allocation of provisional catch history for certain seaweed stocks.

## **Part 2**

### **Amendments to Fisheries Act 1983 in respect of spat catching permits**

*Clause 62* amends section 67Q of the Fisheries Act 1983 by removing the ability to grant spat catching licences except where the spat catching activity is tied in with structures requiring exclusive occupation.

*Clause 63* saves spat catching permits not associated with green-lipped mussel structures issued before 1 October 2004 (the date on which green-lipped mussels come into the quota management system by virtue of the Fisheries (Declaration of New Stocks Subject to Quota Management System) Notice (No 2) 2003), and extends their life until 30 September 2006.

*Clause 64* ensures that the Minister, when setting the total allowable commercial catch for green-lipped mussels, may take into account any amounts determined as being available to green-lipped mussel spat catching permit holders as if they constituted mortality to green-lipped mussel stocks caused by fishing.

## **Part 3**

### **Introduction of scampi to quota management system, and other amendments in force before 1 October 2004**

*Clause 65* provides that *Part 3* comes into force on the day on which it receives the Royal assent.

*Clause 66* inserts a definition of scampi into section 2 of the Fisheries Act 1996.

*Clause 67* amends section 33 of the Act to allow a commercial fisher eligible for provisional catch history by virtue of being issued a fishing permit under section 2(2) of the Fisheries Amendment Act 1994 to choose, as the relevant qualifying period, either the first consecutive 12 months following the date of issue of the fishing permit, or the fishing years commencing on 1 October 1990 and 1 October 1991.

*Clause 68* inserts *new sections 369N to 369R* into that Act that declare scampi to be subject to the quota management system from 1 October 2004, define quota management areas, allocate provisional catch history, provide for notification of provisional catch history, and provide for the application of certain provisions of the Act to scampi.

*Clause 69* inserts into the Act *new Schedules 13 and 14* which set out, respectively, quota management areas for particular scampi stocks, and allocations of provisional catch history to named fishers.

### **Regulatory impact and cost compliance statement**

A regulatory impact statement containing a business compliance cost statement (RIS/BCCS) must be published and included in the explanatory note to Bills. An RIS/BCCS was only required for the management of highly migratory species and is included in this explanatory note.

#### ***Statement of the nature and magnitude of the problem and the need for government action***

New Zealand has recently ratified the Convention on the Conservation of Southern Bluefin Tuna (CCSBT) and will soon ratify the Western and Central Pacific Fisheries Convention (WCPFC). These conventions are regional fisheries management agreements on the management of HMS (chiefly tuna species). The aim of these conventions is to ensure that the species covered by them are harvested in a sustainable fashion, thus ensuring that the resource is available into the future for the benefit of both the nations in the region and other “Distant Water Fishing Nations” such as South Korea that conduct fishing operations in the area. These conventions place obligations upon New Zealand as a party state regarding the management of New Zealand flagged fishing vessels, New Zealand fishers, and the amount of HMS being harvested by New Zealanders.

New Zealand must ratify these conventions in order to “have a say” in the management of the HMS covered by the conventions. New Zealand’s ability to fish for the relevant species outside the New Zealand exclusive economic zone (EEZ) (New Zealand’s EEZ is the area of ocean extending from the boundary of the 12 nautical mile territorial sea to 200 nautical miles from the New Zealand coastline, over which New Zealand has jurisdiction) within the Convention

areas would be affected if New Zealand did not ratify the conventions. Non-member states may be severely constrained or excluded from fishing in the convention area, both on the high seas (the area of ocean outside the EEZ of any state) and especially in the EEZs of other states.

Last year New Zealand exported approximately 8 000 tonnes of the tuna species covered by the WCPFC with a value of over NZ\$30 million. In addition, New Zealand flagged purse seine vessels operating on the high seas and in other countries' EEZs in the WCPFC area caught an additional 20 000 tonnes of skipjack and yellowfin tuna that was landed at ports in the region (figures on the value of this catch landed overseas are not available). Last year New Zealand fishers landed approximately 420 tonnes of southern bluefin tuna (which is covered by the CCSBT) with a value to the New Zealand fishing industry of approximately NZ\$9.2 million.

Under section 18 of the Fisheries Act 1996 (the Act) the Minister of Fisheries may declare any species or stock of fish, aquatic life or seaweed to be subject to the quota management system (QMS) by giving notice to that effect in the *Gazette*. The QMS is a fisheries management tool that controls catch by allocating fishers a permanent, transferable property right (quota) expressed as shares in the fishery. Quota generates an entitlement (annual catch entitlement) to take a certain amount of fish each year. The Minister of Fisheries has decided that the most effective way to manage New Zealand's HMS harvest is by applying the QMS, however, under the current provisions of the Act, the QMS does not apply outside the New Zealand EEZ for species other than southern bluefin tuna.

### *Statement of the public policy objective*

To ensure that the ongoing utilisation of highly migratory fish species outside the New Zealand exclusive economic zone is sustainable and that New Zealand meets its international obligations under regional fisheries management organisations (RFMOs).

### *Statement of feasible options (regulatory and/or non-regulatory for achieving the desired objective(s))*

#### **Status quo**

The following features of the status quo that apply to the problem are:

- The QMS (and therefore quota allocation) is available within the New Zealand EEZ for all species and for southern bluefin tuna in high seas areas.
- New Zealand flagged fishing vessels targeting HMS on the high seas can be managed effectively using the existing high seas fishing permit regime under the Act. The high seas permitting regime is the tool used to ensure that New Zealand complies with its international obligations to control New Zealand fishing vessels on the high seas. Under the high seas permitting regime, no person may use a fishing vessel that flies the New Zealand flag to take fish on the high seas without holding a high seas permit. As a standard condition of high seas permits, all permit holders must report details of their catch and fishing activities to New Zealand authorities using the New Zealand “high seas fishing returns”. New Zealand fishers operating in the EEZ of other states are required to report their catch to the state in whose EEZ they are fishing.
- The QMS requirements to report catch and balance catch against annual catch entitlement holdings apply to all species managed under the QMS within the New Zealand EEZ and extend into the high seas for southern bluefin tuna.

### **Extending current legislation—preferred option**

The preferred option is to extend the coverage of the QMS to areas outside the New Zealand EEZ by amending the Fisheries Act 1996.

The Act will be amended to:

- create mechanisms for the allocation of quota and to recognise catch history outside the New Zealand EEZ for HMS other than southern bluefin tuna;
- create requirements for fishers catching HMS that are subject to the QMS in the EEZs of other states and on the high seas to furnish catch effort returns and balance catch against annual catch entitlement holdings;
- define HMS under the Act by reference to a new Schedule to the Act including all species that due to their biological characteristics and/or range are considered to be highly migratory. This Schedule will be based on the United Nations Convention on the Law of the Sea (UNCLOS) which defines HMS by reference to a list of species in Annex 1 of that Convention.

The UNCLOS list includes several tuna species, frigate mackerel, pomfrets, marlins, sailfishes, sauries, dolphins, oceanic sharks, and cetaceans. For the purposes of the Act the UNCLOS list will be updated to reflect current taxonomy and will exclude marine mammals as they are not managed under fisheries legislation in New Zealand:

- extend the definition of a “commercial fisher” to include New Zealand fishers using New Zealand fishing vessels on the high seas and in the fisheries jurisdiction of other states in respect of the taking of HMS subject to the QMS, to enable the Act’s balancing regime to function:
- enable the management of New Zealand fishers operating in the EEZ of other coastal states by establishing a presumption that a New Zealand vessel operating in a foreign states’ EEZ is fishing against New Zealand quota unless the fisher provides proof to the contrary. The policy on what will constitute acceptable proof will be formulated closer to implementation and after consultation with the fishing industry:
- manage foreign licensed fishing access to the New Zealand EEZ by giving the Minister of Fisheries discretion to grant, with or without conditions, or decline foreign licensed access to HMS stocks in the New Zealand EEZ based upon optimum utilisation of those fishstocks.

*Statement of the net benefit of proposal, including the total regulatory costs (administrative, compliance, and economic costs) and benefits (including non-quantifiable benefits) of the proposal and other feasible options*

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The proposal will ensure that New Zealand is complying with the obligations of international agreements on the management of HMS to which New Zealand is a party. There will be some administrative costs to the government. These costs arise from the process of calculating each fishers “catch history” and the amount of quota that will subsequently be allocated to each fisher. There will also be administration costs involved in assessing and processing the catch effort returns that each fisher provides, these costs will be cost recovered in line with the Ministry of Fisheries’ current cost recovery levy regime.

## **Fishers**

Fishers will benefit from the fact that HMS fisheries will be healthy and available for harvest in future years by reducing the risk of over-fishing. This benefit is dependent upon other states complying with the conventions' management measures. This proposal will provide fishers operational flexibility by not having to rush to catch as much as possible before the catch limit is reached and grant security of access to the fish stocks. Fishers will also benefit by being granted quota, a valuable property right asset that may be sold on the open market and can also act as security on loans, enabling fishers to raise finance.

There will be costs to New Zealand fishers who operate solely in the EEZs of other countries as they may be required to report catch to New Zealand authorities as well as to the authorities of the jurisdiction in which they are fishing. There will also be potential administrative costs to fishers from ensuring that all catch is balanced against annual catch entitlement holdings. These additional costs cannot be reliably quantified at this time and will depend on the current reporting requirements and location of each fisher. The extra costs are anticipated to be minimal and will be greatly outweighed by the value of the quota asset that fishers will be granted. The administrative costs incurred by the government from extending the QMS and the corresponding increased administrative functions will be cost recovered in line with the Ministry's current cost recovery regime. The level of cost recovery is not available at present, the level of cost recovery to be charged is calculated at the start of every year and prescribed in regulations. Given that the introduction into the QMS of most HMS will not be for some years, these calculations have not been made and are impossible to predict at this stage. There may be costs to fishers if they are allocated quota which entitles them to catch less fish than they are currently catching. There is no way of knowing if this will occur until national allocations are finalised at the relevant RFMO which may be some years away.

## **Society and environment**

Ensuring the sustainability of the HMS fisheries resources will mean these resources and profits that result from harvesting the resources are available to society and to future generations. These benefits are heavily dependant upon other states adopting and complying with the management measures agreed upon by the conventions. There are no costs anticipated.

### *Statement of consultation undertaken*

All non-aquaculture related commercial fisheries stakeholder organisations and environmental and recreational stakeholder groups were consulted. Concerns regarding compliance costs were raised by fishing industry stakeholders during the consultation process. These concerns centred on the administration and application of the catch balancing and catch reporting requirements of the QMS. In order to be allocated quota these requirements are unavoidable and the value of the quota asset that will be allocated to fishers will significantly outweigh any potential costs in terms of reporting and balancing.

In the development of these proposals the Ministry for the Environment, Treasury, Te Puni Kokiri, Ministry of Justice, Department of Conservation, Maritime Safety Authority, and Ministry of Foreign Affairs and Trade have been consulted. The Ministry of Foreign Affairs and Trade raised some technical concerns with some of the proposals. These concerns have been addressed.

### *Business compliance cost statement*

There will be costs involved with balancing catch against annual catch entitlement holdings and reporting catch to New Zealand authorities. These costs will arise from gathering and analysing relevant information, and the time taken to fill in forms such as catch effort returns, should fishers be required to fill in these returns (this depends upon the reporting requirements that individual fishers are already operating under). There will also be costs involved with the time required to become familiar with the requirements of the QMS.

New Zealand nationals operating New Zealand flagged fishing vessels outside the New Zealand EEZ will be affected by this proposal. It will be the approximately 20 fishers who operate in the EEZ of other coastal states that will be most affected. The majority of these fishers are small tuna long-line vessels with average crews of 3–6. Three large New Zealand commercial fishing companies operate a total of four large-scale purse-seine vessels with crews of approximately 20 that fish in the region.

The extent of the reporting costs cannot be reliably quantified at this time as they depend on the location and nature of the fishing operations and the reporting requirements under which each fisher currently operates. These requirements are different for each individual vessel and may vary depending upon the area being fished at any



given time. Some of the vessels affected are operated by companies that also have operations in the New Zealand EEZ, these companies will already be familiar with the reporting framework and the returns themselves. Other fishers will not be familiar with the New Zealand reporting regime and will need to become familiar with the new requirements and the new forms, if they are required to use the New Zealand returns.

Compliance costs will be minimised by allowing reports provided to other states to be provided to New Zealand, subject to approval, to reduce the burden of potential “double reporting”. The Ministry has established an internal review which is investigating the possibility of returns being filed electronically, either by facsimile or online.

The introduction of species into the QMS will only be after notification at least one year in advance. Fishers will be notified of the changes by publication in Ministry of Fisheries and also FishServe (Commercial Fisheries Services Ltd, the agency that performs certain administrative functions under contract) newsletters and websites as well as through New Zealand diplomatic posts in the region.

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*Hon David Benson-Pope*

## **Fisheries Amendment Bill (No 3)**

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49 Use of outside agencies in performance of functions under Act	<i>Introduction of scampi into quota management system</i>
50 Notification of appointments and places for provision of information	369N Scampi subject to quota management system
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296ZAA Suspension of permit and refusal of services for non-payment of fees	369P Notification of fishers allocated provisional catch history
52 General regulations	369Q Public notification of provisional catch history allocation
53 Certain notices to have status of regulations	369R Application of certain provisions to scampi
54 Protection of Crown, etc	69 New Schedules 13 and 14 added
55 Allocation of quota	
56 Repeal of spent transitional provisions	<b>Schedule 1</b>
57 New schedules substituted	<b>New Schedules 4B and 4C inserted in principal Act</b>
58 Regulations amended	<b>Schedule 2</b>
59 Regulations revoked	<b>New Schedules 13 and 14 added to principal Act</b>
<i>Saving of individual catch entitlement as basis for allocation of provisional catch history for certain seaweed stocks</i>	

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

- (1) This Act is the Fisheries Amendment Act (No 3) **2004**.
- (2) In this Act, other than **Part 2**, the Fisheries Act 1996<sup>1</sup> is called “the principal Act”.

5

<sup>1</sup> 1996 No 88**2 Commencement**

- (1) This Act come into force on 1 October 2004, except for **section 35(3), Part 3, and Schedule 2**.
- (2) **Section 35(3), Part 3, and Schedule 2** of this Act come into force on the day on which this Act receives the Royal assent.

**Part 1**

10

**Amendments to principal Act****3 Interpretation**

- (1) Section 2(1) of the principal Act is amended by repealing the definition of **authorised stock**.
- (2) Section 2(1) of the principal Act is amended by repealing the definition of **commercial fisher**, and substituting the following definition: 15
- “**commercial fisher**—
- “(a) means a person who holds a fishing permit issued under section 91; and 20
- “(b) for the purposes of section 72 and sections 75 to 80, includes—
- “(i) a person who holds a high seas fishing permit under section 113H; and
- “(ii) a person using a New Zealand ship who is 25 authorised to fish against New Zealand’s national allocation of highly migratory species in the national fisheries jurisdiction of a foreign country (to the extent that this is consistent with the rules and procedures provided for by the appropriate 30 regional fisheries organisation)”.
- (3) Section 2(1) of principal Act is amended by inserting, after the definition of **High Seas Permit Register**, the following definition:
- “**highly migratory species** means a species or stock listed in **Schedule 4B**”. 35

- (4) Section 2(1) of the principal Act is amended by repealing the definition of **individual catch entitlement**.
- (5) Section 2(1) of the principal Act is amended by inserting, after the definition of **Permit Register**, the following definition:
- “**port**— 5
- “(a) means any area of land and water intended or designed to be used either wholly or partly for the berthing, unloading, departure, movement, and servicing of vessels:
- “(b) includes any anchorage, roadstead, pilot station, haven 10  
or estuary, navigable lake or river, wharf, dock, pier, jetty, or dry dock used or capable of being used for such purposes”.
- (6) Section 2(1) of the principal Act is amended by inserting, after the definition of **record**, the following definitions: 15
- “**regional fisheries organisation** has the same meaning as is given by section 113B to **global, regional, or sub-regional fisheries organisation or arrangement**
- “**regional fisheries organisation management measure** has the same meaning as is given by section 113B to **international conservation and management measures**”. 20
- (7) Section 2(1) of the principal Act is amended by repealing the definition of **tender**, and substituting the following definition:
- “**tender** means any vessel that—
- “(a) is carried by or attached to a fishing vessel and used or 25  
intended to be used for taking fish, aquatic life, or seaweed for sale in conjunction with the fishing vessel; and
- “(b) is not longer than the greater of—
- “(i) 6 metres; or 30
- “(ii) 50% of the overall length of the fishing vessel it is carried by or attached to”.
- (8) Section 2 of the principal Act is amended by adding the following subsection:
- “(4) The Governor-General may, by Order in Council,— 35
- “(a) add to **Schedule 4B** the name of any species or stock that, based on its range and biological characteristics, is highly migratory (including any new species or stock that results from a change in taxonomic classification):

“(b) omit from that Schedule the name of any species or stock if the criteria set out in **paragraph (a)** cease to apply to that species or stock.”

- 4 Alternative total allowable catch for stock specified in Third Schedule** 5
- (1) Section 14(8)(b)(ii) of the principal Act is amended by omitting the words “catch limit”, and substituting the words “national allocation”.
- (2) Section 14(8)(b) of the principal Act is amended by adding to subparagraph (iii) the expression “; or”, and also by adding the following subparagraph: 10
- “(iv) the stock comprises 1 or more highly migratory species.”
- 5 New headings and sections substituted** 15
- The principal Act is amended by repealing sections 17 and 18 and the heading immediately above section 17, and substituting the following headings and sections:
- “Application of this Part*
- “17 Application of Part generally**
- “(1) This Part applies to every stock declared by the Minister, by notice under **section 18**, to be subject to the quota management system. 20
- “(2) This Part does not apply to fishing authorised by a foreign fishing licence issued under Part V.
- “(3) For the purposes of **subsection (1)** and this Part, every species or class of fish, aquatic life or seaweed that was, immediately before the commencement of this Part, subject to Part IIA of the Fisheries Act 1983 is deemed to have been declared by the Minister by notice under **section 18** to be subject to the quota management system. 25 30
- “17A Highly migratory species taken outside New Zealand fisheries waters**
- “(1) This section applies in relation to any highly migratory species (the **relevant stock**) that— 35
- “(a) is subject to the quota management system; and
- “(b) is taken by a New Zealand operator using a New Zealand ship outside New Zealand fisheries waters.

- “(2) Except as otherwise expressly provided in this Part, this Part applies in relation to any relevant stock as if it were taken in New Zealand fisheries waters, unless the commercial fisher can prove to the satisfaction of the chief executive that the fish concerned was taken under the authority and against the national allocation of another state that has agreed to comply with a regional fisheries organisation management measure to which New Zealand has agreed. 5
- “(3) In any case where New Zealand law conflicts with the laws of a state in whose jurisdiction any relevant stock was taken, the laws of that other state prevail over New Zealand law. 10
- “(4) **Subsection (3)** does not abrogate the obligations of the commercial fisher under this Part and Part X.

“*Declaration of quota management system*

- “17B **Determination that stock or species be subject to quota management system** 15
- “(1) The Minister must make a determination under **subsection (2)** if satisfied that the current management of a stock or species—
- “(a) is resulting or likely to result in unsustainable fishing; 20
- or
- “(b) is not enabling utilisation of the stock or species.
- “(2) The Minister must determine to make the stock or species concerned subject to the quota management system, unless he or she determines that the purpose of this Act would be better met by setting one or more of the sustainability measures set out in section 11(3) (other than a total allowable catch set under section 13 or section 14). 25
- “(3) Before making a determination under **subsection (2)**, the Minister must consult those persons or organisations considered by the Minister to be representative of the classes of persons who have an interest in the determination. 30
- “(4) In the case of a stock or species listed in **Schedule 4C**,—
- “(a) the Minister may make a determination under **subsection (2)**, regardless of whether or not the Minister is satisfied of the matters specified in **subsection (1)**; and 35
- “(b) if the Minister determines not to make the stock subject to the quota management system,—
- “(i) the Minister must notify that fact in the *Gazette*; and

“(ii) from the date of that notification, the moratorium on the issue of fishing permits for that stock or species under section 93 ceases to apply.

- “18 **Declaration that new stock subject to quota management system** 5  
 If the Minister determines under **section 17B** to make a stock subject to the quota management system, the Minister must, by notice in the *Gazette*, declare the stock to be subject to the quota management system on and from the first day of the fishing year stated in the notice.” 10
- 6 Matters to be included in notice under section 18**
- (1) Section 19 of the principal Act is amended by inserting, after subsection (2), the following subsection:
- “(2A) In the case of a stock or species listed in **Schedule 4C**, the notice must amend that schedule by removing the stock or species concerned (and may make any amendments consequential on that removal) with effect on and from the date on which the stock becomes subject to the quota management system.” 15
- (2) Section 19(8) of the principal Act is repealed. 20
- 7 New heading and sections inserted**
- The principal Act is amended by inserting, before the heading “*Provisional catch history*” immediately above section 30, the following heading and sections:
- “Basis for allocation of quota”* 25
- “29A **Basis for allocation of quota**
- “(1) Except as provided in this section, quota must be allocated in accordance with **section 29B**.
- “(2) Quota for the following stocks must be allocated on the basis of provisional catch history: 30
- “(a) all stocks or species listed in **Schedule 4C**;
- “(b) tuna inside New Zealand fisheries waters;
- “(c) highly migratory species outside New Zealand fisheries waters.



**“29B Allocation to Crown and Commission**

- “(1) After the Minister has declared a stock to be subject to the quota management system (other than a stock specified in **section 29A(2)**), the chief executive must—
- “(a) allocate 80 000 000 quota shares to the Crown; and 5
  - “(b) in accordance with section 44, allocate 20 000 000 quota shares to the **Commission**.
- “(2) The allocation takes effect on the first day of the fishing year in respect of which the stock becomes a quota management stock.” 10

**8 Section 30 repealed**

Section 30 of the principal Act is repealed.

**9 Section 31 repealed**

Section 31 of the principal Act is repealed.

**10 Criteria of eligibility to receive provisional catch history for quota management stock 15**

- (1) Section 32(1) of the principal Act is amended—
- (a) by omitting the words “but the stock was not, immediately before the date of the publication of the notice, controlled by means of individual catch entitlements,”: 20
  - (b) by repealing subparagraph (i) of paragraph (a).
- (2) Section 32(1)(a) of the principal Act is amended by revoking subparagraph (iii), and substituting the following subparagraph:
- “(iii) in the case of any highly migratory species 25
    - outside New Zealand fisheries waters or tuna
    - inside New Zealand fisheries waters, at any time during any applicable qualifying year,—
    - “(A) held a fishing permit or high seas fishing permit issued under section 63 of the Fisheries Act 1983 or under section 91 or section 113H of this Act that authorised the holder to take the stock; or 30
    - “(B) was authorised to take the stock using a New Zealand ship in the national fisheries jurisdiction of a foreign country; or” 35

- (3) Section 32 of the principal Act is amended by repealing subsection (2), and substituting the following subsection:
- “(2) For the purposes of this Part, an **eligible return**—
- “(a) means a lawfully completed catch landing return or a catch, effort, and landing return as referred to in the Fisheries (Reporting) Regulations 2001 or the Fisheries (Reporting) Regulations 1990 that—
- “(i) in the case of any stock referred to in subparagraph (ii) or **subparagraph (iii)** of subsection (1)(a), was given to the chief executive on or before the 15th day after the close of each applicable qualifying year; or
- “(ii) in any other case, was given to the chief executive on or before 15 October 1994;
- “(b) includes, in relation to any highly migratory species, any lawfully completed return that—
- “(i) is of a kind required by or under section 113K, or recognised for the purposes of this section by regulations made under **section 297(1)(ha)**; and
- “(ii) was given to the chief executive on or before the 15th day after the close of each applicable qualifying year, or on or before such later date as may be specified for the purpose by regulations made under **section 297(1)(ha)**.”
- 11 Application of Part IV to estate of deceased fishing permit holder** 25
- Section 32A of the principal Act is amended by adding the following subsection:
- “(4) In this section, **fishing permit** includes a high seas fishing permit issued under section 113H.” 30
- 12 Section 32B repealed**
- Section 32B of the principal Act is repealed.
- 13 Calculation of provisional catch history**
- (1) Section 34(1)(a) of the principal Act is amended by omitting the expression “**section 33(a)**”, and substituting the expression “**section 33(a)(i)**”. 35

- (2) Section 34(1)(b) of the principal Act is amended by omitting the word “If”, and substituting the words “Subject to **subsection (1A)**, if”.
- (3) Section 34 of the principal Act is amended by inserting, after subsection (1), the following subsection: 5
- “(1A) Despite **subsection (1)(b)**, the provisional catch history of a person in respect of highly migratory species (other than southern bluefin tuna) taken outside New Zealand fisheries waters—
- “(a) must be calculated in the prescribed manner (if any) in accordance with regulations made under **section 297(1)(hb)** for the purpose of ensuring consistency of the calculation with the method used by the relevant regional fisheries organisation in determining New Zealand’s national allocation; and 10 15
- “(b) subject to **paragraph (a)**, is the total weight of eligible catch reported in the person’s eligible returns divided by the number of qualifying years.”
- (4) Section 34(2)(b) of the principal Act is amended by omitting the words “southern bluefin tuna”, and substituting the words “highly migratory species”. 20

#### 14 Notification of eligibility to receive provisional catch history

- (1) Section 35(1) of the principal Act is amended— 25
- (a) by omitting from paragraph (c) the expression “section 33(a)”, and substituting the expression “**section 33(a)(i)**”:
- (b) by inserting in paragraph (d), after the word “If”, the words “**paragraph (a)(ii)** or”.
- (2) Section 35 of the principal Act is amended by repealing subsection (3), and substituting the following subsection: 30
- “(3) Within 10 working days after the date specified in subsection (2)(e), the chief executive must publicly notify—
- “(a) that provisional catch history has been allocated for the stock; and
- “(b) the location where information on the criteria of eligibility for an allocation of provisional catch history and quota can be found; and 35
- “(c) the location where information on the process for notifying the chief executive of an objection to the non-allocation of provisional catch history can be found.” 40

- (3) Section 35(4)(b) of the principal Act is amended by omitting the words “If paragraph (b) or paragraph (c) of section 33 of this Act applies,”.
- (4) Section 35(6) of the principal Act is repealed.
- 15 Sections 38 to 41 repealed** 5  
Sections 38 to 41 of the principal Act, and the heading immediately above section 39, are repealed.
- 16 Commission entitled to 20 percent of total new quota**  
Section 44 of the principal Act is amended—
- (a) by omitting from subsection (2) the words “Subject to subsection (3),”:
- (b) by inserting in subsection (2), after the words “is allocated under”, the words “**section 29B** or”:
- (c) by repealing subsection (3).
- 17 Criteria of eligibility to receive quota** 15  
Section 45(a) of the principal Act is amended by repealing subparagraph (i), and substituting the following subparagraph:
- “(i) a holder of a fishing permit or a high seas fishing permit (or an authorisation to fish in the national fisheries jurisdiction of a foreign country); or”.
- 18 Withholding of quota for non-payment of cost recovery levies or deemed values**  
Section 46 of the principal Act is amended by inserting, after the words “fishing permit”, the words “or high seas fishing permit”.
- 19 Allocation of quota on basis of provisional catch history**
- (1) Section 47(1) of the principal Act is amended—
- (a) by omitting the words “Subject to sections 50A to 50G,”:
- (b) by omitting the words “section 43 of this Act”, and substituting the words “section 43 and to **subsection (1A)** of this section”.
- (2) Section 47 of the principal Act is amended by inserting, after subsection (1), the following section:

- “(1A) If the total allowable commercial catch for a stock is equal to zero, then the amount of provisional individual transferable quota to be allocated under subsection (1) must be determined in accordance with subsection (1)(b).”
- 20 Notification of allocation of quota** 5  
Section 48(2) of the principal Act is repealed.
- 21 Unallocated total allowable commercial catch to be held by the Crown**  
Section 49(1) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph: 10  
“(b) if no appeals under section 51 have been lodged in respect of that stock, in the form of individual transferable quota.”
- 22 New section inserted** 15  
The principal Act is amended by inserting, after section 49, the following section:
- “49A **Surrender of quota to Crown**  
Any owner of quota who does not also hold any fishing permit, high seas fishing permit, licence, vessel registration or approval under this Act may surrender that quota to the Crown.” 20
- 23 Sections relating to Fourth Schedule stocks repealed**
- (1) Sections 50A to 50G of the principal Act, and the heading immediately above section 50A, are repealed.
- (2) Despite **subsection (1)**, sections 50A to 50G of the principal Act continue to apply on and after 1 October 2004 in respect of freshwater eels in the North Island, kahawai, and southern bluefin tuna, to the extent necessary to complete any processes required or envisaged by those sections in respect of making those stocks subject to the quota management system. 30
- 24 Rights of appeal**
- (1) Section 51(1) of the principal Act is amended—
- (a) by omitting the words “or section 41”;
- (b) by repealing paragraph (a):

- (c) by omitting from paragraph (b) the word “other” (where it appears before subparagraph (i));
- (d) by inserting in subparagraphs (i) and (iv) of paragraph (b), in each case after the words “fishing permit”, the words “or high seas fishing permit (or authorisation referred to in **section 45(a)(i)**)”. 5
- (2) Section 51(2) of the principal Act is amended—
- (a) by omitting the words “or section 41(1)(b)”;
- (b) by omitting the words “or section 39(1)(b)”.
- 25 Effect of decision to alter provisional catch history 10**
- (1) Section 52(1) of the principal Act is amended by repealing paragraph (c) (and also the word “; or” at the end of paragraph (b)).
- (2) Section 52(4) of the principal Act is amended—
- (a) by omitting the words “or in which a dispute about the transfer of relevant provisional catch history under section 38 of this Act has been resolved”: 15
- (b) by repealing paragraph (c) (and also the word “; and” at the end of paragraph (b)).
- (3) Section 52(4A) of the principal Act is amended by omitting the expression “subsections (3)(d) and (4)(c)”, and substituting the expression “subsection (3)(d)”. 20
- 26 Calculation of entitlement to quota following appeal**
- Section 53(3) of the principal Act is repealed.
- 27 Determination or order not to affect quota allocated to commission 25**
- Section 55(b) of the principal Act is amended by omitting the words “whether the order relates to an appeal from the Committee in respect of a transfer dispute or”, and substituting the words “where the order”. 30
- 28 Minister to create additional annual catch entitlement if total allowable catch increased during fishing year**
- (1) Section 68(2) of the principal Act is amended by omitting the expression “subsection (3)”, and substituting the expression “**subsections (2A), (2B) and (3)**”. 35

- (2) Section 68 of the principal Act is amended by inserting, after subsection (2), the following subsections:
- “(2A) Where—
- “(a) an increase in the total allowable catch for a highly migratory species is a result of an agreement, consistent with the rules or procedures established by the relevant regional fisheries organisation, between New Zealand and another member of the regional fisheries organisation; and 5
- “(b) the Minister is satisfied that the basis for the increase in the total allowable catch justifies a different allocation mechanism— 10
- the Minister may determine how the additional annual catch entitlement is to be allocated in a manner different to that specified in subsection (2), taking into account the nature and basis of the agreement between New Zealand and the other member of the regional fisheries organisation. 15
- “(2B) The chief executive must allocate the additional catch entitlement in accordance with any determination of the Minister under **subsection (2A)**.” 20
- (3) Section 68(3) of the principal Act is amended by inserting, after the expression “subsection (2)”, the words “or **subsections (2A) and (2B)**”.
- 29 Catch in excess of over-fishing thresholds**
- Section 78(2) of the principal Act is amended by omitting the expression “subsection (10)”, and substituting the expression “subsection (11)”. 25
- 30 Calculation of foreign allowable catch**
- (1) Section 81(1) of the principal Act is amended by omitting from paragraphs (a) and (c) the word “each”, and substituting in each case the word “a”. 30
- (2) Section 81 of the principal Act is amended by repealing subsection (3), and substituting the following subsection:
- “(3) For the purposes of subsection (2)(b), the Crown’s available annual catch entitlement for a stock is the Crown’s holding of annual catch entitlement for the stock that— 35
- “(a) is generated from unencumbered quota held by the Crown; and

- “(b) remains unsold after the Crown has offered the annual catch entitlement for sale to persons entitled to own quota.”
- (3) Section 81 of the principal Act is amended by adding the following subsection: 5
- “(7) Nothing in this section applies in relation to any highly migratory species.”
- 31 Appointment of foreign allowable catch for foreign fishing vessels**
- Section 82(1) of the principal Act is amended by inserting, after the words “of any stock”, the words “(other than any highly migratory species)”. 10
- 32 Issue of licences**
- Section 83 of the principal Act is amended by inserting, after subsection (2), the following subsection: 15
- “(2A) In the case of an application to fish for any highly migratory species, the Minister may issue a licence under subsection (2) only if the Minister considers that to do so would be consistent with the optimum utilisation of that species within the exclusive economic zone.” 20
- 33 All fishing to be authorised by fishing permit unless specific exemption held**
- Section 89 of the principal Act is amended by repealing subsections (2A) and (2B), and substituting the following subsection: 25
- “(2A) Despite subsection (1), a person may take fish, aquatic life, or seaweed of a stock or species listed in **Schedule 4C** (other than a stock or species subject to a notice in the *Gazette* made under **section 17B(4)(b)**) if it is taken as the inevitable consequence of the taking of other fish, aquatic life, or seaweed under the authority of and in accordance with a current fishing permit.” 30
- 34 Issue of fishing permit**
- Section 91 of the principal Act is amended by repealing subsection (3), and substituting the following subsection:



- “(3) A fishing permit authorises the taking of—
- “(a) any stocks that are subject to the quota management system; and
  - “(b) any stocks or species that are neither subject to the quota management system nor listed in **Schedule 4C** (other than a stock or species the subject of a notice in the *Gazette* made under **section 17B(4)(b)**); and 5
  - “(c) any stocks or species listed in **Schedule 4C** (other than a stock or species the subject of a notice in the *Gazette* made under **section 17B(4)(b)**) that are listed on a fishing permit held by the commercial fisher.” 10

### **35 Fishing permit may be subject to conditions**

- (1) Section 92 of the principal Act is amended by repealing subsection (1), and substituting the following subsections:

- “(1) A fishing permit must— 15
- “(a) state that it authorises the taking of—
    - “(i) stocks that are subject to the quota management system; and
    - “(ii) stocks or species that are neither subject to the quota management system nor listed in **Schedule 4C** (other than a stock or species the subject of a notice in the *Gazette* made under **section 17B(4)(b)**); and 20
  - “(b) list those stocks or species listed in **Schedule 4C** (other than a stock or species the subject of a notice in the *Gazette* made under **section 17B(4)(b)**) that the fishing permit holder, following application by that permit holder, is authorised to take. 25
- “(1A) A fishing permit may be subject to any conditions that the chief executive considers appropriate, including— 30
- “(a) conditions relating to—
    - “(i) areas or methods:
    - “(ii) the use or non-use of vessels, and the specific vessel (if any) that may be used:
    - “(iii) types and amounts of fishing gear: 35
    - “(iv) the taking or handling of fish, aquatic life, or seaweed:
    - “(v) places where fish, aquatic life, or seaweed may be landed:

- “(vi) periods of time within which the permit holder may take fish, aquatic life, or seaweed:
- “(b) conditions that the chief executive may impose under section 78(6) as conditions of an approval to take fish, aquatic life, or seaweed despite a commercial fisher’s catch having exceeded an over-fishing threshold or tolerance level.” 5
- (2) Every fishing permit issued before **1 October 2004** (other than a replacement permit issued under **subsection (3)**) is deemed to expire on that date. 10
- (3) The chief executive must, as soon as practicable and without need for application or payment of a fee, issue a replacement fishing permit for any existing fishing permit due to expire under **subsection (2)** that—
- (a) states the matters referred to in **section 92(1)** of the principal Act (as substituted by **subsection (1)** of this section); and 15
- (b) except to the extent that they may no longer be applicable on and after 1 October 2004, repeats the conditions imposed under the existing permit. 20
- (4) **Subsection (3)** comes into force on the day on which this Act receives the Royal assent.
- 36 Qualifications for holding fishing permit and moratorium**
- (1) Section 93(1) of the principal Act is amended by omitting the words “for the time being not subject to the quota management system under this Act”, and substituting the words “of a stock or species listed in **Schedule 4C**”. 25
- (2) Section 93(1) of the principal Act is amended by adding to paragraph (b) the expression “; or”, and also by adding the following paragraph: 30
- “(c) the fish, aquatic life, or seaweed concerned is the subject of a notice in the *Gazette* made under **section 17B(4)(b)**.”
- (3) Section 93(2) of the principal Act is amended by omitting the words “stock that is for the time being not subject to the quota management system under this Act or Part IIA of the Fisheries Act 1983”, and substituting the words “stock or species listed in **Schedule 4C**”. 35

- (4) Section 93(2) of the principal Act is amended by adding to paragraph (b) the expression “; or”, and also by adding the following paragraph:  
“(c) the stock or species is the subject of a notice in the *Gazette* made under **section 17B(4)(b)**.” 5
- 37 Powers of high seas fishery inspectors in relation to foreign vessels**  
Section 113S(1)(b) of the principal Act is amended by repealing subparagraph (ii), and substituting the following subparagraph: 10  
“(ii) a member of or participant in that organisation or arrangement, and that organisation or arrangement has established boarding and inspection procedures as provided in Article 21.2 of the Fish Stocks Agreement.” 15
- 38 Persons on New Zealand ships to co-operate with foreign high seas inspectors**  
(1) Section 113W(1) of the principal Act is amended by repealing paragraph (c) and also the word “and” at the end of paragraph (b). 20  
(2) Section 113W(2) of the principal Act is amended by inserting, after paragraph (b), the following paragraph:  
“(ba) New Zealand is a member of the organisation or arrangement; and”.
- 39 Visits by foreign ships** 25  
(1) Section 113ZD of the principal Act is amended by inserting in subsections (1) and (2)(a), in each case after the words “internal waters”, the words “or a port”.  
(2) Section 113ZD(2) is amended by repealing paragraph (b), and substituting the following paragraph: 30  
“(b) if it has entered the internal waters or a port of New Zealand, to leave those waters or that port.”  
(3) Section 113ZD of the principal Act is amended by inserting in subsections (3) and (4), in each case after the words “internal waters”, the words “or a port”. 35  
(4) Section 113ZD of the principal Act is amended by repealing subsection (5), and substituting the following subsection:

- “(5) This section does not prevent a vessel from entering or remaining in the internal waters or a port of New Zealand in the case of *force majeure*, subject to any conditions set by the chief executive.”
- 40 New section substituted** 5  
The principal Act is amended by repealing section 153, and substituting the following section:
- “153 Effect of decrease in quota shares**
- “(1) This section applies where—
- “(a) either— 10
- “(i) a transfer of quota shares in any stock to any person holding preferential allocation rights under section 23 necessitates a deduction of quota shares under that section from any quota owner; or 15
- “(ii) any determination of an appeal under section 51 necessitates a deduction of quota shares under section 52 from any quota owner (other than the quota owner involved in the appeal); and
- “(b) as a result of the deduction, the number of quota shares in that stock held by the owner is less than the number of quota shares in that stock subject to a mortgage or caveat immediately before the deduction. 20
- “(2) Where a deduction referred to in subsection (1)(a)(i) is required and there is more than one mortgage or caveat registered over the quota shares owned by the quota owner,— 25
- “(a) the number of shares secured by the last registered mortgage or caveat must be reduced to equal the number of quota shares owned following the deduction; and
- “(b) if that registered mortgage or caveat is insufficient to equal the reduced number of quota shares owned by the quota owner following the deduction, the next last registered mortgage or caveat must be reduced in accordance with this subsection, and so on, one by one, for any further mortgages or caveats, until the reductions are sufficient to equal the reduced number of quota shares. 30 35
- “(3) If any quota owner, or the chief executive, has appealed under section 51 of this Act in relation to any stock, then, when the appeal is finally determined,— 40

- “(a) all provisional individual transferable quota for the relevant stock owned by that quota owner must, at the chief executive’s direction, be transferred to the Crown in accordance with section 52; and
- “(b) if any provisional individual transferable quota shares so transferred were subject to a mortgage or caveat, the mortgage or caveat ceases to apply to the transferred provisional individual transferable quota shares, and instead applies to the same number of individual transferable quota shares transferred to that quota owner under section 52 (if possible); and 5 10
- “(c) if, as a result of such transfers, the number of individual transferable quota shares in the relevant stock owned by the quota owner is less than the number of provisional individual transferable quota shares that were subject to the mortgage or caveat and there is more than one mortgage or caveat registered over the provisional individual transferable quota shares owned by the quota owner,— 15
- “(i) the number of shares secured by the last registered mortgage or caveat must be reduced to equal the number of individual transferable quota shares owned following the deduction; and 20
- “(ii) if that registered mortgage or caveat is insufficient to equal the reduced number of quota shares owned by the quota owner following the deduction, the next last registered mortgage or caveat must be reduced in accordance with this paragraph, and so on, one by one, for any further mortgages or caveats, until the reductions are sufficient to equal the reduced number of quota shares. 25 30
- “(4) The chief executive must make on the register any entry necessary to show that the quota has been transferred in accordance with section 23 or section 52, and alter any relevant mortgage or caveat accordingly.” 35

- 41 Chief executive may transfer quota or annual catch entitlement**  
 Section 163(1)(b) of the principal Act is amended by omitting the words “of this Act or the resolution of any dispute under section 38 of this Act”. 5
- 42 Issue of warrants and conferral of powers**
- (1) Section 198(1)(b)(iii) of the principal Act is amended by omitting the words “The species”, and substituting the words “if appropriate, the species”.
- (2) Section 198 of the principal Act is amended by inserting, after subsection (1), the following subsection: 10
- “(1A) Except as otherwise specified in the warrant, a warrant issued to an honorary fishery officer under subsection (1)(b) applies to all species or stocks of fish, aquatic life, or seaweed.”
- 43 Power of arrest** 15
- Section 203(2) of the principal Act is amended by omitting all the words after the words “supply to that fishery officer”, and substituting the words “the person’s full legal name, the name by which the person is commonly known, and the person’s date of birth, actual place of residence, and occupation.” 20
- 44 Penalties**
- (1) Section 252(5)(ha) of the principal Act is amended by inserting, after the expression “186A(8)”, the words “or section 186B(7)”.
- (2) Section 252(6)(c) of the principal Act is amended by inserting, after the expression “186A(8)”, the words “or section 186B(7)”. 25
- 45 Forfeiture where person liable to pay fine up to \$100,000**
- Section 255B of the principal Act is amended by—
- (a) by omitting from the section heading the words “**fine up to \$100,000**”, and substituting the words “**fine exceeding \$10,000 but less than \$100,000**”; 30
- (b) by omitting from subsection (1)(d) the words “a fine exceeding \$10,000 but not exceeding \$100,000”, and substituting the words “a maximum fine exceeding \$10,000 but less than \$100,000”. 35

- 46 Forfeiture for section 252(2), (3), and (5) offences, offences carrying fine of \$100,000, repeat offences, and serious non-commercial offences**
- (1) Section 255C(1)(b) of the principal Act is amended by omitting the words “a fine of \$100,000”, and substituting the words “a maximum fine of \$100,000”. 5
- (2) Section 255C of the principal Act is amended by adding the following subsection:
- “(4) Subsection (2) does not apply to require the forfeiture of—
- “(a) any foreign flagged vessel in respect of an offence committed outside New Zealand fisheries waters; or 10
- “(b) any fish on board or property associated with such a vessel in respect of such an offence.”
- 47 Provisions relating to forfeit property**
- Section 256 of the principal Act is amended by repealing subsection (2), and substituting the following subsection: 15
- “(2) Where—
- “(a) the forfeiture occurs under any of sections 255B to 255D; and
- “(b) the forfeit property has a total estimated value of \$200 or more,— 20
- the chief executive must, within 10 working days after the date of the forfeiture, publicly notify the details of the forfeit property, and the right of any person to apply to the court for relief from the effects of forfeiture.” 25
- 48 Infringement notices**
- Section 260B of the principal Act is amended by inserting, after subsection (1), the following subsection:
- “(1A) Every infringement offence reminder notice must be in an approved form, and must include— 30
- “(a) the same particulars, or substantially the same particulars with any necessary or appropriate modifications, as are required for an infringement notice by subsection (1)(a) to (g):
- “(b) any other matters prescribed for the purpose.” 35

**49 Use of outside agencies in performance of functions under Act**

Section 294 of the principal Act is amended by inserting, after subsection (4), the following subsection:

- “(4A) The chief executive may, after consultation with the Minister and the other party to the arrangement or contract, amend or revoke contract standards and contract specifications set under subsection (4).” 5

**50 Notification of appointments and places for provision of information** 10

Section 295 of the principal Act is amended by omitting from subsections (2) and (3) the word “properly”.

**51 New section inserted**

The principal Act is amended by inserting, after section 296Z, the following section: 15

**“296ZAA Suspension of permit and refusal of services for non-payment of fees**

- “(1) The chief executive may, by notice in writing, after giving a person prior notice in writing of the chief executive’s intention to do so, suspend a fishing permit or licence held by the person or refuse to accept for registration any caveat, mortgage, transfer of annual catch entitlement, or transfer of quota shares, or refuse to accept any application for vessel registration or application for the registration of an automatic location communicator, if— 20
- “(a) the person is liable to pay any fee charged under section 296Z; and 25
- “(b) the person has not paid the fee in full within 2 months after the date on which payment of the fee became due, or within the time allowed under an arrangement with the chief executive, as the case may be. 30
- “(2) The chief executive may suspend a fishing permit or licence or refuse to provide the services specified in **subsection (1)** regardless of whether or not the fee has been charged on the person as a holder of the permit or licence. 35
- “(3) If the person holds 2 or more fishing permits or licences, the chief executive may suspend such of the permits or licences as he or she considers appropriate.



- “(4) A fishing permit or licence suspended under this section has no effect during the period of the suspension.
- “(5) Any application for registration of a caveat, mortgage, transfer of annual catch entitlement, or transfer of quota shares, and any application for vessel registration or for the registration of an automatic location communicator is not effective during the period of suspension. 5
- “(6) The chief executive must lift a suspension imposed under this section or provide the services that have been refused under this section— 10
- “(a) if the outstanding fee is paid to the chief executive; or
- “(b) the chief executive and the person liable to pay the outstanding amount of the fee enter into an arrangement for repayment of that amount.
- “(7) A court may at any time, on application by the holder of a fishing permit or licence that has been suspended under this section or a person to whom the services specified in **subsection (1)** have been refused, make an order lifting the suspension subject to any sureties and conditions specified by the court.” 15
- 52 General regulations** 20
- (1) Section 297(1)(b) is repealed.
- (2) Section 297(1) of the principal Act is amended by inserting, after paragraph (h), the following paragraphs:
- “(ha) recognising, for the purposes of **section 32(2)(b)**, any form of return or evidence of highly migratory species catch taken in an area outside New Zealand fisheries waters, and specifying any relevant date for the delivery of such return or evidence to the chief executive: 25
- “(hb) providing for the method of calculating provisional catch history for any highly migratory species to ensure consistency with the method used by a regional fisheries organisation in determining New Zealand’s national allocation for that species:” 30
- (3) Section 297(1)(nb) of the principal Act is amended by inserting, after the words “infringement notices”, the words “and infringement offence reminder notices”. 35

- 53 Certain notices to have status of regulations**  
Section 303 of the principal Act is amended by repealing subsection (2), and substituting the following subsection:  
“(2) Subsection (1) does not apply to any notice given under any of sections 11, 13, 14, 16, 20, 56, 60, 175, 188, 283, 295, 296P, 307, 341, 350, 368, and 369.” 5
- 54 Protection of Crown, etc**  
Section 308(2)(c) of the principal Act is amended by omitting the expression “38,”.
- 55 Allocation of quota** 10  
Section 363(1) of the principal Act is amended by omitting the expression “38,”.
- 56 Repeal of spent transitional provisions** 15  
Sections 332 to 334, 339, 340, 340AA, 340A, 342 to 344, 347A to 352, 354 to 356, 358A, 361, 362, 365, 369G, and 369H of the principal Act are repealed.
- 57 New schedules substituted** 20  
The principal Act is amended by repealing the Fourth Schedule and Schedule 4A, and substituting the **Schedules 4B and 4C** set out in **Schedule 1** of this Act.
- 58 Regulations amended**  
The Fisheries (Commercial Fishing) Regulations 2001 (SR 2001/253) are amended by revoking Part 5 and Schedule 5.
- 59 Regulations revoked** 25  
The Fisheries (Allocation of Individual Catch Entitlement) Regulations 1999 (SR 1999/24) are revoked.
- Saving of individual catch entitlement as basis for allocation of provisional catch history for certain seaweed stocks*
- 60 Retention of individual catch entitlement provisions for certain seaweeds** 30  
(1) This section applies in respect of the following seaweed stocks (the **relevant stocks**):

- (a) bladder kelp (*Durvillaea* spp) with fishstock code KBL2:
- (b) bull kelp (*Macrocystis pyrifera*) with fishstock code KBB4:
- (c) porphyra (*Porphyra* spp) with fishstock code PRP2. 5
- (2) Despite anything in Part 1 of this Act, if and when any of the relevant stocks are brought into the quota management system the allocation of provisional catch history for those stocks must be made on the basis of individual catch entitlements.
- (3) For this purpose, the principal Act must be read as if— 10
- (a) the definition of **individual catch entitlement** in section 2(1) of that Act had not been repealed by **section 3(4)** of this Act:
- (b) section 31 of the principal Act had not been repealed by **section 8** of this Act, and **section 29A** of that Act (as inserted by **section 7** of this Act) did not apply: 15
- (c) section 32(1) of the principal Act had not been amended in the manner set out in **section 9(1)** of this Act:
- (d) sections 39 to 41 of the principal Act had not been repealed by **section 15** of this Act: 20
- (e) section 51 of the principal Act had not been amended in the manner set out in **section 24** of this Act:
- (f) **section 92(1A)(a)(i)** of the principal Act (as substituted by **section 35** of this Act) read as if it referred to quantities, as well as to areas or methods. 25
- (4) The fishstock codes used in **subsection (1)** have the same meanings as in Parts 1 and 2 of Schedule 3 of the Fisheries (Reporting) Regulations 2001.

## Part 2

### Amendments to Fisheries Act 1983 in respect of spat catching permits 30

#### 61 Fisheries Act 1983 referred to as principal Act

In this Part, the Fisheries Act 1983<sup>2</sup> is called “the principal Act”.

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<sup>2</sup> 1983 No 14

#### 62 Authority to catch spat

Section 67Q of the principal Act is amended by repealing subsection (2), and substituting the following subsection:

- “(2) A spat catching permit may only be granted—
- “(a) where exclusive occupation of space is required; and
- “(b) to the holder of—
- “(i) a coastal permit relating to the spat catching activity (not being a coastal permit to which section 150E(3) or (6) of the Resource Management Act 1991 applies); or 5
- “(ii) a certificate of compliance relating to the spat catching activity; or
- “(iii) a marine farming licence or lease for that site.” 10

### 63 Saving for existing permit holders

- (1) Any green-lipped mussel spat catching permit issued under section 67Q(2)(b) of the principal Act that was current immediately before 1 October 2004 is deemed to authorise the taking of green-lipped mussel spat until the close of 30 September 2006 (whether or not the permit would otherwise have expired before that date), unless sooner suspended or revoked for cause under the principal Act or the Fisheries Act 1996. 15
- (2) To avoid doubt, nothing in section 67Q of the principal Act applies to prevent the holder of a fishing permit issued under section 91 of the Fisheries Act 1996 from taking green-lipped mussel spat once green-lipped mussels become subject to the quota management system. 20
- (3) Despite section 67J(10) of the principal Act, the chief executive may, in respect of any green-lipped mussel spat catching permit, add, amend, or remove any conditions on the permit. 25
- (4) In this section and **section 64**,—
- green-lipped mussel** means a shellfish of the species *Perna canaliculus*
- green-lipped mussel spat** means any green-lipped mussel, at any stage in its life cycle, that is less than 40 mm in length. 30

### 64 Spat catch limits may be taken into account when setting total allowable commercial catch for green-lipped mussels

When setting a total allowable commercial catch for green-lipped mussels under Part IV of the Fisheries Act 1996, the Minister must under section 21(1) of that Act allow for any 35

amounts that have been determined as being available to holders of green-lipped mussel spat catching permits as if they constituted mortality to green-lipped mussel stocks caused by fishing.

### **Part 3** 5

#### **Introduction of scampi into quota management system, and other amendments in force before 1 October 2004**

- 65 Commencement of Part**  
**This Part and Schedule 2** come into force on the day on which this Act receives the Royal assent. 10
- 66 Interpretation**  
 Section 2(1) of the principal Act is amended by inserting, after the definition of **scallop spat**, the following definition:  
 “**scampi** means any fish of the species *Metanephrops challengeri*”. 15
- 67 Qualifying years**  
 Section 33 of the principal Act is amended by repealing paragraph (a), and substituting the following paragraph:  
 “(a) in the case of a person eligible under section 32(1)(a)(ii) to receive provisional catch history by virtue of a fishing permit issued under section 2(2) of the Fisheries Amendment Act 1994, either—  
     “(i) the first consecutive 12 months following the date of issue of the fishing permit; or 25  
     “(ii) the fishing years commencing respectively on 1 October 1990 and 1 October 1991:”.
- 68 New heading and sections inserted**  
 The principal Act is amended by inserting, after section 369M, the following heading and sections: 30  
 “*Introduction of scampi into quota management system*  
 “369N **Scampi subject to quota management system**  
 “(1) On 1 October 2004 scampi in quota management areas SCI1, SCI2, SCI3, SCI4A, SCI5, SCI6A, SCI6B, SCI7, SCI8, SCI9, and SCI10 become subject to the quota management system under Part IV. 35

- “(2) In this section and **sections 3690 to 369R**,—
- “(a) the references to quota management areas SCI1, SCI2, SCI5, SCI7, SCI8, SCI9, and SCI10 are references to the fishery management areas described by reference to the same numbers in the First Schedule: 5
- “(b) the references to SCI3, SCI4A, SCI6A, and SCI6B are references to the scampi quota management areas described by reference to those numbers in **Schedule 13**.
- “(3) The fishing year for scampi is the 12-month period commencing on 1 October. 10
- “(4) The total allowable commercial catch and annual catch entitlement for scampi in the quota management areas referred to in **subsection (1)** are to be expressed in greenweight.
- “369O **Allocation of provisional catch history**
- “(1) Each person named in column 1 of **Part 1 of Schedule 14** is allocated the amount of provisional catch history for scampi set out in column 3 of that schedule opposite that person’s name, and those allocations apply to scampi in quota management area SCI1. 15
- “(2) Each person named in column 1 of **Part 2 of Schedule 14** is allocated the amount of provisional catch history for scampi set out in column 3 of that schedule opposite that person’s name, and those allocations apply to scampi in quota management area SCI2. 20
- “(3) Each person named in column 1 of **Part 3 of Schedule 14** is allocated the amount of provisional catch history for scampi set out in column 3 of that schedule opposite that person’s name, and those allocations apply to scampi in quota management area SCI3. 25
- “(4) Each person named in column 1 of **Part 4 of Schedule 14** is allocated the amount of provisional catch history for scampi set out in column 3 of that schedule opposite that person’s name, and those allocations apply to scampi in quota management area SCI4A. 30
- “(5) Each person named in column 1 of **Part 5 of Schedule 14** is allocated the amount of provisional catch history for scampi set out in column 3 of that schedule opposite that person’s name, and those allocations apply to scampi in quota management area SCI5. 35

“(6) Each person named in column 1 of **Part 6 of Schedule 14** is allocated the amount of provisional catch history for scampi set out in column 3 of that schedule opposite that person’s name, and those allocations apply to scampi in quota management area SCI6A.

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**“369P Notification of fishers allocated provisional catch history**

“(1) As soon as practicable after the date on which **this Part** comes into force, the chief executive must notify every person named in **Schedule 14** of—

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“(a) the amount of provisional catch history allocated to the person under **section 3690** for each of the quota management areas SCI1, SCI2, SCI3, SCI4A, SCI5, and SCI6A; and

“(b) the person’s right to appeal under section 51(1) (as read in accordance with **section 369R(4)**); and

15

“(c) the requirement that any appeal to the Catch History Review Committee must be lodged not later than the date specified for that purpose in the notification.

“(2) The date referred to in **subsection (1)(c)** and specified in the notification must be not less than 20 working days after the date of the notification.

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**“369Q Public notification of provisional catch history allocation**

“(1) As soon as practicable after the date on which **this Part** comes into force, the chief executive must publicly notify—

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“(a) that provisional catch history for scampi has been allocated under **section 3690**; and

“(b) that a person may appeal to the Catch History Review Committee under section 51(1) (as read in accordance with **section 369R(4)**) if the person—

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“(i) has not been allocated provisional catch history for scampi; and

“(ii) believes that he or she is or will be entitled to receive provisional catch history on the grounds specified in that section or is entitled to receive quota for scampi; and

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“(c) that the appeal must be lodged no later than the date specified for that purpose in the notification.

“(2) The date referred to in **subsection (1)(c)** and specified in the notification must be not less than 20 working days after the date of the notification.

“369R **Application of certain provisions to scampi**

- “(1) Sections 36 and 37 apply in relation to scampi as if the references to ‘20 working days’ in sections 36(2)(b) and 37(2)(b) were instead references to ‘10 working days’.
- “(2) Sections 42 to 44, 46 to 49, 51 to 53, 54(1)(a), (2), and (3), 55, and 283 to 293 apply to the allocation of individual transferable quota for scampi.
- “(3) Section 45 applies to scampi as if the declaration in **section 369N(1)** were a notice in the *Gazette* under section 18.
- “(4) For the purposes of **subsection (2)** of this section, section 51 must be read as if, for subsection (1) of that section, there were substituted the following subsection:
- ‘(1) Any person, including the chief executive, may, subject to subsection (3) and on or before the date specified in the notification referred to in **section 369P(1)(c)** or **section 396Q(1)(c)**, appeal to the Catch History Review Committee against the allocation of provisional catch history under **section 3690** on the ground that the information used to calculate the provisional catch history—
- ‘(a) was incorrectly recorded by the chief executive; or
- ‘(b) excluded scampi that were lawfully taken and lawfully reported as landed or otherwise lawfully disposed of in eligible returns from the person’s eligible catch during the period commencing with 1 October 1990 and ending with 30 September 1992.’
- “(5) For the purposes of this section,—
- “(a) **eligible catch** has the meaning given it by section 34(2), as if—
- “(i) the provisional catch history for scampi allocated under **section 3690** were calculated in a manner consistent with section 34(1)(c); and
- “(ii) the applicable qualifying years were the period commencing with 1 October 1990 and ending with 30 September 1992; and



“(b) **eligible return** has the meaning given it by section 32(2).”

**69 New Schedules 13 and 14 added**

The principal Act is amended by adding the **Schedules 13 and 14** set out in **Schedule 2** of this Act.

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**Schedule 1** s 57  
**New Schedules 4B and 4C inserted in principal Act**

**Schedule 4B** s 2(1) and (4)  
**Highly migratory species**

Frigate mackerel ( <i>Auxis thazard</i> )	5
Mahi mahi ( <i>Coryphaena hippurus</i> , <i>Coryphaena equiselis</i> )	
Marlin, sailfish, and spearfish:	
Atlantic sailfish ( <i>Istiophorus albicans</i> )	
black marlin ( <i>Makaira indica</i> )	
blue marlin ( <i>Makaira nigricans</i> )	10
Indo-Pacific sailfish ( <i>Istiophorus platypterus</i> )	
striped marlin ( <i>Tetrapturus audax</i> )	
white marlin ( <i>Tetrapturus albidus</i> )	
longbill spearfish ( <i>Tetrapturus pfluegeri</i> )	
Mediterranean spearfish ( <i>Tetrapturus belone</i> )	15
roundscale spearfish ( <i>Tetrapturus georgei</i> )	
short billed spearfish ( <i>Tetrapturus angustirostris</i> )	
Ray's bream ( <i>Brama brama</i> )	
Sharks:	
bigeye thresher ( <i>Alopias superciliosus</i> )	20
blue shark ( <i>Prionace glauca</i> )	
bronze whaler ( <i>Carcharhinus brachyurus</i> )	
Galapagos shark ( <i>Carcharhinus galapagensis</i> )	
longfin mako ( <i>Isurus paucus</i> )	
oceanic white tip ( <i>Carcharhinus longimanus</i> )	25
Porbeagle shark ( <i>Lamna nasus</i> )	
shortfin mako ( <i>Isurus oxyrinchus</i> )	
silky shark ( <i>Carcharhinus falciformis</i> )	
smooth hammerhead ( <i>Sphyrna zygaena</i> )	
tiger shark ( <i>Galeocerdo cuvier</i> )	30
Family Alopiidae	
Family Carcharhinidae	
Swordfish ( <i>Xiphias gladius</i> )	
Tuna:	
albacore tuna ( <i>Thunnus alalunga</i> )	35
Atlantic bluefin tuna ( <i>Thunnus thynnus</i> )	
bigeye tuna ( <i>Thunnus obesus</i> )	
blackfin tuna ( <i>Thunnus atlanticus</i> )	
kawakawa ( <i>Euthynnus affinis</i> )	
little tuna ( <i>Euthynnus alletteratus</i> )	40
Pacific bluefin tuna ( <i>Thunnus orientalis</i> )	
skipjack tuna ( <i>Katsuwonus pelamis</i> )	
southern bluefin tuna ( <i>Thunnus maccoyii</i> )	
yellowfin tuna ( <i>Thunnus albacares</i> )	

ss 17B(4), 19(2A), 29A(2), 91(3),  
92(1), and 93

## Schedule 4C

### Stocks and species for which quota to be allocated on basis of provisional catch history

Species	Fisheries manage- ment area	5
<i>Vertebrates (fish):</i>		
basking shark ( <i>Cetorhinus maximus</i> )	1 to 9	
hammerhead shark ( <i>Sphyrna zygaena</i> )	1 to 9	
seahorse ( <i>Hippocampus abdominalis</i> )	1 to 9	10
sharpnose sevengill shark ( <i>Hepranchias perlo</i> )	1 to 9	
whale shark ( <i>Rhincodon typus</i> )	1 to 9	
<i>Invertebrates:</i>		
black mussel ( <i>Zenostrobus pulex</i> )	1 to 9	
blue mussel ( <i>Mytilus galloprovincialis</i> )	1 to 9	15
cats eye ( <i>Turbo smaragdus</i> )	1 to 9	
cockle ( <i>Chione (Austrovenus) stuchburyi</i> )	all areas outside existing cockle quota manage- ment areas 1A, 3, 7A, and 7B	20
crabs—members of the Family Grapsidae, namely:	1 to 9	
hairy-handed crab ( <i>Hemigrapsus crenulatus</i> )		
large shore crab or purple rock crab ( <i>Leptograpsus variegates</i> )		25
mud crab ( <i>Helice crassa</i> )		
northern smooth shore crab ( <i>Cyclograpsus insu-     larum</i> )		
purple rock crab ( <i>Hemigrapsus edwardsi</i> )		
red rock crab ( <i>Plagusia chabrus</i> )		30
smooth shore crab ( <i>Cyclograpsus lavauxi</i> )		
deepwater clam ( <i>Panopea zelandica, Panopea smithae</i> )	1 to 9	
freshwater crayfish ( <i>Paranephrops</i> spp)	3, 5, 7	
freshwater mussel ( <i>Hyridella menziesii</i> )	3, 5, 7	
lamprey ( <i>Geotria australis</i> )	3, 5, 7	35
limpets ( <i>Cellana ornata, Cellana radians, Notoacmea scopulina</i> )	1 to 9	
mudsnail ( <i>Amphibola crenata</i> )	1 to 9	
pipi ( <i>Paphies australis</i> )	1 to 9	
scallop ( <i>Pecten novaezelandiae</i> )	all areas outside existing scallop quota manage- ment areas 1, CS, 4, and 7	40
sea anemone ( <i>Actinia</i> spp)	8	
sponges (Phylum cnidaria)	1 to 9	45
topshells—members of the Family Trochidae, namely:	1 to 9	
<i>Melagrophia aethiops</i>		
<i>Diloma zelandica</i>		
<i>Diloma arida</i>		
<i>Diloma subrostrata</i>		50
<i>Diloma bicanaliculata</i>		
tuatua ( <i>Paphies subtriangulata</i> )	1 to 9	

## Schedule 4C—continued

Species	Fisheries manage- ment area	
whelks ( <i>Thais orbita</i> , <i>Lepsiella scobina scobina</i> , <i>Haustrum haus-</i> <i>torium</i> , <i>Cominella adspersa</i> , <i>Cominella maculosa</i> , <i>Cominella</i> <i>glandiformis</i> , <i>Austrofusus glans</i> , <i>Penion dilatatus</i> , <i>Struthio-</i> <i>laria papulosa</i> )	1 to 9	5
<i>Seaweeds:</i>		
bladder kelp ( <i>Macrocystis pyrifera</i> )	1 to 9	
bull kelp ( <i>Durvillaea</i> spp)	1 to 9	
gracilaria weed ( <i>Gracilaria chilensis</i> )	1 to 9	10
sea lettuce ( <i>Ulva</i> spp)	1 to 9	
<i>Durvillea antarctica</i>	1 to 9	
<i>Ecklonia radiata</i>	1 to 9	
<i>Lessonia variegata</i>	1 to 9	
<i>Porphyra</i> spp	1 to 9	15
<i>Pterocladia lucida</i>	1 to 9	

s 69

**Schedule 2**  
**New Schedules 13 and 14 added to principal Act**

s 369N

**Schedule 13**  
**Quota management areas for particular  
scampi stocks**

5

*Scampi quota management area 3—South East Coast and Western  
Chatham Islands combined*

All that area of New Zealand fisheries waters enclosed by a line—

- (a) commencing at a point 42°10.0'S and 180°00.0'; then
- (b) proceeding south along the 180°00.0' line of longitude to latitude 46°00.0'S; then 10
- (c) proceeding west along the 46°00.0'S line of latitude to longitude 176°00.0'E; then
- (d) proceeding in a generally south-westerly direction directly to a point 48°19.0'S and 170°31.0'E; then 15
- (e) proceeding in a generally north-westerly direction directly to the mean high-water mark of the South Island at the southernmost point of Slope Point (approximately 46°40.5'S and 169°00.0'E); then
- (f) proceeding in a generally north-easterly direction along the mean high-water mark of the South Island to latitude 42°10.0'S (approximately 173°56.5'E, near Clarence Point); then 20
- (g) proceeding east along the 42°10.0'S line of latitude until reaching the point of commencement. 25

*Scampi quota management area 4A—Chatham Islands East*

All that area of New Zealand fisheries waters enclosed by a line—

- (a) commencing at point 42°10.0'S and 180°00.0'; then
- (b) proceeding south along the 180°00.0' line of longitude to latitude 46°00.0'S; then 30
- (c) proceeding east along the 46°00.0'S line of latitude to the exclusive economic zone boundary (longitude approximately 171°46.7'W); then
- (d) proceeding in a generally northerly direction along the exclusive economic zone boundary to latitude 42°10.0'S (longitude approximately 171°59.1'W); then 35

**Schedule 13**—continued

- (e) proceeding west along the line of latitude 42°10.0'S until reaching the point of commencement.

*Scampi quota management area 6A—Auckland Islands*

All that area of New Zealand fisheries waters within fishery management area 6—Sub-Antarctic in Part I of the First Schedule of the Fisheries Act 1996 that surround the Auckland Islands within an area bounded by latitude 49°00'S in the north, and a line from 52°00'S and 164°30'E to 51°30'S and 168°30'E in the south and by line of longitude at 164°30'E in the west and 168°30'E in the east. 5

*Scampi quota management area 6B—Part Sub-Antarctic* 10

All that area of New Zealand fisheries waters within fishery management area 6—Sub-Antarctic in Part I of the First Schedule of the Fisheries Act 1996, excluding scampi quota management area 6A.

s 3690

## Schedule 14

### Scampi provisional catch history allocations

#### Part 1

#### Quota management area SCI1

Legal name	Client number	Provisional catch history allocation (kgs)	5
Barine Developments Limited	8920034	1 707	
Deadman, Brian Sydney & Lees, Robert Whitelaw trading as Mount Fish Market	8630094	14 281	10
Howell, Wayne Terrence	8810054	21	
Montgomery, Robert Johnstone	8720123	12 793	
Petromont Holdings Limited	9120012	696	
Simunovich Fisheries Limited	8422209	187 989	

#### Part 2

#### Quota management area SCI2

Legal name	Client number	Provisional catch history allocation (kgs)	15
Barine Developments Limited	8920034	69 350	20
Montgomery, Robert Johnstone	8720123	1 684	
Petromont Holdings Limited	9120012	420	
Sanford Limited	8422125	90 717	
Simunovich Fisheries Limited	8422209	151 798	
Vautier Shelf Company No 14 Limited	9040015	38 509	25

#### Part 3

#### Quota management area SCI3

Legal name	Client number	Provisional catch history allocation (kgs)	30
Amaltal Fishing Co. Limited	8460042	11 530	
Barine Developments Limited	8920034	7 881	
Deadman, Brian Sydney & Lees, Robert Whitelaw trading as Mount Fish Market	8630094	823	
Petromont Holdings Limited	9120012	6 884	35
Sanford Limited	8422125	4 894	
Simunovich Fisheries Limited	8422209	106 727	
Vautier Shelf Company No 14 Limited	9040015	21 213	

**Schedule 14**—continued

## Part 3—continued

## Part 4

## Quota management area SCI4A

<b>Legal name</b>	<b>Client number</b>	<b>Provisional catch history allocation (kgs)</b>	
Deadman, Brian Sydney & Lees, Robert Whitelaw trading as Mount Fish Market	8630094	1 673	5
Petromont Holdings Limited	9120012	4 106	
Sanford Limited	8422125	5 860	
Simunovich Fisheries Limited	8422209	98 412	10
Vautier Shelf Company No 14 Limited	9040015	155	

## Part 5

## Quota management area SCI5

<b>Legal name</b>	<b>Client number</b>	<b>Provisional catch history allocation (kgs)</b>	
Deadman, Brian Sydney & Lees, Robert Whitelaw trading as Mount Fish Market	8630094	11	15

## Part 6

## Quota management area SCI6A

<b>Legal name</b>	<b>Client number</b>	<b>Provisional catch history allocation (kgs)</b>	
Amaltal Fishing Co. Limited	8460042	18 350	
Barine Developments Limited	8920034	32 675	25
Deadman, Brian Sydney & Lees, Robert Whitelaw trading as Mount Fish Market	8630094	44 370	
Petromont Holdings Limited	9120012	18 884	
Sanford Limited	8422125	60 033	
Simunovich Fisheries Limited	8422209	130 385	30
Vautier Shelf Company No 14 Limited	9040015	15 797	