

HOUSE OF REPRESENTATIVES

# Supplementary Order Paper

Tuesday, 10 December 1991

FISHERIES AMENDMENT BILL

*Proposed Amendments*

Hon. DOUG KIDD, in Committee, to move the following amendments:

*Clause 1:* To omit from line 8 on page 2 the expression "5 (2)", and substitute the expression "5 (3)".

*Clause 4:* To insert, after line 26 on page 6, the following subclause:

(4) Section 28of of the principal Act (as so inserted) is hereby further amended by adding the following subsection:

"(3) For the purposes of subparagraphs (ii) and (iii) of paragraph (a), and paragraph (b), of the definition of the term 'extended compensation period' in subsection (1) of this section, the total allowable commercial catch for hoki shall not include any increase in the total allowable commercial catch for hoki (if any), during the period commencing on the 1st day of October 1990 and ending with the close of the 30th day of September 1994, by virtue of section 28j (2) of this Act."

*Clause 8B:* To omit from line 37 on page 12 the word "section", and substitute the words "subsection to be paid".

*Clause 8c:* To insert in line 6 on page 13, after the words "pursuant to", the words "any of".

*Clause 13A:* To omit from line 3 on page 22 the word "inserted", and substitute the word "added".

*Clause 23:* To omit this clause (lines 13 to 43 on page 27 and lines 1 to 27 on page 28), and substitute the following clause:

**23. Payments to Crown in lieu of disposal or surrender of fish taken contrary to Act—**(1) Where, in relation to any fish taken before the commencement of this section,—

(a) Any person either—

(i) Has notified or notifies a Fishery Officer or any employee of the Ministry of the matters notifiable under section 88 (1) (c) (i) of the principal Act (as added by section 22 of the Fisheries Amendment Act 1986) or section 105A (1) (c) (ii) of that Act or regulation 30A (3) (c) of the Fisheries (Commercial Fishing) Regulations 1986; or

(ii) Has furnished or furnishes the Director-General or the Ministry with a return in a form purporting to be required by the Director-General under section 66 of the principal Act or under the Fisheries (Reporting) Regulations 1990, being a return showing that, when the fish were taken, a quantity of fish was taken in excess of the quota (if any) held by that person for that class or species of fish or, in the case of salmon, showing a quantity of fish taken in contravention of regulation 30A of the Fisheries (Commercial Fishing) Regulations 1986; and

(b) That person or a licensed fish receiver—

(i) Has paid to the Crown a sum (including any interest and any additional amount for late payment) sought by the Crown in respect of the value of the fish referred to in the notice or return; or

(ii) Either—

(A) Has received a request or demand from the Crown to pay a sum in respect of the value of the fish referred to in the notice or return, being a request or demand that was not cancelled or withdrawn by the Crown before the commencement of this Act; or

(B) Receives a request or demand, being a request or demand made for the first time, to pay a sum in respect of the value of the fish referred to in the notice or return or receives a request or demand to pay such a sum that is issued in place of a request or demand that was made and subsequently cancelled or withdrawn by the Crown; or

(iii) Has entered into any agreement or made any arrangement with the Crown in respect of the fish referred to in the notice or return, being an agreement or arrangement in respect of quota held by that person or another person whereby—

(A) The fish taken were regarded for the purposes of the agreement or arrangement as having been taken under the authority of that quota; and

(B) The right to take fish under the authority of that quota was adjusted accordingly,—

then, as the case may be,—

(c) The sum paid shall be deemed to have been validly paid and the Crown shall be entitled to retain that sum; or

(d) The request or demand shall be deemed to have been validly made and shall be treated as a lawful debt due to the Crown by the person or licensed fish receiver, and that debt shall, subject to subsection (3) of this section, be deemed to be a statutory debt within the meaning of section 13A of the Ministry of Agriculture and Fisheries Act 1953 and may be recovered in any Court of competent jurisdiction; or

(e) The agreement or arrangement shall be deemed to have been validly made and all of the parties thereto shall be bound by it.

(2) Every request or demand referred to in subsection (1) (b) (iii) (B) of this section, not being a request or demand made in place of, and for the same amount as, a request or demand cancelled or withdrawn by the Crown, shall be for a sum calculated having regard to the basis on which any like requests or demands were calculated before the commencement of this Act.

(3) Section 13A of the Ministry of Agriculture and Fisheries Act 1953 shall apply to debts due under this section as if such debts are payable within 3 months after the date on which payment is demanded (being a demand made on or after the commencement of this Act).

(4) Nothing in subsection (1) of this section affects any demand made under section 28ZD of the principal Act or any payment made under that section.

*New clause 24:* To add the following clause:

**24. Amendment to Maori Fisheries Act 1989**—The Maori Fisheries Act 1989 is hereby amended by inserting, after section 9, the following section:

**“9A. Power to reimburse fees and expenses incurred in relation to Maori fisheries claim**—Notwithstanding any other provision in this Act or any other enactment or rule of law, the Commission may reimburse any Maori or group of Maori for any reasonable fee or expense incurred by that person or group, if the Commission is satisfied that the fee or expense was incurred either—

“(a) In connection with the negotiations between the Crown and Maori before the enactment of this Act or any subsequent negotiations between the Crown and Maori relating to Maori fishing rights; or

“(b) In assisting the Commission in the performance of its functions under this Act.”

*Long Title:* To add to the Long Title on page 2 the words “**and the Maori Fisheries Act 1989**”.

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## EXPLANATORY NOTE

This Supplementary Order Paper contains the following amendments:

- (a) Some minor drafting changes are made to *clauses 1, 8B, 8C, and 13A* of the Bill:
- (b) *Clause 4* of the Bill is amended to provide that the total allowable commercial catch for hoki that is referred to in the definition of "extended compensation period" (for the purpose of determining the amount of money available for compensation) does not include increases resulting from Quota Appeal Authority decisions during the period 1 October 1990 to 30 September 1994:
- (c) *Clause 23* of the Bill (which provides for fishers to pay the Crown for fish taken contrary to the Fisheries Act 1983) is redrafted to require demands for such amounts to be made on the same basis as like demands, to better describe the various agreements and arrangements that existed for the purpose of dealing with fish to which the clause applies, and to provide that interest on an outstanding debt will not begin to accrue until 3 months after the demand is made:
- (d) New *clause 24* is added, which relates to the Maori fisheries claim. The clause amends the Maori Fisheries Act 1989 and empowers the Maori Fisheries Commission to reimburse any Maori or group of Maori for the fees and expenses incurred during the negotiations with the Crown before the enactment of the Maori Fisheries Act 1989 or in subsequent negotiations relating to Maori fishing rights. The Commission presently has power to reimburse only those fees and expenses incurred on or after the commencement of that Act:
- (e) The Long Title of the Bill is consequentially amended to reflect the amendment to the Maori Fisheries Act 1989.