



**FISHERIES (SOUTH-EAST AREA COMMERCIAL FISHING)
AMENDMENT REGULATIONS (NO. 2) 1997**

MICHAEL HARDIE BOYS, Governor-General

ORDER IN COUNCIL

At Wellington this 3rd day of November 1997

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 89 of the Fisheries Act 1983 and sections 297 and 298 of the Fisheries Act 1996, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, makes the following regulations.

ANALYSIS

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Fisheries (South-East Area Commercial Fishing) Amendment Regulations (No. 2) 1997, and are part of the Fisheries (South-East Area Commercial Fishing) Regulations 1986* (“the principal regulations”).

(2) These regulations come into force on the 28th day after the date of their notification in the *Gazette*.

2. Interpretation—Regulation 2 (1) of the principal regulations (as substituted by regulation 2 (1) of the Fisheries (South-East Area Commercial Fishing) Regulations 1986, Amendment No. 8) is amended by omitting the definition of “male shortfinned eel migration area” (as inserted by regulation 2 of the Fisheries (South-East Area Commercial Fishing) Regulations 1986, Amendment No. 21), and substituting the following definition:

“‘Male shortfinned eel migration area’ means those waters of Lake Ellesmere lying between a straight line drawn from the site of a marker pole situated at approximately 43° 50.58’S and 172° 24.94’E to the site of a marker pole situated at approximately 43° 50.66’S and 172° 22.06’E and a straight line drawn from the site of a marker pole situated at approximately 43° 51.44’S and 172° 22.25’E to the site of a marker pole situated at approximately 43° 51.37’S and 172° 22.28’E.”.

3. Prohibition on trawling by large vessels in salmon conservation area adjacent to Banks Peninsula—Regulation 4B of the principal regulations (as substituted by regulation 3 (1) of the Fisheries (South-East Area Commercial Fishing) Regulations 1986, Amendment No. 21) is amended by revoking subclause (1), and substituting the following subclause:

“(1) Except as provided in subclause (2), no commercial fisher may, at any time in the period commencing on 7 December in any year and ending on 14 February in the following year (both dates inclusive), use for trawling in the salmon conservation area any New Zealand fishing vessel that—

“(a) Is 23 metres or more in overall length; or

“(b) Has a power rating of 250 kw or more.”

*S.R. 1986/219

Amendment No. 1: S.R. 1986/254
 Amendment No. 2: S.R. 1988/105
 Amendment No. 3: S.R. 1988/320
 Amendment No. 4: S.R. 1989/322
 Amendment No. 5: (Revoked by S.R. 1991/248)
 Amendment No. 6: S.R. 1991/58
 Amendment No. 7: (Revoked by S.R. 1991/163)
 Amendment No. 8: S.R. 1991/163
 Amendment No. 9: (Revoked by S.R. 1992/343)
 Amendment No. 10: S.R. 1992/116
 Amendment No. 11: S.R. 1992/284
 Amendment No. 12: (Revoked by S.R. 1993/282)
 Amendment No. 13: S.R. 1993/48
 Amendment No. 14: S.R. 1993/282
 Amendment No. 15: S.R. 1993/355
 Amendment No. 16: S.R. 1994/28
 Amendment No. 17: S.R. 1994/174
 Amendment No. 18: S.R. 1995/86
 Amendment No. 19: S.R. 1995/175
 Amendment No. 20: S.R. 1995/236
 Amendment No. 21: S.R. 1996/272
 Amendment No. 22: S.R. 1996/383
 Amendment 1997: S.R. 1997/25

4. Fishing prohibited in defined areas around Chatham Islands—

Regulation 5B of the principal regulations (as inserted by regulation 8 of the Fisheries (South-East Area Commercial Fishing) Regulations 1986, Amendment No. 14) is amended by adding the following paragraph:

“(o) *Te Whanga Lagoon and its tributaries*: All the waters of Te Whanga Lagoon and the rivers and streams flowing into the lagoon.”

5. New regulations substituted—The principal regulations are amended by revoking regulations 11N and 11O (as inserted by regulation 5 of the Fisheries (South-East Area Commercial Fishing) Regulations 1986, Amendment No. 21), and substituting the following regulations:

“11N. **Taking of eels from Lakes Forsyth and Ellesmere and Wainono Lagoon restricted—**(1) No commercial fisher may—

“(a) Take eels from—

“(i) Lake Forsyth; or

“(ii) Any river or stream that flows into Lake Forsyth; or

“(iii) Any tributary of any river or stream that flows into Lake Forsyth; or

“(iv) Wainono Lagoon; or

“(b) Be in possession of any eel taken from those waters.

“(2) No commercial fisher may—

“(a) Take eels from those waters of Lake Ellesmere lying in a westerly direction from a straight line drawn due South from the site of a post on the north bank (at approximately 43° 51.37'S and 172° 22.28'E) to the site of a post on the south bank of the arm of Lake Ellesmere near Taumutu (at approximately 43° 51.44'S and 172° 22.25'E), nor from any streams flowing into those waters; or

“(b) Be in possession of any eel taken from those waters.

“(3) No commercial fisher may take from Lake Ellesmere any eel whose weight is less than the relevant minimum weight determined under subclause (4), or be in possession of such an eel.

“(4) Notwithstanding regulation 21 (2) of the Fisheries (Commercial Fishing) Regulations 1986, but subject to regulation 11O (2),—

“(a) In respect of the period of 12 months beginning on 30 September 1993, the minimum weight of any eel that may be taken from Lake Ellesmere by any commercial fisher is 140g;

“(b) Thereafter, on the commencement of each succeeding 12-month period and in respect of that period, the minimum weight of any eel that may be taken from Lake Ellesmere by any commercial fisher is to be 10g more than the minimum weight in respect of the immediately preceding 12-month period, until the minimum weight reaches 220g, at which time the minimum weight remains fixed at that amount.

“(5) Notwithstanding regulations 31C and 49 of the Fisheries (Commercial Fishing) Regulations 1986, no commercial fisher may use any fyke net to take eels from Lake Ellesmere unless there are incorporated behind the last trap or throat, and before the last part of the net capable of holding eels while in the water, 2 escapement tubes that are not less than 25mm in inside diameter, except that both ends of the tube may not be less than 29mm in inside diameter.

“(6) Subclause (5) does not apply to the use of any fyke net in the male shortfinned eel migration area during the period commencing on 1 February 1998 and ending on 31 March 1998 (both dates inclusive).

110. Eel fishing in male shortfinned eel migration area from 1 February to 31 May 1998—(1) No commercial fisher may—

“(a) Take any eel from the male shortfinned eel migration area during the period from 1 April 1998 to 31 May 1998 (both dates inclusive); or

“(b) Be in possession of any eel so taken.

“(2) No commercial fisher may—

“(a) Take from the male shortfinned eel migration area during the period from 1 February 1998 to 31 March 1998 (both dates inclusive) any eel whose weight exceeds 300g; or

“(b) Be in possession of any eel so taken,—

and, notwithstanding regulation 11N(4), no minimum weight applies to any eel taken from that area during that period.

“(3) No commercial fisher may take any eel from the waters of the male shortfinned eel migration area during the period referred to in subclause (2)—

“(a) Without the consent of the chief executive, which consent may be given subject to such conditions as the chief executive may impose; and

“(b) Otherwise than in accordance with any condition imposed by the chief executive in that consent.

“(4) Notwithstanding regulation 21(3) of the Fisheries (Commercial Fishing) Regulations 1986 (as inserted by regulation 3 of the Fisheries (Commercial Fishing) Regulations 1986, Amendment No. 2), a person may sell, possess for sale, or process for sale any eel that is less than the relevant length or weight specified in that regulation where the eel sold, possessed for sale, or processed for sale is taken and received lawfully in accordance with regulations 11N to 11P of these regulations.

11P. Labelling of eels taken from Lake Ellesmere—(1) Every commercial fisher must ensure that every eel taken from Lake Ellesmere is landed or held in a container that is clearly and legibly labelled externally with all of the following:

“(a) The commercial fisher’s initials and surname:

“(b) The number of the permit under which fishing is authorised:

“(c) The date or dates on which the eels were taken:

“(d) The area from which the eels were taken, showing either—

“(i) ‘Ellesmere migration area’ if the eels were taken from the male shortfinned eel migration area; or

“(ii) ‘Ellesmere’ if the eels were taken from any other part of Lake Ellesmere.

“(e) The commercial fisher’s signature.

“(2) Every licensed fish receiver who receives eels taken from Lake Ellesmere must ensure that—

“(a) Each commercial fisher’s catch is kept separated and remains clearly labelled with the information required under subclause (1) until graded for processing; and

“(b) A declaration is provided by the commercial fisher the eels are received from, stating that the eels have been taken from Lake Ellesmere and, if applicable, from the male shortfinned eel migration area during the migration season, and is on or attached to the licensed fish receiver’s copy of the unloading docket or purchase invoice issued in respect of that landing of eels.”

6. Offences—Regulation 12 of the principal regulations is amended by revoking subclause (1), and substituting the following subclause:

“(1) Every commercial fisher commits an offence, and is liable on summary conviction to a fine not exceeding \$10,000, who acts in contravention of or fails to comply with any of regulations 4 to 8A, 10A to 10C, and 11A to 11P.”

7. Revocations—The following regulations are consequentially revoked:

- (a) Regulation 5 of the Fisheries (South-East Area Commercial Fishing) Regulations 1986, Amendment No. 4:
- (b) Regulation 3 of the Fisheries (South-East Area Commercial Fishing) Regulations 1986, Amendment No. 16:
- (c) Regulations 2 and 5 of the Fisheries (South-East Area Commercial Fishing) Regulations 1986, Amendment No. 21.

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on the 28th day after the date of their notification in the *Gazette*, amend the Fisheries (South-East Area Commercial Fishing) Regulations 1986 as follows:

- (a) *Regulation 2* amends the definition of “male shortfinned eel migration area” to remove inaccuracies in some existing co-ordinates that define the Lake Ellesmere concession area and to redefine others.
- (b) *Regulation 3* rolls over the existing provisions in relation to trawling in the salmon conservation area adjacent to Banks Peninsula. The existing regulation 4B applies only to the 1996–97 year. The amendment removes this restriction, so that the regulation will now apply in all future years.
- (c) *Regulation 4* closes the Te Whanga Lagoon on Chatham Island and all its tributaries to all commercial fishing.
- (d) *Regulation 5* makes a number of changes in relation to Te Waihora (Lake Ellesmere) eel fishery. The inside diameter of fyke nets is increased to 25mm and 29mm, to align these dimensions with increases to the minimum weight of eels that can be landed in the fishery. The existing concession period for the fishery for the 1997 year is rolled over to the 1998 year. The new *regulation 11P* introduces labelling requirements so that eels taken under the concessionary regime for the fishery can be more easily identified.
- (e) *Regulation 6* updates the offence provision to refer to new *regulations 11o and 11p*.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 6 November 1997.
These regulations are administered in the Ministry of Fisheries.