



**THE FISHERIES (WEST COAST WHITEBAIT FISHING)
REGULATIONS 1985**

DAVID BEATTIE, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 26th day of August 1985

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

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

ANALYSIS

1. Title and commencement
2. Interpretation
3. Application
4. Closed season
5. Closed areas
6. Hours of fishing

7. Gear and method restrictions on all
whitebait fishing
8. Fishing for whitebait subject to special
conditions
9. Rivers, etc., not to be altered
10. Dumping of other fish prohibited
11. Revocations
Schedules

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Fisheries (West Coast Whitebait Fishing) Regulations 1985.

(2) These regulations shall come into force on the 1st day of September 1985.

2. Interpretation—In these regulations, unless the context otherwise requires,—

“Act” means the Fisheries Act 1983:

“Confluence” means the place where any river, stream, estuary, or channel or other water meets any other river, stream, estuary, or channel or other water having a separate source and a permanent and visible flow:

“Fishing gear” means any vessel, net, line, pot, trap, screen, apparatus, device, or thing that is capable of being used for taking whitebait or assisting in the taking of whitebait, and includes any licensed structure:

“Licensed structure” means a structure licensed under the Harbours Act 1950 and used for the purpose of taking whitebait:

“Net” includes any net or part of a net used or capable of being used to take whitebait:

“Open season” means the period commencing with the 1st day of September in any year and expiring with the close of the 14th day of November in that year:

“River”, “stream”, “estuary”, or “channel” means the waters of the river, stream, estuary, or channel, as the case may be:

“Screen” means a flat portable frame covered with a metallic or fabric gauze material that does not impede the flow of water:

“Tidal portion” includes all parts of a river, stream, channel, estuary, or other waters where the water level fluctuates with the tide:

“Whitebait” means those fish commonly called whitebait, being—

(a) The young or fry of the following *Galaxias* species:

(i) *Galaxias maculatus* (inanga):

(ii) *Galaxias brevipinnis* (kaoro):

(iii) *Galaxias argenteus* (giant kokopu):

(iv) *Galaxias postvectis* (short-jawed kokopu):

(v) *Galaxias fasciatus* (banded kokopu); and

(b) The young or fry of the fish of which the scientific name is *Retropinna retropinna*.

3. Application—These regulations shall apply to all waters and places on the West Coast of the South Island from Heaphy Bluff (at 40°59'S and 172°06'E) to Puysegur Point (at 46°09'S and 166°36'E).

4. Closed season—No person may fish for whitebait in the area to which these regulations apply or be in possession of any whitebait in the vicinity of any river, stream, estuary, or channel in that area during the period commencing with the 15th day of November in any year and expiring with the 31st day of August in the next year.

5. Closed areas—No person may at any time fish for whitebait in any of the areas specified in the First Schedule to these regulations or be in possession of any whitebait or fishing gear in any of those areas.

6. Hours of fishing—No person may fish for whitebait during the open season between the hours of 8 p.m. on any day and 5 a.m. on the next day.

7. Gear and method restrictions on all whitebait fishing—(1) No person shall, while fishing for whitebait on any river, stream, estuary or channel where the taking of whitebait is for the time being allowed,—

- (a) Use or have in his possession any whitebait net that has a net mouth in excess of 4.5 m in circumference or perimeter measured around the inside of the net frame:
 - (b) Use or have in his possession any whitebait net the framing material of which exceeds 120 mm in width:
 - (c) Use or have in his possession any whitebait net that has an overall length greater than 3.5 m:
 - (d) Except as provided in subclause (2) of this regulation, set or use any fishing gear that exceeds more than one-third of the width of the river, stream, estuary, or channel at that place at that time:
 - (e) Except where regulation 8 (1) (b) of these regulations applies, set or use more than one whitebait net at any time:
 - (f) Place on the side of the net furthest from the water's edge any screen or other item that may divert whitebait into any net:
 - (g) Place any net in such a manner that it may divert whitebait into any other net:
 - (h) Use a screen or screens in fishing for whitebait unless the total length of the screen or screens does not exceed 3 m and the screen or screens are used only from the water's edge at the site being fished:
 - (i) Fish within 20 m of any groyne, shingle bank, wall, or other diversion constructed by any person from the bank or in the bed of a river, stream, estuary, or channel whereby whitebait may be diverted into a net:
 - (j) Use anywhere or have on any structure where nets are in place in the water any device, contrivance, wing, or deflector that may be used to prevent or divert the movement of whitebait up or down stream other than a screen that complies with and is used in accordance with these regulations:
 - (k) Use any fishing vessel, except that a Fishery Officer may, upon application in writing and subject to such conditions as he thinks fit, authorise the applicant or the person for whom the application is made to use a fishing vessel for the purpose of taking whitebait if he is satisfied that the applicant or that person, because of infirmity or chronic disability, is unable to fish for whitebait without using a fishing vessel:
 - (l) Fish within 20 m of any tide gate, flood gate, confluence, culvert, bridge, or bridge pier.
- (2) Nothing in subclause (1) (d) of this regulation shall apply in respect of any licensed structure so long as the other fishing gear used on or from the structure complies with subclause (1) (d) of this regulation.
- (3) Nothing in subclause (1) (i) of this regulation shall apply to any person fishing for whitebait from the main wharf and protection works in the Buller, Grey, and Hokitika Rivers; but nothing in this subclause shall confer on any person any right of access to those wharves or protection works.
- (4) Every person who sets or uses a whitebait net shall remain within 10 m of any such net, except those persons who set or use any whitebait net from a licensed structure who shall remain within 10 m of that licensed structure.
- (5) No person shall fish for or take whitebait other than from the tidal portion of any river, stream, estuary, or channel.

(6) Any person fishing for whitebait shall remove all fishing gear (other than a licensed structure) from the water at the cessation of fishing, or not later than 8 p.m., whichever is the earlier.

8. Fishing for whitebait subject to special conditions—(1) No person fishing for whitebait from the rivers listed in the Second Schedule to these regulations shall—

- (a) Fish for whitebait from any structure that is not a licensed structure:
- (b) Fish for whitebait from any licensed structure where more than 2 whitebait nets are being used:
- (c) Use any whitebait net from any licensed structure within 3 m of any other whitebait net:
- (d) Place or use nets on or from any licensed structure unless the mouths of the nets both face the same direction:
- (e) Place or use nets on or from any licensed structure unless the nets are placed or used in a straight line, either from the upstream or downstream edge of the licensed structure:
- (f) Use a hand-held scoop net from any licensed structure where any other net is being set or used:
- (g) Fish within 40 m of any licensed structure from which any other person is fishing, whether on the same or opposite bank as that structure.

(2) Notwithstanding regulation 7 (1) (h) of these regulations, on those rivers specified in the Second Schedule to these regulations any person may use 2 or more screens at a licensed structure if the screens are placed only in the spaces between the nets authorised to be used on the licensed structure, or between the net nearest the water's edge and the water's edge.

9. Rivers, etc., not to be altered—Nothing in these regulations shall be construed so as to permit any person fishing for whitebait to interfere with, alter, or modify the natural bed or banks of any river, stream, estuary, or channel.

10. Dumping of other fish prohibited—No person shall discard or dump on shore any fish taken when fishing for whitebait.

11. Revocations—The Fisheries (West Coast Whitebait Fishing) Notice 1984* and the Fisheries (West Coast Whitebait Fishing) Notice 1984, Amendment No. 1† are hereby revoked.

*S.R. 1984/210

†S.R. 1984/231

SCHEDULES

Reg. 5

FIRST SCHEDULE

AREAS WHERE WHITEBAIT FISHING PROHIBITED

- (a) The area of about 2.428 hectares known as Kongahu Swamp located north of Granite Creek to the east of the main road to Karamea township and approximately 6.5 km south of that township:
- (b) The Mahinapua Creek to the south side of the Hokitika River, and any tributary of the Mahinapua Creek; including Lake Mahinapua and any stream running into that lake:
- (c) The south bank of the Hokitika River from a point 20 m upstream of the entrance of Mahinapua Creek to the sea:
- (d) Fisherman's Creek that enters the Hokitika River on the South Bank and any tributary of Fisherman's Creek:
- (e) The area known as the Hapuka River (including the south bank of the Turnbull River) from a point 20 m upstream from the Hapuka River to the sea:
- (f) Any tributary stream of the Waitatoto River and the waters of the Waitatoto River above the mean high-water mark:
- (g) The north bank of the Cascade River between a point 20 m upstream from Old Man Creek to the sea:
- (h) Old Man Creek:
- (i) Barn Creek that enters the Cascade River, and any tributary stream of Barn Creek:
- (j) The Awarua River above the New Zealand Forest Service swing bridge:
- (k) All rivers, streams, and tributaries in Fiordland between Yates Point in the north and Puysegur Point in the south.

Reg. 8

SECOND SCHEDULE

RIVERS WHERE SPECIAL CONDITIONS APPLY

Orowaiti River
 Taramakau River
 Hokitika River (proper)
 Waitaha River
 Wanganui River
 Poerua River
 Waitangi-Taona River
 Jacobs River
 Karangarua River
 Paringa River
 Moeraki River (Blue)
 Haast River
 Okuru River
 Turnbull River
 Waitatoto River
 Arawata River
 Cascade River

SECOND SCHEDULE—*continued*

Awarua River
Ohinemaka River
Hollyford River

It should be noted that in parts of some of these rivers fishing for whitebait is totally prohibited. See the First Schedule to these regulations.

P. G. MILLEN,
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 1 September 1985, relate to the taking of whitebait on the West Coast of the South Island.

The principal changes are—

- (a) Licensed structures may be used while they extend over more than one-third of the width of a river, stream, estuary, or channel so long as the other fishing gear used does not exceed that width:
- (b) Persons fishing from licensed structures need only remain within 10 m of the structure rather than within 10 m of the net:
- (c) The special conditions that apply on certain rivers are extended to apply also to the Waitaha and Poerua Rivers:
- (d) The maximum number of nets that may be used in rivers to which the special conditions apply is reduced from two to one. This reduction does not apply to persons fishing from licensed structures.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 27 August 1985.

These regulations are administered in the Ministry of Agriculture and Fisheries.