



**THE FISHERIES (COMMERCIAL FISHING) REGULATIONS 1986,
AMENDMENT NO. 15**

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 13th day of September 1993

Present:

THE RIGHT HON. D. C. MCKINNON PRESIDING IN COUNCIL

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

ANALYSIS

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Fisheries (Commercial Fishing) Regulations 1986, Amendment No. 15, and shall be read together with and deemed part of the Fisheries (Commercial Fishing) Regulations 1986* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the 30th day of September 1993.

2. Interpretation—(1) Regulation 2 of the principal regulations is hereby amended by inserting, after the definition of the term “kina”, the following definition:

“‘Kingfish’ means a fish of the species *Seriola lalandi*.”

(2) Regulation 2 of the principal regulations is hereby amended by omitting from the definition of the term “set net” the words “driftnet, trammel net,”.

3. Minimum finfish length, weight, and net mesh size—

(1) Regulation 21 (1) of the principal regulations is hereby amended by omitting from the table the expression “30” where it occurs in the third column opposite the species blue cod, and substituting the expression “33”.

(2) Regulation 21 (1) of the principal regulations is hereby amended by inserting in the table, in its appropriate alphabetical order, the following item:

“Kingfish — 65”.

(3) Regulation 21 of the principal regulations is hereby amended by inserting, after subclause (1), the following subclause:

“(1A) Notwithstanding subclause (1) of this regulation, nothing in that subclause shall apply to the taking of kingfish by trawling or to the possession of kingfish taken by trawling.”

(4) Regulation 21 (2) of the principal regulations is hereby amended by omitting the expression “150g”, and substituting the expression “220g”.

4. New heading and regulation inserted—The principal regulations are hereby amended by inserting, after regulation 36, the following heading and regulation:

“*Seabird Scaring Devices*

“36A. **Seabird scaring devices required for tuna longlining**—

(1) Every commercial fisherman taking tuna by using a longline from a vessel shall ensure that—

*S.R. 1986/215

Amendment No. 1: S.R. 1986/250

Amendment No. 2: S.R. 1988/104

Amendment No. 3: S.R. 1988/175

Amendment No. 4: S.R. 1988/321

Amendment No. 5: (Revoked by S.R. 1990/1986)

Amendment No. 6: (Revoked by S.R. 1990/1986)

Amendment No. 7: S.R. 1990/186

Amendment No. 8: S.R. 1991/61

Amendment No. 9: S.R. 1991/159

Amendment No. 10: S.R. 1991/249

Amendment No. 11: S.R. 1992/115

Amendment No. 12: S.R. 1992/208

Amendment No. 13: S.R. 1992/237

Amendment No. 14: S.R. 1993/174

“(a) A seabird scaring device approved by the Director-General is carried on the vessel at all times while the vessel is being used for that purpose; and

“(b) The seabird scaring device is used in accordance with any specifications issued to the commercial fisherman by the Director-General.

“(2) Every such commercial fisherman shall make the seabird scaring device available at any reasonable time for inspection by a scientific observer appointed under section 67D of the Fisheries Act 1983 or a Fisheries Officer.”

5. Measurement of net mesh size—Regulation 37 (3) of the principal regulations (as substituted by regulation 4 of the Fisheries (Commercial Fishing) Regulations 1986, Amendment No. 13) is hereby amended—

(a) By omitting from paragraph (b) the words “that is unique to that gauge”, and substituting the words “referred to in a report issued under paragraph (c) of this subclause”;

(b) By inserting in paragraph (c), after the words “Is certified”, the words “, by reference to any such mark and number, in a report issued”.

6. Restrictions on nets in channels—The principal regulations are hereby amended by revoking regulation 38, and substituting the following regulation:

“38. (1) No commercial fisherman shall use or set any net that, either by itself or together with or in conjunction with any other net, wing, or leader extends more than one-quarter of the way across the width of any channel, river, or stream measured at right angles to the bank of that channel, river, or stream, at that place at that time.

“(2) No commercial fisherman shall use or set any net that, at any time, either by itself or together with or in conjunction with any other net, wing, or leader extends more than one-quarter of the width of any arm of the sea, including any estuary, inlet, bay, or sound.

“(3) For the purposes of subclause (2) of this regulation, the width of any arm of the sea, including any estuary, inlet, bay, or sound, shall be the shortest line of any straight lines that may be drawn between any point on the water’s edge and any point on the opposing water’s edge being a line that intersects the net at some point.”

7. Use of certain nets prohibited—(1) Regulation 41 (1) of the principal regulations is hereby amended by omitting the words “inside the seaward entrance to any harbour, or”.

(2) Regulation 41 of the principal regulations is hereby amended by adding the following subclause:

“(3) No commercial fisherman shall use or possess a trammel net.”

8. New regulations substituted—The principal regulations are hereby amended by revoking regulation 42, and substituting the following regulations:

“42. **Length of set net**—(1) No commercial fisherman shall use any set net or combination of set nets, if the total length of that net or combination of nets, whether attached together or otherwise, exceeds 1000 metres, unless all of the upper edge of each of the set nets is more than 2 metres below the surface of the water.

“(2) No commercial fisherman shall use in any part of New Zealand fisheries waters (not being any river, stream, lake, lagoon, or estuary) any set net or combination of set nets, if the total length of that net or combination of nets, whether attached together or otherwise, exceeds 3000 metres, unless the Director-General has authorised the use of that net or those nets under subclause (3) of this regulation.

“(3) The Director-General may, in writing, authorise a commercial fisherman to use in New Zealand fisheries waters (not being any river, stream, lake, lagoon, or estuary) any set net or combination of set nets, whether attached together or otherwise, having a total length not exceeding 6000 metres, if satisfied that the commercial fisherman has previously used a set net or combination of set nets, whether attached together or otherwise, having a total length of not less than 3000 metres.

“(4) No commercial fisherman shall use or possess a set net having a total length exceeding 500 metres if, when the net is set, it has any part of its upper edge more than 2 metres from the surface of the water, unless the net has surface floats attached to it at intervals of 500 metres or part thereof.

“(5) No commercial fisherman shall, in any river, stream, lake, lagoon, or estuary—

“(a) Use any set net or combination of set nets, if the total length of that net or combination of nets, whether attached together or otherwise, exceeds 1000 metres; or

“(b) Set any net within 60 metres of any other net.

“42A. **Set net soak time**—No commercial fisherman shall leave any set net in the water for more than 18 hours without underrunning the net and removing any fish that have been caught.”.

9. Tubes to be incorporated in fyke nets—Regulation 49 (a) of the principal regulations is hereby amended by omitting the expressions “22mm” and “26mm”, and substituting, respectively, the expressions “25mm” and “29mm”.

10. Underwater breathing apparatus allowed in certain circumstances—Regulation 52 of the principal regulations is hereby amended by adding, as subclause (2), the following subclause:

“(2) Underwater breathing apparatus may be carried on board and used from a registered fishing vessel where—

“(a) The apparatus is used otherwise than for commercial fishing; and

“(b) The conveyance and use of the apparatus is authorised by the Director-General and is in accordance with any conditions specified by the Director-General.”

11. Director-General may remit or waive special permit fees—The principal regulations are hereby amended by inserting, after regulation 56, the following regulation:

“56A. The Director-General may authorise the remission or waiver, in whole or in part, of the fee payable in respect of an application for a special permit under section 64 of the Act, where he or she considers that it is in the public interest to authorise such remission or waiver.”

12. Offences—(1) Regulation 57 (1) of the principal regulations (as substituted by regulation 4 of the Fisheries (Commercial Fishing) Regulations 1986, Amendment No. 7) is hereby amended—

(a) By inserting, after the expression “20,” the expression “20A,”:

(b) By omitting the expressions “29 (3),” and “31 (2),”.

(2) Regulation 57 of the principal regulations (as so substituted) is hereby amended by inserting, after subclause (1), the following subclause:

“(1A) Every person 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 21 (3), 22 (3), 26 (2), 29 (3), and 31 (2) of these regulations.”

13. Third Schedule amended—Part B of the Third Schedule to the principal regulations (as added by regulation 6 of the Fisheries (Commercial Fishing) Regulations 1986, Amendment No. 13) is hereby amended—

(a) By revoking paragraph (a) of clause 5:

(b) By inserting in clause 15, after the words “this Part,” the words “and for all beach seine nets, drag nets, and set nets,”:

(c) By omitting from clause 17 (a) the words “that is unique to that gauge”, and substituting the words “referred to in a report issued under paragraph (b) of this clause:

(d) By inserting in clause 17 (b), after the words “Is certified”, the words “, by reference to any such mark and number, in a report issued”.

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 30 September 1993, amend the Fisheries (Commercial Fishing) Regulations 1986.

The principal changes are as follows:

- (a) A minimum length of 65 cm is established for kingfish (*regulation 3*);
- (b) The minimum weight of eels that may be taken is increased from 150g to 220g and the permissible size of escapement tubes in fyke nets is consequentially increased (*regulation 3*);
- (c) Seabird scaring devices are required for tuna longlining (*regulation 4*);
- (d) The restrictions on the length of nets set in channels, rivers, and streams is reduced from one-third of the width to one-quarter of the width of the channel, river, or stream (*regulation 6*);
- (e) A new restriction preventing the setting of nets across more than one-quarter of the width of any sound, estuary, inlet, or bay is imposed (*regulation 6*);
- (f) The use of trammel nets by commercial fishermen is prohibited (*regulation 7*);
- (g) New restrictions on the length of set nets are imposed (*regulation 8*);
- (h) Underwater breathing apparatus may be carried on board and used from a registered fishing vessel in certain cases (*regulation 10*);
- (i) Provision is made for the remission or waiver of fees for special permit applications (*regulation 11*).

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 16 September 1993.

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