



FISH LEVY AMENDMENT REGULATIONS 1997

MICHAEL HARDIE BOYS, Governor-General

ORDER IN COUNCIL

At Wellington this 9th day of June 1997

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 35 of the Fishing Industry Board Act 1963, 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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| <ul style="list-style-type: none"> 1. Title and commencement 2. Interpretation 3. New regulations substituted <ul style="list-style-type: none"> 5. General fish levy 5A. Commercial fishing levy | | <ul style="list-style-type: none"> 4. Further new regulations substituted <ul style="list-style-type: none"> 7. Fishermen's contribution 8. Purchasers' contribution 5. Revocations |
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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Fish Levy Amendment Regulations 1997, and are part of the Fish Levy Regulations 1976* (“the principal regulations”).

*S.R. 1976/316
Amendment No. 1: S.R. 1980/5
Amendment No. 2: S.R. 1984/74
Amendment No. 3: S.R. 1992/113
Amendment No. 4: S.R. 1995/93

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

2. Interpretation—The principal regulations are amended by revoking the definitions of the terms “commercial fishing levy” and “fish levy” (as inserted and amended by regulation 2 of the Fish Levy Regulations 1976, Amendment No. 1), and substituting, respectively, the following definitions:

“ ‘Commercial fishing levy’ means the levy referred to in regulation 5A (1):

“ ‘Fish levy’ means the levy referred to in regulation 5 (1):”.

3. New regulations substituted—(1) The principal regulations are amended by revoking regulations 5 and 5A (as substituted and inserted, respectively, by regulation 2 of the Fish Levy Regulations 1976, Amendment No. 3 and regulation 4 of the Fish Levy Regulations 1976, Amendment No. 1), and substituting the following regulations:

“5. General fish levy—(1) The general fish levy imposed by section 14 of the Act—

“(a) Is to be paid by wholesalers on all fish taken and all fish or fish products purchased by them (otherwise than from another wholesaler); and

“(b) Is at the rate for the time being fixed by the Board by notice in the *Gazette*. The rate fixed may not exceed—

“(i) In the case of paua and rock lobster, 1.7% of their primary price:

“(ii) In the case of other fish, 1.2% of their primary price.

“(2) Nothing in subclause (1) applies to fish taken or purchased in a live state for the purpose of fish farming within the territorial limits of New Zealand.

“5A. Commercial fishing levy—(1) The levy imposed by section 14A of the Act—

“(a) Is to be paid by wholesalers on all fish taken and all fish or fish products purchased by them (otherwise than from another wholesaler); and

“(b) Is at the rate of 0.1% of the primary price of the fish.

“(2) Nothing in subclause (1) applies to fish taken or purchased in a live state for the purpose of fish farming within the territorial limits of New Zealand.

“(3) Regulations 6 (4), 9, 10 (1), and 11 apply to the payment and collection of the commercial fishing levy as if every reference in those regulations to the fish levy were a reference to the commercial fishing levy.”

4. Further new regulations substituted—The principal regulations are amended by revoking regulations 7 and 8, and substituting the following regulations:

“7. Fishermen’s contribution—(1) A wholesaler who has paid the fish levy in respect of any fish or fish products sold to the wholesaler by a fisherman may recover from that fisherman an amount determined at the rate for the time being fixed by the Board by notice in the *Gazette*. The rate fixed may not exceed—

“(a) In the case of paua and rock lobster, 0.65% of their primary price:

“(b) In the case of other fish, 0.4% of their primary price.

“(2) A wholesaler who has paid the commercial fishing levy in respect of any fish or fish products sold to the wholesaler by a fisherman may recover from that fisherman the amount of the levy paid.

“(3) Any amount recoverable under this regulation may be recovered in any court of competent jurisdiction as a debt due to the wholesaler.

“**8. Purchasers’ contribution**—(1) A wholesaler who has paid the fish levy in respect of any fish or fish products sold by the wholesaler in New Zealand may recover from their purchaser an amount determined at the rate for the time being fixed by the Board by notice in the *Gazette*, which rate may not exceed 0.4% of their primary price.

“(2) In no case may the amount recoverable under subclause (1) exceed—

“(a) In the case of shelled oysters, one five-hundredth of the price at which the fish or fish products are sold by the wholesaler:

“(b) In any other case, one three-hundredth of the price at which the fish or fish products are sold by the wholesaler.

“(3) Where a wholesaler sells in New Zealand fish or fish products sold to the wholesaler by another wholesaler, the wholesaler may recover from the purchaser of the fish or fish products any amount paid by the wholesaler to the other wholesaler under subclause (1) as a contribution to the levy payable in respect of the fish or fish products.

“(4) Any amount recoverable under this regulation may be recovered in any court of competent jurisdiction as a debt due to the wholesaler.”

5. Revocations—The following regulations are consequentially revoked:

- (a) Regulations 2, 4, and 5 of the Fish Levy Regulations 1976, Amendment No. 1:
- (b) Regulations 3 and 4 of the Fish Levy Regulations 1976, Amendment No. 2:
- (c) The Fish Levy Regulations 1976, Amendment No. 3.

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 day after the date of their notification in the *Gazette*, rewrite the specific levy and levy contribution regulations contained in the Fish Levy Regulations 1976.

The regulations—

- (a) Clarify that while the fish levy payable under section 14 of the Fishing Industry Board Act 1963 is imposed on fish generally, it is primarily payable by wholesalers, who may nevertheless recover contributions towards the levy from fishers who actually took the fish and from purchasers of the fish. The rewritten *regulations 5 and 5A* make it clear that the levy is payable by wholesalers in respect of fish taken by them, as well as fish or fish products purchased from fishers:
- (b) Resolve an ambiguity between existing regulations 5(1)(a)(ii) and 8. Regulation 5 currently determines an amount of levy in respect of “retailers”, whereas the recovery provisions in regulation 8 allow wholesalers to recover contributions from “purchasers” generally and other wholesalers in particular. The new regulations remove the reference to retailers and provide for levy contributions to be recovered from purchasers generally.

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

Date of notification in *Gazette*: 12 June 1997.

These regulations are administered in the Ministry of Fisheries.