

1962/131



THE TOHEROA REGULATIONS 1955, AMENDMENT NO. 1

COBHAM, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 30th day of July 1962

Present:

THE RIGHT HON. KEITH HOLYOAKE PRESIDING IN COUNCIL

PURSUANT to the Fisheries Act 1908, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. These regulations may be cited as the Toheroa Regulations 1955, Amendment No. 1, and shall be read together with and deemed part of the Toheroa Regulations 1955* (hereinafter referred to as the principal regulations).

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

“(2) For the purposes of these regulations, toheroa, or any parts thereof, shall be deemed to be in the possession of any person when that person has, alone or jointly with any other person, possession of or control over the toheroa, or the parts thereof, or possession of or control over any vessel, vehicle, container, package, thing, or place in or on which are the toheroa, or the parts thereof:

“Provided that, in any proceedings for an offence against these regulations, being an offence relating to the possession of any toheroa, or any parts thereof, found in or on any vessel, vehicle, container, package, thing, or place in the possession or under the control of the defendant, alone or jointly with any other person, it shall be a good defence if the defendant satisfies the Court that he had no knowledge that they were in or on that vessel, vehicle, container, package, thing, or place.”

3. The principal regulations are hereby further amended by revoking regulation 5, and substituting the following regulation:

“5. No person shall for the purpose of taking toheroa use any implement other than one which is made wholly of wood and which is not more than 12 in. in length and 3 in. in width.”

4. (1) The principal regulations are hereby further amended by revoking regulation 8, and substituting the following regulation:

“8. (1) No person shall in any one day convey by any means whatsoever or have on or on board any conveyance of any kind or on any animal more than 20 toheroa (not being canned toheroa):

“Provided that where there are at any one time more persons than one using any conveyance or animal to convey toheroa, each of them may use the conveyance or animal to convey not more than 20 toheroa (not being canned toheroa) in any one day and there may be on or on board any conveyance or on any animal not more than 20 toheroa (not being canned toheroa) in respect of each person present and using the conveyance or animal to convey toheroa.

“(2) No person shall during the close season convey by any means whatsoever or have on or on board any conveyance of any kind or on any animal any toheroa (not being canned toheroa).”

(2) Regulation 7 of the principal regulations is hereby consequentially amended by inserting after the words “beaches or”, the words “(subject to the proviso to subclause (1) of regulation 8 hereof)”.

T. J. SHERRARD,
Clerk of the Executive Council.

EXPLANATORY NOTE

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

Regulation 2 makes an amendment relating to the burden of proof where a person is found in possession of toheroa. It is consequential on the passing of the Fisheries Amendment Act 1959.

Regulation 3 provides that no person may use any implement for the purpose of taking toheroa other than an implement which is made wholly of wood and which is not more than 12 in. in length and 3 in. in width. Under the present regulations the only restriction is that the implement must not be made of metal.

Regulation 4: At present regulation 8 of the principal regulations imposes a limit of 50 toheroa for each conveyance. This regulation removes that limit and imposes the general limit of 20 toheroa for each person present and using the conveyance.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 2 August 1962.

These regulations are administered in the Marine Department.