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THE TOHEROA REGULATIONS 1955, AMENDMENT NO. 9

ARTHUR PORRITT, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 26th day of July 1971

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL 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. Title and commencement—(1) These regulations may be cited as the Toheroa Regulations 1955, Amendment No. 9, and shall be read together with and deemed part of the Toheroa Regulations 1955* (hereinafter referred to as the principal regulations).

(2) Subject to subclause (3) of this regulation, these regulations shall come into force on the day after the date of their notification in the *Gazette*.

(3) Regulation 2 of these regulations shall come into force on the 1st day of August 1971.

2. Close season for taking toheroa—(1) Regulation 2 of the principal regulations (as amended by regulation 2 of the Toheroa Regulations 1955, Amendment No. 2, regulation 2 of the Toheroa Regulations 1955, Amendment No. 7, and regulation 2 of the Toheroa Regulations 1955, Amendment No. 8) is hereby further amended by revoking the definition of the expression “close season”, and substituting the following definition:

“‘Close season’ means—

“(a) In relation to that part of Dargaville Beach south of a point 1 mile south of Glinks Gully, and in relation to Ninety Mile Beach in Northland, and in relation also to all beaches on

*S.R. 1955/206

Amendment No. 1: S.R. 1962/131

Amendment No. 2: S.R. 1965/111

Amendment No. 3: S.R. 1967/187 (*Revoked by S.R. 1968/133*)

Amendment No. 4: S.R. 1968/133 (*Revoked by S.R. 1968/151*)

Amendment No. 5: S.R. 1968/151

Amendment No. 6: S.R. 1968/165

Amendment No. 7: S.R. 1969/152

Amendment No. 8: S.R. 1970/163

the west coast of the North Island south of latitude 40° S, the period commencing with the 1st day of August 1971 and ending with the 31st day of December 1972:

“(b) In relation to any beach in the North Island other than the part of Dargaville Beach and those other beaches mentioned in paragraph (a) of this definition, the period commencing with the 27th day of September in any year and ending with the 17th day of September in the following year:

“(c) In relation to any beach in the South Island, the period commencing with the 1st day of October in any year and ending with the 31st day of August in the following year.”

3. Restrictions on taking toheroa—The principal regulations are hereby further amended by revoking regulation 7 (as substituted by regulation 6 (1) of the Toheroa Regulations 1955, Amendment No. 2, and amended by regulation 3 of the Toheroa Regulations 1955, Amendment No. 7) and substituting the following regulation:

“7. No person shall—

“(a) Take on any one day from Muriwai Beach more than 10 toheroa; or

“(b) Take on any one day from any beach other than Muriwai Beach more than 20 toheroa.”

4. Possession of toheroa—Regulation 7A of the principal regulations (as inserted by regulation 7 of the Toheroa Regulations 1955, Amendment No. 2 and amended by regulation 4 (1) of the Toheroa Regulations 1955, Amendment No. 7) is hereby further amended by revoking subclauses (1) and (1A), and substituting the following subclauses:

“(1) No person shall—

“(a) Be in possession of any toheroa, other than canned toheroa, on that part of Dargaville Beach south of a point 1 mile south of Glinks Gully, or on Ninety Mile Beach in Northland, or on any beach on the west coast of the North Island south of latitude 40° S, or within a radius of 1 mile of that part of Dargaville Beach or any of those other beaches on any road, track, or path, that provides egress from that part of Dargaville Beach or any of those other beaches:

“(b) Be in possession anywhere of any toheroa taken from that part of Dargaville Beach, or any other beach, mentioned in paragraph (a) of this subclause:

“(c) Be in possession on any one day of more than 10 toheroa, other than canned toheroa, on Muriwai Beach, or within a radius of 1 mile of that beach on any road, track, or path, that provides egress from that beach:

“(d) Be in possession anywhere on any one day of more than 10 toheroa taken from Muriwai Beach:

“(e) Be in possession on any one day of more than 20 toheroa, other than canned toheroa, on any part of a beach not mentioned in paragraphs (a) to (d) of this subclause:

“(f) Be in possession anywhere on any one day of more than 20 toheroa, other than canned toheroa, taken from any part of a beach not mentioned in paragraphs (a) to (d) of this subclause.

“(1A) Notwithstanding anything in subclause (1) of this clause, it shall be a good defence to any charge with an offence against any provision of subclause (1) of this regulation if the person charged proves that the toheroa were taken in accordance with these regulations.”

5. Restrictions in conveying toheroa—The principal regulations are hereby further amended by revoking regulation 8 (as substituted by regulation 8 (1) of the Toheroa Regulations 1955, Amendment No. 2, and amended by regulation 5 of the Toheroa Regulations 1955, Amendment No. 7) and substituting the following regulation:

“8 (1) No person shall keep in or convey by means of any conveyance whatsoever, or keep on, or convey by means of any animal—

“(a) Any toheroa, other than canned toheroa, on that part of Dargaville Beach south of a point 1 mile south of Glinks Gully, or on Ninety Mile Beach in Northland, or on any beach on the west coast of the North Island south of latitude 40° S, or within a radius of 1 mile of that part of Dargaville Beach or any of those other beaches on any road, track, or path, that provides egress from that part of Dargaville Beach or any other beach specified in this paragraph:

“(b) More than 50 toheroa, other than canned toheroa, on Muriwai Beach, or within a radius of 1 mile of that beach on any road, track, or path, that provides egress from that beach, or if fewer than 5 persons are in or on board the conveyance or on the animal, more than 10 toheroa, other than canned toheroa, for each of those persons:

“(c) More than 100 toheroa, other than canned toheroa, on any part of a beach not otherwise provided for in this regulation or within a radius of 1 mile of any such part of a beach on any road, track, or path, that provides egress from it, or, if fewer than 5 persons are in or on board the conveyance or on the animal, more than 20 toheroa, other than canned toheroa, for each of those persons.

“(2) For the purpose of this regulation all toheroa in or on board any conveyance or on any animal shall be deemed to be kept or conveyed by—

“(a) In the case of any hired conveyance or animal, the hirer or hirers for the time being of the conveyance or animal; and

“(b) In the case of every other conveyance or animal, the person for the time being in control of the conveyance or animal.

“(3) Notwithstanding anything in clauses (1) or (2) of this regulation, it shall be a good defence to any charge with an offence against any provision of paragraph (a) or paragraph (b) of subclause (1) of this regulation if the person charged proves that the toheroa were taken in accordance with these regulations.

“(4) For the purpose of subclause (1) of this regulation the term ‘person’ does not include any child under the age of 5 years.”

6. Revocations—The following regulations are hereby consequentially revoked—

- (a) Regulations 2, 6, and 8 of the Toheroa Regulations 1955, Amendment No. 2;
- (b) The Toheroa Regulations 1955, Amendment No. 7;
- (c) The Toheroa Regulations 1955, Amendment No. 8.

J. M. K. HILL,
for 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 amend the Toheroa Regulations 1955, principally to introduce new close seasons for various beaches, and to amend the provisions prescribing the maximum number of toheroa that may be taken at other times from those beaches or that may be possessed on any road, track, or path, within 1 mile of those beaches.

Issued under the authority of the Regulations Act 1936.
Date of notification in *Gazette*: 29 July 1971.
These regulations are administered in the Marine Department.