



THE WHITEBAIT FISHING REGULATIONS 1991

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 26th day of August 1991

Present:

THE HON. D. C. MCKINNON PRESIDING IN COUNCIL

PURSUANT to sections 48 and 48A of the Conservation Act 1987, Her 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 Whitebait Fishing Regulations 1991.

(2) These regulations shall come into force on the 28th day after the date of their notification in the *Gazette*.

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

“Act” means the Conservation Act 1987:

“Fishing gear” includes any net, line, pot, trap, dredge, apparatus, device, or thing that is used or is capable of being used for the purposes of taking whitebait:

“River, stream, or channel” includes all waters that are contained by natural or artificial banks:

“Warranted officer” means a person who—

(a) For the time being is so appointed under section 59 of the Act; and

(b) Is acting on or in respect of any matter or thing arising, situated, or formerly situated, in the district, area, or areas, for which the person was appointed:

“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* (koaro):

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

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

(v) *Galaxias fasciatus* (banded kokopu):

(b) The young or fry of the fish (commonly known as smelt) of which the scientific name is *Retropinna retropinna*:

“Whitebait net” means any net, contrivance, instrument, or device used or capable of being used to take the fish commonly known as whitebait.

3. Application—(1) Except as provided in subclause (2) of this regulation, these regulations apply to all waters and places throughout New Zealand.

(2) Nothing in any of regulations 4, 5, 7, and 8 (a) of these regulations applies to the waters and places to which the Fisheries (West Coast Whitebait Fishing) Regulations 1985* apply.

4. Whitebait fishing—(1) No person shall, in fishing for whitebait,—

(a) Use any whitebait net that—

(i) Has a net mouth in excess of 4.5 m in circumference or perimeter measured around the outside of the net frame; or

(ii) Has an overall length greater than 3.5 m:

(b) Set or use any fishing gear that—

(i) Exceeds more than one-third of the width of any river, stream, or channel at that place at that time; or

(ii) In conjunction with any fishing gear set or used by any other person, will exceed more than one-third of the width of the river, stream, or channel at that place at that time; or

(iii) Exceeds 6 m in total length:

(c) Set or use more than one whitebait net at any time.

(2) Every person who sets or uses a whitebait net shall remain within 10 m of any such net.

(3) The taking or possession of whitebait taken from the following places during the following periods is hereby prohibited:

(a) All waters and places in the North and South Islands from the 1st day of December in any year to the 31st day of July in the following year (both days inclusive), except as otherwise specified in the Fisheries (West Coast Whitebait) Regulations 1985* or any other regulations made under the Act:

(b) All waters and places in the Chatham Islands from the 1st day of March in any year to the 30th day of November in the same year (both days inclusive).

(4) No person shall fish for whitebait between the hours of 8 p.m. on any day and 5 a.m. on the next day.

5. Prohibition on possession of whitebait in conjunction with unlawful net—No person shall be in possession of any whitebait together with any whitebait net that the person is not permitted to set or use by regulation 4 of these regulations, whether or not that net is being used in fishing.

6. Whitebait taken for hui or tangi—Nothing in these regulations or any other regulations made under the Act imposing any restriction on the taking of whitebait shall apply where—

- (a) The whitebait are taken for the purposes of a hui or tangi; and
- (b) The intention to take the whitebait has been notified to a warranted officer by or on behalf of a council or committee representing any Maori community before the whitebait are taken; and
- (c) The whitebait are taken in accordance with any conditions relating to the quantity or methods of taking the whitebait, the areas where the whitebait may be taken, or the persons who may take the whitebait, being conditions that are imposed by the Director-General and considered by the Director-General to be necessary for the overall conservation and management of the fishery.

7. Returning of unlawfully taken whitebait—Any person engaged in fishing for whitebait shall, taking all reasonable care to ensure their survival, immediately return any whitebait that are unlawfully taken back into the waters from which the whitebait were taken.

8. Offences—Every person commits an offence and is liable on summary conviction to a fine not exceeding \$5,000 who—

- (a) Contravenes, or fails to comply with, any of regulations 4, 5, and 7 of these regulations; or
- (b) Takes whitebait for a hui or tangi—
 - (i) Without giving the notification required by regulation 6 (b) of these regulations; or
 - (ii) Otherwise than in accordance with any conditions imposed under regulation 6 (c) of these regulations.

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 28 days after the date of their notification in the *Gazette*, replace provisions of the Fisheries (Amateur Fishing) Regulations 1986 that relate to whitebait fishing.

Regulation 2 defines certain terms used in the regulations.

Regulation 3 provides that the regulations apply to waters and places throughout New Zealand subject to one exception. Regulations 4, 5, 7, and 8 (a) do not apply to the waters and places to which the Fisheries (West Coast Whitebait Fishing) Regulations 1985 (S.R. 1985/211) apply.

Regulation 4 prohibits—

- (a) The use of a whitebait net that has a mouth in excess of 4.5 m in circumference or is over 3.5 m in overall length:
- (b) The setting or use of fishing gear that exceeds more than one-third of the width of any river, stream, or channel:
- (c) The setting or use of more than one whitebait net at any time:
- (d) The taking of whitebait in the North Island or South Island during the period 1 December to 31 July, or in the Chatham Islands during the period 1 March to 30 November, or in any place between the hours of 8 p.m. and 5 a.m.

Regulation 5 prohibits the possession of whitebait together with a whitebait net that is not permitted to be used.

Regulation 6 provides that the regulations do not apply to whitebait taken for a hui or tangi.

Regulation 7 requires unlawfully taken whitebait to be returned to the water from which they have been taken.

Regulation 8 provides that any person who contravenes or fails to comply with any of regulations 4 to 7 commits an offence and is liable to a fine not exceeding \$5,000.

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

Date of notification in *Gazette*: 29 August 1991.

These regulations are administered in the Department of Conservation.