

House of Representatives  
**Supplementary Order Paper**

**Tuesday, 16 August 2011**

**Aquaculture Legislation Amendment Bill (No 3)**

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*Proposed amendments to SOPs 264 and 265*

Hon Phil Heatley, in Committee, to move the following amendments:

*Proposed amendments to SOP 264*

*Clause 2*

*New subclause (1AA):* to add after “**52(2)**” (page 1) “**and (3)**”.

*Clause 15*

To insert the following items before the item relating to *new section 26A(12)* (page 2):

*New section 26A(4)(a):* to omit “, 67K,” (line 31 on page 24).

*New section 26A(4)(b):* to omit “, 67K,” (line 36 on page 24).

*New section 26A(5):* to omit “, 67K,” (lines 4 and 5 on page 25).

*New clauses 19A, 19B, and 19C*

*New section 42(1):* to omit “Aquaculture Reform (Repeals and Transitional Provisions) Act 2004” (page 2) and substitute “this Act”.

*Clause 23*

*Item relating to new section 47(6):* to insert after “**Schedule 3**” in the first place it appears (page 5) “(whether or not the application is one referred to in **subsection (1)**)”.

*Item relating to new section 47B(3A)(d)(i):* to omit “is” in the first place it appears (page 5) and substitute “was”.

*Item relating to new section 47B(3A)(e):* to insert after “requests” (page 5) “or has requested”.

*Clause 25*

To insert the following item after the item relating to *clause 23: new section 47F* (page 7):

*Clause 25*

To add the following subclause as *subclause (2)* (after line 3 on page 49):

“(2) Section 49(4) is amended by omitting ‘124’ and substituting ‘165ZH’.

*Clause 27: new section 50A*

To insert the following items before the item relating to *new section 50A(12)* (page 7):

*New subsection (4)(a)*: to omit “, 67K,” (line 35 on page 50).

*New subsection (4)(b)*: to omit “, 67K,” (line 3 on page 51).

*New subsection (5)*: to omit “, 67K,” (lines 9 and 10 on page 51).

*Clause 35*

To insert the following item after the item relating to *clause 30* (page 7):

*Clause 35: new section 186EA(3)*

To omit “**107F(4)**” (line 6 on page 61) and substitute “**114(4A)**”.

*Clause 36: new section 186H*

*New subsection (5)(a)*: to omit “**(a)**” (page 8) and substitute “**(b)**”.

*Clause 43(2)*

To omit this item (page 9) and substitute the following items:

*Clause 43*

*Subclause (2): new section 186ZI(b)*: to omit this paragraph (lines 1 to 3 on page 66) and substitute the following paragraph:

“(b) within 6 months after the notification of the reservation under **section 186H(2)(a)** in relation to the coastal permit concerned.

*Subclause (2AA)*: to insert the following subclause after *subclause (2)* (after line 3 on page 66):

(2AA) Section 186ZI(2)(a) is amended by omitting “consent of all fishers whose consent is” and substituting “consents”.

*Subclause (2A): new paragraph (c)*: to omit “or the chief executive’s decision to register an aquaculture agreement” (lines 8 and 9 on page 66).

*Clause 50(2)*

*Paragraph (a) of definition of new space*: to insert after “aquaculture activities” (page 10) “that has commenced under **section 116A** of the Resource Management Act 1991”.

*Paragraph (a) of definition of new space*: to omit “; but” (page 10) and substitute “; and”.

*New paragraph (aa) of definition of new space:* to insert the following paragraph after *paragraph (a)* (page 10):

“(aa) includes any authorisations provided to the trustee by a regional council in accordance with an Order in Council under section 165I, or a notice in the *Gazette* under section 165L, of the Resource Management Act 1991, for the purpose of giving effect to the Crown’s obligations under this Act; but

*Clause 52 to 53A*

*New section 14(4)(d)(iv)(B):* to omit “2004” (page 15) and substitute “2005”.

*New clause 74A*

*New section 87G(8):* to omit “the information, report, and submissions referred to in those paragraphs” (page 19) and substitute “any additional information, reports, or submissions not previously forwarded or sent under that section”.

*Clause 80*

To add the following items:

*New section 114(5)(a):* to omit “permit” (line 3 on page 83) and substitute “consent”.

*New section 114(5)(a):* to omit “**(1A)**” (line 4 on page 83) and substitute “**(3)**”.

*New section 114(5)(b):* to omit “permit” (line 5 on page 83) and substitute “consent”.

*Clause 82*

*New section 116A*

To insert the following items before the item relating to *new subsection (9A)* (page 19):

*New section 116A(2)(a):* to omit “**(1A)**” (line 26 on page 83) and substitute “**(3)**”.

*New section 116A(2)(b):* to omit “, unless the permit states a later date” (lines 33 and 34 on page 83) and substitute “or, if the permit specifies a later commencement date, on that date”.

*New section 116A(3):* to omit “(in relation to stocks or species not subject to the quota management system),” (lines 36 and 37 on page 83 and line 1 on page 84) and substitute “in relation to stocks or species not subject to the quota management system”.

*New section 116A(4):* to omit “(in relation to stocks or species subject to the quota management system),” (lines 16 and 17 on page 84) and substitute “in relation to stocks or species subject to the quota management system”.

*New section 116A(9):* to omit “**Subsection (7)** applies” (line 21 on page 85) and substitute “**Subsections (3) and (7)** apply”.

*New section 116A(1B)*

To insert the following item after the item relating to *new section 116A(9A)* (page 19):

*Section 116A(10)*: to omit this subsection (lines 23 and 24 on page 85).

*New clauses 84A and 84B*

To omit *new clause 84B* (page 20).

*Clause 86*

To insert the following item after the item relating to *new clauses 84 and 84B* (page 20):

*Clause 86*

*New section 127(3A)*: to omit “**(1A)**” (line 10 on page 87) and substitute “**(3)**”.

*Clause 90*

To insert the following items in their appropriate order:

*New section 165A*: to add the following definition (after line 35 on page 89):

“**trustee** has the same meaning as in section 4 of the Maori Commercial Aquaculture Claims Settlement Act 2004.

*New section 165H(4)*: to add the following subsection (after line 26 on page 94):

“(4) **Subsection (2)** does not affect any application referred to in section 165ZH that is received by the regional council—

“(a) after a rule in a proposed regional coastal plan has legal effect; but

“(b) before the rule becomes operative.

*New section 165C(1)(b)*: to omit “allocated” (page 23) and substitute “provided”.

*New section 165I(3)(c)*: to insert after “allocation” (line 22 on page 95) “, at no cost,”.

*New section 165I(3)(d)*: to omit “that is subject to the allocation method” (page 24) and substitute “for which authorisations are to be offered under the proposed allocation”.

*New section 165I(8)*: to omit “and the area to which the authorisation relates is an aquaculture settlement area for the purposes of that Act” (page 24).

*New section 165K(2)*: to omit “ ‘request’ in the third place where it appears” (page 24) and substitute “date of the request”.

*New section 165K(4)*: to add “or any application referred to in section 165ZH” (page 24).

*New section 165L(3)(b)(i)*: to insert before “anticipated” (page 24) “actual or”.

*New section 165L(4)(b)(vi)*: to add “at no cost” (line 38 on page 100).

*New section 165L(7)*: to omit “and the area to which the authorisation relates is an aquaculture settlement area for the purposes of that Act” (page 25).

*Clause 92*

To insert the following item after the item relating to *clause 92(2)* (page 25):

*Clause 92(2): new subsection (3)*

To omit this subsection (lines 19 and 20 on page 125).

*Schedule 1: new Schedule 1*

To insert the following item after the item relating to *new Schedule 1: paragraph 4* (page 34):

*Paragraph 14:* to omit “sections 165ZH and 124” (line 7 on page 137) and substitute “section 165ZH”.

To insert the following items after the item relating to *new Schedule 1: paragraph 17* (page 34):

*Paragraph 18:* to omit “WRC” (line 5 on page 138).

*Paragraph 18:* to omit “sections 165ZH and 124” (line 5 and 6 on page 138) and substitute “section 165ZH”.

*Schedule 1: new Schedule 1*

*Item relating to Advice note 6:* to omit “and **section 20A** of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004” (page 34).

*Proposed amendments to SOP 265*

*Clause 13*

*New section 25A(9)(a):* to insert before “notice” (page 1) “public”.

*New section 25A(9)(a):* to omit “**(2)**” (page 1) and substitute “**(4)**”.

*New section 25A(9)(b):* to insert before “notice” (page 1) “public”.

*New section 25A(9)(b):* to omit “**(2)**” (page 1) and substitute “**(4)**”.

*New section 25A(10)(a):* to insert before “notice” (page 1) “public”.

*New section 25A(10)(a):* to omit “**(2)**” (page 1) and substitute “**(4)**”.

*New section 25A(10)(b):* to insert before “notice” (page 1) “public”.

*New section 25A(10)(b):* to omit “**(2)**” (page 1) and substitute “**(4)**”.

*New section 25A(13):* to omit this item (page 1) and substitute the following item:

*Subsection (13):* to omit this subsection (lines 37 and 38 on page 21) and substitute the following subsection:

“(13) The provisions of **Part 1 of Schedule 2** have effect in relation to aquaculture agreements and compensation.

*New section 25A(14):* to insert the following item after the item relating to *new section (13)* (page 1):

*Subsection (14):* definition of **aquaculture agreement**: to insert before “**Schedule 2**” (line 4 on page 22) “**Part 1 of**”.

*New section 25A(14):* definition of **compensation declaration**: to insert before “**Schedule 2**” (page 2) “**Part 1 of**”.

*Clause 15*

*New section 26A(9)(a):* to insert before “notice” (page 2) “public”.

*New section 26A(9)(a):* to omit “**(2)**” (page 2) and substitute “**(4)**”.

*New section 26A(9)(b):* to insert before “notice” (page 2) “public”.

*New section 26A(9)(b):* to omit “**(2)**” (page 2) and substitute “**(4)**”.

*New section 26A(10)(a)*: to insert before “notice” (page 2) “public”.

*New section 26A(10)(a)*: to omit “**(2)**” (page 2) and substitute “**(4)**”.

*New section 26A(10)(b)*: to insert before “notice” (page 2) “public”.

*New section 26A(10)(b)*: to omit “**(2)**” (page 2) and substitute “**(4)**”.

*New section 26A(13)*: to omit this item (page 2) and substitute the following item:

*Subsection (13)*: to omit this subsection (lines 14 and 15 on page 26) and substitute the following subsection:

“(13) The provisions of **Part 1 of Schedule 2** have effect in relation to aquaculture agreements and compensation.

*New section 26A(14)*: to insert the following item after the item relating to *new subsection (13)* (page 2):

*Subsection (14)*: definition of **aquaculture agreement**: to insert before “**Schedule 2**” (line 19 on page 26) “**Part 1 of**”.

*New section 26A(14)*: definition of **compensation declaration**: to insert before “**Schedule 2**” (page 2) “**Part 1 of**”.

#### *Clause 18*

To insert the following items after the items relating to *clause 15*: *new section 26A(14)* (page 2):

#### *Clause 18*

*Subclause (1)*: to omit the definition of **aquaculture agreement** (lines 12 and 13 on page 28) and substitute the following definition:

“**aquaculture agreement** means an aquaculture agreement that complies with subpart 4 of Part 9A of the Fisheries Act 1996, subject to the modifications set out in **Part 2 or 3 of Schedule 2**, as the case may require

*Subclause (1)(a)*: *definition of Gazetted aquaculture area*:

To insert after “**44(2)**” (line 18 on page 28) “**or (5)**”.

To omit “**44(5) or**” (line 19 on page 28).

*Subclause (1)*: to insert the following definition after the definition of **commercial fishing** (after line 15 on page 28):

“**compensation declaration** means a statutory declaration that complies with subpart 4 of Part 9A of the Fisheries Act 1996, subject to the modifications set out in **Part 2 or 3 of Schedule 2**, as the case may require

#### *Clause 20*

*Item relating to new section 44(2)(b)*: to omit “in accordance with section 186ZI (as applied by **subsection (3)**) or **section 186ZIA** (as applied by **subsection (3A)**), as the case may require” (page 2) and substitute “within 6 months after the date of the public notice”.

*Item relating to new section 44(3A)*: to omit this item (page 3) and substitute the following item:

*New section 44(3)*: to omit this subsection (lines 6 to 14 on page 30) and substitute the following subsection:

- “(3) Subpart 4 of Part 9A of the Fisheries Act 1996 applies to an aquaculture agreement or compensation declaration referred to in **subsection (2)(b)**, subject to the modifications set out in **Part 2 of Schedule 2**.

*Item relating to new section 44(4)*: to insert before “compensation declaration” (page 3) “or”.

*Item relating to new section 44(5)*: to omit this item (page 3) and substitute the following item:

*New section 44(5)*: to omit this subsection (lines 24 to 29 on page 30) and substitute the following subsection:

- “(5) If this subsection applies, the chief executive must, as soon as practicable after the aquaculture agreement or compensation declaration is lodged, publish a notice in the *Gazette* that describes and defines the area that the aquaculture agreement or compensation declaration relates to as an aquaculture area.

#### *Clause 21*

To insert the following item before the item relating to *new section 44I(2)* (page 3):

#### *New section 44A(5)*

To insert after “aquaculture agreements” (line 15 on page 31) “or compensation declarations”.

#### *New section 44J*

To insert the following items after the item relating to *new section 44I(2)* (page 3):

#### *Heading to new section 44J*

To insert after “**aquaculture agreement**” in the first place where it appears (line 8 on page 37) “**or compensation declaration**”.

To add after “**aquaculture agreement**” in the second place where it appears (line 9 on page 37) “**or provide compensation**”.

#### *New section 44J(1)(c)*

To insert after “aquaculture agreement” (line 17 on page 37) “or provide compensation”.

#### *New section 44J(5)*

To insert the following item after the item relating to *new section 44J(4)* (page 4):

#### *New section 44J(5)*

To omit this subsection (lines 35 to 37 on page 37 and lines 1 to 6 on page 38) and substituted the following subsection:

- “(5) Subpart 4 of Part 9A of the Fisheries Act 1996 applies to an aquaculture agreement or compensation declaration referred

to in **subsection (4)**, subject to the modifications set out in **Part 3 of Schedule 2**.

*New section 44J(5A)*: to omit this item (page 3).

*New section 44K*

To omit the item relating to *new section 44K(6)* (page 4) and substitute the following items:

*New section 44K(4)*: to insert after “aquaculture agreement” (line 29 on page 38) “or compensation declaration”.

*New section 44K(5)*: to omit this subsection (lines 34 to 36 on page 38 and lines 1 to 6 on page 39) and substitute the following subsection:

“(5) Subpart 4 of Part 9A of the Fisheries Act 1996 applies to an aquaculture agreement or compensation declaration referred to in **subsection (4)**, subject to the modifications set out in **Part 3 of the Schedule 2**.”

*New section 44N*

To insert the following item after the item relating to *new section 44L(2)(b)* (page 4):

*New section 44N(1)(a)(ii)*: to insert after “aquaculture agreement” (line 34 on page 40) “or compensation declaration”.

*Clause 27*

*New section 50A(9)(a)*: to insert before “notice” (page 4) “public”.

*New section 50A(9)(a)*: to omit “(2)” (page 4) and substitute “(4)”.

*New section 50A(9)(b)*: to insert before “notice” (page 4) “public”.

*New section 50A(9)(b)*: to omit “(2)” (page 4) and substitute “(4)”.

*New section 50A(10)(a)*: to insert before “notice” (page 4) “public”.

*New section 50A(10)(a)*: to omit “(2)” (page 4) and substitute “(4)”.

*New section 50A(10)(b)*: to insert before “notice” (page 4) “public”.

*New section 50A(10)(b)*: to omit “(2)” (page 4) and substitute “(4)”.

*New section 50A(13)*: to omit this item (page 5) and substitute the following item:

*Subsection (13)*: to omit this subsection (lines 19 and 20 on page 52) and substitute the following subsection:

“(13) The provisions of **Part 1 of Schedule 2** have effect in relation to aquaculture agreements and compensation.

*New section 50A(14)*: to insert the following item after the item relating to *new subsection (13)* (page 5):

*Subsection (14)*: definition of **aquaculture agreement**: to insert before “**Schedule 2**” (line 24 on page 52) “**Part 1 of**”.

*New section 50A(14)*: definition of **compensation declaration**: to insert before “**Schedule 2**” (page 5) “**Part 1 of**”.



*New clause 43A: new section 186ZIA*

*New subsection (4)(b):* to omit “the person submitted a request to an arbitrator under **section 186ZO**” (page 7) and substitute “arbitration proceedings are commenced”.

*New subsection (4)(b):* to omit “a decision or determination under section 186ZP” (page 7) and substitute “makes a determination under **section 186ZP(5)** or, if the arbitrator does not make a determination under that provision, the day on which the arbitrator makes a determination or decision under **section 186ZP(6)(a) or (b)**”.

*New subsection (4)(c):* to omit “decision to register the compensation declaration” (page 7) and substitute “aquaculture decision”.

*Clause 44*

To insert after “186ZI,” in the second place it appears (page 7) “**186ZIA,**”.

*New clause 44A*

To insert the following subclauses before the item relating to section 186ZK(2) (page 7):

- (1) Section 186ZK(2)(c) is amended by adding “or **section 186ZIA**”.
- (2) Section 186ZK(2)(d) is amended by inserting “or compensation declarations” after “aquaculture agreements”.
- (3) Section 186ZK(2)(d) is amended by adding “or **section 186ZIA**, as the case may be”.
- (4) Section 186ZK(2)(e) is amended by inserting “or compensation declarations” after “aquaculture agreements”.
- (5) Section 186ZK(2)(f) is amended by inserting “or compensation declarations” after “aquaculture agreements”.

*Clause 45*

To add the following item:

*Subclause (5): new subsection (4):* to omit “or any extension of the period under section 186ZI(4)” (lines 5 and 6 on page 67) and substitute “or **section 186ZIA(1)(b)** or any extension of those periods under section 186ZI(4) or **section 186ZIA(4)**”.

*Clause 46*

*New section 186ZN(1)(b):* to add (page 5) “, subject in either case to section 186ZI(4)”.

*New section 186ZN(3):* to insert after “who is a” (page 8) “registered”.

*New section 186ZQ(4)(b):* to omit “the persons who held quota for the fish stock subject to the reservation on the day that the reservation was made” (page 10) and substitute “quota owners as defined in **section 186ZN(3)**”.

*New section 186ZR(1)*: to omit *paragraph (a)* (page 10) and substitute the following paragraph:

“(a) a methodology for determining the question in **section 186ZP(2)**; and

*New section 186ZR(3)(a)(iii)*: to omit “to have been reduced by the chief executive’s aquaculture decision” (page 10) and substitute “would be reduced if the proposed aquaculture activities were to proceed”.

*Clause 82: new section 116A*

To omit the item relating to *subsection (5)* (page 11) and substitute the following item:

*Subsection (5)*: to omit “for those stocks has been registered in accordance with section 186ZK of the Fisheries Act 1996” (lines 30 to 32 on page 84) and substitute “or compensation declaration has been registered for those stocks under section 186ZH or **186ZHA** of the Fisheries Act 1996 (as the case may require)”.

To add the following item:

*Subsection (7)*: to insert after “aquaculture agreement” (line 9 on page 85) “or compensation declaration”.

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### Explanatory note

This Supplementary Order Paper makes technical and drafting changes to Supplementary Order Papers 264 and 265 which amend the Aquaculture Legislation Amendment Bill (No 3).

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