

House of Representatives

Supplementary Order Paper

Tuesday, 16 August 2011

Aquaculture Legislation Amendment Bill (No 3)

Proposed amendments

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

Schedule 1: new Schedule 2

To omit this schedule and substitute the following schedule:

Schedule 2 ss 25A, 26A, 44, 44J, 44K,
50A

**Aquaculture agreements and compensation
declarations**

Part 1

Sections 25A, 26A, and 50A

- 1 Subpart 4 of Part 9A of the Fisheries Act 1996 applies in relation to aquaculture agreements and compensation declarations entered into for the purposes of **sections 25A, 26A, and 50A** of this Act subject to the exclusions and modifications in **paragraphs 2 to 10**.
- 2 **Section 186ZF** applies as if **subsection (2)** were repealed and the following subsection substituted:
 - “(2) The consents required are, for each stock specified in the chief executive’s notice under **section 25A(8), 26A(8), or 50A(8)** of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004, as the case may be,—
 - “(a) the consents of registered quota owners of the stock holding not less than 75% of the quota shares for the stock; and
 - “(b) to the extent that the consents referred to in **paragraph (a)** are given by persons holding 75% or more but less than 100% of the quota shares for the stock, the consent

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Part 1—*continued*

of the High Court in relation to the persons who did not consent.”

- 3 **Section 186ZF(3)** applies as if the words “the coastal permit to which they relate” were omitted and the words “any deemed coastal permit that relates to the marine farming permit or spat catching permit to which the consent and aquaculture agreement relate” substituted.
- 4 **Section 186ZF** applies as if **subsection (4)** were repealed and the following subsection substituted:
“(4) For the purposes of this section, **subsection (2)** applies to the persons specified in that subsection as at 5 pm on the date on which public notification is given under **section 25A(8), 26A(8), or 50A(8)** of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004, as the case may be.”
- 5 Section 186ZI(1) applies as if **paragraph (b)** of that subsection were repealed and the following paragraph substituted:
“(b) within 6 months after the date of the public notification under **section 25A(8), 26A(8), or 50A(8)** of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004.”
- 6 **Section 186ZIA(1)** applies as if **paragraph (b)** of that subsection were repealed and the following paragraph substituted:
“(b) within 6 months after the date of public notification under **section 25A(8), 26A(8), or 50A(8)** of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004.”
- 7 Sections 186ZK and 186ZM do not apply.
- 8 Section 186ZL applies as if subsections (1) and (2) were repealed and the following subsection substituted:
“(1) If the chief executive gives notice under **section 25A(8), 26A(8), or 50A(8)** of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004, the chief executive must, on the date of the public notification, ensure that a memorial is recorded in the appropriate register against all quota for the stocks specified in the notice.”

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Part 1—*continued*

- 9 Section 186ZL(3) applies as if paragraph (a) were repealed and the following paragraph substituted:
- “(a) the chief executive has determined that **section 25A(5), 26A(5), or 50A(5)** of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 applies; and”.
- 10 In **sections 186ZN to 186ZR**,—
- affected quota owner** or **quota owner** is to be read as if it means a person who is the registered quota owner of the relevant quota management stock as at 5 pm on the date on which the chief executive gives public notification under **section 25A(8), 26A(8), or 50A(8)**, as the case may require
- coastal permit** is to be read as if it means, as the case may require, the application under section 65J, 65K, or 65Q of the Fisheries Act 1983, or the permit that may be granted or amended in relation to that application
- permit holder** is to be read as if it means the applicant who made the application to which **section 25A, 26A, or 50A** applies, as the case may require.

Part 2
Section 44

- 11 Subpart 4 of Part 9A of the Fisheries Act 1996 applies in relation to aquaculture agreements and compensation declarations referred to in **section 44(2)(b)** subject to the exclusion and modifications in **paragraphs 12 to 17**.
- 12 **Section 186ZF** applies as if **subsection (2)** were repealed and the following subsection substituted:
- “(2) The consents required are, for each stock specified in the chief executive’s notice under section 41 of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 in relation to the space to which the application relates,—
- “(a) the consents of registered quota owners of the stock holding not less than 75% of the quota shares for the stock; and
- “(b) to the extent that the consents referred to in **paragraph (a)** are given by persons holding 75% or more but less than 100% of the quota shares for the stock, the consent

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Part 2—*continued*

of the High Court in relation to the persons who did not consent.”

- 13 **Section 186ZF** applies as if **subsection (4)** were repealed and the following subsection substituted:
“(4) For the purposes of this section, subsection (2) applies to the persons specified in that subsection as at 5 pm on the date on which public notification is given under **section 44(2)(b)** of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004.”
- 14 **Section 186ZI(1)** applies as if **paragraph (b)** of that subsection were repealed and the following paragraph substituted:
“(b) within 6 months after the date of the public notice under **section 44(2)(b)** of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004.”
- 15 **Section 186ZIA(1)** applies as if **paragraph (b)** of that subsection were repealed and the following paragraph substituted:
“(b) within 6 months after the date of the public notice under **section 44(2)(b)** of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004.”
- 16 Section 186ZM does not apply.
- 17 In **sections 186ZN to 186ZR**,—
affected quota owner or **quota owner** is to be read as if it means a person who is the registered quota owner of the relevant quota management stock as at 5 pm on the date of the public notice under **section 44(2)(b)** of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004
coastal permit is to be read as if it means, as the case may require, the application for a coastal permit, or the permit that may be granted in relation to that application
permit holder is to be read as if it means the applicant who made the application for a coastal permit.

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Part 3

Section 44J and 44K

- 18 Subpart 4 of Part 9A of the Fisheries Act 1996 applies in relation to aquaculture agreements and compensation declarations referred to in sections 44J and 44K subject to the exclusion and modifications in **paragraphs 19 to 25**.
- 19 **Section 186ZF** applies as if **subsection (2)** were repealed and the following subsection substituted:
- “(2) The consents required are, for each stock specified in the chief executive’s notice under section 41 of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 in relation to the agreed or identified space,—
- “(a) the consents of registered quota owners of the stock holding not less than 75% of the quota shares for the stock; and
- “(b) to the extent that the consents referred to in paragraph (a) are given by persons holding 75% or more but less than 100% of the quota shares for the stock, the consent of the High Court in relation to the persons who did not consent.”
- 20 **Section 186ZF(3)** applies as if the words “the coastal permit to which they relate” were omitted, and the words “any coastal permit that relates to the area to which the consent and aquaculture agreement relate” were substituted.
- 21 **Section 186ZF** applies as if **subsection (4)** were repealed and the following subsection substituted:
- “(4) For the purposes of this section, subsection (2) applies to the persons specified in that subsection as at 5 pm on the date on which notice is given by the chief executive under section 44J(3) or 44K(3) of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004, as the case may be.”
- 22 Section 186ZI(1) applies as if **paragraph (b)** of that subsection were repealed and the following paragraph substituted:
- “(b) within 6 months after the date of the notice under section 44J(3) or 44K(3) of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004, as the case may be.”

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Part 3—*continued*

- 23 **Section 186ZIA(1)** applies as if paragraph (b) of that subsection were repealed and the following paragraph substituted:
“(b) within 6 months after the date of the notice under section 44J(3) or 44K(3) of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004, as the case may be.”
- 24 Section 186ZM does not apply.
- 25 In **sections 186ZN to 186ZR**,—
affected quota owner or **quota owner** is to be read as if it means a person who is the registered quota owner of the relevant quota management stock as at 5 pm on the date on which the chief executive gives notice under section 44J(3) or 44K(3) of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004, as the case may require
aquaculture activities authorised by the permit is to be read as if it means aquaculture activities in the relevant agreed or identified space
coastal permit is to be read as if it means the relevant agreed or identified space
permit holder is to be read as if it means the trustee or an iwi aquaculture organisation, as the case may require.

Explanatory note

This Supplementary Order Paper amends *Schedule 1* of the Aquaculture Legislation Amendment Bill (No 3), which inserts *new Schedules 1 to 3* in the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004, to substitute a *new Schedule 2*. The *new Schedule 2* contains technical and drafting changes.
