

# Fisheries Act 1996

**The purpose of the Fisheries Act 1996 is to ensure New Zealand waters are fished sustainably and there is a consistent supply of seafood.**

The Fisheries Act 1996 applies in the different maritime zones of New Zealand: inland waters, territorial sea (12 nautical miles), Exclusive Economic Zone (200 nautical miles) and the high seas (beyond 200 nautical miles).

Under the Fisheries Act 1996 each fish stock has been split into quota shares which can be freely bought and sold. Each fishing year the quota shares generate Annual Catch Entitlement, or ACE. The amount of ACE available each year for each fish stock depends on the Total Allowable Catch (TAC) for the fishery.

The Ministry for Primary Industries (Fisheries New Zealand) reviews, usually biannually, the TAC for fish stocks and sets limits so that enough fish remain for breeding.

This system is known as the Quota Management System (QMS). All species for which quota has been allocated are known as QMS species.

## What you need before you can fish commercially in New Zealand

- ▶ A fishing permit (copy must be kept on the vessel)
- ▶ A registered NZ fishing vessel
- ▶ Registration as a FishServe client

Many of the fisheries laws apply specifically to “**commercial fishers**”. There are fisheries laws applying to recreational fishers and customary fishing as well. Under the Commercial Fishing Regulations a commercial fisher means:

- a **person who has a fishing permit** issued under section 91 of the Fisheries Act;
- a **person working on** a New Zealand fishing vessel; and
- **any person who takes fish**, aquatic life, or seaweed **for the purposes of sale**.



**!** Every person involved in a customary, recreational or commercial fishing operation **MUST** follow the Fisheries Act 1996 and Fisheries Regulations

## Who can be charged and penalised/fined? **Anyone, possibly everyone!**

Fines and other penalties for fisheries offences are particularly heavy compared to some other types of criminal offending. This is because the fisheries laws specifically require judges to provide a deterrent when they're sentencing. Examples of offences include:

- Breach of conditions (e.g. permit conditions)
- Breach of requirements in the Act or Regulations e.g. gear and method rules
- Knowingly making a false statement or using a false document to obtain a benefit

- Making a false statement or omission of information in a return, record or report Including digital reports
- Buying, selling, or possessing fish contrary to the Fisheries Act
- Obstructing Fishery Officers

Penalties include: infringement fees, fines and/ or up to 5 years imprisonment (serious offences), forfeiture of fishing gear and vessels, prohibition of fishing activity.

## Every person involved in a fishing operation has the responsibility to act in accordance with the Fisheries Act and Regulations.

Fisheries law is quite complex and there are many rules that need to be followed. Below is a summary of the main rules you need to know.

### Reporting and record keeping

#### Primary rules:

- All fishing trips must be recorded
- All catch and the disposal/landing of catch must be accurately reported
- Time limits for reporting and record keeping apply (see below for types of reports)

#### Legislation:

- Fisheries (Reporting) Regulations 2017 [Link](#)
- Fisheries (Conversion Factors) notice 2014 [Link](#)
- Fisheries (Recordkeeping) 1990 Regulations [Link](#)
- Fisheries (Electronic Reporting of Returns) Circular 2019 [Link](#)

#### It is an offence to:

- Make a false or misleading statement
- Omit any information from returns, records, applications, etc
- Use, deal or act upon (or cause someone else to) any false return, record, application, etc.

**! PENALTY – if proven guilty! Up to 5 years in prison and/or a fine up to \$250,000**



- Keep records and regularly report catch, fishing effort and landings ON TIME
- Check what reports and returns need to be made
- Take care weighing, measuring and counting catch and record this information accurately
- Provide accurate weights
- Make accurate records
- Speak up if you notice a mistake
- Monitor the accuracy of your reporting
- Seek advice



- Do not guess on what to keep and report
- Do not let the new crew discard, record, estimate or measure before they are trained
- Do not record false or inaccurate information
- Do not leave reporting to “do later” as this can lead you or your skipper/vessel owner paying fines for failing to report on time

### Landing and discards rules

Note that these rules are current as at June 2021 and may be subject to change.

#### Primary rules

- Do not discard or abandon QMS fish in the sea (with some exceptions)
- Land catch to approved licensed fish receivers (with some exceptions)

#### Legislation:

- Fisheries Act 1996
- Fisheries (Reporting) Regulations 2017
- Fisheries (Commercial Fishing) Regulations 2001

#### It is an offence to:

Return to or abandon in the sea any fish of legal size that is subject to the QMS (some exceptions apply)

**! PENALTY – if proven guilty! A fine up to \$250,000, forfeiture of fishing vessel**



- Learn which species are QMS Species
- Retain and land all QMS species
- You can return certain QMS species to the sea – these are found in Schedule Six of the Fisheries Act. Follow these rules. Undersize species with a minimal size limit can be discarded
- Record and report all catch landed or disposed of as required by the Fisheries (Reporting) Regulations 2017 and electronic reporting circulars
- Sized QMS species can be returned to sea only if return is approved prior to the return by an Observer or Fishery Officer



- Do not dump QMS species overboard - **this is an offence without approval**

## Fishing permit and vessel registration

### Primary rules:

- To take fish you must have a fishing permit (or be fishing under someone else's permit)
- All vessels used for commercial fishing must be registered fishing vessels
- All fishing vessels must be marked with the vessel registration number

### Legislation:

- Fisheries Act 1996
- Fisheries (Commercial Fishing) Regulations 2001

### It is an offence to:

- Take fish using an unregistered fishing vessel
- Take fish without a fishing permit without an exemption to do so



- Check vessel registration and fishing permit are current
- Make sure vessel registration numbers are maintained
- Pay deemed value bills to avoid permit suspension



- Do not fish under an expired permit or a permit that has been suspended because of non-payment of deemed values
- Do not use an unregistered vessel to take fish for sale



**PENALTY – if proven guilty! A fine up to \$250,000, forfeiture of fishing vessel**

## Marine mammal, protected species and seabird protection

### Primary rules

- Seabird mitigation measures must be used
- Hunting or killing of “wildlife”, protected species seabirds/marine mammals is prohibited (offences apply)
- Ill treatment of animals is prohibited
- All captures and accidental or incidental death or injury (dead or alive) must be reported

### Legislation:

- Fisheries Act 1996
- Marine Mammals Protection Act 1978
- Fisheries (Commercial Fishing) Regulations 2001
- Wildlife Act 1953
- Animal Welfare Act 1999
- Fisheries (Reporting) Regulations 2017
- Fisheries (Electronic Reporting of Returns) Circular 2019

For further details go to the following link:

<https://www.doc.govt.nz/our-work/conservation-services-programme/csp-resources-for-fishers/resources-for-longline-fisheries/>

### It is an offence to:

- Fail to report non fish captures/interactions
- Make false statements or material omissions in required reports and returns

- Hunt or kill “wildlife” including seabirds
- Herd, harass or take any marine mammal
- Take or possess protected species
- Fail to use prescribed mitigation devices such as tory lines



**PENALTY – if proven guilty! Penalties can include a fine of up to \$250,000, forfeiture of fishing vessel, community-based sentences and imprisonment**



- Check out what species are protected, and the specific rules that apply. If unsure ask!
- Complete the appropriate non-fish species or protected fish species catch reports
- Defences rely on reporting of incidental or accidental interactions in accordance with the requirements so make sure you report!
- Use appropriate and required mitigation measures e.g. seabird scaring devices (tory lines)



- Do not take, kill, harass or harm seabirds, marine mammals and other protected species including some sharks
- Do not ignore requirements for mitigation devices such as seabird scaring devices

## Gear, method and area restrictions

### Primary Rules that apply

- Size limits - Minimum Legal Size (MLS)
- Minimum and maximum legal weight limits
- Restrictions on allowed fishing gear, e.g. net mesh sizes
- Prohibited fishing methods (can be area specific)
- Prohibitions on taking fish that can't be measured or in a particular state, e.g. soft shell rock lobster
- Closed areas
- Prohibited species e.g. black coral
- No shark finning allowed
- Seabird scaring devices must be used

### Legislation:

- Fisheries (Commercial Fishing) Regulations 2001
- Area specific Commercial Regulations

### It is an offence to:

- Breach provisions of Commercial Fishing Regulations

**!** **PENALTY – if proven guilty! Fines up to \$20,000 - \$100,000, forfeiture of fishing vessel depending on provision breached**



- Check all the rules for the species you are catching:
- Check what species have an MLS
- Learn to measure all catch accurately
- Check that your crew measure accurately
- Return all undersized fish to the sea
- Check and maintain fishing gear regularly (it can get damaged and not comply). Check for compliance with rules
- Make sure your fishing gear and vessel are marked as required
- Make sure you know all closed areas in the area you fish. Mark the areas on your plotter
- Keep out of closed areas as the MPI/Fisheries New Zealand has the technology to know if you don't



- Do not take or possess prohibited species
- Do not keep undersize fish, as "close" is not close enough and is an offence!
- Do not fish in closed areas
- Do not ignore the method requirements or fail to check gear regularly

## E-Log Book: Commercial fishers (permit holders) must report their catch and position electronically

### Reports required include:

**Fish catch report:** An estimate of your top 8 species. For trawl fishers, report the top 5 quota management system (QMS) species and top 3 non-QMS species. Must be completed within 8 hours after fishing.

**Capture of non-fish or protected fish species report:** Reports any non-fish and protected species caught for that fishing event and must be provided with the corresponding fish catch report. If caught when not fishing, e.g. while steaming, you must provide a report before the close of the day on which the permit holder became aware of the capture.

**Processing report:** For factory vessels that process their catch on board. Reporting must be completed

and provided before the close of the day:

- following the day covered by the report, or
- on which processing finishes if it is done over more than one day.

**Disposal report:** Information on all fish not landed. A disposal report is required for each fishing event where fish are disposed of unless the vessel is submitting processing reports. In this case, they submit a disposal report covering the same period as the processing report.

**Landing report:** First, submit a detailed inventory of your catch when you land. Then update the report when you have the confirmed green weights from your licensed fish receiver.

**Monthly harvest returns:** Monthly harvest returns must be provided electronically.

**If your e-logbook fails, and you are unable to record event data, or unable to transmit event data you must notify MPI immediately of the nature of the failure by calling 0800 00 83**

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33 or emailing [NCC@mpi.govt.nz](mailto:NCC@mpi.govt.nz). They will instruct you on what you need to do. For further information on E-Reporting call FISHSERVE on (04) 460 9555.

## Fishery Officers

Fishery Officers are appointed for the purpose of the enforcement and administration of the Fisheries Act 1996.

### Fishery Officers have the power to:

- Stop, examine or search
- Question and obtain details including documents, records, etc.
- Give Directions
- Seize items
- Copy anything
- Use reasonable force
- Arrest

There are also voluntary Honorary Fishery Officers that enforce the Fisheries Act 1996 requirements within the recreational fishery.

**!** Fishery Officers are “enforcement officers”. Please see the fact sheet on Dealing with Enforcement Officers for what you need to do when interacting with Fishery Officers.

## Fisheries Observers

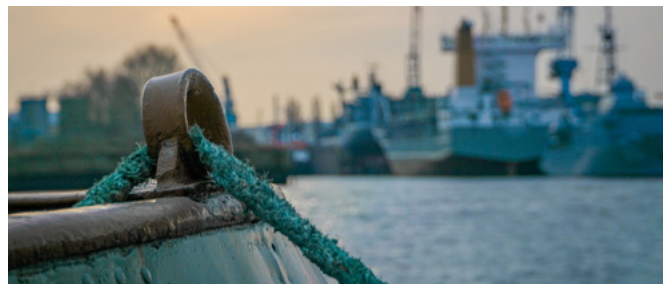
Fisheries Observers collect information on board commercial fishing vessels.

### Fisheries Observers have the power to:

- Collect fish catch and catch effort data, biological data, samples from fish, information on vessel compliance and adherence to employment laws, and information about marine mammal and bird interactions.

Observers have a statutory power to access the vessels fishing gear, catch, logs and records, the bridge, safety equipment and can discuss employment conditions with crew when carrying out their duties.

**!** Do not obstruct, resist, abet, incite, or encourage any other person to obstruct or resist any Fishery Officer or Observer exercising their powers or duties, or fail to provide reasonable assistance to an Observer. This is an offence.



## There is a defence available under the Fisheries Act 1996

If you are being investigated for offences under the Fisheries Act 1996, then there is a defence available if:

- ▶ It was somebody else's fault OR It was an accident AND
- ▶ It was some other cause beyond your control AND
- ▶ The fish (or aquatic life) was immediately returned to the waters from which it was taken – unless it was prohibited by the Act AND
- ▶ You complied with any reporting requirements AND
- ▶ You took reasonable precautions and exercised due diligence to avoid the breach.

