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FISH RESOURCES MANAGEMENT ACT 1994

**SOUTH COAST PURSE SEINE
FISHERY MANAGEMENT
PLAN AMENDMENT
(No. 2) 2004**

FISH RESOURCES MANAGEMENT ACT 1994
SOUTH COAST PURSE SEINE FISHERY MANAGEMENT PLAN
AMENDMENT (NO. 2) 2004

FD 1404/98 [573]

Made by the Minister under section 54.

Citation

1. This instrument may be cited as the *South Coast Purse Seine Fishery Management Plan Amendment (No. 2) 2004*.

Commencement

2. This instrument comes into operation on 30 June 2004.

Management plan amended

3. The amendments in this instrument are to the *South Coast Purse Seine Management Plan 1994**.

Clause 3 amended

4. Clause 3(1) is amended by—

(a) deleting the following definitions—

“exhausted”;

“transfer”;

“unit of entitlement”;

“Zone 1 unit of entitlement”;

“Zone 2 unit of entitlement”;

“Zone 3 unit of entitlement”; and

“Zone 4 unit of entitlement”;

(b) inserting in the appropriate alphabetical position the following definition—

“ “approved receiver” means a person who is a member of a class specified in a notice made under clause 14C; ”; and

(c) deleting the semicolon at the end of the definition of “zone” and inserting instead a full stop.

Clause 7 amended

5. Clause 7 is amended by deleting subclause (1).

Clause 11 amended

6. Clause 11 is amended—

(a) in subclause (3) by deleting “Director” and inserting instead—

“Executive Director”; and

(b) by deleting subclauses (4) and (5).

Clauses 11A, 11B, 11C and 11D inserted

7. After clause 11 the following clauses are inserted—

“Capacity of the Fishery

11A. The capacity of the Fishery is—

(a) 1,500 tonnes of small pelagic fish in Zone 1 and Zone 2 (combined);

(b) 1,500 tonnes of small pelagic fish in Zone 3; and

(c) 1,500 tonnes of small pelagic fish in Zone 4.

Licence entitlements to equal capacity

11B. (1) The sum of the entitlements to fish for small pelagic fish in Zones 1 and 2 that may be conferred by all the licences is equal to the capacity of the Fishery as provided for in clause 11A.

(2) The sum of the entitlements to fish for small pelagic fish in Zone 3 that may be conferred by all the licences is equal to the capacity of the Fishery as provided for in clause 11A.

(3) The sum of the entitlements to fish for small pelagic fish in Zone 4 that may be conferred by all the licences is equal to the capacity of the Fishery as provided for in clause 11A.

Licence entitlements to be expressed in terms of units

11C. (1) The entitlement to fish for small pelagic fish in any zone of the Fishery conferred by a licence is to be expressed in terms of units of entitlement.

(2) A unit of entitlement is to be designated by reference to the zone to which it relates.

(3) The extent of the entitlement to fish for small pelagic fish in a zone or zones of the fishery that arises from a unit, to be known as the unit value, shall be determined as follows—

The unit value is—

$$\frac{C}{N} = U$$

Where: C is the capacity of the relevant zone or zones of the Fishery provided for in Clause 11A;
N is the total number of units relating to the relevant zone or zones conferred by all the licences;
and U is the unit value.

Prohibition on fishing in excess of entitlement

11D. A person must not fish for small pelagic fish in the waters of—

- (a) the Fishery unless the total quantity of fish taken under the authority of the relevant licence from the time it was last renewed is less than the value of the entitlement conferred by the relevant licence;
- (b) Zone 1 unless the total quantity of fish taken from the waters of Zone 1 is less than the value of the Zone 1 entitlement conferred by the relevant licence;
- (c) Zone 1 or Zone 2 unless the total quantity of fish taken from the waters of Zone 1 and Zone 2 is less than the value of the Zone 1 and Zone 2 entitlements conferred by the relevant licence;
- (d) Zone 3 unless the total quantity of fish taken from Zone 3 is less than the value of the Zone 3 entitlement conferred by the relevant licence;
- (e) Zone 4 unless the total quantity of fish taken from Zone 4 is less than the value of the Zone 4 entitlement conferred by the relevant licence.”.

Clause 12 replaced

8. Clause 12 is deleted and the following clause is inserted instead—

“Units of entitlement

12. The entitlement of a licence—

- (a) in force on the commencement of 1 July 2004; or
- (b) that is renewed on or after 1 July 2004 pursuant to an application for renewal made on or before 30 August 2004,

shall on the commencement of 1 July 2004 or at the time of renewal, as the case may be, be equal to the entitlement (both by reference to the number of units and the zone to which those units relate) that was conferred by the licence when it last expired.”.

Clause 12A amended

9. Clause 12A(1) is amended by deleting subclause (d) and inserting instead—

“(d) the value of the entitlement (including units temporarily transferred to the licence and excluding units temporarily transferred from the licence) that would be conferred by the licence after the transfer would be less than the total amount of small pelagic fish already taken under the authority of the licence during the period for which the licence has been granted or renewed.”.

Clause 12C inserted

10. After clause 12B the following clause is inserted—

“Temporary transfer of a unit of entitlement

12C. Part of an entitlement under a licence may be temporarily transferred to another licence, for a period ending at the time the licence expires, provided that—

- (a) the value of the entitlement (including units temporarily transferred to the licence and excluding units temporarily transferred from the licence) that would be conferred by the licence after the transfer would not be less than the total amount of small pelagic fish already taken under the authority of the licence during the period for which the licence has been granted or renewed;
- (b) the transfer is of a whole number of units; and
- (c) the licence from which the units are being transferred will still confer at least one unit after the transfer has been effected.”.

Clause 13 deleted

11. Clause 13 is deleted.

Clause 14 amended

12. Clause 14 is amended by deleting paragraph (c) and inserting instead—

“(c) cause the original copy of the consignment note with the completed Part A to accompany any small pelagic fish from the place of landing to the place of the approved receiver specified on that consignment note;”.

Clause 14A, 14B and 14C inserted

13. After clause 14 the following clauses are inserted—

“Sale or transfer of small pelagic fish

14A. A person who has taken any small pelagic fish under the authority of a licence must not sell or deal in the fish other than to an approved receiver.

Approved receiver requirements

14B. (1) An approved receiver must not take possession of any small pelagic fish from a licence holder or a person acting on behalf of a licence holder unless those fish are accompanied by the original copy of a consignment note completed in accordance with clause 14.

(2) An approved receiver must, within 72 hours of receiving any small pelagic fish, cause Part B of the consignment note to be accurately and fully completed in respect of the fish received.

(3) The approved receiver is to cause the completed consignment note to be forwarded to the Department of Fisheries office at Albany within 72 hours of receiving the small pelagic fish.

Approved receivers

14C. (1) The Executive Director may approve a class of persons to be approved receivers of small pelagic fish by specifying the class of persons in a notice published in the Gazette.

(2) A notice published in the Gazette under clause 14C(1) may be amended or revoked by further notice published in the Gazette.

(3) Before making any notice under this clause the Executive Director must consult with the Purse Seine Management Advisory Committee.”.

Clause 18 replaced

14. Clause 18 is deleted and the following clause is inserted instead—

“Offences

18. A person who contravenes a provision of—

(a) clause 5, 6, 7, 8, 9(7), 11D, 14, 14A, 14B or 16(4); or

(b) clause 9(1), 9(2), 9(3), 9(4), 9(5), 9(6) or 10,

commits an offence and for the purposes of section 75 of the Act the provisions specified in paragraph (a) are major provisions.”.

*[*Published in the Gazette of 22 February 1994. For amendments to 22 June 2004 see Notice No. 708 published in the Gazette of 23 May 1995, Notice No. 714 published in the Gazette of 16 June 1995, Notice No. 727 published in the Gazette of 29 September 1995, the South Coast Purse Seine Management Plan Amendment 1996 published in the Gazette of 9 February 1996, the South Coast Purse Seine Management Plan Amendment (No. 2) 1996 published in the Gazette of 29 March 1996, the South Coast Purse Seine Management Plan Amendment 1997 published in the Gazette of 27 March 1997, the South Coast Purse Seine Management Plan Amendment (No. 5) 1997 published in the Gazette of 29 August 1997, the South Coast Purse Seine Management Plan Amendment 1999 published in the Gazette of 26 March 1999, the South Coast Purse Seine Management Plan Amendment (No. 2) 1999 published in the Gazette of 30 November 1999, the South Coast Purse Seine Fishery Management Plan Amendment (No. 3) 1999 published in the Gazette of 24 December 1999, the South Coast Purse Seine Fishery Management Plan Amendment 2000 published in the Gazette of 31 March 2000, the South Coast Purse Seine Fishery Management Plan Amendment 2001 published in the Gazette of 25 May 2001, the South Coast Purse Seine Fishery Management Plan Amendment (No. 2) 2001 published in the Gazette of 29 June 2001, the South Coast Purse Seine Fishery Management Plan Amendment 2002 published in the Gazette of 11 January 2002, the South Coast Purse Seine Fishery Management Plan Amendment (No. 2) 2002 published in the Gazette of 28 June 2002, the South Coast Purse Seine Fishery Management Plan Amendment 2003 published in the Gazette of 1 July 2003, the South Coast Purse Seine Fishery Management Plan Amendment (No. 2) 2003 published in the Gazette of 23 December 2003 and the South Coast Purse Seine Fishery Management Plan Amendment 2004 published in the Gazette of 10 February 2004.*

See Regulation 183 of the Fish Resources Management Regulations 1995 concerning the citation of notices made under the Fisheries Act 1905 immediately before the commencement of those regulations.]

Dated this 28th day of June 2004.

KIM CHANCE, Minister for Agriculture,
Forestry and Fisheries.



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