



Fisheries (Challenger Area Amateur Fishing) Amendment Regulations 2011

Anand Satyanand, Governor-General

Order in Council

At Wellington this 28th day of February 2011

Present:

His Excellency the Governor-General in Council

Pursuant to section 297 of the Fisheries Act 1996, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Regulations

1 Title

These regulations are the Fisheries (Challenger Area Amateur Fishing) Amendment Regulations 2011.

2 Commencement

These regulations come into force on 1 April 2011.

3 Principal regulations amended

These regulations amend the Fisheries (Challenger Area Amateur Fishing) Regulations 1986.

4 Maximum daily number of fish

- (1) Regulation 2B is amended by revoking subclause (3) and substituting the following subclauses:

“(3) No person may, on any day,—

- “(a) take from within the Marlborough Sounds Area more than 2 blue cod; or
- “(b) possess more than 2 blue cod in that area; or
- “(c) possess more than 2 blue cod taken from within that area.

“(3A) No person may, on any day,—

- “(a) take from within the Challenger (East) Area more than 3 blue cod; or
- “(b) possess more than 3 blue cod in that area; or

“(c) possess more than 3 blue cod taken from within that area.”

(2) Regulation 2B is amended by adding the following subclause:

“(10) However, subclauses (8) and (9) do not apply to the daily limit of fish under subclause (3).”

5 New regulation 2C substituted

Regulation 2C is revoked and the following regulation substituted:

“2C Minimum and maximum size for blue cod in Marlborough Sounds Area

“(1) No person may—

“(a) take from or possess in the Marlborough Sounds Area any blue cod that is less than 30 cm, or more than 35 cm, in length; or

“(b) possess any blue cod taken from the Marlborough Sounds Area that is less than 30 cm, or more than 35 cm, in length.

“(2) This regulation prevails over regulation 6 of the Fisheries (Amateur Fishing) Regulations 1986.”

6 New regulation 2E substituted

Regulation 2E is revoked and the following regulation substituted:

“2E Blue cod must be possessed in whole or gutted state in certain areas

“(1) A person must not possess any blue cod in the Marlborough Sounds Area or the Challenger (East) Area unless it is in a whole or gutted state.

“(2) However, a person may possess blue cod in another state if it is to be immediately eaten on the fishing vessel from which it was taken.”

7 New regulation 2F inserted

The following regulation is inserted after regulation 2E:

“2F Closed season for blue cod in Marlborough Sounds Area

“(1) A person must not—

- “(a) take any blue cod from within the Marlborough Sounds Area during the closed season; or
 - “(b) possess any blue cod in that area during the closed season; or
 - “(c) possess any blue cod that was taken from within that area during the closed season.
- “(2) In this regulation, **closed season** means the period starting on 1 September of any year and ending on 19 December of that year.”

8 New regulation 4AA inserted

The following regulation is inserted after regulation 4:

“4AA Restriction on taking finfish in Maud Island closed area

- “(1) A person must not take any finfish from within the Maud Island closed area.
- “(2) In this regulation, **Maud Island closed area** means the area of New Zealand fisheries waters inside a line that—
- “(a) starts at 41°01.21’S and 173°51.75’E; and
 - “(b) then proceeds in a generally southerly direction directly to a point at 41°02.21’S and 173°52.08’E; and
 - “(c) then proceeds in a generally easterly direction directly to a point at 41°02.75’S and 173°54.75’E; and
 - “(d) then proceeds in a generally north-easterly direction directly to a point at 41°01.70’S and 173°55.34’E; and
 - “(e) then proceeds in a generally north-westerly direction directly to a point at 40°59.92’S and 173°54.14’E; and
 - “(f) then proceeds along the mean high-water mark in a generally westerly direction to the starting point.”

9 New regulation 4B inserted

The following regulation is inserted after regulation 4AD:

“4B Hook limit in Marlborough Sounds Area

A person must not take any finfish from within the Marlborough Sounds Area using a rod and reel line, or a hand line, with more than 2 hooks attached to it.”

10 Regulation 4F revoked

Regulation 4F is revoked.

11 Offences and penalties

- (1) Regulation 5(1) is amended by omitting “2B(8), 2C to 2E, 3A(1A), (2)(a) and (b), 3B, 3C, 4, 4A, 4E, or 4F(2)” and substituting “2B(8), 2D, 3A(1A) and (2), 3B, 3C, 4, 4A, 4B, and 4E”.
- (2) Regulation 5(2) is amended by omitting “2B(9), 3A(1B), 4AB, 4AD, and 4F(3)” and substituting “2B(3) and (9), 2C, 2E, 2F, 3A(1B), 4AA, 4AB, and 4AD”.
- (3) Regulation 5 is amended by adding the following subclauses:
 - “(4) However, the defence does not apply to—
 - “(a) a charge of possessing more than 2 blue cod in contravention of regulation 2B(3)(b) or (c); or
 - “(b) a charge of possessing more than 3 blue cod in contravention of regulation 2B(3A)(b) or (c).
 - “(5) It is a defence to a charge of possessing more than 3 blue cod in contravention of regulation 2B(3A)(b) or (c) if the defendant satisfies the court that—
 - “(a) the defendant possessed no more than 6 blue cod; and
 - “(b) the blue cod were not taken in breach of the regulations.
 - “(6) It is a defence to a charge of contravening, or failing to comply with, regulation 2F(1)(b) if the defendant satisfies the court that the blue cod to which the charge relates were taken from outside the Marlborough Sounds Area.”

Rebecca Kitteridge,
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 are the Fisheries (Challenger Area Amateur Fishing) Amendment Regulations 2011. They amend the Fisheries (Challenger Area Amateur Fishing) Regulations 1986 in the following ways.

Regulation 2B is amended to impose separate daily limits on the number of blue cod that may be taken from, possessed in, or possessed having been taken from,—

- the Marlborough Sounds Area (2 per day);
- the Challenger (East) Area (3 per day).

Breaching the daily limit for the Marlborough Sounds Area is now a serious non-commercial offence with a maximum penalty of \$20,000.

Regulation 2C is replaced. The new regulation adds a maximum size limit for blue cod taken from, possessed in, or possessed having been taken from, the Marlborough Sounds Area. The minimum size limit is retained. Breaching the regulation is now a serious non-commercial offence with a maximum penalty of \$20,000.

Regulation 2E is replaced. The new regulation requires any blue cod possessed in the Marlborough Sounds Area or the Challenger (East) Area to be in a whole or gutted state. An exception is made for blue cod that is to be immediately eaten on the fishing vessel from which it was taken. Breaching the regulation is now a serious non-commercial offence with a maximum penalty of \$20,000.

A new regulation 2F is inserted. The new regulation imposes a closed season for blue cod in the Marlborough Sounds Area. Blue cod must not be taken from, possessed in, or possessed having been taken from, the area during the closed season. Breaching the regulation is a serious non-commercial offence with a maximum penalty of \$20,000.

A new regulation 4AA is inserted. The new regulation bans the taking of finfish from within the Maud Island closed area (defined by the regulation). Breaching the regulation is a serious non-commercial offence with a maximum penalty of \$20,000.

A new regulation 4B is inserted. The new regulation imposes a hook limit for rod and reel lines or hand lines used to take finfish in the Marlborough Sounds Area. Breaching the regulation is an offence with a maximum penalty of \$10,000.

Regulation 4F is revoked. That regulation imposed a temporary ban on the taking of blue cod from within the enclosed waters of the Marlborough Sounds (defined by the regulation).

Regulation 5 is updated to categorise a breach of the various new regulations as 1 of 2 types of offence. The existing defence for possessing more than the daily limit of a fish is excluded from applying

to blue cod possessed in, or possessed having been taken from, the Marlborough Sounds Area or the Challenger (East) Area. A person must not possess more than 2 blue cod in the Marlborough Sounds Area, regardless of whether the fish were taken on more than 1 day or were taken from outside the area. Also, a person must not possess outside the Marlborough Sounds Area more than 2 blue cod taken from inside the area, regardless of whether the fish were taken on more than 1 day. The defence is partly reinstated for the Challenger (East) Area so that a person may possess twice the daily limit of blue cod in that area (6 in total), or may possess outside that area twice the daily limit of blue cod taken from inside the area, as long as the fish were taken in accordance with the regulations. A new defence is added for possessing blue cod in the Marlborough Sounds Area during the closed season if the fish were taken from outside the area. These regulations come into force on 1 April 2011.

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

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These regulations are administered by the Ministry of Fisheries.
