

**Reprint
as at 1 January 2014**



**Ministry of Agriculture and
Fisheries (Restructuring) Act 1995**

Public Act 1995 No 31
Date of assent 23 June 1995
Commencement see section 1(2)

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this reprint.

Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Ministry for Primary Industries.

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An Act—

- (a) to provide for the restructuring of the Ministry of Agriculture and Fisheries; and**
- (b) to repeal the Ministry of Agriculture and Fisheries Act 1953; and**
- (c) to amend certain related enactments; and**
- (d) to provide for related matters**

1 Short Title and commencement

- (1) This Act may be cited as the Ministry of Agriculture and Fisheries (Restructuring) Act 1995.
- (2) This Act shall come into force on 1 July 1995.

2 Interpretation

In this Act, unless the context otherwise requires,—

agency means the Ministry of Agriculture and Forestry, the Ministry of Fisheries, or any Crown Research Institute

intellectual property—

- (a) includes—
 - (i) all property rights constituted by the Patents Act 1953, the Designs Act 1953, or the Trade Marks Act 1953; and
 - (ii) any trade secret; but
- (b) does not include any property rights constituted by the Copyright Act 1994

responsible chief executive, in relation to any function or matter, means, subject to any enactment, the chief executive for the time being of a responsible Ministry who has, with the authority of the Prime Minister, assumed responsibility for that function or matter

responsible Minister, in relation to any function or matter, means, subject to any enactment, any Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for that function or matter

responsible Ministry, in relation to any function or matter, means, subject to any enactment, the Ministry that has, with the authority of the Prime Minister, for the time being assumed responsibility for that function or matter

working day means any day except—

- (a) a Saturday, a Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day; and
- (ab) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and

- (b) a day in the period commencing with 20 December in any year and ending with 15 January in the following year.

Section 2 **agency**: amended, on 1 March 1998, pursuant to section 5(1)(c) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Section 2 **working day** paragraph (ab): inserted, on 1 January 2014, by section 8 of the Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19).

Part 1

Restructuring of Ministry of Agriculture and Fisheries

Repeal of Ministry of Agriculture and Fisheries Act 1953

3 Abolition of Ministry of Agriculture and Fisheries

The Ministry of Agriculture and Fisheries constituted under the Ministry of Agriculture and Fisheries Act 1953 is hereby abolished.

4 Repeals

- (1) The following enactments are hereby consequentially repealed:
- (a) the Ministry of Agriculture and Fisheries Act 1953:
 - (b) the Ministry of Agriculture and Fisheries Amendment Act 1972:
 - (c) *Amendment(s) incorporated in the Act(s)*.
 - (d) the Ministry of Agriculture and Fisheries Amendment Act 1989:
 - (e)–(g) *Amendment(s) incorporated in the Act(s)*.
 - (h) the Ministry of Agriculture and Fisheries Amendment Act 1990:
 - (i), (j) *Amendment(s) incorporated in the Act(s)*.
- (2) Without limiting anything in the Acts Interpretation Act 1924, the repeal of any enactment by subsection (1) does not prejudice—
- (a) any amendment made by that enactment to any enactment not referred to in that subsection; or

- (b) any provision in any enactment referred to in that subsection other than a provision amending any other enactment.

5 Enactments amended

The enactments specified in the Schedule are hereby amended in the manner indicated in that schedule.

Savings

6 Savings relating to references and proceedings

- (1) Unless in any case the context otherwise requires, in any enactment or in any regulations or in any instrument or document,—
 - (a) every reference to the Director-General of Agriculture and Fisheries shall be read as a reference to the responsible chief executive;
 - (b) every reference to the Ministry of Agriculture and Fisheries shall be read as a reference to the responsible Ministry.
- (2) All proceedings whatever that, immediately before the commencement of this Act, were pending by or against or which could have been brought by or against or in respect of the Director-General of Agriculture and Fisheries may be carried on, completed, or enforced by or against or in respect of the responsible chief executive.
- (3) All proceedings whatever that,—
 - (a) immediately before the commencement of this Act, were pending by or against or which could have been brought by or against or in respect of any person other than the Minister of Agriculture or the Minister of Fisheries or the Director-General of Agriculture and Fisheries; and
 - (b) relate to anything done or omitted to be done by that person in the performance of functions, duties, or powers of the Minister of Agriculture or the Minister of Fisheries or the Director-General of Agriculture and Fisheries, whether as an employee of that Ministry or otherwise,—

may be carried on, completed, or enforced by or against or in respect of the responsible Minister or the responsible chief executive or such other person as the Attorney-General may certify for the purposes of this section.

7 Saving of existing appointment

- (1) The person who, immediately before the date of commencement of this Act, held office as the Director-General of Agriculture and Fisheries shall be deemed to have been appointed under the State Sector Act 1988 to the office of chief executive of the Ministry of Agriculture and that appointment shall be deemed to be on the same terms and conditions of employment applying to that person immediately before that date.
- (2) The term of office of the person deemed by subsection (1) to have been appointed to the office of chief executive of the Ministry of Agriculture shall expire on the date on which, but for the passing of this Act, his or her term would have expired under the employment contract applying to him or her.

8 Savings relating to brands, stamps, marks, etc

Notwithstanding anything in the Flags, Emblems, and Names Protection Act 1981, all names, brands, stamps, logos, emblems, marks, forms, and other representations or documents in use by the Ministry of Agriculture and Fisheries immediately before the date of commencement of this Act—

- (a) shall continue to have effect in relation to anything done before that date; and
- (b) may continue to be used, and shall have effect, for the purposes of the functions, duties, and powers of the responsible Minister, the responsible chief executive, or the responsible Ministry.

Transfer of employees from Ministry of Agriculture and Fisheries

9 Transfer of employees

- (1) Notwithstanding anything in section 61A of the State Sector Act 1988, every person employed in the Ministry of Agriculture and Fisheries immediately before the date of commence-

ment of this Act who was carrying out duties that on or after that date are to be carried out (in whole or in part) by another agency shall, subject to subsection (2), be deemed to have transferred to that other agency on that date.

- (2) No employee shall be deemed by subsection (1) to have been transferred to an agency other than the Ministry of Agriculture unless the chief executive (or chief executive designate) of that other agency agreed, subject to the provisions referred to in subsection (3), to the transfer of the employee to that other agency.
- (3) The transfer of any employee by this section is subject to the provisions (if any) of the employment contract applying to that employee immediately before the date of commencement of this Act relating to the transfer of employees.

10 Protection of conditions of employment upon transfer

- (1) If any employee of the Ministry of Agriculture and Fisheries is deemed by section 9 to have transferred to any other agency, the employment of that person by that other agency shall be on the same terms and conditions of employment applying to that person immediately before the date of the transfer.
- (2) Without limiting the generality of subsection (1), if any rights and obligations of an employee under a contract of service arise by virtue of a collective employment contract and such rights and obligations are transferred to another agency by virtue of section 9, that collective employment contract shall be deemed, as from the commencement of the transfer date, to continue on the same terms (including any terms relating to new employees) as if it were a contract made with that agency, or any bargaining agent that is a party to it, and the employee.
- (3) Subsections (1) and (2) shall continue to apply to the terms and conditions of employment of each transferred employee until such time as any of the terms and conditions of employment that apply under the employment contract applying to that employee at the date of the transfer are varied by agreement between the employee and the agency to which the employee has transferred.

- (4) The terms and conditions of employment of each transferred employee shall, from the date of any such variation, be determined in accordance with the employment contract applying to that employee in the agency in which the transferred employee is then employed.
- (5) Nothing in subsection (1) shall continue to apply to any transferred employee who receives any subsequent appointment within the agency to which that employee was transferred.

11 Employment of transferred employee deemed to be continuous

- (1) Every employee of the Ministry of Agriculture and Fisheries who is deemed by section 9 to have transferred to another agency shall, on the date of the transfer, become an employee of that other agency, but, for the purposes of every enactment, law, determination, contract, and agreement relating to the employment of each such employee, the contract of employment of that employee shall be deemed to have been unbroken and that employee's period of service with that Ministry, and every other period of service of that employee that is recognised by that Ministry as continuous service, shall be deemed to have been a period of service with that other agency.
- (2) Except as otherwise provided in any employment contract, no employee of the Ministry of Agriculture and Fisheries who is deemed by section 9 to have transferred to another agency shall be entitled to receive any payment or other benefit merely because he or she has ceased by virtue of the transfer to be an employee of that Ministry.

12 Membership of Government Superannuation Fund

Every person who, immediately before becoming an employee of an agency by virtue of section 9, was an officer or employee of the Ministry of Agriculture and Fisheries and was a contributor to the Government Superannuation Fund under the Government Superannuation Fund Act 1956 shall, for the purposes of that Act, be deemed to be employed in the Government service for so long as that person continues to be employed by a government department or Crown Research Institute and that Act shall be deemed to apply to that person in all

respects as if that person's service with the Government service is continuous.

Part 2 Administrative provisions

Contracting out *[Repealed]*

Heading: repealed, on 1 October 2001, pursuant to section 314(2)(v) of the Fisheries Act 1996 (1996 No 88).

13 Contracting out *[Repealed]*

Section 13: repealed, on 1 October 2001, by section 314(2)(v) of the Fisheries Act 1996 (1996 No 88).

Intellectual property

14 Intellectual property

- (1) Notwithstanding anything in any other enactment, any intellectual property, data, or research devised or developed on or after the commencement of this Act by an employee of the Ministry of Agriculture and Fisheries who becomes an employee of the Ministry of Agriculture or the Ministry of Fisheries on the commencement of this Act belongs to the Crown (which shall be deemed to be the assignee of the employee in respect of the property) if—
- (a) it was devised or developed in the course of the duties of the employee, whether or not the intellectual property might reasonably be expected to result; or
 - (b) it was devised or developed wholly or principally by or through the use of resources provided by the Crown;— but any other intellectual property, data, or research devised or developed by an employee of the Ministry shall, as between the employee and the Crown (as the employee's ultimate employer), belong to the employee.
- (2) There may be paid to any such employee who devises or develops any intellectual property, data, or research that belongs to the Crown any amount by way of bonus or grant appropriate in the circumstances.

- (3) Any intellectual property, data, or research belonging to the Crown under this section may be made available for use (whether by way of assignment or licence or otherwise) on any conditions (including the payment of royalties or other money) agreed from time to time by the responsible Minister.
- (4) If intellectual property, data, or research belonging to the Crown under this section was devised or developed wholly or partly through the use of resources other than public money or public stores (as defined in section 2(1) of the Public Finance Act 1977), the responsible Minister may assign the property or any interest the Minister has in the property to the person or persons who provided the resources according to the proportion of the resources so provided in relation to the total resources utilised to devise or develop the property.
- (5) Subsection (4) does not prevent the responsible Minister using any property in order to carry out his or her functions.
- (6) Subsection (4) does not limit the generality of subsection (3).

Miscellaneous provisions

15 Appointment of Inspectors

- (1) *[Repealed]*
- (2) Every employee of the Ministry of Agriculture and Fisheries who,—
 - (a) immediately before the date of commencement of this Act, was an Inspector under any enactment administered by that Ministry that is to be administered by the Ministry of Agriculture on that date; and
 - (b) becomes an employee of the Ministry of Agriculture on that date,—shall continue to be an Inspector under that enactment until the employee ceases his or her employment in the Ministry or the appointment is sooner revoked.
- (3) In addition to the powers and authorities exercisable by the Inspector under any such enactment, every employee of the Ministry of Agriculture and Forestry who is so appointed as an Inspector shall have all such powers and authorities as may be necessary for the enforcement of any Order in Council made under section 48 of the Customs Act 1966 which, for the pur-

pose of preventing the introduction of any disease affecting stock or plant life, prohibits the importation into New Zealand of any goods.

Section 15(1): repealed, on 1 October 1996 (with effect on 1 July 1995), by section 316(1) of the Fisheries Act 1996 (1996 No 88).

Section 15(3): amended, on 1 March 1998, pursuant to section 5(1)(c) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

16 Employees to act under direction of chief executive

- (1) All inspectors, registrars, officers, and employees of the Ministry of Agriculture and Forestry or of the Ministry of Fisheries shall act under the direction of the responsible chief executive in the exercise and performance of the powers, duties, and functions conferred or imposed on them by any enactment administered by that Ministry.
- (2) The responsible chief executive shall have full power and authority to exercise and perform any power or function which is conferred on the Director of any division of the Ministry by any enactment administered by that Ministry.

Section 16(1): amended, on 1 March 1998, pursuant to section 5(1)(c) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Section 16(1): amended, on 1 October 1996 (with effect on 1 July 1995), by section 316(1) of the Fisheries Act 1996 (1996 No 88).

17 Delegation of all chief executive's powers under any enactment

If the chief executive of the Ministry of Agriculture and Forestry or of the Ministry of Fisheries delegates to an employee of the Ministry all the responsible chief executive's functions or powers under any enactment, the delegation has effect as a delegation of all the responsible chief executive's functions or powers, as the case may be, under the enactment for the time being in force, whether conferred on the responsible chief executive before or after the delegation was made.

Section 17: amended, on 1 March 1998, pursuant to section 5(1)(c) of the Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100).

Section 17: amended, on 1 October 1996 (with effect on 1 July 1995), by section 316(1) of the Fisheries Act 1996 (1996 No 88).

18 Failure to pay statutory fees, etc*[Repealed]*

Section 18: repealed, on 20 April 2010, by section 4 of the Ministry of Agriculture and Fisheries (Restructuring) Amendment Act 2010 (2010 No 19).

19 Ministry to deduct costs of collecting levies*[Repealed]*

Section 19: repealed, on 20 April 2010, by section 5 of the Ministry of Agriculture and Fisheries (Restructuring) Amendment Act 2010 (2010 No 19).

20 Regulations

The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) obtaining any information or particulars that may be required for the effective performance of the functions and duties of any responsible Minister or chief executive under this Act;
- (b) *[Repealed]*
- (c) *[Expired]*
- (d) providing for such matters as may be contemplated by or necessary for giving full effect to this Act and for its administration.

Section 20(b): repealed, on 1 October 1996 (with effect on 1 July 1995), by section 316(1) of the Fisheries Act 1996 (1996 No 88).

Section 20(c): expired, on 1 July 1996, by section 20A.

20A Expiry of section 20(c)

Section 20(c) shall expire 12 months after the date of commencement of this Act and, as from the close of that date, shall be deemed to have been repealed.

Section 20A: inserted, on 1 July 1995, by section 316(1) of the Fisheries Act 1996 (1996 No 88).

21 Advisory and technical committees

- (1) The Minister of Agriculture and the Minister of Fisheries each have power to appoint from time to time advisory or technical committees, and to define the functions of any such committee.

- (2) If the responsible Minister so directs, there may be paid out of money appropriated by Parliament for the purpose to the members of any such committee remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if the committee were a statutory Board within the meaning of that Act.

22 Transfer of southern scallop quota

- (1) *[Repealed]*
- (2) *[Repealed]*
- (3) Te Ohu Kai Moana Trustee Limited shall hold the quota to be allocated to Ngati Toa Rangatira for the use and benefit of Ngati Toa Rangatira; and, for that purpose, Te Ohu Kai Moana Trustee Limited may lease any part of that quota to any other quota holder named in Part 5 of Schedule 1D of the Fisheries Act 1983.
- (3A) However, as soon as reasonably practicable after Te Ohu Kai Moana Trustee Limited has recognised the mandated iwi organisation of Ngati Toa Rangatira under section 13(1) of the Maori Fisheries Act 2004, or its recognised iwi organisation under section 27 of the Maori Fisheries Act 2004, Te Ohu Kai Moana Trustee Limited must transfer to the organisation the quota referred to in subsection (3).
- (3B) Except as provided for in subsection (3A), the provisions of the Maori Fisheries Act 2004 do not apply to the quota referred to in subsection (3).
- (3C) To avoid doubt, the quota referred to in subsection (3) is not quota that is included in the existing undertaking as defined in section 189 of the Maori Fisheries Act 2004.
- (4) Section 74 of the Fisheries Act 1996 does not prevent Te Ohu Kai Moana Trustee Limited from holding the quota referred to in subsection (3) for the purpose of this section.
- (4A) In this section,—
mandated iwi organisation has the meaning given to it in section 5 of the Maori Fisheries Act 2004

recognised iwi organisation has the meaning given to it in section 5 of the Maori Fisheries Act 2004

Te Ohu Kai Moana Trustee Limited has the meaning given to it in section 5 of the Maori Fisheries Act 2004.

Section 22(1): repealed, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 22(2): repealed, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 22(3): amended, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 22(3A): inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 22(3B): inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 22(3C): inserted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 22(4): substituted, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Section 22(4A): added, on 29 November 2004, by section 214 of the Maori Fisheries Act 2004 (2004 No 78).

Schedule

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Enactments amended

Fisheries Act 1983 (1983 No 14) (RS Vol 27, p 137)

Amendment(s) incorporated in the Act(s).

Ombudsmen Act 1975 (1975 No 9) (RS Vol 21, p 657)

Amendment(s) incorporated in the Act(s).

State Sector Act 1988 (1988 No 20) (RS Vol 33, p 715)

Amendment(s) incorporated in the Act(s).

Ministry of Agriculture and Fisheries (Restructuring) Amendment Act 2010

Public Act 2010 No 19
Date of assent 19 April 2010
Commencement see section 2

- 1 Title**
This Act is the Ministry of Agriculture and Fisheries (Restructuring) Amendment Act 2010.
 - 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent.
 - 8 Transitional provision**
Any amount that is payable under section 18 of the principal Act immediately before the commencement of this Act remains payable as if that section had not been repealed.
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Reprints notes

1 *General*

This is a reprint of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, will have the status of an official version once issued by the Chief Parliamentary Counsel under section 17(1) of that Act.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19): section 8

Ministry of Agriculture and Fisheries (Restructuring) Amendment Act 2010 (2010 No 19)

Maori Fisheries Act 2004 (2004 No 78): section 214

Ministries of Agriculture and Forestry (Restructuring) Act 1997 (1997 No 100): section 5(1)(c)

Fisheries Act 1996 (1996 No 88): sections 314(2)(v), 316(1)

Ministry of Agriculture and Fisheries (Restructuring) Act 1995 (1995 No 31): section 20A
