

# Marine Farming Acts (1953-1996) by Parliamentary Counsel 018

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REPRINTED ACT

[WITH AMENDMENTS INCORPORATED]

MARINE FARMING

REPRINTED AS ON 1 DECEMBER 1996

NOTES: 1. As to references to "the Department", "Director-General", "Minister", and "Ministry", see ss. 4 (2), and 6 (1) of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995.

2. The repeal of s. 108 (5) of the Fisheries Act 1983 by s. 314 (1) (zl) of the Fisheries Act 1996 does not affect amendments to the Marine Farming Act 1971 by that section, see s. 314 (4) (a) of the Fisheries Act 1996.

3. Except where otherwise indicated, the word "Director-General", wherever it appears in square brackets, was substituted for the word "Secretary" by s. 6 (1) of the Ministry of Agriculture and Fisheries Amendment Act 1972. See now s. 6 (1) (a) of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995.

## THE MARINE FARMING ACT 1971

1971, No. 29

An Act to consolidate and amend the law relating to the establishment and development in New Zealand waters of an industry for the farming of sea fish, shellfish, oysters, and marine vegetation, the leasing and licensing of marine farms, and the marketing of fish, shellfish, and oysters reared and marine vegetation cultivated in marine farms [16 October 1971

1. Short Title and commencement---(1) This Act may be cited as the Marine Farming Amendment Act 1993, and shall be read together with and deemed part of the Marine Farming Act 1971 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the day on which it receives the Royal assent.

2. Repeal of provisions relating to spat-catching areas---(1) Section 14E of the principal Act is hereby repealed.

(2) The following enactments are hereby consequentially repealed:

(a) Section 6 of the Marine Farming Amendment Act 1975:

(b) So much of the Third Schedule to the Fisheries Act 1983 as relates to section 14E (3) of the principal Act:

(c) So much of the Second Schedule to the Conservation Act 1987 as relates to section 14E (1) of the principal Act:

(d) So much of the Eighth Schedule to the Resource Management Act 1991 as relates to section 14E of the principal Act.

Leases and Licences

3-9. Repealed by s. 362 of the Resource Management Act 1991.

10. This section substituted a new subsection for subs. (1) of s. 43 of the principal Act.

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11-14. Repealed by s. 362 of the Resource Management Act 1991.

14A. Substituted by s. 108 (5) of the Fisheries Act 1983, and repealed by s. 362 of the Resource Management Act 1991.

14B-14D. Inserted by s. 5 of the Marine Farming Amendment Act 1975, and repealed by s. 108 (5) of the Fisheries Act 1983.

Spat-catching Areas

14E. Inserted by s. 6 of the Marine Farming Amendment Act 1975, and repealed by s. 2 (1) of the Marine Farming Amendment Act 1993.

Registration of Leases and Licences

15. Registers of leases and licences to be kept by Department---(1) The [Director-General] shall cause to be kept at the head office of the [Department] at Wellington a register of leases and a register of licences, in which there shall be entered particulars of leases and licences in force. The [Director-General] shall also cause a register of lessees and licensees to be kept. Those registers shall include particulars of leases in

force at the commencement of this Act granted under the Rock Oyster Farming Act 1964 or the Marine Farming Act 1968.

(2) Subject to the requirements of this Act relating to dealings with any lease or licence, any instrument or notice of any kind which, if the lease or licence were a lease registered under the Land Transfer Act 1952, would be registrable against a lease under that Act by virtue of that Act or any other Act shall be registrable in the head office of the [Department] at Wellington against any lease or licence registered pursuant to subsection (1) of this section, and, except as otherwise provided by regulations under this Act, may so be registered in the manner provided by the Land Transfer Act 1952 for the registration of instruments or notices registrable against leases under that Act with such modifications as the [Director-General] from time to time considers necessary.

(3) As soon as may be after the issue by any harbour board or local authority of any lease or licence, the principal administrative officer of the Board or authority shall cause the lease or licence to be sent to the [Director-General] for registration pursuant to subsection (1) of this section.

(4) Every entry made on any lease or licence in respect of any instrument or notice duly registered against that lease or licence under subsection (2) of this section shall, if purporting to be duly made and signed, be received in all Courts as evidence of the particulars therein set forth, and, against the person originally named in the lease or licence and all persons claiming through or under or in trust for him, shall, until it is lawfully cancelled, be conclusive evidence that any person named in the entry, instrument, or notice is seised or possessed of the estate or interest which purports to be vested in him as registered owner by virtue of that entry and of the instrument or notice in respect of which it is made.

(5) Every instrument of transfer, sublease, mortgage, or other dealing (other than a notice) registered under subsection (2) of this section shall have the effect of a deed duly executed by the parties signing it.

(6) There shall be paid to the [Director-General] for the registration of any lease or licence or other instrument pursuant to this section the fee prescribed by regulations under this Act.

(7) All dealings with or under any such lease or licence in contravention of the provisions of this Act or any other Act shall be void; and the [Director-General] shall not register any dealing with or in respect of a lease or licence until he is satisfied that the said provisions have been complied with.

(8) The registers kept under this section shall, during the ordinary hours of business, be open to inspection by the public; and a certified copy of any instrument registered in the register of leases and licences shall, on payment of such fee as is prescribed by regulations under this Act, be given to any person requiring it.

(9) No notice of any trust, whether expressed, implied, or constructive, shall be entered in the registers, and neither the controlling authority nor the [Director-General] shall be affected by any such notice.

(10) Where any person becomes entitled by assignment, transmission, or operation of law to a lease or licence or to a share in a lease or licence, or becomes entitled to any other interest in any lease or licence, he shall apply to the [Director-General] for registration of his interest in the register of leases and licences and register of lessees and licensees.

(11) Where application for registration is made under this section, the [Director-General] shall, on proof that the applicant is entitled to the interest to which the application relates, register him as proprietor of the interest.

(12) No assignment of any lease or licence, or any interest in any such lease or licence, shall have any effect until it is registered in the register of leases and licences kept pursuant to this section.

(13) Every instrument presented for registration under this section shall be registered in the order of time in which it is presented for that purpose. Instruments registered with respect to or affecting the same estate or interest shall, notwithstanding any express, implied, or constructive notice, be entitled to priority the one over the other according to the date of registration, and not according to the date of each instrument itself.

(14) The [Director-General] shall not register any document liable to stamp duty unless it purports to have been duly stamped, but no registration shall be invalidated by reason of any error in this respect.

Cf. 1964, No. 61, s. 7; 1968, No. 145, s. 14

In subs. (1) and (2) the word "Department" was substituted for the words "Marine Department" by s. 6 (1) of the Ministry of Agriculture and Fisheries Amendment Act 1972. As to the Department and Director-General, see the notes at the beginning of this reprint.

16. Persons jointly registered to be joint tenants---Any 2 or more persons named in any lease or licence as lessees or licensees, or in any instrument as transferees, mortgagees, or proprietors of any estate or interest in any lease or licence, shall, unless the contrary is expressed, be deemed to be entitled as joint tenants with right of survivorship, and every such lease or licence or instrument, when registered, shall take effect accordingly.

17. Correction of registers---(1) Where a mistake exists in any of the registers kept under section 15 of this Act, or in any instrument issued under this Act, by reason of an error or omission on the part of any officer of the [Department] or of any harbour board or local authority, the [Director-General] shall, in accordance with the provisions of this section, correct the mistake, and for that purpose may require the production of any such instrument.

(2) Where the [Director-General] proposes to make any such correction as aforesaid, he shall give notice of the proposal to the persons (if any) who appear to him to be concerned, and shall give them an opportunity to be heard before making the correction.

(3) Where a mistake exists in any of the registers kept under section 15 of this Act, or in any lease or licence or application for a lease or licence, or in any other instrument or document, by reason of an error or omission on the part of the lessee or licensee or of the applicant for the lease or licence or of any other person concerned, a correction may be made in accordance with the provisions of this section on a request in writing by any person interested and payment of the prescribed fee (if any). If it appears to the [Director-General] that the correction would materially alter the meaning or scope of the instrument or document to which the request relates and ought not to be made without notice to persons likely to be affected thereby, he shall require notice of the nature of the proposed correction to be advertised at least twice at intervals not exceeding 7 days in a newspaper or newspapers circulating in the locality where the area leased or licensed is situated.

(4) Within 3 months after the last publication of any such advertisement, any person interested may give notice to the [Director-General] of opposition to the request, and where any notice of opposition is given the [Director-General] shall give notice of it to the person by whom the request was made, and shall give him and the opponent an opportunity to be heard before he decides the case.

In subs. (1) the word "Department" was substituted for the words "Marine Department" by s. 6 (1) of the Ministry of Agriculture and Fisheries Amendment Act 1972. As to the Department and the Director-General, see the notes at the beginning of this reprint.

18. Description of leased or licensed area---(1) Where the [Director-General] is not satisfied that the description of the leased or licensed area in any registered lease or licence is reasonably sufficient to identify the area, he may prepare and endorse on or attach to the lessee's or licensee's copies of the lease or licence and the copy retained by the [Director-General] an amended description of the leased or licensed area consented to by the lessor or licensor and by the lessee or licensee and by every other person having a registered interest in the lease or licence.

[(1A) Where the Director-General has, by notice in writing to the lessee or licensee or to any other person having a registered interest in a lease or licence, requested his consent to an amendment under subsection (1) of this section of the description of the leased or licensed area, and no reply to that request has been received by the Director-General from the lessee or licensee or other person within 3 months after the giving of the notice, his consent to the amended description shall not be necessary.]

(2) Where an amended description of the leased or licensed area is endorsed on or attached to any instrument pursuant to subsection (1) of this section, that description shall for all purposes be deemed to be the correct description of the leased or licensed area.

(3) The [Director-General] may, by notice in writing to the person having in his possession or under his control the lessee's or licensee's copy of any lease or licence, require him to produce that copy to the [Director-General] for the purpose of enabling the [Director-General] to endorse thereon or attach thereto an amended description of the leased or licensed area, and that person shall comply with that requirement accordingly.

Subs. (1A) was inserted by s. 7 (1) of the Marine Farming Amendment Act 1975. As to the Director-General, see the notes at the beginning of this reprint.

[19. Evidence of entries, etc.---(1) A certificate purporting to be signed by the Director-General or by an authorised officer of the Department certifying that any entry which the Director-General is authorised by or under this Act to make has or has not been made, or that any other thing has or has not been done, shall, in the absence of proof to the contrary, be evidence of the matters so certified.

(2) A copy of any entry in any of the registers kept under section 15 of this Act or of any lease or licence or any other instrument or document issued or registered under this Act, or an extract from any such register, instrument, or document, purporting to be certified by the Director-General or by an authorised officer of the Department, shall be admitted in evidence without further proof and without production of the original.

[[ (3) A copy of any lease or licence purported to be certified by the Director-General or by an authorised officer of the Department as being a true copy of the lease or licence containing a description of the leased or licensed area as amended pursuant to section 18 of this Act shall be admitted in evidence without further proof and without production of the original.]] ]

This section was substituted for the original s. 19 by s. 6 (1) of the Ministry of Agriculture and Fisheries Amendment Act 1972. Subs. (3) was added by s. 7 (2) of the Marine Farming Amendment Act 1975. As to the Department and the Director-General, see the notes at the beginning of this reprint.

20. Loss or destruction of lease or licence---Where the [Director-General] is satisfied that a registered lease or licence has been lost or destroyed or cannot be produced, he may at any time, on application made to him for the purpose and the production of such evidence as he may require and on payment of the prescribed fee (if any), issue a certified copy of the lease or licence, and every such certified copy signed by him [or by an authorised officer of the Department] shall be received in evidence for all purposes for which the original lease or licence might be put in evidence.

The words in the second set of square brackets were substituted for the original words by s. 6 (1) of the Ministry of Agriculture and Fisheries Amendment Act 1972. As to the Department and the Director-General, see the notes at the beginning of this reprint.

#### Renewal of Leases and Licences and Re-offering of Leased and Licensed Areas

21-24. Repealed by s. 362 of the Resource Management Act 1991.

#### Access Ways and Access Strips

25, 26. Repealed by s. 362 of the Resource Management Act 1991.

#### Safety Requirements

27-31. Repealed by s. 362 of the Resource Management Act 1991.

#### Offences

32. Removal or destruction of marks---Every person commits an offence who, without lawful authority, wilfully removes, destroys, damages, or interferes with---

(a) Any beacon, buoy, or mark which is used to indicate the boundary of any leased area or any prohibited anchorage or prohibited navigation area; or

(b) Any light provided in respect of any such beacon, buoy, or mark; or

(c) Any day beacon, signal, light, or fog signal required to be kept on any structure or raft pursuant to section 30 or section 31 of this Act.

Cf. 1968, No. 145, s. 24

In para. (c), ss. 30 and 31 were repealed by s. 362 of the Resource Management Act 1991.

33. Removing diseased or contaminated fish or vegetation---Every person commits an offence who, without the prior consent in writing of the controlling authority,---

(a) Removes diseased or contaminated fish or marine vegetation from one leased area to another leased area or to a licensed area or from one licensed area to another licensed area or to a leased area; or

(b) Having removed diseased or contaminated fish or marine vegetation from any leased or licensed area, places or casts the fish or vegetation into any tidal water outside the area.  
Cf. 1968, No. 145, s. 25

34. Injury or damage to marine farms---(1) Every person (not being the lessee or licensee or a person acting with his authority or pursuant to any power conferred on him by any enactment) commits an offence, and is liable to a fine not exceeding \$1,000, who wilfully---

(a) Takes, removes, or disturbs, or interferes with--- (i) Any fish or marine vegetation being farmed in a leased or licensed area; or (ii) Any raft, structure, or implement used by the lessee or licensee in connection with the farming of fish or marine vegetation in his leased or licensed area; or

(b) Dredges, digs, or drags a leased area or prohibited anchorage with any implement; or

(c) Does any other act which causes damage to any marine farm established in a leased or licensed area.

(2) Every person commits an offence who wilfully and without lawful authority---

(a) Deposits in a leased area or prohibited anchorage any stone, ballast, or rubbish, or any deleterious matter; or

(b) Uses in a leased or licensed area any explosive or any toxic gas or any toxic, poisonous, or narcotic substance.

(3) Any person convicted of an offence under this section shall, in addition to any penalty for which he may be liable for the offence, be liable to pay compensation to any lessee or licensee who has sustained damage as a result of the act of the convicted person.

(4) The compensation shall be assessed by the convicting Court, and shall be recoverable in like manner as a fine.

(5) Notwithstanding the provisions of subsections (1) and (2) of this section, it shall be a defence to an information laid for an offence against this section if the act to which the information relates was caused by a person acting with the sole object of saving his life or that of some other person or of saving his ship or boat or the ship or boat of some other person.

Cf. 1968, No. 145, s. 26

35. Obstructing lessee or licensee from farming his leased or licensed area---Every person commits an offence who obstructs, hinders, or prevents the lessee or licensee or any person employed by him or acting under his authority from farming or lawfully taking farmed fish or farmed vegetation from the leased or licensed area.

Cf. 1968, No. 145, s. 27

36. Offences punishable on summary conviction---Every offence against this Act shall be punishable on summary conviction.

Cf. 1968, No. 145, s. 28

37. Time within which information to be laid---Notwithstanding anything in section 14 of the Summary Proceedings Act 1957, any information in respect of an offence against this Act may be laid at any time within 12 months from the time when the matter of the information arose.

Cf. 1968, No. 145, s. 29

38. General penalty for offences---Every person who commits an offence against this Act for which no penalty is provided elsewhere than in this section is liable to a fine not exceeding \$400.

Cf. 1968, No. 145, ss. 21 (5), (6), 24, 25, 26 (2), 27

#### Miscellaneous Provisions

39. Submissions to arbitration---(1) Where in any lease or licence or by this Act it is provided that any dispute or matter is to be determined by arbitration, the arbitration shall, subject to any express stipulation contained in the lease or licence and to the provisions of this section, be conducted by arbitrators appointed by the parties to the dispute or concerned in the matter, as the case may be. Each such party shall appoint one arbitrator, and the arbitrators so appointed shall appoint an umpire.

(2) Where either party to the arbitration fails to appoint an arbitrator within 21 days after being requested to do so by the other party, the arbitrator appointed by the other party shall alone conduct the arbitration, and his decision shall be binding on both parties.

(3) If the arbitrators fail to agree upon the matter referred to them within 28 days of it having been referred to them, the matter shall be determined by the umpire to be appointed by the arbitrators, and the decision of the umpire shall be binding on both the parties.

(4) Each party to an arbitration shall pay the costs, charges, and expenses of the arbitrator appointed by him. The costs, charges, and expenses of the umpire shall be borne equally between the parties.

(5) Every arbitration under this section shall be carried out in the manner prescribed by [the Arbitration Act 1996], and the provisions of that Act shall, subject to this section, extend and apply to any such arbitration and to the arbitrators and the umpire.

Cf. 1968, No. 145, s. 30

In subs. (5) the Arbitration Act 1996, has been substituted in this reprint for the Arbitration Act 1908, which is to be repealed from 1 July 1997 by ss. 18 and 20 of the Arbitration Act 1996.

40. Liability in civil proceedings---(1) Every leased or licensed area shall be deemed to be "premises" for the purposes of the Occupiers' Liability Act 1962, and every lessee or licensee shall be an occupier for the purposes of that Act.

(2) If any person enters any leased area or navigates any ship or boat in a prohibited navigation area in such circumstances that he would, but for this subsection, be a trespasser and the boundaries of the area are not marked in accordance with the requirements of section 27 or, as the case may be, section 28 of this Act, he shall be deemed not to be trespassing in the area, and, for the purposes of the Occupiers' Liability Act 1962, shall be deemed to be a visitor.

(3) Where any lessee or licensee is in breach of any duty imposed on him by or pursuant to this Act, or any regulation made under this Act, and any person dies or suffers physical injury or damage to his

property as a result of the breach, nothing in this Act shall be construed to prevent the recovery of damages for breach of statutory duty in respect of the death, physical injury, or damage, as the case may be.

(4) In any action brought against any person by the lessee or licensee of an area for damages in tort in respect of the area or anything in the area, it shall be a good defence to the action if the person proves that, because of a storm or other emergency beyond his control, it was necessary to trespass in the area for the sole object of saving his life or that of some other person, or of saving his ship or boat or the ship or boat of some other person, and that he took all reasonable precautions to avoid damage to the lessee's or licensee's property.

Cf. 1968, No. 145, s. 31

41. Inspection of leased or licensed areas---(1) Any fishery officer, or any officer in the employment of the Crown authorised by the [Director-General], may from time to time---

(a) Enter and inspect any leased or licensed area for the purpose of ensuring that the provisions of this Act are being complied with or are not being contravened:

(b) Enter and inspect any leased or licensed area of which the Minister is the controlling authority for the purpose of ensuring that the provisions of the lease or licence are being complied with or are not being contravened:

[(c) If specifically authorised and directed by the Director-General, enter and inspect any leased or licensed area and take such actions (including the removal or destruction of any diseased or contaminated fish or marine vegetation) as are considered necessary for the purpose of ensuring that the provisions of any order made under section 42 of this Act are complied with within the time or times specified in the order].

(2) Any person authorised by the controlling authority of any leased or licensed area of which the Minister is not the controlling authority may from time to time enter and inspect the leased or licensed area for the purpose of ensuring that the provisions of this Act and of the lease or licence are being complied with or are not being contravened.

(3) Every person commits an offence who---

(a) Assaults, resists, or obstructs any person exercising the power of entry and inspection conferred on him by subsection (1) or subsection (2) of this section; or

(b) Uses threatening language or behaves in a threatening manner towards any such person, while he is exercising the said power of entry and inspection; or

(c) Fails to comply with the lawful requirement of the Minister or the [Director-General] or any such person as aforesaid.

[(4) Any person exercising a power of entry or inspection conferred on him by this section shall observe the provisions of subsections (2) and (5) of section 79 of the Fisheries Act 1983 (which relate to entry into private dwelling places and certain other places and to the production of warrants of appointment or other evidence of identity) in the same manner as if that person were a Fishery Officer under that Act.] Cf. 1968, No. 145, s. 32

In subs. (1), para. (c) was added by s. 3 (1) of the Marine Farming Amendment Act 1983. Subs. (4) was added by s. 108 (5) of the Fisheries Act 1983. As to the Director-General, see the notes at the beginning of this reprint.

42. Closing orders---(1) If at any time the Minister is satisfied, on reasonable grounds, that the whole or any part of a leased or licensed area used in the farming of fish or marine vegetation is diseased, infected by marine pests, or contaminated or likely to be contaminated by sewage or other cause to such an extent as to render fish or marine vegetation (whether farmed or otherwise) in the area unfit for human consumption or dangerous to human life or to such an extent that the farming of fish or marine vegetation in the area is likely to be prejudiced, he may, by notice in writing to the lessee or licensee, declare the area to be diseased, infected by marine pests, or contaminated or likely to be contaminated as aforesaid, and order that no fish or marine vegetation be removed from the area while the notice remains in force or that fish may be removed from the area only under such conditions as he may specify in the notice [or that fish or marine vegetation shall be removed from the area, or destroyed, or disposed of in such manner and within such time as he may specify in the notice].

(2) Any such order may require the lessee or licensee to take specified steps for---

(a) The purification or treatment of fish or marine vegetation farmed in the leased or licensed area:

(b) The eradication from the leased or licensed area of the disease, pests, or cause of the contamination, as the case may be:

(c) The destruction of diseased or contaminated fish or marine vegetation in the leased or licensed area [, or the removal of such fish or vegetation from that area and its disposal or destruction in such place or places as may be specified].

(3) The Minister may, by a like notice, rescind wholly or in part any order given pursuant to this section, or he may vary any such notice.

(4) Every lessee or licensee commits an offence, and is liable to a fine not exceeding \$1,000, who fails to comply with any order given under this section.

Cf. 1968, No. 145, s. 33

In subs. (1) the words in square brackets were added by s. 3 (2) of the Marine Farming Amendment Act 1983.

In subs. (2) (c) the words in square brackets were added by s. 3 (3) of the Marine Farming Amendment Act 1983.

[42A. No payment or compensation to be made---No payment or compensation shall be made by the Crown to any person for or in respect of the removal or destruction or disposal of any fish or marine vegetation pursuant to section 41 or section 42 of this Act.]

This section was inserted by s. 4 of the Marine Farming Amendment Act 1983.

[42B. Application of certain sections to coastal permits under Resource Management Act 1991---For the purposes of sections 32 (a), 33, 36, 37, 38, 41, 42, [42A,] 48 (1) (c) to (k), and 48 (2) of this Act, any reference to a leased area or a licensed area includes a reference to any area---

- (a) Which is part of the coastal marine area as defined by the Resource Management Act 1991; and
- (b) In respect of which a coastal permit has been granted under that Act for any marine farming activity.]

This section was inserted by s. 362 of the Resource Management Act 1991. The figures ``42A," were inserted by s. 3 of the Marine Farming Amendment Act 1993.

43. Director-General may require lessee or licensee to supply survey information---[(1) For the purpose of enabling an area intended to be leased or licensed or a leased or licensed area to be charted or its position to be accurately defined for the purposes of registration, the applicant for the lease or licence or, as the case may be, the lessee or licensee shall, if required to do so, supply to the Director-General such survey information relating to the area as may be specified by the Director-General.]

(2) Where the controlling authority gives notice in writing to an applicant for a lease or licence of the intent to grant the lease or licence, the applicant, if required by the [Director-General], shall forthwith or within any specified time during the currency of the lease or licence, cause the area comprised or to be comprised in the lease or licence to be surveyed and a plan prepared and certified by a registered surveyor showing the boundaries of the area on a scale specified by the [Director-General].

(3) Two copies of each survey plan required pursuant to this section shall be forwarded by the lessee or licensee to the [Director-General].

Cf. 1968, No. 145, s. 34 Subs. (1) was substituted for the original subs. (1) by s. 10 of the Marine Farming Amendment Act 1975. As to the Director-General, see the notes at the beginning of this reprint.

44. Protection of harbour works---(1) No lease or licence of any area situated within a harbour (as defined in the Harbours Act 1950) shall confer on the lessee or licensee any right to remove, displace, disturb, or damage in any way any installation, plant, equipment, or device for the improvement, protection, management, or utilisation of the harbour, or, except as expressly provided for in this Act, to contravene or fail to comply with any provision of the Harbours Act 1950 or any regulations or bylaws made under that Act.

(2) If any lessee or licensee, or any person acting under his authority, acts in contravention of subsection (1) of this section and damage to any installation, plant, equipment, or device as aforesaid arises therefrom, the lessee or licensee shall, in addition to any penalty to which he may be liable for any offence against the Harbours Act 1950 or any other enactment, be liable to pay compensation to the harbour board, or, where the powers and duties of a harbour board are vested in a local authority or the Governor-General, to the local authority or the Crown, as the case may be, for any damage arising from his act to any such installation, plant, equipment, or device.

Cf. 1968, No. 145, s. 35

45. Repealed by s. 7 (d) of the Ministry of Agriculture and Fisheries Amendment Act 1972.

46. Service of notices---(1) Any notice or other document to be given to or served on any lessee or licensee for the purposes of this Act may be given or served---

- (a) By causing it to be delivered to that person; or

(b) By causing it to be left at his usual or last known place of residence or business or at the address stated by him in any application or other document under this Act; or

(c) By causing it to be sent by registered letter addressed to him at that place of residence or business; or

(d) By causing it to be affixed in a conspicuous place to any structure or raft within the area leased or licensed by him.

(2) If 2 or more persons have leased or licensed an area as joint tenants or as tenants in common, service on any of those persons shall be deemed to be service on all of them.

(3) Where under any provision of this Act notice is required to be given to or served on the proprietor of any land, then, in the case of Maori land within the meaning of [the Maori Land Act 1993], a notice shall be deemed to have been given to or served on all the proprietors of the land if it has been given to or served on such proprietor or proprietors as have been nominated for the purpose by the Registrar of the Maori Land Court at the request of the person required to give or serve the notice. On receiving any such request, the Registrar shall nominate all proprietors whose current addresses are known to him.

(4) Where any notice or document is sent to any person by registered letter as aforesaid, the notice or document shall be deemed to have been given or served at the time when the letter would have been delivered in the ordinary course of post.

(5) If at any time any lessee or licensee changes his place of residence or business to one that is different from that given in the application for his lease or licence, he shall immediately give notice in writing of the change to the [Director-General] where the Minister is the controlling authority and to the controlling authority in any other case.

(6) Service in accordance with this section shall be valid and effective notwithstanding that there may be no personal representative acting in respect of a deceased lessee or licensee and notwithstanding that the notice or document may not be addressed to the lessee or licensee by name.

Cf. 1968, No. 145, s. 37

In subs. (3), the Maori Land Act 1993, being the corresponding enactment in force at the date of this reprint, has been substituted for the Maori Affairs Act 1953, which was repealed by s. 362 (2) of the Maori Land Act 1993.

In subs. (5), as to the Director-General, see the notes at the beginning of this reprint.

47. Application of Acts relating to mining---(1) Nothing in this Act shall in any way restrict the operation of any of the provisions of [the Crown Minerals Act 1991] in relation to any land included in any leased or licensed area under this Act or the rights conferred by [that Act] on the holder of any mining interest in any such land:

Provided that [the Minister of Energy] acting with the concurrence of the [ [responsible Minister]] [[, the Minister of Conservation,]] and the Minister of Transport], may, by notice in writing to the holder of any mining interest in the land included in any leased or licensed area under this Act (whether the interest is in force at the passing of this Act or comes into force after the passing of this Act), direct that the holder shall not carry on any operations in the leased or licensed area or in any specified part thereof except subject to such conditions as are specified in the notice (being such conditions as [the Minister of Energy], with the

like concurrence, considers to be necessary for the protection of the structures, fish, and marine vegetation in the leased or licensed area).

(2) Where the holder of any mining interest carries on any operations in any leased or licensed area in breach of any direction given pursuant to the proviso to subsection (1) of this section and that breach is also a breach of any other provision of this Act which is an offence against that provision, he commits an offence against that provision.

In subs. (1) the words in the first and second sets of square brackets were substituted for the former words by s. 362 of the Resource Management Act 1991.

In subs. (1), in the proviso, the words in the second set of single square brackets were substituted for the words "Minister of Marine" by s. 6 (1) of the Ministry of Agriculture and Fisheries Amendment Act 1972, the words in the first set of double square brackets have been substituted for the former words pursuant to ss. 4 (2) and 6 (1) of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995, and the words in the second set of double square brackets were inserted by s. 65 (1) of the Conservation Act 1987, and the references to the Minister of Energy were substituted for references to the Minister of Mines by s. 16 (2) (a) of the Ministry of Energy Act 1977. As to the Minister of Energy, see s. 4 (a) of the Ministry of Energy (Abolition) Act 1989.

48. Regulations---(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) Prescribing methods of assessing the rental or licence fees payable under leases or licences, and requiring lessees or licensees to pay royalties to the controlling authority in respect of fish or marine vegetation harvested from leased or licensed areas:

(b) Providing for the management and control of leased or licensed areas:

(c) Regulating the stocking of leased or licensed areas with fish or marine plants, as the case may require: [(ca) Providing for the management and control of the well-being of fish in the area farmed under a lease, or a licence, or a marine farming permit issued under section 67J of the Fisheries Act 1983:]

(d) Regulating the removal, sale, marketing, or export of fish or marine vegetation farmed in leased or licensed areas:

(e) Providing for the Minister to prescribe steps to be taken by any lessee or licensee to keep his leased or licensed area free from disease, infection by marine pests, and contamination by sewage or other cause:

(f) Regulating the removal and disposal of waste matter from leased or licensed areas:

(g) Prohibiting or regulating the opening, gutting, bottling, or packing of fish in leased or licensed areas:

(h) Requiring lessees and licensees to keep records of fish or marine vegetation farmed in leased or licensed areas and of any such fish or vegetation sold or marketed, and authorising the Minister or any of his officers and officers of any other controlling authority to inspect any such records:

(i) Providing for the recovery from lessees and licensees of the cost of carrying out inspections of any rafts or structures:

(j) Providing for the grant and revocation of special licences to lessees and licensees to take fish or marine vegetation in its natural state from any place within or outside their leased or licensed areas: [(ja) Prescribing matters in relation to the design, construction, condition, lighting, marking, positioning, and inspection of structures, rafts, longlines, and other equipment of structures and rafts, requiring structures, rafts, longlines, and other equipment to be approved before being used on any marine farm or for spat-catching purposes, and prohibiting the use on any marine farm or for such spat-catching purposes of any structure, raft, longline, or other equipment that does not comply with the regulations or, where approval is required, that has not been approved [[and prescribing fees payable in respect of any such inspection and of any application for such approval]]: ]

(kj) Prescribing offences for breaches of any such regulations, and prescribing fines, not exceeding \$1,000, in respect of any such offence and, where the offence is a continuing one, further fines not exceeding \$10 for each day on which the offence has continued: [(ka) Prescribing fees for applications under section 5 of this Act; and different fees may be prescribed in respect of either or both of the following: (i) Applications for leases or licences of different kinds: (ii) Applications for leases or licences of areas situated in different parts of New Zealand: (kb) Prescribing fees for variations of conditions, covenants, or agreements contained in leases or licences under section 13 of this Act; and different fees may be prescribed in respect of either or both of the following: (i) Variations of conditions, covenants, or agreements, contained in leases or licences of different kinds: (ii) Variations of conditions, covenants, or agreements, contained in leases or licences of areas situated in different parts of New Zealand: (kc) Prescribing fees for applications for special permits under section 14A of this Act; and different fees may be prescribed in respect of either or both of the following: (i) Applications for permits to carry out research of different kinds: (ii) Applications for permits to carry out research in different parts of New Zealand:]

(lj) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

(2) Any regulations made under this section may make different provision in respect of different areas and in respect of different species of fish or marine vegetation, and in respect of different leased areas and different licensed areas.

Cf. 1964, No. 61, s. 8; 1965, No. 109, s. 2; 1968, No. 145, s. 38

In subs. (1), para. (ca) was inserted by s. 4 of the Marine Farming Amendment Act 1993, para. (ja) was inserted by s. 6 of the Marine Farming Amendment Act 1976, and the words in double square brackets were added by s. 3 of the Marine Farming Amendment Act 1977.

In subs. (1), paras. (ka), (kb) and (kc) were inserted by s. 2 (1) of the Marine Farming Amendment Act 1990. In paras. (kb) and (kc), ss. 13 and 14A were repealed by s. 362 of the Resource Management Act 1991.

[49. Application of Fisheries Act 1983---(1) Nothing in the Fisheries Act 1983 or any regulations made or notice given under that Act shall apply in respect of the taking, possession, acquisition, disposal, or disturbance of---

(a) Fish or marine vegetation of a species specified in a lease or licence taken, possessed, acquired, disposed of, or disturbed in accordance with the lease or licence and--- (i) Held by the lessee or licensee within the leased area or licensed area; or (ii) Bred by the lessee or licensee; or (iii) Acquired by

the lessee or licensee from the Crown or from another lessee or licensee; or (iv) Disposed of by the lessee or licensee to another lessee or licensee or to the Crown; or (v) Acquired by the lessee or licensee with the authority of the Minister:

(b) Fish or marine vegetation of a species specified in a permit granted under section 14A of this Act, taken, possessed, acquired, disposed of, or disturbed in accordance with the permit.

(2) Nothing in this Act shall authorise any person to take, possess, acquire, dispose of, or disturb any fish or marine vegetation other than that to which the lease, licence, or permit held by that person or that person's employer or principal relates.

(3) For the purposes of subsection (2) of this section fish or marine vegetation shall not be in possession of a lessee, licensee, or permit holder or that person's employee or agent by reason only that the fish or marine vegetation occurs in its natural living state in the area to which the lease, licence, or permit relates.] This section was substituted for the original s. 49 (as amended by s. 108 (5) of the Fisheries Act 1983) by s. 3 (1) of the Marine Farming Amendment Act 1987.

In subs. (1) (b), s. 14A was repealed by s. 362 of the Resource Management Act 1991. As to the Fisheries Act 1983, see the Fisheries Act 1996.

50. Other Acts not affected---(1) Except as expressly provided, nothing in this Act, and nothing done pursuant to this Act, shall derogate from the provisions of [the Public Works Act 1981], the Land Act 1948, the Harbours Act 1950, the Shipping and Seamen Act 1952, [the National Parks Act 1980], [the Reserves Act 1977], the Fishing Industry Board Act 1963, [the Resource Management Act 1991], or any other Act.

(2) Subject to the provisions of this Act, all the provisions of the Property Law Act 1952, so far as they are applicable, shall apply in respect of any lease entered into pursuant to this Act and in respect of any dealing with any such lease.

Cf. 1968, No. 145, s. 40

In subs. (1) the Public Works Act 1981, the National Parks Act 1980, and the Reserves Act 1977, being the corresponding enactments in force at the date of this reprint, have respectively been substituted for the repealed Public Works Act 1928, National Parks Act 1952, and Reserves and Domains Act 1953.

In subs. (1), in the title of the Fishing Industry Board Act 1963, the word "Fishing" is to be replaced by the word "Seafood" from a date to be appointed by ss. 1 (2) and 315 (3) of the Fisheries Act 1996.

In subs. (1) the Shipping and Seamen Act 1952 was repealed by s. 202 (1) of the Maritime Transport Act 1994 from 1 February 1995, see S.R. 1994/272/2 (a).

In subs. (1) the reference to the Resource Management Act 1991 was inserted by s. 362 of the Resource Management Act 1991.

51. Application of this Act to renewals of existing leases---(1) Notwithstanding anything in the Rock Oyster Farming Act 1964 or any provision expressed or implied in the lease, this Act shall apply with respect to every lease granted by a controlling authority after the commencement of this Act in renewal of a renewable lease granted under the first-mentioned Act and current at the commencement of this Act as if the renewable lease had been granted under this Act.

(2) Any lease granted under this Act in renewal of any such renewable lease may, if the controlling authority thinks fit, include a provision for the rent to be reviewed at periodic intervals, in accordance with the provisions of subsection (2) of section 3 of this Act.

In subs. (1) the Rock Oyster Farming Act 1964 was repealed by s. 52 (1) (a) of this Act.

52. Repeals, savings, and consequential amendments---(1) The following enactments are hereby repealed:

(a) The Rock Oyster Farming Act 1964:

(b) The Rock Oyster Farming Amendment Act 1965:

(c) Paragraph (e) of subsection (1) and subsection (2) of section 14 of the Fisheries Amendment Act 1965:

(d) The Marine Farming Act 1968.

(2) All leases under the Rock Oyster Farming Act 1964 in force at the commencement of this Act shall continue in force as if they had been granted under this Act, and all the provisions of this Act, so far as they are applicable, shall apply to the leases under, and the areas comprised in, those leases.

(3) All regulations made under the Rock Oyster Farming Act 1964 and in force at the commencement of this Act, so far as they are consistent with this Act, shall continue in force in respect of leases granted under the said Rock Oyster Farming Act and in respect of leases for rock oyster farming granted under this Act, and in respect of the lessees, and the areas to which those leases relate, as if the regulations had been made under this Act.

(4) Every application for a lease under the Rock Oyster Farming Act 1964 which is pending at the commencement of this Act shall be dealt with as if the Rock Oyster Farming Act 1964 had continued in force, but any lease granted pursuant to the application shall have effect as if it had been granted under this Act.

(5) Every application for a lease under the Marine Farming Act 1968 which is pending at the commencement of this Act shall be dealt with as if the Marine Farming Act 1968 had continued in force, but any lease granted pursuant to the application shall have effect as if it had been granted under this Act.

(6) Impliedly repealed by s. 108 (5) of the Fisheries Act 1983.

(7) This amendment has been incorporated in the reprinted Crimes Act 1961 (1979, R.S. Vol. 1, p. 727).

(8) Repealed by s. 436 (1) of the Income Tax Act 1976.