

Proposals to Review Regulation 27

SUBMISSION FROM OPTION4 ON BEHALF OF RECREATIONAL FISHERS

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1. Introduction

The Ministry of Fisheries (MFish) has advised that the The Minister is seeking to review regulation 27 of the Fisheries (Amateur Fishing) Regulations 1986 ('r27'). MFish say, "the review is designed to focus on those aspects of r27 that are posing ongoing management difficulties and which require action despite the interim nature of this regulation."

MFish continue, "the intent of the review is not to detract from implementing the Fisheries (Kaimoana Customary Fishing) Regulations 1998 and the Fisheries (South Island Customary Fishing) Regulations 1999 ('customary regulations') and the Ministry's actions to assist with facilitating this process."

"The review is premised on some specific areas of ongoing problems the Ministry has identified with the issuing and use of r27 authorisations". These problem areas, some specific issues relevant to each and proposed solutions were outlined in the attachment to the MFish advice.

A letter dated 15 December 2004 was sent to stakeholders asking for feedback on the proposed amendments to regulation 27. A summary of the key proposals was provided in separate document.

The deadline for submissions is 9 February 2005. All submissions are to be posted to Eidre Sharp at the Ministry of Fisheries, PO Box 1020, Wellington or by email to Eidre.Sharp@fish.govt.nz by the close of business on Wednesday 9 February 2005.

This document comprises the submission from option4 an NGO which promotes the interests of non-commercial marine fishers in New Zealand.

2. Submission

MFish documents state, "The Ministry has identified issues relating to regulation 27 ('r27'). These can be grouped into four areas:

1. Ensuring r27 authorisations support sustainability and management decisions.
2. Ensuring correct accountability for r27 authorisations.
3. Improving information given to the courts to help ensure deterrent penalties are given.
4. Improving knowledge of how r27 authorisations and commercial fishing work together."

option4 have comments to make on the first two points and some general observations.

2.1 Ensuring r27 authorisations support sustainability and management decisions

option4 disagree with the statement from the Ministry of Fisheries that, *“Sustainability and management decisions can be undermined when authorising agents do not use the power to condition authorisations.”*

Sustainability and management decisions for fisheries are made well before customary permits are issued. The Minister, when considering the stock as a whole, decides allowances for Maori customary catch. It is unreasonable to accept that sustainability of a stock will be threatened considering the low level of customary fishing for most species, currently undertaken.

The lack of liaison between authorising agents could result in localised depletion for some species. The Ministry of Fisheries should consult with tangata whenua and explore ways to address this issue.

The Fisheries Act 1996 is quite clear in regards to Maori customary interests. Section 21 states,

“(1) In setting or varying any total allowable commercial catch for any quota management stock, the Minister shall have regard to the total allowable catch for that stock and shall **allow for** —

- (a) The following non-commercial fishing interests in that stock, namely-
 - (i) Maori customary non-commercial fishing interests; and
 - (ii) Recreational interests; and
- (b) All other mortality to that stock caused by fishing.

If the Minister has failed to “allow for” Maori customary interests then it is his responsibility to right this, more so if sustainability is under threat.

The Ministry of Fisheries goes on to say, *“Information on the amount of fish that is taken could be provided to the Ministry to help with determining the status of stocks.”* It is our understanding that information from customary permits has been collected by the Ministry for some time. In previous discussions with Ministry and NIWA personnel we have been advised that this information has not been entered into the national database. If this information is not being used to assist with fisheries management then it is questionable why Maori are being asked to collect the information in the first instance. Recent fisheries management decisions have included allowances for Maori customary interests based on the recreational allowance, reinforcing the concept that the level of customary take is uncertain.

It is also our understanding that a copy of all permits issued are to be retained and a summary provided to MFish every quarter. MFish provide no resources to assist tangata whenua to collate and database this information. It would advantageous for MFish to support tangata whenua in this role.

We also understand that MFish do not provide feedback to tangata whenua on the information relating to all permits issued. This inhibits tangata whenua to make decisions within their rohe, limiting the role of the kaitiaki.

Being appointed a kaitiaki is a huge responsibility. The failure of the Ministry to provide this support diminishes the status of the kaitiaki.

2.1.1 Reporting of Customary Harvest

It is naïve to expect to achieve tonnage taken per annum type information. However, Catch Per Unit of Effort (CPUE) information is invaluable and achievable to collect. Customary fishers have a wealth of history and current catch rate data to offer, if only they were asked for that information. The Minister has a duty to allow for customary interests which goes beyond setting a tonnage. He must ensure that sufficient stock is maintained so that fish/shellfish are available to be caught.

2.2 Ensuring correct accountability for r27 authorisations

MFish want to clarify accountability where illegal authorisations are issued as distinct from the illegal use of an authorisation.

Ministry comment, *“Some examples of incorrectly issued authorisations include those where the purpose of the harvesting does not have a cultural aspect, or the authorisation does not meet the requirements set out in the Gazette Notice, for example, it was issued after the fishing occurred.”*

Ministry Proposed Changes

Non-legislative

“The Ministry will ensure it provides information to the authorising agents and their nominating group on the legal and procedural requirements for the issuing of r27 authorisations.”

Submission

It is interesting to note this change, we would have assumed it would have been obligatory for the Ministry to provide the legal and procedural information/support to ensure r27 authorisations are issued correctly.

2.2.1 Definition of a Cultural Event

Legislative

a) *It is proposed the conditions in the Gazette Notice be amended to:*

- *restate the “**cultural**” purpose component and include a guideline as to how this should be interpreted.*

Submission

It should be entirely up to the marae/hapu to determine the “cultural purpose component” both generally and specifically. There is nothing more meaningful than the kai provided to manaaki manuhiri on the marae. To not have sufficient

and appropriate kai is unthinkable. It is accepted that kaimoana need not be the mainstay of the meal.

There is little understanding about the nature and extent of the obligation that tangata whenua have to manaaki manuhiri. In fact, there is little understanding of any of the “realms”/concepts of Maori and interconnectedness thereof. Those responsible for the outcomes of this review need to be able to demonstrate good understanding of the reality behind the phenomena.

2.3 Regulation 27

Questions for the Ministry of Fisheries:

1. What is the delay in implementing the Fisheries (Kaimoana Customary Fishing) Regulations 1998 and the Fisheries (South Island Customary Fishing) Regulations 1999?
2. When are the Fisheries (Kaimoana Customary Fishing) Regulations 1998 and the Fisheries (South Island Customary Fishing) Regulations 1999 going to be implemented?
3. What are MFish plans to assist with the facilitation of this process?

3. Conclusion

option4 support the right of Maori to collect kaimoana for customary purposes.

Maori have a strong claim to kaimoana taken for sustenance or recreation. We believe most of this fish/shellfish is taken under the Fisheries (Amateur Fishing) Regulations 1986.

The Minister of Fisheries has a duty to allow for Maori interests in our fisheries, not only in tonnes but also by ensuring that access to these resources is not destroyed by bulk harvesting methods.

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