

## Regulatory Impact Statement

### *Improving access to legislative instruments*

#### Agency Disclosure Statement

This Regulatory Impact Statement has been prepared by the Ministry of Fisheries.

It provides an analysis of options to improve access to legislative instruments for affected persons in the fishing sector.

The options analysed include the status quo and legislative amendment. Legislative amendment is the preferred option. The analysis underpinning the options is high level as the proposal is simply to provide a mechanism to address the issue. Further work will be carried out, including analysis of specific costs and benefits that arise in the circumstances before this mechanism is actually used.

Due to the technical nature of the issue ie providing a mechanism to address the issue, there has been no consultation with stakeholders. Parliamentary Counsel Office is to be consulted.

None of the options considered are likely to impose additional costs on business, nor impair private property rights, market competition, or the incentives on businesses to innovate and invest or override fundamental common law principles.

  
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Cathy Scott

Deputy Chief Executive – Strategy

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## Regulatory Impact Statement

### *Status quo and problem definition*

The Act provides for a range of measures to be imposed via Gazette notices, including sustainability measures under Part III, bringing stock into the QMS and setting total allowable commercial catch limits under Part IV.

Historically, there has been a mixed practice in relation to publication of such notices. In particular:

- All notices have been published in the Gazette

- There has not been a consistent practice of revoking existing notices when amendments are made.
- Some notices have been printed and published as if they were regulations pursuant to section 14 of the Acts and Regulations Publication Act 1989. As a result of printing in the SR series, some notices have been amended and official consolidated reprints of these notices are available.
- Some notices deal with a number of matters (eg Fisheries (Declaration of New Stocks Subject to Quota Management System) Notice 2003), and some notices deal with individual matters (eg Fisheries (Freshwater Eel Total Allowable Catches) Notice 2000). The practice of having individual notices has led to a proliferation of notices with more being added each year.

As a result of this, it is difficult for people to find what restrictions apply to particular stocks. The inconsistent approach that has been taken in the publication of these regulations has led to duplication in many cases, and a lack of clarity for business. There is anecdotal evidence that this ad hoc approach has provided some uncertainty for the fishing industry, in situations when it has been unclear as to what rules or restrictions apply. The current framework has become inefficient for both Ministry of Fisheries business processes; and for the fishing industry generally.

It would be useful to consolidate notices so that there was, for example, one notice that covers all quota management stocks, set the total allowable catch (TAC) and the total allowable commercial catch (TACC) for all stocks. This notice could then be amended from time to time if the TAC or TACC for specific stocks was varied pursuant to section 13 or section 20 of the Act.

It is possible to implement this practice without further legislative change in terms of new stocks, however, there is a legacy issue and it would be useful to be able to consolidate old notices (without further amendment to the content) without triggering the consultation obligations or other decision making requirements in the Act. Consolidation can be achieved informally but it is useful for stakeholders to have an official consolidated version.

### *Objectives*

The objectives here are to ensure that:

- There is an efficient and effective way of informing the fishing industry of relevant controls imposed via Gazette notice and that ensures accessibility of these controls; and
- Process for notices is aligned with Government objectives of better and less regulation and in particular reducing compliance costs, 'red tape' and uncertainty by eliminating unnecessary requirements.

### *Options proposed*

- Option 1- Retain the status quo

- Option 2 – Provide an additional power for consolidation of Gazette notices without change to the content that and clarify that this does not trigger consultation or other decision making requirements under the Act.

#### *Regulatory impact analysis*

##### *Option 1- Retain the status quo*

This option does not address the problems of access highlighted above. Over time this issue can be addressed by consolidating notices as the requirements are changed. However, this will take some time and as it will have to be carried out on an ad hoc basis, it will not necessarily result in a comprehensive solution that will assist the fishing industry. It is also an inefficient use of departmental, Cabinet and PCO resources to deal with the issue in this way.

*Option 2 - Provide an additional power for consolidation of Gazette notices without change to the content that and clarify that this does not trigger consultation requirements or other decision-making requirements under the Act.*

This is the preferred option as it will allow a comprehensive approach to be taken to consolidating rules and restrictions that apply to the fishing industry and broader fishing sector. It will improve accessibility to these rules and restrictions with a consequent reduction in time and resources needed by business to determine compliance.

Clarifying that consultation is not necessary when there is no change to requirements will remove unnecessary costs for business in engaging in consultation. Consultation will still be carried out, as required, where there are changes to the content of any requirements.

#### *Consultation*

The Ministry has consulted with the Ministry of Economic Development, The Treasury and Parliamentary Counsel Office. None of these departments have raised significant concerns with the proposal.

Due to the technical nature of the issue ie providing a mechanism to address the issue, there has been no consultation with stakeholders.

#### *Implementation*

This amendment is proposed to be included in the Regulatory Reform Bill. The amendment does not require any form of substantial transitional arrangements. The amendment will be brought into force once the Bill is enacted. The Bill is proposed to be passed by December 2010

*Monitoring, evaluation and review*

There is ongoing departmental monitoring of the implementation of the Act. This will provide an opportunity to address any further implementation issues that arise in relation to the consolidation of Gazette notices.