



Ministry of

Fisheries

Te Tautiaki i nga tiri a Tangaroa

New Zealand Government

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AMENDMENT TO THE FISHERIES (KAIMOANA CUSTOMARY FISHING) REGULATIONS 1998

In October 2008 the previous Minister of Fisheries recommended to Cabinet that the Fisheries (Kaimoana Customary Fishing) Regulations 1998 (the Kaimoana Regulations), be amended to extend the coverage of these regulations to include aquatic life, that is subject to the Fisheries Act 1996, and is taken from freshwater in the North and Chatham Islands. Cabinet subsequently approved this amendment, and on 20 November 2008 the regulatory amendment to the Kaimoana Regulations took effect. The majority of submissions from tangata whenua and other fishery interests supported this outcome.

Section 10(c) of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 (the Settlement Act) requires the Minister of Fisheries to recommend regulations to recognise and provide for customary food gathering by Māori and the special relationship between tangata whenua and those places that are of customary food gathering importance.

Some aspects of customary fishing in the freshwaters of the North and Chatham Islands are provided by regulations 27 and 27A of the Amateur Fishing Regulations. However, these measures do not adequately recognise and provide for customary food gathering to the extent required by sections 10(b) and (c) of the Settlement Act. They were intended to operate as an interim mechanism to allow for some aspects of customary non-commercial fishing rights until regulations consistent with the Settlement Act were made, and those measures were subsequently put into effect by tangata whenua.

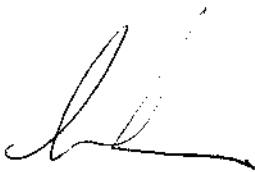
When regulations were being developed it was intended that there would be one set of customary fishing regulations that would apply across the country. In the end, two separate sets of customary fishing regulations were made. In the North Island some iwi challenged whether the Settlement Act included freshwater fisheries. Iwi and government agreed that the Fisheries (South Island Customary Fishing) Regulations 1999 would be advanced for all South Island fisheries waters (marine and freshwater). The Kaimoana Regulations were limited to the marine environment.

The High Court confirmed in December 2000 that the Settlement Act did apply to fisheries resources subject to the Fisheries Act 1996 that are found in both marine and freshwater environments. This meant an amendment was needed to extend the Kaimoana Regulations into freshwater consistent with the settlement. The amendment will enable tangata whenua of the North and Chatham Islands to better manage the customary use of aquatic life, whether it happens to be taken from marine or freshwater environments.

Tangata whenua of the North and Chatham Islands, together with the Ministry of Fisheries (the Ministry) staff, have been working towards implementation of the customary fishing regulations in the marine environment. Several common issues are likely to apply to the freshwater environment, and I encourage tangata whenua to consider how best to advance implementation of the customary fishing regulations in the freshwater environment of the North and Chatham Islands. The Ministry has a range of skills and experience that should be useful to tangata whenua.

I look forward to seeing tangata whenua exercising their rights under customary fishing regulations from the mountains to the sea.

Naku noa, na

A handwritten signature in black ink, appearing to read 'Wayne McNee', with a long horizontal flourish at the end.

Wayne McNee
Chief Executive
Ministry of Fisheries