



Ministry of
Fisheries
Te Tautiaki i nga tini a Tangaroa

Customary Fishing Information Manual



Introduction

Ko te korero te puna o te whakaaro nui, te puna waiu mo tatou katoa

Through information comes understanding, the life sustenance of us all

The Ministry of Fisheries (the Ministry) is the lead government agency concerned with the management of New Zealand fisheries - mainly in the domain of Tangaroa, the Ocean, but also extending to freshwater.

Tangata Whenua and Tangata Kaitiaki/Tiaki Kaitiaki have a pivotal role to play in all aspects of fisheries management, both as Treaty partners and as experts skilled in fisheries Management.

In order for the management of New Zealand's fisheries to be the best possible, and with the Deed of Settlement in minds, the Ministry and Tangata Whenua need to work together both locally and nationally.

To be able to work well together, as fishery managers and as treaty partners, both the ministry and Tangata Whenua need to have an understanding of the way in which each other work - the kaupapa, the tikanga, and the kawa of each other.

The Ministry would like to acknowledge the way that Tangata Whenua have met this challenge, and have helped us to understand the needs, concerns, and processes that affect you.

This manual is designed to assist in the understanding of Customary Fisheries Legislation and options available for Customary Management.

No reira e te iwi, he mihi aroha, he mihi mahana

Tena koutou katoa

Kahawai



Haku
KINGFISH



Kohakohe
TRUMPETER



Arara
TREVALLY



Tarakihi



Moki
BLUE MOKI



Tamure
SNAPPER



Hapuku
BASS/GROPER



Kuparu
JOHN DORY



Kutai
MUSSELS (GREEN)



Koeaea
BUTTERFISH



Nanau
RED MOKI



Pava
(BLACKFOOT)



Hoka
RED COD

Tio Repe
OYSTERS

Rawaru
BLUE COD



Koura
ROCK LOBSTER



Tuangi
COCKLES



King
SEA URCHIN



Pipi

Kumukumu
RED GURNARD



Pohui Akaroa
SEA PERCH

Patiki
FLOUNDER



Tupa
SCALLOP

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References

www.nabis.govt.nz

www.fish.govt.nz

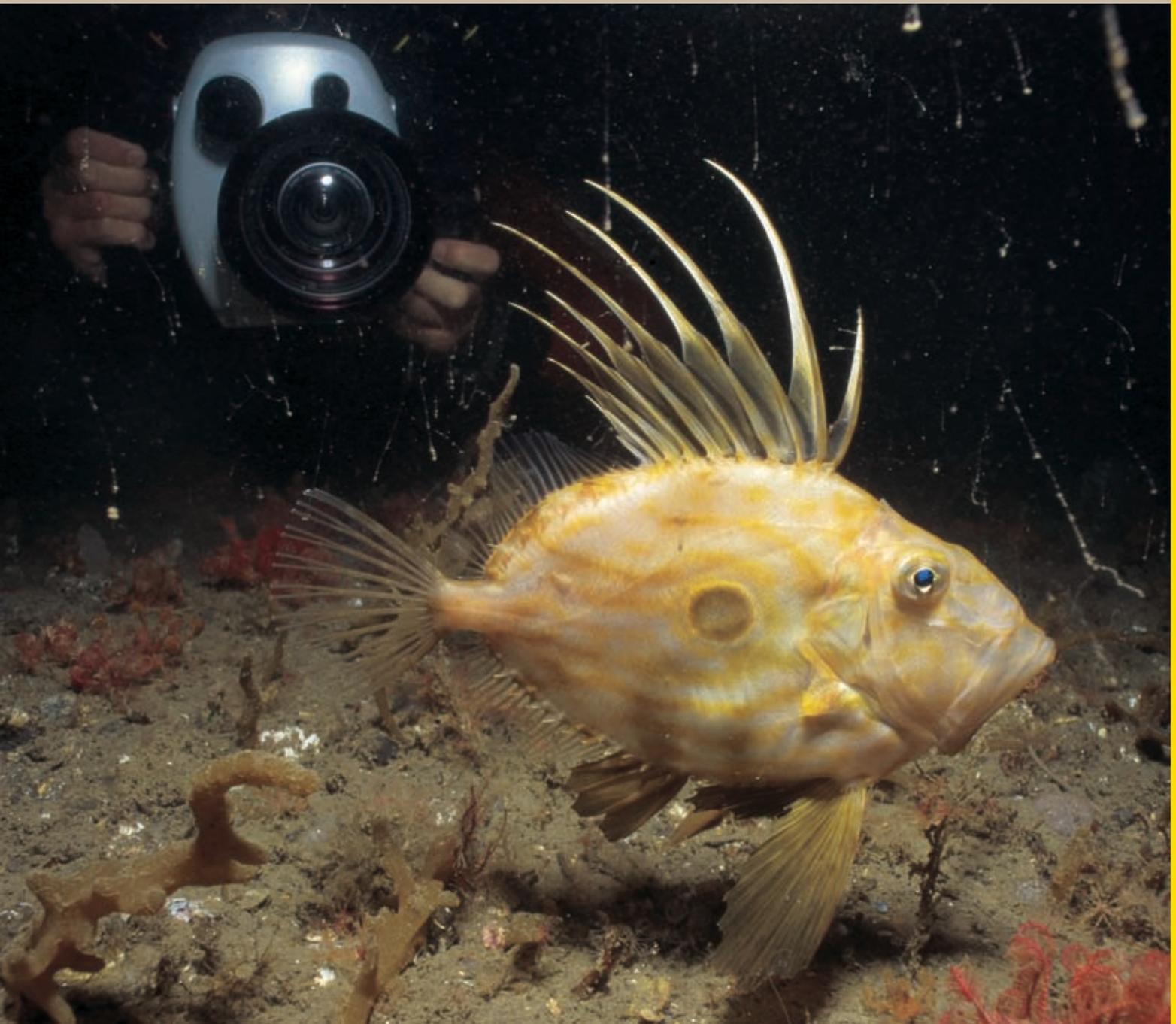
www.starfish.govt.nz



Ministry of
Fisheries
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Background

Customary Fishing – Information Manual



Background

- Pre - 1840
 - Manage, gather, trade
- Management
 - Rights held by hapu and iwi
 - Fishing tightly controlled
 - Seasons and closures applied
 - Rules rigorously enforced
- The Treaty of Waitangi confirmed the customary rights of Māori
- 1840 - Treaty of Waitangi
 - **Article I:** Crown given right to govern;
 - **Article II:** Guarantees full, exclusive undisturbed possession of Lands, Estates, Forests and Fisheries; *but* exclusive right to Crown to acquire land offered for sale;
 - **Article III:** Extends rights and duties of British subjects to Māori
- 1986
 - Courts say Māori rights to take fish continue to exist;
 - The Fisheries Act said “nothing in this Act shall affect a Māori fishing rights”;
 - However, the *nature* of the Māori fishing right was not defined
- 1987
 - Waitangi Tribunal confirms nature of Māori fishing (Muriwhenua);
 - High Court considers QMS may be illegal as it affects Māori fishing rights
 - Courts say Māori rights to take fish continue to exist;
- 1989
 - Waitangi Tribunal confirms that Māori fishing right applies to new fisheries and technology (Ngai Tahu)
- 1989 - Māori Fisheries Act first step
 - Allocation of 10% of existing quota to Māori
 - Treaty of Waitangi Fisheries Commission established;
 - Taiapure provisions
- 1992 - Deed of Settlement/Settlement Act
 - Funding for purchase of half share in Sealords
 - Allocation of 20% of new QMS species
 - Non-commercial, customary rights to be provided for through policies, regulations

Principles of the Treaty

- Act in good faith
- Avoid creating new grievances
- Make informed decision

The Settlement Act

Customary Fishing provisions:

- Customary food gathering authorised by Kaitiaki;
- Establishment of Mātaitai reserves
- Making of bylaws to manage fisheries within Mātaitai reserves
 - Bylaws apply equally to all individuals;

Allows Kaitiaki to authorise take for marae purposes, irrespective of such bylaws

Law relating to Customary Fishing Rights

It was recognised in the preamble of the **Treaty of Waitangi (Fisheries Claims) Settlement Act 1992** (paragraph (l)(iv)) that the Crown would introduce legislation empowering the making of regulations recognising and providing for customary food gathering and the special relationship between the Tangata Whenua and places of importance for customary food gathering. It stipulated, however, that such food gathering must not be commercial in any way nor involve commercial gain or trade.

Section 10 of that Act went on to deal with the effect of the settlement on non-commercial Māori fishing rights and interests. It stated that the Minister would recommend to the Governor-General in Council the making of regulations pursuant to section 89 of the Fisheries Act 1983 (Now Section 189 of the Fisheries Act 1996) to recognise and provide for customary food gathering as stated above. Again it stressed that such gathering could be neither commercial in any way nor for pecuniary gain or trade.

Section 10 (d) specifically provides that rights and interests in non-commercial fishing whether by common law (including customary law and aboriginal title), the Treaty of Waitangi, statute, or otherwise would have henceforth no legal effect unless provided for by application of 10 (c)- Regulations made under S89 of the Fisheries Act 1983 (Now Section 186 of the Fisheries Act 1996)

The effect of Settlement on non-commercial customary Māori fishing rights and interests has been spelled out in subsequent case law:

In *NZ Federation of Commercial Fishermen (Inc) v Minister of Fisheries* 27/4/97, McGechan J, HC Wellington CP237/95; CP294/96, McGechan J concluded (at pp 146-148) that the effect of the Settlement Act was that, whilst claims to customary fishing rights continued to give rise to Treaty obligations and requirements to develop facilitating policies and regulations, nevertheless claims to those rights have no legal effect, are not enforceable in civil proceedings, and are not available as a defence in criminal or other proceedings with one exception. That exception is that enforceability and availability as a defence will exist to such extent as the rights or interests giving rise to claims in respect of Māori customary fishing are recognised in regulations made under S89.

In *Manukau v MOF* 29/7/98, Salmon J, HC Auckland M984/97, the applicants sought a declaration that they were statutorily entitled to carry out customary fishing rights under the Treaty of Waitangi Act 1975, the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, and the fisheries legislation. Following the approach taken by Fisher J in *Berkett v Tauranga District Court* [1992] 3 NZLR 206 and the Court of Appeal in *NZ Māori Council v A-G* [1987] 1 NZLR 641; (1987) 6 NZAR 353 (CA), the Court confirmed that there can be no independent sovereignty arising

from the 1835 Declaration of Independence by the Confederation of Chiefs of the United Tribes of New Zealand.

Salmon J (at p 14) considered that in light of the enactment of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 (which repealed S88(2) Fisheries Act 1983) and the decision in *Hoani Te Heuheu Tukino v Aotea District Māori Land Board* [1941] AC 308 (that the Treaty is not justifiable except to the extent that it is incorporated into domestic law), it was no longer possible to support the proposition that customary fishing rights derive directly from Part 2 of the Treaty of Waitangi, although the Crown continues to be subject to obligations relating to customary fishing as a result of the provisions of the Treaty. The Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 was binding on all New Zealanders, including those who are not signatories to the Deed of Settlement. Salmon J also approved the approach taken in *NZ Federation of Commercial Fishermen (Inc) v Minister of Fisheries* (above).

Section 186 of the **Fisheries Act 1996** then reflects the power that the Governor-General has to make such regulations. Subsection (1) states that the Governor-General may from time to time, by Order in Council, make regulations recognising and providing for customary food gathering by Māori and the special relationship between Tangata Whenua and places of importance for customary food gathering (including tauranga ika and mahinga mātaītai), to the extent that such food gathering is neither commercial in any way nor for pecuniary gain or trade. This is the empowering section but it again stresses that any such customary regulations must be restricted to exclude gathering that is commercial in any way.

The regulations were then created in the form of the **Fisheries (Kaimoana Customary Fishing) Regulations 1998** and “Customary food gathering” is defined in regulation 2 as follows:

“Customary food gathering” means the traditional rights confirmed by the Treaty of Waitangi and the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, being the taking of fish, aquatic life, or seaweed or managing of fisheries resources, for a purpose authorised by Tangata Kaitiaki/Tiaki, including koha, to the extent that such purpose is consistent with Tikanga Māori and is neither commercial in any way nor for pecuniary gain or trade:

Again the exclusion of any commercial element is stressed in the legislation.

Likewise in the same regulations, enhancement of fisheries resources within a mātaītai reserve is catered for. Regulation 32 states:

Subject to regulation 11 any Tangata Kaitiaki/Tiaki for a mātaītai reserve may authorise any person to take fisheries resources from any area within that mātaītai reserve and to release those fisheries resources within another part of that mātaītai reserve, for

the purpose of enhancing the stock or stocks, despite any bylaw applying under these regulations.

Regulation 11 simply sets out the process and form of the necessary authorisation but it again stresses that the authorisation must be for “customary food gathering purposes”. The enhancement provisions are specific in that they allow the movement of fish etc. from one part of a mātaītai to another but not for removal to a land-based facility.

Regulation 27A of **Fisheries (Amateur Fishing) Regulations 1986**, as amended by section 37 of the **Treaty of Waitangi (Fisheries Claims) Settlement Act 1992**, allows for the taking of fish, aquatic life, or seaweed for the purposes of hui or tangi, or traditional non-commercial fishing use approved by the Director-General. Regulation 27A cannot apply where an area has been gazetted under the **Fisheries (Kaimoana Customary Fishing) Regulations 1998**, however, where it does apply it still specifies that the gathering can only be for non-commercial purposes and is quite specific about what those purposes can be.

The **Fisheries (Customary Fishing) Notice 2006 (No. F357)** sets out the Chief Executive’s conditions relating to the issue of a Customary fishing authorisation under Regulation 27(1)(a) and (b). In paragraph 6(2)(b) it again states that any taking of fish, aquatic life or seaweed must not be commercial in any way or for pecuniary gain or trade.

There is then a section of the Fisheries Act 1996 which sets out when fish are deemed to be taken or possessed for the purposes of sale.

Section 193 states:

Fish in licensed premises or premises where food sold deemed to have been taken for purpose of sale –

(1) For the purpose of this Act, all fish, aquatic life, or seaweed in any premises owned or operated by any licensed fish receiver, shall, in the absence of proof to the contrary, be deemed to have been taken, and to be possessed, for the purpose of sale.

(2) For the purpose of this Act, all fish, aquatic life, or seaweed in any premises where food is sold, prepared for sale, stored, or processed shall, in the absence of proof to the contrary, be deemed to have been taken, and to be possessed, for the purpose of sale.

Section 194 states:

Fish in fish farm deemed to be farmed and possessed for sale –

For the purpose of this Act, all fish, aquatic life, or seaweed in, on, or transferred from any fish farm shall, in the absence of proof to the contrary, be deemed to be farmed, and to be possessed, for the purpose of sale.

Section 195 states:

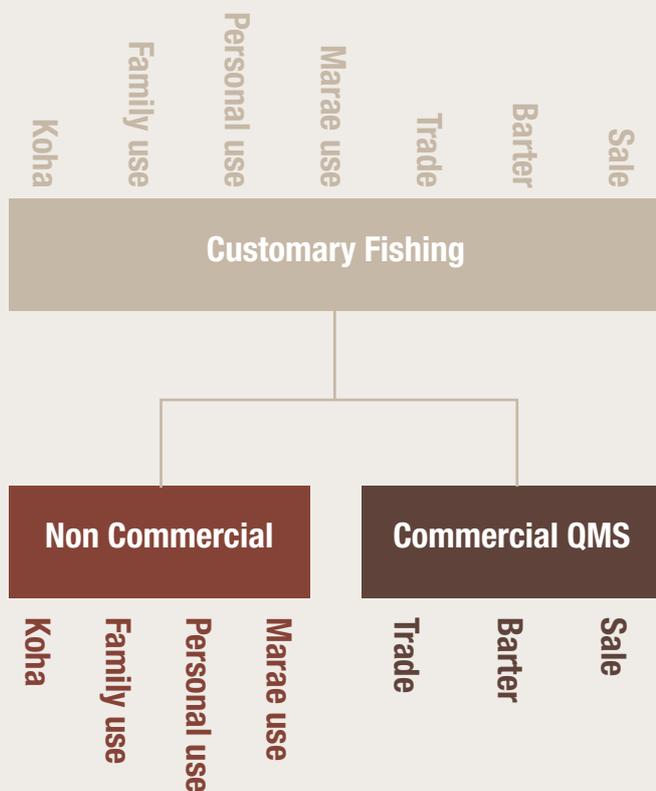
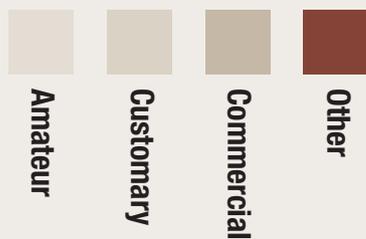
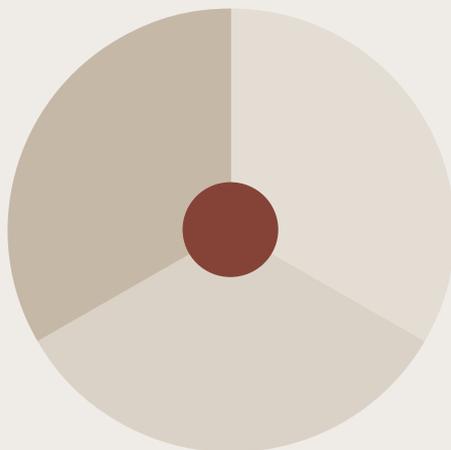
Fish in excess of certain quantities deemed to have been acquired or possessed for purpose of sale –

For the purpose of this Act, any person in possession of any fish, aquatic life, or seaweed of an amount or quantity exceeding 3 times the amateur individual daily limit (if any) prescribed in respect of that fish, aquatic life, or seaweed, shall, in the absence of proof to the contrary, be deemed to have acquired, or to possess, the fish, aquatic life, or seaweed for the purpose of sale unless the fish, aquatic life, or seaweed was lawfully taken by a person under regulations made under section 186 of this Act.

Each of these sections is relevant to the taking and/or accumulation of fish other than through the use of a commercial fishing permit.

Finally, the law relating to the setting up of fish farms is set out in section 301 of the Fisheries Act 1996 and The Freshwater Fish Farming Regulations 1983. The essential starting point is that any such farm must be licensed and by its very nature it is deemed to be a commercial enterprise.

Customary Fishing



Definition of Sale

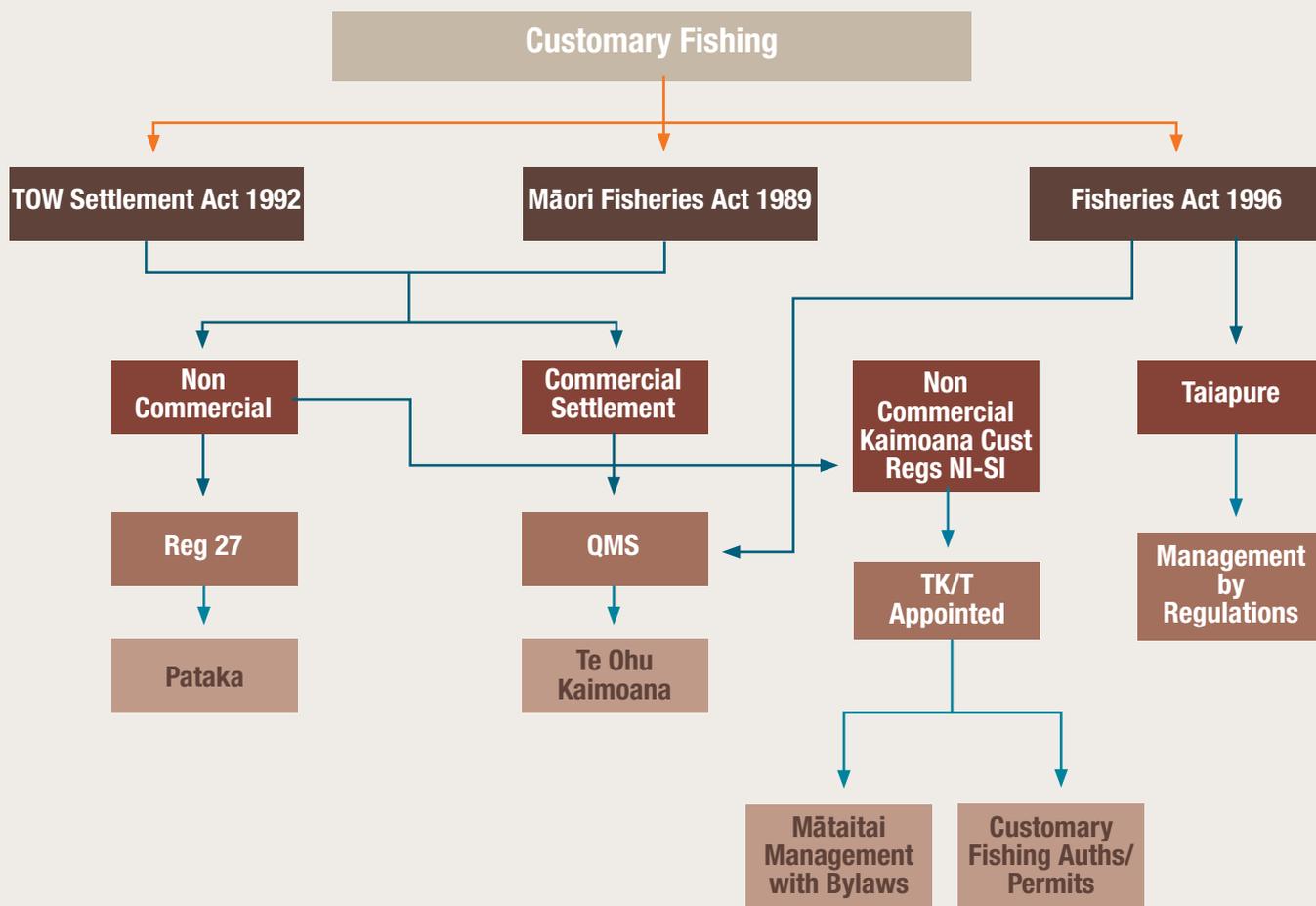
“Sale” –

(a) Includes -

- (i) Every method of disposition for valuable consideration, including barter; and
- (ii) The disposition to an agent for sale on consignment and
- (iii) Offering or attempting to sell, or receiving or having in possession for sale, or exposing for sale, or sending or delivering for sale, or causing or permitting to be sold, offered, or exposed for sale; and
- (iv) Disposal by way of raffle, lottery, or other game of chance; and
- (v) The use by a person of fish, aquatic life, or seaweed as bait in that person’s commercial fishing operations; and
- (vi) Any other use by a person of fish, aquatic life, or seaweed as part of that person’s commercial activities; - and “sell” and “sold” have a corresponding meaning; but

(b) Does not include the disposal by any method approved by the chief executive of fish, aquatic life, or seaweed lawfully taken during the course of a fishing competition, if -

- (i) The competition and the disposal method are carried out in accordance with any conditions imposed by the chief executive, either generally or specifically; and
- (ii) The chief executive’s approval has been prior to the disposal of the fish, aquatic life, seaweed; and
- (iii) The proceeds (less any reasonable expenses disposal) are applied to purposes that are cultural, benevolent, philanthropic, or charitable



Fisheries Act 1996

Section 5(b)

- Must act in a manner consistent with the provisions of the Settlement Act

Section 8

- Purpose of the Act

Section 12

- Consultation
- Input and participation
- Kaitiakitanga

Treaty Strategies

Obligations to Māori

Ensure the Crown delivers on its obligations to Māori with respect to fisheries by:

- Implementing its partnership obligations
- Establishing and maintaining effective relationships
- Developing frameworks and process to implement the 1992 Fisheries Deed of Settlement
- Ensuring contemporary grievances are not created

WORKING TOGETHER

The support and active participation of all those with an interest in fisheries resources and the aquatic environment is vital to the successful pursuit of our vision. Everyone has a role to play and our success will depend on strong productive relationships. This includes the Ministry of Fisheries, other central and local government agencies, Tangata Whenua, stake holders, and the public.

TANGATA WHENUA AND STAKEHOLDERS

The role of Tangata Whenua, fisheries stakeholders and the public is to:

- Provide input into and participate in government decision-making processes on:
 - Policy and legal frameworks
 - The nature and extent of fisheries and marine bio security services
- Comply with the rules
- Take greater collective responsibility for meeting the purposes and principles of the Fisheries Act 1996 through;
 - developing and implementing fisheries plans that meet government standards delivering fisheries services to government standards and specifications

MEETING TREATY OF WAITANGI OBLIGATIONS

- involve Māori in fisheries management decision making
- deliver 20 per cent of new quota to Māori
- provide for and protect customary fishing rights

EXISTING POLICIES TO BE CONTINUED

We will:

- maintain the integrity of the management frameworks, statutory processes, decisions and services that underpin the Fisheries Deed of Settlement with Māori
- consult with Tangata Whenua on the management of marine bio security risks
- allocate 20 per cent of new Individual Transferable Quota to Māori
- facilitate the input and participation of Tangata Whenua in fisheries management processes
- work with Tangata Whenua and their representatives to enable all customary fishing to be conducted under customary fishing regulations
- implement the Ministry of Fisheries strategy for meeting obligations to Tangata Whenua
- recognise customary use, conservation and management practices.

EXISTING POLICIES TO BE MONITORED

We will monitor policies against stated operational standards and policy outcomes. Specifically, we will:

- ensure customary fishing regulations meet the requirements of the Fisheries Deed of Settlement
- monitor implementation of the Ministry of Fisheries strategy for meeting obligations to Tangata Whenua

NEW POLICIES TO BE DEVELOPED

We will:

- help identify mātaihai and taiapure areas
- review and improve the framework and processes related to implementing the Fisheries Deed of Settlement with Māori
- apply Treaty principles to the development of all new policy advice

Compliance Support for Customary Regulations

- Important that the Tangata Kaitiaki/Tiaki receives compliance support
- Iwi and the Ministry must determine what the compliance issues are for each rohe moana
- Once the compliance issues are identified discussions will need to take place as to the best way to support the issues

WHY CUSTOMARY REGULATIONS ARE IMPORTANT

- The goal of this work is compliance for sustainability
 - Ensuring the fisheries are available for future generations
 - Utilising the fishery to sustain cultural practices
 - Taking steps toward partnership with Tangata Whenua
 - Preventing abuse of our natural resources
- Customary regulations offer taking and management regimes
- Treaty of Waitangi – These regulations have been developed as a result of TOW (Fisheries Claims) Settlement Act



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Types of Customary Regulations

Customary Fishing – Information Manual
Section One



Types of Customary Regulations

- Regulation 27A of the Fisheries (Amateur Fishing) Regulations 1986 - covers both marine and freshwater species
- Kaimoana Customary Fishing Regulations 1998 – covers both marine and freshwater species
- South Island Customary Regulations 1999 – covers both marine and freshwater species
- Pataka

NB: None of these sets of regulations covers commercial fishing which is covered by the Quota Management System

- 186 Closures (A & B)



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Regulation 27A

Customary Fishing – Information Manual
Section Two



Customary Fishing Regulation 27A

Background

- Treaty of Waitangi (Fisheries Settlement) Act 1992 amendment to Regulation 27
- Fisheries (Customary Fishing conditions) Notice conditions imposed by CEO
- Extensive network of illegal operations
- Poaching and Black market activity
- March 2002 a proposal to make changes
- Consultation doc sent to 220 Iwi / hapu
- Consultation report sent 1 July 2002
- CEO conditions have been developed
- New conditions effective 28 days later- Effective 30 April 2003
- 2003/2004 issues with Regulation 27
- Coastwatch programme highlighted issues
- Consultation late 2004
- Minister calls for review of Regulation 27
- Regulation 27A - Effective 1 March 2006
- CEO Notice updated also

Customary Fishing under Regulation 27

In areas not yet covered by the Customary Fishing Regulations, customary fishing is governed by Regulation 27 of the Amateur fishing regulations. Regulation 27A provides for the taking of fish for the purposes of a hui, or a tangi.

With the terms of this regulation, hui and tangi have been interpreted to mean specific traditional gatherings. Once Customary Fishing Regulations cover the whole country, Regulation 27 will cease to be used for any saltwater fisheries, but will continue to be the only mechanism for customary fishing for freshwater fish species covered by the Quota Management Systems (e.g. eels and lamprey in the North and Chatham Islands).

Regulation 27A

Fisheries (Customary Fishing) Notice 2006 (no.F357)

Pursuant to regulation 27A (1) of the Fisheries (Amateur Fishing) Regulations 1986, the Chief Executive of the Ministry of Fisheries gives the following notice.

Notice

1. Title - This notice is the Fisheries (Customary Fishing) Notice 2006.

2. Commencement - This notice comes into force on 1 March 2006.

3. Interpretation – In this notice, “authorisation” means an authorisation granted pursuant to regulation 27A of the Fisheries (Amateur Fishing) Regulations 1986.

4. Requirements on person holding authorisation –

(1) No person may take fish, aquatic life or seaweed under regulation 27A of the Fisheries (Amateur Fishing) Regulations 1986 unless:

(a) the person holds an authorisation that has been issued and completed in accordance with regulation 27A of the Fisheries (Amateur Fishing) Regulations 1986;

(b) the person holds an authorisation that has been issued prior to the taking of the fish, aquatic life or seaweed; and

(c) the taking of the fish, aquatic life or seaweed occurs within 48 hours after the date and time recorded on the authorisation under regulation 27A (5) (b) of the Fisheries (Amateur Fishing) Regulations 1986.

(2) A person who holds an authorisation must comply with the conditions and notes specified in the authorisation.

(3) A person who is taking or has taken fish, aquatic life, or seaweed under an authorisation must, at all times while taking or possessing the fish, aquatic life, or seaweed keep a copy of the authorisation and produce the copy to a fishery officer if requested to do so.

(4) Any fishing gear used by a person taking fish, aquatic life, or seaweed under an authorisation must, if the gear is left unattended, have a surface buoy, float, or tag securely attached to it that is clearly marked with the person's relevant authorisation number.

5. Revocation – The Fisheries (Customary Fishing) Notice 2003 (No. F242) made under the regulation 27 of the Fisheries (Amateur Fishing) Regulations 1986 is revoked.

Dated at Wellington this day _____ of February 2006

John Glaister

Chief Executive, Ministry of Fisheries

Regulation 27 of the Fisheries Amateur Fishing Regulation – as amended by the 1992 Treaty of Waitangi (Fisheries Settlement) Act states:

“27. Fish taken for approved traditional non commercial fishing use –

(1) Nothing in these regulations or in any other regulations made pursuant to the Act relating to amateur fishing and imposing any restriction on the taking of fish, aquatic life, or seaweed shall apply where –

(a) The fish, aquatic life, or seaweed is or are taken for the purposes of a traditional non commercial fishing use (except a hui or tangi) approved by the Director-General; and

(b) The fish are taken in accordance with any conditions considered by the Director-General to be necessary for the overall conservation and management of the fishery.

(2) The Director-General may, in writing, delegate to one or more of the following, namely, -

(a) Any Māori Committee constituted by or under the Māori Community Development Act 1962; or

(b) Any marae committee that is an incorporated society under the Incorporated Societies Act 1908; or

(c) Any kaitiaki of the Tangata Whenua, - the power to approve a traditional non commercial fishing use (except a hui or tangi) under subclause (1)(a) of this regulation.”

27A. Regulations do not apply to fish, aquatic life, or seaweed taken under authorisation for hui or tangi

(1) These regulations (and any other regulations made under the Act that relate to amateur fishing and impose restrictions on the on the taking of fish, aquatic life, or seaweed) do not apply if the fish, aquatic life, or seaweed is taken-

(a) for the purpose of a hui or tangi; and

(b) in accordance with an authorisation granted by a person or organisation specified in subclause (2); and

(c) in accordance with any conditions notified in the Gazette that are considered by the chief executive to be necessary for the overall conservation and management of the fishery.

(2) The persons and organisations are –

(a) a marae committee, whether incorporated or not, established for the purpose of managing or operating a marae:

(b) a Māori Committee constituted by or under the Māori Community Development Act 1962:

(c) a runanga, whether incorporated or not:

(d) a Māori Trust Board within the meaning of the Māori Trust Boards Act 1955.

(3) An authorisation issued by a person or organisation specified in subclause (2) –

(a) must be in the form set out in the schedule; and

(b) must state the conditions (if any) relating to the taking of the fish, aquatic life, or seaweed: and

(c) may be issued only by an individual who is an authorised representative of the person or organisation; and

(d) may not be issued by an authorised representative unless the authorised representative's name and contact details have been notified to the nearest office of the Ministry of Fisheries.

(4) An authorised representative may not issue an authorisation-

(a) unless the person or organisation for whom he or she is the authorised representative represents the Tangata Whenua of the area to which the authorisation relates; and

(b) if a Tangata/Tiaki or Tangata Tiaki/Kaitiaki has been appointed under the Fisheries (Kaimoana Customary Fishing) Regulations 1998 or the Fisheries (South Island Customary Fishing) Regulations 1999, for the area to which the authorisation relates; and

(c) unless satisfied that the fish, aquatic life, or seaweed to be taken under the authorisation will be taken for a purpose that is neither commercial in any way nor for pecuniary gain or trade.

(5) An authorised representative who issues an authorisation must-

(a) give the authorisation a unique sequential number; and

(b) record on the authorisation the date and the time the fish, aquatic life, or seaweed is to be taken; and

(c) complete all parts of the authorisation except to the extent that the authorisation expressly provides otherwise; and

(d) keep a copy of the authorisation and produce the copy to a fishery officer if required to do so.

(6) An authorisation issued by an authorised representative expires at the end of 48 hours after the date and time recorded on its subclause (5)(b).

(7) A person contravenes this subclause if-

- (a) the person is not an authorised representative and purports to issue an authorisation as if he or she were an authorised representative; or
- (b) the person is an authorised person and-
- (i) issues an authorisation in breach of subclauses (3), (4) or (6); or
- (ii) fails to comply with subclause (5)."

(6) Offences and penalties -

Regulation 29(1) of the principle regulations is amended by omitting the expression "or 26, or 27A(7)".

(7) New Schedule added

The principal regulations are amended by adding the Schedule set out in the Schedule of these regulations.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 March 2006, amend the Fisheries (Amateur Fishing) Regulations 1986 (the "principal regulations"). The main effect of the amendments on the principal regulations is as follows:

- Regulation 19A is amended to make a drafting correction:
- New regulation 27A is inserted to enable authorisations to take fish, aquatic life, or seaweed for the purposes of a hui or tangi to be obtained directly from a Marae Committee, Māori Committee, Runanga, or Māori Trust Board. Previously (under regulation 27) fishers obtained authorisations from a Marae Committee, Maori Committee, Runanga, or Māori Trust Board acting under a delegation from the chief executive. The new provision enables those bodies to grant authorisations in their own right and provides for the procedure that must be followed when granting authorisations. It also sets out offences relating to the granting of authorisations:
- Regulation 27 is consequentially amended to remove references to "hui" and "tangi", as authorisations to take fish, aquatic life, or seaweed for those purposes are now dealt with under new Regulation 27A:
- Regulation 29 (which relates to offences and penalties) is consequentially amended to insert a reference to new regulation 27A:
- A new Schedule is added that prescribes the form that must be used for an authorisation granted under new regulation 27A.

Relationship to other Customary Regulations

The defence in Regulation 27A is available if a fisher has not been issued with a customary permit pursuant to:

- a) Fisheries (Kaimoana Customary Fishing) Regulations 1998
- b) Fisheries (South Island Customary Fishing) Regulations 1999

Additionally regulation 27A is available for offences involving tuna (eels), koura (Freshwater Crayfish) or fresh water mussels.

Criteria for regulation 27A defence

- Fish, aquatic life or seaweed can be taken for hui or tangi
- The fisher has a prior written authorisation from an authorised representative of Tangata Whenua of area to be fished.
- The authorised representative has been notified as such to MFish.
- The written authorisation complies with the conditions set in the Customary Fishing Conditions Notice 2006, including:
 - a) Being in the prescribed form
 - b) Not relating to an area for which a Kaitiaki has been appointed pursuant to the Fisheries (Kaimoana Customary Fishing) Regulations 1998
- The fisher has complied with all the conditions contained in the written authorisation.
- The fish was not used for pecuniary gain or trade.
- The written authorisation was used within 48 hours from issue.

The Written Authorisation

A written authorisation issued pursuant to the Customary Fishing Conditions Notice should:

- Be in the prescribed form with a unique sequential number
- Have all parts of the form completed including:
 - a) Name, address of all authorised fisher(s) and signature of the authorisation holder
 - b) Date and time permit is valid from
 - c) Species to be taken

- d) Maximum number of greenweight of the named species that may be taken
- e) Area to be fished at
- f) The landing area
- g) Hui or tangi details

The written authorisation may also include conditions relating to:

- Size limit
- Fishing methods
- Reporting requirements

Other Requirements

The Customary Fishing Conditions Notice also requires fishers holding a customary authorisation to:

- Carry the authorisation at all times, with the fish
- Mark unattended fishing gear with a float marked with the authorisation number and contact details
- Copies to be kept by iwi or authorising agents
- Quarterly catch figures to be supplied

Your written authorisation must state:

- Who the Authorisation Holder is
- Who can take the fish (Names of All Harvesters) those actively fishing
- Whether it is Hui or Tangi, i.e. the reason for the hui
- Which species can be taken
- The maximum number of each species that can be taken (number or greenweight)
- The area where the fish can be taken from
- The place at which the fish must be landed
- The dates and times within a 48 hour period on which fishing can occur
- The hui or tangi, and the place, where the fish will be used
- The signature and name of the person who gave the authorisation to take the fish and on behalf of which Marae committee/Māori Committee/Runanga/Māori Trust Board

Other Conditions

The authorised representative may choose to impose further conditions relating to size of the fish to be taken and the methods used to take the fish. The harvester may be asked to report actual quantities taken. If included, these conditions form part of the legal requirements of the authorisation.

Authorisation Forms

Authorised representatives of a Marae Committee, Māori Committee, Runanga or Trust Board that represents the Tangata Whenua of an area, may issue authorisations for customary fishing within their rohe. It is up to those organisations to determine who will have the authority to issue authorisations. Authorised representatives must be notified to the nearest Ministry of Fisheries office.

Catch inspections will be undertaken from time to time by Fishery Officers or Honorary Fishery Officers. Please keep your authorisation available for inspection. Your co-operation will be appreciated.

Breaking the provisions of Regulation 27A can result in penalties of up to \$10,000 and up to \$20,000 for some species and quantities. Infringement fees of up to \$500 can also apply.

Fishing of a commercial nature, for financial gain or trade, will be subject to the provisions of the Fisheries Act, which allow for forfeiture of property and fines of up to \$250,000.

AUTHORISATION TO TAKE FISH, AQUATIC LIFE, OR SEAWEED FOR HUI OR TANGI

Regulation 27A, Fisheries (Amateur Fishing) Regulations 1986

* Authorisation No: R27A 8702

This authorisation is issued to [name of holder] : _____

Address (of holder): _____

Signature of authorisation holder: _____ Phone No: _____

Associated harvesters (name of *all* harvesters) _____

Purpose: † Hui / Tangi - Reason for hui: _____

to be used at _____ on _____ Contact No: _____
(address of venue) (date)

AUTHORISED HARVEST AND CONDITIONS				
Species	Maximum Quantity (number or greenweight)	Area from which Species is to be taken	Place at which Species is to be landed	Actual Quantity taken (number or greenweight)

Optional conditions for authorised representative to complete.

Size limit for each species _____

Fishing method for each species _____

Actual quantity taken to be notified to authorised representative: † Yes / No

NOTE: The above harvester(s) is/are authorised to take quantities of fish or aquatic life or seaweed as approved in this authorisation, provided that they are only taken from the area and for the purpose specified. This authorisation is not transferable. It must be carried at all times and be shown to any Fishery Officer on request. This authorisation is only valid for a 48 hour period, beginning from the date and time specified.

Authorised By: _____
(print name of authorised representative)

on behalf of: _____
† Marae Committee / Maori Committee / Runanga / Maori Trust Board

Address: _____ Phone No: _____

Signature: _____ Date signed: _____

Authorisation valid from _____ (Date) _____ (Time)

* Surface floats, buoys or tags must be clearly marked with this authorisation number.

† Circle whichever is applicable.

Regulation 27A, Fisheries (Amateur Fishing) Regulations 1986

Guide – For Issuing an Authorisation (Permit) to take for Customary Purposes

Authorisations must be completed and exercised in accordance with Regulation 27A of the Fisheries (Amateur Fishing) Regulations 1986 and the Fisheries (Customary Fishing) Notice 2006. It is essential that you read and understand those Regulations and Notice, which describes in detail the legal requirements for the completion of the Authorisation, not all of which are covered in this guide.

Completing the Authorisation

- 1) **Authorisation Holder** - Record the name of the person you are issuing the authorisation to.
 - 2) **Address** - Record the full physical address of the Authorisation holder e.g. street address, suburb or town.
 - 3) **Signature** - The Authorisation Holder must sign here before any harvesting takes place.
 - 4) **Phone no** - Record here the Authorisation Holder's phone contact details.
 - 5) **Associated harvesters** - Record the names of all harvesters on the authorisation form. Only those named on the form may collect/fish the shellfish/fish.
 - 6) Circle either **Hui** or **Tangi** and enter the full description giving the reason for the Hui.
 - 7) **To be used at** - Record the full physical address of the venue where the kaimoana is to be used e.g. Marae name with street address, suburb and town.
 - 8) **Purpose** - Give a full description of the purpose for which this "Customary Authorisation" is issued. *i.e for Hui, state the type of hui e.g. Waananga, Huri Tau, Hui-a-Hapu/Iwi, Tangihanga, Hura Kohatu, Whanau Reunion, Development, Manaaki ki nga Kaupapa Maori...*
 - 9) **Authorised Harvest and Conditions:** For each species record;
 - The **Date / dates** when species to be taken
 - The **Species** that may be taken - please be specific
 - The **Size Limit** state size limit for each species
 - The **Quantity** of each species that may be taken - Be specific in relation to actual numbers or greenweight (weight of fish in its natural state, kgs)
- Ensure this number is sustainable for future availability.**
- Note: DO NOT USE SACKs, BINs or BAGs as a description of a measure
- The **Area's** from which species are to be taken from; name the specific area or position between landmarks, *i.e beach, bay, harbour*
- The Fishing **Method** by which each species is to be taken e.g. set net, fishing lines, scuba or tanks, free diving (snorkel), long line, hand gathering. Please advise the authorisation holder that any floats used must be marked with the authorisation number. (Initials, name and phone number would also be helpful).
 - **Actual Quantity Gathered** once notified by the Authorisation Holder, record here the actual quantity gathered, on the 'pink copy' and yellow copies.
- Note: Cross out any lines not used, in this section of the form**
- 10) Any other conditions - record here any conditions you wish to impose on the gathering of kaimoana e.g. Scuba not allowed, NZ Rec Fishing Rules apply, etc
 - 11) Tangata Kaitiaki/Tiaki - Record your FULL details in all parts of the bottom panel. You must also sign and date the authorisation form prior to issue.
- REMINDER:** When handing over the authorisation (permit), ensure that harvesters are aware of their responsibilities and obligations under these Regulations. Remind fishers that:
- 1) The authorisation must be carried and remain with the fish at all times *i.e. fishing, transporting, venue*. Form also must be shown to a Fishery Officer on request.
 - 2) The harvesters **must** report back to you the "actual quantities taken" for each species. You should also encourage any other feedback pertaining to the state of the resource.
 - 3) If unable to gather kaimoana on the date specified then another authorisation will need to be issued.
 - 4) If you make a mistake whilst filling out a Customary authorisation form, then cancel it and rewrite a new one. Remember - altering a customary authorisation form is an offence.
 - 5) Please advise harvesters that penalties may include substantial fines, forfeiture of boat/vehicle and or fishing gear.
 - 6) You are encouraged to contact the Ministry of Fisheries whenever you issue an authorisation (permit) and advise the Fishery Officer of all the details on the authorisation.
- White copy* - Give to the Authorised Holder named on the form.
- Pink copy* - Keep this in the book until you are requested to send them in for data capture purposes.
- Yellow copy* - to be retained with the authorisation (permit) book.
- For any queries, contact your local Fishery Officer, MFish office, or free phone **0800 367 785**

Offences and Penalties – Fishers

- Infringement Notices for
 - 2x daily limit - \$250 infringement fee
 - 3x daily limit - \$500 infringement fee
- Less serious offences carry maximum penalties of \$10,000
- Serious Non-commercial offences carry maximum penalties of \$20,000
 - More than 3x daily limit of fish/shellfish
 - Taking, possessing, disturbing more than 50 toheroa
- In very serious cases charges may be laid which carry a maximum penalty of up to \$250,000
- Ministry carries out enforcement

Point of Interest

- Purpose hui or a tangi.
- Tangi is self-explanatory
- Hui is a gathering – “in the traditional sense”
- Regulation 27A overrides Amateur Regulations made pursuant to the Fisheries Act 1996.
- It does not override the Conservation Act or associated Regulations
- It does not override Fisheries Act (i.e) 186 closures
- It does not override Commercial Regulations
- Authorisations should be issued unaltered.
- It does not override rohe moana declared under the Kaimoana or the South Island Customary Regulations
- If mistakes are made cross out the form entirely and redo another authority.
- Ensure that no alterations can be made once the authorisation has been issued to the fisher.

NOTE: WARNING

Failure to produce the authorisation on request will negate its validity and may render the fisher(s) and those in possession of the fish, aquatic life or seaweed liable to prosecution.

Offences and Penalties – Authorised Representative

- \$10,000 Maximum
- Not in the form as per regulations
- Not an authorised representative
- Name and contact details not notified
- Does not represent Tangata Whenua
- Authorisation issued for K and SI regs
- Authorisation issued for financial gain, trade etc.
- No unique serial number
- Date and or time not shown
- All sections not completed (except optional)
- Fails to keep a copy
- Fails to produce a copy
- Is not an agent but purports to be one

General Discussion

- Regulation 27A is a defence
- Regulation 27A only allows for collection for hui or tangi
- Kaimoana/Sth Is Regs give management rights
- Kaimoana /Sth Is Regs allow the establishment of Mātaitai and bylaws and more management input
- Kaimoana /Sth Is Regs allow for verbal authorisations
- Kaimoana /Sth Is Regs allow collection for discretionary reasons

FACT SHEET: Regulation 27A Conditions

The Following are the changes that will apply to current Regulation 27A conditions

- Marae Committee includes committee that operate or manages a marae
- When taking/possessing fish authorisation must be available for inspection & carried by taker or possessor
- Authorisations can only be issued by representatives of Tangata Whenua for area to be fished. Representatives notified to Mfish
- Authorisation valid for 48 hours
- All harvesters to be identified
- Quantity expressed as numbers or greenweight only
- Place of Landing to be stated
- Address and date of hui or tangi to be stated on authorisation
- Static (set and left) fishing gear must be marked with authorisation number
- Only the prescribed authorisation format can be used
- Authorisation issuer may add conditions relating to size, method and notification of actual take
- Cannot write an authorisation where a Kaitiaki has been appointed pursuant to the Kaimoana or South Island Customary Regulations
- Reg 27 still applies where no rohe declared under K or South Island Regulations and inland areas not gazetted under K Regulations.

Long Term Strategy

- Ministry of Fisheries proposed to establish a framework to:
 - Allow Māori greatest degree of management responsibilities
 - Framework to recognise Crown's obligations for enforcement

A GUIDE TO REGULATION 27A OF THE FISHERIES AMATEUR FISHING REGULATION- AS AMENDED BY THE 1992 TREATY OF WAITANGI (FISHERIES SETTLEMENT ACT) EFFECTIVE 1 MARCH 2006.

Question 1: *How can I legally take fish for customary purposes?*

Answer: Currently the law allows fish to be taken for customary purposes in the following ways:

- In accordance with the general limits applying to all amateur fishers; or
- Using a customary authorisation under the regulation 27 or 27A of the Fisheries (Amateur Fishing) Regulations 1986; or
- Using a customary authorisation under the Fisheries (Kaimoana Customary Fishing) Regulations 1998 or under the Fisheries (South Island Customary Fishing) Regulations 1999.

Question 2: *What does Regulation 27 provide for after 1 March 2006?*

Answer: Regulation 27 provides for the taking of fish for a traditional non-commercial fishing purpose (but not Hui or Tangi) that has been specifically approved by the Chief Executive of the Ministry of Fisheries. However, regulation 27 will now apply in limited circumstances and the majority of customary fishing is expected to be carried out under regulation 27A.

Question 3: *What does Regulation 27A provide?*

Answer: Regulation 27A and associated gazette notice provides for the taking of fish for the purposes of Hui or Tangi. There are conditions that apply to issuers and fishers.

Question 4: *Have Hui and Tangi been defined?*

Answer: Associated activities with Tangi are generally well accepted. The word 'Hui' has not been defined in regulations but the High Court has said that the word Hui is used in its traditional sense and is not just any gathering but like a Tangi is a discrete event.

Question 5: *What are the 2006 Changes?*

Answer: Some of the conditions previously contained in the gazette notice have now been incorporated into a new regulation – regulation 27A. The major change is a range of Offences and Penalties that now apply to Authorised Representatives.

Question 6: *Has the Chief Executive set out conditions under which fish can be taken for Hui or Tangi?*

Answer: Yes. A new gazette notice will be in effect imposing conditions on fishers taking fish for Hui or Tangi pursuant to a regulation 27A authorisation.

Question 7: *What are the conditions that will apply when I'm fishing for Hui or Tangi?*

Answer: If you want to take fish for Hui or Tangi you must check that your authorisation has all sections completed and abide by the following conditions:

- You must have in your possession a written regulation 27A authorisation
- You must have the authorisation in your possession during taking and transporting the fish;
- You must get a written authorisation from an Authorised Representative of a Marae Committee, or a Māori Committee, or a Runanga or a Māori Trust Board that represents Tangata Whenua that is a Iwi or Hapu who hold mana whenua over the area from which the fish are to be taken;
- Any static (set or left) fishing gear must have a surface buoy or tag with the authorisation number on it. Should also name and have a contact phone number on the tag.
- The written authorisation must contain:
 - the name address and contact details of the holder;
 - the names of all the harvesters who will take the fish;
 - the occasion and place where the fish will be used;
 - which species can be taken and how much of each species; Quantities must state number of fish or the greenweight that can be taken;
 - the date on which fishing can occur (note the authorisation is only valid for 48 hours from this date);
 - where fish can be taken from and where they must be landed;
 - the signature and name of the person who gave the authorisation to take the fish.

NOTE: The authorisation form must have all parts completed (except the optional conditions) for it to be valid. Fishing with an invalid authorisation can result in prosecution or an infringement notice.

Question 8: *Can I sell some or all of the fish caught under the authorisation?*

Answer: No. You must not sell, barter, exchange or trade any fish taken under any authorisation for money or other items under any circumstances, including raffles or fund-raising.

Question 9: *How precise does "place of landing" have to be?*

Answer: "Place of landing" has not been defined but as with the "area" of fishing the landing place must be reasonably specific. For example a small bay may be given as a place of landing but a large bay would need to have a landing place better defined within that area (i.e.) between two local landmarks.

Question 10: *What is greenweight?*

Answer: The Greenweight of a fish is the weight before any processing takes place (i.e.) before removal of head, fins, gut or shucking of shellfish etc.

Question 11: *Can the Authorised Representative impose other conditions?*

Answer: Yes. The Authorised Representative can impose conditions on what fishing methods can be used to gather certain species and any size limits for the species.

In addition the Authorised Representative can also require that the harvesters inform them of actual quantities taken be provided to them. Quantities more than those authorised cannot be taken.

Question 12: *Are these other conditions legal requirements?*

Answer: Yes. If the Authorised Agents fill out the sections with these requirements than they can become part of the legal conditions of harvest.

Question 13: *Can I take my recreational entitlement at the same time?*

Answer: Yes, provided that the methods used, size and bag limits etc are within limits set under the Amateur Fishing Regulations.

Question 14: *Why are these new regulations and conditions required?*

Answer: The Ministry of Fisheries is concerned about the activities of some fishers that are claiming to be exercising a customary right without the prior permission of Tangata Whenua. The expressed intent of these fishers to expand their fishing activities also has the potential to undermine the legitimate use of customary fishing rights, and the

current fisheries management system. These activities have the potential to escalate and may impact upon the liability of the Ministry to manage certain fish stocks sustainably and undermines the efforts of Tangata Whenua to manage the customary take in their area.

Question 15: *What happens if a person is caught fishing without a regulation 27A authorisation or a valid authorisation from the Marae Committee, Māori Committee, Runanga or Māori Trust Board of Tangata Whenua?*

Answer: The fisher will not have a defence of exercising a customary fishing right and may be liable to prosecution if they are fishing in contravention of the provisions of the Amateur Fishing Regulations.

Question 16: *What happens if a person issues regulation 27A Authorisation in breach of the regulations?*

Answer: The Authorised Representative or issuer, will have committed an offence and will be liable to prosecution. The following are examples of breaches which may be prosecuted.

- Authorisation not in the form as set out in the regulations
- Conditions not applied (except optional ones)
- Authorised Representatives name and contact details not notified to Ministry of Fisheries
- Authorised Representative does not represent Tangata Whenua for the area for which the Authorisation relates.
- Authorisation issued for areas where Kaimoana or South Island regulations apply
- Authorisation issued for commercial, pecuniary gain or trade
- No unique sequential number allocated to the Authorisation form
- Date/time not shown on form
- All sections (except optional) not completed
- Fails to keep copy of Authorisation
- Fails to produce a copy of the Authorisation when requested to by a Fishery Officer

Question 17: *What are the Offences and Penalties that apply?*

Answer: Issuing an authorisation in breach of the provisions of regulation 27A can result in penalties of up to \$10,000 Fishing in breach of the provisions of regulation 27A including provisions/conditions of the gazette can result in penalties of up to \$10,000 and up to \$20,000 for some species and quantities. Infringement notices with penalties of up to \$500 can also apply. Catch inspections will be undertaken from time to time by Fishery Officers or Honorary Fishery Officers. Please keep authorisations available for inspection. Co-operation will be appreciated.

Question 18: *Who can decide how much fish can be taken and where it should be taken from?*

Answer: The only person who can decide on the quantities of fish that can be taken and the area of harvest is an individual authorised by the Marae Committee, Māori Committee, Runanga or Māori Trust Board that represents Tangata Whenua who are the Iwi or the Hapu that have manawhenua over the area from which the fish is to be taken.

Question 19: *Who can appoint people to give authorisations?*

Answer: The appointment of people to issue regulation 27A authorisations to take fish for Hui or Tangi is solely the decision of the relevant Marae Committee, Māori Committee, Runanga or Māori Trust Board.

Question 20: *What happens if an authorised person has not been appointed by the relevant Marae Committee, Māori Committee, Runanga or Māori Trust Board or notified to MFish when the new regulation 27A and Chief Executive conditions come into effect?*

Answer: Those people who have already been appointed as Authorised Representatives are able to continue to issue authorisations under regulation 27A. If a person has not been appointed by the relevant organisation that cannot issue authorisations within the relevant organisation issued by someone approved by Tangata Whenua.

Question 21: *Does MFish need to be notified who the Authorised Representatives are?*

Answer: Yes. The name and contact details must be submitted to the nearest Ministry of Fisheries Office before the Authorised Representatives start issuing authorisations. This makes it easier for the compliance officers to determine whether a fisher has a valid authorisation issued by someone approved by Tangata Whenua.

Question 22: *Does MFish need to be notified when authorisations are issued?*

Answer: No, however it does make inspections and compliance support on behalf of the Authorised Representatives much easier if a copy of the authorisation is sent to the local MFish Office.

Question 23: *Has the Ministry printed authorisations books, which Iwi and Hapu Authorised Representatives can use?*

Answer: Yes. If you wish to use them, regulation 27A authorisation books are available from the Ministry of Fisheries Office in your district. They are individually numbered triplicate forms to make it easier for you to administer the taking of fish in your area.

Question 24: *Can the authorisation form other than the one supplied by MFish be used?*

Answer: Yes, but it must follow the same format and contain the same information as the form that is specified in the schedule to regulation 27A. It must also have a unique sequential number 1,2,3,4, will not be sufficient. MFish supplied books have pre-printed unique sequential numbers.

Question 25: *What happens if an area has been gazetted under the Kaimoana or South Island Regulations and Kaitiaki appointed?*

Answer: Regulations 27 and 27A do NOT apply once an area and Kaitiaki has been established pursuant to the Kaimoana (except as outlined below) or South Island Customary Regulations. Customary fishing in these areas can only be approved by the appointed Tangata Kaitiaki/Tiaki.

Question 26: *Can a commercial fishing vessel be used to take customary fish under regulation 27A?*

Answer: Yes. BUT all fish on a commercial vessel is considered (deemed) to be for sale. Each situation is assessed on its merits. If the skipper/owner makes sure an authorisation is onboard and the fish are in labelled containers this will assist if the catch is inspected by Fishery Officers. (See also Question 6) Commercial Owners are advised to obtain a Section 111 approval before using their vessels to take customary catch.

Question 27: *Is further information available for those appointed as authorised representatives?*

Answer: MFish has regulation 27A information which they are able to make available to Iwi/Hapu groups and their Authorised Representatives. Contact your local MFish office for more details.

Question 28: *Where can I get further information this?*

Answer: You can contact your Marae Committee, Māori Committee, Runanga or Māori Trust Board of the Ministry of Fisheries for further information. The Ministry of Fisheries also has a brochure which covers the regulation 27A requirements of Customary Fishing.

Contact any Ministry of Fisheries office or call contacts listed in this manual. A copy of the regulations can be obtained from Bookshops. The exact title to ask for is the "Fisheries (Amateur Fishing) Amendment Regulations (No 2) 2005.



Ministry of
Fisheries
Te Tautiaki i nga tini a Tangaroa

Kaimoana & South Island Customary Regulations

Customary Fishing – Information Manual
Section Three



Kaimoana and South Island Regulations

Section 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 requires the Minister of Fisheries to recommend the making of regulations “to recognise and provide for customary food gathering by Maori and the special relationship between Tangata Whenua and those places which are of customary food gathering importance to the extent that such food gathering is neither commercial or any way nor involves commercial gain and trade”.

Kaimoana and SI Customary Regulations - Rohe Moana †	Kaimoana and SI Customary Regulations - Mataitai Reserves ‡
<p>The Kaimoana and SI Customary Regulations recognise and provide for the special relationship between Tangata Whenua and places important for customary food gathering (including tauranga ika and mahinga mataitai), including through:</p> <ul style="list-style-type: none"> - appointment of Tangata Kaitiaki/Tiaki, who authorise customary food gathering of kaimoana within their area/rohe moana; - confirmation of who are the Tangata Whenua for, and the boundaries of, the area/rohe moana; - input and participation of Tangata Kaitiaki/Tiaki in fisheries management; - Tangata Kaitiaki/Tiaki preparing a management plan for their area/rohe moana; and - providing for establishment of Mataitai reserves. 	<p>Mataitai reserves recognise and provide for customary food gathering by Maori and the special relationship between Tangata Whenua and places of importance for customary food gathering.</p> <p>Mataitai reserves can be declared over identified traditional fishing grounds where there is a special relationship with Tangata Whenua. Tangata Whenua may make recommendations for managing fishing within mataitai reserves.</p>
<p>Before Tangata Whenua begin management of customary food gathering under the Kaimoana Regulations, they must notify the Minister of the proposed Tangata Kaitiaki/Tiaki for the area/rohe moana (using the required Form 1).</p> <p>Notification is published in a local newspaper and submissions are called for. Dispute resolution must take place if there is dispute about:</p> <ul style="list-style-type: none"> - who are Tangata Whenua; or - who should be Tangata Kaitiaki/Tiaki; or - the boundaries for the area/rohe moana. <p>The Minister confirms appointment of Tangata Kaitiaki/Tiaki, and the boundaries, of the proposed customary food gathering area/rohe moana only after disputes have been resolved. Appointments are published in the Gazette and a local newspaper.</p> <p>One appointed, the powers of Tangata Kaitiaki/Tiaki include those set out in the “control and management” section below.</p>	<p>Once appointed under the Kaimoana and SI Customary Regulations, Tangata Kaitiaki/Tiaki or the Tangata Whenua who notified them can apply for a mataitai reserve in any part of their area/rohe moana (using the required application Form4).</p> <p>Consultation occurs in two parts: - (1) with the local community; and (2) with those with fishing interests in the stock/s in the area in question.</p> <p>The Minister’s decision to establish a mataitai reserve is notified in the Gazette. Applicants are notified if he/she decides not to establish it.</p>

† The Fisheries (Kaimoana Customary Fishing) Regulations 1998

‡ Mataitai Reserves can be declared in New Zealand fisheries waters (except South Island fisheries waters of fresh waters found outside South Island fisheries waters) under the Fisheries (Kaimoana Customary Fishing) Regulations 1998 (regulations 18-32). For the South Island, similar provisions are available in the Fisheries (South Island Customary Fishing) Regulations 1999 (Mataitai Reserves can be declared over freshwater in South Island fisheries waters).

The Fisheries (Kaimoana Customary Fishing) Regulations 1998 and the Fisheries (South Island Customary Fishing) Regulations 1999 apply to all NZ fisheries waters. They include provision for:

- Mātaitai reserves
- Customary authorisations
- Appointment of Tangata Kaitiaki/Tiaki

In situations where these regulations apply, the role of Tangata Whenua is to manage the fisheries and MFish's role is to provide enforcement.

See Section 5 for information on Mātaitai Reserves.

Appointment of Tangata Kaitiaki/Tiaki

- Tangata Whenua appoint Tangata Kaitiaki/Tiaki (person/s) and identify rohe
- Rohe and Tangata Kaitiaki/Tiaki are published in a newspaper and gazetted by the Minister
- Any submissions of opposition are considered
- Iwi issues of mana whenua or mana moana must be resolved through a dispute resolution process
- When Minister approves Rohe and Tangata Kaitiaki/Tiaki, customary authorisations may be issued
- Appointments can be cancelled by the Minister upon request by Tangata Whenua or by request of the Tangata Kaitiaki/Tiaki themselves.

Role of Tangata Kaitiaki/Tiaki

The main responsibilities of Tangata Kaitiaki/Tiaki include:

- Issuing authorisations for customary fishing
- Providing direction to Customary fishers on use of authorisations
- Making bylaws applying to Mātaitai Reserves
- Keeping accurate records
- Providing direction to Customary fishers on use of authorisations
- Meeting and reporting to Tangata Whenua
- Showing records of authorisations to Fisheries Officers if requested

Tangata Kaitiaki/Tiaki may also:

- Be part of fisheries management processes
- Prepare management plans for fisheries within their rohe

The Tangata Kaitiaki/Tiaki must report quarterly on:

- Authorisations granted
- Fish taken pursuant to authorisations

There is no limit on the number of Tangata Kaitiaki/Tiaki, and Tangata Kaitiaki/Tiaki can delegate their authority with Tangata Whenua approval.

Authorisations issued pursuant to Customary Regulations

Authorisations must be issued:

- By Tangata Kaitiaki/Tiaki or delegate only
- Prior to fishing

Authorisations must specify:

- When the authorisation applies
- Who it covers
- The quantity and size of species
- Fishing method
- Where fishing will occur
- The purpose the kaimoana is being gathered and where it will be eaten
- Other matters the Tangata Kaitiaki/Tiaki considers relevant
- While, the Schedule to both regulations prescribes a standard form for authorisations, the Chief Executive may agree to authorisations being given in other forms, including verbal authorisations.

Users of authorisations must:

- Carry authorisations at all times
- Not alter authorisations
- Show authorisation to Fisheries Officer and HFO's on request
- Comply with authorisation requirements
- Report actual fish caught

Customary fishing can be done on a commercial vessel, provided that the customary catch is kept separate.

KAIMOANA REGULATIONS

Tasks/Responsibilities of a Tangata Kaitiaki and Tangata Whenua

Regulation	Task	May/Must
9	Delegating powers under the Regulations	May
10	Cancelling appointments / notifying new appointments	May
11	Authorising the taking of fish	May
12	Showing authorisation record(s) to a Fishery Officer	Must
14	Input and participation in the setting or varying of sustainability measures, or the development of management measures	May
15	Providing, quarterly, a summary of information pertaining to authorisations (collecting under regulations 35 & 36)	Must
16	Preparing a management plan or strategy (i.e. an iwi planning document)	May
17	Nominating HFOs	May
18	Applying for mātaihai reserves	May
20	Consulting with local community over an application for a mātaihai reserve	Must

24	Delegating powers under the Regulations	May
26	Cancelling appointments and notifying new appointments	May
27	Requesting the making of regulations to allow commercial fishing	May
28	Proposing by-laws within a mātaimai reserve after considering sustainable utilisation of the resources	May
28(7)	Amending proposed by-laws in light of submissions	May
29	Notifying the Minister of the proposed by-law	Must
30	Authorising the taking of fish for marae sustenance, despite any by-laws	May
32	Authorising the take and release of fish within a mātaimai despite any by-laws (enhancement)	May
34	Participating in Minister driven consultation over management	Must
35	Keeping records pertaining to authorisations	Must
38	Receiving information as to what an authorised fisher took	Must
39	Providing, quarterly, copies of every record kept under regulations 35 & 36 to the Ministry	Must
40	Hold an annual meeting with Tangata Whenua, where a report is delivered on the administration of the regulations, the number of authorisations granted, the species and quantity taken, the restrictions in force, the number of mātaimai reserves, etc.	Must

TE IKA-A-MATUA KAIMOANA

Authorisation to take for customary purposes

Authorisation No:

K 16513

For _____ marae/whanau/hapu/iwi

Authorisation Holder _____

Address _____

Signature _____ Phone No _____

Associated Harvesters _____

To be used at _____ Purpose _____

AUTHORISED HARVEST AND CONDITIONS

Date when species to be taken	Species	Size Limit	Quantity (number or greenweight)	Area from which the species is to be taken	Method	Actual quantity gathered

Any other conditions _____

The above harvester/s is/are authorised to take quantities of kaimoana, as approved in this authorisation, provided that they are only taken from the area specified and for the purpose notified. This authorisation is not transferable. It must be shown to any Fishery Officer on request. This Authorisation is valid only for the date specified, but may be renewed if you contact the Tangata Kaitiaki/Tiaki.

Tangata Kaitiaki/Tiaki _____
(Print Name)

Address: _____

Phone No _____

Signature: _____ Date Signed _____

Breton/Fin

Fisheries (Kaimoana Customary Fishing) Regulations 1998

Guide – For Issuing an Authorisation (Permit) to take for Customary Purposes

TE IKA-A-MATUA KAI-MOANA

- 1) **For** - Record the name of the *marae/whanau/hapu/iwi* who has requested the authorisation form to be issued.
- 2) **Authorisation Holder** - Record the name of the person you are issuing the authorisation to.
- 3) **Address** - Record address of Authorisation holder e.g. street address, suburb or town.
- 4) **Signature** - The Authorisation Holder must sign here before any harvesting takes place
- 5) **Phone no** - Record here the Authorisation Holder's phone contact details.
- 6) **Associated harvesters** - must be named on the authorisation form. Record all names of persons actively fishing, diving or collecting kaimoana.
- 7) **To be used at** – Record the full physical address of the venue where the kaimoana is to be used *e.g. Marae name with street address, suburb and town.*
- 8) **Purpose** - Give a full description of the purpose for which this "Customary Authorisation" is issued. *i.e. for Hui, state the type of hui e.g. Waananga, Huri Tau, Hui-a-Hapu/Iwi, Tangihanga, Hura Kohatu, Whanau Reunion, Development, Manaaki ki nga Kaupapa Māori...*
- 9) **Authorised Harvest and Conditions:** For each species record;
 - The **Date / dates** when species to be taken
 - The **Species** that may be taken - please be specific
 - The **Size Limit** state size limit for each species
 - The **Quantity** of each species that may be taken - Be specific in relation to actual numbers or greenweight (weight of fish in its natural state, kgs)

Ensure this number is sustainable for future availability.

Note: DO NOT USE SACKS, BINs or BAGs as a description of a measure

- The **Area's** from which species are to be taken from; name the specific area or position between landmarks, i.e beach, bay, harbour
- The **Fishing Method** by which each species is to be taken e.g. set net, fishing lines, scuba or tanks, free diving (snorkel), long line, hand gathering. Please advise the authorisation holder that any floats used

must be marked with the authorisation number. (Initials, name and phone number would also be helpful).

- Actual Quantity Gathered once notified by the Authorisation Holder, record here the actual quantity gathered, on the pink and yellow copies.

Note: Cross out any lines not used, in this section of the form

- 10) **Any other conditions** - record here any conditions you wish to impose on the gathering of kaimoana e.g. Scuba not allowed, NZ Rec Fishing Rules apply, etc
- 11) **Tangata Kaitiaki/Tiaki** - Record your FULL details in all parts of the bottom panel. You must also sign and date the authorisation form prior to issue.

REMINDER: When handing over the authorisation (permit), ensure that harvesters are aware of their responsibilities and obligations under these Regulations. Remind fishers that:

- 1) The authorisation must be carried and remain with the fish at all times i.e. fishing, transporting, venue. Form also must be shown to a Fishery Officer on request.
- 2) The harvesters **must** report back to you the "actual quantities taken" for each species. You should also encourage any other feedback pertaining to the state of the resource.
- 3) If unable to gather kaimoana on the date specified then another authorisation will need to be issued.
- 4) If you make a mistake whilst filling out a Customary authorisation form, then cancel it and rewrite a new one. Remember - altering a customary authorisation form is an offence.
- 5) Please advise harvesters that penalties may include substantial fines, forfeiture of boat/vehicle and or fishing gear.
- 6) You are encouraged to contact the Ministry of Fisheries whenever you issue an authorisation (permit) and advise the Fishery Officer of all the details on the authorisation.

White copy - Give to the Authorised Holder named on the form

Pink copy - Keep this in the book until you are requested to send them in for data capture purposes.

Yellow copy - to be retained with the authorisation (permit) book

For any queries, contact your local Fishery Officer, Mfish office, or call the contacts listed in this manual.

A Guide to the Kaimoana Customary Fishing Regulations 1998

The regulations have been developed since the passing of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.

APPLICATION

Question: What do the Kaimoana Fishing Regulations cover?

- Answer:
- Non-commercial customary Fishing
 - They do not remove the right of Tangata Whenua to catch their recreational limits
 - They do not provide for commercial fishing
 - Anyone given permission to take fish under the customary fishing regulations cannot trade the fish
 - Also cover the establishment of mataitai

Question: Do the regulations refer to the Treaty of Waitangi?

- Answer:
- Yes. The introduction of the regulations clearly states the relationship between the regulations, the TOW (FC)S Act 1992 and the Treaty of Waitangi itself
 - Also the definition of customary food gathering in the regulations refers to traditional rights confirmed by the TOW (FC)S Act 1992
 - Anyone using or administering the regulations must comply with the TOW (FC)S Act 1992
 - The Act requires anyone making decisions that affect customary non commercial fishing to act in accordance with the principles of the TOW

Question: When do the Kaimoana Customary Regulations apply?

- Answer:
- Only apply in an area when Tangata Whenua have appointed TK/T for that area
 - Until then, the only rule allowing the taking of fish for customary purposes is: -Regulation 27 of the Fisheries (Amateur Fishing) Regulations 1986
 - Regulations do not apply in the South Island - Fisheries (South Island Customary Fishing) Regulations 1998 apply.

Question: Do the regulations apply to freshwater fisheries?

- Answer:
- Yes

Question: Can Tangata Whenua use their own names of term in regulations?

- Answer:
- Yes, may provide a list of names for certain terms in the regulations
 - These names would be notified in the Gazette
 - These names will be the only legal words

APPOINTING TANGATA KAITIAKI/TIAKI?

Question: Who decides who will be the TTK of a particular area?

- Answer:
- Tangata Whenua may notify TTK to the Ministry of Fisheries.
 - Minister will publicly announce the notification of TTK.
 - Minister will confirm appointment if there are no disputes.

Question: What if there is a dispute over a notification or who holds Tangata Whenua status?

- Answer:
- Tangata Whenua must decide who holds manawhenua, manamoana.
 - If there is a dispute over Tangata Whenua status or a notification for a TTK, it must be resolved by the Tangata Whenua groups

Question: What are the options available to resolve disputes?

- Answer:
- Parties have to agree on how they wish to resolve any dispute.
 - They may choose a process that is consistent with tikanga Māori
 - Arbitration

Question: Is there a limit to the number of TTK for an area?

- Answer:
- NO!

Question: What happens if a TTK is ill or unavailable?

- Answer:
- TTK can delegate subject to approval of Tangata Whenua.

Question: How can the appointment of a TTK be cancelled?

- Answer:
- TTK themselves.
 - Tangata Whenua.
 - The Minister.

Powers and Responsibilities of Tangata Kaitiaki/Tiaki

Question: Who has the power to authorise customary fishing?

Answer: • Only the TTK

Question: What things must be specified on every customary fishing authorisation?

Answer: • when

- who
- quantity and size
- fishing and method
- fishing method
- where
- purpose and venue
- any other matters the TTK considers necessary

Question: Is there a standard form a customary fishing authorisations?

Answer: • Yes. See page

Question: Is there scope for alternative forms of authorisation?

Answer: • Yes. Whilst fishing and transporting fish to venue.

Question: Can a non-maori apply for a customary fishing authorisation?

Answer: • Yes, TTK may decide to issue to non Tangata Whenua.

Question: What are the main responsibilities for TTK?

Answer: • Issue authorisations

- Give directions to customary fishers
- Keep accurate records
- Take part in fisheries management processes
- Prepare management plans
- Meet and report with Tangata Whenua
- Show records of authorisations to any FO if requested

RESPONSIBILITIES OF FISHERS

Important Information for Users of Authorisations

- TTK should ensure people receiving authorisations are fully aware of their responsibilities and legal requirements
- Authorisations must not be changed/alterd in any way

- authorisations must be shown on request to FO's or IFO's

- fish in possession of customary fisher must comply with authorisation

- actual fish caught must be reported.

Can customary fishing be carried out from a commercial fishing vessel?

- YES - Fish must be kept in separate containers

Purpose of Fishing Activity

A commercial fisher who, pursuant to commercial authorities and authorisations (Permits and Quota), is carrying out the activity of commercial fishing, is "taking fish for the purpose of sale".

That same fish, sometime later either at landing or in a LFR premise is still fish "taken for the purpose of sale".

It is unlikely that the courts would allow a subsequent change in status of that fish into recreational catch or customary catch once it has been taken and sorted onboard the vessel.

On the other hand, if a commercial fisherman took fish for a customary purpose (whether also commercial fishing or not), then the status of that fish cannot be changed to "commercial fish for the purpose of sale".

In the summary, the purpose of taking fish is established at the time the fish is taken.

The practice of replacing commercial fish later on with fish taken for non-commercial customary purpose (or vice versa), would not be consistent with the principles of the Fisheries Act.

Compliance issues - Questions and Answers

1. Question: Can a commercial vessel be used to take non commercial Customary Fish?

Answer: Yes. Section 111 of the Fisheries Act 1996 will apply. A valid authorisation must be on board. Any fish taken will need to be identified as per Regulation 13 of the South Island and Kaimoana Regulations.

2. Question: Can a commercial fisher or non-commercial fisher obtain payment for catching the fish?

Answer: No.

3. Question: When is the fish designated Commercial or non-commercial customary?

Answer: When the fish is taken (generally this will be when the fish comes onboard). A valid commercial operation and a valid non commercial authorisation will need to exist if fish is taken for both purposes.

4. Question: Who is responsible for the fish on board a vessel?

Answer: The skipper/master of the vessel (whether commercial or not) and all fishermen.

5. Question: What information is required on containers of non commercial fish onboard a commercial vessel?

Answer: Regulations state “marked containers” “clearly identified as taken for customary food gathering purposes”. There is no definition to the exact nature of wording. A reference to the authorisation and/or some detail would be of assistance for the Fishery Officers (including Honorary Fishery Officers)

6. Question: Once landed who is responsible for the non-commercial customary fish?

Answer: Those people in control/possession of the fish. (Note offences and penalties)

7. Question: Can non-commercial fish be stored for later use?

Answer: Yes that is the purpose indicated on authorisation made pursuant to the South Island Kaimoana Regulations.

NOTE: Fish can only be stored on a venue or venues specific basis (i.e) for use at the venue or venues stated on the authorisations (see Regulation 11(2)).

8. Question: Can non-commercial fish be stored on commercial processing premises (LFR's)?

Answer: Yes. Section 192 of the Fisheries act 1996 applies. The Chief Executive will need to approve/condition etc.

9. Question: Can a LFR/Processor charge for possessing non commercial fish?

Answer: Yes. Any changes will need to be outside sale/barter trade or pecuniary gain. Usually charges relate to processing costs including packaging. There should be no association between charges made and the fish (i.e) payment in kind.

10. Question: Who is responsible of Health and Hygiene issues associated with the taking, storage and distribution of non-commercial fish?

Answer: The Fisheries Act and associated regulations allow for the taking, storage and distribution of the fish. Health and Hygiene issues are not enforced by MFish.

11. Question: Once fish is put into storage (Pataka) how can it be removed?

Answer: Legislation is silent on this issue. Once fish is legally taken and placed into the Pataka the scope of the South Island and Kaimoana regulations end. Fish taken out of the Pataka would then revert back to the “onus of proof” contained in the Fisheries Act (i.e) Those in possession would need to prove that it was not taken contrary to the Act of regulations. It is suggested that Tangata Kaitiaki Tiaki's should “authorise” the removal of fish from storage using the authorisation associated with regulations 11 of the South Island and Kaimoana regulations. It is likely that this system would be specified but the Chief Executive as a condition of having non commercial customary fish on commercial (LFR) premises.

12. Question: Who is responsible for ensuring that non-commercial customary fish is not sold/bartered traded etc.?

Answer: Those in possession of the fish. The South Island and Kaimoana regulations indicates that fish take is not for sale etc. Fish sold/traded etc. contrary to the regulations and subject to normal Fisheries Act/ regulatory sanctions, (Note: this can include forfeiture an fines up to \$250,000).

13. Question: What species may be taken and held in store for distribution?

Answer: All species managed by MFish.

NOTE: must be held for a specific venue or venues. See Question 7.

14. Question: Can non-commercial customary fish be held in holding pots?

Answer: Yes - The fish have been taken and therefore the “onus of proof” rests with those in possession of the fish. The holding pot is either a transitional situation or storage. In all cases the fish will need to be associated with a valid authorisation.

AUTHORISATION TO TAKE FOR CUSTOMARY PURPOSES

**TE IKA-A-MATUA
KAIMOANA, KAI-AWA, KAI-ROTO**

Authorisation No:

SI

For _____ marae/whanau/hapu/iwi

Authorisation holder _____

Address _____

Phone no _____

Associated harvesters (optional) _____

Catch may be used at _____ Purpose _____

AUTHORISED HARVEST AND CONDITIONS

Date when species to be taken	Species	Size Limit		Quantity (number or greenweight)	Area from which the species to be taken	Method	Actual quantity gathered
		Lower	Upper				

Any other conditions _____

The above harvester/s is/are authorised to take quantities of Kai-Moana, Kai-Awa and/or Kai-Roto, as approved in this authorisation, provided that they are only taken from the area specified and for the purpose notified. This authorisation is not transferable. It must be shown to any fishery officer on request. This Authorisation is valid only for the date specified.

Tangata Tiaki/Kaitiaki _____
(Print Name)

Address: _____

Phone no _____

Signature: _____ Date signed _____

The harvester must report his/her actual catches to the Tangata Tiaki/Kaitiaki within 5 working days of the harvesting date specified on this authorisation.

Revised 2008

Fisheries (South Island Customary Fishing) Regulations 1999

Guide - For Issuing an Authorisation to take for Customary Purposes

TE IKA-A-MATUA KAI-MOANA, KAI-AWA, KAI-ROTO

- 1) **For** - Record the name of the *marae/whanau/hapu/iwi* on whose behalf the Authorisation holder is receiving the authority.
- 2) **Authorisation Holder** - Record the name of the person you are issuing the authorisation to.
- 3) **Address** - Record address of Authorisation holder e.g. street address, suburb or town.
- 4) **Phone No** - Record here the Authorisation Holder's phone contact details (which may include home, work and mobile phone).
- 5) **Associated harvester** - Record all names of the people who will be involved in the harvesting or gathering of the kaimoana.
- 6) **Catch may be used at** - Record full address of the venue where the kaimoana is to be used. *i.e. with street address, suburb and town.*
- 7) **Purpose** - Give a full description of the purpose for which this "Customary Authorisation" is issued. *i.e. Hui, state the type of hui e.g. 50th Birthday, Wedding, Whanau Reunion, 21st, Christening; whanau sustenance; koha, tangihanga, hura kohatu.*
- 8) **Authorised Harvest and Conditions:** For each species record;
 - The **Date/dates** that the species is to be taken
 - The **Species** that is to be taken - please be specific
 - The **Size Limit:** **Lower**-record minimum size that may be taken
Upper-record maximum size that may be taken
 - The **Quantity** of each species that is to be taken - Be specific in relation to actual numbers or greenweight (weight of fish in its natural state recorded as kgs) NB: Quantity must be expressed as either number of fish or greenweight.
 - **Area** from which species is to be taken; name the specific area. *i.e. name of beach, bay, harbour*
 - The **Fishing Method** by which each species is to be taken e.g. set net (relevant mesh size), fishing lines, scuba or tanks, free diving (snorkel), long line, hand gathering. Please inform the Authorisation holder of the requirements for the marking of fishing gear, nets, longlines and floats must be marked with the fishers initials and surname. Plus; authorisation number is recommended.

- **Actual Quantity Gathered** once notified by the Authorisation Holder, record here the actual quantity gathered, on the 'pink copy'.
- **The harvester must report his/her actual quantity taken to the Tangata Tiaki/Kaitiaki within 5 working days of the harvesting date specified on this authorisation.**

NOTE: Cross out any lines not used, in this section of the form.

- 9) **Any other conditions** - record here any conditions you wish to impose on the gathering of kaimoana e.g. Scuba not allowed, NZ Rec Fishing Rules apply, Set Net and Rock Lobster pots (buoy/float must state fishers initials and surname, plus authorisation number, name and phone number is recommended).
- 10) **Tangata Tiaki/Kaitiaki** - Record your FULL details in all parts of the bottom panel. You must also sign and date the authorisation form prior to issue.

REMINDER:

- 1) When handing over the authorisation (permit), ensure that harvesters are aware of their responsibilities and obligations under these Regulations.
- 2) The authorisation must be carried and remain with the fish at all times. Form also must be shown to a Fishery Officer on request.
- 3) The harvesters **must** report back to you the "actual quantities taken" for each species. You should also encourage any other feedback pertaining to the state of the resource.
- 4) If unable to gather the kaimoana on the date specified then another authorisation will need to be issued.
- 5) If you make a mistake whilst filling out a Customary authorisation form, then cancel it and rewrite a new one. Remember – Altering a Customary Authorisation is an offence.
- 6) Please advise harvesters that penalties may include substantial fines, forfeiture of boat/vehicle and or fishing gear.

White Copy - Give to the Authorised Holder named on the form

Pink Copy - Keep this in the book until you are requested to send them in for data capture purposes

Yellow Copy - To be retained in the authorisation (permit) book

For any queries, contact your Local Fishery Officer, local MFish office, or freephone **0800 367 785**

Offences and Penalties

South Island Regulations

Taking of fish, aquatic life or seaweed without approval or authorisation prohibited. A person commits an offence against these regulations if the person takes fish, aquatic life or seaweed in circumstances to which these regulations apply, whether from a New Zealand fishing vessel or otherwise, unless -

- (a) Either -
 - (i) That person has been authorised and is in possession of an authorisation to take fish, aquatic life or seaweed and that authorisation has been granted by a Tangata Tiaki/Kaitiaki under regulation 11; or
 - (ii) That person has been authorised and is in possession of an authorisation to take fish, aquatic life or seaweed within the whole or any part of a mātaimai reserve for the purpose of sustaining the functions of a marae and that authorisation has been granted by a Tangata Tiaki/Kaitiaki under regulation 27; and
- (b) That taking is consistent with the authority granted under regulation 11 or regulation 27.

Possessing fish, aquatic life or seaweed taken without approval or authorisation prohibited. A person commits an offence against these regulations if the person is in possession of fish, aquatic life or seaweed in circumstances to which these regulations apply, unless -

- (a) Those fish, aquatic life or seaweed were taken under an authorisation to take fish, aquatic life or seaweed granted by a Tangata Tiaki/Kaitiaki under regulation 11, or
- (b) Those fish, aquatic life or seaweed were taken under an authorisation to take fish, aquatic life or seaweed granted by a Tangata Tiaki/Kaitiaki under regulation 27.

Defence available if unauthorised catch taken as inevitable consequence of lawful taking. A person charged with an offence of taking fish aquatic life or seaweed contrary to these regulations or to any authority given under these regulations has a defence to those proceedings if the person can show that -

- (a) The fish, aquatic life or seaweed were taken as an inevitable consequence of the lawful taking of other fish, aquatic life or seaweed; and
- (b) The defendant took reasonable precautions and exercised due diligence to avoid the contravention; and
- (c) The defendant advised the Tangata Tiaki/Kaitiaki as soon as practicable after the fish, aquatic life or seaweed were taken as an inevitable consequence of the lawful taking of other fish, aquatic life or seaweed; and
- (d) The defendant disposed of the fish, aquatic life or seaweed taken as an inevitable consequence of the lawful taking of other fish, aquatic life or seaweed in accordance with any direction from the Tangata Tiaki/Kaitiaki.

Altering authorisation an offence. A person commits an offence against these regulations if, otherwise than in accordance with these regulations, the person alters in any way any authorisation granted under these regulations.

Breach of bylaws an offence. A person commits an offence against these regulations if the person breaches any bylaw notified under regulation 26.

Penalties

1. A person who commits an offence against these regulations is liable to the appropriate penalty set out in this regulation.
2. On the first occasion on which the person is convicted of 1 or more offences, the person is liable in respect of that offence or each of those offences (as the case may be) to a fine not exceeding \$5,000.
3. On every subsequent occasion on which the person is convicted of 1 or more offences, the person is liable in respect of that offence or each of those offences (as the case may be) to a fine not exceeding \$10,000.

K Regulations (North Island)

Taking of fisheries resources without authorisation prohibited. A person commits an offence against these regulations if the person takes fish, aquatic life or seaweed in circumstances to which these regulations apply, whether from a New Zealand fishing vessel or otherwise, unless -

- (a) Either -
 - (i) That person has been authorised and is in possession of an authorisation to take fish, aquatic life or seaweed, which authorisation has been granted by a Tangata Kaitiaki/Tiaki under regulation 11; or
 - (ii) That person has been authorised and is in possession of an authorisation to take fish, aquatic life or seaweed within the whole or any part of a mātaimai reserve for the purpose of sustaining the functions of a marae, which authorisation has been granted by a Tangata Kaitiaki/Tiaki under regulation 30; and
- (b) That taking is consistent with the authority granted under regulation 11 or regulation 30.

Possessing fisheries resources taken without approval or authorisation prohibited. A person commits an offence against these regulations if the person is in possession of fish, aquatic life or seaweed in circumstances to which these regulations apply, unless -

- (a) Those fish, aquatic life or seaweed were taken under an authorisation to take fisheries resources granted by a Tangata Kaitiaki/Tiaki under Regulation 11, or
- (b) Those fish, aquatic life or seaweed were taken under an authorisation to take fisheries resources granted by a Tangata Kaitiaki/Tiaki under Regulation 30.

Altering authorisation an offence. A person commits an offence against these regulations if, otherwise than in accordance with these regulations, the person alters in any way any authorisation granted under these regulations.

Breach of bylaws an offence. A person commits an offence against these regulations if the person breaches any bylaw notified under Regulation 29.

Defence available if unauthorised catch taken as inevitable consequence. It is a defence in any proceedings where any person took fish, aquatic life or seaweed contrary to these regulations or to any authority given under these regulations, if the person can show that -

- (a) The fish, aquatic life or seaweed were taken as an inevitable consequence of the lawful taking of other fisheries resources; and
- (b) The defendant took reasonable precautions and exercised due diligence to avoid the contravention; and
- (c) The defendant advised the Tangata Kaitiaki/Tiaki in writing as soon as practicable after the fish, aquatic life or seaweed were taken as an inevitable consequence of the lawful taking of other fish, aquatic life or seaweed; and
- (d) The defendant disposed of the fish, aquatic life or seaweed taken as an inevitable consequence of the lawful taking of other fish, aquatic life or seaweed in accordance with any direction from the Tangata Kaitiaki/Tiaki.

Penalties. A person who commits an offence against these regulations is liable as follows:

- (a) On the first occasion on which the person is convicted of any such offence or more than 1 such offence, the person is liable in respect of that offence or (as the case may be) each of those offences, to a fine not exceeding \$5,000.
- (b) On every occasion, other than the occasion referred to in paragraph (a), on which the person is convicted of any such offence or more than 1 such offence, the person is liable in respect of that offence or (as the case may be) each of those offences, to a fine not exceeding \$10,000.



Ministry of
Fisheries
Te Tautiaki i nga tini a Tangaroa

Key Differences

Customary Fishing – Information Manual
Section Four



Key Differences; Amateur and Kaimoana Regulations

Key Difference

R27A Fisheries (Amateur Fishing) Regulations 1986	Customary Regulations
Applies to NZ fisheries waters	Applies to NZ fisheries waters and South Island fisheries waters
Provides a defence for amateur fishers	Enables Māori to manage traditional customary fishing areas i.e. by way of Mātaitai reserves, bylaws and authorisations
Authorisations only to be issued for tangi or hui	Authorisations may be issued for any customary food gathering purposes determined by TTK/TKT.
Authorisations must be in writing as per the form prescribed in the Customary Fishing Conditions Notice 2006	Allows verbal authorisations in some circumstances
May provide a defence to an amateur fisheries infringement offence.	None of the offences prescribed in the Kaimoana regulations are infringement offences
Authorisations can only be issued pursuant to R27A if a Tangata Kaitiaki/Tiaki has not been appointed for the area, pursuant to the Kaimoana Regs	

Key Similarities

- Provides that authorisations can be issued for customary purposes (albeit limited purposes under Regulation 27A)
- Authorisations can only be issued by an authorised person



Ministry of
Fisheries
Te Tautiaki i nga tini a Tangaroa

Pataka Concept - Kaimoana & South Island Regulations

Customary Fishing – Information Manual
Section Five



Purpose of Document

This section outlines the circumstances surrounding the use of commercial vessels to take non-commercial customary fish, the use of commercial and non-commercial premises to process and store non-commercial customary fish for later distribution of purposes designated by Tangata Tiaki/Tangata Kaitiaki.

The concept referred to in this section is generally referred to as a Pataka (storehouse) approach to distribution of non-commercial customary fish.

CUSTOMARY FISHING REGULATIONS

Fisheries (South Island Customary Fishing) Regulations 1999

These regulations allow for commercial fishers to be involved in non-commercial customary taking.

The relevant parts of the regulations are as follows:

Regulation 13

Commercial fishing and customary fishing on same trip –

- (1) Subclause (2) applies if, on any fishing trip, a person –
 - (a) Takes fish, aquatic life or seaweed for customary food gathering purposes under an authorisation granted by a Tangata Tiaki Kaitiaki; and
 - (b) Takes fish, aquatic life or seaweed for commercial purposes under a fishing permit issued under the Fisheries Act 1983 or the Fisheries Act 1999.
- (2) All fish, aquatic life or seaweed taken on that trip for customary food gathering purposes must be treated as having been taken otherwise than under these regulations unless they are placed in separate marked containers and are clearly identified as having been taken for customary food gathering purposes.

Regulation 28

Fishing from registered commercial vessels for customary food gathering purposes – No person may fish from any New Zealand fishing vessel in a mātaimai reserve for the purpose of sustaining the functions of a marae unless expressly authorised to do so by a Tangata Tiaki/Kaitiaki under regulation 27.

FISHERIES (KAIMOANA CUSTOMARY FISHING) REGULATIONS 1998

These regulations allow for commercial fishers to be involved in non-commercial customary taking.

Regulation 13

Commercial fishing and customary fishing on same trip – If, on any fishing trip, a person takes fish, aquatic life or seaweed for customary food gathering purposes under an authorisation under regulation 11 and also takes fish, aquatic life or seaweed for commercial purposes under a fishing permit issued under the Fisheries Act 1983 or the Fisheries Act 1996, all fish, aquatic life or seaweed taken on that trip for customary food gathering purposes must be treated as having been taken otherwise than under these regulations unless they are placed in separate, marked containers and are clearly identified as having been taken for customary food gathering purposes.

Regulation 31

Fishing from registered commercial vessel – No person may fish from any New Zealand fishing vessel in a mātaimai reserve for the purpose of sustaining the functions of a marae unless expressly authorised to do so by a Tangata Kaitiaki/Tiaki under regulation 30.

FISHERIES ACT 1996

Section 111. Fish on registered vessel deemed to have been taken for purpose of sale

- (1) For the purposes of this Act, all fish, aquatic life or seaweed that is on board or landed from, or transhipped from, any fishing vessel or fish carried registered under this Act is deemed to have been taken or possessed for the purpose of sale, unless –
 - (a) The taking or possession of the fish, aquatic life or seaweed was in accordance with a general or particular approval of the chief executive and with any conditions imposed on that approval; and
 - (b) The taking or possession occurred after the approval was given.
- ss. (1) substituted by S40 FA96 A Act 1999
- (2) Subsection (1) of this section does not apply if the fish, aquatic life or seaweed were lawfully taken under regulations made under section 186. This includes South Island and Kaimoana Regulations.

192. Restrictions on purchase or acquisition of fish by certain persons

- (1) No commercial fisher shall purchase, acquire, or be in the possession of any fish, aquatic life or seaweed for the purpose of sale, unless the fish, aquatic life or seaweed was –
- (a) Taken in that person's capacity as a commercial fisher; or
 - (b) Purchased or acquired by that person from a licensed fish receiver for use as bait in that person's commercial fishing activities.
- (2) No licensed fish receiver shall purchase or otherwise acquire or be in possession of any fish, aquatic life or seaweed for the purpose of sale, unless the fish, aquatic life or seaweed was –
- (a) Purchased or acquired for the purpose of sale from –
 - (i) A commercial fisher; or
 - (ii) Another licensed fish receiver; or
 - (iii) A fish farmer; or
 - (iv) The operator of a foreign fishing vessel, if the fish, aquatic life or seaweed was landed under the authority and in accordance with the conditions of a licence issued under section 83 of this Act; or
 - (v) The operator of a foreign vessel, if the fish, aquatic life or seaweed was landed and disposed of in accordance with the conditions of an approval granted under section 113 of this Act; or
 - (b) Lawfully taken by that person for the purpose of sale in the person's capacity as a commercial fisher, where that person has lawfully kept and completed all records, returns, and other documents required under this Act as if the commercial fisher and the licensed fish receiver had been separate persons; or
 - (c) Acquired or possessed by the licensed fish receiver otherwise than for the purpose of sale by the licensed fish receiver in accordance with subsection (7) of this section.
- (3) No fish farmer shall be in possession of any fish, aquatic life or seaweed for the purpose of sale, unless the fish, aquatic life or seaweed was –
- (a) Purchased or acquired from –
 - (i) Another fish farmer; or
 - (ii) A spat catching permit holder; or
 - (iii) A licensed fish receiver; or
 - (iv) The operator of a foreign fishing vessel, if the fish, aquatic life or
 - (b) Lawfully bred or cultivated by that fish farmer.
- (4) No spat catching permit holder shall be in possession of any fish, aquatic life or seaweed for the purpose of sale, unless the fish, aquatic life or seaweed was taken by that person in that person's capacity as a spat catching permit holder.
- (5) No person (other than a person who at the relevant time is acting in the person's capacity as a commercial fisher, licensed

- fish receiver, fish farmer, or spat catching permit holder) shall purchase, otherwise acquire, or be in possession of any fish, aquatic life or seaweed for the purpose of sale, unless the fish, aquatic life or seaweed was purchased or acquired from –
- (c) A commercial fisher in a transaction referred to in section 191(2) of this Act; or
 - (d) A licensed fish receiver; or
 - (e) A fish farmer.
- (6) Every person commits an offence and is liable to the penalty set out in section 252(3) of this Act who contravenes any provision of subsections (1) to (5) of this section.
- (7) For the purposes of section (2)(c) of this section, fish, aquatic life or seaweed is acquired or possessed by a licensed fish receiver in accordance with this subsection if the fish, aquatic life, or seaweed –
- (a) Is held by the licensed fish receiver for a person for storage or processing; and NOTE:
 - (b) Was taken by that person in accordance with any relevant amateur or Māori customary non-commercial fishing regulations made under this Act; and
 - (c) Is held by the licensed fish receiver with the approval in writing of the chief executive (which approval may be granted either generally or particularly) but was not so held before that approval was granted; and
 - (d) Is stored and processed in accordance with the conditions imposed by the chief executive (which conditions may relate to records and returns and such other conditions as the chief executive thinks fit to impose)
- (8) Subsection (5) of this section does not apply in respect of fish, aquatic life or seaweed if –
- (a) The fish, aquatic life or seaweed was lawfully purchased or acquired from an approved person; and

PURPOSE OF FISHING ACTIVITY

A commercial fisher who, pursuant to commercial authorities and authorisations (Permits and Quota), is carrying out the activity of commercial fishing, is "taking fish for the purpose of sale".

That same fish, sometime later either at landing or in a LFR premise is still fish "taken for the purpose of sale".

It is unlikely that the Courts would allow a subsequent change in status of that fish into recreational catch or customary catch once it has been taken and sorted on board the vessel.

On the other hand, if a commercial fisherman took fish for a customary purpose (whether also commercial fishing or not), then the status of that fish cannot be changed to “commercial fish for the purpose of sale”.

In summary, the purpose of taking of fish is established **at the time the fish is taken**.

The practice of replacing commercial fish later on with fish taken for non-commercial customary purpose (or vice versa), would not be consistent with the principles of the Fisheries Act.

COMPLIANCE ISSUES – QUESTIONS AND ANSWERS

1. Question: Can a commercial vessel be used to take non commercial Customary Fish?

Answer: Yes. A valid authorisation must be on board. Any fish taken will need to be identified as per Regulation 13 of the South Island and Kaimoana Regulations.

2. Question: Can a commercial fisher or other non-commercial fisher obtain payment for catching the fish?

Answer: No.

3. Question: When is the fish designated Commercial or non commercial customary?

Answer: When the fish is taken (generally this will be when the fish comes on board). A valid commercial operation and a valid non commercial customary authorisation will need to exist if fish is taken for both purposes.

4. Question: Who is responsible for the fish on board a vessel?

Answer: The skipper/master of the vessel (whether commercial or not) and all fishermen.

5. Question: What information is required on containers of non commercial fish on board a commercial vessel?

Answer: Regulations state “marked containers” “clearly identified as taken for customary food gathering purposes”. There is no definition to the exact nature of the wording. A reference to the authorisation and/or some detail (see suggested process) would be of assistance for Fishery Officers (including Honorary Fishery Officers).

6. Question: Once landed who is responsible for the non-commercial customary fish?

Answer: Those people in control/possession of the fish. (Note offences and penalties)

7. Question: Can non-commercial fish be stored for later use?

Answer: Yes if that is the purpose indicated on authorisation made pursuant to the South Island Kaimoana Regulations.

NOTE: Fish can only be stored on a venue or venues specific basis (i.e) for use at the venue or venues stated on the authorisations (see) Regulation 11(2).

8. Question: Can non-commercial fish be stored on commercial processing premises (LFR's)?

Answer: Yes. Section 192 of the Fisheries Act 1996 applies. The Chief Executive will need to approve/condition etc.

9. Question: Can a LFR/Processor charge for processing non commercial fish?

Answer: Yes. Any charges will need to be outside sale/barter trade or pecuniary gain. Usually charges relate to processing costs including packaging. There should be no association between charges made and the fish (i.e) payment in kind.

10. Question: Who is responsible for Health and Hygiene issues associated with the taking, storage and distribution of non-commercial fish?

Answer: The Fisheries Act and associated regulations allows for the taking, storage and distribution of the fish. Health and Hygiene issues are not enforced by MFish.

11. Question: Once fish is put into storage (Pataka) how can it be removed?

Answer: Legislation is silent on this issue. Once fish is legally taken and placed into the Pataka the scope of the South Island and Kaimoana regulations end. Fish taken out of the Pataka would then revert back to the “onus of proof” contained in the Fisheries Act. (i.e) Those in possession would need to prove that it was not taken contrary to the Act of regulations. It is suggested that Tangata Kaitiaki Tiaki's should “authorise” the removal of fish from storage using the authorisation associated with regulations 11 of the South Island and Kaimoana regulations. It is likely that this system would be specified by the Chief Executive as a condition of having non commercial customary fish on commercial (LFR) premises.

12. Question: Who is responsible for ensuring that non-commercial customary fish is not sold/bartered traded etc?

Answer: Those in possession of the fish. The South Island and Kaimoana regulations indicates that fish take is not for sale etc. Fish sold/traded etc contrary to the regulations will be outside of the regulations and subject to normal Fisheries Act/Regulatory sanctions, (Note this can include forfeiture and fines up to \$250,000).

13. Question: What species may be taken and held in store for distribution?

Answer: All species managed by MFish. Kaimoana Regulations.

NOTE: must be held for a specific venue or venues. See Question 7.

14. Question: Can non-commercial customary fish be held in holding pots?

Answer: Yes – The fish have been taken and therefore the “onus of proof” rests with those in possession of the fish. The holding pot is either a transitional situation or storage. In all cases the fish will need to be associated with a valid authorisation.

5. Fish delivered to venue(s) or held exclusive for the venue(s) (still labelled but also included – date processed – weight).
6. Fish held in storage still labelled as per vessel but now includes date processed, species and weight).
7. Specific amounts to be held in storage. Tangata Tiaki/Kaitiaki’s may wish to specify amounts that may be held.
8. Fish held in storage will be released to the venue or venues shown on the authorisation by authorisation from a Tangata Tiaki/Kaitiaki.
9. LFR will hold/maintain records as per specified by Chief Executive (as per Section 192(7) of the Fisheries Act 1996):
 - (a) LFR will maintain a perpetual inventory of fish held in storage
 - (b) Copy of original authorisation
 - (c) Copy of authorisation for removal
 - (d) Fish labelled with authority number, date taken, date processed, vessel used, authorising Kaitiaki.

SUGGESTED PROCESS USING PATAKA CONCEPT

- Using Commercial vessels and Commercial premises)
 - Pursuant to Customary Regulations (South Island and Kaimoana)
 - Fish taken in a manner which is consistent with local tikanga
 - Purpose of taking needs to be specified but is not restricted
 - Concept of storage for future use is well established on a customary basis. Storage facility does not have to be in any specific location but will need to be under control of the LFR.
- Process
1. Commercial vessel is issued with a valid authorisation from a Tangata Tiaki/Kaitiaki for the taking of non-commercial customary fish for:
 - (a) either a specific purpose or
 - (b) the purpose of placing fish into storage (pataka)
 2. Fish taken will be identified with:
 - (a) name of authorising Tangata Tiaki/Kaitiaki
 - (b) date taken
 - (c) vessel used
 - (d) destination – (i.e) Marae or LFR
 - (e) Customary authorisation number
 3. Fish delivered to venue or LFR.
 4. Fish processed/packed.



Ministry of
Fisheries
Te Tautiaki i nga tini a Tangaroa

Scenario

Customary Fishing – Information Manual



*Ko te moana e hara i te wai kau
No Tangaroa ke tena Marae
He maha ona hua e ora ai nga manu o te rangi
Me te iwi ke to whenua*

*The sea is not any water
It is the Marae of Tangaroa
It yields life for many things
The birds in the sky and the inhabitants upon the earth*

Is there a standard form for Customary Fishing authorisations?

YES. Whether the authorisation form is for;

- Regulation 27A of the Fisheries Amateur Fishing 1986 or;
- The Kaimoana Customary Fishing Regulations 1998 or;
- The South Island Customary Fishing Regulations 1999.

The pages of the authorisation book are treated in the same way.

- R27A - Any authorisation number starting with R27A relates to Regulation 27 of the Amateur Fishing Regulations.
- Kaimoana Regulations - Any authorisation number starting with a K is an Authorisation form for the Kaimoana Customary Fishing Regulations.
- South Island Regulations - Any authorisation number starting with SI is an Authorisation form for the South Island Customary Fishing Regulations.

The Examples shown below are Authorisation forms from Regulation 27A of the Amateur Fishing Regulations.

The white copy is given to the authorisation holder and must stay with the fish.

AUTHORISATION TO TAKE FISH, AQUATIC LIFE, OR SEAWEED FOR HUI OR TANGI
 Regulation 27A, Fisheries (Amateur Fishing) Regulations 1986
 * Authorisation No: **R27A 8704**
 This authorisation is issued to (name of holder):
 Address (or hotel):
 Signature of authorisation holder: Phone No:
 Residential business (name of address):
 Purpose of Hui/Tangi - Reason for fish:
 To be used at:
 Date of authorisation:
 Contact No:
AUTHORISED HARVEST AND CONDITIONS

Species	Maximum Quantity (number or grammage)	Date from which Species is to be taken	Place at which Species is to be taken	Actual Quantity taken (number or grammage)

Additional conditions for authorisation representative to complete:
 Note that for each species:
 * Fishing method for each species:
 * Maximum quantity taken to be notified to authorisation representative: 1 Day/1hr
NOTE: The above harvest limits are authorised to take quantities of fish or aquatic life or seaweed as approved in this authorisation provided that they are only taken from the area and for the purpose specified. This authorisation is not transferable. It must be carried at all times and be shown to any Fishery Officer on request. This authorisation is only valid for a 48 hour period, beginning from the date and time specified.
 Authorisation No: _____
 Signature: _____ Date: _____
 Signature: _____ Date: _____
 * Surface marks, tags or logs must be clearly marked with this authorisation number.
 † Please refer to the regulations.

The pink copy

- For distribution as appropriate
- e.g. To mandating authority/data capture.

AUTHORISATION TO TAKE FISH, AQUATIC LIFE, OR SEAWEED FOR HUI OR TANGI
 Regulation 27A, Fisheries (Amateur Fishing) Regulations 1986
 * Authorisation No: **R27A 8704**
 This authorisation is issued to (name of holder):
 Address (or hotel):
 Signature of authorisation holder: Phone No:
 Residential business (name of address):
 Purpose of Hui/Tangi - Reason for fish:
 To be used at:
 Date of authorisation:
 Contact No:
AUTHORISED HARVEST AND CONDITIONS

Species	Maximum Quantity (number or grammage)	Date from which Species is to be taken	Place at which Species is to be taken	Actual Quantity taken (number or grammage)

Additional conditions for authorisation representative to complete:
 Note that for each species:
 * Fishing method for each species:
 * Maximum quantity taken to be notified to authorisation representative: 1 Day/1hr
NOTE: The above harvest limits are authorised to take quantities of fish or aquatic life or seaweed as approved in this authorisation provided that they are only taken from the area and for the purpose specified. This authorisation is not transferable. It must be carried at all times and be shown to any Fishery Officer on request. This authorisation is only valid for a 48 hour period, beginning from the date and time specified.
 Authorisation No: _____
 Signature: _____ Date: _____
 Signature: _____ Date: _____
 * Surface marks, tags or logs must be clearly marked with this authorisation number.
 † Please refer to the regulations.

The yellow copy

- Retain in the book

AUTHORISATION TO TAKE FISH, AQUATIC LIFE, OR SEAWEED FOR HUI OR TANGI
 Regulation 27A, Fisheries (Amateur Fishing) Regulations 1986
 * Authorisation No: **R27A 8705**
 This authorisation is issued to (name of holder):
 Address (or hotel):
 Signature of authorisation holder: Phone No:
 Residential business (name of address):
 Purpose of Hui/Tangi - Reason for fish:
 To be used at:
 Date of authorisation:
 Contact No:
AUTHORISED HARVEST AND CONDITIONS

Species	Maximum Quantity (number or grammage)	Date from which Species is to be taken	Place at which Species is to be taken	Actual Quantity taken (number or grammage)

Additional conditions for authorisation representative to complete:
 Note that for each species:
 * Fishing method for each species:
 * Maximum quantity taken to be notified to authorisation representative: 1 Day/1hr
NOTE: The above harvest limits are authorised to take quantities of fish or aquatic life or seaweed as approved in this authorisation provided that they are only taken from the area and for the purpose specified. This authorisation is not transferable. It must be carried at all times and be shown to any Fishery Officer on request. This authorisation is only valid for a 48 hour period, beginning from the date and time specified.
 Authorisation No: _____
 Signature: _____ Date: _____
 Signature: _____ Date: _____
 * Surface marks, tags or logs must be clearly marked with this authorisation number.
 † Please refer to the regulations.

Scenario One. Regulation 27A:

It has been reported to MFish that there is a vehicle under a bridge and there are four people who appear to be taking “lots of eels”!

An inspection reveals; four people in the creek, who claim to have a Regulation 27A authorisation in the car.

In the car is a brown sack full of paua, which range in size between 80 – 100 mm. There is also scuba gear in the car.

- What are the issues / problems (if any)?

Points of consideration:

- Signature of holder – Not signed
- Associated harvesters – One crossed out, gaps in lines which could be misused.
- Whanaungatanga – Is this enough information to determine Hui?
- Phone numbers – Are they acceptable as they are?
- Quantity of paua – Is this a legal account of quantity?
- Tuna
- Town creek – Is this enough information? (Name of Creek)
- Under bridge – Is this specific enough? (which bridge?)
- Authoriser – No phone number/ signature or date signed.
- Is the named Authoriser, the person who filled out the form?
- How are you going to clarify and follow up?
- Do you need to discuss with anybody and if so who?
- Does anything need clarification? If so how will this be done?
- Rule a line through any empty lines.

COMMON ERRORS

AUTHORISATION TO TAKE FISH, AQUATIC LIFE, OR SEAWEED FOR HUI OR TANGI

Regulation 27A, Fisheries (Amateur Fishing) Regulations 1986

* Authorisation No: R27A 8701 *Scenario only*

This authorisation is issued to [name of holder]: Jack Griffiths

Address (of holder): 49A Olive Grove Whangarei

Signature of authorisation holder: _____ Phone No: 543389

Associated harvesters (name of all harvesters) Sarah Stone, Fred Goldsmith
Hannah Zopf

Purpose: Hui / Tangi - Reason for hui: Whangungatanga

to be used at 49A Olive Grove on 25.4.06 Contact No: 0275 43388

AUTHORISED HARVEST AND CONDITIONS				
Species	Maximum Quantity (number or greenweight)	Area from which Species is to be taken	Place at which Species is to be landed	Actual Quantity taken (number or greenweight)
Paua	1 brown sack	Hone chicken Island	boat ramp	
Tuna	15	Town creek	under bridge	

Optional conditions for authorised representative to complete.

Size limit for each species Each tuna over 1.5 kgs

Fishing method for each species Snorkel or free dive only.

Actual quantity taken to be notified to authorised representative: Yes / No

NOTE: The above harvester(s) is/are authorised to take quantities of fish or aquatic life or seaweed as approved in this authorisation, provided that they are only taken from the area and for the purpose specified. This authorisation is not transferable. It must be carried at all times and be shown to any Fishery Officer on request. This authorisation is only valid for a 48 hour period, beginning from the date and time specified.

Authorised By: Brian Jones (print name of authorised representative)

on behalf of: Olive Grove
† Marae Committee / Maori Committee / Runanga / Maori Trust Board

Address: 10 Wilkott St, Whangarei Phone No: _____

Signature: _____ Date signed: _____

Authorisation valid from (Date) 24.4.06 (Time) 12 noon.

* Surface floats, buoys or tags must be clearly marked with this authorisation number.
† Circle whichever is applicable.

ACCEPTABLE

AUTHORISATION TO TAKE FISH, AQUATIC LIFE, OR SEAWEED FOR HUI OR TANGI

Regulation 27A, Fisheries (Amateur Fishing) Regulations 1986

* Authorisation No: R27A 8703 *Scenario only*

This authorisation is issued to [name of holder]: Jack Griffiths

Address (of holder): 49A Olive Grove Whangarei

Signature of authorisation holder: J. Griffiths Phone No: 543389

Associated harvesters (name of all harvesters) Sarah Stone, Fred Goldsmith

Purpose: Hui / Tangi - Reason for hui: Family reunion, powhiri, whangungatanga

to be used at 49A Olive Grove on 25.4.06 Contact No: 0275 43388

AUTHORISED HARVEST AND CONDITIONS				
Species	Maximum Quantity (number or greenweight)	Area from which Species is to be taken	Place at which Species is to be landed	Actual Quantity taken (number or greenweight)
Paua	40	Hone chicken Island - rocks out from	Boat Ramp	
Tuna	15	Waioara Creek	under Main St bridge.	

Optional conditions for authorised representative to complete.

Size limit for each species Each Tuna over 1.5 kgs, Each paua 125mm or bigger.

Fishing method for each species Tuna; hand. Paua snorkel only.

Actual quantity taken to be notified to authorised representative: Yes / No

NOTE: The above harvester(s) is/are authorised to take quantities of fish or aquatic life or seaweed as approved in this authorisation, provided that they are only taken from the area and for the purpose specified. This authorisation is not transferable. It must be carried at all times and be shown to any Fishery Officer on request. This authorisation is only valid for a 48 hour period, beginning from the date and time specified.

Authorised By: Brian Jones (print name of authorised representative)

on behalf of: Olive Grove
† Marae Committee / Maori Committee / Runanga / Maori Trust Board

Address: 10 Wilkott St, Whangarei Phone No: 534 762

Signature: B. Jones. Date signed: _____

Authorisation valid from (Date) 24.4.06 (Time) 12 noon.

* Surface floats, buoys or tags must be clearly marked with this authorisation number.
† Circle whichever is applicable.

Kei te Tangata Whenua te mana motuhake hei tiaki i nga uri me nga taonga a Tangaroa kia kore ai e ngaro mo nga whakatupuranga e whai muri ana i a tatou

Here are the practices from times past for the collection of seafood otherwise known as the descendants of Tangaroa.

Also as sustenance for the people and to conserve the multitudes of Tangaroa.

Scenario Two. Kaimoana Regulations:

Police have stopped a vehicle at Rotorua and find two large 40 litre buckets, one full of a variety of fresh fin fish, the other full of pipi and mussels.

The vehicle is driven by Henry Mikaere and the only passenger is Mita Ruawai.

They produce an authorisation form.

- What are the issues / problems if any?

Points of consideration:

- Authorisation holder not with the fish.
- Gap in line address. Is this OK?
- Signature – not signed by holder. Is this OK?
- No phone number for holder.
- Associated harvesters – whanau and moko. Is this acceptable?
What is the potential risk?
- To be used at – Where in Taupo?
- Purpose – Hui. Be specific. Name the Hui.
- No date when to be fished.
- Species – name each species individually / separately.
- Size limit – give the measurements.
- Quantity – number of fish or weight in kgs.
- Area – Where in the harbour.
- Any other conditions – either write nil or specify. e.g. No scuba.
- Fill out bottom of form with your full details each time.
- Rule a line through any empty lines.

COMMON ERRORS

**TE IKA-A-MATUA
KAIMOANA**

Authorisation to take for customary purposes
Scenario only:

Authorisation No:
K 30451

For Romai marae/whanau/hapu/iwi

Authorisation Holder Tony Kairua

Address 42 Haere mai Road

Signature _____ Phone No _____

Associated Harvesters Janine Smythe, Jania Hereford
John Heremia & Whanau & Moko

To be used at Taupo Purpose Hui

AUTHORISED HARVEST AND CONDITIONS						
Date when species to be taken	Species	Size Limit	Quantity (number or greenweight)	Area from which the species is to be taken	Method	Actual quantity gathered
	<u>Mixed (bait)</u>	<u>legal</u>	<u>2x buckets</u>	<u>Harbour</u>	<u>hand</u>	

Any other conditions _____

The above harvester/s is/are authorised to take quantities of kaimoana, as approved in this authorisation, provided that they are only taken from the area specified and for the purpose notified. This authorisation is not transferable. It must be shown to any Fishery Officer on request. This Authorisation is valid only for the date specified, but may be renewed if you contact the Tangata Kaitiaki/Tiaki.

Tangata Kaitiaki/Tiaki Kororia Griffiths (Print Name)

Address: 12 Waipatu Rd

Phone No _____

Signature: _____ Date Signed _____

ACCEPTABLE

**TE IKA-A-MATUA
KAIMOANA**

Authorisation to take for customary purposes
Scenario only

Authorisation No:
K 30453

For Romai marae/whanau/hapu/iwi

Authorisation Holder Tony Kairua

Address 42 Haere mai Road

Tauranga Signature J. Kairua Phone No 531 4598

Associated Harvesters Janine Smythe, Jania Hereford,
John Heremia

To be used at Lakeside Marae on 6.5.06. Purpose 21st - Ra Whanau
Kuia Kaimoana; Powhiri

AUTHORISED HARVEST AND CONDITIONS						
Date when species to be taken	Species	Size Limit	Quantity (number or greenweight)	Area from which the species is to be taken	Method	Actual quantity gathered
<u>Between 28-4-06 up until 6-5-06</u>	<u>Snapper</u>	<u>29cm</u>	<u>30 fish</u>	<u>Inner Harbour line</u>		
	<u>Red Cod</u>	<u>30cm</u>	<u>20 "</u>			
	<u>Sandflounder</u>	<u>30cm</u>	<u>40 "</u>			

Any other conditions Fishing to occur prior to 6.5.06.
Henry Mikaere will transport fish to Taupo.

The above harvester/s is/are authorised to take quantities of kaimoana, as approved in this authorisation, provided that they are only taken from the area specified and for the purpose notified. This authorisation is not transferable. It must be shown to any Fishery Officer on request. This Authorisation is valid only for the date specified, but may be renewed if you contact the Tangata Kaitiaki/Tiaki.

Tangata Kaitiaki/Tiaki Kororia Griffiths (Print Name)

Address: 12 Waipatu Rd, Tauranga

Phone No 0274 395 851

Signature: JK Griffiths Date Signed 27-4-06

Kei konei nga tikanga tuku iho hei koha mātaaitai otira nga uri a Tangaroa hei whangai i te iwi, hei tiaki hoki i te tini a Tangaroa.

Tangata Whenua have the means to protect the Treasures of Tangaroa so they will not be lost to future generations.

Scenario Three. South Island Regulations:

It has been reported that fishing is occurring using a commercial vessel in a gazetted South Island Mātaaitai.

MFish have approached the vessel on docking.

There is a lot of fish onboard including paua, which is a prohibited species and subject to a Mātaaitai bylaw.

The skipper/authorisation holder, presents an authorisation form.

On the form the destination of the fish appears to be a private address.

- What are the issues / problems if any?

Points of consideration:

- Regulation 27
- Sustaining the functions of the marae and private address.
 - Use of commercial vessel for customary fishing in a Mātaaitai.
 - Can Scuba be carried on a commercial vessel
 - Rule a ine through any empty lines.

COMMON ERRORS

AUTHORISATION TO TAKE FOR CUSTOMARY PURPOSES

**TE IKA-A-MATUA
KAIMOANA, KAI-AWA, KAI-ROTO**

Authorisation No:
SI

For Reid marae/whanau/hapu/iwi _____

Authorisation holder N. Reid

Address 14 School Rd

Phone no 03/476839

Associated harvesters (optional) _____

Catch may be used at 14 School Rd Purpose Hei

AUTHORISED HARVEST AND CONDITIONS							
Date when species to be taken	Species	Size Limit		Quantity (number or greenweight)	Area from which the species to be taken	Method	Actual quantity gathered
		Lower	Upper				
23-6-06	Paua	150		100	Mataitai		
"	Crayfish	Legal		100	"		
"	Kina			100	"		
"	Blue Cod			4 BINS	"		

Any other conditions _____

The above harvester/s is/are authorised to take quantities of Kai-Moana, Kai-Awa and/or Kai-Roto, as approved in this authorisation, provided that they are only taken from the area specified and for the purpose notified. This authorisation is not transferable. It must be shown to any fishery officer on request. This Authorisation is valid only for the date specified.

Tangata Tiaki/Kaitiaki Bill Smith (Print Name)

Address: 76 Ferguson St.

Phone no _____

Signature: _____ Date signed _____

The harvester must report his/her actual catches to the Tangata Tiaki/Kaitiaki within 5 working days of the harvesting date specified on this authorisation.

ACCEPTABLE

AUTHORISATION TO TAKE FOR CUSTOMARY PURPOSES

**TE IKA-A-MATUA
KAIMOANA, KAI-AWA, KAI-ROTO**

Authorisation No:
SI

For Je Rakiura marae/whanau/hapu/iwi _____

Authorisation holder Nigel Reid

Address 14 School Road

Invercargill Phone no 03/476839

Associated harvesters (optional) Crew of vessel 1072

Phil Jones, Rangai Smith, Wiremu Williams

Catch may be used at 15 Wakefield Ave, Invercargill Purpose Hikirumu whanau reunion

AUTHORISED HARVEST AND CONDITIONS							
Date when species to be taken	Species	Size Limit		Quantity (number or greenweight)	Area from which the species to be taken	Method	Actual quantity gathered
		Lower	Upper				
23-6-06	Paua	90mm	125mm	100	Mataitai	Snorkel	
23-6-06	Crayfish						
	Female	57mm	60mm	50	Mataitai	Scuba	
	Male	51mm	54mm	50	Mataitai	Scuba	
23-6-06	Kina	N/A		100	Mataitai	Scuba	
23-6-06	Blue Cod	30cm	33cm	200	Mataitai	Pots	

Any other conditions Registered vessel 1072, skipper Joe Daly. Species will be taken from Wakekepi Mataitai. Keep customary catch separate from commercial catch & it must be labelled customary.

The above harvester/s is/are authorised to take quantities of Kai-Moana, Kai-Awa and/or Kai-Roto, as approved in this authorisation, provided that they are only taken from the area specified and for the purpose notified. This authorisation is not transferable. It must be shown to any fishery officer on request. This Authorisation is valid only for the date specified.

Tangata Tiaki/Kaitiaki James Je Miti (Print Name)

Address: 48 Waioa Drive, Invercargill

Phone no 021 784 321

Signature: J. Je Miti Date signed 20-6-06

The harvester must report his/her actual catches to the Tangata Tiaki/Kaitiaki within 5 working days of the harvesting date specified on this authorisation.

Toi tu te marae a Tane

Toi tu te marae o Tangaroa

Toi tu te iwi

Whatungarongaro he tangata

Toi tu te Whenua

Toi tu te moana

Toi tu te mana

Whilst the domains of Tane

and Tangaroa still remain

Then so too will people

Although people may disappear from this world

Whilst the land and sea still remains

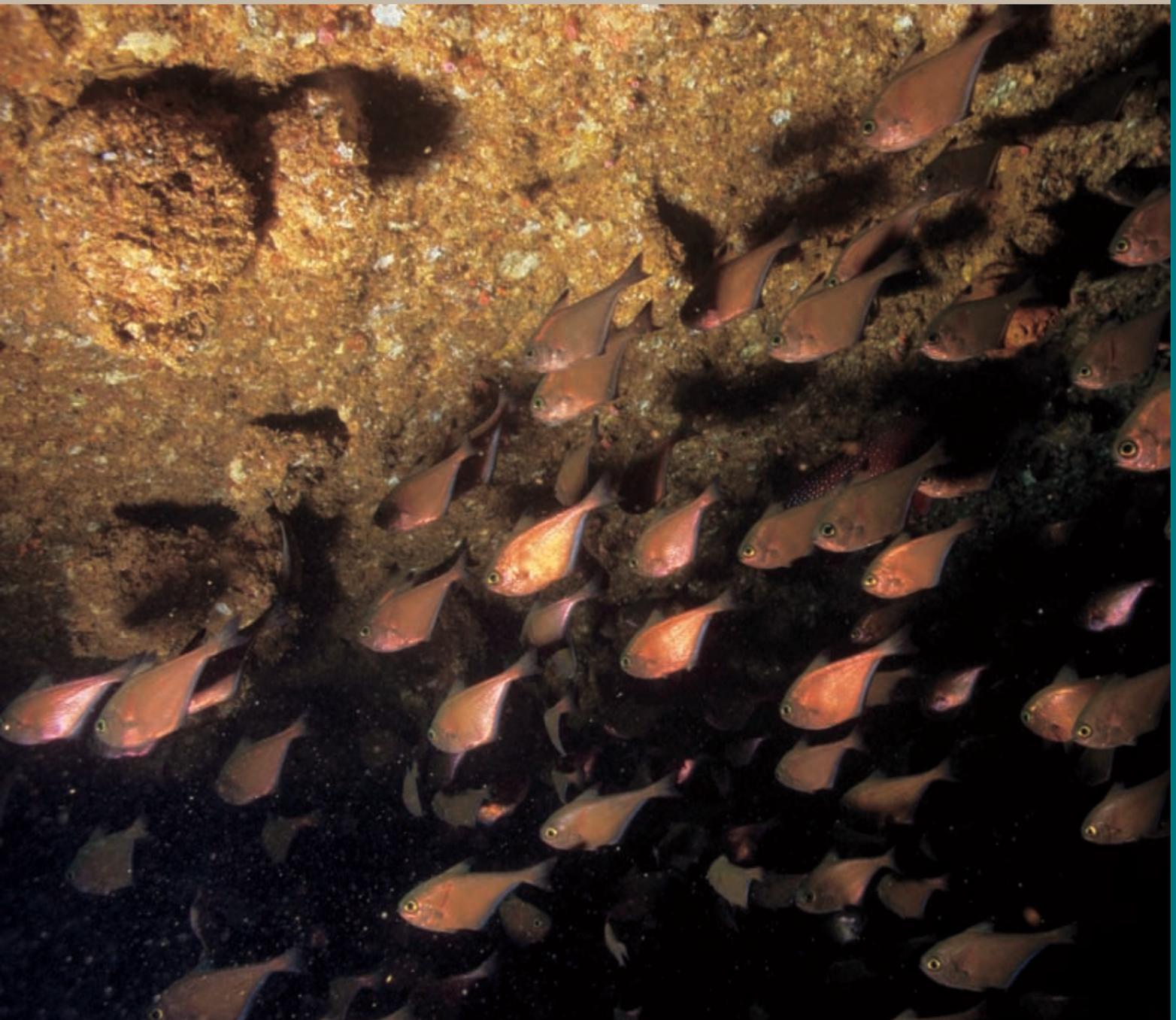
So too will their mana



Ministry of
Fisheries
Te Tautiaki i nga tini a Tangaroa

Glossary

Customary Fishing – Information Manual



Kahawai



Haku
KINGFISH



Kohekohe
TRUMPETER



Arara
TREVALLY



Tarakihi

moki

BLUE MOKI



Tamure
SNAPPER



Hapuku
BASS/GROPER

Kuparu

JOHN DORY



Kutai
MUSSELS (GREEN)



Nanau
RED MOKI

Pava
(BLACKFOOT)



Tio Repe
OYSTERS



Koeaea
BUTTERFISH



Hoka
RED COD



Rawaru
BLUE COD



Koura
ROCK LOBSTER



Tuangi
COCKLES



Pipi



Kumukumu
RED GURNARD



Pohui Akaroa
SEA PERCH



Patiki
FLOUNDER



Tupa
SCALLOP



Glossary of Common Maori Words

Hapu, sub-tribe

Hui, meeting, gathering

Iwi, tribe

Ika, fish

Kaimoana, seafood

Kaitiaki, guardian/caretaker

Kaitiakitanga, the exercise of guardianship in accordance with tikanga Māori

Kete, basket

Mahinga kai, activity and places of food gathering

Mahinga mātaitai, a place where food is gathered

Manaakitanga, looking after ones neighbours. The principle of manaakitanga is a major part of customary practice Manamoana, customary authority by iwi, hapu or whanau over an area of the sea

Mana Tangata, people having customary ties with an identified area

Mana tuku iho, custom handed down, forever, everlasting

Manawhenua, customary authority by iwi, hapu or whanau over an identified area of land

Māori, a person of the Māori race of New Zealand, and includes a descendant of any such person

Marae, area in front of a meeting house. Also the entire compound containing the meeting house, associated buildings and grounds

Mātaitai reserve, an identified traditional fishing ground established as a mātaitai reserve pursuant to the Kaimoana Customary Fishing Regulations. These reserves provide a tool for Tangata Whenua to manage all non-commercial fishing in some of their traditional fishing grounds

Mokopuna, grandchildren

Rahui, a traditional Māori ban on fishing activity – may apply specifically or generally

Rohe, tribal territory

Rohe moana, tribal territory at sea

Runanga, assembly, council

Taiapure, estuarine or littoral coastal fishing areas of special significance to iwi can be set up as Taiapure under the Fisheries Act 1996. Provides for management committee nominated by Tangata Whenua to propose regulations for management of all fishing within those areas

Taonga, treasures, refers to all dimensions of a tribal group's estate, material and non material – heirlooms and sacred places, ancestral lore and whakapapa (genealogies), natural resources

Tangaroa, God of the sea

Tangi, to cry, to mourn

Tangihanga, funeral

Tangata Kaitiaki/Tiaki, local guardian, Tangata Kaitiaki/Tiaki are individuals or groups appointed under the Kaimoana Customary Fishing Regulations who will authorise the taking of fish for customary food gathering purposes in a designated area.

Tangata Tiaki/Kaitiaki, same as above except appointed under the South Island Customary Fishing Regulations

Tangata Whenua, local people, in relation to a particular area, means the whanau, hapu, or iwi, being Māori, that hold manawhenua manamoana over that area

Tauranga ika, fishing ground

Te Kawanatanga katoa, all government

Te Reo Māori, Māori language

Te Tautiaki i nga tini a Tangaroa, The Guardian of the multitudes of Tangaroa

Tino Rangatiranga, chieftainship, sovereignty

Te Tiriti o Waitangi, Treaty of Waitangi

Tikanga, custom, the right way of doing things

Tipuna/Tupuna, ancestor. The customary fishing rights we now have reflect the traditions practised by our tupuna.

Wahi tapu, sacred site

Waka, canoe

Whanau, family

Wharekai, eating house

Whareniui, main marae building used for hui and sleeping

Glossary of Terms

Amateur fishing regulations, The regulations that specify the rules that apply to amateur (non commercial) fishing in different parts of the country.

Bag limit (legal daily limit), The amount of fish that amateur (non-commercial) fishers are legally entitled to take on any one day for particular species as specified in the amateur fishing regulations.

Biological diversity (biodiversity), Biological diversity describes the variety of all biological life – plants, animals, fungi, and micro-organisms – the genes they contain and the ecosystems on land or in the water where they live. It is the diversity of life on earth.

Cabinet, Is the group of ministers that takes collective responsibility for Government decisions

Commercial Fishing, Fishing undertaken to make a profit. The fisher must hold a fishing permit issued under the Fisheries Act.

Contestable research, A research funding process where projects are developed, and research providers bid to do a particular project. Includes the majority of research that MFish funds.

Crown, The Crown comprises the Government (the executive), the Parliament (the legislature) and the Judiciary (the courts).

Customary fishing, Fishing undertaken by Tangata Whenua under the Customary Fishing Regulations to provide for traditional, and marae functions.

Customary fishing regulations, Either the Fisheries (Kaimoana Customary Fishing) Regulations 1998, the Fisheries (South Island Customary Fishing) Regulations 1999, or Regulation 27 or the Amateur Fishing Regulations.

Deed of Settlement, The agreement signed between Māori and the Crown to settle Māori fishing claims, and legislated for in the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.

Fisheries Act, Fisheries Act 1996 and amendments. An Act which provides for the use of fisheries resources while ensuring sustainability.

Fishstock, Means any fish, or shellfish of one or more species that are grouped together as a unity for fisheries management purposes.

Honorary Fisheries Officer (HFO), Volunteers holding a warrant under the Fisheries Act 1996 to carry out monitoring and enforcement activities for non-commercial fishing.

Individual Transferable Quota (ITQ, quota), A perpetual, tradable property right within the quota management system. The right is to catch a quantity of a fishstock in a specified area. ITQ generate an annual right to a share of the total allowable commercial catch.

Localised depletion, Is where fisheries resources in a particular area may be depleted from concentrated fishing or environmental factors.

Maximum sustainable yield (MSY), The greatest yield that can be taken from a fishstock over time while ensuring sustainability.

Minister of Fisheries, Is the government Minister who has responsibility for fisheries.

Ministry of Fisheries (MFish), Is the government department that is responsible for the administration of the Fisheries Act. Also provides advice to the Minister of Fisheries, and implements decisions the Minister makes.

Non-contestable research, A Research funding process where broad ideas for research are developed, then research providers develop their own project which are submitted to MFish. Includes Traditional and Customary Research.

Quota, See 'Individual Transferable Quota'.

Quota Management System (QMS), A system based on individual transferable property rights (ITQ), the primary mechanism used to manage New Zealand commercial fisheries.

Recreational Fishing, Takes place under the Amateur Fishing Regulations. Recreational fishing is primarily for pleasure or/and food, the catch is usually kept for personal consumption and can't be sold or traded.

Settlement Act, See Deed of Settlement.

Stakeholders, Is a term used to include groups who have an interest in fisheries, including Māori, commercial, recreational, and environmental interests.

Sustainability, The capacity of fisheries resources to meet reasonably foreseeable needs of future generations.

Tangata Whenua, The whanau, hapu, or iwi that hold manawhenua/ manamoana over an area.

Total Allowable Catch (TAC), The sustainable amount of fish that the Minister of Fisheries allows to be harvested from a particular fishstock in any one year.

Total Allowable Commercial Catch (TACC), The amount of the Total Allowable Catch which may be taken from a particular fishstock in any one year by the commercial fisheries sector.

Yield, The amount of fish that can be harvested in a sustainable manner year after year. Total allowable catches are usually set to achieve the maximum sustainable yield (MSY)



Ministry of
Fisheries
Te Tautiaki i nga tini a Tangaroa

Contacts

Customary Fishing – Information Manual



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Phone: (09) 820 1990
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Blenheim Office

PO Box 1007, Blenheim
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Main Road, Blenheim
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Fax: (03) 579 5208

Chatham Islands Office

PO Box 72, Waitangi
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Fax: (03) 305 0411

Christchurch Office

PO Box 8324, Christchurch
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Christchurch, 8440
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Whangarei Office

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Whitianga Office

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Poaching Hotline

To report poaching activities
National: 0800 4 POACHER - (0800 4 76224)

Customary Fisheries Inquiries

Kaitiaki appointment or Mataitai applications
North: 0800 626 313
Central: 0800 313 626
South: (03) 474 0333

Pou Hononga

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Customary Relationship Manager

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Natasha Clarke – 027 215 7882

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NORTHERN INSHORE

Stacey Whitiora - 027 209 8645

Ph: 09 820 7672

Auckland

Pou Hononga - the Kahui Pou Hononga are Regionally based and are key in the development of relationships between Tangata Whenua and the Ministry of Fisheries. The team is critical in the implementation of both the Kaimoana and Customary Fishing Regulations.

Pou Takawaenga - the Extension Services Team started at MFish in May 2005. The Team is available to assist the Kaitiaki - Tangata tiaki to achieve their fisheries management objectives.

