

# FISHERIES ACT 1996

## PART 4 - QUOTA MANAGEMENT SYSTEM

### Declaration of quota management system

#### 23. Effect of increase in total allowable commercial catch—

(1) If the total allowable commercial catch for any stock has been increased under section 20 of this Act and any person (in this section called an eligible person) holds preferential allocation rights for that stock, the chief executive shall deduct from every person owning quota for that stock as at the date the increase takes effect the number of quota shares calculated in accordance with the following formula:

where—

- (a) is the number of quota shares for the stock owned by any person immediately before the increase in the total allowable commercial catch takes effect; and
- (b) is the total allowable commercial catch for the stock (in kilogrammes) applying immediately before the increase takes effect; and
- (c) is the lesser of—
  - (a) The amount of the increase in the total allowable commercial catch for the stock (in kilogrammes);
  - (b) The total of all preferential allocation rights for the stock (in kilogrammes); and
- (d) is the number of quota shares to be deducted from each person's holdings and transferred to the Crown in accordance with this section.

(2) Immediately after deducting quota shares under subsection (1) of this section, the chief executive shall transfer to each eligible person a number of quota shares which shall be calculated in accordance with the following formula:

where—

- (a) is the eligible person's current preferential allocation rights for the stock (in kilogrammes); and
- (b) is the total of all preferential allocation rights for the stock (in kilogrammes); and
- (c) is the lesser of—
  - (a) The amount of the increase in the total allowable commercial catch for the stock (in kilogrammes);
  - (b) The total of all preferential allocation rights for the stock (in kilogrammes); and
- (d) is the total allowable commercial catch for the stock (in kilogrammes) applying immediately before the increase takes effect; and
- (e) is the number of quota shares to be transferred from the Crown to the eligible person in accordance with this section.

(3) Every person who was, immediately before the commencement of this section, entitled to quota under section 28OE(1)(a) of the Fisheries Act 1983 is entitled to a preferential allocation right equivalent to the amount (in kilogrammes) of the reduction in that person's provisional maximum

individual transferable quota for the stock under section 28N of that Act less the amount (in kilogrammes) of any quota allocated to that person under section 28OE(1)(a) of that Act, but that preferential allocation right (which entitles the holder to receive quota shares under subsection (2) of this section)—

(a) Shall have effect only while that person continues to [be registered on the Quota Register as the owner of shares for that stock, and those shares have been continuously owned] by that person since the commencement of this section; and

(b) Is personal to the eligible person who holds the right and is not transferable in any circumstances.

[(4) The amount of an eligible person's preferential allocation right must be reduced in accordance with the following formula:

where—

(a) is the eligible person's current preferential allocation right for the stock (in kilogrammes)

(b) is the total of all preferential allocation rights for the stock (in kilogrammes)

(c) is the lesser of—

(a) the amount of the increase in the total allowable commercial catch for the stock (in kilogrammes):

(b) the total of all preferential allocation rights for the stock (in kilogrammes)

(d) is the amount of the reduction in the eligible person's preferential allocation right (in kilogrammes).]

[(4A) An eligible person's preferential allocation right expires if the amount of that right equals zero.]

[(4B) An eligible person is not entitled to receive, in the aggregate under subsection (2), quota shares whose quota weight equivalent (calculated at the time of transfer of the relevant shares to the eligible person) exceeds the amount of preferential allocation right held by that person on the commencement of this section or on the date of allocation of quota to that person under section 337, as the case may be.]

(5) If the total allowable commercial catch for any stock is increased but there are no eligible persons in relation to that stock, no deductions or transfers of quota shall be made under this section.

(6) The chief executive shall, as soon as practicable after any increase in the total allowable commercial catch for any stock takes effect, cause every quota owner affected by the increase to be notified of—

(a) The increased total allowable commercial catch; and

(b) Any consequential change in the number of the quota shares for that stock owned by that person; and

(c) The quota weight equivalent of 1 quota share of the increased total allowable commercial catch.

(7)The chief executive shall, as soon as practicable after any reduction in a person's preferential allocation right takes effect, notify the Registrar of Quota for any stock of any quota transfer necessary to give effect to the reduction.

Cf 1983 No 14 s 28OE(1)(a), (5); 1990 No 29 s 15