

Fisheries Act 1996 (Reprint as at 3 December 2004) 029

3: Sustainability measures

13 Total allowable catch

1. Subject to this section, the Minister shall, by notice in the Gazette, set in respect of the quota management area relating to each quota management stock a total allowable catch for that stock, and that total allowable catch shall continue to apply in each fishing year for that stock unless varied under this section, or until an alteration of the quota management area for that stock takes effect in accordance with sections 25 and 26.
2. The Minister shall set a total allowable catch that---
 - a. maintains the stock at or above a level that can produce the maximum sustainable yield, having regard to the interdependence of stocks; or
 - b. enables the level of any stock whose current level is below that which can produce the maximum sustainable yield to be altered---
 - i. in a way and at a rate that will result in the stock being restored to or above a level that can produce the maximum sustainable yield, having regard to the interdependence of stocks; and
 - ii. within a period appropriate to the stock, having regard to the biological characteristics of the stock and any environmental conditions affecting the stock; or
 - c. enables the level of any stock whose current level is above that which can produce the maximum sustainable yield to be altered in a way and at a rate that will result in the stock moving towards or above a level that can produce the maximum sustainable yield, having regard to the interdependence of stocks.
3. In considering the way in which and rate at which a stock is moved towards or above a level that can produce maximum sustainable yield under paragraph (b) or paragraph (c) of subsection (2), the Minister shall have regard to such social, cultural, and economic factors as he or she considers relevant.
4. The Minister may from time to time, by notice in the Gazette, vary any total allowable catch set for any quota management stock under this section by increasing or reducing the total allowable catch. When considering any variation, the Minister is to have regard to the matters specified in subsections (2) and (3).
5. Without limiting subsection (1) or subsection (4), the Minister may set or vary any total allowable catch at, or to, zero.
6. Except as provided in subsection (7), every setting or variation of a total allowable catch shall have effect on and from the first day of the next fishing year for the stock concerned.

7. After considering information about the abundance during the current fishing year of any stock listed in Schedule 2, and after having regard to the matters specified in subsections (2) and (3), the Minister may, by notice in the Gazette, increase the total allowable catch for the stock with effect from such date in the fishing year in which the notice is published as may be stated in the notice.
8. If a total allowable catch for any stock has been increased during any fishing year under subsection (7), the total allowable catch for that stock shall, at the close of that fishing year, revert to the total allowable catch that applied to that stock at the beginning of that fishing year; but this subsection does not prevent a variation under subsection (4) of the total allowable catch that applied at the beginning of that fishing year.
9. The Governor-General may from time to time, by Order in Council, omit the name of any stock from Schedule 2 or add to that schedule the name of any stock whose abundance is highly variable from year to year.
10. Subsection (1) does not require the Minister to set an initial total allowable catch for any quota management area and stock unless the Minister also proposes to set or vary a total allowable commercial catch for that area and stock under section 20.

Compare: 1983 No 14 ss 28C, 28D, 28OB-28OE; 1986 No 34 s 10; 1990 No 29 s 5(1); 1992 No 90 s 4; 1992 No 121 s 24(1)

Section 13: brought into force, on 1 October 1996, by clause 2 of the Fisheries Act Commencement Order (No 2) 1996 (SR 1996/255).

Section 13(1): words added, on 23 June 1998, by section 4(1) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 13(2)(b): substituted, on 23 June 1998, by section 4(2) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 13(4): words added, on 23 June 1998, by section 4(3) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 13(7): words inserted, on 23 June 1998, by section 4(4) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 13(8): expression substituted, on 23 June 1998, by section 4(5) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).

Section 13(10): added, on 23 June 1998, by section 4(6) of the Fisheries (Remedial Issues) Amendment Act 1998 (1998 No 67).