

---

## Seafood: When is it Primary Processing or Just a "Fish Shop"?

### Animal Products Act

Last updated March 2009

The Animal Products Act (APA) 1999, section 13, requires all primary processors of animal material to operate under a Risk Management Programme (RMP).

However, the Animal Products (Exemptions and Inclusions) Order 2000 exempts some operators from this requirement – see below for exemption details.

### **What is Primary Processing?**

The primary processing of fish on land occurs at a place where:

- a. the first methodical assessment of the fish for processing is made; and
- b. the fish are processed.

The following operations are included in primary processing:

- a. the deheading, gutting, or filleting of finfish;
- b. the tubing of squid;
- c. the wet-storage, depuration, or shucking of shellfish;
- d. the removing of roe from kina;
- e. the holding of live crustaceans (otherwise than in a marine farming operation), or tailing crustaceans;
- f. in relation to fish to be sold whole or after processing at sea, any steps (including washing, chilling, freezing, or packing) taken to ensure delivery of the fish to a buyer in good condition.

See clause 7 of the Animal Products (Definition of Primary Processor) Notice 2000.

---

## Operators Exempt from RMP Requirements

### Fish Retailers

If you are a fish retailer and you primary process the fish that you sell, you can operate under the Food Act 1981 under either:

- a Food Safety Programme; or
- the Food Hygiene Regulations 1974.

To qualify for the exemption you must sell all of your fish by retail on the New Zealand market. You must not export any fish.

### Fish Wholesalers/Retailers

If you primary process fish and sell that fish by both wholesale and retail on the New Zealand market you can operate under a Food Safety Programme. You must not export any fish.

## Legal Provision for Exemptions

Clause 10 of the Animal Products (Exemptions and Inclusions) Order 2000 "Exemption from requirement to have risk management programme for fish on retail premises" states:

*(1) A person who, from any premises, sells fish by way of retail sale only is exempt from the requirement to have a risk management programme for fish at those premises if no fish from those premises are exported.*

*(2) A person, who, from any premises, sells fish by way of both retail and wholesale sale is exempt from the requirement to have a risk management programme in respect of all the fish at those premises if –*

- a. no fish from those premises are exported; and*
- b. the premises are covered by a food safety programme under the Food Act 1981.*

## Explanatory Notes

1. In the case of 10 (1) above, if you sell fish by retail **only** on the New Zealand market you can choose to operate under either the Food Hygiene Regulations; **or** a food safety programme; **or** an RMP.

Retail **only** fish sale businesses do not need a registered RMP or even a food safety programme, as long as they operate under the Food Hygiene Regulations.

Seafood: When is it Primary Processing or Just a  
"Fish Shop"?

---

2. In the case of 10 (2) above, if you sell fish by way of both retail and wholesale you must operate under either a food safety programme or an RMP. You should note that the food safety programme option holds only if the retail and wholesale sale takes place from the same premises and if no fish is exported.
  
3. If you sell fish by wholesale only, even if no fish is exported, you must operate under an RMP. There is no other option for this type of business.

**Disclaimer:**

*This publication is not a legal interpretation of the Animal Products Act or the Animal Products (Ancillary and Transitional Provisions) Act and is intended only as a guide.*