



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

FISHERIES ACT

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For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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FISHERIES ACT

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FISHERIES ACT

CHAPTER F-13.01

1. Definitions

In this Act

- (a) “**aquaculture**” means the culture and husbandry of aquatic flora or fauna;
- (b) “**aquaculturist**” means a person engaged in aquaculture for gain;
- (c) “**buyer**” means a person who, for the purpose of resale or processing by him or her, purchases fish from a fisher or aquaculturist or from any other person on behalf of a fisher or aquaculturist;
- (d) “**fish**” means any fish including molluscs and crustaceans, marine mammals and marine plants, and any parts, products or by-products thereof;
- (e) “**fisher**” means a marine fisher engaged in fishing for gain and holding a fishing license or permit;
- (f) “**fishing**” means the harvesting, gathering or collecting of marine flora or fauna from their natural environment;
- (f.1) “**lease**” means a bottom culture lease granted to an aquaculturist in accordance with an agreement entered into by His Majesty’s Government of the Dominion and His Majesty’s Government of the Province of Prince Edward Island dated February 27, 1928;
- (g) “**license**” means a license issued under the regulations;
- (h) “**fishery**” means the marine industry based on natural products of the sea, products resulting from enhancement in their natural environment and products produced through aquaculture;
- (i) “**marketing**” means all business activity involved in the moving of fish from the producer to the consumer, including advertising, promotion, packaging, selling and transporting;
- (j) “**Minister**” means the Minister of Fisheries and Communities;
- (k) “**pedlar**” means any person engaged in the peddling or sale of fish by going from house to house or otherwise than from a retail outlet in a permanent location;
- (l) “**person**” includes a partnership and a cooperative association;
- (m) “**pound**” means an enclosed area to hold live fish;
- (n) “**processing**” includes cleaning, filleting, splitting, extracting, dividing into portions, smoking, salting, icing, packaging, freezing, cooking, pickling, drying, canning, marinating, bottling, reducing, or otherwise preparing fish for market;
- (o) “**processor**” means a person who purchases fish from a fisher or aquaculturist, or from any person on behalf of a fisher or aquaculturist for the purpose of processing.
1995, c.14, s.1; 1997, c.20, s.3; 1999, c.26, s.1; 2000, c.5, s.3; 2004, c.36, s.3; 2009, c.73, s.2; 2014, c.4, s.1; 2015, c.28, s.3; 2019, c.1, s.3.

2. Application

This Act applies, to the extent of provincial jurisdiction, to all fishers, aquaculturists, buyers, processors and pound operators engaged in the fishery in the province. *1995, c.14, s.2.*

3. Objects

The objects of the Act are to regulate and enhance the fishery and to authorize the Minister to implement programs that will sustain and improve the fishery including purchasing, harvesting, transport, processing, marketing, education, development, fish inspection and fish quality. *1995, c.14, s.3.*

4. Administration

The Minister is charged with the administration and enforcement of this Act and is responsible for the supervision and control of the development of resources and products of the fishery. *1995, c.14, s.4.*

5. Powers of Minister

The Minister may

- (a) develop, plan, co-ordinate and carry out programs and projects relating to the maintenance and development of the fishery;
- (b) with the approval of the Lieutenant Governor in Council, co-ordinate the work and efforts of other departments and agencies of the province respecting any matter relating to the maintenance and development of the resources of the fishery;
- (c) enter into agreements with the Government of Canada or the government of any other province on matters relating to the management or development of the fishery;
- (d) develop scientific data bases and engage in consultations with the Government of Canada to ensure equitable access to the resources of the fishery;
- (e) gather, compile, publish and disseminate information including statistical data relating to the maintenance and development of the resources of the fishery;
- (f) engage the services of experts or persons having special technical or other knowledge to advise him or her;
- (g) enter into agreements to provide training for fishers, aquaculturists, processors, pound operators, their employees and students, establish the required curriculum and provide assistance to fishers, aquaculturists, processors, pound operators, employees and students engaged in studies related to the fishery;
- (h) convene conferences and conduct seminars and educational programs relating to the development of the resources of the fishery;
- (i) maintain a current list of fishers, aquaculturists, buyers, pedlars processors and pound operators;
- (j) undertake development projects
 - (i) for the exploration, development and enhancement of the resources of the fishery,
 - (ii) for the promotion and marketing of fishery products,
 - (iii) for the introduction and demonstration to fishers and aquaculturists and others of new types of fishing and aquaculture vessels, gear, equipment, methods, techniques and operations,



- (iv) for the introduction of more efficient methods including handling, transporting, processing and storage of fish,
- (v) for the improvement of the quality of fish products, and for the encouragement of value-added processing,
- (vi) for the improvement of fishing ports and aquaculture landing sites under provincial jurisdiction, and their facilities and services. *1995, c.14, s.5.*

6. Minister may authorize actions, etc.

Notwithstanding anything in this Act, the Minister may authorize any action or invoke any measure

- (a) to encourage the maintenance and development of the resources of the fishery;
- (b) relating to fish buying and processing;
- (c) to integrate and co-ordinate programs, planning and projects of the province with those of the Government of Canada or of other provinces

if he or she considers it in the public interest to do so. *1995, c.14, s.6.*

7. Regulations, Minister

Repealed by *2014, c.4, s.3. 1995, c.14, s.7; 2014, c.4, s.3.*

8. Industry advisory committees

The Minister may, subject to the approval of the Lieutenant Governor in Council, in order to carry out the objects of this Act, establish such industry advisory committees as he or she considers necessary and appoint the members thereof. *1995, c.14, s.8.*

8.1 Application of section

- (1) This section applies only to those aquaculturists
 - (a) who hold a bottom culture lease that includes an area where the depth of water at mean low tide is 4 feet or less; and
 - (b) whose lease
 - (i) is in force at the time this section comes into force,
 - (ii) is granted after the coming into force of this section pursuant to an application made to the Department of Fisheries and Oceans (Canada) prior to April 29, 1999, or
 - (iii) is within an area recognized by the Department of Fisheries and Oceans (Canada) as an off-bottom shellfish-growing site in existence at the time this section comes into force.

Riparian right-of-way

- (2) Every aquaculturist shall ensure that the aquaculturist's operations in the area described in the lease are undertaken in a manner that ensures that no landowner having riparian rights is deprived of reasonable access to the waters adjacent to the landowner's land.

Reasonable access

- (3) For the purposes of subsection (2), "reasonable access" requires a corridor of water that
 - (a) is at least 50 feet in width for every 300 feet of shoreline;

- (b) extends to a point in the body of water to which the land is adjacent where the depth of water is 4 feet at mean low tide; and
- (c) allows unobstructed access to the waters beyond the point described in clause (b).

Exception

- (4) Notwithstanding subsection (3), where a landowner with riparian rights has less than 350 feet of land that is adjacent to a body of water, “reasonable access” requires a corridor of water that
 - (a) is at least 50 feet in width;
 - (b) extends to a point in the body of water to which the land is adjacent where the depth of water is 4 feet at mean low tide; and
 - (c) allows unobstructed access to the waters beyond the point described in clause (b).

Offence

- (5) Every aquaculturist who contravenes subsection (2) is guilty of an offence and liable on summary conviction to a fine of not more than \$2,000.

Ongoing offence

- (6) Where a contravention of subsection (2) continues for more than one day, the aquaculturist is guilty of a separate offence for each day that the contravention continues.

Enforcement

- (7) Subsection (2) may be enforced and a breach of subsection (2) may be restrained by application made by the Minister to the Supreme Court.

Remedies

- (8) In any proceeding commenced under subsection (7), the Supreme Court or a judge of the Supreme Court may grant one or more of the following:
 - (a) a declaration that an act engaged in or about to be engaged in by an aquaculturist is or will be a breach of subsection (2);
 - (b) an injunction restraining any aquaculturist from breaching or continuing to breach subsection (2);
 - (c) an order directing
 - (i) any aquaculturist to comply with the requirements of subsection (2), and
 - (ii) that compliance be carried out under the supervision of a named person;
 - (d) any other order as the court or judge may determine. *1999,c.26,s.2*

9. Regulations

The Lieutenant Governor in Council may make regulations

- (a) requiring a license for prescribed activities involving handling fish for gain, including buying, processing or peddling fish;
- (b) authorizing the Minister to issue licenses for prescribed activities involving handling fish for gain, including buying, processing or peddling fish, in relation to one or more species of fish specified on the license;
- (c) setting out the types or classes of license that the Minister may issue;
- (d) respecting the application process for a license;
- (e) prescribing the requirements to obtain a license;



- (f) requiring the payment of fees for a license and prescribing those fees;
- (g) prescribing the form of a license and the information to be included on a license;
- (h) setting out terms or imposing conditions on a license;
- (i) authorizing the Minister to set out terms or impose conditions on a license;
- (j) authorizing the Minister to impose, as a condition on a license, a levy on buyers holding a license to buy a prescribed species of fish, payable on purchases of the prescribed species of fish at the first point of sale, to be used for the purposes of marketing the prescribed species of fish;
- (k) requiring the Minister to give notice to buyers, within a prescribed time period preceding the opening day of a fishery season for the prescribed species, of his or her intention to impose the levy;
- (l) prescribing the amount of the levy;
- (m) respecting the collection and remittance of the levy;
- (n) respecting the determination of the amount to be remitted by a licensee to whom the levy applies;
- (o) authorizing the Minister to enter into an agreement with a person or entity for
 - (i) the collection of the levy, or
 - (ii) the development and implementation of a marketing plan for the prescribed species of fish using the proceeds of the levy;
- (p) prescribing criteria that a person or entity shall meet before the Minister may enter into an agreement respecting the levy with the person or entity;
- (q) prescribing matters to be included in an agreement respecting the levy;
- (r) respecting the collection, use and disclosure of information related to the levy by the Minister;
- (s) respecting the resolution of disputes related to the calculation, remittance or collection of the levy;
- (t) respecting the disposition of the balance of the proceeds of the levy on the dissolution or expiry of an agreement respecting the levy or on the cessation of the imposition and collection of the levy;
- (u) prescribing the maximum number of licenses for a prescribed activity involving the handling fish for gain, including for a specified species of fish, or of a type or class of license that the Minister may issue during a prescribed time period;
- (v) respecting the construction, expansion or replacement of a processing establishment;
- (w) prescribing the species of fish that may be bought, processed, peddled or otherwise handled for gain under a license;
- (x) setting out the activities authorized by a license;
- (y) requiring licensees to keep records or prepare reports and provide such records or reports to the Minister;
- (z) respecting the expiry of a license;
- (aa) respecting the transfer or assignment of a license;
- (bb) prescribing circumstances in which the Minister may refuse to issue, suspend or cancel a license;
- (cc) respecting rights of appeal and an appeal process;
- (dd) providing that the contravention of a provision of the regulations constitutes an offence and prescribing penalties for such contravention;

- (ee) respecting the collection, use or disclosure of information under this Act by the Minister;
- (ff) prescribing amounts, terms and conditions of grants and payments under any program established under this Act;
- (gg) defining any word or expression not defined in this Act;
- (hh) in respect of any other matter in order to give full effect to the objects of this Act.
1995, c.14, s.9; 2014, c.4, s.5.

