



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# **FISHERIES ACT REGULATIONS**

## PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this regulation, current to September 29, 2018. It is intended for information and reference purposes only.

This document is *not* the official version of these regulations. The regulations and the amendments printed in the *Royal Gazette* should be consulted on the Prince Edward Island Government web site to determine the authoritative text of these regulations.

For more information concerning the history of these regulations, please see the *Table of Regulations* on the Prince Edward Island Government web site ([www.princeedwardisland.ca](http://www.princeedwardisland.ca)).

If you find any errors or omissions in this consolidation, please contact:

*Legislative Counsel Office*  
*Tel: (902) 368-4292*  
*Email: [legislation@gov.pe.ca](mailto:legislation@gov.pe.ca)*



**FISHERIES ACT**  
**Chapter F-13.01**

**REGULATIONS**

Pursuant to section 9 of the *Fisheries Act* R.S.P.E.I. 1988, Cap. F-13.01, Council made the following regulations:

**1. Definitions**

In these regulations

- (a) “**Act**” means the *Fisheries Act* R.S.P.E.I. 1988, Cap. F-13.01;
- (b) “**buying station**” means a facility used for the purposes of purchasing fish from fishers;
- (b.1) “**co-operative association**” means an association that is incorporated under the *Co-operative Associations Act* R.S.P.E.I. 1988, Cap. C-23 or an association to which that Act applies;
- (c) “**fish processing license**” means a fish processing license of a type described in subsection 3(1);
- (d) “**fisher-packer**” means a person who dresses, packs, salts or ices fresh fish, except molluscs and crustaceans, from that person’s own catch;
- (e) “**inspector**” means an inspector appointed under the *Fish Inspection Act* R.S.P.E.I. 1988, Cap. F-13;
- (f) “**lobster cookroom**” means a building or portion of a building used for cooking lobster;
- (g) “**lobster cookroom processing**” means the cooking of raw whole lobster in the shell for sale as fresh cooked whole lobster in the shell;
- (h) “**operator**” means the person who has the charge, management and control of a processing establishment;
- (i) “**primary processing**” means cleaning, filleting, splitting, shucking, extracting, dividing into portions, salting, icing, freezing, cooking, pickling, drying, canning, bottling or reducing fish but does not include lobster cookroom processing or groundfish processing room processing;
- (j) “**processing establishment**” means a building, portion of a building or a complex of buildings, located at a single site, used for the purposes of processing fish and includes lobster cookrooms and groundfish processing rooms;
- (k) “**product form**” means the end product resulting from processing;

- (l) “**secondary processing**” means any processing stage beyond primary processing, whereby further value is added to a fish product by transforming the taste or texture of the fish product by adding ingredients, other than salt or water. (EC873/95; 24/07; 750/07; 577/18)

## 2. Valid processing license

- (1) No person who is the operator of a processing establishment shall
- (a) undertake or permit the primary processing of fish at the processing establishment unless the operator of the processing establishment holds a valid primary processing license;
  - (b) undertake or permit the secondary processing of fish at the processing establishment unless the operator of the processing establishment holds a valid primary processing license or a valid secondary processing license;
  - (c) undertake or permit lobster cookroom processing of lobster at the processing establishment unless the operator of the processing establishment holds a valid lobster cookroom processing license;
  - (d) undertake or permit groundfish processing room processing of groundfish at the processing establishment unless the operator of the processing establishment holds a valid groundfish processing license.

### Exceptions

- (2) Subsection (1) does not apply to
- (a) a person who is a fisher-packer;
  - (b) eating establishments licensed under the *Prince Edward Island Public Health Act* R.S.P.E.I. 1988, Cap. P-30 provided that all fish processed or prepared is for meals served at eating establishments; or
  - (c) retail outlets that prepare fish, other than lobster, for sale to consumers through the retail outlet. (EC873/95; 24/07)

## 3. Types of license

- (1) The Minister may issue the following types of fish processing licenses:
- (a) primary processing license;
  - (b) secondary processing license;
  - (c) lobster cookroom processing license; and
  - (d) groundfish processing license.

### Primary processing

- (2) A primary processing license shall be in the form set out in Schedule 1 and authorizes the holder to undertake both primary and secondary processing.

### Secondary processing

- (3) A secondary processing license shall be in the form set out in Schedule 2 and authorizes the holder to undertake secondary processing but does not authorize the holder to undertake primary processing.

### Lobster cookroom

- (4) A lobster cookroom license shall be in the form set out in Schedule 3 and authorizes the holder to cook lobsters.



**Groundfish processing**

- (5) Subject to subsection 4(5.1), a groundfish processing license shall be in the form set out in Schedule 3.1 and authorizes the holder to process groundfish. (EC873/95;112/01; 24/07)

**4. Issue of license**

- (1) The Minister may issue a license to an operator if his or her processing establishment
- (a) meets the construction and equipment requirements for establishments in Schedule A of the *Fish Inspection Act* Regulations (EC764/72); and
  - (b) meets such other conditions that may be established by the Minister.

**Terms of license**

- (2) Upon receiving a processing license, an operator shall
- (a) comply with the provisions of the *Fish Inspection Act* and regulations including the operating requirements for establishments in Schedule B of the *Fish Inspection Act* Regulations;
  - (b) provide such statistical information to the Minister as may be determined by the Minister; and
  - (c) comply with any other conditions that may be specified by the Minister.

**Species and product forms**

- (3) The Minister shall specify on a processing license
- (a) the species of fish that may be processed; and
  - (b) the product forms that may produced.

**Conditions**

- (4) The Minister may attach conditions to a fish processing license specifying the source of fish supply and the types of processing permitted.

**Cookrooms, dimensions**

- (5) A lobster cookroom processing license may be issued to an operator of a lobster cookroom only if the operator has a lobster cookroom that does not exceed 144 square feet or, where in relation to a lobster cookroom existing at the time these regulations come into force, such area as the Minister may determine.

**Groundfish processing area**

- (5.1) A groundfish processing license may be issued to an operator of a processing establishment only if the operator has a groundfish processing room that does not exceed 750 square feet.

**Separate establishment**

- (6) Where an operator operates two or more processing establishments, the operator shall have a fish processing license of a type described in subsection 3(1) for each processing establishment operated by the operator.

**Inspection**

- (7) The Minister shall not issue a license to an operator unless his or her processing establishment has been inspected by an inspector.

**Display of license**

- (8) An operator shall display all fish processing licenses in a public area within the processing establishment. (EC873/95; 112/01; 24/07)

**5. Specific license required**

- (1) No person who is the operator of a processing establishment shall process a species of fish unless the operator holds a valid fish processing license of a type described in subsection 3(1) that authorizes the processing of that species of fish.

**Idem**

- (2) No person who is the operator of a processing establishment shall process a product form unless the operator of the processing establishment holds a valid fish processing license of a type described in subsection 3(1) that authorizes the processing of that product form. (EC873/95; 24/07)

**6. Moratorium on primary processing licenses for lobster**

- (1) The Minister shall not, in any year, issue in excess of 19 primary processing licenses for lobster.

**Moratorium on primary processing licenses for groundfish**

- (2) The Minister shall not, in any year, issue in excess of 17 primary processing licenses for groundfish.

**Conditions re issuance of primary processing license**

- (3) The Minister shall not, on application, issue a primary processing license for lobster or groundfish in any year to an applicant unless
- (a) the applicant is eligible to be issued such a license; or
  - (b) if the applicant is not eligible under subsections (4) to (4.4) or subsection (6), the Minister considers it to be in the public interest to do so notwithstanding the applicant's ineligibility.

**Idem**

- (4) An applicant for a license referred to in subsection (3) is eligible to be issued such a license if
- (a) the applicant either
    - (i) held in 1995 a license of the type applied for, or
    - (ii) held in 2005 a license of the type applied for; and
  - (b) the 1995 or 2005 license held by the applicant, and any subsequent license of that type held by the applicant, was not or has not been cancelled or revoked by the Minister.

**Eligibility of applicant re purchased processing establishment**

- (4.1) An applicant for a license referred to in subsection (3) is eligible to be issued such a license if
- (a) the applicant owns a processing establishment which the applicant purchased from a co-operative association;
  - (b) the co-operative association, prior to the sale of its processing establishment to the applicant,
    - (i) either



- (A) held in 1995 a license of the type applied for, or
- (B) held in 2005 a license of the type applied for, and
- (ii) the 1995 or 2005 license held by the co-operative association, and any subsequent license of that type held by the co-operative association prior to the sale of its processing establishment, was not cancelled or revoked by the Minister;
- (c) the applicant is applying for the license of a type previously held by the co-operative association; and
- (d) in the case where the applicant has previously been issued such a license, the license was not or has not been cancelled or revoked by the Minister.

**Co-operative association becomes ineligible on sale of establishment**

- (4.2) For greater certainty, where a co-operative association sells the processing establishment in respect of which it has been issued a primary processing license for lobster or groundfish, the co-operative association ceases thereafter to be eligible to apply for such a license.

**Eligibility of applicant *re* processing establishment purchased from person other than a co-operative association**

- (4.3) An applicant for a license of a type referred to in subsection (3) is eligible to be issued such a license if
- (a) the applicant owns a processing establishment which the applicant purchased from a person other than a co-operative association;
  - (b) the operator of the processing establishment, prior to the sale of the processing establishment to the applicant,
    - (i) either
      - (A) held in 1995 a license of the type applied for, or
      - (B) held in 2005 a license of the type applied for, and
    - (ii) the 1995 or 2005 license held by the operator of the processing establishment, and any subsequent license of that type held by the operator prior to the sale of the processing establishment, was not cancelled or revoked by the Minister;
  - (c) the applicant is applying for a license of a type previously held by the operator; and
  - (d) in the case where the applicant has previously been issued such a license, the license was not or has not been cancelled or revoked by the Minister.

**Former operator ineligible on sale of processing establishment**

- (4.4) For greater certainty, where a person, other than a co-operative association, sells the processing establishment in respect of which the operator has been issued a primary processing license for lobster or groundfish, the operator ceases thereafter to be eligible to apply for such a license.

**Construct, expand or replace processing establishment**

- (5) No person shall construct, expand or replace a processing establishment, and no operator of a processing establishment shall construct, expand or replace a processing establishment without the prior approval of the Minister for the plans, specifications and location of the establishment.

**Primary processing license**

- (6) The Minister shall not issue a primary processing license for lobster and groundfish to a person who constructs a new processing establishment.

**Replacement processing establishment**

- (7) Notwithstanding subsection (6), the Minister may issue a primary processing license for lobster or groundfish to a person who constructs a replacement processing establishment as long as the replacement processing establishment is constructed at the same location as the processing establishment being replaced. (EC873/95; 24/07; 750/07; 242/13; 240/14)

**7. Buyer to be licensed**

- (1) No person may act as a buyer of lobster, other crustaceans, groundfish, mollusc, pelagic, and other fish without a buying license issued by the Minister.

**Classes of license**

- (2) The Minister may issue a buying license for one or more of the following classes:
- (a) lobster;
  - (b) other crustaceans;
  - (c) groundfish;
  - (d) molluscs;
  - (e) pelagic; and
  - (f) other fish.

**Lobster**

- (3) A lobster license permits a buyer to purchase lobsters.

**Other crustacean**

- (4) Another crustacean license permits a buyer to purchase all species of crustaceans except lobster.

**Groundfish**

- (5) A groundfish license permits a buyer to purchase all species of groundfish.

**Mollusc**

- (6) A mollusc license permits a buyer to purchase all species of mollusc.

**Pelagic**

- (7) A pelagic license permits a buyer to purchase all species of pelagic.

**Other fish**

- (8) Another fish license permits a buyer to purchase all species of fish not covered by the other classes of buyers license.

**Requirements, permits, etc.**

- (9) The Minister may issue a buying license to a person who
- (a) possesses the required permits of the federal Department of Fisheries and Oceans;
  - (b) revoked by EC577/18; and
  - (c) meets the facility requirements for buyers in Schedule F of the *Fish Inspection Act* Regulations.





**Inspection of facilities**

- (10) The facilities referred to in clause (9)(c) shall be inspected by an inspector.

**Requirements**

- (11) A buyer who is issued a license by the Minister shall
- (a) comply with the provisions of the *Fish Inspection Act* Regulations including the operating requirements for the storage and transportation of fish for resale or processing in Schedule E to those regulations;
  - (b) supply to the Minister such statistical information as may be required by the Minister; and
  - (c) comply with any other conditions that may be specified by the Minister.

**Form**

- (12) A buying license shall be in the form set out in Schedule 4.

**Buying stations**

- (13) A buyer shall obtain a fish buying license for each buying station at which the buyer is engaged in buying fish unless otherwise determined by the Minister.

**Classes**

- (14) The Minister shall specify on the license the classes of fish that may be purchased pursuant to a license at each buying station.

**Species**

- (15) No buyer shall buy a species of fish unless that person has the proper class of license authorizing purchase of that species. (EC873/95; 577/18)

**8. Peddling**

- (1) No person shall peddle fish without a license issued by the Minister.

**Requirements**

- (2) The Minister may issue a fish peddling license to a person who meets the vehicle requirements for fish peddlars in Schedule G of the *Fish Inspection Act* Regulations.

**Idem**

- (3) A person who is issued a fish peddling license by the Minister shall
- (a) comply with the provisions of the *Fish Inspection Act* Regulations including the operating requirements for the storage and transportation of fish for resale or processing in Schedule E to those regulations;
  - (b) provide the Minister with such statistical information as may be required by the Minister; and
  - (c) comply with any other conditions that may be specified by the Minister.

**Form**

- (4) A license for fish peddling shall be in the form set out in Schedule 5.

**Purchase**

- (5) No pedlar shall peddle fish unless the fish has been purchased from
- (a) an operator who holds a processing license under these regulations; or

- (b) a federally registered fish processing plant.

**Application of subsection (5)**

- (6) Subsection (5) does not apply to a pedlar who is peddling fish if
- (a) the pedlar is
- (i) the head of a core enterprise,
  - (ii) the spouse, son or daughter of the head of a core enterprise, or
  - (iii) the designated representative of the head of a core enterprise, as approved by the Minister, where the head of a core enterprise does not have a spouse, son or daughter; and
- (b) the fish being peddled are
- (i) fresh, whole, dressed, or iced ground fish,
  - (ii) fresh, whole, dressed, or iced pelagic fish,
  - (iii) live iced crustaceans, or
  - (iv) scallops that have had the adductor muscle removed on the fishing vessel,
- that were caught by the core enterprise referred to in clause (a).

**Core enterprise**

- (7) In subsection (6), “**core enterprise**” means a core enterprise as defined in the “Commercial Fisheries Licensing Policy for the Eastern Canada, 1996” of the Department of Fisheries and Oceans Canada. (EC873/95; 150/03; 199/09; 344/10; 577/18)

**9. Form**

- (1) The Minister shall determine any form required to apply for a license under these regulations.

**Transfer**

- (2) Revoked by EC750/07.

**Fees**

- (3) The fees for licenses issued under the regulations are set out in Schedule 6.

**Application for a license**

- (4) An application for license shall be signed and accompanied by the applicable fee in Schedule 6.

**Expiry**

- (5) All licenses issued under these regulations shall expire on December 31 of each year.

**Time for application - restriction on issuance of license**

- (6) The Minister may not issue a fish buying license for lobster to an applicant prior to or on the opening day of a lobster season unless the applicant has submitted an application to the Minister a minimum of 30 days prior to the opening day of the lobster season.

**Applications made at other times**

- (6.1) Where an applicant for a fish buying license for lobster makes an application for that license within 29 days prior to the opening day of a lobster season, the Minister shall, within 3 business days after the opening day of the lobster season,
- (a) review the application; and



- (b) if the Minister is satisfied that the fish buying license for lobster should be issued to the applicant, issue that license to the applicant.

**Idem**

- (6.2) Where an applicant for a fish buying license for lobster makes an application for that license during a lobster season, the Minister shall, within 3 business days after receipt of the application,
  - (a) review the application; and
  - (b) if the Minister is satisfied that the fish buying license for lobster should be issued to the applicant, issue that license to the applicant.

**Opening and closing season**

- (7) For the purposes of interpreting subsection (6), (6.1) or (6.2), dates of the opening and closing of the fishery season shall be the dates announced for the opening and closing of each fishery by the Federal Minister of Fisheries and Oceans subject to the announced extension and early closure thereof. (EC873/95; 750/07; 298/08)

**9.1 Transfer of licenses**

- (1) Except as otherwise provided for in this section, a license issued under these regulations is not transferable or assignable.

**Application for transfer of license held by co-operative association**

- (2) A co-operative association may apply to the Minister to transfer a primary processing license for lobster or groundfish held by the co-operative association.

**Transfer of license by Minister**

- (3) On an application made by a co-operative association under subsection (2) for the transfer of a primary processing license for lobster or groundfish held by the co-operative association, the Minister may transfer the license to the proposed transferee identified in the application, if
  - (a) the co-operative association has sold the primary processing establishment in respect of which the license was issued; and
  - (b) the proposed transferee
    - (i) is the purchaser of the primary processing establishment, and
    - (ii) meets such other conditions that may be established by the Minister.(EC750/07)

**10. Revocation, etc.**

- (1) The Minister may revoke, cancel or suspend a license or class of license for any violation of a provision of these regulations.

**Extension to other licenses**

- (2) The Minister, upon revoking, cancelling or suspending a fish buyers license or class of license applicable to a buying station, may extend the revocation, cancellation or suspension to all fish buying licenses held by the fish buyer.

**Processing**

- (3) No person shall process fish at a processing establishment while their fish processing license is under revocation, cancellation or suspension.

**Buying**

- (4) No person shall buy fish at a buying station while their fish buying license is under revocation, cancellation or suspension.

**Peddling**

- (5) No person shall peddle fish while their fish peddling license is under revocation, cancellation or suspension. (EC873/95)

**11. Penalty, general**

- (1) Subject to subsections (2) to (6), a person who violates any provision of the Act and these regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$500 and not more than \$2,000.

**Offence**

- (2) A person who violates subsection 2(1), 5(1), 5(2), 6(5) or 10(3) is guilty of an offence and liable on summary conviction,
- (a) for a first offence, to a fine of not less than \$10,000 and not more than \$100,000 or to imprisonment for 90 days, or to both; and
- (b) for a second or subsequent offence, to a fine of not less than \$100,000 and not more than \$500,000 or to imprisonment for a period of not more than six months, or to both.

**Idem**

- (3) A person who violates subsection 7(1), 7(15) or 10(4) is guilty of an offence and liable on summary conviction to a fine of not less than \$500 and not more than \$10,000 or to imprisonment for 90 days, or to both.

**Offence, continued**

- (4) Where a violation of subsection 2(1), 5(1), 5(2), 6(5), 7(1), 7(15), 10(3) or 10(4) continues for more than one day, the person committing the offence is guilty of a separate offence for each day that the violation continues.

**Unlicensed peddling**

- (5) A person who violates subsection 8(1), 8(5) or 10(5) is guilty of an offence and liable on summary conviction to a fine of not less than \$500 and not more than \$10,000.

**Penalty**

- (6) A person who violates section 12 is guilty of an offence and liable on summary conviction to a fine of not less than \$2,000 and not more than \$4,000. (EC873/95; 150/03; 24/07)

**12. Obstruction etc. of inspector**

No person shall obstruct, impede, or refuse to admit an inspector or any other person acting in the execution of these regulations and no person shall aid or assist any person in obstructing, impeding or refusing to admit such inspector or other person. (EC873/95)



**SCHEDULE 1**

**DEPARTMENT OF AGRICULTURE, FISHERIES AND AQUACULTURE**

*\* PRIMARY FISH PROCESSING LICENSE*

Date Issued ..... License No.: .....

Name of Operator: .....

Location of Establishment: .....

Valid for the following fish species and product forms:

<u>Species</u>	<u>Product Form(s)</u>
.....	.....
.....	.....
.....	.....
.....	.....

License Expiry Date: .....

This license is issued under the authority of the *Fisheries Act* R.S.P.E.I. 1988, Cap. F-13.01 and Regulations made thereunder and is issued subject to the conditions set out in the attached schedule.

.....  
MINISTER

\* Includes secondary processing.



**SCHEDULE 2**

**DEPARTMENT OF AGRICULTURE, FISHERIES AND AQUACULTURE**

*SECONDARY FISH PROCESSING LICENSE*

Date Issued ..... License No.: .....

Name of Operator: .....

Location of Establishment: .....

Valid for the following fish species and product forms:

<u>Species</u>	<u>Product Form(s)</u>
.....	.....
.....	.....
.....	.....
.....	.....

License Expiry Date: .....

This license is issued under the authority of the *Fisheries Act* R.S.P.E.I. 1988, Cap. F-13.01 and Regulations made thereunder and is issued subject to the conditions set out in the attached schedule.

.....  
MINISTER

**SCHEDULE 3**

**DEPARTMENT OF AGRICULTURE, FISHERIES AND AQUACULTURE**

*LOBSTER COOKROOM PROCESSING LICENSE*

Date Issued ..... License No.: .....

Name of Operator: .....

Location of Establishment: .....

**VALID FOR COOKING LOBSTER**

**License Expiry Date:** .....

This license is issued under the authority of the *Fisheries Act* R.S.P.E.I. 1988, Cap. F-13.01 and Regulations made thereunder and is issued subject to the conditions set out in the attached schedule.

.....  
MINISTER



**SCHEDULE 3.1**

**DEPARTMENT OF AGRICULTURE, FISHERIES AND AQUACULTURE**

*GROUND FISH PROCESSING LICENSE*

Date Issued ..... License No.: .....

Name of Operator: .....

Location of Establishment: .....

**VALID FOR PROCESSING GROUND FISH**

**License Expiry Date:** .....

This license is issued under the authority of the *Fisheries Act* R.S.P.E.I. 1988, Cap. F-13.01 and Regulations made thereunder and is issued subject to the conditions set out in the attached schedule.

.....  
MINISTER





**SCHEDULE 4**

**DEPARTMENT OF AGRICULTURE, FISHERIES AND AQUACULTURE**

*FISH BUYING LICENSE*

Date Issued.....License No.: .....

Name of Buyer: .....

Address of Buyer .....

Name of Agent: .....

Vehicle Registration Number: .....

Buying Station Location: .....

Harbours and Infrastructure Permit No.: .....

Valid for the following License Class(es): .....

- Lobster Class •
- Other Crustacean Class •
- Groundfish Class •
- Mollusc Class •
- Pelagic Class •
- Other Fish Class •

License Expiry Date: ..... Valid During: .....

This license is issued under the authority of the *Fisheries Act* R.S.P.E.I. 1988, Cap. F-13.01 and Regulations made thereunder and is issued subject to the conditions set out in the attached schedule.

.....  
MINISTER

**SCHEDULE 5**

**DEPARTMENT OF AGRICULTURE, FISHERIES AND AQUACULTURE**

*FISH PEDDLING LICENSE*

Date Issued: ..... License No.: .....

Name of Pedlar: .....

Address of Pedlar: .....

Vehicle Registration No.: .....

License Expiry Date: .....

This license is issued under the authority of the *Fisheries Act* R.S.P.E.I. 1988, Cap. F-13.01 and Regulations made thereunder and is issued subject to the conditions set out in the attached schedule.

.....  
MINISTER



**SCHEDULE 6****DEPARTMENT OF AGRICULTURE, FISHERIES AND AQUACULTURE***LICENSE FEES*

<b><u>LICENSE</u></b>	<b><u>FEE</u></b>
Primary Processing License	\$200 per establishment
Secondary Processing License	\$200 per establishment
Lobster Cookroom Processing License	\$75 per establishment
Groundfish Processing License	\$75 per establishment
Fish Buying License	\$50 per license class per buying station
Fish Peddling License	\$25 per vehicle

(EC873/95; 112/01; 767/05; 24/07)

