



Province of Alberta

# **FISHERIES (ALBERTA) ACT**

Revised Statutes of Alberta 2000  
Chapter F-16

Current as of March 31, 2016

## Office Consolidation

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### Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

### Amendments Not in Force

This consolidation incorporates only those amendments in force on the consolidation date shown on the cover. It does not include the following amendments:

Amended by 2015 c7 s40 amends s1(1.1) and 8(b). 2015 c7 s40 comes into force if and when regulations come into force changing, for the purposes of the Fisheries (Alberta) Act, the "prescribed waters" terminology, as that term is defined in the regulations, to "specific source waters".

### Regulations

The following is a list of the regulations made under the *Fisheries (Alberta) Act* that are filed as Alberta Regulations under the Regulations Act

	<b>Alta. Reg.</b>	<i>Amendments</i>
<b>Fisheries (Alberta) Act</b>		
Fisheries (Ministerial) .....	220/97 .....	77/98, 115/99, 226/99, 25/2000, 136/2000, 206/2001, 251/2001, 224/2002, 155/2006, 185/2006, 70/2007, 233/2007, 69/2008, 170/2012, 186/2012, 68/2014, 185/2014, 157/2015, 45/2016
<i>NOTE: AR 45/2016 s15(1) "2(a) '1(1)(b)', 3(c), 6, 11(b), (c), (d), (e) and 12" come into force on April 1, 2016; s15(2) "11(a)" come into force on March 16, 2017; s15(3) "ss3(b), 5 '2.1 and 2.2' " come into force on April 1, 2017</i>		

General Fisheries (Alberta) .....203/97 ..... 74/98, 94/2001,  
251/2001, 12/2002,  
214/2002, 204/2005,  
147/2006, 165/2006,  
61/2007, 67/2008,  
52/2009, 288/2009,  
182/2012, 65/2014,  
170/2014, 150/2015,  
34/2016

*NOTE: AR 34/2016 s50(1) "ss2(c) '1(1)(h)' and  
(i), 3(b), (c) and (d), 4, 9(c), 10, 21, 25, 26(b), 29  
to 32, 34, 35 and 37" come into force on April 1, 2016;  
s15(2) "ss2(e) and 3(a)" come into force on  
March 16, 2017; s15(3) "s41(a)" come into force  
on April 1, 2017*



# FISHERIES (ALBERTA) ACT

## Chapter F-16

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HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

**Interpretation**

**1(1)** In this statute,

(a) repealed 2015 c7 s2;

(b) “commercial fisher”

(i) means the holder of a licence under this Act that  
authorizes fishing for commercial purposes for fish other  
than bait fish or cultured fish;

(ii) for the purposes of sections 5, 6 and 7 means  
commercial fisher as defined in subclause (i) and  
includes a holder of a licence not issued under this Act  
that authorizes fishing for commercial purposes in  
Saskatchewan, Manitoba, Ontario or the Northwest  
Territories;

(b.1) - (b.3) repealed 2015 c7 s2;

(c) repealed 2015 c7 s2;

(c.1) “container” means anything in a place or conveyance that  
contains or carries or is capable of containing or carrying  
any subject organisms and includes

(i) a compartment and pack,

(ii) an animal that carries or can carry subject organisms,  
and

(iii) subject water;

- (c.2) “conveyance” means a vehicle, being a device in, on or by which an individual or thing may be transported or drawn, and includes
- (i) a trailer and any combination of such vehicles,
  - (ii) an aircraft that is not in flight,
  - (iii) an item of watercraft, a dock or wharf,
  - (iv) a railway car, and
  - (v) a shipment or proposed shipment existing in any other circumstances,
- and also includes any container or equipment in or on any such conveyance;
- (d) “Corporation” means the Freshwater Fish Marketing Corporation established by subsection 3(1) of the *Freshwater Fish Marketing Act* (Canada);
- (d.1) “decontamination” means the cleaning and disinfection of, and the eradication or clearing of all invasive organisms or subject water or both from, a place, conveyance or equipment;
- (e), (e.1) repealed 2015 c7 s2;
- (e.2) “equipment” means fishing equipment, or equipment or machinery used or capable of being used in or in relation to an activity to which this Act relates, including the cleaning, sanitizing, pumping and hosing of places and conveyances that do or did contain or might have contained or come into contact with any subject organisms or subject water;
- (f) “fish” means fish as defined in the *Fisheries Act* (Canada) except for those species that are prescribed as excluded;
- (f.1) repealed 2015 c7 s2;
- (g) “fishery” means fishery as defined in the *Fisheries Act* (Canada);
- (h) “fishery guardian” or “guardian” means an individual holding office as a fishery guardian under section 20;
- (i) “fishery officer” or “officer” means an individual holding office as a fishery officer under section 19 or 19.1;

- (j) “fishing” means fishing as defined in the *Fisheries Act* (Canada);
- (j.1) repealed 2015 c7 s2;
- (j.2) “inspection station” means an inspection station established under section 33.2(1);
- (j.3) “invasive organism” means an organism of an invasive species;
- (j.4) “invasive species” means a species of organism of a kind that is
  - (i) specified in any item of the Schedule, or
  - (ii) prescribed as an invasive species;
- (j.5) “invasive species fish” means fish of a kind that is listed in Item 1 of the Schedule;
- (k) “licence” means a licence under this Act;
- (l) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (l.1) “offence” means an offence against this statute;
- (l.2) “official” means a fishery officer, a fishery guardian or a watercraft inspector, as the case may be;
- (l.3) “other applicable law” means any law, apart from this Act, that relates to subject organisms or subject water and is applicable in the context of the provision in question;
- (l.4) “place”, used as a noun, includes
  - (i) any building, structure or other premises,
  - (ii) a tent or other temporary shelter, and
  - (iii) any container or equipment in a place;
- (l.5) “prescribed”,
  - (i) in the expression “prescribed by the Lieutenant Governor in Council” means prescribed or otherwise provided for by regulations made by the Lieutenant Governor in Council, and

- (ii) otherwise, means prescribed or otherwise provided for by regulations made by the Minister;
- (m) repealed 2015 c7 s2;
- (n) “processing” includes icing, packing, cleaning, filleting, freezing, smoking, salting, canning, cooking, pickling, drying or preparing fish for market in any other manner;
- (o), (p) repealed 2015 c7 s2;
- (q) “sportfishing” means angling or fishing with a bow and arrow, a spear, a dip net, a seine net or a minnow trap;
- (r) “sportfishing guide” means a person who assists another person to sportfish;
- (s) “subject organisms” means fish and invasive organisms, or any kind of them, as the case may be;
- (t) “subject water” means water that contains, contained or might have contained any subject organism;
- (u) “watercraft inspector” means an individual holding office as a watercraft inspector under section 20.1(1).

**(1.1)** In this statute, “bait”, “bait fish”, “competitive fishing”, “competitive fishing event”, “competitive fishing event participant”, “contained waters”, “cultured fish”, “fish handling facilities”, “game fish”, “restricted waters” and “specific source waters” have the prescribed meanings.

**(1.2)** In this Act, “angling”, “dip net” and “seine net” have the meanings respectively given to them by the *Alberta Fishery Regulations, 1998* (Canada) (SOR/98-246).

**(2)** References in this Act to this or any other statute are to be taken to include references to regulations, if any, made under that statute except where the term “this statute” is specifically used.

**(3)** Except where specified or where the context otherwise requires, a reference in this Act to a subject organism or any kind of subject organism is to be construed as a reference to a subject organism or to a subject organism of that kind whether it is alive or dead, and to include any part of the organism, including tissue or genetic material capable of propagating such a subject organism, and its eggs or any part of its eggs.

**(4)** It is the intent of this Act that, in construing it, invasive species are considered to be a threat to the ecology and the economy of

Alberta and the overall purposes of the provisions in this Act relating to invasive species are to facilitate and enhance the detection, suppression, elimination and, at least, prevention of the spread, of invasive organisms in Alberta.

RSA 2000 cF-16 s1;2001 c8 s2;2009 c22 s2;2015 c7 ss2,3;  
2015 c7 s40

### Authorizations

**1.1** Where any form of authorization is given by or under this Act, that authorization has effect only to the extent that the activity is authorized and is in accordance with, and does not involve a contravention of, any other applicable law.

2015 c7 s4

## Corporation

### Agreements

**2** Subject to the approval of the Lieutenant Governor in Council, the Minister, on behalf of the Government of Alberta, may enter into an agreement with the Government of Canada

- (a) providing for the administration of licensing of fisheries within Alberta,
- (b) providing for the management of fisheries, the use of fish, or other activities involving or affecting fisheries within Alberta,
- (c) providing for the administration of the *Fisheries Act* (Canada),
- (d) providing for any or all aspects of promotion, processing, control and regulation of the marketing of fish within Alberta,
- (e) providing for the appointment of the Corporation as the exclusive primary purchaser and distributor of fish within Alberta and for the vesting in it of all powers necessary for or incidental to intraprovincial marketing of fish, and
- (f) providing an undertaking to share any losses incurred by the Government of Canada as guarantor for the repayment of principal and interest on loans made to the Corporation, but the Government of Alberta's contribution shall not exceed 5% of the aggregate amount outstanding at any time.

1992 cF-12.2 s2

### Loans

**3** The Lieutenant Governor in Council may authorize the Minister to pay to the Government of Canada any sums of money that by the

terms of an agreement the Government of Alberta is obligated to contribute in sharing losses incurred as a result of any loan advanced to the Corporation.

RSA 2000 cF-16 s3;2006 c23 s33

### **Fish Marketing**

#### **Licence to authorize fish marketing**

**4** No person shall buy or sell fish caught under the authority of a licence under this Act or the *Fisheries Act* (Canada) unless the licence authorizes buying or selling the fish.

1992 cF-12.2 s4

#### **Corporation buys fish**

**5** When the Corporation enters into an agreement with the Minister to serve as a primary purchaser and distributor of fish within Alberta, the Corporation

- (a) has the exclusive right within Alberta to buy from a commercial fisher all fish caught by the commercial fisher and to distribute and market the fish by itself and by its agents, and
- (b) shall buy from any commercial fisher all lawfully caught fish that are offered for sale by the commercial fisher on the terms and conditions and for the price agreed on by the Corporation and the commercial fisher subject to any applicable scheme for payment established and operated by the Corporation.

1992 cF-12.2 s5

#### **Restricted sale of fish**

**6(1)** When there is an agreement entered into under section 5,

- (a) no person shall sell, agree to sell or offer to sell fish caught by a commercial fisher to any person other than the Corporation or its agent,
- (b) no person shall purchase or agree to purchase fish caught by a commercial fisher from any person other than the Corporation or its agent, and
- (c) no commercial fisher shall dispose of any fish that the commercial fisher catches to or through any person operating directly or indirectly a retail or wholesale outlet or restaurant, or through any other business outlet other than the Corporation or its agent.

**(2)** Notwithstanding subsection (1), a commercial fisher may market fish that the commercial fisher catches directly to a

purchaser for consumption by the purchaser or the purchaser's family.

(3) A person who buys fish under subsection (2) may not sell that fish.

(4) The Corporation may exempt any person from subsection (1).

(5) Subsection (1) does not apply with respect to fish after they have been bought by the Corporation or its agent.

1992 cF-12.2 s6

#### **Dealing in fish**

**7(1)** When there is an agreement under section 5, a wholesale or retail outlet shall not buy, sell or have in its possession any fish caught by a commercial fisher unless the fish were purchased from the Corporation or its agent.

(2) When there is an agreement under section 5, no person shall buy, sell or otherwise deal in fish caught by a commercial fisher unless, in addition to any exemption granted by the Corporation, the person holds a licence under this Act that authorizes the buying, selling or dealing.

(3) Notwithstanding subsections (1) and (2), a person may buy fish caught by a commercial fisher from the commercial fisher for consumption by the person or the person's family, but the person may not sell that fish.

1992 cF-12.2 s7

### **Licences**

#### **Propagation, rearing and keeping alive of cultured fish**

**8** A person shall not propagate, rear or keep alive cultured fish

- (a) unless that person holds a licence authorizing that particular activity, or
- (b) except as prescribed by the Lieutenant Governor in Council, that activity occurs in contained, restricted or specific source waters.

RSA 2000 cF-16 s8;2015 c7 ss5,40

#### **Sale of cultured fish**

**9(1)** A person shall not sell cultured fish unless

- (a) that person holds a licence authorizing that sale,
- (b) that fish is dead, having previously been sold, whether live or dead, by a person who then held a licence authorizing that

sale or who lawfully acquired the fish in, and lawfully imported it into Alberta from, another jurisdiction, or

- (c) the sale is of a kind that is prescribed by the Lieutenant Governor in Council.

**(2)** Without limiting subsection (1), a person shall not sell live cultured fish to a purchaser unless

- (a) that purchaser holds a licence authorizing the stocking, propagation, rearing or keeping alive of cultured fish, or
- (b) the sale to that purchaser is of a kind that is prescribed by the Lieutenant Governor in Council.

RSA 2000 cF-16 s9;2015 c7 s5

#### **Fishing without licence, and royalty payments**

**10(1)** Except as prescribed by the Lieutenant Governor in Council or provided in this statute or the *Fisheries Act* (Canada), a person shall not engage in fishing unless that person holds a licence authorizing that particular fishing.

**(2)** Subsection (1) does not apply to a person who engages in fishing under the authority of a licence issued pursuant to the *Fisheries Act* (Canada) that authorizes fishing for subsistence purposes.

**(3)** A commercial fisher who catches fish pursuant to a licence shall pay a royalty to the Crown in accordance with requirements, if any, prescribed by the Lieutenant Governor in Council.

RSA 2000 cF-16 s10;2015 c7 s6

#### **Restrictions on fishing-related activities without licence**

**11(1)** A person shall not place or keep fish in, or allow fish to enter, water of any kind unless that person holds a licence authorizing that particular activity.

**(2)** Subsection (1) does not apply

- (a) to invasive species fish,
- (b) to bait in the form of dead fish,
- (c) to any other dead fish that are or are to be placed in the water from which they were taken,
- (d) subject to clauses (a) to (c), to any fish, other than game fish and cultured fish, that are placed or kept in contained waters in accordance with the prescribed criteria, or

- (e) if, subject to clauses (a) to (d), the activity is otherwise prescribed as authorized.

RSA 2000 cF-16 s11;2001 c8 s3;2015 c7s7

#### **Idem — invasive species**

**11.01(1)** A person shall not place or keep an invasive organism in, or allow an invasive organism to enter, water of any kind.

**(2)** Subsection (1) does not apply to an activity where

- (a) that activity, with respect specifically to the invasive organism in question, is specifically authorized by a licence or prescribed to be authorized, and
- (b) possession of the invasive organism is allowed by section 11.02.

2015 c7 s7

#### **Possession of invasive species**

**11.02(1)** A person shall not be in possession of an invasive organism unless that possession, with respect specifically to the invasive organism in question, is specifically authorized by a licence.

**(2)** Subsection (1) does not apply

- (a) with respect to an activity that is specifically prescribed, with respect specifically to the invasive organism in question, to be authorized or as not requiring a licence,
- (b) to the extent that an individual catches the fish by means of angling and immediately kills it, or
- (c) to invasive species fish covered by section 11.03(2)(b).

2015 c7 s7

#### **Importation of invasive species**

**11.03(1)** A person shall not import into Alberta an invasive organism unless that importation is specifically authorized by a licence.

**(2)** Subsection (1) does not apply to an importation

- (a) that is in full accordance with the prescribed conditions and other applicable law, or
- (b) of invasive species fish that meet the exemption conditions, as to death or death and evisceration, indicated in the 3rd column of Item 1 of the Schedule.

2015 c7 s7

**Competitive fishing event**

**11.1(1)** Subject to subsection (2), no person shall advertise, organize, hold or operate a competitive fishing event without holding a licence that authorizes the event.

**(2)** Subsection (1) does not apply to

- (a) a category of competitive fishing event that is prescribed by the Lieutenant Governor in Council as not requiring a licence, or
- (b) a person who assists the holder of a competitive fishing event licence in carrying out the licence holder's duties and powers under the licence.

**(3)** A competitive fishing event participant in a competitive fishing event for which a licence is required is subject to the terms and conditions of that licence insofar as they are applicable to the participant.

2001 c8 s4;2015 c7 s8

**Issuance of licences**

**12(1)** The Minister or a person authorized by the Minister may issue licences with respect to fish research, sportfishing, cultured fish and commercial fishing and other licences in accordance with the requirements prescribed by the Lieutenant Governor in Council to persons who meet those requirements and who pay the required fees.

**(2)** The Minister may provide remuneration to persons authorized by the Minister to sell licences in a manner and in an amount the Minister considers appropriate, from the proceeds of their sales.

**(3)** The remuneration is to be treated as being paid out of the General Revenue Fund.

RSA 2000 cF-16 s12;2015 c7 s9

**Licence limitations, terms and conditions**

**13(1)** Except as prescribed by the Lieutenant Governor in Council, the Minister may

- (a) limit the number and type of licences to be issued, and
- (b) if the number of licences is limited, establish how the licences are to be allocated.

**(2)** Except as prescribed by the Lieutenant Governor in Council, the Minister may include terms and conditions in a licence.

(3) Except as prescribed by the Lieutenant Governor in Council, the Minister may, at any time, including during the currency of an existing licence, alter the terms or conditions of a licence.

RSA 2000 cF-16 s13;2015 c7 s10

#### **Term of licence, transferability**

**14(1)** Unless otherwise specified on a licence, the licence expires on March 31 following the date of its issue.

(2) A licence is not transferable except in accordance with the conditions prescribed by the Lieutenant Governor in Council.

RSA 2000 cF-16 s14;2015 c7 s11

#### **Licence suspension, cancellation**

**15(1)** A fishery officer may suspend or cancel a licence if the fishery officer believes, on reasonable grounds, that the licence holder has contravened the terms or conditions of the licence or this Act when purporting to act pursuant to the licence.

(2) A person whose licence is suspended or cancelled may, by written notice, appeal to an Assistant Deputy Minister in the Minister's Department designated by the Minister.

(3) A person whose licence is suspended or cancelled shall not carry out any activity that purports to be conducted pursuant to that licence while the suspension or cancellation is in effect.

(4) The Assistant Deputy Minister, on holding a hearing, may uphold the suspension or cancellation or reinstate the licence.

(5) If the non-compliance under subsection (1) is the subject-matter of a conviction and the court does not suspend or cancel the licence under section 35(3), the licence is reinstated.

RSA 2000 cF-16 s15;2015 c7 s12

#### **Refusal to issue licence re maintenance orders**

**15.1(1)** In this section, "Director" means the Director of Maintenance Enforcement appointed under the *Maintenance Enforcement Act*.

(2) If the Director notifies the Minister pursuant to section 22.1(2) of the *Maintenance Enforcement Act*, the Minister shall, in respect of the debtor named in the notice, refuse to issue a licence under this Act that authorizes sportfishing except as permitted by the Director under section 22.1(3) of the *Maintenance Enforcement Act* until the Director withdraws the notice or notifies the Minister that the maintenance order has been withdrawn.

2004 c18 s29

**Application for obtaining and holding invalid licence**

**16(1)** A person who is not eligible to hold a licence shall not apply for, obtain or hold a licence or a document that, but for that ineligibility, would be a licence.

**(2)** If a document purporting to be a licence is issued to a person who is not eligible to hold it, the document is void as a licence.

**(3)** A person shall not knowingly possess a document that is void as a licence by virtue of subsection (2).

RSA 2000 cF-16 s16;2015 c7 s13

**Invalid licence**

**17** A licence is not valid if

- (a) it has not been signed by the person or persons to whom it is issued, or in the case of a corporation being issued a licence, by a person eligible to sign on behalf of the corporation,
- (b) the application for the licence contained any false or misleading information, or
- (c) it has been altered other than in accordance with section 13(3).

RSA 2000 cF-16 s17;2015 c7 s14

**Carrying of licence or equivalent**

**18(1)** Subject to subsection (2), a licence holder or a person authorized by or under a licence to conduct activities pursuant to a licence shall, while carrying out those activities, carry

- (a) the licence, if the person is the licence holder, or
- (b) if the person is a person other than the licence holder, an instrument, as prescribed by the Lieutenant Governor in Council, indicating that the person is authorized by or under a licence to conduct the activities pursuant to a licence.

**(2)** Subsection (1) does not apply to a person who assists the holder of a competitive fishing event licence to carry out activities pursuant to that licence.

**(3)** The holder of a competitive fishing event licence must give notice, as prescribed by the Lieutenant Governor in Council, to each competitive fishing event participant of the terms and conditions of the licence that apply to the participant.

RSA 2000 cF-16 s18;2001 c8 s5;2015 c7 s15

### **Fishery Officers and Guardians and Watercraft Inspectors**

#### **Appointment of fishery officers, and power/duty limitations**

**19** The Minister may in writing appoint an individual as a fishery officer or a class of individuals as fishery officers and restrict the jurisdiction that any such officer or class would otherwise be entitled to exercise under this Act.

RSA 2000 cF-16 s19;2002 c30 s8;2015 c7 s16

#### **Fishery officers by virtue of appointments to other offices**

**19.1** The following individuals are fishery officers by virtue of their appointments to the offices respectively referred to, namely individuals appointed as

- (a) members of the Royal Canadian Mounted Police,
- (b) conservation officers, under section 1 of Schedule 3.1 to the *Government Organization Act*, and
- (c) forest officers, under section 2 of the *Forests Act*.

2002 c30 s8

#### **Fishery guardians**

**20** The Minister may in writing appoint an individual as a fishery guardian or a class of individuals as fishery guardians and restrict the jurisdiction that any such guardian or class would otherwise be entitled to exercise under this Act.

RSA 2000 cF-16 s20;2015 c7 s17

#### **Watercraft inspectors**

**20.1(1)** For the purposes of advancing the intent of this Act with respect specifically to invasive species in relation to conveyances, the Minister may in writing appoint an individual as a watercraft inspector or a class of individuals as watercraft inspectors and may further restrict the jurisdiction that any such watercraft inspector or class would otherwise be entitled to exercise under this Act.

**(2)** The jurisdiction of a watercraft inspector is restricted to acting with respect to invasive species and conveyances and only at or in the vicinity of an inspection station and, notwithstanding anything else in this Act, the provisions of this Act that give a watercraft inspector any power or duty, or any other person a power or duty in relation to a watercraft inspector, are to be construed as being subject to those restrictions.

2015 c7 s17

**Peace officers**

**21(1)** A fishery officer or fishery guardian, while administering or enforcing this Act, is a person employed for the preservation and maintenance of the public peace.

**(1.1)** A watercraft inspector, while administering or enforcing this Act within the confines imposed by section 20.1, is a person employed for the preservation and maintenance of the public peace.

**(2)** Notwithstanding subsection (1), a fishery guardian or a watercraft inspector shall not exercise the powers of arrest given to a peace officer by section 495 of the *Criminal Code* (Canada).

RSA 2000 cF-16 s21;2015 c7 s18

**Power to stop and order movement of conveyances**

**22(1)** Except as prescribed, a fishery officer, for the purpose of ensuring compliance with this Act or while lawfully engaged in the exercise of powers or the performance of duties under this Act or any other applicable law, may signal or otherwise order an individual

- (a) operating a conveyance to stop it forthwith or to move it to a particular location and then stop it, or
- (b) with a container or equipment to stop,

and that individual shall forthwith comply with that signal or order and shall not proceed until otherwise allowed by the officer or until the end of any period that is reasonably necessary to enable an officer to conduct any lawful inquiries.

**(2)** An officer may detain the conveyance, container or equipment for a reasonable time pending the carrying out of an inspection.

RSA 2000 cF-16 s22;2015 c7 s19

**Power to demand licence**

**23** Where a fishery officer or fishery guardian believes, on reasonable grounds, that a person is or has been undertaking an activity for or in respect of which a licence is required, that official may order that person to produce

- (a) the licence that authorizes that person to undertake that activity, or
- (b) if the person is one referred to in section 18(1)(b), the instrument referred to in that clause.

RSA 2000 cF-16 s23;2015 c7 s19

**Production of identification by official**

**24** While exercising powers or performing duties under this Act, an official shall, on being requested to do so, produce identification that meets the prescribed requirements and provide information about those powers and duties of an official of that kind that are relevant to the circumstances.

RSA 2000 cF-16 s24;2015 c7 s19

**Rights of entry and passing over land without warrant**

**25** A fishery officer or fishery guardian may, without a warrant, enter on and pass over land for any purpose involved in

- (a) ensuring compliance with, administering or enforcing this Act or any other applicable law, or
- (b) ascertaining the presence of any invasive organisms.

RSA 2000 cF-16 s25;2015 c7 s19

**Powers of entry with inspection, etc.**

**26(1)** References in this section to, or that include, a watercraft inspector are to be taken as being subject to the jurisdictional limitations imposed by section 20.1.

**(2)** An official may, without a warrant, for any purpose involved in ensuring compliance with, administering or enforcing this Act or any other applicable law or ascertaining the presence of subject organisms, enter and inspect any place or conveyance in, on or at which that official believes, on reasonable grounds, that there are any subject organisms or other thing that falls within the application of this Act.

**(3)** An inspection under subsection (2) of licensed premises (being a place where a business activity is carried on, the carrying on of which there requires the holding of a licence) must be made at a time that is reasonable having regard to the circumstances.

**(4)** In and for the purpose of carrying out an inspection, an official may, with respect to the place or conveyance being inspected,

- (a) examine anything referred to in subsection (2) that is found, take samples of it and dispose of any such sample in any manner that that official considers appropriate,
- (b) open any container that that official believes on reasonable grounds contains any such thing,
- (c) conduct any relevant tests or analyses or take any measurements or photographs of any such thing,

- (d) use any computer or data processing system to examine any relevant information contained in or available to that system,
  - (e) reproduce any record from such information in the form of a print-out or other intelligible output,
  - (f) remove or take that print-out or other output for examination or copying,
  - (g) use any copying machinery to make copies of any relevant records, accounts or other documents, or
  - (h) require any person to produce for examination or copying any document that the official believes, on reasonable grounds, contains information that is relevant to compliance with or the administration or enforcement of this Act.
- (5)** The owner or person in possession or in charge of a place or a person operating or in charge of a conveyance that is inspected, and every individual in, on or at it, shall
- (a) give an official all reasonable assistance to enable the official to carry out the inspection and to exercise any other power conferred or perform any duty imposed by this Act, and
  - (b) provide an official with any information relevant to the inspection, or those powers or duties, that the official reasonably requires.
- (6)** An official may order the owner or person in possession or in charge of a place or a person operating or in charge of a conveyance (which place or conveyance is in this subsection referred to as the “locus”) to produce all or any subject organisms or equipment in, on or at the locus for inspection and to ascertain the number, species, size or any other characteristics of any such subject organisms and to ascertain whether any such fish are fit for human consumption, diseased or infested with parasites, if any such thing
- (a) is in, on or at the locus and in plain view of the official, or
  - (b) is believed by the official, on reasonable grounds, to be in, on or at the locus.

(7) The official who exercises the power given by subsection (4)(f), (g) or (h) shall, if so requested, reimburse the person referred to in subsection (5) the underlying reasonable costs, if any, incurred in exercising the power.

RSA 2000 cF-16 s26;2015 c7 s19

#### **Power to search**

**27(1)** A fishery officer or fishery guardian may, with and subject to the conditions in a warrant or without a warrant if the official believes on reasonable grounds that by reason of exigent circumstances (including circumstances in which the resulting delay will or might result in a danger to human life or safety or a threat to Alberta's ecology or the loss or destruction of evidence) it would not be practicable to get a warrant, enter and search any place or conveyance in, on or at which the official believes on reasonable grounds that

- (a) there is anything
  - (i) by means of or in relation to which this Act has been contravened, or
  - (ii) that will afford evidence of a contravention of this Act,
- (b) any activity is being or has been carried on in contravention of this Act, or
- (c) there are invasive organisms present.

**(2)** In carrying out a search that is allowed by subsection (1), the officer or guardian may

- (a) seize anything referred to in subsection (1)(a) or (c),
- (b) exercise any power described in section 26(4)(a) to (g), subject to section 26(7), or
- (c) make an order under section 26(6).

RSA 2000 cF-16 s27;2015 c7 s19

#### **Power of seizure**

**28(1)** Subject to section 27(1), a fishery officer or fishery guardian may seize anything that that official

- (a) believes on reasonable grounds might afford evidence of the commission of an offence or have been used in the commission of an offence, or

- (b) finds in, on or at a place or conveyance and believes, on reasonable grounds, to be a subject organism that is held without lawful authority to hold it.

**(1.1)** Where the finding referred to in subsection (1)(b) is made in respect of a conveyance, the official may seize the conveyance.

**(2)** When fish are seized, the fishery officer or fishery guardian shall store the fish, but if no proper storage facilities are readily available for that purpose, the officer or guardian may sell or dispose of the fish in a manner that appears expedient to the officer or guardian under the circumstances.

**(3)** The fishery officer or fishery guardian shall, on seizing anything under subsection (1), give a receipt for it to the person, if any, having physical possession of it when it was seized and furnish a justice with an affidavit

- (a) stating the relevant facts and beliefs described in subsection (1),
- (b) setting out the name of the person, if any, having physical possession of the thing seized at the time it was seized, and
- (c) describing the disposition of the thing seized.

**(4)** An officer or guardian or a person with an interest in the thing seized may make an application to a justice for an order respecting the disposition of anything seized under subsection (1), and the justice shall

- (a) order that the application be stayed and be dealt with pursuant to section 40, or
- (b) if section 40 is not applicable, make an order that the thing seized
  - (i) be confiscated to the Crown in right of Alberta, or
  - (ii) be returned to the person from whom it was seized.

**(5)** Subsections (3) and (4) do not apply if the fishery officer or fishery guardian disposes of live fish by releasing them back into the water from which they were taken.

RSA 2000 cF-16 s28;2001 c8 s6;2015 c7 s20

#### **Forfeiture of seized fish and invasive organisms**

**28.01(1)** Where subject organisms are seized and the person from whom they were seized has not been charged with an offence in relation to them and it can be shown that the subject organisms

were caught or taken into possession in contravention of this Act or the *Fisheries Act* (Canada), they, or any proceeds realized from the disposition of any such subject organisms that are fish, are to be considered forfeited to the Crown pending any application, or subsequent order, under section 28(4).

(2) Where any fish or other thing is seized under this Act, in the case of an offence for which a voluntary payment may be made under the *Provincial Offences Procedure Act*, the fishery officer or fishery guardian who issues the violation ticket shall give written notice to the defendant stating that if the defendant exercises the right to make the voluntary payment within the period of time set out in the violation ticket, the fish or thing, or any proceeds realized from its disposition, shall, on payment of the specified penalty and the applicable surcharge, be forfeited to the Crown.

(3) On payment of the specified penalty and the applicable surcharge within the required period of time as described in subsection (2), any fish or other thing that has been seized in relation to that offence is forfeited to the Crown.

2009 c22 s3;2015 c7 s21

#### Private dwelling

**28.02** Notwithstanding anything in this Act, an official may not, with respect to a place that is a private dwelling or any part of a place that is designed to be used and is being used as a permanent or temporary private dwelling,

- (a) enter or pass through it,
- (b) conduct in it any inspection, search or seizure or any activity incidental to such an activity,
- (c) make or carry out any order in or in relation to it, or
- (d) exercise or perform any other enforcement power or duty in it,

except in accordance with a consent that meets all the requirements of the law or under the authority of a warrant.

2015 c7 s22

#### Warrants

**28.1** Without limiting section 3 of the *Provincial Offences Procedure Act*, the following apply in respect of offences and related proceedings under this Act: sections 184.2, 487.01, 487.012, 487.013, 487.014, 487.015, 487.016, 487.017, 487.018, 487.092, 487.1, 492.1 and 492.2 of the *Criminal Code* (Canada) and all the other provisions of the *Criminal Code* (Canada) that

pertain to those sections, except for any provision that restricts the type of offence to which the section relates.

2001 c8 s7;2015 c7 s23

## Records

### Fish records

**29(1)** Every vendor, except a retail outlet or restaurant, and every shipper of fish shall prepare and sign in triplicate a written statement with regard to each individual transaction setting forth

- (a) the quantity by weight of each species of fish and the lake of origin,
- (b) the name, address and licence number of the vendor or shipper of fish, and
- (c) the name and address of the purchaser or consignee of the fish

and shall give to the carrier or purchaser of the fish 2 copies of the statement and shall retain one copy for a period of not less than one year.

**(2)** At the time of accepting delivery of the fish, every purchaser of fish and every carrier shall obtain from the vendor or shipper 2 copies of the statement prepared pursuant to subsection (1), and a carrier shall cause one copy to accompany the shipment of fish and to be delivered to the consignee.

**(3)** One copy of the sale or shipping statement must be retained by the carrier or purchaser of the fish for a period of not less than one year.

**(4)** No purchaser, carrier or consignee may accept fish unless it is accompanied with a statement prepared pursuant to subsection (1).

**(5)** This section applies only to fish caught by a commercial fisher pursuant to a commercial fishing licence.

1992 cF-12.2 s29

### Requirement to submit records and other information

**30(1)** The Minister may, by written notice, require a licence holder or other person who owns or is in charge of or employed at a place where subject organisms are held to submit to the Minister, within the period stated in the notice, records and other written information required by the notice that relate or are incidental to the subject organisms or to any operations that are or have been conducted there.

(2) A person to whom a notice is given under subsection (1) shall comply with the notice, but may comply with it by permitting a fishery officer or fishery guardian to inspect the records and written information to which the notice relates.

(3) A document purporting to be certified by a fishery officer or a fishery guardian to be a copy of a record or written information inspected under subsection (2) is admissible in evidence in any judicial proceeding and is proof, in the absence of evidence to the contrary, of the contents of the record or written information without proof of the officer's or guardian's signature, appointment or responsibility for custody of the document.

RSA 2000 cF-16 s30;2015 c7 s24

#### **Examination and removal of records**

**31(1)** For the purpose of ensuring that this Act is complied with, a fishery officer or fishery guardian may order a person who is required to keep records under this Act to make the records available, on reasonable notice, to the officer or guardian during regular business hours for examination by the officer or guardian.

(2) A fishery officer or fishery guardian may, on giving a receipt for it, remove any record described in subsection (1) for not more than 48 hours for the purpose of making copies of it.

RSA 2000 cF-16 s31;2015 c7 s25

### **Measures Protective of Health, Ecology and Economy**

#### **Health, ecological and economic protection**

**32(1)** Section 26(1) applies in respect of this section.

(2) The Minister may make an order provided for in subsection (3) where the Minister believes on reasonable grounds

- (a) that it is in the public interest to make the order where
  - (i) any subject organisms pose an ecological threat or genetic danger to any fish or any other animal or any individual or might cause economic harm, or
  - (ii) any invasive organisms pose a danger to any organism,
- (b) that any subject organisms or any place or conveyance where subject organisms are held harbours disease or is materially infested by parasites and might present a danger to the health of any fish or other animal or any individual, or
- (c) that any subject organisms, place or conveyance harbours or may harbour any invasive organisms.

- (3)** An order referred to in subsection (2) may direct that
- (a) any or all of the suspect organisms or the place or conveyance be quarantined for the period and in the manner that the Minister directs, with the order fixing the duration and conditions of the quarantine, including the moving and storage, and their costs, and any restrictions on any movement, of any such thing while the quarantine is in effect,
  - (b) a fishery officer or fishery guardian
    - (i) seize or detain any such suspect organism or conveyance,
    - (ii) kill, destroy or otherwise dispose of the suspect organisms in the manner directed by the Minister, or
    - (iii) destroy any affected equipment,
  - (c) any other steps considered necessary to eradicate the problem be taken, or
  - (d) any subject water be prevented from being allowed to leave such a place or conveyance.
- (4)** Where a fishery officer or fishery guardian (rather than the Minister) has the belief referred to in subsection (2), that official may
- (a) make an order
    - (i) imposing any quarantine referred to in subsection (3)(a),  
or
    - (ii) directing the taking of steps referred to in subsection (3)(c) or prevention of the exit of subject water referred to in subsection (3)(d),  
  
or
  - (b) exercise any power referred to in subsection (3)(b).
- (5)** The Minister or a fishery officer or fishery guardian may
- (a) order that the owner or person in possession or in charge of a place provide any information and, if applicable, assistance, that is relevant to determining the possible presence of fish held without a licence or invasive organisms there, and

- (b) if it is determined there are any such things present, or if there are grounds to believe that any such things might be present,
  - (i) if it is the Minister's order, order an officer or guardian to inspect the place or conveyance, or
  - (ii) if it is an order of an officer or guardian, inspect it.

(6) An official may order the owner or person in possession or in charge of a place or a person operating or in charge of a conveyance or with equipment that the official believes, on reasonable grounds, may harbour invasive organisms, to provide information as to its history and prior use with a view to determining whether it does in fact harbour any invasive organism.

(7) The Minister may, by written order, make rules

- (a) specifying the kinds of conveyances to which section 33.2(3) or this subsection, or both, apply,
- (b) respecting the conduct of individuals at inspection stations,
- (c) requiring owners and individuals operating or in charge of conveyances to report to inspection stations and to provide any information or assistance relevant to determining the possible presence of invasive organisms in or on the conveyances,
- (d) requiring persons who remove conveyances from water or importing conveyances into Alberta to take specified steps respecting the decontamination, draining and drying of the conveyances,
- (e) directing officials, subject to subsection (8),
  - (i) if invasive organisms are found or if there are reasonable grounds to believe that invasive organisms are present in or on conveyances, to inspect the conveyances,
  - (ii) to take samples of water and other substances in or on conveyances where required to assist in determining the presence of invasive organisms in or on the conveyances,
  - (iii) to subject anything that is harbouring, or suspected on reasonable grounds of harbouring, invasive organisms to measures to ensure decontamination or to quarantine any such thing for the period and in the manner directed by the Minister,

- (iv) to seize invasive organisms,
- (v) to decontaminate conveyances, and
- (vi) to ensure prevention of the exit of any subject water from places and conveyances.

**(8)** Notwithstanding subsection (7)(e)(iii) and (iv), a watercraft inspector may not be directed to exercise the quarantine or seizure power in either subclause.

**(9)** Where a conveyance is found to have an invasive organism in or on it, a fishery officer or fishery guardian may order the owner or any person operating or in charge of the conveyance to take any steps that are reasonably necessary to decontaminate it or to move the conveyance, on the same day or within 24 hours after the issuing of the order, to an inspection station or other location where decontamination can be effected.

**(10)** Without limiting any other provisions in this Act, the powers under this Act of inspection, search, seizure and killing or disposing of things seized apply where there is a conveyance that is reasonably suspected of being or having been in, or of containing any water from, any water body that may harbour or that has harboured invasive organisms, regardless of whether the water body is in or outside Alberta and regardless of the suspected derivation of those organisms.

**(11)** If a person contravenes this section or an order under this section, an official may rectify the problem created by the contravention at the cost of the person contravening it.

**(12)** The Minister may provide compensation in respect of diseased or parasitized fish disposed of under subsection (3)(b) in an amount that the Minister considers represents the fair value of undiseased or unparasitized fish of the kind and number disposed of.

**(13)** The Minister may assess the cost of any quarantining done under this section or the amount of a cost incurred under subsection (11) to the owner or person in possession or in charge of the subject organisms, and that cost must be paid on demand by the person assessed and is recoverable by the Minister as a debt due to the Crown.

**(14)** Orders made by the Minister under subsections (2) and (7) are to be treated as incorporated by reference in the regulations, but, to the extent that any such order contains a rule of general application, it must be published in full on the Department's website.

RSA 2000 cF-16 s32;2015 c7 s26

**33** Repealed 2015 c7 s26.

**Inspection stations for invasive species**

**33.2(1)** The Minister may establish inspection stations on or immediately adjacent to highways within the meaning of the *Traffic Safety Act* for the purpose of carrying out the legislative intent described in section 1(4).

(2) Where the Minister establishes an inspection station, the Minister shall, by means of signs that the Government establishes, have its presence identified at the approaches to it so that it is clearly visible to oncoming traffic.

(3) An individual operating a conveyance of a kind specified in an order under section 32(7)(a) that is approaching an inspection station that is open for inspections shall stop the conveyance, submit to an inspection and otherwise comply with any other applicable rules made under section 32(7).

(4) An official at an inspection station may conduct any decontamination of a conveyance that the official regards as necessary to reflect the intent referred to in subsection (1).

(5) In addition to complying with section 26(5), a person referred to in that subsection in a conveyance shall assist the official to effect the decontamination under subsection (4).

2015 c7 s26

**Offences and Penalties**

**Obstruction**

**34** A person shall not obstruct an official in the performance of the official's duties or the exercise of his or her powers under this Act.

2015 c7 s26

**False or misleading information**

**34.1** A person shall not wilfully give false or misleading information to any person, including the Minister, who is acting in the performance of his or her duties or the exercise of his or her powers under this Act.

2015 c7 s26

**Licence holders and competitive fish event participants**

**34.2(1)** A licence holder or a person referred to in section 18(1)(b) shall comply with the terms and conditions of the licence.

(2) A competitive fishing event participant shall comply with those terms and conditions of the licence that apply to that participant and of which he or she has been notified.

2015 c7 s26

#### **Alteration of licence**

**34.3** Subject to section 13(3), a person shall not alter a licence.

2015 c7 s26

#### **Contraventions generally**

**34.4(1)** Subject to subsection (2), a person who contravenes any provision of this Act is guilty of an offence.

(2) Without limiting the application of any rule of law relating to the immunity of the Crown, subsection (1) does not apply to an individual who, at the time of the contravention,

- (a) is an employee of the Crown under the Minister's administration who is exercising powers or performing duties involving fisheries research or fisheries management, or
- (b) is a fishery officer or fishery guardian, or an individual acting on behalf of or being supervised by an officer or guardian, who is exercising powers or performing duties involving investigations or undercover operations related to the enforcement of this Act.

(3) A person to whom an order is given pursuant to this Act shall comply with that order.

(4) A person shall comply with the rules made under section 32(7).

2015 c7 s26

#### **Penalties**

**35(1)** A person who is convicted of an offence is liable

- (a) in the case of an individual, to a fine of not more than \$100 000 or to imprisonment for a term of not more than 12 months, or to both the fine and imprisonment, and
- (b) in the case of a corporation, to a fine of not more than \$500 000.

(2) Where an offence of a continuing nature continued beyond a single calendar day, the person who committed the offence is additionally liable to the applicable penalty under subsection (1) for each calendar day after the first one on which the offence is held to have continued.

(2.1) An individual is not liable to any additional term of imprisonment solely as a result of the application of subsection (2) or to any term of imprisonment as a result of the application of section 36.

(3) In addition to imposing a fine or an imprisonment term, or both, the court may suspend or cancel any licence issued to the accused, and the court may direct that an accused does not have the right to apply for, obtain or hold a licence for up to 5 years from the date of the conviction.

(4) If a person is convicted of an offence and is required to pay a fine but fails to pay the amount of the fine within the time period allowed by the court,

- (a) the person's right to conduct activities under any licence issued under this Act held by that person that authorizes sportfishing is suspended until the fine is paid and, notwithstanding anything in this Act, the Minister must, in respect of that person, refuse to issue a licence under this Act that authorizes sportfishing until the fine is paid, and
- (b) the person's right to conduct activities under any licence held by that person under the *Wildlife Act* that is referred to in section 102 of the *Wildlife Act* is suspended and the Minister must, in respect of that person, refuse to issue any such licence under the *Wildlife Act* until the fine under this Act is paid.

RSA 2000 cF-16 s35;2001 c8 s9;2015 c7 s27

#### **Vicarious liability**

**36(1)** In the prosecution of an employer or a principal of an offence, it is sufficient proof of the offence if it is proved to the satisfaction of the court trying the case that

- (a) the provision was contravened by an employee or agent of the accused while acting in the course of the employee's employment or the agent's agency functions, and
- (b) the accused consented to or knew or should fairly be regarded as having consented to or having known about the circumstances giving rise to that contravention,

whether or not the employee or agent has been prosecuted for the contravention, and the employer or principal is separately liable to the penalty provided for the offence.

(2) Where it is proved to the satisfaction of the court trying a case that

- (a) a person other than the holder of a licence, called in this subsection “the licence-related person”, who performs a function in relation to a licence has contravened any provision of this Act, and
- (b) the licence holder consented to or knew or should fairly be regarded as having consented to or having known about the circumstances giving rise to that contravention,

then, whether or not the licence-related person has been prosecuted for the contravention, the licence holder is also a party to and guilty of the offence relating to the contravention and is separately liable to the penalty provided for the offence.

(3) Where it is proved to the satisfaction of the court trying a case that a corporation has contravened any provision of this Act, whether or not it has been prosecuted for the contravention, an officer with executive authority or a director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the contravention by the corporation is also a party to and guilty of the offence relating to the contravention and is separately liable to the penalty provided for the offence.

(4) Where it is proved to the satisfaction of the court trying a case that an individual has contravened section 33.2(3), whether or not that individual has been prosecuted for the contravention, the registered owner of the conveyance is also a party to and guilty of the offence relating to the contravention and is separately liable to the penalty provided for the offence.

2015 c7 s28

**37 and 38** Repealed 2015 c7 s28.

#### **Further and separate penalties and orders**

**38.1** A court may, in addition to and separately from imposing any penalty under section 35 or any other provision of this Act, assess any penalty on or make any other order against a convicted person under any of sections 38.2 to 38.6.

2009 c22 s4;2015 c7 s29

#### **Additional fine representing value of financial benefits**

**38.2** Where a person is convicted of an offence and the court is satisfied that as a result of the act or omission constituting the offence financial benefits accrued directly or indirectly to the person, the court may order the person to pay an additional fine in an amount that does not exceed the amount that the court finds to be the value of those benefits.

2009 c22 s4;2015 c7 s30

**Additional powers of court to make directions**

**38.3** Where a person is convicted of an offence, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order against the person containing any one or more of the following directions, which may contain any substance or conditions that the court considers appropriate:

- (a) to refrain from doing anything that may result in the continuation or repetition of the offence;
- (b) to take action to remedy any harm to any fish or other organism or its habitat that resulted, or to avoid any such harm that may result, from the act or omission constituting the offence;
- (c) to publish the facts relating to the act or omission constituting the offence;
- (d) to pay money as compensation for the whole or part of the cost of any remedial or preventive action taken by or on behalf of the Minister as a result of the act or omission constituting the offence;
- (e) to perform community service;
- (f) to pay money for the purpose of
  - (i) promoting the proper management and control or conservation and protection of fish or endangered species within the meaning of the *Wildlife Act*, or both, or their habitats, or
  - (ii) supporting and promoting programs to remove, destroy, prevent or control the spread of or administer and enforce laws respecting, invasive organisms, or to prevent their establishment;
- (g) to submit to the Minister, on application to the court by the Minister within 3 years after the date of the conviction, information respecting the activities of the person in relation to matters within the scope of this Act;
- (h) to post a bond or pay money into court for the purpose of ensuring compliance with any direction under this section;
- (i) to comply with any other conditions that the court considers appropriate for securing the person's good conduct and for

preventing the person from repeating the offence or committing other offences;

- (j) that the person is ineligible to hold a licence of any particular kind or category for a period longer than the maximum period set out in section 35(3) and is to comply with any conditions related to obtaining or holding a licence that the court considers appropriate for securing the person's good conduct and for preventing the person from repeating the offence or committing other offences.

2009 c22 s4;2015 c7 31

#### **Recoverability of court-awarded financial penalty**

**38.4(1)** Where the court makes an order under section 38.3(d) or (f) directing a person to pay money,

- (a) the money is to be paid for the benefit of the program or subprogram established by the Minister as the Minister considers most appropriate having regard to the nature of the offence, and
- (b) the amount due and any interest on it payable by law constitute a debt due to the Crown in trust for that program or subprogram and may be recovered as such.

**(2)** Where a person fails to comply with an order made under section 38.3(c), the Minister may publish the facts in question and recover the costs of publication from the person.

**(3)** Where the Minister incurs publication costs under subsection (2), the amount of the costs and any interest on it payable by law constitute a debt due to the Crown and may be recovered as such.

2009 c22 s4

#### **Variation of order**

**38.5(1)** Where the court has made an order under section 38.3, the court may, on application to the court by the Crown or by the person to whom the order is directed, require the person to whom the order is directed to appear before it and, after hearing the person and the Minister of Justice and Solicitor General, vary the order in any of the following ways that the court considers appropriate having regard to a change in the person's circumstances since the order was made:

- (a) by changing the order or any direction contained in it;
- (b) by relieving the person, either absolutely or partially or for any period that the court considers appropriate, from compliance with any direction contained in the order;

(c) by extending or decreasing the period during which the order is to remain in effect.

(2) Where an application has been heard by the court under subsection (1), no other application may be made in respect of the same order except with the permission of the court.

2009 c22 s4;2013 c10 s34;2014 c13 s49

#### **Contravention following conviction and order**

**38.6** Where a person is convicted of an offence, is made subject to an order under section 38.3 and subsequently contravenes that order, that person is guilty of an offence against this section and is liable, with respect to that offence, to a penalty not exceeding the maximum penalty to which the person was liable for the original offence.

2009 c22 s4;2015 c7 s32

#### **Burden of proving licence**

**39** In any prosecution for an offence, where a question arises as to whether a person was issued a licence, the burden is on the person to establish that the licence was issued.

1992 cF-12.2 s39

#### **Disposition of property following seizure**

**40(1)** Subject to this section, on conviction the court may order that anything seized or the proceeds of anything seized relating to the charge

(a) be confiscated to the Crown, or

(b) be returned to the person from whom it was seized.

(2) If a person is convicted of an offence that relates to fish seized under section 28(1) that were dead when seized or that have died or have been destroyed since being seized but prior to the time that the conviction is imposed, the court shall, in addition to any punishment imposed, order that the fish, or any proceeds realized from its disposition, be forfeited to the Crown.

(3) If fish have been seized under section 28(1) and the person is acquitted but it is proven that the fish were unlawfully caught or possessed, the court may order that the fish or any proceeds realized from their disposition be forfeited to the Crown.

(4) Where the ownership of any fish or other thing seized cannot be ascertained at the time of the seizure and cannot be ascertained within 30 days subsequent to the seizure and there is no application made under section 28(4), the fish or thing or the proceeds realized from the disposition of the fish or thing are forfeited to the Crown.

1992 cF-12.2 s40

**Limitation of time for prosecution**

**41** A prosecution for an offence may not be commenced later than 2 years after

- (a) the date when the act allegedly constituting the offence was committed, or
- (b) the date when evidence of the alleged offence first came to the attention of the Minister or an official,

whichever is the later.

RSA 2000 cF-16 s41; 2015 c7 s33

**41.1** Repealed 2015 c7 s33.

**General****Liability exemption**

**42(1)** No action lies against the Crown, the Minister or any official for anything done or not done by any of them in good faith while exercising their powers and performing their duties under this Act.

**(2)** The protections afforded by this Act or any other applicable law to a fishery officer or fishery guardian extend to other individuals while and to the extent that they are in the course of assisting that official under that official's direction.

RSA 2000 cF-16 s42; 2015 c7 s34

**Lieutenant Governor in Council regulations**

**43(1)** The Lieutenant Governor in Council may make regulations

- (a) establishing categories of licences, activities to be authorized by licences and classifications of licences;
- (b) respecting the terms, conditions and transferability of a licence;
- (c) respecting the eligibility requirements and applications for and the issuing of licences;
- (d) respecting instruments under section 18(1)(b);
- (e) governing the imposition and collection of royalties in respect of fish caught pursuant to a licence;
- (f) respecting the inspection of fish, fishing equipment and fish processing facilities;

- (g) establishing quality standards for fish for human consumption;
- (h) respecting fishing and the possession, handling, marketing, processing, storage, transportation, preservation, disposition and sale of fish and the inspection of those activities;
- (i) respecting the propagation, rearing and keeping of fish;
- (j) respecting sportfishing guides and activities involving assisting persons to sportfish;
- (k) respecting competitive fishing events, competitive fishing event participants and activities involving competitive fishing;
- (l) providing for any matter or thing that by this statute may or is to be prescribed by the Lieutenant Governor in Council.

**(2)** Repealed 2015 c7 s35.

**(2.1)** Subsection (1) does not apply with respect to invasive species or any aquatic species or material referred to in section 44(k), subject water or bait.

RSA 2000 cF-16 s43;2001 c8 s11;2015 c7 s35

#### **Ministerial regulations**

**44** The Minister may make regulations

- (a) establishing forms for the purpose of this Act;
- (b) - (d) repealed 2015 c7 s36;
- (e) respecting fees for licences;
- (f) providing for the maintenance and submission of records by licensees and any person producing or handling subject organisms;
- (g) respecting the circumstances under which subject organisms may be placed in, kept in or allowed to enter water;
- (h) repealed 2015 c7 s36;
- (i.1) amending the Schedule;
- (j) regulating and otherwise respecting invasive species, subject water and bait, the removal of conveyances from water and the importation into Alberta of conveyances;

- (k) applying any provisions of this statute to apply, with such adaptations as are considered necessary or advisable, with respect to, and otherwise regulating and respecting, species prescribed as aquatic species, including the making of orders in respect of activities covered by such provisions;
- (l) respecting the inspection, movement, removal, decontamination, clearing and quarantining of places, conveyances and equipment with reference to invasive species and other things that harbour or might harbour invasive organisms, including the making of orders in respect of such activities;
- (m) respecting the reporting of invasive organisms;
- (n) providing for any matter or thing that by this statute may or is to be prescribed.

RSA 2000 cF-16 s44;2001 c8 s12;2015 c7 s36

**Scope of regulations and rules**

**45** Regulations made under this statute and orders under section 32(2) and (7) may be made to apply generally or to particular classes of persons, places, conveyances or equipment or to particular organisms or kinds or numbers of organisms, to particular parts or progeny of organisms or organisms of a particular sex, age, growth, size or other characteristic, or to particular periods of time or areas of Alberta.

2015 c7 s37

**Schedule**

(Section 1(1)(j.4) and  
11.02(2)(c) and 11.03(2)(b))

NOTE: A reference in this Schedule to a species or group of species of organism by its common name as set out in column 1 of an item of this Schedule is to be construed as a reference to the species or group of species of organism whose scientific name is set out in column 2 of that item.

**Item 1<sup>1</sup>**  
**Invasive Species Fish**

	<b>Common Name</b>	<b>Scientific Name</b>	<b>Conditions for import and possession exemptions to apply</b>
1	Bowfin	<i>Amia calva</i>	dead and eviscerated
2	Green sunfish	<i>Lepomis cyanellus</i>	dead
3	Pumpkin seed	<i>Lepomis gibbosus</i>	dead
4	Bluegill	<i>Lepomis macrochirus</i>	dead
5	Snakehead	<i>Channidae spp.</i>	dead

	(whole family)		
6	Alewife	<i>Alosa pseudoharengus</i>	dead and eviscerated
7	Oriental weather loach	<i>Misgurnus anguillicaudatus</i>	dead
8	Red shiner	<i>Cyprinella lutrensis</i>	dead
9	Utah chub	<i>Gila atraria</i>	dead
10	Black carp	<i>Mylopharyngodon piceus</i>	dead and eviscerated
11	Largescale silver carp	<i>Hypophthalmichthys harnandi</i>	dead and eviscerated
12	Silver carp	<i>Hypophthalmichthys molitrix</i>	dead and eviscerated
13	Bighead carp	<i>Hypophthalmichthys nobilis</i>	dead and eviscerated
14	Orfe or ide	<i>Leuciscus idus</i>	dead
15	Common rudd	<i>Scardinius erythrophthalmus</i>	dead
16	Tench	<i>Tinca tinca</i>	dead
17	Round goby	<i>Neogobius melanostomus</i>	dead
18	Tubenose goby	<i>Proterorhinus marmoratus</i>	dead
19	Black bullhead	<i>Ameiurus melas</i>	dead
20	Yellow bullhead	<i>Ameiurus natalis</i>	dead
21	Brown bullhead	<i>Ameiurus nebulosus</i>	dead
22	White perch	<i>Morone americana</i>	dead
23	Ruffe	<i>Gymnocephalus cernuus</i>	dead
24	Zander	<i>Sander lucioperca</i>	dead
25	Western mosquitofish	<i>Gambusia affinis</i>	dead

Item 2<sup>1</sup>

## Freshwater Dwelling Invasive Plants

	Common Name	Scientific Name
1	Flowering rush	<i>Butomus umbellatus</i>
2	Eurasian watermilfoil	<i>Myriophyllum spicatum</i>
3	Purple loosestrife	<i>Lythrum salicaria</i>
4	Himalayan balsam	<i>Impatiens glandulifera</i>
5	Yellow flag iris	<i>Iris pseudacorus</i>
6	European frog-bit	<i>Hydrocharis morsus-ranae</i>
7	Water soldier	<i>Stratiotes aloides</i>
8	Yellow floating heart	<i>Nymphoides peltata</i>
9	European water chestnut	<i>Trapa natans</i>
10	Hydrilla	<i>Hydrilla verticillata</i>
11	Phragmites	<i>Phragmites australis</i>

12	Curly leaf pondweed	<i>Potamogeton crispus</i>
13	Brazilian elodea	<i>Egeria densa</i>
14	Fanwort	<i>Cobomba caroliniana</i>
15	Variable-leaf watermilfoil	<i>Myriophyllum heterophyllum</i>
16	Giant salvinia	<i>Salvinia molesta</i>

**Item 3<sup>1</sup>****Freshwater Dwelling Invasive Species other  
than Plants or Fish**

	<b>Common Name</b>	<b>Scientific Name</b>	<b>Conditions for import and possession exemptions to apply</b>
1	Zebra mussel	<i>Dreissena polymorpha</i>	
2	Quagga mussel	<i>Dreissena rostriformis bugensis</i>	
3	Golden mussel	<i>Limnoperna fortunei</i>	
4	Channeled applesnail	<i>Pomacea canaliculata</i>	dead
5	Facet snail	<i>Bithynia tentaculata</i>	dead
6	Asian tapeworm	<i>Bothriocephalus acheilognathi</i>	dead
7	Spiny water flea	<i>Bythotrephes cederstroemi</i>	dead
8	Fish hook water flea	<i>Cercopagis pengoi</i>	dead
9	Asian clam	<i>Corbicula fluminea</i>	dead
10	New Zealand mud snail	<i>Potamopyrgus antipodarum</i>	dead
11	Chinese mystery snail	<i>Cipangopaludina chinesis</i>	dead

1 Item 1, 2 or 3 also includes any hybrid offspring resulting from the crossing of 2 invasive organisms included in that Item or of one invasive organism included in that Item with another organism that is not an invasive organism.

2015 c7 s37;AR 45/2016 s14





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