

# **Fish Harvester Organizations Support Act**

CHAPTER 36 OF THE ACTS OF 2011



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CHAPTER 36 OF THE ACTS OF 2011

**An Act to Provide Support  
for Fish Harvester Organizations**

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**Short title**

**1** This Act may be cited as the *Fish Harvester Organizations Support Act*. 2011, c. 36, s. 1.

**Purpose of Act**

**2** The purpose of this Act is to

(a) strengthen the licence-holder collectivity and the fish harvester organizations in the Province by designating accredited organizations to represent their interests in matters related to the fishery;

(b) impose mandatory dues on licence holders in regions where they have voted affirmatively for the designation of an accredited organization to represent their interests;

(c) provide a procedure for a Registrar to remit to the accredited organizations mandatory dues collected from licence holders; and

(d) encourage the development of a strong accredited organization structure that will evolve and assume responsibility for the licence-

holder collectivity including the appointment by the Minister of Registrars for specified organizations. 2011, c. 36, s. 2.

### Interpretation

**3** In this Act,

(a) “accredited organization” means an organization designated by the Minister that meets the accreditation requirement set out by the regulations;

(b) “Department” means the Department of Fisheries and Aquaculture;

(c) “fish harvester organization” means an organization of licence holders;

(d) “licence holder” means a person who holds a fishing licence issued pursuant to the *Fisheries Act* (Canada) and is recognized as a core or an independent core fisher by the Department of Fisheries and Oceans (Canada);

(e) “licence holder in a region” means a licence holder who customarily returns from fishing to a place in that region;

(f) “Minister” means the Minister of Fisheries and Aquaculture;

(g) “region” means an area in the Province designated by the Minister;

(h) “Registrar” means the persons appointed as a Registrar by the Minister. 2011, c. 36, s. 3.

### Application of Act

**4** This Act applies to licence holders, fish harvester organizations and the accredited organizations that represent them. 2011, c. 36, s. 4.

### Supervision and management of Act

**5 (1)** The Minister is responsible for the supervision and management of this Act and the regulations.

**(2)** The Minister may enter into agreements with the Government of Canada, the government of a province of Canada or any body or persons on matters relating to the collection and sharing of information, the management and administration of this Act and the regulations. 2011, c. 36, s. 5.

### Regions

**6** The Minister may establish areas of the Province to be regions for the purpose of this Act. 2011, c. 36, s. 6.

### Representation by accredited organization

**7 (1)** The Minister may establish by regulation the process and requirements for designation of an accredited organization.

**(2)** A license holder or fish harvester organization may ask the Minister to be represented by an accredited organization that will represent the

interests of the license holder or organization and concerns that may include but not limited to fishery science, management, regulatory and safety issues.

(3) Upon receiving the request at subsection (2), the Minister may conduct a vote among licence holders in a region to determine whether there are sufficient numbers who wish to be represented by an accredited organization. 2011, c. 36, s. 7.

#### **Voting**

**8** (1) The Minister, in the manner prescribed by the regulations, shall set the threshold of required eligible votes for the designation of one or more accredited organizations in a region to represent the licence holders.

(2) Where the threshold of required eligible votes is attained and the Minister designates one or more accredited organizations to represent the region, the licence holders in that region shall pay annual dues as directed by the accredited organization and as prescribed by the regulations.

(3) Where the prescribed threshold of licence holders in a region vote to be represented by an accredited organization, the Minister, in the manner prescribed by the regulations, shall

- (a) give public notice of the results of the vote; and
- (b) invite organizations who meet the criteria prescribed by regulation to apply to the Minister for accreditation to represent the licence holders in the region. 2011, c. 36, s. 8.

#### **Accreditation**

**9** (1) Every fish harvester organization that applies for accreditation pursuant to subsection 8(3) and that meets the criteria, prescribed by the regulations, shall be accredited by the Minister to represent licence holders in the region.

(2) An accredited organization may apply to be accredited in more than one region. 2011, c. 36, s. 9.

#### **Power to change accreditation status**

**10** (1) Where an accredited organization does not comply with the accreditation criteria established by the regulations, the Minister may, at any time, suspend, cancel or revoke the accreditation of the organization or, for a period, designate another accredited organization to represent the interests of the licence holders in a region.

(2) The Minister's decision to suspend, cancel or revoke an organization's accreditation may be appealed in accordance with the regulations.

(3) Where the Minister designates a replacement accredited organization pursuant to subsection (1), the dues payable to the suspended accredited organization must be paid to the replacement accredited organization for the period of the suspension. 2011, c. 36, s. 10.

**Duties of accredited organization**

- 11 (1)** An accredited organization shall
- (a) keep records of its operation;
  - (b) appoint an agent to have custody and control of the operational records; and
  - (c) provide the name of the agent and the location of the operational records to the Minister.

**(2)** At the request of the Minister, the agent appointed pursuant to clause (1)(b) shall immediately make available to the Minister or to the Minister's delegate, the records of the accredited organization. 2011, c. 36, s. 11.

**Examination, inspection or audit of accredited organization**

**12 (1)** The Minister may appoint a person to examine, inspect or audit documents, records or any other information or thing relating to the operation of an accredited organization, including anything under the control of the accredited organization.

- (2)** A person appointed by the Minister pursuant to subsection (1)
- (a) has the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*;
  - (b) may make any inquiries the person thinks appropriate; and
  - (c) shall report their findings to the Minister in a timely manner.

**(3)** The Minister may act on the findings in the report made pursuant to clause (2)(c) or on any other information the Minister may receive to improve the administration and operational capacity of the accredited organization. 2011, c. 36, s. 12.

**Registrar**

**13** The Minister may appoint a person to perform the duties and functions and exercise the powers and authorities of Registrar as imposed or conferred upon that person by this Act and the regulations made pursuant to this Act. 2011, c. 36, s. 13.

**Annual dues**

**14 (1)** Where the Minister has designated one or more accredited organizations to represent licence holders pursuant to subsection 9(1), each licence holder in a region shall pay annual dues as required under subsection 8(2) to the Registrar unless exempted by the regulations.

**(2)** A licence holder may, at the time of payment, direct the mandatory annual dues to a specific accredited organization.

**(3)** Where a licence holder has not selected an accredited organization pursuant to subsection (2), the Minister may

- (a) fix the dues payable as the maximum annual dues owing in the region;
- (b) assign dues pursuant to clause (a) to the nearest accredited organization; and
- (c) direct the Registrar to pay the dues to the accredited organization designated pursuant to clause (b).

(4) The Registrar shall transfer the dues collected pursuant to this Section to the accredited organization identified under either subsection (2) or clause (3)(b). 2011, c. 36, s. 14.

#### **Purpose of dues**

15 Dues remitted by the Registrar to an accredited organization must be used to support representation of member licence-holder interests on matters relating to the inshore fishery in addition to administrative and operational costs of the accredited organization as prescribed by regulation. 2011, c. 36, s. 15.

#### **Offence and penalty**

16 (1) Every person who contravenes this Act or the regulations is guilty of an offence and liable on summary conviction to

- (a) for a first offence, a fine not less than one thousand dollars; and
- (b) in the case of a second or subsequent offence, a fine not less than two thousand five hundred dollars.

(2) No proceeding for an offence under this Act or the regulations may be commenced more than two years after the later of

- (a) the date on which the offence was committed; and
- (b) the date on which evidence of the offence first came to the attention of the Minister. 2011, c. 36, s. 16.

#### **Inspectors**

17 (1) No person may act as an inspector for the purpose of this Act and the regulations unless the person is appointed as a special constable under the *Police Act*.

(2) The Minister may recommend individuals to the Minister of Justice for appointment as special constables under the *Police Act* for the purpose of this Act and the regulations.

(3) The Minister may recommend the revocation of the appointment by the Minister of Justice of any individual as special constable pursuant to subsection (1). 2011, c. 36, s. 17.

#### **Powers and duties of inspectors**

18 For the purpose of ensuring compliance with this Act and the regulations, an inspector may

- (a) do any or all of the things enumerated in subsections 84(1) and (2) of the *Fisheries and Coastal Resources Act*; and
- (b) exercise such other powers as may be prescribed by the regulations. 2011, c. 36, s. 18.

#### Regulations by Minister

- 19 (1)** The Minister may make regulations
- (a) respecting the designation of regions;
  - (b) prescribing the process and requirement for establishing and maintaining an accredited organization as well as becoming a member of an accredited organization;
  - (c) prescribing the eligibility criteria for licence holders in a region to vote on the establishment of an accredited organization;
  - (d) prescribing the required threshold of eligible voters for the establishment of an accredited organization;
  - (e) prescribing mandatory payment of dues and exemptions from paying dues;
  - (f) respecting deadlines for the payment of annual dues and the designation, by the Minister, of the accredited organization to receive the annual dues where the licence holder fails to select an accredited organization to receive the dues;
  - (g) respecting the appointment, duties and functions of the Registrar;
  - (h) respecting persons appointed as inspectors;
  - (i) defining any word or expression used but not defined in this Act;
  - (j) generally respecting any matter or thing the Minister considers necessary or advisable to effectively carry out the intent and purpose of this Act.

**(2)** The exercise by the Minister of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*. 2011, c. 36, s. 19.

#### Regulations by Governor in Council

- 20 (1)** The Governor in Council may make regulations
- (a) prescribing penalties;
  - (b) respecting appeals of the Minister's decision to revoke an organization's accreditation.

**(2)** The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*. 2011, c. 36, s. 20.

**Repeal**

**21** Chapter 6 of the Acts of 1995-96, the *Fisheries Organizations Support Act*, is repealed. 2011, c. 36, s. 21.

**Effective date**

**22** This Act comes into force on such day as the Governor in Council orders and declares by proclamation. 2011, c. 36, s. 22.

Proclaimed	-	March 28, 2013
In force	-	April 1, 2013

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