

Fish Harvester Organizations Support Regulations

made under Section 19 of the
Fish Harvester Organizations Support Act
S.N.S. 2011, c. 36

N.S. Reg. 187/2013 (February 27, 2013, effective April 1, 2013)
as amended to N.S. Reg. 302/2015 (July 29, 2015)

Citation

1 These regulations may be cited as the Fish Harvester Organizations Support Regulations.

Definitions

2 (1) In these regulations,

“Act” means the Fish Harvester Organizations Support Act;

“annual dues” means the annual dues required by subsection 8(2) of the Act to be paid by a licence holder in a region represented by an accredited organization;

“member”, in relation to an organization, means a licence holder who is a member of the organization, unless the context otherwise requires;

“vote” means a vote conducted under subsection 7(3) of the Act among licence holders in a region with respect to representation of the licence holders by an accredited organization;

“controlling agreement” means an agreement between a licence holder and another person, corporation or other entity that permits a person, other than the licence holder, to control or influence a decision by the licence holder to submit a request to the Department of Fisheries and Oceans (Canada) for the issuance of a replacement licence to another fish harvester;

Definition added: N.S. Reg. 302/2015.

“key vessel based license [licence]” means

(I) in Region 1, a licence to fish for snow crab, lobster, groundfish (other than handline), scallop, bluefin tuna, or herring; and

(ii) in Regions 2 through 6, a licence to fish for herring purse seine, snow crab, lobster, groundfish (other than handline), scallop, bluefin tuna, herring, swordfish (longline), or shrimp trawl.

Definition added: N.S. Reg. 302/2015.

Section 2 redesignated as subsection 2(1) for the purposes of this consolidation to accommodate text added as 2(b) by N.S. Reg. 302/2015.

(2) In the Act and these regulations,

“customarily return from fishing to a place” means to return to the home port registered with the Department of Fisheries and Oceans (Canada) and identified as such on the licence holder’s key vessel based licences;

“recognized as a core or an independent core fisher” means a person who

(i) holds one or more key vessel based licences issued by the Department of Fisheries and Oceans (Canada),

(ii) is designated as either core or independent core on those licences;

(iii) in the case of a core fisher, held at least one of those licences, at the time of its issuance, subject to a controlling agreement, and

(iv) in the case of an independent core fisher, held none of those licences, at the time of their issuance, subject to a controlling agreement.

Duplicate subclause (iii) in the definition of “recognized as a core or an independent core fisher” redesignated as (iv) for the purposes of this consolidation.

Subsection added as 2(b) by N.S. Reg. 302/2015 redesignated as 2(2) for the purposes of this consolidation.

Regions

3 (1) In this Section, “Lobster Fishing Area” means a Lobster Fishing Area as illustrated and enumerated in the Atlantic Fishery Regulations, 1985 under the Fisheries Act (Canada);

(2) The Province is divided into 6 regions, described as follows and as shown on the map attached as Schedule A:

(a) Region 1, Gulf Nova Scotia: the coast from the Gulf-Nova Scotia-New Brunswick border to the Inverness-Victoria county line;

(b) Region 2, Cape Breton Atlantic: the coast from the Inverness-Victoria county line to the Canso Causeway;

(c) Region 3, Eastern Shore: the coast from the Canso Causeway to the mouth of the Sackville River in Halifax Harbour;

(d) Region 4, South Shore: the coast from the mouth of the Sackville River in Halifax Harbour to the boundary between Lobster Fishing Areas 33 and 34;

(e) Region 5, Southwest: the coast from the boundary between Lobster Fishing Areas 33 and 34 to the boundary between Lobster Fishing Areas 34 and 35;

(f) Region 6, Fundy: the coast from the boundary between Lobster Fishing Areas 34 and 35 to the New Brunswick border.

Appointment and functions of Registrar

4 (1) A Registrar must be an employee of the Government of Nova Scotia or, if appointed to represent a particular region, any other person whom the Minister considers appropriate.

(2) A Registrar, at the direction of the Minister, must perform all of the following duties:

(a) receive registration information and annual dues payable by licence holders under subsection 14(1) of the Act;

(b) disburse registration information and annual dues received from each licence holder to the accredited organization identified by the licence holder or, if no organization is identified, as directed by the Minister under clause 14(3)(c) of the Act;

(c) maintain a registry of licence holders and the accredited organizations to which they belong;

(d) provide the Minister with details of any outstanding annual dues that are owed;

- (e) any additional duties assigned by the Minister.

Threshold of required eligible votes

5 For the licence holders in a region to be represented by an accredited organization, the threshold of required eligible votes is 51% in favour, with at least 50% of the licence holders in the region having cast valid ballots.

Eligibility to vote

6 (1) A licence holder is eligible to vote in the region to which the licence holder customarily returns from fishing.

(2) The Department must compile a list of eligible voters for each region and make the list available so that licence holders in the region have sufficient time to review the list before a vote is conducted.

(3) A licence holder whose name is not on the list of eligible voters may apply in writing to the Minister to have their name added to the list.

Conducting vote

7 (1) Voting must be conducted at the time determined by the Minister.

(2) The Department must send a notice outlining the voting process to each licence holder whose name is on the list of eligible voters for the region.

(3) Voting may be conducted by ballot box, registered mail, telephone, or any other method allowing for maximum participation, as determined by the Minister.

(4) Once a vote is held, no further vote may be conducted in the same region for a period of at least 24 months.

(5) The Minister may appoint a person to observe the voting process and to report to the Minister on it.

Public notice and invitation following affirmative vote

8 (1) The public notice required by subsection 8(3) of the Act following an affirmative vote must be published

(a) at least once in each of 2 consecutive weeks in a newspaper having general circulation in areas in which, in the opinion of the Minister, the notice is likely to come to the attention of licence holders in the region; and

(b) in 1 issue of the Royal Gazette Part I.

(2) The invitation to organizations to apply for accreditation required by subsection 8(3) of the Act must be in the form of a letter signed by the Minister.

Deadline for payment of annual dues

9 (1) Except as provided in subsection (2) for the first annual dues payable, annual dues must be paid to a Registrar on or before September 1 in each year.

(2) The first annual dues that are payable in a region following an affirmative vote must be either prorated or waived, at the Minister's discretion, as follows:

(a) prorated on the basis of the period of time between the date the vote was conducted in the region and August 31 in the same year; or

(b) waived so that the first annual dues are payable by September 1 of the following year.

Exempted licence holders

10 (1) A licence holder who demonstrates to the satisfaction of the Minister that no existing accredited organization adequately represents the licence holder's interests is exempt from the requirement to pay annual dues.

(2) A licence holder may request an exemption by applying in writing to the Minister.

Applying for designation as accredited organization

11 To be designated as an accredited organization for a region following an affirmative vote in the region, an organization must

(a) meet the accreditation criteria set out in Section 12 and, if applicable, Section 13; and

(b) apply to the Minister in the manner set out in Section 14 within the following applicable time period:

(i) for an organization that existed at the time the voting was conducted, no later than 90 days after the date the results of the vote are published,

(ii) for an organization that did not yet exist at the time the voting was conducted, at any time following the date the results of the vote are published.

Accreditation criteria

12 For the purposes of subsection 9(1) of the Act, all of the following are prescribed as the criteria to be met by an accredited organization:

(a) the primary purpose of the organization is to represent its members;

(b) each member is required to pay at least \$100 in annual dues;

(c) the organization maintains a duly elected executive composed of

(i) a president,

(ii) a vice-president,

(iii) a secretary and a treasurer, or a secretary-treasurer, and

(iv) a board of directors;

(d) the organization has established and maintains a regular reporting mechanism and can demonstrate that the reporting mechanism is being actively used to communicate with and receive input from the organization's members;

(e) the organization has made all required filings and registrations with the Registry of Joint Stock Companies either as a society under the Societies Act or as a limited company incorporated under the Companies Act and is in good standing with the Registry of Joint Stock Companies;

(f) unless designated on a special sector basis as set out in Section 13, the organization has, in each region represented by the organization, a membership of at least 100 licence holders or 15% of the licence holders in the region, whichever is the lesser number.

Clause 12(f) amended: N.S. Reg. 26/2014.

Accreditation criteria for designation on special sector basis

13 (1) An organization that meets all of the accreditation criteria prescribed in Section 12 except for the minimum membership criteria in clause 12(f) may apply for designation as an accredited organization on a special sector basis.

(2) To be designated as an accredited organization on a special sector basis, an organization must demonstrate to the Minister's satisfaction that it represents a unique industry sector by meeting at least 1 of the following criteria:

(a) the organization has been recognized by the Department of Fisheries and Oceans (Canada) or the Province as representing a unique industry sector;

(b) the members of the organization are geographically isolated;

(c) the organization represents only members in the region who fish for a specific species or use a specific type of fishing gear and has a membership of 25 licence holders or 80% of the licence holders in the region, whichever is the lesser number;

(d) the membership is unique and separate from general multi-species enterprises and other sectors of the fishery;

(e) if the organization represents members who fish for a specific species, each member holds a licence for that species;

(f) if the organization represents members who use a specific type of fishing gear, each member uses that type of fishing gear;

(g) the membership cannot be effectively represented by any other accredited organization.

Designation application form and fee

14 (1) An application for designation as an accredited organization must be in writing and must include all of the following information about the organization:

(a) its name and address;

(b) a statement of its purpose;

(c) the names and addresses of its executive officers;

(d) the reporting mechanism established and maintained as required by clause 12(d);

(e) proof that the organization has made all required filings and registrations with the Registry of Joint Stock Companies either as a society under the Societies Act or as a limited company incorporated under the Companies Act and is in good standing with the Registry of Joint Stock Companies;

(f) a statement of the amount of the annual dues that it charges;

(g) a list of the names and civic addresses of all of its members.

(2) An application must be accompanied by a non-refundable fee of \$206.00.
Subsection 14(2) amended: N.S. Reg. 177/2015.

Maintaining designation as accredited organization

15 To maintain its designation as an accredited organization, an organization must submit all of the following to the Minister in writing on or before December 1 in each year:

(a) a current list of its members;

(b) a list of its current executive and board members;

(c) proof demonstrating active communication and opportunity for input as required by clause 12(d);

(d) proof that the organization has made all required filings and registrations with the Registry of Joint Stock Companies and is in good standing with the Registry of Joint Stock Companies.

Organization accreditation fee

16 (1) Except as provided in subsection (2) for the first annual accreditation fee payable by the organization, an accredited organization must pay to the Minister an annual accreditation fee of \$20.60 per member, or \$1030.00, whichever is less, on or before December 1.

Subsection 16(1) amended: N.S. Reg. 177/2015.

(2) The first annual accreditation fee payable by an accredited organization on becoming designated must be either prorated or waived, at the Minister's discretion, as follows:

(a) prorated on the basis of the period of time between the date of the designation and November 30 in the same year; or

(b) waived so that the first annual fees are payable by December 1 of the following year.

(3) An accredited organization that is designated in more than 1 region is not required to pay an accreditation fee for the additional designation.

(4) Once the Minister is satisfied that an organization has complied with all requirements prescribed by these regulations to obtain or maintain, as applicable, a designation as an accredited organization and pays the accreditation fee required under this Section, the Minister shall issue an accreditation certificate to the organization.

Subsection 16(4) added: N.S. Reg. 302/2015.

Transition

17 (1) In this Section,

“former Act” means Chapter 6 of the Acts of 1995-96, the Fisheries Organizations Support Act;

“former regulations” means the regulations respecting support for fisheries organizations, N.S. Reg. 170/96, made by the Governor in Council by Order in Council 96-860 dated November 19, 1996.

(2) An affirmative vote conducted in a region under the former Act is recognized as a vote in favour of having the region represented by an accredited organization under the Act and these regulations.

(3) An organization that on the coming into force of these regulations is an accredited organization under the former regulations continues as an accredited organization under the Act and these regulations.

Schedule A

Nova Scotia Fish Harvester Organizations Support Act Regions