

chapter P-9.01

**ACT RESPECTING COMMERCIAL FISHING AND COMMERCIAL HARVESTING OF
AQUATIC PLANTS**

2003, c. 23, s. 56.

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CHAPTER I

COMMERCIAL FISHERIES

DIVISION I

PROGRAM

1. The Minister of Agriculture, Fisheries and Food shall devise, every year, taking into account the fishing management plan established under the Act respecting the conservation and development of wildlife (chapter C-61.1), a program to promote the development of commercial fisheries and the commerce of aquatic products caught or taken from tideless waters of the domain of the State.

The program indicates, in particular,

(1) the species of fish, amphibians, echinoderms, crustaceans or shellfish for which commercial fishing rights may be granted;

(2) the places where commercial fishing rights may be granted;

(3) the maximum number of concessions which, in each of the places contemplated in paragraph 2, may be granted under section 3, and the maximum quantity of aquatic products of each species that may be caught.

1984, c. 16, s. 1; 1999, c. 40, s. 209.

2. The program is subject to the approval of the Government which may amend it.

1984, c. 16, s. 2.

DIVISION II

CONCESSIONS

3. The Minister may grant the right to fish for commercial purposes in tideless waters of the domain of the State.

In tideless waters, the right comprises the right to use that part of the shore or bed that is part of the domain of the State to affix or deposit fishing gear or installations intended for commercial fishing.

1984, c. 16, s. 3; 1999, c. 40, s. 209.

Not in force

4. The Minister may, in tidal waters, grant the right to use that part of the shore or bed that is part of the domain of the State to affix or deposit fishing gear or installations intended for commercial fishing.

1984, c. 16, s. 4; 1999, c. 40, s. 209.

5. Where part of the shore or bed of tidal or tideless waters is not part of the domain of the State, the Minister may, after having reached an agreement with the owner of that part, grant the right to use it to affix or deposit thereon fishing gear or installations intended for commercial fishing.

1984, c. 16, s. 5; 1999, c. 40, s. 209.

6. The Minister may, within the limits and for each place indicated in the program approved by the Government, grant such number of concessions as he may fix and determine, for each concession, the species and quantity of aquatic products that may be caught or taken.

1984, c. 16, s. 6.

7. The Minister shall select concession holders according to such criteria and procedure as he may determine.

The criteria and the procedure are made public in the manner fixed by the Minister.

1984, c. 16, s. 7.

8. On granting a concession, the Minister may prescribe any condition, restriction or prohibition that he considers expedient.

Concession holders are also subject to every condition, restriction or prohibition that the Government may fix by regulation.

1984, c. 16, s. 8.

9. The term of a concession is 12 months.

The Minister may, however, fix a shorter term.

1984, c. 16, s. 9.

10. Concession holders are required to pay to the Minister the royalty fixed by regulation.

Concession holders shall, in carrying on their activities, use and produce to the Minister the books, registers and other documents prescribed by regulation.

1984, c. 16, s. 10.

Not in force

11. Unless the holder of a concession granted under this division, no person may engage in commercial fishing in tideless waters of the domain of the State or use for that purpose part of the shore or bed of tideless or tidal waters of the domain of the State, or any part of the shore or bed that is not part of the domain of the State and that is under an agreement contemplated in section 5.

1984, c. 16, s. 11; 1999, c. 40, s. 209.

CHAPTER II

COMMERCIAL HARVESTING OF AQUATIC PLANTS

2003, c. 23, s. 57.

12. *(Repealed).*

1984, c. 16, s. 12; 1998, c. 29, s. 28; 2003, c. 23, s. 58.

13. A person may not harvest aquatic plants on a commercial basis in the places determined by regulation unless the person holds a licence issued by the Minister.

The first paragraph does not apply to the harvesting of aquatic plants cultivated under the Act respecting commercial aquaculture (chapter A-20.2).

1984, c. 16, s. 13; 2003, c. 23, s. 59.

14. The Minister shall issue a licence to every person who meets the conditions and pays the fee prescribed under the said Act and who complies with the norms respecting the quality of the environment and wildlife protection.

The Minister may, however, after having notified the person concerned of his intention and the reasons therefor and allowed the person to present observations, refuse to issue a licence on grounds of public interest.

The decision of the Minister refusing the issue of a licence must be substantiated and forwarded in writing to the interested person.

1984, c. 16, s. 14; 1997, c. 43, s. 398; 1998, c. 29, s. 29; 2003, c. 23, s. 60.

15. The Minister may subject the issue of a licence to any condition, restriction or prohibition that he determines and enters on the licence.

1984, c. 16, s. 15.

16. The term of a licence is 12 months.

The Minister may, however, fix a shorter term.

1984, c. 16, s. 16.

17. The holder of a licence shall, in carrying on his activities, use and produce to the Minister the books, registers and other documents prescribed by regulation.

1984, c. 16, s. 17.

18. *(Repealed).*

1984, c. 16, s. 18; 2003, c. 23, s. 61.

CHAPTER III

ADMINISTRATIVE PENALTIES AND PROCEEDING BEFORE THE ADMINISTRATIVE TRIBUNAL OF QUÉBEC

1997, c. 43, s. 399.

DIVISION I

SUSPENSION OR CANCELLATION OF A CONCESSION OR LICENCE

19. The Minister may, after having notified the person concerned in writing as prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and allowed the person at least 10 days to present observations, suspend or cancel a concession or a licence

(1) if the interested person is convicted of an offence against this Act or the regulations,

(2) if the interested person fails to comply with the conditions, restrictions or prohibitions affecting the concession or licence.

The Minister may, in the same manner, suspend or cancel the licence of any person who refuses to implement a measure prescribed in an order made pursuant to the provisions of Chapter IV or Chapter V of the Crop Health Protection Act (chapter P-42.1).

1984, c. 16, s. 19; 1990, c. 4, s. 626; 1997, c. 43, s. 400; 2000, c. 40, s. 45; 2003, c. 23, s. 62; 2008, c. 16, s. 46.

20. In the cases contemplated in section 19, the Minister's decision must be substantiated and forwarded in writing to the interested person.

1984, c. 16, s. 20.

DIVISION II

PROCEEDING BEFORE THE ADMINISTRATIVE TRIBUNAL OF QUÉBEC

1997, c. 43, s. 401.

21. Any decision of the Minister may be contested before the Administrative Tribunal of Québec, within 30 days of notification of the decision, by any person

(1) whose concession or licence is suspended or cancelled;

(2) whose application for a licence is refused on grounds other than the public interest.

1984, c. 16, s. 21; 1988, c. 21, s. 66; 1997, c. 43, s. 402.

22. *(Repealed).*

1984, c. 16, s. 22; 1988, c. 21, s. 66; 1997, c. 43, s. 403.

23. *(Repealed).*

1984, c. 16, s. 23; 1988, c. 21, s. 66; 1997, c. 43, s. 403.

24. *(Repealed).*

1984, c. 16, s. 24; 1997, c. 43, s. 403.

25. *(Repealed).*

1984, c. 16, s. 25; 1997, c. 43, s. 403.

26. *(Repealed).*

1984, c. 16, s. 26; 1997, c. 43, s. 403.

27. *(Repealed).*

1984, c. 16, s. 27; 1988, c. 21, s. 66; 1997, c. 43, s. 403.

28. *(Repealed).*

1984, c. 16, s. 28; 1988, c. 21, s. 66, s. 107; 1997, c. 43, s. 403.

CHAPTER IV

INSPECTION, SEIZURE AND CONFISCATION

29. The Minister may, for the administration of this Act and the regulations and within the limits authorized by the Conseil du trésor, appoint inspectors, analysts and officers and determine their remuneration and other conditions of employment.

1984, c. 16, s. 29.

30. Every inspector or officer has, in the performance of his duties, the powers of a peace officer.

An inspector or an officer must identify himself on demand and show the certificate bearing the signature of the Minister and attesting his capacity.

1984, c. 16, s. 30.

31. No person may hinder any inspector, analyst or officer in the performance of his duties or refuse to obey him.

1984, c. 16, s. 31.

32. No inspector, analyst or officer may be prosecuted for any official act done in good faith in the performance of his duties.

1984, c. 16, s. 32.

33. Every inspector or officer, in the performance of his duties, may

(1) enter, at any reasonable hour, the establishment of a licence holder to inspect it; he may inspect the products found therein and take free samples thereof, examine the registers or other documents and take extracts from or make copies of them;

(2) require any document relating to the application of this Act and the regulations and the production of any document relating thereto.

1984, c. 16, s. 33.

34. Any inspector or officer may board any fishing boat to verify whether its occupants are in compliance with this Act or the regulations and, in particular, whether any part of the shore or bed of the waters of the domain of the State used by them is used in accordance with this Act and the regulations.

1984, c. 16, s. 34; 1999, c. 40, s. 209.

35. *(Repealed).*

1984, c. 16, s. 35; 1986, c. 95, s. 352; 1990, c. 4, s. 627.

35.1. *(Repealed).*

1986, c. 95, s. 352; 1990, c. 4, s. 627.

36. Any inspector or officer may, in the performance of his inspection duties, seize any property in respect of which he has reasonable cause to believe that an offence against this Act or the regulations has been committed, or which has been used to commit such an offence.

1984, c. 16, s. 36; 1990, c. 4, s. 628.

37. The inspector or officer who seizes any property shall draw up minutes in which he indicates, in particular,

- (1) the date and place of the seizure;
- (2) the circumstances of and the reasons for the seizure;
- (3) the description of the seized property;
- (4) the name of the person from whom the property was seized;
- (5) any information permitting the rightful owner or possessor of the seized property to be identified;
- (6) the identity and capacity of the person making the seizure.

1984, c. 16, s. 37.

38. A copy of the minutes is given to the person from whom the property was seized.

1984, c. 16, s. 38.

39. The inspector or officer shall, without delay, make a written report to the Minister of any seizure made by him under this Act.

1984, c. 16, s. 39.

40. The inspector or officer is responsible for the custody of the property seized until it is disposed of under section 41, 42, 44, 45 or 46. In addition, the inspector or officer shall have custody of the things seized and submitted in evidence, unless the judge to whom they were submitted in evidence decides otherwise.

1984, c. 16, s. 40; 1992, c. 61, s. 430.

41. If perishable goods are found among the seized property, the inspector or officer having custody of them may sell them according to the modalities and for the price justified by the circumstances.

The proceeds of the sale are deposited with the Bureau général de dépôts pour le Québec.

1984, c. 16, s. 41; 2016, c. 7, s. 183.

42. Subject to section 45 or 46, any property seized or the proceeds of its sale must be returned to the rightful owner or possessor if no charge is laid in respect of the property within 90 days of the date of seizure.

1984, c. 16, s. 42.

43. On the application of the person making the seizure, a justice of the peace may order that the period of retention of the seized property be extended for a maximum of 90 days.

Before deciding on the merit of the application, the justice of the peace may order that it be served on the person he designates.

1984, c. 16, s. 43.

44. The rightful owner or possessor of the seized property may, at any time, request of a judge that his property be returned to him.

The request must be served on the person who seized the property or, if proceedings are instituted, on the prosecuting party.

The judge shall grant the request if he is convinced that the person making the request will suffer grave and irreparable prejudice if retention of the property is continued and returning it will not impede justice.

1984, c. 16, s. 44; 1992, c. 61, s. 431.

45. Any property seized by an inspector or officer and whose rightful owner or possessor is unknown or untraceable, or the proceeds of sale of the property, shall be transferred to the Minister of Revenue or to the Bureau général de dépôts pour le Québec according to whether the property or the proceeds of the sale are involved 90 days after the day of seizure; a statement describing the property or the proceeds of the sale and indicating, where applicable, the name and last known address of the interested party shall be sent to the Minister of Revenue at the time of the transfer.

The Unclaimed Property Act (chapter B-5.1) applies to the property or proceeds of sale so transferred to the Minister of Revenue or to the Bureau général de dépôts pour le Québec.

1984, c. 16, s. 45; 1997, c. 80, s. 71; 2005, c. 44, s. 54; 2011, c. 10, s. 98; 2016, c. 7, s. 183.

46. Any aquatic product seized by an inspector or by an officer on the grounds that it was taken from or caught in waters of the domain of the State by a person who is not the grantee of a right contemplated in Division II of Chapter I, or the proceeds of sale of the product, shall be confiscated unless, within 30 days of the date of seizure, the person who intends to claim the product has served an action to that effect on the Attorney General.

The Minister shall prescribe the manner in which the property seized under this section is to be disposed of.

1984, c. 16, s. 46; 1999, c. 40, s. 209.

47. *(Repealed).*

1984, c. 16, s. 47; 1986, c. 95, s. 353; 1997, c. 43, s. 404; 1998, c. 29, s. 30; 2000, c. 40, s. 46.

48. *(Repealed).*

1984, c. 16, s. 48; 2000, c. 40, s. 46.

CHAPTER V

REGULATIONS

49. The Government may, by regulation,

- (1) fix the royalties exigible from a concession holder;
- (2) determine the gear and installations intended for commercial fishing the affixing or depositing of which on a part of the shore or bed of waters of the domain of the State may be authorized by the Minister;
- (3) determine the conditions, restrictions or prohibitions relating to the use of a part of the shore or bed of waters of the domain of the State to affix or deposit thereon any gear or installations intended for commercial fishing, to the situation and size of such part of the shore or bed and to the restoration of the premises used to their former condition on the expiry of a concession;
- (4) *(paragraph repealed)*;
- (5) *(paragraph repealed)*;
- (6) prescribe standards for the commercial harvesting of aquatic plants;

(7) determine the waters and places in such waters where commercial harvesting of aquatic plants is prohibited except with a licence;

(8) determine categories of licences and the rights, conditions, restrictions or prohibitions relating to each category;

(9) prescribe conditions of issue and the form, tenor and cost of a licence;

(10) prescribe the books, registers or other documents to be used by the grantee of a right or the holder of a licence in carrying on his activities, and which he must furnish to the Minister;

(11) (*paragraph repealed*);

(12) determine the provisions of a regulation under this section the infringement of which is punishable pursuant to section 51.

1984, c. 16, s. 49; 1998, c. 29, s. 31; 1999, c. 40, s. 209; 2000, c. 40, s. 47; 2003, c. 23, s. 63.

50. The Government shall publish every draft regulation in the *Gazette officielle du Québec* with a notice that it may be adopted with or without amendment on the expiry of not less than 30 days from that publication.

The regulation comes into force on the day of its publication in the *Gazette officielle du Québec* or on any later date fixed therein.

1984, c. 16, s. 50.

CHAPTER VI

PENAL PROVISIONS

51. Whoever contravenes section 11, 13 or 31 or any regulatory provision determined under paragraph 12 of section 49 is liable to a fine of \$200 to \$2,000 in the case of a natural person and of \$500 to \$5,000 in the case of a legal person.

In the case of a second or subsequent conviction, the offender is liable to a fine of \$1,000 to \$10,000 in the case of a natural person and of \$3,000 to \$30,000 in the case of a legal person.

1984, c. 16, s. 51; 1990, c. 4, s. 629; 1999, c. 40, s. 209; 2003, c. 23, s. 64.

52. Where a seizure is made under section 36, a judge may, upon conviction for an offence under a provision of section 11 or 13, and on the application of the prosecuting party, declare the confiscation of the seized property.

In such a case, if aquatic products are found in the seized property, the conviction entails the confiscation thereof.

Prior notice of the application for confiscation shall be given by the prosecuting party to the person from whom the property was seized and to the defendant, except where they are in the presence of the judge.

The Minister shall prescribe the manner of disposing of property confiscated under this section.

1984, c. 16, s. 52; 1992, c. 61, s. 432; 2003, c. 23, s. 65.

53. Where a legal person is guilty of an offence against this Act or the regulations, the director, employee or officer of the legal person who ordered, authorized or advised the commission of the offence or consented thereto is a party to the offence and is liable to the penalty prescribed for the offence.

1984, c. 16, s. 53; 1999, c. 40, s. 209.

54. Every person who knowingly aids, by any act or omission, another person to commit an offence contemplated in section 51 or who advises, encourages or incites a person to commit an offence is a party to the offence and is liable to the penalty prescribed for the offence.

1984, c. 16, s. 54.

55. Where an offence contemplated in section 51 continues for more than one day, it constitutes a separate offence for each day or part of a day during which it continues.

1984, c. 16, s. 55; 1990, c. 4, s. 630.

56. *(Repealed).*

1984, c. 16, s. 56; 1990, c. 4, s. 631.

CHAPTER VII

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

57. *(Amendment integrated into c. C-76, s. 5.1).*

1984, c. 16, s. 57.

58. *(Amendment integrated into c. C-76, s. 6).*

1984, c. 16, s. 58.

59. *(Amendment integrated into c. M-14, s. 2).*

1984, c. 16, s. 59.

60. *(Amendment integrated into c. M-14, s. 13).*

1984, c. 16, s. 60.

61. *(Amendment integrated into c. M-14, Division VI).*

1984, c. 16, s. 61.

62. *(Amendment integrated into c. M-14, s. 23).*

1984, c. 16, s. 62.

63. *(Amendment integrated into c. M-15.2, s. 11.1).*

1984, c. 16, s. 63.

64. Licences for the operation of a piscicultural establishment contemplated in section 12 of this Act, issued under the Wild-life Conservation Act (chapter C-61), remain valid until their date of expiry.

1984, c. 16, s. 64.

65. The sums required for the carrying out of this Act are taken, for the fiscal year 1983-1984 and to the extent determined by the Government, out of the Consolidated Revenue Fund and, for subsequent fiscal years, from the sums granted annually for that purpose by the Parliament.

1984, c. 16, s. 65.

66. The Minister of Agriculture, Fisheries and Food is responsible for the administration of this Act.

1984, c. 16, s. 66.

67. *(This section ceased to have effect on 15 November 1990).*

1984, c. 16, s. 67; U. K., 1982, c. 11, Sch. B, Part I, s. 33.

68. *(Omitted).*

1984, c. 16, s. 68.

REPEAL SCHEDULE

In accordance with section 17 of the Act respecting the consolidation of the statutes and regulations (chapter R-3), chapter 16 of the statutes of 1984, in force on 1 March 1986, is repealed, except section 68, effective from the coming into force of chapter P-9.01 of the Revised Statutes.