

No. 73

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4th Session, 14th Legislature, Alberta  
10 Elizabeth II

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## **BILL 73**

A Bill respecting the Regulation of Fishing and Dealing  
in Fish

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HON. MR. WILLMORE

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## **Explanatory Note**

General. This Bill will repeal and replace The Fishery Act, being chapter 116 of the Revised Statutes. It is essentially a revision of that Act with some new provisions added. The section references in the explanatory notes are to the equivalent provisions in the present Act.

### **2. Definitions.**

### **3. Application of Act. (Section 3)**

# BILL

No. 73 of 1962

An Act respecting the Regulation of Fishing and Dealing  
in Fish

(Assented to \_\_\_\_\_, 1962)

**H**ER MAJESTY, by and with the advice and consent of  
the Legislative Assembly of the Province of Alberta,  
enacts as follows:

1. This Act may be cited as "*The Fishery Act, 1962*".

## Interpretation

2. In this Act,

- (a) "Alberta Fishery Regulations" means the Alberta Fishery Regulations issued by order of the Governor General in Council pursuant to the *Fisheries Act* (Canada);
- (b) "cold storage plant" means a cold storage plant that as part of its business receives fish for cold storage or processing;
- (c) "Director" means the Director of Fish and Wildlife appointed under *The Game Act*;
- (d) "fish" includes every species of fish found in the waters of Alberta;
- (e) "fish dealer" means a person other than a retailer who buys fish for the purpose of resale;
- (f) "fishery officer" means a fishery officer appointed under subsection (2) of section 4 and a person designated in subsection (3) of section 4;
- (g) "fishing station" means a building or place where fish are received from fishermen, or packed, or received and packed;
- (h) "fishing station operator" means a person who in any manner or place receives or packs fish;
- (i) "Minister" means the Minister of Lands and Forests;
- (j) "process" includes every method of preparing fish or fish products for market;
- (k) "transaction" includes a purchase or sale of fish and a contract or agreement with respect to fish.

## Application of Act

3. This Act applies to

**4. Administration of Act to be supervised by the Director of Fish and Wildlife. (Section 4)**

**5. Authority to make regulations. (Section 5)**

**6. Unlicensed dealing in fish prohibited. (Section 6)**

- (a) all fish, fishing and rights of fishing,
- (b) the sale of fish, and
- (c) all matters that are within the legislative competence of the Province and relate to any of the foregoing,

and is subject to the exercise by the Parliament of Canada of its legislative jurisdiction with regard to sea-coast and inland fisheries.

#### **Administration**

**4. (1)** The Director shall supervise

- (a) the administration of this Act, and
- (b) all officers and employees of the Fish and Wildlife Division and such other persons as are appointed to enforce the provisions of this Act.

(2) The Minister may appoint such persons as he deems proper as fishery officers who shall enforce the provisions of this Act under the direction of the Director.

(3) All members of the Royal Canadian Mounted Police, all forest officers appointed under *The Forests Act, 1961*, and all wildlife officers appointed under *The Game Act* are *ex officio* fishery officers and have the same powers and duties as are conferred upon a fishery officer appointed under this Act.

**5.** The Lieutenant Governor in Council may make regulations

- (a) respecting the form and issue of licences,
- (b) respecting the fees to be paid for licences,
- (c) prescribing the royalties payable in respect of any fish caught for commercial purposes and providing for the collection and recovery of those royalties,
- (d) respecting the inspection and quality of fish,
- (e) respecting the packing, handling, processing, storage and transportation of fish and fish products within the Province,
- (f) respecting the establishment and operation of fish farms for private and commercial purposes, and
- (g) generally to carry out the provisions of this Act according to their true intent or to meet any cases that may arise for which no provision or insufficient provision is made in the Act.

#### **Licences and Prohibitions**

**6.** No person shall

- (a) operate a fishing station,
- (b) sell fish,
- (c) buy fish except by retail purchase,
- (d) process fish,
- (e) engage in the business of exporting fish,

**7.** Issue and cancellation of licences. (Section 7)

**8.** Restriction on purchase of fish for resale. (Section 8)

**9.** Keeping of records. (Section 9)

**10.** Cold storage plants to issue receipts. (Section 10)

**11.** Monthly statement respecting business transactions by fishing station operator, fish dealer and processors and exporters. (Section 11).

- (f) operate a cold storage plant other than a plant licensed under *The Frozen Food Locker Act*, or
- (g) propagate, breed, rear or keep live game fish or live game fish eggs, within the meaning of the Alberta Fishery Regulations,

unless he is the holder of a valid licence authorizing him to do so.

**7.** The Minister in his discretion may issue, cause to be issued, refuse to issue or cancel a licence required or permitted by this Act.

**8.** No person shall purchase fish for resale or trade except from

- (a) a fisherman holding a valid commercial fishing licence within the meaning of the Alberta Fishery Regulations, or
- (b) a person holding a valid licence to sell fish.

**9.** Every fishing station operator, fish dealer, and every person engaged in either processing or exporting fish, shall keep true and accurate records on forms prescribed by the Minister showing

- (a) the date of each transaction,
- (b) the name, address and licence number of the fisherman or other person from whom the fish were purchased or received,
- (c) the name, address and licence number of the person to whom fish were sold or delivered,
- (d) the various species of fish and the quantity of each species involved in each transaction, and
- (e) such other information as the Minister may require.

**10.** (1) Every operator of a cold storage plant, except a plant licensed under *The Frozen Food Locker Act*, shall issue a receipt for all fish received by him showing

- (a) the date the fish were received,
- (b) the name, address and licence number of the fisherman or other person from whom the fish were received,
- (c) the various species of fish and the quantity of each species involved in each transaction, and
- (d) such other information as the Minister may require.

(2) The operator shall immediately send a duplicate copy of each receipt to the Director.

#### **Statements**

**11.** (1) Every fishing station operator, every fish dealer, and every person engaged in the business of processing or exporting fish shall, not later than the fifteenth day of each month, send to the Director a statutory declaration concerning his business transactions swearing to

**12.** Statement by retail dealer on request. (Section 12)

**13.** Application of the Fish Inspection Act (Canada). (Section 13)

**14.** Idem. (Section 14)

- (a) the date of each transaction,
  - (b) the name, address and licence number of the fisherman or other person from whom the fish were purchased or received,
  - (c) the various species of fish and the quantity of each species included in, referred to or affected by each transaction, and
  - (d) such other information as the Minister may require.
- (2) Where a declaration has not been previously sent to the Director, only the transactions occurring during the thirty days immediately preceding the date of the declaration need be sworn to.

**12.** The Director may at any time request every person licensed to sell fish by retail to send him a statutory declaration covering his business transactions and swearing to

- (a) the date of each transaction,
- (b) the name, address and licence number of the fisherman or other person from whom the fish were purchased or received,
- (c) the various species of fish and the quantity of each species included in, referred to or affected by each transaction, and
- (d) such other information as the Director may request.

#### **Inspection**

**13.** The provisions of the *Fish Inspection Act* (Canada), as enacted by the Parliament of Canada with the amendments made thereto on or before the thirty-first day of March, 1950, dealing with the inspection of certain pickled, salted and other kinds of fish, in so far as they are within the legislative competence of the Legislature of Alberta,

- (a) have the force of law in Alberta as if enacted by the Legislature, and
- (b) remain in full effect in Alberta until otherwise enacted by the Legislature.

**14.** (1) The Lieutenant Governor in Council may declare that, in so far as such amendment or order is within the legislative competence of the Legislature of Alberta,

- (a) any amendment made to the *Fish Inspection Act* (Canada) after the thirty-first day of March, 1950, and
- (b) any order made under the *Fish Inspection Act* (Canada) either before or after the thirty-first day of March, 1950,

has the force of law within Alberta as if enacted by the Legislature, in which case such amendment or order remains in full effect within Alberta until otherwise enacted by the Legislature.

**15.** Inspection of records. (Section 15)

**16.** Power to search without a warrant. (Section 16)

**17.** Power to seize without a warrant. (Section 17)

(2) The Lieutenant Governor in Council may declare any regulations made under the *Fish Inspection Act* (Canada) either before or after the thirty-first day of March, 1950, in so far as they are within the legislative competence of the Legislature of Alberta, to have the force of law within Alberta as if enacted by the Legislature, and may rescind or revoke any such declaration.

#### Powers of Officers

**15.** (1) An officer may examine and take extracts from any records required to be kept by this Act or the regulations and for the purpose of verifying such extracts may also examine and take extracts from any other records, books and documents kept by or in possession of a person required by this Act to keep records.

(2) On the request of an officer, a person required to keep records by this Act or the regulations shall make available to the officer any records, books and documents kept by such person or in his possession.

**16.** (1) An officer may, upon producing his badge or certificate of appointment and without a search warrant, search any vehicle, vessel, launch, boat, canoe or other watercraft, aircraft or railway car, if on reasonable grounds he has reason to believe that any fish which are subject to this Act or the regulations are contained therein.

(2) Every officer may, upon producing his badge or certificate of appointment and without a search warrant, while in performance of his duties, enter into and upon any lands and premises, other than a private dwelling, store or office, and any person who hinders or obstructs or impedes any such officer in the performance of his duty is guilty of an offence.

**17.** (1) Where an officer in making or attempting to make a search pursuant to subsection (1) of section 16 finds in a vehicle, vessel, launch, boat, canoe or other watercraft, aircraft or railway car any fish that in his opinion have been or are intended to be bought, sold, received, stored, processed or otherwise dealt with contrary to this Act,

- (a) he shall forthwith seize
    - (i) the fish and the containers in which they are contained, and
    - (ii) any papers, books, documents or records that might afford evidence of a contravention of this Act or the regulations
      - (A) found in, or
      - (B) upon the person of a person found in or connected in any way with,
- the vehicle, vessel, launch, boat, canoe or other watercraft, aircraft or railway car,

**and**

**18.** Power to arrest without a warrant. (Section 18)

**19.** Duty on carrier of fish to obtain statement. (Section 19)

- (b) he may forthwith seize the vehicle, vessel, launch, boat, canoe or other watercraft or aircraft, and in the case of a vehicle, any animal hitched to or drawing the vehicle.
- (2) Where an officer in making or attempting to make a search pursuant to subsection (2) of section 16 finds in any premises any fish that on reasonable grounds he believes have been or are intended to be bought, sold, received, stored, processed or otherwise dealt with contrary to this Act, he shall forthwith seize
  - (a) the fish and the containers in which they are contained, and
  - (b) any papers, books, documents or records that might afford evidence of a contravention of this Act or the regulations
    - (i) found in, or
    - (ii) upon the person of a person found in or connected with, such premises.
- (3) Where an officer finds a person committing or whom on reasonable grounds he believes has committed a contravention of this Act or the regulations, the officer shall forthwith seize all fish in the possession or control of such person together with any papers, books, documents or records that might afford evidence of the contravention of this Act or the regulations.
- (4) Where an officer at or in any place finds
  - (a) fish that on reasonable grounds he believes have been or are intended to be bought, sold, received, stored, processed or otherwise dealt with contrary to this Act or the regulations,
  - (b) a vehicle, vessel, launch, boat, canoe or other watercraft or aircraft that on reasonable grounds he believes is kept or used for or in connection with the contravention of this Act or the regulations, or
  - (c) an animal hitched to or drawing a vehicle referred to in clause (b),
 he shall forthwith seize the fish and their containers or, as the case may be, may forthwith seize the vehicle, watercraft, aircraft or animal.

- 18.** An officer on finding a person committing a contravention of this Act or the regulations
- (a) may arrest such person without warrant, and
  - (b) may bring such person before a competent court to be dealt with according to law.

#### **Carriers of Fish**

- 19.** (1) A carrier, whether a common carrier or not, including the owner or driver of a motor vehicle, before transporting or accepting for transport or buying any fish shall obtain from the shipper or seller thereof a statement in duplicate signed by the shipper or seller.

**20.** Offences. (Section 21)

**21.** Onus of proving himself innocent is on a person charged with dealing in fish out of season. (Section 23)

**22.** Domestic fishing licence. (Section 23)

(2) The statement shall set forth

- (a) the various species of fish, the quantity of each species and the lake of origin of each species included in the shipment,
- (b) the name, address and licence number of the shipper or seller of the fish, and
- (c) the name and address of the consignee or buyer of the fish.

(3) A copy of the statement shall accompany the shipment and shall be delivered by the carrier to the consignee and one copy thereof shall be retained by the carrier or the owner or driver of the motor vehicle.

(4) No buyer or consignee and no carrier, including the owner or driver of a motor vehicle, shall buy or transport or accept fish or a shipment of fish unless it is accompanied by such a statement.

#### **Offences and Penalties**

**20.** A person who

- (a) fails to keep a record that by this Act he is required to keep,
- (b) falsifies a record that by this Act he is required to keep,
- (c) fails to comply with the terms, conditions or limitations of a licence issued pursuant to this Act, or
- (d) contravenes or fails to observe any other provision of this Act or the regulations,

is guilty of an offence.

**21.** (1) No person shall buy, sell, ship, transport or have in his possession any fish or any part thereof during a time when fishing for such fish is prohibited by law unless he has lawful excuse, the burden of proof whereof is on him.

(2) A person is deemed to have a lawful excuse within the meaning of this section if he proves that

- (a) such fish or any part thereof was caught, bought, sold, shipped, transported or had in possession during a time when commercial fishing for such fish was not prohibited by law in the Province, or
- (b) such fish or any part thereof was lawfully caught, bought or obtained possession of in another jurisdiction.

**22.** No person shall buy or sell

- (a) fish taken or caught under authority of a domestic fishing licence within the meaning of Alberta Fishery Regulations, or
- (b) fish caught by angling within the meaning of the Alberta Fishery Regulations.

**23.** Penalties. (Section 24)

**24.** Obstructing an officer is an offence. (Section 25)

**25.** Information and complaint. (Section 26)

**23.** (1) A person who is not a corporation and who is convicted of an offence under this Act is liable on summary conviction

- (a) for a first offence, to a fine of not more than two hundred dollars and in default of immediate payment to imprisonment for a term of not more than one month, and
- (b) for a second or subsequent offence, to a fine of not less than fifty nor more than five hundred dollars and in default of immediate payment to imprisonment for a term of not more than three months.

(2) A corporation that is convicted of an offence under this Act or the regulations is liable to a fine of not less than fifty dollars nor more than one thousand dollars.

(3) Where a corporation is accused of an offence under this Act or the regulations, every director of the corporation shall be deemed to be a party to the offence unless he satisfies the court that the offence was committed without his knowledge and is liable upon conviction to the penalty prescribed in subsection (1).

**24.** A person is guilty of an offence who resists or wilfully obstructs an officer in the execution of his duty, or a person acting in aid of such an officer.

#### Procedure and Evidence

**25.** (1) Subject to subsection (2), no information or complaint relating to an offence under this Act shall be laid after one year from the commission of the offence.

(2) In the case of a prosecution for omitting to keep a record or send a statement required by this Act or the regulations, the information or complaint may be laid at any time after the offence is alleged to have been committed.

(3) In a prosecution or proceeding under this Act in which proof is required

- (a) relating to the issue or cancellation of a licence,
- (b) relating to the person who is the licensee named in a licence, or
- (c) relating to the delivery, serving, mailing or giving of a notice or document by the Department of Lands and Forests,

a certificate signed by the Director is *prima facie* proof of the facts stated in the certificate and of the authority of the Director without any proof of the appointment or signature.

(4) The fact that the person charged in the information or complaint laid under this Act has the same name as the person who is certified as being the licence holder in a certificate signed by the Director constitutes *prima facie* proof that the person so charged is the holder of the licence.

**26.** Effect of seizure. (Section 27)

**27.** Relief against seizure. (Section 28(2))

**28.** Cancellation of licence. (Section 28(1))

**29.** Repeal of former Act.

**30.** Commencement of Act.

**26.** (1) Any fish, container, vehicle, vessel, launch, boat, canoe or other watercraft or aircraft seized under this Act, upon conviction of an offence under this Act of the person from whom the same was seized, becomes the property of the Crown in right of Alberta to be disposed of as the Minister may direct.

(2) Notwithstanding subsection (1), where fish are liable to spoil

- (a) a justice before whom the information is laid may order immediate disposal of such fish, and
- (b) if a justice is not readily available, an officer may sell or otherwise dispose of such fish.

(3) Where

- (a) any fish, container, vehicle, vessel, launch, boat, canoe or other watercraft or aircraft have been seized and the owner is unknown, or
- (b) no legal action has been taken regarding a seizure where an alleged contravention of this Act or the regulations has occurred,

the Minister may direct the disposal thereof or in the case of fish that are liable to spoil, an officer may sell or otherwise dispose of such fish.

(4) The proceeds of the sale of property seized under this section shall be transmitted to the Provincial Treasurer forthwith and form part of the General Revenue Fund.

**27.** Where the Minister is satisfied that the seizure, sale or confiscation of an article or thing would work undue hardship or injustice upon a person, he may grant relief against the seizure, sale or forfeiture and

- (a) direct the return of the article or thing to the person from whom it has been taken, or
- (b) if the article or thing has been sold and if application for payment is made in writing to the Minister within one month after the date of sale, direct that the whole or part of the proceeds of the sale, after payment of the costs of the sale, be paid to such person or persons as are entitled thereto.

**28.** A licence held by a person convicted of an offence under this Act or the regulations is *ipso facto* cancelled upon conviction of such person without further action or notice, but the Minister may authorize the reinstatement of such licence, except that no reinstatement shall become effective for a period of three months immediately following the date of conviction.

**29.** *The Fishery Act*, being chapter 116 of the Revised Statutes, is hereby repealed.

**30.** This Act comes into force on the day upon which it is assented to.

No. 73

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FOURTH SESSION

FOURTEENTH LEGISLATURE

10 ELIZABETH II

1962

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**BILL**

An Act respecting the Regulation of  
Fishing and Dealing in Fish

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Received and read the

First time .....

Second time .....

Third time .....

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HON. MR. WILLMORE

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