

2015 Bill 13

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Third Session, 28th Legislature, 64 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 13**

**FISHERIES (ALBERTA)  
AMENDMENT ACT, 2015**

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MRS. LESKIW

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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*Bill 13*  
*Mrs. Leskiw*

## **BILL 13**

2015

### **FISHERIES (ALBERTA) AMENDMENT ACT, 2015**

*(Assented to , 2015)*

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

#### **Amends RSA 2000 cF-16**

**1 The *Fisheries (Alberta) Act* is amended by this Act.**

#### **2 Section 1(1) is amended**

- (a) by striking out “In this Act,” and substituting “In this statute,”;**
- (b) by repealing clause (a);**
- (c) by repealing clauses (b.1) to (c) and substituting the following:**
  - (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;

## Explanatory Notes

**1** Amends chapter F-16 of the Revised Statutes of Alberta 2000.

**2** Section 1(1) presently reads:

*1(1) In this Act,*

(a) *“bait fish” means fish defined in the regulations as bait fish for the purposes of this Act;*

(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) *“competitive fishing” means competitive fishing as defined in the regulations for the purposes of this Act;*

(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) in clause (d) by striking out “under” and substituting “by subsection 3(1) of”;**

**(e) by repealing clauses (e) and (e.1) and substituting the following:**

(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.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) in clause (f) by striking out “excluded by the regulations for the purposes of this Act” and substituting “that are prescribed as excluded”;**

**(g) by repealing clause (f.1);**

**(h) by repealing clauses (h) and (i) and substituting the following:**

- (b.2) *“competitive fishing event” means a competitive fishing event as defined in the regulations for the purposes of this Act;*
- (b.3) *“competitive fishing event participant” means a competitive fishing event participant as defined in the regulations for the purpose of this Act;*
- (c) *“contained waters” means contained waters as defined in the regulations for the purposes of this Act;*
- (d) *“Corporation” means the Freshwater Fish Marketing Corporation established under the Freshwater Fish Marketing Act (Canada);*
- (e) *“cultured fish” means fish defined in the regulations for the purposes of this Act as cultured fish and includes freshwater-dwelling invertebrates defined in the regulations as cultured fish;*
- (e.1) *“endangered species” means endangered species as defined in the Wildlife Act;*
- (f) *“fish” means fish as defined in the Fisheries Act (Canada) except for those species excluded by the regulations for the purposes of this Act;*
- (f.1) *“fish handling facility” means a fish handling facility as defined in the regulations for the purposes of this Act;*
- (g) *“fishery” means fishery as defined in the Fisheries Act (Canada);*
- (h) *“fishery guardian” means a fishery guardian appointed under this Act;*
- (i) *“fishery officer” means a fishery officer appointed under this Act;*
- (j) *“fishing” means fishing as defined in the Fisheries Act (Canada);*
- (j.1) *“game fish” means game fish as defined in the regulations for the purposes of this Act;*
- (k) *“licence” means, except in section 35(4)(b), a licence issued under this Act;*

- (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;
- (i) by repealing clauses (j.1) and (k) and substituting the following:**
- (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;
- (j) by repealing clause (m) and substituting the following:**
- (1.1) “offence” means an offence against this statute;
  - (1.2) “official” means a fishery officer, a fishery guardian or a watercraft inspector, as the case may be;
  - (1.3) “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;
  - (1.4) “place”, used as a noun, includes
    - (i) any building, structure or other premises,
    - (ii) a tent or other temporary shelter, and

- (l) *“Minister” means the Minister determined under section 16 of the Government Organization Act as the Minister responsible for this Act;*
- (m) *“prescribed waters” means waters established by the regulations for the propagating, keeping or rearing of cultured fish;*
- (n) *“processing” includes icing, packing, cleaning, filleting, freezing, smoking, salting, canning, cooking, pickling, drying or preparing fish for market in any other manner;*
- (o) *“prohibited waters” means waters established by the regulations as prohibited waters;*
- (p) *“restricted waters” means waters established by the regulations as restricted waters for the purposes of propagating, keeping or rearing cultured fish;*
- (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.*

(iii) any container or equipment in a place;

(1.5) “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;

**(k) by repealing clauses (o) and (p);**

**(l) by adding the following after clause (r):**

(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).

**3 Section 1(2) is repealed and the following is substituted:**

**(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”, “prescribed waters” and “restricted 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



**3** Interpretation and legislative intent. Section 1(2) presently reads:

*(2) In this Act, a reference to “this Act” includes the regulations made under this Act.*

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.

**4 The following is added after section 1:**

**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.

**5 Sections 8 and 9 are repealed and the following is substituted:**

**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 prescribed waters.

**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

**4** Applicability of external prohibitions or restrictions against internal authorizations.

**5** Sections 8 and 9 presently read:

*8(1) No person shall propagate, rear or keep alive cultured fish or sell cultured fish unless the person holds a licence for that purpose.*

*(2) Subject to the regulations, a person may propagate, rear or keep alive cultured fish*

*(a) in prescribed, restricted or contained waters, or*

*(b) in prohibited waters if the person holds a licence that specifically authorizes it.*

*9(1) The requirement to have a licence to sell cultured fish does not apply in the case of dead cultured fish that have been sold by a licensee.*

*(2) No person shall sell live cultured fish unless the purchaser holds a licence to propagate, rear or keep cultured 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.

## **6 Section 10 is amended**

- (a) **by repealing subsection (1) and substituting the following:**

### **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.

- (b) **in subsection (3) by striking out** “if required to do so by the regulations” **and substituting** “in accordance with requirements, if any, prescribed by the Lieutenant Governor in Council”.

## **7 Section 11 is repealed and the following is substituted:**

### **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,

**6** Section 10 presently reads in part:

*10(1) Subject to any exemption provided in this Act or the Fisheries Act (Canada), no person shall engage in fishing unless the person holds a licence under this Act for that purpose.*

*(3) A commercial fisher who catches fish pursuant to a licence shall pay a royalty to the Crown if required to do so by the regulations.*

**7** Fishing-related restrictions and invasive species provisions.  
Section 11 presently reads:

*11(1) A person shall not place fish in, keep fish in or allow fish to enter water unless the person holds a licence for that purpose.*

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

*(a) to lawfully kept cultured 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.

**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.

**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).

- (b) to fish, other than cultured fish or game fish, that are placed or kept in contained waters in accordance with the regulations,*
- (c) if the activity is authorized by the regulations, or*
- (d) if the fish are released back into the water from which they were taken.*

**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.

**8 Section 11.1(2)(a) is amended by striking out** “exempted by the regulations from” **and substituting** “that is prescribed by the Lieutenant Governor in Council as not”.

**9 Section 12(1) is amended by striking out** “regulations to persons who meet the requirements of the regulations” **and substituting** “requirements prescribed by the Lieutenant Governor in Council to persons who meet those requirements”.

**10 Section 13 is amended**

- (a) **in subsections (1), (2) and (3) by striking out** “Subject to the regulations” **and substituting** “Except as prescribed by the Lieutenant Governor in Council”;
- (b) **in subsection (3) by adding** “, at any time, including during the currency of an existing licence,” **after** “may”.



**8** Section 11.1(2) presently reads:

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

- (a) a category of competitive fishing event exempted by the regulations from 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.*

**9** Section 12(1) presently reads:

*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 regulations to persons who meet the requirements of the regulations and who pay the required fees.*

**10** Section 13 presently reads:

*13(1) Subject to the regulations, 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.*

**11 Section 14(2) is amended by striking out “regulations” and substituting “conditions prescribed by the Lieutenant Governor in Council”.**

**12 Section 15 is amended**

**(a) in subsection (1)**

**(i) by striking out “and probable”;**

**(ii) by striking out “acting” and substituting “purporting to act”;**

**(b) in subsection (2) by adding “in the Minister’s Department” before “designated”;**

**(c) in subsection (3) by adding “that purports to be conducted” after “activity”;**

**(d) in subsection (5) by striking out “deemed to be”.**

**13 Section 16(3) is amended by adding “as a licence” after “void”.**

*(2) Subject to the regulations, the Minister may include terms and conditions in a licence.*

*(3) Subject to the regulations, the Minister may alter the terms or conditions of a licence.*

**11** Section 14(2) presently reads:

*(2) A licence is not transferable except in accordance with the regulations.*

**12** Section 15 presently reads:

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

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

*(3) A person whose licence is suspended or cancelled shall not carry out any activity 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 deemed to be reinstated.*

**13** Section 16 presently reads in part:

*(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 by virtue of subsection (2).*

**14 Section 17 is amended**

**(a) by repealing clause (b) and substituting the following:**

(b) the application for the licence contained any false or misleading information, or

**(b) in clause (c) by striking out “this Act” and substituting “section 13(3)”.**

**15 Section 18(1)(b) and (3) are amended by striking out “provided for in the regulations” and substituting “prescribed by the Lieutenant Governor in Council”.**

**16 The heading preceding section 19 and section 19 are repealed and the following is substituted:**

**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.

**14** Section 17 presently reads:

*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) it contains false or misleading information provided by the licensee, or*
- (c) it has been altered other than in accordance with this Act.*

**15** Section 18 presently reads in part:

*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 provided for in the regulations, indicating that the person is authorized by or under a licence to conduct the activities pursuant to a licence.*
- (3) The holder of a competitive fishing event licence must give notice, as provided for in the regulations, to each competitive fishing event participant of the terms and conditions of the licence that apply to the participant.*

**16** The heading preceding section 19 and section 19 presently read:

*Officers and Guardians*

*19(1) The Minister may appoint fishery officers for the purpose of administering this Act.*

**17 Section 20 is repealed and the following is substituted:**

**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.

**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.

**18 Section 21 is amended**

**(a) in subsection (1) by adding “or enforcing” after “administering”;**

**(b) by adding the following after subsection (1):**

**(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.

**(c) in subsection (2) by adding “or a watercraft inspector” after “guardian”.**

**17** Officials administering and enforcing the legislation. Section 20 presently reads:

*20(1) The Minister may appoint fishery guardians for the purpose of administering this Act.*

*(2) A fishery guardian has the powers and duties of a fishery guardian provided by this Act that the Minister directs.*

**18** Section 21 presently reads:

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

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

**19 Sections 22 to 27 are repealed and the following is substituted:**

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

**22(1)** 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.

**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.

**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.



**19** Sections 22 to 27 presently read:

*22(1) A fishery officer may, for the purpose of ensuring that this Act is complied with, signal or otherwise require a person operating a vehicle, aircraft or boat or other watercraft to stop the vehicle, aircraft or boat or other watercraft forthwith or to move it to a particular place and then stop the vehicle, aircraft or boat or other watercraft.*

*(2) A person operating a vehicle, aircraft or boat or other watercraft shall forthwith comply with a signal or requirement made under subsection (1) and shall not proceed until the end of a period of time reasonably necessary to enable the officer to conduct any lawful inquiries.*

*(3) This section does not apply to an aircraft that is in flight.*

*23(1) If a fishery officer or fishery guardian believes, on reasonable and probable grounds, that a person is or has been undertaking an activity for which a licence is required by this Act, the officer or guardian may require that person to produce*

*(a) a licence authorizing that activity, or*

*(b) if the person is a person referred to in section 18(b), the instrument referred to in that section.*

*(2) When an officer or guardian requires a person to produce anything under this section, that person shall forthwith produce it to the officer or guardian.*

*24 While exercising powers and performing duties under this Act, a fishery officer and a fishery guardian shall, on request, produce identification in accordance with the regulations and provide advice on the officer's and guardian's powers and duties under this Act.*

*25 For the purpose of administering this Act, a fishery officer or fishery guardian may, without a warrant, enter on or pass over land.*

*26(1) A fishery officer or fishery guardian may, without a warrant, enter a place to which a licence applies during regular business hours to ensure that the requirements of this Act are complied with.*

*(2) For the purpose of carrying out an inspection, the fishery officer or fishery guardian may*

**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.

**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,

- (a) *open any container that the officer or guardian believes on reasonable and probable grounds contains any fish or other thing to which this Act or the regulations apply,*
  - (b) *examine any fish or other thing to which this Act applies that the officer or guardian finds and take samples of the fish, and*
  - (c) *conduct any tests or analyses and take any measurements.*
- (3) *The owner or person in charge of a place that is inspected by a fishery officer or fishery guardian under this section and every person found in the place shall*
- (a) *give the officer or guardian all reasonable assistance to enable the officer or guardian to carry out the inspection, and*
  - (b) *provide the officer or guardian with any information relevant to the administration of this Act or the regulations that the officer or guardian may reasonably require.*

27(1) *A fishery officer or fishery guardian may,*

- (a) *on obtaining a warrant, or*
- (b) *without a warrant if the officer or guardian believes on reasonable and probable grounds that it is not practical to obtain a warrant because the necessary delay may result in the loss of evidence,*

*search for fish and fishing equipment in any vehicle, aircraft, boat or other watercraft or railway car, or in any business premises, building, tent or structure unless it is used as a private dwelling, when, on reasonable grounds, the officer or guardian believes that fish or fishing equipment is contained there.*

(2) *A fishery officer or fishery guardian may require the operator or person in possession of a vehicle, aircraft, boat or other watercraft, railway car, animal, pack or container to produce all fish and fishing equipment in or on the vehicle, aircraft, boat or other watercraft, railway car, animal, pack or container for the purpose of inspection and to determine the number, species and size of the fish and to ascertain whether the fish are fit for human consumption, diseased or infested with parasites, if*

- (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

- (a) any fish or fishing equipment in or on the vehicle, aircraft, boat or other watercraft, railway car, animal, pack or container is in plain view of the officer or guardian, or*
  - (b) the officer or guardian believes, on reasonable and probable grounds, that the vehicle, aircraft, boat or other watercraft, railway car, animal, pack or container contains or is carrying fish or fishing equipment.*
- (3) A fishery officer or fishery guardian may require the owner or occupant of any business premises, building, tent or other structure that is not used as a private dwelling to produce all fish and fishing equipment in the business premises, building, tent or structure for the purpose of inspection and to determine the number, species and size of the fish and to ascertain whether the fish are fit for human consumption, diseased or infested with parasites, if*
- (a) any fish or fishing equipment in the business premises, building, tent or other structure is in plain view of the officer or guardian, or*
  - (b) the officer or guardian believes, on reasonable and probable grounds, that the business premises, building, tent or other structure contains fish or fishing equipment.*
- (4) When a fishery officer or fishery guardian requires a person to produce fish or fishing equipment for inspection under this section, that person shall forthwith produce all fish and fishing equipment in or on the vehicle, aircraft, boat or other watercraft, railway car, animal, pack, container, business premises, building, tent or other structure to the officer or guardian.*

(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.

**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).



**20 Section 28 is amended**

- (a) by repealing subsection (1) and substituting the following:**

**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.

- (b) by repealing subsection (3)(a) and substituting the following:**

- (a) stating the relevant facts and beliefs described in subsection (1),
- (c) in subsection (4) by striking out “A person” and substituting “An officer or guardian or a person with an interest in the thing seized”.**



**20** Section 28 presently reads:

*28(1) A fishery officer or fishery guardian may seize anything that the officer or guardian believes on reasonable and probable grounds may afford evidence of the commission of an offence under this Act or was used in the commission of an offence under this Act.*

*(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 that the officer or guardian has reason to believe that an offence has been committed in respect of the thing seized,*
- (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) A person 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.*

**21 Section 28.01(1) is amended**

- (a) **by striking out** “Where fish” **and substituting** “Where subject organisms”;
- (b) **by striking out** “fish were caught or possessed” **and substituting** “subject organisms were caught or taken into possession”;
- (c) **by striking out** “the fish, or” **and substituting** “they, or”;
- (d) **by striking out** “their disposition” **and substituting** “the disposition of any such subject organisms that are fish”.

**22 The following is added after section 28.01:**

**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.

**23 Section 28.1 is amended by striking out “487.091” and substituting “487.012, 487.013, 487.014, 487.015, 487.016, 487.017, 487.018, 487.092,”.**

**21** Section 28.01(1) presently reads:

*28.01(1) Where fish 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 fish were caught or possessed in contravention of this Act or the Fisheries Act (Canada), the fish, or any proceeds realized from their disposition, are to be considered forfeited to the Crown pending any application, or subsequent order, under section 28(4).*

**22** Private dwelling.

**23** Section 28.1 presently reads:

*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, 487.091, 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*

**24 Section 30 is amended**

- (a) **by repealing subsection (1) and substituting the following:**

**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.

- (b) **in subsection (2) by adding “and written information” after “records”;**
- (c) **in subsection (3) by adding “or written information” after “record”.**

**25 Section 31(1) is amended by striking out “request” and substituting “order”.**

**26 The headings preceding sections 32 and 34 and sections 32, 33 and 34 are repealed and the following is substituted:**

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

**Health, ecological and economic protection**

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

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

**24** Section 30 presently reads:

*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 premises or location where fish are being held to submit to the Minister, within the time stated in the notice, records and information required by the notice that relate or are incidental to the fish or to any operations that are or have been conducted on the premises or at the location.*

*(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 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 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 without proof of the officer's or guardian's signature, appointment or responsibility for custody of the document.*

**25** Section 31(1) presently reads:

*31(1) For the purpose of ensuring that this Act is complied with, a fishery officer or fishery guardian may request 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.*

**26** The headings preceding sections 32 and 34 and sections 32, 33 and 34 presently read:

*Fish Health*

*32(1) If the Minister, on reasonable and probable grounds, believes that fish or a location where fish are held is diseased or contains disease or is materially infested by parasites and might present a*

**(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

*danger to the health of any fish, animal or person, the Minister may order that*

- (a) the suspect fish and any affected equipment be quarantined for the period of time and in the manner that the Minister directs,*
- (b) a fishery officer seize the fish and kill or otherwise dispose of the fish in the manner directed by the Minister, and*
- (c) any water be prevented from discharging from the location where the fish are found to another location.*

*(2) If the Minister, on reasonable and probable grounds, believes that any fish pose an ecological threat or genetic danger to any other fish, and that it is in the public interest to do so, the Minister may order that*

- (a) the suspect fish and any affected equipment be quarantined for the period of time and in the manner that the Minister directs,*
- (b) a fishery officer seize the fish and kill or otherwise dispose of the fish in the manner directed by the Minister, and*
- (c) any water be prevented from discharging from the location where the fish are found to another location.*

*(3) The Minister may order the person in charge of fish to do one or more of the following:*

- (a) to take any steps that may be necessary to eradicate the disease, infestation, threat or danger described in subsection (1) or (2);*
- (b) to destroy the fish or any contaminated equipment used in relation to the keeping of the fish.*

*(4) If a person fails to comply with an order under subsection (1), (2) or (3), a fishery officer may cause the fish or equipment, or both, to be destroyed or the disease to be eradicated at the expense of the person in charge.*

*(5) The Minister may provide compensation in respect of diseased or parasitized fish disposed of under subsection (1)(b) or (2)(b) in an amount that, in the opinion of the Minister, represents the fair*

- (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.



*value of undiseased or unparasitized fish of the kind and number disposed of.*

*(6) Notwithstanding subsection (5), no right of compensation exists against the Crown or the fishery officer in respect of the subject-matter of a direction or order of the Minister under subsections (1) to (3) or the actions of an officer under subsection (4).*

*(7) The Minister may assess the cost of quarantining fish under subsection (1)(a) or (2)(a) or the amount of an expense incurred under subsection (4) to the owner of the fish, 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.*

*33 The Minister may, by order referred to in section 32, declare a quarantine in respect of fish or contaminated equipment in all or any part of Alberta and may fix the duration and conditions of the quarantine, including a restriction on the movement of fish, equipment or water by any person where the quarantine is in effect.*

#### *Enforcement*

*34(1) A person who hinders, obstructs or impedes a fishery officer or fishery guardian in the performance of the officer's or guardian's duties is guilty of an offence.*

*(2) A person who gives false or misleading information to the Minister, to the Assistant Deputy Minister under section 15 or to a fishery officer or fishery guardian carrying out the administration of this Act is guilty of an offence.*

*(3) A licensee who does not comply with any term or condition of the licence is guilty of an offence.*

*(3.1) A competitive fishing event participant who does not comply with a term or condition of the licence applicable to the participant is guilty of an offence.*

*(3.2) It is a defence to a charge under subsection (3.1) for the accused to establish that the accused was not notified of the terms and conditions of the licence.*

*(4) A person who alters a licence other than in accordance with this Act is guilty of an offence.*

- (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.

*(5) A person who does not comply with an order under section 32(1), (2) or (3) is guilty of an offence.*

*(6) A person who contravenes section 4, 6(1) or (3), 7(1), 8(1) or (2), 9(2), 10(1), 11(1), 11.1(1), 15(3), 16(1) or (3), 18(1) or (3), 22(2), 23(2), 29(1), (2) or (3) or 30(1) or a provision of the regulations is guilty of an offence.*

**(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.



### **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).

### **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.

#### **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.

#### **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.

**Alteration of licence**

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

**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).

**27 Section 35 is amended**

- (a) by repealing subsections (1) and (2) and substituting the following:

**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



**27** Section 35 presently reads:

*35(1) A person who is guilty of an offence is liable to a fine of not more than \$100 000 or to imprisonment for a term of not more than one year or to both.*

*(2) If an offence is committed or continued on more than one day, it constitutes a separate offence for each day on which the contravention is committed or continued.*

(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.

**(b)** in subsection (3) by adding “, or both” after “term” and adding “apply for,” after “right to”;

**(c)** in subsection (4) by striking out “offence under this Act” and substituting “offence”.

**28 Sections 36, 37 and 38 are repealed and the following is substituted:**

**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.

*(3) In addition to imposing a fine or an imprisonment term, 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 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 under this Act 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.*

**28** Sections 36, 37 and 38 presently read:

*36 If a corporation commits an offence, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and is liable on conviction to the punishment provided for the offence, whether or not the corporation has been prosecuted.*

*37 In any prosecution for an offence, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused.*

*38 In any prosecution for an offence, it is sufficient proof of the offence to establish that it was committed by a person in respect of any matter relating to any operations under a licence, whether or not the person is identified or has been prosecuted 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.

**29 Section 38.1 is amended by striking out “Despite section 35, the” and substituting “A”.**

*unless the accused establishes that the offence was committed without the knowledge or consent of the accused.*

**29** Section 38.1 presently reads:

*38.1 Despite section 35, the 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.*

**30 Section 38.2 is amended by striking out “against this Act”.**

**31 Section 38.3 is amended**

**(a) by striking out “against this Act” wherever it occurs;**

**(b) by repealing clause (f) and substituting the following:**

- (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.

**30** Section 38.2 presently reads:

*38.2 Where a person is convicted of an offence against this Act 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.*

**31** Section 38.3 presently reads:

*38.3 Where a person is convicted of an offence against this Act, 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 promoting the proper management and control or conservation and protection of fish or endangered species, or both, or their habitats;*
- (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;*

**32 Section 38.6 is amended by striking out “against this Act”.**

**33 Sections 41 and 41.1 are repealed and the following is substituted:**

**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.



- (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 against this Act;*
- (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 against this Act.*

**32** Section 38.6 presently reads:

*38.6 Where a person is convicted of an offence against this Act, 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.*

**33** Sections 41 and 41.1 presently read:

*41 A prosecution in respect of an offence may not be commenced later than 2 years after the alleged commission of the offence.*

*41.1 Without limiting the immunity of the Crown, the offence provisions of this Act do not apply*

- (a) *to an employee of the Crown who*
  - (i) *is under the administration of the Minister, and*
  - (ii) *is carrying out powers and duties involving fisheries research or management under this Act,*

*or*

**34 Section 42 is amended**

- (a) by renumbering it as section 42(1);**
- (b) in subsection (1) by striking out “fishery officer or fishery guardian” and substituting “official”;**
- (c) by adding the following after subsection (1):**
  - (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.**

**35 Section 43 is amended**

- (a) in subsection (1)**
  - (i) in clause (d) by striking out “18(b)” and substituting “18(1)(b)”;**
  - (ii) by repealing clause (f) and substituting the following:**
    - (f) respecting the inspection of fish, fishing equipment and fish processing facilities;
  - (iii) in clause (h)**
    - (A) by striking out “fish, fishing and the” and substituting “fishing and the possession,”;**
    - (B) by adding “and the inspection of those activities” after “of fish”;**
  - (iv) by adding the following after clause (k):**

- (b) *to a fishery officer or a fishery guardian, or to an individual who acts on behalf of and is supervised by a fishery officer or fishery guardian, while carrying out powers and duties involving investigations or undercover operations related to the enforcement of this Act.*

**34** Section 42 presently reads:

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

**35** Section 43 presently reads:

*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(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 and of the handling, marketing, processing, storage, transportation, preservation and disposition of fish;*

- (l) providing for any matter or thing that by this statute may or is to be prescribed by the Lieutenant Governor in Council.

**(b) by repealing subsection (2) and substituting the following:**

**(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.

**36 Section 44 is amended**

**(a) by repealing clauses (b), (c), (d) and (e) and substituting the following:**

(e) respecting fees for licences;

**(b) in clauses (f) and (g) by striking out “fish” and substituting “subject organisms”;**

**(c) by repealing clause (h) and substituting the following:**

(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;

- (g) *establishing quality standards for fish for human consumption;*
- (h) *respecting fish, fishing and the handling, marketing, processing, storage, transportation, preservation, disposition and sale of fish;*
- (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.*

*(2) Regulations under this section may apply generally or specifically.*

**36** Section 44 presently reads:

*44 The Minister may make regulations*

- (a) *establishing forms for the purpose of this Act;*
- (b) *establishing restricted waters, prescribed waters and prohibited waters for the purposes of this Act;*
- (c) *excluding species of fish from the definition of fish for the purposes of this Act;*
- (d) *defining “contained waters”, “bait fish”, “game fish”, “competitive fishing”, “competitive fishing event”, “competitive fishing event participant”, “fish handling facility” and “cultured fish” for the purposes of this Act;*
- (e) *prescribing fees for licences;*
- (f) *providing for the maintenance and submission of records by licensees and any person producing or handling fish;*
- (g) *respecting the circumstances under which fish may be placed in, kept in or allowed to enter water;*

- (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.

**37 The following section and the Schedule contained in the Schedule to and at the end of this Act are added after section 44:**

**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.

**38(1)** Notwithstanding section 11.02(1) of the *Fisheries (Alberta) Act*, as added by section 7 of this Act, where a person, immediately before the commencement of that subsection, possessed a thing whose possession was lawful at that moment but would, but for this section, have been rendered contrary to that subsection on the commencement of that subsection, possession of that thing does not constitute a contravention of that subsection between that commencement and

- (a) the time, if applicable, when possession of that thing becomes lawful as a result of its being specifically authorized by a licence or by regulations made with respect to section 11.02(2)(a) of the *Fisheries (Alberta) Act*, or
- (b) if that event has not previously occurred, the last moment of 2015.

**(2)** This section is repealed on January 1, 2016.

*(h) providing for identification of fishery officers and fishery guardians.*

**37** Scope of regulations and ministerial rules.

**38** Legalizes certain possession otherwise rendered illegal.

**39** The *Fisheries (Ministerial) Regulation* (AR 220/97), as that Regulation existed at the time of the introduction into the Legislative Assembly of the Bill that resulted in this statute, is validated.

**40(1)** Section 1(1.1) is amended by striking out “prescribed waters” and “restricted waters” and substituting “restricted waters” and “specific source waters”.

**(2)** Section 8(b) is amended by striking out “prescribed waters” and substituting “specific source waters”.

**41** The unproclaimed sections 2 and 3 of the *Fisheries (Alberta) Amendment Act, 2002*, 2002 c14, are repealed.

**42** Section 40 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”.

### Schedule to this Act

#### 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

	Common Name	Scientific Name	Conditions for import and possession exemptions to apply
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



**39** Validates Alberta Regulation 220/97.

**40** Consequential amendments.

**41** Repeals unproclaimed sections 2 and 3 chapter 14 of the Statutes of Alberta, 2002.

**42** Coming into force.

4	Bluegill	<i>Lepomis macrochirus</i>	dead
5	Snakehead (whole family)	<i>Channidae spp.</i>	dead
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	Tube-nose goby	<i>Proterorhinus marmoratus</i>	dead
19	Black bullhead	<i>Ameiurus meias</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

	Common Name	Scientific Name	Conditions for import and possession exemptions to apply
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 chinensis</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.







