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CHAPTER 34

(Bill No. 50)

An Act to Amend the Fisheries Organizations Support Act

Honourable Kevin J. MacAdam
Minister of Agriculture, Fisheries, Aquaculture and Forestry

GOVERNMENT BILL

BERYL BUJOSEVICH
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CHAPTER 34

An Act to Amend the Fisheries Organizations Support Act

(Assented to May 20, 2004)

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. The title of the *Fisheries Organizations Support Act S.P.E.I. 1995, c.15* is amended by the addition of the word “Certified” before the word “Fisheries”.

2. Section 1 of the Act is amended

(a) by renumbering it as subsection 1(1);

(b) by the repeal of clause (1)(a);

(c) in clause (1)(b),

(i) by the addition of the word “fisheries” before the word “organization”, and

(ii) by the deletion of the words “an organization” and the substitution of the words “a fisheries organization”;

(d) by the addition of the following after clause (1)(b):

(b.1) “core enterprise” means a core enterprise as defined in the March 2000 edition of the Commercial Fisheries Licensing Policy for the Gulf Region of the Department of Fisheries and Oceans Canada; core enterprise

(e) in clause (d), by the addition of the word “Certified” before the words “Fisheries Organizations Support Fund”;

(f) by the repeal of clause (1)(e) and the substitution of the following:

(e) “fisher” means an individual who fisher

(i) is ordinarily resident in the province, and

(ii) either

(A) holds a limited entry licence under the *Fisheries Act* (Canada),

(B) is the head of a core enterprise, or

(C) has *bona fide* fisher status;

(e.1) “fisheries organization” means a provincial fisheries organization that fisheries organization

- (i) represents fishers, and
- (ii) provides advocacy on behalf of fishers belonging to the fisheries organization;

(g) in clause (f), by the deletion of the words “Agriculture, Fisheries and Forestry” and the substitution of the words “Agriculture, Fisheries, Aquaculture and Forestry”;

(h) by the repeal of clause (g);

(i) by the deletion of the period after clause (h) and the substitution of a semicolon;

(j) by the addition of the following after clause (h):

support fee

- (i) “support fee” means the prescribed support fee required to be paid annually under subsection 8(2).

(k) by the addition of the following:

Bona fide fisher status

(2) For the purposes of this Act, an individual has *bona fide* fisher status if

- (a) the individual is registered as a commercial fisher under the *Fisheries Act* (Canada); and
- (b) in either 1993 or 1994,
 - (i) the individual was registered as a commercial fisher under the *Fisheries Act* (Canada),
 - (ii) the individual held a limited entry fishing license under the *Fisheries Act* (Canada), and
 - (iii) the individual
 - (A) held a Category A lobster license under the *Fisheries Act* (Canada),
 - (B) made 75% of his or her earned income from fishing, or
 - (C) had landings of fish worth more than \$15,000.

3. Section 2 of the Act is amended by the deletion of the words “and buyers”.

4. Section 3 of the Act is amended by the deletion of the words “organizations representing fishers” and the substitution of the words “certified fisheries organizations”.

5. Sections 5 and 6 of the Act are repealed.

6. The heading before subsection 7(1) is repealed and the following substituted:

CERTIFIED FISHERIES ORGANIZATIONS

7. (1) Subsection 7(1) of the Act is amended by the deletion of the words “an organization representing his or her interests” and the substitution of the words “a certified fisheries organization”.

(2) Subsection 7(2) of the Act is repealed and the following substituted:

(2) A fisheries organization that wishes to be certified must apply to the Minister in a form satisfactory to the Minister. Certification—
application

(3) The Minister may, by order published in the Gazette, certify a fisheries organization for the purposes of this Act where the Minister is satisfied that the fisheries organization Certification—order

(a) does not represent a single-species or issue-specific group of fishers;

(b) has a constitution or bylaws that requires the fisheries organization

(i) to elect an executive,

(ii) to hold an annual meeting of all of its members at which the executive must present an audited financial statement of the fisheries organization, and

(iii) to represent the interests of its members;

(c) is established as a non-profit company under Part II of the *Companies Act*; and

(d) complies with or meets such other eligibility criteria or requirements for certification as may be established by the regulations.

(4) For greater certainty, the certification of a certified fisheries organization continues until it is revoked by the Minister. Duration of
certification

(5) Subject to subsection (6), the Minister may, by order published in the Gazette, revoke the certification of a certified fisheries organization where the Minister is satisfied that the certified fisheries organization Decertification

(a) has contravened a provision of this Act or the regulations;

or

(b) no longer meets one or more of the criteria or requirements for certification set out in subsection (3) or the regulations.

(6) Before revoking the certification of a certified fisheries organization, the Minister Notice

(a) shall give the certified fisheries organization a written notice of the Minister’s intent to revoke the certification that

(i) specifies the grounds referred to in subsection (5) for the revocation, and

(ii) advises the certified fisheries organization that it has 30 days from the date the notice is given to respond in writing to the Minister; and

(b) shall consider any written response of the certified fisheries organization that is submitted to Minister in accordance with clause (a).

Annual report **7.1** (1) A certified fisheries organization shall, in respect of each fiscal year of the certified fisheries organization, file with the Minister, within six months of its fiscal year end, a copy of its annual report.

Audited financial statements (2) A certified fisheries organization shall attach to the copy of an annual report it files under subsection (1) a copy of its audited financial statements, for the fiscal year to which the annual report relates, that have been audited by a person qualified to practise as a public accountant under the *Public Accounting and Auditing Act* R.S.P.E.I 1988, Cap. P-28.

Information (3) In addition to the information provided in the documents referred to in subsections (1) and (2), a certified fisheries organization shall, on the request of the Minister, provide the Minister with such other information concerning the certified fisheries organization as the Minister may require.

Members **7.2** A certified fisheries organization shall accept as a member any fisher who applies to join the certified fisheries organization and who meets the membership requirements of the certified fisheries organization.

8. Section 8 of the Act is repealed and the following substituted:

CERTIFIED FISHERIES ORGANIZATIONS SUPPORT FUND

Fund— establishment **8.** (1) There is hereby established a fund to be known as the Certified Fisheries Organizations Support Fund comprising the moneys deposited by the Minister under this section.

Support fee— liability for payment (2) Every person who, as of June 15, 2004,
 (a) is a fisher; and
 (b) is not a member of a certified fisheries organization,
 shall, on or before September 1, 2004,
 (c) pay to the Minister the annual support fee prescribed by the regulations; and
 (d) provide the Minister with a written statement indicating the name and address of the fisher.

(3) A certified fisheries organization shall, not later than July 15, 2004, provide to the Minister a list of the members of the organization as of June 15, 2004 of that year.

Annual list of members

(4) The Minister shall place all moneys received under this section in the Fund.

Payment of moneys received into Fund

(5) The Minister shall, before October 15, 2004,

(a) remit to each certified fisheries organization its share of the moneys of the Fund, as determined under subsection (6); and

(b) provide each certified fisheries organization with a list of the names and addresses of the fishers who contributed the moneys remitted to the certified fisheries organization.

Remission of moneys and supply of information to certified fisheries organizations

(6) The Minister shall determine the share of the moneys of the Fund to be remitted to each certified fisheries organization by

Calculation of shares of Fund

(a) determining, from the membership lists provided under subsection (3), the total number of the members of all certified fisheries organizations; and

(b) dividing the moneys in the Fund, as of October 1, 2004, in proportion to the share each certified fisheries organization has of the total number of members determined under clause (a).

(7) For greater certainty, no amount shall be remitted under subsection (5) to a certified fisheries organization in respect the calendar year 2004 if the certified fisheries organization was certified after July 15, 2004.

Exception

(8) Where a certified fisheries organization receives a payment from the Fund under subsection (5), the certified fisheries organization shall, before November 15, 2004, send a written notice to each fisher named in the list provided to a certified fisheries organization under clause (5)(b) advising the fisher that the fisher may, subject to subsections (9) and (10), request a refund from the certified fisheries organization of the support fee paid by the fisher.

Refunds

(9) Subject to subsection (10), a fisher named in a list provided in a year to a certified fisheries organization under clause (5)(b) may, before December 15, 2004, request by written notice to the certified fisheries organization a refund of the support fee paid by the fisher.

Idem

(10) Where a fisher, in accordance with subsection (9), makes a written request to a certified fisheries organization for the refund of the support fee paid in respect of a year, the certified fisheries organization shall refund to the fisher, before December 31, 2004, an amount equal to the support fee paid by the fisher.

Idem

9. Section 9 of the Act is repealed and the following substituted:

Offence 9. Every person who contravenes or violates a provision of this Act or the regulations is guilty of an offence and is liable on summary conviction to a fine of not more than \$1,000.

10. Section 10 of the Act is amended

(a) in clause (a), by the deletion of the words “prescribed amount” and the substitution of the words “amount of the support fee payable annually under this Act”; and

(b) by the addition of the following after clause (b):

(b.1) establishing criteria or requirements, in addition to those set out in subsection 7(3), for the certification of a fisheries organization, including criteria or requirements relating to

- (i) the number, and the location in the province, of the members of the fisheries organization, and
- (ii) the minimum annual membership fee of the fisheries organization;

11. Subsections 8(2) to (10) of the Act are repealed and the following substituted:

Support fee—
liability for
payment

(2) Every person who, as of March 31 in a year,
 (a) is a fisher; and
 (b) is not a member of a certified fisheries organization,
 shall, on or before May 31 of that year,
 (c) pay to the Minister the annual support fee prescribed by the regulations; and
 (d) provide the Minister with a written statement indicating the name and address of the fisher.

Annual list of
members

(3) A certified fisheries organization shall, not later than April 15 in each year, provide to the Minister a list of the members of the organization as of March 31 of that year.

Payment of moneys
received into Fund

(4) The Minister shall place all moneys received under this Act in the Fund.

Remission of
moneys and supply
of information to
certified fisheries
organizations

(5) The Minister shall, before August 1 in each year,
 (a) remit to each certified fisheries organization its share of the moneys of the Fund, as determined under subsection (6); and
 (b) provide each certified fisheries organization with a list of the names and addresses of the fishers who contributed the moneys remitted to the certified fisheries organization.

Calculation of
shares of Fund

(6) The Minister shall determine the share of the moneys of the Fund to be remitted to each certified fisheries organization by

- (a) determining, from the membership lists provided under subsection (3), the total number of the members of all certified fisheries organizations; and
- (b) dividing the moneys in the Fund, as of June 1 in a year, in proportion to the share each certified fisheries organization has of the total number of members determined under clause (a).

(7) For greater certainty, no amount shall be remitted under subsection (5) to a certified fisheries organization in respect of a year if the certified fisheries organization was certified after March 31 in that year. *Exception*

(8) Where, in a year, a certified fisheries organization receives a payment from the Fund under subsection (5), the certified fisheries organization shall, before October 1 in that year, send a written notice to each fisher named in the list provided in a year to a certified fisheries organization under clause (5)(b) advising the fisher that the fisher may, subject to subsections (9) and (10), request a refund from the certified fisheries organization of the support fee paid that year by the fisher. *Refunds*

(9) Subject to subsection (10), a fisher named in a list provided in a year to a certified fisheries organization under clause (5)(b) may, before November 1 of that year, request by written notice to the certified fisheries organization a refund of the support fee paid by the fisher. *Idem*

(10) Where a fisher, in accordance with subsection (9), makes a written request to a certified fisheries organization for the refund of the support fee paid in respect of a year, the certified fisheries organization shall refund to the fisher, before December 31 in that year, an amount equal to the support fee paid by the fisher. *Idem*

12. (1) Subject to subsection (2), this Act comes into force on assent.

(2) Section 11 comes into force on January 1, 2005.

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<i>STAGE:</i>	<i>DATE:</i>
<i>1st Reading:</i>	May 6, 2004
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<i>To Committee:</i>	May 18, 2004
<i>Reported:</i>	May 18, 2004
<i>3rd Reading and Pass:</i>	May 20, 2004
<i>Assent:</i>	May 20, 2004

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