

May 19, 2006  
5:05 p.m.

## EXPLANATORY NOTES

This Bill would amend the *Fishery Products International Limited Act*.

Clause 1 of the Bill would revise section 7 of the Act to provide that neither FPI Limited nor Fishery Products International may dispose of a substantial portion of its assets without the prior approval of the Lieutenant-Governor in Council. Currently the Act prohibits the sale of "all or substantially all" of either of those corporations property.

Clause 1 of the Bill would also provide that the approval of the Lieutenant-Governor in Council must be obtained for the sale of a plant located in the province.

Clause 2 of the Bill would revise section 9 of the Act to

- (a) provide for a minimum number of directors of each of FPI Limited and Fishery Products International Limited;
- (b) provide that a majority of the directors of each of FPI Limited and Fishery Products International Limited must be independent of significant shareholders of the corporation; and
- (c) provide that a majority of the members of committees of directors shall be residents of the province.

Clause 3 of the Bill would revise section 11.1 of the Act, which states that an action may not be brought as a result of anything incidental to the enactment or application of a provision of the Act, to also provide that a person is not entitled to compensation or damages.

Clause 3 of the Bill would also provide that the Minister of Fisheries and Aquaculture has the same rights with respect to FPI Limited or Fishery Products International Limited that a complainant referred to in section 378 of the *Corporations Act* has with respect to a corporation incorporated or continued under that Act.

Clause 3 would also provide that the Minister of Fisheries and Aquaculture may require FPI Limited and Fishery Products International Limited to provide information respecting the operation of the companies.

Clause 4 of the Bill would repeal *An Act to Amend the Fishery Products International Limited Act*, SNL2005 c32.

Clause 5 is a commencement clause.

# A BILL

## AN ACT TO AMEND THE FISHERY PRODUCTS INTERNATIONAL LIMITED ACT

### *Analysis*

- |                                   |                            |
|-----------------------------------|----------------------------|
| 1. S.7 R&S                        | 3. S.11.1 R&S              |
| 7. Sale of business<br>restricted | 12. No Liability           |
| 7.1 Regulations                   | 13. No compensation        |
| 2. S.9 R&S                        | 14. Rights of the minister |
| Restriction on directors          | 4. SNL2005 c32<br>Rep.     |
|                                   | 5. Commencement            |

*Be it enacted by the Lieutenant-Governor and House of Assembly  
in Legislative Session convened, as follows:*

RSNL1990 cF-15  
as amended

### **1. Section 7 of the *Fishery Products International Limited Act* is repealed and the following substituted:**

Sale of business  
restricted

7. (1) Except with the prior approval of the Lieutenant-Governor in Council, neither FPI Limited nor Fishery Products International Limited shall sell, lease, exchange, mortgage, grant or assume a security interest on, or otherwise dispose of, or allow or direct a subsidiary of it to sell, lease, exchange, mortgage, grant or assume a security interest on, or otherwise dispose of, a substantial portion of an undertaking, property, assets or business operation which relates to or carries on, in whole or in part, the harvesting, processing or marketing of seafood.

(2) Notwithstanding subsection (1), except with the prior approval of the Lieutenant-Governor in Council, neither FPI Limited nor Fishery Products International Limited shall sell, lease, exchange, mortgage, grant or assume a security interest on, or otherwise dispose of, or allow or direct a subsidiary of it to sell, lease, exchange, mortgage, grant or assume a security interest on, or otherwise dispose of, a plant or other processing facility situated in the province, and machinery and equipment located in the plant or processing facility.

(3) In subsection (1), "property" and "assets" do not include inventory and "inventory" means "inventory" as defined in the *Personal Property Security Act*.

(4) Notwithstanding subsection (1), FPI Limited, Fishery Products International Limited and a subsidiary of either of them may mortgage, pledge, charge, grant or assume a security interest on, or otherwise encumber, their undertakings, property of other assets to secure their obligations.

Regulations

**7.1** The Lieutenant-Governor in Council may make regulations

- (a) prescribing a type of undertaking, property, asset or business operation to which subsection 7(1) does not apply; and
- (b) prescribing a transaction or type of transaction to which subsection 7(1) does not apply.

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

Restrictions on directors

**9.** (1) FPI Limited and Fishery Products International Limited shall each have not fewer than 13 directors.

(2) A majority of the directors of each of FPI Limited and Fishery Products International Limited shall be residents of the province.

(3) A majority of the directors of each of FPI Limited and Fishery Products International Limited shall be independent of a significant shareholder or an associate of a significant shareholder of either corporation.

(4) In subsection (3), a director is independent if a reasonable person with knowledge of all the relevant circumstances would conclude that the director is independent of a significant shareholder or an associate of a significant shareholder of either corporation.

(5) In this section

- (a) "associate" means an associate as defined by article 13(p) of Schedule B, with the necessary changes required by its use in this section;
- (b) "resident" has the meaning given it under the *Income Tax Act* (Canada); and

(c) "significant shareholder" means, in relation to FPI Limited or Fishery Products International Limited, a shareholder who is the registered or beneficial owner, in total, of at least 8% of the then issued and outstanding securities of a class of securities of either corporation.

(6) Where the directors of either FPI Limited or Fishery Products International Limited appoint a committee of directors, a majority of the members of the committee shall be residents of the province.

**3. Section 11.1 of the Act is repealed and the following substituted:**

No liability

**12.** (1) An action or proceeding does not lie or shall not be instituted or continued against the Crown or a minister, employee or agent of the Crown based on a cause of action arising from, resulting from or incidental to the enactment or application of a provision of this Act.

(2) A cause of action against the Crown or a minister, employee or agent of the Crown arising from, resulting from or incidental to anything mentioned in subsection (1) is extinguished.

No compensation

**13.** A person is not entitled to compensation or damages from the Crown or a minister, employee or agent of the Crown arising from, resulting from or incidental to the enactment or application of a provision of this Act.

Rights of the minister

**14.** (1) With respect to each of FPI Limited and Fishery Products International Limited the minister is a complainant under section 378 of the *Corporations Act*.

(2) The minister has the same rights with respect to this Act in respect of either FPI Limited or Fishery Products International Limited that a complainant referred to in section 378 of the *Corporations Act* has under that section with respect to a corporation incorporated or continued under that Act.

(3) FPI Limited and Fishery Products International Limited shall each provide information in the form and detail and at the times that the minister may require respecting the operation of each corporation.

SNL2005 c32  
Rep.

**4. *An Act to Amend the Fishery Products International Limited Act*, SNL2005 c32, is repealed.**

Commencement

**5. This Act comes into force on a day to be proclaimed by the Lieutenant-Governor in Council.**

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