



BILL NO. 59

Government Bill

*4th Session, 61st General Assembly
Nova Scotia
61 Elizabeth II, 2012*

An Act to Establish the Fish Harvesters Registration and Certification Board

CHAPTER 5
ACTS OF 2012

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
MAY 17, 2012**

The Honourable Sterling Belliveau
Minister of Fisheries and Aquaculture

*Halifax, Nova Scotia
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An Act to Establish the Fish Harvesters Registration and Certification Board

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Fish Harvesters Registration and Certification Board Act*.

2 The purpose of this Act is to create a board to

- (a) register and certify fish harvesters in the Province;
- (b) establish certification criteria based on the knowledge, skills and experience of fish harvesters;
- (c) fund and coordinate training opportunities to improve the safety and knowledge of fish harvesters; and
- (d) promote the sustainability and economic viability of the fishing industry.

3 In this Act,

- (a) “Board” means the Fish Harvesters Registration and Certification Board;
- (b) “directors” means the elected members of the Board;
- (c) “fish harvester” means a person registered by the Board and engaged in commercial fisheries;
- (d) “fish harvester organization” means an organization of licence holders;
- (e) “fleet sector” means a group of fish harvesters authorized to fish
 - (i) using the same gear or vessel type;
 - (ii) the same species or stock;
 - (iii) in the same area; or
 - (iv) during the same season;
- (f) “Minister” means the Minister of Fisheries and Aquaculture.

4 There is hereby established a body corporate to be known as the Fish Harvesters Registration and Certification Board.

5 Notwithstanding Sections 70 and 71 of the *Finance Act*, the Board is not and may not be designated as a crown corporation under the *Finance Act* or otherwise.

6 The objects of the Board are to

- (a) operate and maintain a fish harvester registration system;

- (b) issue registration certificates to fish harvesters who meet the registration criteria and who pay the applicable fee;
- (c) develop, fund and coordinate training courses for fish harvesters;
- (d) issue written confirmation of individual fish harvester training and skill development courses;
- (e) identify and access funding sources to assist fish harvesters with training and skills development;
- (f) advise the federal and Provincial governments regarding
 - (i) training and skills development,
 - (ii) the safety of fish harvesters,
 - (iii) product value return to participants, and
 - (iv) the improvement of the capacity of fish harvesters to support, and optimize fish quality improvement;
- (g) improve the image of fish harvesting as a viable career option; and
- (h) adopt a Code of Ethics for fish harvesters.

7 (1) The Board consists of

- (a) not fewer than eight directors representing geographical areas and industry fleet sectors, elected, by fish harvester organizations and other fish harvester groups recognized by the Minister, in accordance with the by-laws of the Board;
- (b) one non-voting member from each of
 - (i) the Department of Fisheries and Aquaculture;
 - (ii) the Department of Labour and Advanced Education;
 - (iii) the Department of Transport (Canada); and
 - (iv) the post-secondary education training institutions;

and

- (c) two non-voting members from the Department of Fisheries and Oceans (Canada).

(2) The directors shall be elected during the annual general meeting of the Board for a term of three years and may be re-elected.

(3) No director may serve more than two consecutive terms.

(4) Notwithstanding subsection (3), directors hold office until such time as they are re-elected, or their successors are elected, even if such election or re-election occurs after the expiry of their specified term of office.

(5) Notwithstanding clause (1)(a) and subsection (2), those persons who, immediately before the coming into force of this Act, constitute the Executive of the Scotia Fundy Profes-

sional Fishermen's Registration and Training Association, constitute the initial Board until the election of directors to the Board pursuant to clause 1(a) and subsection (6).

- (6) The first elections held pursuant to this Section must take place
- (a) no later than twenty-four months after the coming into force of this Act;
 - or
 - (b) within such longer period of time as the Minister may determine.

8 A majority of the directors of the Board elected under clause 7(1)(a) or a majority of the initial Board constituted under subsection 7(5) constitutes a quorum of the Board.

9 (1) The directors shall annually elect from among its members an Executive consisting of a Chair, a Vice-chair, a Secretary, a Treasurer and one other member.

(2) The Executive may exercise all the powers and shall perform all of the duties of the Board with respect to any matters that the Board may in the by-laws delegate to it.

10 (1) The directors serve without any remuneration.

(2) The directors shall be reimbursed for reasonable expenses necessarily incurred in the performance of their duties.

11 (1) The Board shall appoint an Executive Director.

(2) The Executive Director

(a) shall be paid such remuneration as the Board determines and shall be reimbursed for reasonable expenses necessarily incurred in the performance of the duties of the Executive Director;

(b) shall perform the duties and responsibilities assigned by the Board; and

(c) shall attend and participate in Board and Executive meetings without the right to vote.

12 (1) The Board may employ such other employees as are necessary for the proper conduct and management of the affairs of the Board.

(2) The employees of the Board shall be paid such salary and receive such benefits as are determined by the Board.

(3) The Board may engage the services of professional persons and experts upon such terms and conditions as the Board determines.

13 A member or an employee of the Board is not personally liable for anything done or omitted to be done or for any neglect or default in the *bona fide* exercise or purported exercise of a power conferred upon that member or employee, as the case may be, pursuant to this Act.

14 The Board shall hold a general meeting annually in accordance with the by-laws of the Board.

15 The Board may make by-laws

- (a) regulating its proceedings, including the calling and conduct of its meetings;
- (b) respecting the election and term of office of its directors;
- (c) respecting the conduct of its directors;
- (d) respecting the expenses of the Board and its directors;
- (e) determining the powers and duties of its employees, including its Executive Director;
- (f) respecting the engagement of persons whom the Board may employ;
- (g) respecting the management of the Board;
- (h) respecting the procedure for enacting, amending or revoking any by-law of the Board;
- (i) respecting the establishment and maintenance of a fish harvester registration system;
- (j) prescribing annual fish harvester registration fees payable and designating, where required, different registration categories and prescribing different fees for different categories;
- (k) establishing certification criteria and levels;
- (l) establishing criteria for continuation of registration at the coming into force of this Act;
- (m) respecting the issuance of registration certificates and certification records;
- (n) establishing procedures for the conduct of appeals;
- (o) any other matter necessary or desirable for the attainment of its objects.

16 (1) The Board shall annually prepare and submit to the Minister an annual report of the activities and operations for the Board during the preceding fiscal year and the report must include the audited financial statements of the Board, the financial projections for the following year and any other information that the Minister requests.

(2) Upon receipt of the annual report referred to in subsection (1), the Minister shall table the report in the House of Assembly within fifteen sitting days following receipt thereof or, if the Assembly is not then sitting, within fifteen days of the commencement of the ensuing sitting.

17 The fiscal year of the Board must be determined by the directors.

18 The Board shall appoint an auditor for the Board and the auditor shall annually audit and prepare audited financial statements of the Board.

19 (1) The Board shall establish and keep a register of all fish harvesters who meet the registration criteria and pay the applicable annual fee as set out in the Board by-laws.

(2) The Board may establish different registration categories of fish harvesters.

(3) Upon a fish harvester being registered, the Board shall issue to the fish harvester a certificate as set out in the by-laws.

(4) Where a fish harvester does not comply with the registration criteria or pay the applicable annual fee established by by-law, the Board may, at any time, suspend, cancel or revoke the registration.

20 (1) The Board shall establish certification criteria and certification levels for registered fish harvesters as set out in the Board by-laws.

(2) The Board may consider the following in establishing certification criteria and certification levels:

- (a)** educational requirements;
- (b)** training requirements;
- (c)** experience as a fish harvester;
- (d)** the license status of a person harvesting fish, shellfish, marine plants or marine mammals as a livelihood; and
- (e)** specific fleet sector involvement.

21 (1) Every registered fish harvester who applies for certification and meets the criteria as set out in the Board by-laws must be certified at the appropriate certification level.

(2) Upon request from the fish harvester, the Board shall issue a record of certification as set out in the by-laws.

(3) Where a fish harvester does not maintain current certification criteria established by by-law, the Board may, at any time, suspend, cancel or revoke the fish harvester's certification.

22 An aggrieved person may appeal any Board decision relating to registration and certification pursuant to Sections 19 and 20 in accordance with the by-laws.

23 (1) Where an appeal is filed pursuant to Section 22, the Minister shall appoint an appeal panel to conduct a hearing.

(2) The appeal panel consists of three persons, selected from

- (a)** the Department of Fisheries and Aquaculture;
- (b)** the Department of Labour and Advanced Education;
- (c)** the Department of Transport (Canada);

- (d) the Department of Fisheries and Oceans (Canada); and
- (e) fish harvesters who are not directors.

(3) The appeal panel is governed by the principles of natural justice, this Act and the by-laws in the conduct of a hearing.

(4) The decision of the appeal panel is final and binding.

(5) The members of the appeal panel shall serve without remuneration.

(6) The members of the appeal panel shall be reimbursed for reasonable expenses necessarily incurred in the performance of their duties.
