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RSNL1990 CHAPTER F-18

FISHING INDUSTRY COLLECTIVE BARGAINING ACT

Amended:

1993 c53 s10; 1998 c11; 2000 c4; 2001 c42 s16; 2002 c20; 2004 c26; 2006 c1; 2006 c50; 2010
c38; 2012 c30 s21; 2013 c16 s25

CHAPTER F-18

AN ACT RESPECTING COLLECTIVE BARGAINING BETWEEN CERTAIN FISHERS OR ASSOCIATIONS OF FISHERS AND CERTAIN PERSONS OR ASSOCIATIONS OF PERSONS ENGAGED IN THE PROCESSING OF FISH IN THE PROVINCE

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Short title

1. This Act may be cited as the *Fishing Industry Collective Bargaining Act*.

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Definitions

2. (1) In this Act

- (a) "association" means a local or provincial organization or association of fishers, or a local or provincial branch of a national or international organization or association of fishers within the province or a council of associations that has as one of its purposes the regulation in the province of relations between processors and fishers through collective bargaining, whether or not that organization or association also contains other persons who are employees as defined by the *Labour Relations Act*, but does not include an organization or association of fishers or a council of associations that is dominated or influenced by a processor;
- (b) "bargaining agent" means an association or a council of associations that acts on behalf of fishers
 - (i) in collective bargaining, or
 - (ii) as a party to a collective agreement with a processor;
- (c) "board" means the Labour Relations Board established under the *Labour Relations Act*;
- (d) "certified bargaining agent" means a bargaining agent that has been certified under this Act and the certification of which has not been revoked;
- (e) "collective agreement" means an agreement in writing between a processor or a processors' organization acting on behalf of a processor and a bargaining agent for fishers acting on behalf of the fishers containing terms or conditions of the relationship of the processor to the fishers, including provisions with reference to rates of pay for fish supplied to a processor by the fishers concerned, and includes a decision made by an arbitrator;
- (f) "collective bargaining" means negotiating with a view to the conclusion of a collective agreement or the renewal or revision of a collective agreement and "bargaining collectively" and "bargain collectively" have corresponding meanings;
- (g) [Rep. by 2006 c1 s1]
- (h) "conciliation officer" means a person whose duties include the conciliation of disputes and who is under the control and direction of the minister;
- (i) "council of association" means 2 or more local or provincial organizations or associations of fishers, or local or provincial branches of national or international organizations or associations of fishers within the province that have been certified as a bargaining agent for fishers supplying fish to a processor or to processors in a processors' organization or that have signed an agreement in writing or signed a collective agreement with a processor or processors' organization;
- (j) "dispute" or "industrial dispute" means a dispute or difference or apprehended dispute or difference between a processor and one or more of the fishers supplying fish to the processor or a bargaining agent acting on behalf of those fishers, as to matters or things affecting or relating to terms or conditions of the relationship or intended relationship of the processor to those fishers with respect to the supplying of fish by those fishers to the processor or as to the privileges, rights or duties of the parties to that relationship;
- (k) "fish" does not include cured fish as defined by the *Salt Fish Marketing Act* or the by-products of fish curing;
- (l) "fisher" means a self-employed commercial fisher including a person receiving a share of

the voyage or a person agreeing to accept in payment for his or her services a share of the profits of a fishing venture, with or without other remuneration engaged in fishing for gain, other than for sport, in tidal waters including fishing for anadromous fish while in those waters and includes all other commercial fishers not falling within the definition of employee in the *Labour Relations Act*;

(m) "lockout" includes a closing of a processor's business premises, a suspension of work in that premises or a refusal by a processor to continue to take fish from a fisher or fishers, done to compel the fisher or fishers, or to aid another processor to compel a fisher or fishers, to agree to terms or conditions concerning the supply of fish to the first-mentioned or last-mentioned processor;

(m.01) "majority percentage of a fish species" means the majority percentage of a fish species as measured by the round weight equivalent based upon the previous calendar year's production as determined on the basis of records submitted by processors to the Department of Fisheries and Aquaculture under the requirements of the *Fish Inspection Act* and the regulations made under that Act and the *Fisheries Act* in the context of obtaining licence renewal and reporting production for the calendar year previous to the application;

(m.1) [Rep. by 2004 c26 s1]

(n) "minister" means the minister appointed under the *Executive Council Act* to administer this Act;

(n.1) "panel" means the Standing Fish Price-Setting Panel established under section 19.1;

(o) [Rep. by 2001 c42 s16]

(p) [Rep. by 2000 c4 s2]

(q) [Rep. by 2006 c1 s1]

(r) "processor" means a person licensed under the *Fish Inspection Act* to process or buy fish; and

(s) "processors' organization" means an organization of processors formed for purposes including the regulation of relations between processors and fishers.

(2) A person shall not cease to be a fisher within the meaning of this Act by reason only of that fisher ceasing his or her fishing operations as the result of a lockout or because he or she has temporarily suspended those operations for any reason.

(3) For the purposes of this Act a "unit" means a group of fishers and "appropriate for collective bargaining", with reference to a unit, means a unit that is appropriate for those purposes, whether or not the fishers in the unit are supplying fish to one or more processors.

(4) For the purposes of subsection (3), a unit of fishers appropriate for collective bargaining may be, but is not required to be, determined by reference to all fishers in a specified geographical area, notwithstanding the number of processors in that specified geographical area.

(5) In this Act, except in paragraphs 2(1)(a) and (i) and section 24, a reference to the province does not include the Labrador Inuit Settlement Area as shown in Schedule 1-A of the Schedule to the *Labrador Inuit Land Claims Agreement Act* .

1971 No53 s2; 1973 No34 Sch B; 1977 c29 s3; 1977 c64 s150; 1984 c40 Sch B;
1989 c25 Sch B; [2000 c4 ss1&2](#); [2001 c42 s16](#); [2004 c26 s1](#); [2006 c1 s1](#); [2006 c50 s1](#)

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Application of certain provisions

2.1 Sections 13.1 to 13.9, 19.1 to 19.14 and 35.1 to 35.5 apply only where fishers are represented by a certified bargaining agent.

[2006 c1 s2](#)

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Labour Relations Act

3. Sections 93, 94 and 134 of the *Labour Relations Act* shall, with the necessary changes, apply to all matters within the scope of this Act, with

- (a) the words "trade union" replaced by the word "association";
- (b) the word "employer" replaced by the word "processor"; and
- (c) the word "employee" replaced by the word "fisher".

1973 No107 s4; [2000 c4 s1](#)

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Conflict

4. Where there is a conflict between this Act and the *Salt Fish Marketing Act* that Act shall prevail.

1971 No53 s4

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Rights of fishers and processors

5. (1) Every fisher has a right to be a member of an association and to participate in the activities of the association.

(2) Every processor has the right to be a member of a processors' organization and to participate in the activities of that organization.

1973 No53 s5; [2000 c4 s1](#)

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Unfair practices

6. (1) A processor or processors' organization, and a person acting on behalf of a processor or processors' organization, shall not participate in or interfere with the selection, formation or administration of an association, or contribute financial or other support to it.

(2) A processor and a person acting on behalf of a processor shall not

- (a) refuse to purchase fish from, or to continue to purchase fish from, a person, or otherwise discriminate against a person in regard to that purchase or a term or condition of that purchase because the person is a member of an association; or
- (b) impose conditions in a contract seeking to restrain a fisher from exercising his or her rights under this Act.

(3) A processor and a person acting on behalf of a processor shall not seek by intimidation, by threat of refusing to purchase fish from a fisher, or by other kinds of threats or by other means to

compel a fisher to refrain from becoming or to cease to be a member or officer or representative of an association and a person shall not seek by intimidation or coercion to compel a fisher to become or refrain from becoming or to cease to be a member of an association.

(4) A processor and a person acting on behalf of a processor shall not in the course of a dispute with fishers on matters within the scope of this Act threaten to shut down or move a plant or a part of a plant.

(5) Except as expressly provided, nothing in this Act shall be interpreted to affect the right of a processor to refuse to purchase fish from a fisher for proper and sufficient cause.

(6) A fisher or a person acting on behalf of an association shall not use coercion or intimidation with a view to encouraging or discouraging membership in or activity in or for an association but nothing in this Act precludes a person acting on behalf of an association from attempting to persuade a processor to make an agreement with that association to require as a condition of purchasing fish from a fisher membership or maintenance of membership by that fisher in the association where the association has been designated or selected by a majority of fishers in the unit as their representative for the purpose of bargaining collectively.

[1971 No53 s6; 2000 c4 s1](#)

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Assignment

7. (1) A processor shall honour a written assignment to an association, certified as bargaining agent, of money forming a part of payment for the purchase of fish.

(2) An assignment under subsection (1) shall be substantially in the following form:-

To (name of processor)

I request you to deduct from money in your hands to my credit and pay to (name of association) fees in the amounts following:

(1) Initiation fee in the amount of \$.

(2) Dues of \$ per.

(3) Unless the assignment is revoked in writing delivered to the processor, the processor shall remit the dues deducted to the association named in the assignment at least once each month, together with a written statement of the names of the fishers for whom the deductions were made and the amount of each deduction.

(4) Where the assignment is revoked, the processor shall give notice of the revocation to the assignee.

(5) Notwithstanding anything contained in subsections (1), (2) and (3), there shall be no financial responsibility on the part of a processor for fees or dues of a fisher unless there is sufficient unpaid money to the credit of that fisher in the processor's hands.

[1971 No53 s7; 2000 c4 s1](#)

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Application for certification

8. (1) An association claiming to have as members in good standing a majority of fishers supplying fish to one or more processors in a unit that is appropriate for collective bargaining may, subject to the rules of the board and in accordance with this section, make an application to the board to be certified as bargaining agent for fishers in the unit.

(2) Where a collective agreement is not in force and a bargaining agent has not been certified under this Act for the unit, the application may be made at any time.

(3) Where a collective agreement is not in force but a bargaining agent has been certified under this Act for the unit, the application may be made after the expiry of 12 months from the date of certification of the bargaining agent but not before, except with the consent of the board.

(3.1) Where a collective agreement is in force, the application may be made at any time after the expiry of 10 months of the term of the collective agreement but not before, except with the consent of the board.

(4) Two or more associations claiming to have as members in good standing of the associations a majority of fishers in a unit that is appropriate for collective bargaining may join in an application under this section and the provisions of this Act relating to an application by one association and all matters or things arising from that application shall apply with respect to the application and the associations as if it were an application by one association.

[2000 c4 s4](#); [2004 c26 s3](#)

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Membership in association

9. (1) The parties to a collective agreement may insert in the collective agreement a provision requiring, as a condition of a processor purchasing fish from a fisher, membership of that fisher in a specified association, or granting a preference, with respect to the purchase of fish, to members of a specified association.

(2) Notwithstanding the other provisions of this or another Act, where a person

(a) is not a member of an association which is a party to a collective agreement but is otherwise qualified as a fisher in respect of a processor who is a party to the collective agreement; and

(b) applies for membership in the association referred to in paragraph (a),

the processor may purchase fish from that person notwithstanding a provision of a collective agreement where the association refuses to accept that person into membership.

(3) Nothing contained in subsection (2) excuses a fisher from complying with the constitution, rules and by-laws of an association of which he or she becomes a member.

(4) Notwithstanding a provision in another Act, a provision in the constitution, rules or by-laws of an association which is designed or operates to exclude from membership in the association a person referred to in subsection (2) is invalid.

1971 No53 s9; [2000 c4 s1](#)

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Certification of bargaining agent

10. (1) Where an association makes application for certification under this Act as bargaining agent of fishers in a unit, the board shall determine whether the unit in respect of which the application is made is appropriate for collective bargaining and the board may, before certification include additional fishers in, or exclude fishers from, the unit, and shall take those steps that it considers appropriate to determine the wishes of the fishers in the unit as to the selection of a bargaining agent to act on their behalf, and for the purpose of determining those wishes the board may disregard the wishes of fishers who in its opinion are engaged in other full-time employment.

(2) Where, as a result of an application for certification under this Act by an Association, the board has determined that a unit of fishers is appropriate for collective bargaining

- (a) where the board is satisfied that the majority of the fishers in the unit are members in good standing of the association; or
- (b) where, as a result of a vote of the fishers, excluding those whose wishes are disregarded under subsection (1) in the unit, the board is satisfied that a majority of them have voted and that a majority of those fishers who have so voted have selected the association to be a bargaining agent on their behalf,

the board may certify the association as the bargaining agent of the fishers in the unit, including those fishers whose wishes have been so disregarded.

(3) Where an application for certification under this Act is made by an association claiming to have as members in good standing a majority in a unit that is appropriate for collective bargaining, which includes fishers supplying fish to 2 or more processors, the board may certify the association as the bargaining agent of the fishers in the unit.

(4) The board may, for the purposes of determining whether the majority of the fishers in a unit are members in good standing of an association or whether a majority of them have selected an association to be their bargaining agent, make an examination of records or other inquiries that it considers necessary, including the holding of hearings or the taking of votes that it considers necessary, and the board may prescribe the nature of the evidence to be furnished to the board.

(5) An association, the administration, management or policy of which is, in the opinion of the board,

- (a) influenced by a processor so that its fitness to represent fishers for the purposes of collective bargaining is impaired; or
- (b) dominated by a processor

shall not be certified as a bargaining agent of fishers, nor shall an agreement entered into between that association and that processor be considered to be a collective agreement for the purposes of this Act.

(6) When a processor has received notice in writing from the board that an association has made application for certification under this Act as a bargaining agent of fishers supplying the processor with fish, the processor shall not, afterward,

- (a) without the consent of the board; or
- (b) unless a collective agreement has been made which is binding on fishers in the unit in respect of which the application is made,

alter rates of pay for fish or another term or condition of the purchase of fish then in force in respect to those fishers, until the application has been granted, refused or withdrawn.

1971 No53 s10; [2000 c4 s1](#)

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Hearing

11. In relation to an application for certification, the board may hold a hearing where it considers it necessary to do so and may dispose of an application without a hearing notwithstanding that a request to hold a hearing has been filed with it.

1988 c49 s1

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Effect of certification

12. Where an association is certified under this Act as the bargaining agent of the fishers in a unit,

- (a) the association shall immediately replace another bargaining agent of fishers in the unit and shall have exclusive authority to bargain collectively on behalf of fishers in the unit and to bind them by a collective agreement until the certification of the association in respect of fishers in the unit is revoked;
- (b) where another association had previously been certified as bargaining agent in respect of fishers in the unit, the certification of that association is revoked in respect of those fishers;
- (c) where, at the time of certification, a collective agreement binding on or entered into on behalf of fishers in the unit is in force, then the association shall be substituted as a party to the agreement in place of the bargaining agent that is a party to the agreement on behalf of fishers in the unit, and may, notwithstanding anything contained in the agreement, upon 2 months' notice to the processor concerned terminate the agreement as it applies to those fishers; and
- (d) the certification shall apply to all processors purchasing fish within the specified geographical area applicable to the unit, where that unit is determined by reference to a specified geographical area.

[1971 No53 s11](#); [2000 c4 s1](#)

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Revocation of certification

13. (1) Where, following investigation, and after a hearing where one is considered necessary by the board, it is determined by the board that a bargaining agent no longer represents a majority of fishers in the unit for which it was certified or for which it acts as bargaining agent the board of its own motion or upon application may

- (a) revoke the certification of the bargaining agent, where it was certified; or
- (b) where the bargaining agent was not certified, by a declaration in writing terminate the bargaining rights of the bargaining agent,

and, where the certification is revoked or the bargaining rights terminated, notwithstanding anything contained in this Act, a processor shall not be required to bargain collectively with the bargaining agent, but nothing in this subsection shall prevent the bargaining agent from making an application under section 8.

(2) The board shall not be required to accept or deal with an application to revoke the certification of a bargaining agent under subsection (1) within the period of 6 months immediately following

- (a) the date of the certification of that bargaining agent;
- (b) the date when a previous application to revoke the certification of that bargaining agent was refused, where a previous application was made; or
- (c) the date when that bargaining agent by notice required an operator to commence collective bargaining, where a notice was given,

but the board may, where it thinks fit, accept and deal with an application of that kind.

(3) Where a certification has been revoked or the bargaining rights of a bargaining agent have been terminated under subsection (1), an agreement entered into on or before and in force at the date of the revocation or termination between the bargaining agent and a processor is not and

shall not be considered to be, from that date, a collective agreement for the purposes of this Act.

[1971 No53 s12](#); [1988 c49 s2](#); [1998 c11 s1](#); [2000 c4 ss1&5](#); [2004 c26 s4](#)

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Accreditation as bargaining agent

13.1 (1) Subject to the rules of the board, a processors' organization whose members produce the majority percentage of a fish species may apply to the board to be accredited as the sole collective bargaining agent for all processors in the province of that species.

(2) Where as a result of an application under subsection (1) the board issues an accreditation order to a processors' organization with respect to a species of fish, a previously issued accreditation order with respect to that species is revoked.

[2006 c1 s3](#)

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Membership in accredited processors' organization

13.2 An accredited processors' organization

- (a) shall offer membership to processors who process the fish species for which the organization is accredited on terms that are no less favourable than the terms offered to existing members; and
- (b) shall not deny membership to a processor for whom it is the bargaining agent for a reason other than refusal or failure to pay the periodic dues, assessments and initiation fees ordinarily required to be paid by all members of the processors' organization as a condition of acquiring or retaining membership in the organization.

[2006 c1 s3](#)

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Expedited accreditation process

13.3 (1) Where an application is made to the board under section 13.1, the board shall, within 5 business days of the making of that application, notify all processors who process the fish species for which the applicant has applied for accreditation who are required to submit records to the Department of Fisheries and Aquaculture under the *Fish Inspection Act* and the regulations under that Act and the *Fisheries Act* in the context of obtaining licence renewal and reporting production of the receipt of that application for accreditation.

(2) A processor who has received notice under subsection (1) may, within 10 business days of receiving that notice, make representations to the board with respect to whether the applicant produces the majority percentage of a fish species, and subject to the merits of those representations, the board may, in its discretion, hold a hearing with respect to that application for accreditation.

(3) Where an application is made under section 13.1 and the board has fulfilled the requirements of subsections (1) and (2) of this section, and is satisfied that the processors' organization produces the majority percentage of a fish species, the board shall accredit the applicant.

[2000 c4 s6](#); [2006 c1 s4](#)

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Prerequisites of accreditation

13.4 (1) Before the board accredits a processors' organization, the board shall satisfy itself that

- (a) the processors' organization is a properly constituted organization controlled by its members; and
- (b) each of its members has vested appropriate authority in the organization to enable it to discharge the responsibilities of an accredited bargaining agent.

(2) Where the board is of the opinion that appropriate authority has not been vested in the processors' organization, the board may dismiss or postpone disposition of the application to enable processors who are member of the processors' organization to vest in the organization whatever additional or other authority the board considers necessary.

[2000 c4 s6](#)

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Results of accreditation

13.5 Upon accreditation, all rights, duties and obligations under this Act of processors for whom the accredited processors' organization is or becomes the bargaining agent apply to the accredited processors' organization and its members, and a collective agreement between a processor and a certified bargaining agent for fishers that is in force at the date of accreditation of a processors' organization does not bar a certified bargaining agent for fishers from giving notice to the accredited processors' organization to start collective bargaining nor does it bar the accredited processors' organization from giving notice to a collective bargaining agent for fishers to start bargaining.

[2000 c4 s6](#)

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Binding effect

13.6 (1) Where a collective agreement is negotiated between an accredited processors' organization and a certified bargaining agent and a processor in the province is not a member of that accredited processors' organization, that processor is bound by and shall comply with the terms of that collective agreement notwithstanding the fact that he or she is not a member of that accredited processors' organization.

(2) Where a processor referred to in subsection (1) or a member of an accredited processors' organization fails to comply with a provision of a collective agreement referred to in that subsection, the accredited processors' organization may apply to the board for a determination on the matter and the board may make that determination.

[2000 c4 s6; 2006 c50 s2](#)

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Revocation

13.7 (1) An accredited processors' organization or one or more members of an accredited processors' organization may apply to the board for a declaration that the accreditation of that organization is revoked.

(2) Where an application is made under subsection (1) by an accredited processors' organization, the board shall declare the accreditation of that processors' organization revoked.

(3) Where an application is made under subsection (1) by one or more members of an accredited processor's organization, the board shall ascertain the processors in the accredited processors' organization who, within a 2 month period immediately preceding the date of the making of the application, have voluntarily indicated in writing that they no longer wish to be

represented by that organization and where the board is satisfied that

- (a) processors processing the majority percentage of a fish species have voluntarily indicated in writing that they no longer wish to be represented by the accredited processors' organization; and
- (b) it can be shown that the accredited processors' organization no longer fulfils the requirements of section 13.1 as determined on the basis of records submitted by processors to the Department of Fisheries and Aquaculture under the requirements of the *Fish Inspection Act* and the regulations made under that Act and the *Fisheries Act* in the context of obtaining licence renewal and reporting production from the previous calendar year,

the board shall declare the accreditation of the processors' organization revoked.

[2004 c26 s5](#); [2006 c1 s5](#)

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Result of revocation

13.8 Upon the board making a declaration under subsection 13.7(2) or (3), all rights, duties and obligations of the processors' organization under this Act and under an unexpired collective agreement revert to the individual processors to whom the collective agreement or the bargaining agent's certification order applies.

[2000 c4 s6](#)

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Certain agreements void

13.9 A certified bargaining agent for fishers which has bargaining rights for fishers who sell fish to processors represented by an accredited processors' organization and a processor or person acting on behalf of the processor, shall not, as long as the accredited processors' organization continues to be entitled to represent the processors in an accredited processors' organization, enter into an agreement or understanding, oral or written, that provides for the selling of fish contrary to the terms of a collective agreement, and, where that agreement or understanding is entered into, it is illegal.

[2000 c4 s6](#)

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Notice to begin bargaining

14. Where the board has under this Act certified an association as a bargaining agent of fishers in a unit and no collective agreement with the processor concerned binding on, or entered into on behalf of, fishers in a unit, is in force,

- (a) the bargaining agent may, on behalf of the fishers in the unit, by notice, require the processor concerned to commence collective bargaining; or
- (b) the processor or a processors' organization representing the processor may, by notice, require the bargaining agent to commence collective bargaining

with a view to the conclusion of a collective agreement.

[1971 No53 s13](#); [2000 c4 s1](#)

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Notice to renew agreement

15. (1) Not more than 60 days and not less than 30 days immediately before the date of expiration or of the termination of a collective agreement a party to the collective agreement may by notice in writing require the other party to the agreement to commence collective bargaining with a view to the renewal or revision of the agreement or the conclusion of a new collective agreement.

(2) Where a collective agreement provides for a period of notice to commence collective bargaining which is different from the period provided for in subsection (1), that provision in the collective agreement has effect in respect of a notice requiring the commencement of collective bargaining.

1971 No53 s14

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Notice to panel

15.1 Where a notice is given under section 14 or 15, a copy of the notice shall at the same time be given to the panel.

[2006 c1 s6](#)

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Time limit to begin bargaining

16. Where notice to commence collective bargaining has been given under section 14,

- (a) the certified bargaining agent and the processor, or a processors' organization representing the processor shall, without delay, but within 20 clear days after the notice was given or the further time that the parties may agree upon, meet and commence or authorize representatives on their behalf to meet and commence to bargain collectively with one another and shall make every reasonable effort to conclude a collective agreement; and
- (b) the processor shall not, without consent by or on behalf of the fishers affected, alter rates of pay for fish or alter other terms or conditions respecting the purchase of fish then in force in respect to fishers in the unit for which the bargaining agent is certified until
 - (i) a collective agreement has been concluded that is binding on all the processors who process the species of fish to which the agreement relates, or
 - (ii) the matters in dispute between the processor and the certified bargaining agent have been decided on by the panel and an agreement imposed that is binding on all the processors who process the species of fish to which the agreement relates,

whichever is earlier.

[2006 c1 s7](#)

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Parties not to delay bargaining

17. Where a party to a collective agreement has given notice under section 15 to the other party to the agreement,

- (a) the parties shall, without delay, but in any case within 20 clear days after the notice was given, or the further time that the parties may agree upon, meet and commence or authorize representatives on their behalf to meet and commence to bargain collectively and make every reasonable effort to conclude a renewal or revision of the agreement or a new collective agreement; and

- (b) where a renewal or revision of the agreement or a new collective agreement has not been concluded before expiry of the term of, or termination of, the agreement, the processor shall not, without the consent of or on behalf of the fishers affected, alter rates of pay for fish or alter other terms or conditions respecting the purchase of fish in effect immediately prior to that expiry or termination provided for in the agreement, until
- (i) a renewal or revision of the agreement or a new collective agreement has been concluded that is binding on all the processors who process the species of fish to which the agreement relates, or
 - (ii) the matters in dispute between the processor and the bargaining agent have been decided on by the panel and an agreement imposed that is binding on all the processors who process the species of fish to which the agreement relates,
- whichever is earlier.

[2006 c1 s7](#)

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Bargaining committee

18. (1) During collective bargaining an association shall be represented by a bargaining committee consisting of fishers supplying fish to the processor who are in the association, and that committee

- (a) shall in the case of collective bargaining between
 - (i) an association and a processors' organization, consist of fishers supplying fish to one or more members of that organization who are in the association,
 - (ii) an association and a group of processors bargaining jointly or through representatives of those processors, consist of fishers supplying fish to one or more of the processors in the group who are in the association, or
 - (iii) a group of associations and a processor, a processors' organization, or a group of processors bargaining jointly, consist of fishers supplying fish to the processor, or to one or more members of the organization or to one or more of the processors in the group of processors who are in the association; and
 - (b) may include one or more officers or other representatives of the association.
- (2) Notwithstanding subsection (1), where a bargaining unit
- (a) consists of not more than 15 fishers, the bargaining committee shall include at least one fisher from that unit; or
 - (b) consists of more than 15 fishers, the bargaining committee shall include at least 2 fishers from that unit.

[1971 No53 s17](#); [2000 c4 ss1&7](#)

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Representation of processors

19. During collective bargaining a processor shall be personally present or be represented by a person authorized by the processor to bargain collectively with fishers supplying fish to the processor and where one of the parties to the collective bargaining is a processors' organization which comprises 3 or more processors the organization shall be represented by at least 3 of the processors, or representatives of those processors, in respect of whom fishers are concerned in the collective bargaining and those processors or their representatives shall have authority to bargain

collectively on behalf of the organization.

1971 No53 s18; [2000 c4 ss1&8](#)

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Minister to set date

19.01 (1) The minister responsible for fisheries and aquaculture shall set the date by which the price and conditions of sale for a fish species shall be set in a year.

(2) Notwithstanding subsection (1), the minister may, upon the joint request of the parties to collective bargaining, vary the date set under that subsection.

[2010 c38 s1](#)

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Appointment of panel

19.1 (1) The Standing Fish Price-Setting Panel is established consisting of 3 members appointed by the Lieutenant-Governor in Council.

(2) The Lieutenant-Governor in Council shall appoint one of the members of the panel as chairperson.

(3) A member of the panel shall serve for a period of 3 years and is eligible to be reappointed.

(4) Where a member of the panel resigns or, due to absence, incapacity or other cause, is unable to carry out his or her duties as a member, the Lieutenant-Governor in Council shall appoint a person in his or her place who shall serve for the remainder of the term of the member being replaced.

(5) The members of the panel shall be paid remuneration and expenses related to carrying out their duties at a rate set by the Lieutenant-Governor in Council.

(6) The members of the panel shall elect one of their number to be vice-chairperson and during the absence or incapacity of the chairperson or during a vacancy in the office of the chairperson the vice-chairperson has and may exercise the powers of the chairperson and shall perform his or her duties.

(7) The Lieutenant-Governor in Council may appoint as many persons as he or she considers appropriate to serve as alternate members of the panel and the persons appointed hold office for 3 years and are eligible for reappointment.

(8) The persons appointed under subsection (7) shall be considered to be members of the panel only while serving on the panel.

(9) Notwithstanding subsection (3), a person continues to be and may serve as a member of the panel until he or she is reappointed or replaced.

(10) Notwithstanding subsection (3), of the members of the panel first appointed

(a) the chairperson shall be appointed for a term of 3 years;

(b) one member shall be appointed for a term of 2 years; and

(c) one member shall be appointed for a term of one year,

and are eligible for re-appointment.

[Back to Top](#)**Duties of the panel**

19.2 The duties of the panel are

- (a) to facilitate access by parties to collective bargaining to market information relating to the sale of fish;
- (b) to establish criteria that are not inconsistent with this Act relating to collective bargaining under this Act;
- (c) to provide assistance to parties engaged in collective bargaining under this Act;
- (d) to set prices and conditions of sale for a fish species where parties have engaged in collective bargaining and have been unable to agree or where parties have refused to engage in collective bargaining;
- (e) to review and report on matters related to the price and conditions of sale of a fish species that may be referred to it by the minister responsible for fisheries and aquaculture; and
- (f) to make recommendations on matters falling within its mandate to the minister responsible for fisheries and aquaculture and the minister responsible for fisheries in the Government of Canada.

[2006 c1 s8](#)[Back to Top](#)**Matters beyond panel's authority**

19.3 The panel shall not have authority with respect to

- (a) raw material shares; or
- (b) production limits.

[2006 c1 s8](#)[Back to Top](#)**Procedure of the panel**

19.4 The panel may establish rules and procedures for the purpose of carrying out its duties under this Act.

[2006 c1 s8](#)[Back to Top](#)**Powers of the panel**

19.5 The panel has all the powers that are or may be conferred on a commissioner under the *Public Inquiries Act* .

[2006 c1 s8](#)[Back to Top](#)

Decision of the panel

19.6 A decision of a majority of the members of the panel is a decision of the panel.

[2006 c1 s8](#)

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Costs

19.7 Each party to a proceeding before the panel shall assume its own costs.

[2006 c1 s8](#)

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Time limit for agreement

19.8 (1) The panel shall annually set a date by which a bargaining agent and a processor or processors organization shall conclude a collective agreement in relation to a fish species that is binding on all processors in the province that process that fish species.

(2) Where parties to collective bargaining in relation to a fish species conclude a collective agreement in relation to that fish species that is binding on all processors in the province who process that fish species prior to the date set for it by the panel under subsection (1), the parties shall so inform the panel.

(3) Where the panel does not set a date under subsection (1) for a fish species, a certified bargaining agent or a processor or processors' organization referred to in section 14 or a party to a collective agreement referred to in section 15 may apply to the panel for a date to be set.

(4) A party to collective bargaining with respect to a fish species may refer a matter other than price to the panel prior to the date set under subsection (1) and the panel may consider and give a decision with respect to the matter.

(5) A party referring a matter to the panel under subsection (4) shall, at the same time, give notice to the other party of that referral.

(6) The panel may refuse to consider a matter referred to it.

[2006 c1 s8](#); [2006 c50 s3](#)

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Panel to establish agreement

19.9 (1) Where a bargaining agent and a processor or processors' organization have failed to conclude a collective agreement in relation to a fish species that is binding on all processors in the province that process that fish species by the date set for it by the panel under subsection 19.8(1), all the matters in dispute between them relating to price and conditions of sale for a fish species shall be considered to have been referred to the panel for decision.

(2) The panel shall hold a hearing in relation to the matters considered to have been referred to it under subsection (1) at which the bargaining agent and processor or processors' organization may make submissions.

(2.1) Notwithstanding subsection (2), a party who has engaged in collective bargaining may not make a submission under that subsection unless that party has submitted an offer respecting price and conditions of sale to the other party not less than 48 hours before the scheduled commencement of the hearing referred to in subsection (2).

(3) Immediately after the conclusion of the hearing referred to in subsection (2), but in any

event not later than 3 days before the date set by the minister responsible for fisheries and aquaculture under section 19.01, the panel shall decide on the matters in dispute between the parties relating to price and conditions of sale for the fish species and the decision of the panel is final and binding on the parties and on all other processors in the province that process that species of fish to which the panel's decision relates and constitutes a collective agreement or part of a collective agreement between them.

[2006 c1 s8](#); [2006 c50 s4](#); [2010 c38 s2](#)

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Where no collective bargaining occurs

19.10 Where a date has been set by the panel under subsection 19.8(1) and parties do not engage in collective bargaining with a view to concluding a collective agreement relating to price and conditions of sale for a fish species, the panel, following the holding of a hearing at which the bargaining agent and a processor or processors' organization may make submissions, shall set a price and conditions of sale for the fish species that are binding on the parties and on all other processors in the province that process that fish species and that decision constitutes a collective agreement or part of a collective agreement between them.

[2006 c1 s8](#); [2006 c50 s5](#)

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Settlement of dispute by panel

19.11 (1) Notwithstanding subsection 19.9(3), where the parties to collective bargaining are a certified bargaining agent and an accredited processors' organization or a processors' organization that represents processors in the province that process the majority percentage of a fish species and those parties appear before the panel under subsection 19.9(2), the panel shall hear and consider their positions on price and conditions of sale and shall, in accordance with the regulations, make a decision with respect to the matters in dispute between the parties relating to price and conditions of sale.

(2) The panel shall notify the parties of its decision not later than 3 days before the date set by the minister responsible for fisheries and aquaculture under section 19.01 and the decision of the panel is final and binding on the parties and on all other processors in the province that process that species of fish to which the panel's decision relates and constitutes a collective agreement or part of a collective agreement between them.

(3) The minister may make regulations

- (a) establishing the method that the panel shall apply in making a decision under subsection (1) or delegating to the panel the authority to establish its own method; and
- (b) generally respecting the powers and duties of the panel in making a decision under this section.

[2006 c50 s6](#); [2010 c38 s3](#)

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No cessation or lockout

19.12 (1) A fisher shall not engage in a cessation of business dealings and a bargaining agent representing the fisher shall not take a vote as to cessation of business dealings between fishers and processors or authorize or participate in taking a vote or declare or authorize a cessation by that fisher.

(2) A processor or a processors' organization shall not lock out a fisher.

[2006 c1 s8](#)[Back to Top](#)

Facilitator not compellable

19.13 Except with the consent of the minister, and notwithstanding a law to the contrary, a person appointed by the panel as a facilitator shall not be required to give evidence before a court, board or other body or provide information that he or she has received in the course of carrying out his or her duties.

[2006 c1 s8](#)[Back to Top](#)

Panel may reconsider decision

19.14 (1) A certified bargaining agent, an accredited processors' organization or a processors' organization that represents processors that produce the majority percentage of a fish species may apply to the panel to reconsider a decision respecting price and conditions of sale.

(2) On an application under subsection (1), the panel may reconsider its decision and may confirm or vary the decision taking into consideration the criteria it may establish and in accordance with the regulations.

- (3) Notwithstanding subsection (2), the panel shall only reconsider its decision
- (a) where it believes the failure to do so would jeopardize the conduct of the fishery to which its decision applies; and
 - (b) where the criteria for reconsideration prescribed in regulations made under paragraph (4) (a) have been met.
- (4) The minister may make regulations
- (a) respecting the criteria which the panel shall consider in determining whether the conduct of the fishery to which its decision applies is in jeopardy under subsection (3);
 - (b) respecting the method that the panel shall apply in making a decision under subsection (2);
 - (c) restricting the number of applications under subsection (1) that a party may make respecting a fish species in a year; and
 - (d) generally, respecting the powers and duties of the panel in reconsidering a decision under this section.

[2010 c38 s4](#)[Back to Top](#)

Sections apply

19.15 Where there is a conflict between the other provisions of this Act and sections 19.01 to 19.14, sections 19.01 to 19.14 apply.

[2010 c38 s5](#)[Back to Top](#)

Conciliation officers

20. Section 79 of the *Labour Relations Act* with respect to conciliation officers applies to all matters within the scope of this Act.

[2006 c1 s9](#)

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Collective agreement binding

21. A collective agreement is binding upon

- (a) the bargaining agent and the fishers in the unit of fishers which the bargaining agent represents; and
- (b) the processor who has entered into the agreement or on whose behalf the agreement has been entered into.

1971 No53 s20; [2000 c4 s1](#)

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Agreement or decision binding

21.1 (1) Where, in the absence of an accredited processors' organization

- (a) a certified bargaining agent negotiates a collective agreement for a fish species on price and conditions of sale; and
- (b) that collective agreement is binding upon the processors who process the majority percentage of the fish species

the terms of that collective agreement is binding upon all processors in the province who process that fish species.

(2) Where a processor referred to in subsection (1) fails to comply with a provision of a collective agreement referred to in that subsection, the processors' organization affected by the failure to comply may apply to the board for a determination on the matter and the board may make that determination.

[2006 c1 s10](#)

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Labour Relations Act

22. Section 86 of the *Labour Relations Act* with the words "without stoppage of work" in subsection (1) being replaced by the words "without cessation of normal business dealings between the fishers and processor or processors concerned" apply to all matters within the scope of this Act.

1977 c64 s150; [2000 c4 s1](#)

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Single arbitrator

22.1 (1) Where a party to a collective agreement requests, the minister shall appoint a single arbitrator instead of an arbitration board, and where a single arbitrator is appointed under this section, the arbitrator has the powers and duties conferred and imposed on an arbitration board under the *Labour Relations Act* .

(2) An arbitrator's decision shall be given within 48 hours of his or her appointment unless the parties to the collective agreement agree to a different time.

[2006 c1 s11](#)[Back to Top](#)

Enforcement of arbitration award

22.2 Where an association, fisher, processor or processors' organization or other person has failed to comply with the terms of the decision of an arbitration board or of a single arbitrator made under a collective agreement or this Act a person affected by the decision may after 48 hours of the date on which the decision was made, or the date provided in it for compliance, whichever is earlier, file with the Trial Division a copy of the decision, exclusive of the reasons for it, and the decision shall be entered in the same way as a judgment of or order of that court and is enforceable as such.

[2013 c16 s25](#)[Back to Top](#)

Duration of agreement

23. (1) Notwithstanding a provision contained in it, a collective agreement shall, if for a term of less than a year, be considered to be for a term of one year from the date upon which it comes into operation, or if for an indeterminate term shall be considered to be for a term of at least one year from that date and shall not, except as provided by section 12 or with the consent of the board, be terminated by the parties to it within a period of one year from that date.

(2) The parties to a collective agreement may by consent in writing while the agreement is in force vary, cancel or substitute other provisions for a provision in the agreement other than the provision relating to the term of the agreement.

[1971 No53 s22; 2000 c4 s9](#)[Back to Top](#)

Costs of collective bargaining

23.1 A processors' organization whose members produce the majority percentage of a fish species, or an accredited processor's organization, that engages in collective bargaining is entitled to recover its costs that are directly attributable to the collective bargaining proportionately from all the processors to which the collective agreement resulting from the collective bargaining applies.

[2006 c1 s12](#)[Back to Top](#)

Extra-provincial company

24. Where a processor is an extra-provincial company whose board of directors does not meet in the province,

- (a) the company shall appoint a person resident in the province with authority to bargain collectively and to conclude a collective agreement and to sign the agreement on behalf of the company;
- (b) the collective agreement signed by that person shall be binding on the company; and
- (c) the company is guilty of an offence where it fails to appoint a person in compliance with paragraph (a).

[1971 No53 s23; 2000 c4 s1](#)[Back to Top](#)

Terms of business

25. (1) Where the ownership of a business is transferred and a bargaining agent has been certified in respect of the fishers supplying fish to that business before the transfer, the certification of the bargaining agent is, subject to this Act, binding on the person to whom ownership of the business is transferred.

(2) Where, the ownership of a business is transferred, a collective agreement entered into by a bargaining agent and the person who transferred the ownership of the business is, subject to this Act, binding on the person to whom ownership of the business is transferred.

1971 No 53 s24

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Rep. by 2006 c1 s13

26. [Rep. by 2006 c1 s13]

[2006 c1 s13](#)

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Rep. by 2006 c1 s13

27. [Rep. by 2006 c1 s13]

[2006 c1 s13](#)

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Rep. by 2006 c1 s13

28. [Rep. by 2006 c1 s13]

[2006 c1 s13](#)

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Association constrained

29. An association that is not entitled to bargain collectively under this Act on behalf of a unit of fishers shall not declare or authorize a cessation of business dealings in respect to fishers in that unit.

[2006 c1 s14](#)

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Fisher not liable for loss

30. Where a fisher engages in a cessation of business dealings between himself or herself and a processor which is not contrary to this Act, no action lies against that fisher or against a bargaining agent acting on behalf of that fisher in respect of damages in contract for which the processor has become liable to another person as a result of that cessation, but nothing contained in this section exempts a fisher or bargaining agent from liability for a tortious act.

1971 No53 s29; [2000 c4 s1](#)

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Suspension of operations not affected

31. Nothing in this Act shall be interpreted to prohibit the suspension or discontinuance of operations in a processor's establishment, in whole or in part, not constituting a lockout or a cessation of business dealings.

[2006 c1 s15](#)

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Personal grievance

32. Notwithstanding anything contained in this Act, a fisher may present his or her personal grievance to a processor at any time.

1971 No53 s31; [2000 c4 s1](#)

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Enforcement of board's order

32.1 (1) Where a person, fisher, processor, processors' organization or an association has failed to comply with an order or decision of the board, a person, fisher, processor, processors' organization or an association affected may, after 48 hours of the date which the order or decision was made, or the date provided in it for compliance, whichever is earlier, file a copy of the order or decision, exclusive of the reasons, with the Trial Division.

(2) Once an order or decision of the board is filed with the Trial Division under subsection (1), that order or decision is enforceable as a judgement or order of that court.

(3) Notwithstanding subsection (1), where a directive made by the board under section 18.1 of the *Labour Relations Act* is not complied with, a person, association, processor or processors' organization, and their officers, officials or agents affected by that directive may file a copy of the directive, exclusive of reasons, with the Trial Division and, once filed, that directive is enforceable as a judgment or order of that court.

[2013 c16 s25](#)

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Labour Relations Act

33. Section 106 of the *Labour Relations Act* applies to all matters within the scope of this Act to the extent of the reference to a conciliation officer.

[2006 c1 s17](#)

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Rep. by 2006 c1 s17

34. [Rep. by 2006 c1 s17]

[2006 c1 s17](#)

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Rep. by 2006 c1 s17

35. [Rep. by 2006 c1 s17]

[2006 c1 s17](#)

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Definitions

35.1 In sections 35.2 to 35.5, "party" and "parties", notwithstanding paragraph 2(1)(q), means an association of fishers or a certified bargaining agent for fishers, and a processors' organization, or an accredited processors' organization who may or may not be bound by a collective agreement.

[2004 c26 s7](#)

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Minister may establish auction system

35.2 The Minister of Fisheries and Aquaculture may establish an auction system for the sale of fish.

[2004 c26 s7](#)

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Auction

35.3 (1) Where an auction system for the sale of fish is established by the Minister of Fisheries and Aquaculture and that minister requires the sale of a fish species by auction or the parties agree to the sale of a fish species by auction, the sale price achieved by the auction process for the fish shall be considered to be the price agreed upon for that fish by the fisher who sells the fish and the buyer of that fish by collective agreement.

(2) A fish species offered for auction under subsection (1) may be offered for a price other than a price agreed upon by collective agreement.

(3) Where a fish species is auctioned in accordance with this section, the auctioneer shall deduct from the money received for the sale of that fish an amount equivalent to the dues owing to the appropriate certified bargaining agent and shall remit that amount of money to that agent.

[2004 c26 s7](#)

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Strikes and lockouts prohibited

35.4 Notwithstanding sections 26, 27 and 28 or another section of this Act, where the minister requires the sale of a fish species by auction, there shall be no strike, lockout or cessation of business dealings between fishers and processors with respect to the fish species that is the subject of the auction while the auction system is in effect.

[2004 c26 s7](#)

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Conflicting provisions

35.5 Where there is a conflict between a provision of sections 35.1 to 35.4 and other provisions of this Act, the provision contained in sections 35.1 to 35.4 apply.

[2004 c26 s7](#)

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Sunset clause

35.6 Sections 35.1 to 35.5 shall cease to have effect on June 1, 2006 .

[2004 c26 s7](#)[Back to Top](#)**Rep. by 2004 c26 s7**

35.7 [Rep. by 2004 c26 s7]

[2004 c26 s7](#)[Back to Top](#)**Rep. by 2004 c26 s7**

35.8 [Rep. by 2004 c26 s7]

[2004 c26 s7](#)[Back to Top](#)**Rep. by 2004 c26 s7**

35.9 [Rep. by 2004 c26 s7]

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35.10 [Rep. by 2004 c26 s7]

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35.11 [Rep. by 2004 c26 s7]

[2004 c26 s7](#)[Back to Top](#)**Rep. by 2004 c26 s7**

35.12 [Rep. by 2004 c26 s7]

[2004 c26 s7](#)[Back to Top](#)**Rep. by 2004 c26 s7**

35.13 [Rep. by 2004 c26 s7]

[2004 c26 s7](#)[Back to Top](#)**Offence**

36. A processor and every person acting on behalf of a processor who alters a rate of pay for fish

or another term or condition of the purchase of fish contrary to section 16 or section 17 is guilty of an offence and liable upon summary conviction to a fine not exceeding

- (a) \$5 in respect of each fisher whose rate of pay or in respect of whom that term or condition was so altered; or
- (b) \$250,

whichever is the lesser, for each day during which that alteration continues contrary to this Act, and, for the purposes of this section, "day", where a full day is not involved, includes part of a day.

[1971 No53 s35; 2000 c4 s1](#)

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Offence

37. (1) A processor, person, association, or processors' organization violating section 6 is guilty of an offence and liable upon summary conviction,

- (a) where an individual, to a fine not exceeding \$100; or
- (b) where a corporation, association, or processors' organization, to a fine not exceeding \$1,000.

(2) Where a processor is convicted for violation of paragraph 6(2)(a), the convicting Provincial Court judge, in addition to the penalty authorized by this Act, may order the processor to pay compensation to the fisher not exceeding the sum that in the opinion of the Provincial Court judge is equivalent to the profit that would have accrued to the fisher up to the date of conviction but for the violation, notwithstanding that the sum may be in excess of \$200.

(3) A

- (a) processor who refuses or neglects to comply with an order made under this section; and
- (b) processor, person, association or processors' organization refusing or neglecting to comply with a lawful order of the board

is guilty of an offence and liable upon summary conviction to a fine not exceeding \$50 for each day during which that refusal or failure continues.

(4) For the purposes of subsection (3), "day", where a full day is not involved, includes part of a day.

[1971 No53 s36; 2000 c4 s1](#)

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Illegal lockout

38. (1) A processor who declares or causes a lockout contrary to this Act is guilty of an offence and liable upon summary conviction to a fine not exceeding \$1,000 for each day that the lockout exists.

(2) A person acting on behalf of a processor who declares or causes a lockout contrary to this Act is guilty of an offence and liable upon summary conviction to a fine not exceeding \$10,000.

(3) An association that declares or authorizes a cessation of business dealings contrary to this Act is guilty of an offence and liable upon summary conviction to a fine not exceeding \$1,000 for each day that the cessation exists.

(4) An officer or representative of an association who contrary to this Act authorizes or

participates in the taking of a vote of fishers as to cessation of business dealings between fishers and a processor or declares or authorizes such a cessation contrary to this Act is guilty of an offence and liable upon summary conviction to a fine not exceeding \$10,000.

(5) For the purposes of this section, "day", where a full day is not involved, includes part of a day.

1971 No53 s37; [2000 c4 s1](#); [2006 c1 s18](#)

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General penalty

39. A processor, person, association, or processors' organization doing anything prohibited by this Act or refusing or neglecting to do anything required by this Act to be done by that processor, person, association or organization is guilty of an offence and, except where some other penalty is by this Act provided for the act, refusal or neglect, is liable upon summary conviction,

- (a) where an individual, to a fine not exceeding \$100; or
- (b) where a corporation, association or processors' organization to a fine not exceeding \$500.

1971 No53 s38; [2000 c4 s1](#)

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Rep. by 2006 c1 s19

40. [Rep. by 2006 c1 s19]

[2006 c1 s19](#)

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Reference to board

41. (1) Where a party to collective bargaining believes that another party to the collective bargaining has failed to comply with paragraph 16(a) or with paragraph 17(a), that party may apply to the board for a determination of the matter.

(2) Where an application is made to the board under subsection (1), the board shall inquire into the matter and may dismiss the application or may make an order requiring a party to the collective bargaining to do those things that in the opinion of the board are necessary to secure compliance with paragraph 16(a) or paragraph 17(a).

(3) Every processor, processors' organization, association or other person in respect of whom an order is made under this section shall comply with the order.

1971 No53 s40; [2000 c4 s1](#); [2006 c1 s20](#)

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Application of Labour Relations Act

41.1 (1) Section 18.1, section 122, except subparagraph (1)(b)(iii), paragraphs (1)(d) and (e) and paragraphs (2)(b) and (c) of section 122, and sections 123, except paragraph (5.1)(b), and 124 of the *Labour Relations Act* apply to matters within the scope of this Act with

- (a) the words "trade union" replaced by the word "association";
- (b) the word "strike" replaced by the words "cessation of business dealings";

- (c) the word "employee" replaced by the word "fisher";
- (d) the word "employer" replaced by the word "processor"; and
- (e) the words "employers' organization" replaced by the words "processors' organization".

(2) In section 122 of the *Labour Relations Act*, the following references to provisions of that Act shall be read as the following references to provisions of this Act:

- (a) subsection 23(1) - subsection 6(1);
- (b) paragraph 24(1)(a) - paragraph 6(2)(a);
- (c) paragraph 24(1)(b) - paragraph 6(2)(b);
- (d) subsection 25(1) - subsection 6(3);
- (e) section 26 - subsection 6(4);
- (f) subsection 28(1) - subsection 6(6);
- (g) section 45 - subsection 10(6);
- (h) section 74 - section 16; and
- (i) section 75 - section 17.

[2006 c1 s21](#); [2012 c30 s21](#)

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Prosecution

42. (1) A prosecution for an offence under this Act may be brought against a processors' organization or an association and in the name of the organization or association, and for the purpose of the prosecution an association or a processor's organization shall be considered to be a person, and an act or thing done or omitted by an officer or agent of a processors' organization or of an association within the scope of his or her authority to act on behalf of the organization or association shall be considered to be an act or thing done or omitted by the processors' organization or association.

(2) An information or complaint in respect of a contravention of this Act may be for one or more offences and an information, complaint, warrant, conviction or other proceedings in a prosecution is not objectionable or insufficient by reason of the fact that it relates to 2 or more offences.

[1971 No53 s41](#); [2000 c4 ss1&11](#)

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Labour Relations Act

43. Sections 129, 130, with the necessary changes, and 133 of the *Labour Relations Act* apply to all matters within the scope of this Act.

[2006 c1 s22](#)

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Proceedings under this Act

44. For the purposes of this Act, an application to the board or a notice or a collective agreement

may be signed, where it is made, given, or entered into

- (a) by a processor who is an individual, by the processor himself or herself;
- (b) by several individuals, who are jointly processors, by a majority of the individuals;
- (c) by a corporation, by one of its authorized managers, or by one or more of the principal executive officers; and
- (d) by an association or processors' organization, by the president and secretary or by 2 officers, or by a person authorized for that purpose by resolution passed at a meeting of the organization.

1971 c53 s43; [2000 c4 ss1&12](#)

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Labour Relations Act

45. Section 121 of the *Labour Relations Act* applies to the extent of its reference to a conciliation officer and sections 136, 137 and 139 of that Act apply to all matters within the scope of this Act.

[2006 c1 s23](#)

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Agreement to be filed

46. (1) Each of the parties to a collective agreement shall immediately upon its execution and upon the execution of a revision of the agreement or amendment to the agreement file with the minister a copy of the agreement and of the revision or amendment.

(2) The board may direct an association or processors' organization which is a party to an application for certification, or is a party to an existing collective agreement, to file with the board

- (a) a statutory declaration signed by its president or secretary stating the names and addresses of its officers; and
- (b) a copy of its constitution and by-laws,

and the association or processors' organization shall comply with the direction within the time prescribed by the board.

1971 No53 s45; [2000 c4 s1](#)

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Labour Relations Act

47. Section 140 of the *Labour Relations Act* respecting Industrial Inquiries shall, with the word "employers" being replaced by the word "processors" and the word "employees" being replaced by the word "fishers", apply to all matters within the scope of this Act.

1971 No53 s46; [2000 c4 s1](#)

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Powers of board

48. (1) An association, a processor or processors' organization may apply to the board for a determination of a matter referred to in subsection (1.1).

(1.1) Where

- (a) in a proceeding before the board under this Act a question arises as to; or
- (b) on the application of an association, processor or processor's organization to the board or a referral by the minister to the board to determine

whether,

- (c) a person is a processor or a fisher;
- (d) an organization or association is a processors' organization or an association;
- (e) a processors' organization is an accredited processors' organization;
- (f) a collective agreement has been entered into and the terms of the agreement and the persons who are parties to or are bound by the collective agreement or on whose behalf the collective agreement was entered into;
- (g) a collective agreement is by its terms in effect;
- (h) a party to collective bargaining has failed to comply with paragraph 16(a) or with paragraph 17(a);
- (i) a group of fishers is a unit appropriate for collective bargaining;
- (j) a processors' organization is appropriate to bargain collectively; or
- (k) a person is a member in good standing of an association,

the board shall decide the question and its decision is final and conclusive for all the purposes of this Act.

(1.2) The minister may refer a matter set out in subsection (1.1) to the board for a determination.

(2) A decision or order of the board is final and conclusive and not open to question or review but the board may, where it considers it advisable to do so, reconsider a decision or order made by it under this Act and may vary or revoke a decision or order made by it.

1971 No53 s48; [2000 c4 s1](#); [2006 c1 s24](#)

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Regulations

49. (1) Section 147 of the *Labour Relations Act* applies to all matters within the scope of this Act except that in applying that section

- (a) "employer" shall be replaced by the word "processor";
- (b) "employee" shall be replaced by the word "fisher";
- (c) "employers" shall be replaced by the word "processors"; and
- (d) "employees" shall be replaced by the word "fishers".

(2) Regulations made under the *Labour Relations Act*, shall, with the necessary changes and where they are not inconsistent with this Act, apply to all matters within the scope of this Act.

1971 No53 s49; 1977 c64 s150; [2000 c4 s1](#)

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Regulations

49.1 The Lieutenant Governor in Council may make regulations

- (a) setting the guidelines for arbitrations;
- (b) outlining the arbitration processes; and
- (c) generally, to give effect to the purpose of this Act.

[2000 c4 s13](#)

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Labour Relations Act

50. Without limiting the powers, authorities, or jurisdiction conferred by this Act and except where inconsistent with this Act, the provisions of the *Labour Relations Act* relating to the constitution, powers, procedures and practices of the board apply to and in respect of the board when acting under this Act.

1971 No53 s50

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Application of Act

51. This Act applies in respect of a corporation established to perform a function or duty on behalf of the Government of the province, except a corporation that the Lieutenant-Governor in Council by order excludes from the provisions of this Act.

1971 No53 s53

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