

FISH INSPECTION ACT

[RSBC 1996] CHAPTER 148

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Definitions

1 In this Act:

"container" includes any type of receptacle, package, wrapper or confining band used in packing or marketing fish;

"establishment" means any place where fish are handled, processed, graded or stored;

"fish" means any fish, including shell fish and crustaceans, and aquatic animals, and any parts, products or by-products of them;

"inspector" means an inspector appointed under this Act;

"marketing" means buying, selling or holding in possession, offering or advertising for sale;

"processing" includes cleaning, filleting, icing, packing, canning, freezing, smoking, salting, cooking, pickling, drying or preparing fish for market in any other manner;

"vehicle" includes any steamship, vessel, boat, railway car, truck, carriage, car, aircraft or any other means of carriage used for transporting fish.

Minister

2 The minister is to administer this Act.

Staff

3 (1) The Lieutenant Governor in Council may appoint inspectors, officers, clerks and other employees necessary for administering this Act.

(2) An inspector must swear an oath or affirm in the prescribed form before entering on the duties of the office.

Federal officers

4 Inspectors under the *Fish Inspection Act* (Canada) and fishery officers under the *Fisheries Act* (Canada) are inspectors under this Act.

Issuing of licences

5 Despite anything in this Act, the Lieutenant Governor in Council has absolute discretion to refuse to issue any licence required under this Act.

Powers of inspectors

6 (1) An inspector may at any time do any of the following:

(a) enter any establishment or any vehicle, steamship, boat, car or aircraft used for the carriage or storage of fish, and may open any container that the inspector has reason to believe contains fish;

(b) require to be produced for inspection, or for the purpose of obtaining copies of it or extracts from it, any books, shipping bills, bills of lading or other documents or papers relating to the processing, transporting and marketing of fish;

(c) take any samples of fish required for inspection.

(2) A person must not obstruct, impede or refuse to admit an inspector or other authorized person acting under this Act or the regulations.

(3) A person must not aid or assist a person in obstructing, impeding or refusing to admit an inspector or other authorized person.

(4) For the purposes of this Act, inspectors may administer oaths and take and receive affidavits, declarations and affirmations.

Appeal

7 A person aggrieved by a decision of an inspector in respect of any inspection, grading, marking or other matter under this Act or the regulations may appeal to the minister, in accordance with the procedure prescribed by the regulations.

Seizure, detention and disposal of fish and containers

8 (1) If an inspector believes, on reasonable grounds, that an offence against this Act or the regulations has been committed, the inspector may seize all fish and containers by means of or in relation to which the inspector reasonably believes the offence was committed.

(2) All fish and containers seized under subsection (1) may be detained for a period of 2 months following the day of seizure, unless during that period proceedings under this Act in respect of those fish and containers are undertaken, in which case the fish and containers may be further detained until the proceedings are finally concluded.

(3) If a person is convicted of an offence against this Act or the regulations, the fish and containers by means of or in relation to which the offence was committed in addition to any penalty imposed, are forfeited, on the conviction, to the government and may be disposed of as the minister may direct.

(4) Any proceeds accruing from the sale from the minister's direction under subsection (3) must be paid to the Minister of Finance and Corporate Relations and become part of the consolidated revenue fund.

(5) If fish have been seized under subsection (1) and the person charged is acquitted of the charge against the person, the inspector or other person having the custody of the fish and containers seized under subsection (1) must

(a) return them to the person from whom they were seized, or

(b) if the fish have been disposed of, pay the proceeds of the sale to the person from whom the fish and containers were seized.

Offences and penalties

9 (1) A person must not falsify or unlawfully alter, destroy, erase or obliterate any declaration, inspection certificate or other document made or issued under this Act or the regulations, or any marks placed on any containers under this Act or the regulations.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to

(a) a fine of not less than \$50 or more than \$500,

(b) imprisonment for not less than 2 months or not more than 6 months, or

(c) both fine and imprisonment.

(3) A person must not sell, offer for sale or hold in possession for sale any fish intended for human consumption that is tainted, decomposed or unwholesome.

(4) A person who contravenes subsection (3) commits an offence and is liable on conviction to

(a) a fine of not less than \$25 or more than \$500,

(b) imprisonment for not less than 3 months or not more than 6 months, or

(c) both fine and imprisonment.

(5) A person who contravenes this Act or the regulations, or any condition attached to any licence issued under this Act or the regulations, for which no penalty is provided elsewhere in this Act, commits an offence.

(6) A person who commits an offence under subsection (5) is liable on conviction to

(a) a fine of not more than \$500,

(b) imprisonment for not more than 6 months, or

(c) both fine and imprisonment.

(7) An offence against this Act or the regulations, and a contravention of any of the conditions of any licence issued under this Act or the regulations is deemed, for the purposes of any prosecution, to have been committed, and a cause of complaint under this Act or the regulations, or any of the conditions of any licence issued under this Act or the regulations, is deemed to have arisen in

- (a) the place where the offence was actually committed,
- (b) the place where it was first discovered by an inspector, or
- (c) the place where the defendant resides or is found.

Power to make regulations

10 (1) For regulating the marketing of fish and containers locally in British Columbia, the Lieutenant Governor in Council may make regulations as follows:

- (a) prescribing grades, qualities and standards of fish for marketing;
- (b) respecting the handling, processing, storing, grading, packaging, marking, transporting, marketing and inspecting of fish;
- (c) respecting the quality and specifications for containers and the marking and inspection of containers;
- (d) requiring the licensing of persons or classes of persons handling, processing, storing, grading, transporting or marketing fish and the licensing of vehicles or classes of vehicles and of establishments or classes of establishments;
- (e) prescribing and attaching conditions to licences and classes of licences referred to in paragraph (d);
- (f) prohibiting the handling, processing, storing, grading, transporting and marketing of fish, and the operation of vehicles and establishments, except under licence issued in accordance with the regulations;
- (g) prescribing the requirements for the equipment and sanitary operation of establishments, and of vehicles or other equipment used in connection with an establishment or in connection with fishing or the marketing of fish;
- (h) prescribing fees for registration of establishments, for issue of licences and for grading and inspection services;

- (i) prohibiting the marketing of any fish or containers under any grade name or standard prescribed by the regulations, unless all the requirements of this Act and the regulations have been complied with;
- (j) prohibiting the marketing of any fish or containers under any name calculated to mislead or deceive;
- (k) prescribing the manner in which samples of any fish may be taken;
- (l) prohibiting or restricting the marketing of any fish or containers, unless all the requirements of this Act and the regulations have been complied with;
- (m) prescribing certificates that may be issued in respect of any inspection made under this Act or the regulations;
- (n) prescribing the procedure to be followed in any appeal to the minister under this Act;
- (o) providing for any other thing connected with the marketing and inspection of fish and containers locally within British Columbia consistent with this Act;
- (p) defining, for section 9 (3), the expressions "tainted", "decomposed" and "unwholesome";
- (q) prescribing the manner in which tainted, decomposed or unwholesome fish may be disposed of.

(2) A regulation under subsection (1) (e) may provide differently for different classes of persons, vehicles or establishments.