



Fisheries Act (R.S.C., 1985, c. F-14)

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i Act current to 2025-08-21 and [last amended](#) on 2024-11-27. [Previous Versions](#)

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Obstructing passage of fish or waters

29 (1) No person shall, for the purpose of fishing, place, erect, use or maintain any seine, net, weir or other fishing gear or apparatus, or any log, rock or material of any kind that

(a) unduly obstructs the passage of fish in any Canadian fisheries waters, whether subject to any exclusive right of fishery or not; or

(b) obstructs more than two thirds of the width of any river or stream or more than one third of the width of the main channel at low tide of any tidal stream.

Removal

(2) The Minister or a fishery officer may order the removal of or remove any seine, net, weir or other fishing gear or apparatus, or any log, rock or material of any kind that, in the opinion of the Minister or fishery officer, results in an obstruction referred to in paragraph (1)(a) or (b).

Tidal streams

(3) For the purposes of paragraph (1)(b), if a tidal stream has no main channel at low tide, then the tidal stream's width is considered to be the width of its main channel.

R.S., 1985, c. F-14, s. 29; 2012, c. 31, s. 173; [2019, c. 14, s. 18](#).

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30 [Repealed, 2012, c. 19, s. 138]

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Permit required

31 (1) No one shall catch, fish for, take, buy, sell, possess or export any fish for the purposes of converting it into fish meal, manure, guano or fertilizer, or for the manufacture or conversion of the fish into oil, fish meal or manure or other fertilizing product, except under authority of the Minister.

Exception by Minister

(2) The Minister may, by notice published in the [Canada Gazette](#), except any kind or kinds of fish from the operation of all or any part of subsection (1).

R.S., c. F-14, s. 29.

Shark finning

32 (1) No person shall engage in the practice of shark finning.

Definition of shark finning

(2) In this section, **shark finning** means the practice of removing the fins from a shark and discarding the remainder of the shark while at sea.

R.S., 1985, c. F-14, s. 32; 2012, c. 19, s. 139; [2019, c. 14, s. 18.1](#).

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Importation and exportation

32.1 (1) No person shall import into Canada or export from Canada, or attempt to so import or export, any shark fins or parts of shark fins that are not attached to a shark carcass except in accordance with a permit issued under subsection (2).

Issuance of permit

(2) The Minister may issue a permit authorizing the importation or exportation into or from Canada of any shark fins or parts of shark fins that are not attached to a shark carcass and impose any conditions that the Minister considers appropriate in the permit

(a) if the importation or exportation is for the purpose of scientific research relating to shark conservation;

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and

(b) if, in the Minister's opinion, the scientific research is likely to benefit the survival of any shark species or is required to enhance the chances of survival of any shark species in the wild.

Amendment, suspension or cancellation

(3) The Minister may amend, suspend or cancel a permit issued under subsection (2).

[2019, c. 14, s. 18.1.](#)

Unlawful sale or possession

33 No person shall purchase, sell or possess any fish that has been caught in contravention of this Act or the regulations.

R.S., 1985, c. F-14, s. 33; 1991, c. 1, s. 8.

Definition of “fishing plan”

33.1 (1) In this section, ***fishing plan*** means a Nisga'a annual fishing plan, as defined in the Fisheries Chapter of the Nisga'a Final Agreement given effect by the [Nisga'a Final Agreement Act](#), that is approved, or varied and approved, by the Minister in accordance with that Agreement.

Contravention of fishing plan

(2) Where a fishing plan stipulates that this subsection applies to certain of its provisions relating to persons engaged in harvesting, sale or related activities, no person shall contravene any of those provisions.

Conditions of prosecution

(3) No proceedings may be commenced in respect of an offence for the contravention of subsection (2)

(a) except in accordance with an agreement, made under paragraph 93 of the Fisheries Chapter of the Nisga'a Final Agreement, concerning enforcement of federal laws or Nisga'a laws; or

(b) unless the Minister, or a person appointed to a position in the Department of Fisheries and Oceans who is authorized by the Minister, considers such proceedings to be necessary to ensure compliance with the fishing plan.

2000, c. 7, s. 23.

Fish and Fish Habitat Protection and Pollution Prevention

Definitions

34 (1) The following definitions apply in this section and sections 34.1 to 42.5.

deleterious substance means

(a) any substance that, if added to any water, would degrade or alter or form part of a process of degradation or alteration of the quality of that water so that it is rendered or is likely to be rendered deleterious to fish or fish habitat or to the use by man of fish that frequent that water, or

(b) any water that contains a substance in such quantity or concentration, or that has been so treated, processed or changed, by heat or other means, from a natural state that it would, if added to any other water, degrade or alter or form part of a process of degradation or alteration of the quality of that water so that it is rendered or is likely to be rendered deleterious to fish or fish habitat or to the use by man of fish that frequent that water,

and without limiting the generality of the foregoing includes

(c) any substance or class of substances prescribed pursuant to paragraph (2)(a),

(d) any water that contains any substance or class of substances in a quantity or concentration that is equal to or in excess of a quantity or concentration prescribed in respect of that substance or class of substances pursuant to paragraph (2)(b), and

(e) any water that has been subjected to a treatment, process or change prescribed pursuant to paragraph (2)(c); (*substance nocive*)

deposit means any discharging, spraying, releasing, spilling, leaking, seeping, pouring, emitting, emptying, throwing, dumping or placing; (*immersion ou rejet*)

designated project means a project that is designated by regulations made under paragraph 43(1)(i.5) or that belongs to a class of projects that is designated by those regulations and that consists of works, undertakings or activities, including any works, undertakings or activities that the Minister designates to be associated with the project; (*projet désigné*)

ecologically significant area means an area designated by regulations made under subsection 35.2(2); (*zone d'importance écologique*)

fish habitat [Repealed, 2012, c. 19, s. 141]

water frequented by fish means Canadian fisheries waters. (*eaux où vivent des poissons*)

Regulations for purpose of definition *deleterious substance*

(2) The Governor in Council may make regulations prescribing

(a) substances and classes of substances,

(b) quantities or concentrations of substances and classes of substances in water, and

(c) treatments, processes and changes of water

for the purpose of paragraphs (c) to (e) of the definition ***deleterious substance*** in subsection (1).

(3) Any provision of this Act that applies to works, undertakings or activities also applies to the works, undertakings or activities of a designated project, except paragraphs 34.4(2)(a) to (c) and (e) and 35(2)(a) to (c) and (e).

R.S., 1985, c. F-14, s. 34; 2012, c. 19, s. 141; [2019, c. 14, s. 20](#).
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Factors

34.1 (1) Before recommending to the Governor in Council that a regulation be made in respect of section 34.4, 35 or 35.1 or under subsection 35.2(10), 36(5) or (5.1), paragraph 43(1)(b.2) or subsection 43(5) or before exercising any power under subsection 34.3(2), (3) or (7), paragraph 34.4(2)(b) or (c), subsection 34.4(4), paragraph 35(2)(b) or (c) or subsection 35(4), 35.1(3), 35.2(7) or 36(5.2), or under subsection 37(2) with regard to an offence under subsection 40(1), the Minister, prescribed person or prescribed entity, as the case may be, shall consider the following factors:

- (a)** the contribution to the productivity of relevant fisheries by the fish or fish habitat that is likely to be affected;
- (b)** fisheries management objectives;
- (c)** whether there are measures and standards
 - (i)** to avoid the death of fish or to mitigate the extent of their death or offset their death, or
 - (ii)** to avoid, mitigate or offset the harmful alteration, disruption or destruction of fish habitat;
- (d)** the cumulative effects of the carrying on of the work, undertaking or activity referred to in a recommendation or an exercise of power, in combination with other works, undertakings or activities that have been or are being carried on, on fish and fish habitat;
- (e)** any fish habitat banks, as defined in section 42.01, that may be affected;
- (f)** whether any measures and standards to offset the harmful alteration, disruption or destruction of fish habitat give priority to the restoration of degraded fish habitat;
- (g)** Indigenous knowledge of the Indigenous peoples of Canada that has been provided to the Minister; and
- (h)** any other factor that the Minister considers relevant.

Application of subsection (1)

(2) The obligation to consider the factors set out in subsection (1) applies only to the recommendations and powers that continue to be made or exercised by the Minister after an order is made under subsection 43.2(1) that sets out the powers, duties or functions that the designated minister may exercise or perform.

[2019, c. 14, s. 21.](#)

Standards and codes of practice

34.2 (1) The Minister may establish standards and codes of practice for

- (a)** the avoidance of death to fish and harmful alteration, disruption or destruction of fish habitat;
- (b)** the conservation and protection of fish or fish habitat; and
- (c)** the prevention of pollution.

Content

(2) The standards and codes of practice may specify procedures, practices or standards in relation to works, undertakings and activities during any phase of their construction, operation, modification, decommissioning or abandonment.

Consultation

(3) Before establishing any standards and codes of practice, the Minister may consult with any provincial government, any Indigenous governing body, any government department or agency or any persons interested in the protection of fish or fish habitat and the prevention of pollution.

Publication

(4) The Minister shall publish any standards and codes of practice established under this section, or give notice of them, in the [Canada Gazette](#) and he or she may also do so in any other manner that he or she considers appropriate.

[2019, c. 14, s. 21.](#)

Studies, etc. — management or control of obstruction

34.3 (1) If the Minister considers that doing so is necessary to ensure the free passage of fish or the protection of fish or fish habitat, the owner or person who has the charge, management or control of an obstruction or any other thing that is detrimental to fish or fish habitat shall, on the Minister's request and within the period specified by him or her, conduct studies, analyses, samplings and evaluations, and provide the Minister with any document and other information relating to them, to the obstruction or thing or to the fish or fish habitat that is or is likely to be affected by the obstruction or thing.

Minister's order

(2) If the Minister considers that doing so is necessary to ensure the free passage of fish or the protection of fish or fish habitat, the owner or person who has the charge, management or control of an obstruction or any other thing that is detrimental to fish or fish habitat shall, on the Minister's order, within the period specified by him or her and in accordance with any of his or her specifications,

- (a)** remove the obstruction or thing;
- (b)** construct a fishway;
- (c)** implement a system of catching fish before the obstruction or thing, transporting them beyond it and releasing them back into the water;

...keeping them from leaving the water;

- (d) install a fish stop or a diverter;
- (e) install a fish guard, a screen, a covering, netting or any other device to prevent the passage of fish into any water intake, ditch, channel or canal;
- (f) maintain the flow of water necessary to permit the free passage of fish; or
- (g) maintain at all times the characteristics of the water and the water flow downstream of the obstruction or thing that are sufficient for the conservation and protection of the fish and fish habitat.

Modification, repair and maintenance

- (3) On the Minister's order, the owner or person referred to in subsection (2) shall
- (a) make any provision that the Minister considers necessary for the free passage of fish or the protection of fish or fish habitat during the carrying on of any activity mentioned in that subsection;
 - (b) operate and maintain anything referred to in that subsection in a good and effective condition and in accordance with any specifications of the Minister; and
 - (c) modify or repair it in accordance with any specifications of the Minister.

Obstruction of free passage of fish

- (4) No person shall
- (a) damage or obstruct any fishway constructed or used to enable fish to pass over or around any obstruction;
 - (b) damage or obstruct any fishway, fish stop or diverter constructed or installed on the Minister's order;
 - (c) stop, impede or hinder fish from entering or passing through any fishway, or stop, impede or hinder fish from surmounting any obstruction or leap;
 - (d) damage, remove or authorize the removal of any fish guard, screen, covering, netting or other device installed on the Minister's order; or
 - (e) fish in any manner within 23 m downstream from the lower entrance to any fishway, obstruction or leap.

Exception — removal for repairs

- (5) Despite paragraph (4)(d), a person may remove or authorize the removal of any fish guard, screen, covering, netting or other device installed on the Minister's order if the removal is required for modification, repair or maintenance.

[Statutory Instruments Act](#)

- (6) Orders made under this section are not statutory instruments for the purposes of the [Statutory Instruments Act](#).

Regulations

- (7) The Minister may make regulations respecting the flow of water that is to be maintained to ensure the free passage of fish or the protection of fish or fish habitat.

[2019, c. 14, s. 21.](#)

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