



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 48

(1999, chapter 32)

An Act respecting the Bureau d'accréditation des pêcheurs et des aides-pêcheurs du Québec

Introduced 13 May 1999

Passage in principle 25 May 1999

Passage 18 June 1999

Assented to 19 June 1999

**Québec Official Publisher
1999**

EXPLANATORY NOTES

This bill proposes the creation of a certification board called the “Bureau d’accréditation des pêcheurs et des aides-pêcheurs du Québec”.

The mission of the certification board is to develop and implement a system of certification of the professional qualifications of fishermen and fisherman’s helpers. In that respect, it may issue a certificate attesting that they qualify to carry on their trade in accordance with commercial fishing requirements.

The certification board will be composed of persons appointed by the Government, in the majority fishermen and fisherman’s helpers chosen after consultation with the most representative associations.

The bill defines the powers the certification board may exercise and sets out the financial provisions applicable to the certification board.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting administrative justice (1996, chapter 54).

Bill 48

AN ACT RESPECTING THE BUREAU D'ACCREDITATION DES PÊCHEURS ET DES AIDES-PÊCHEURS DU QUÉBEC

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

CHAPTER I

ESTABLISHMENT AND MISSION

1. A certification board is hereby established under the name “Bureau d'accréditation des pêcheurs et des aides-pêcheurs du Québec”.

The certification board is a legal person.

2. The mission of the certification board is to develop and implement a system of certification of the professional qualifications of fishermen and fisherman's helpers operating in tidal waters, other than in relation to the fishing for anadromous and catadromous species.

In that regard, the certification board

(1) issues certificates attesting that the applicants qualify to carry on their trade of fisherman or fisherman's helper in keeping with commercial fishing requirements ;

(2) advises the Minister on any matter relating to the professional qualifications of fishermen and fisherman's helpers.

CHAPTER II

ORGANIZATION AND OPERATION

3. The head office of the certification board shall be at the place the certification board determines. Notice of the location or of any change of location shall be published in the *Gazette officielle du Québec*.

4. The affairs of the certification board shall be administered by a board of directors consisting of nine members, including the chair, appointed by the Government. One member shall be chosen from among the members of the Régie des marchés agricoles et alimentaires du Québec and the other members shall be appointed as follows after consultation with the associations most representative throughout Québec of each of the following groups :

- (1) three midshore fishermen ;
- (2) three inshore fishermen ; and
- (3) one midshore fisherman's helper and one inshore fisherman's helper, who are not entitled to vote on any question concerning the professional certification of fishermen.

The Government may designate one additional member, who is not entitled to vote, chosen from among the persons interested in the harvesting sector.

5. The term of office of the members of the board of directors shall not exceed three years.

On the expiry of their term, the members shall remain in office until replaced or reappointed.

6. Any vacancy on the board of directors shall be filled in accordance with the rules of appointment set out in section 4 for the unexpired portion of the term of the member to be replaced.

Absence from the number of board meetings determined by regulation of the certification board constitutes a vacancy, in the cases and circumstances indicated therein.

7. The members of the board of directors receive no remuneration except in such cases, on such conditions and to such extent as the Government may determine. They are, however, entitled to be reimbursed for expenses incurred in exercising their functions, on the conditions and to the extent determined by the Government.

8. The chair of the board of directors shall call and preside at the meetings of the board and see to the proper operation of the board. The chair shall exercise any other functions assigned to the chair by the board.

The members of the board of directors shall designate a vice-chair from among their number. The vice-chair shall exercise the functions of the chair when the latter is absent or unable to act.

9. The quorum at meetings of the board of directors is a majority of the members entitled to vote.

In the case of a tie-vote, the chair has a casting vote.

10. The certification board may establish rules of operation.

11. The members of the personnel of the certification board shall be appointed in accordance with the staffing plan established by the certification

board by regulation. The regulation shall, in addition, determine the pay scales and rates, employee benefits and other conditions of employment of the personnel members.

The regulation is subject to the approval of the Government, which may amend it.

12. Any member of the personnel of the certification board who has a direct or indirect interest in an enterprise causing the personnel member's personal interest to conflict with that of the certification board must, on pain of forfeiture of office, disclose the interest in writing to the certification board.

13. In no case may proceedings be instituted against the certification board, its directors or any person or body to whom or which the certification board has entrusted the exercise of its powers by reason of acts performed in good faith in the exercise of their functions.

CHAPTER III

POWERS

14. The certification board shall make regulations determining

(1) the criteria for the issue of a fisherman's or fisherman's helper's certificate, in particular the professional training required, including apprenticeship at sea, and the fees payable;

(2) the criteria for the issue of an apprentice fisherman's certificate, in particular the fees payable;

(3) the issue, content and updating of a fisherman's or fisherman's helper's booklet and of an apprentice fisherman's booklet.

A regulation made pursuant to subparagraph 1 of the first paragraph must also provide for qualifications that are equivalent to those it determines, including experience.

The certification board may make regulations determining

(1) the obligations of certificate holders, in particular as regards continuing education and the information and documents to be communicated to the certification board or preserved;

(2) the professional conduct of certificate holders;

(3) the cases in which certain persons may be exempted from the application of all or part of the regulations under this section, subject to any conditions provided.

15. The regulations of the certification board made pursuant to section 14 are subject to the approval of the Government, which may amend them. If the certification board fails to make the regulations under the first paragraph of that section or fails to make the amendments within the time fixed by the Minister, the Government may make or amend the regulations, in which case they become the regulations of the certification board.

16. The certification board may suspend or revoke a holder's certificate if the holder

(1) no longer meets the criteria determined by regulation for the issue of the certificate ;

(2) obtained the certificate by false or misleading representations ;

(3) does not comply with the provisions of the regulations under this Act ;
or

(4) does not comply with generally recognized commercial fishing practices applicable to professional fishermen and fisherman's helpers.

The certification board shall not suspend or revoke a certificate without giving the certificate holder 10 days notice in writing to enable the holder to present observations.

17. A refusal to issue a certificate or the suspension or revocation of a certificate may be contested by the interested person before the Administrative Tribunal of Québec within 30 days of the notification.

18. The certification board may, to the extent and on the conditions it determines by regulation approved by the Government, entrust the exercise of its functions with respect to the issue of certificates or the issue and updating of booklets to any other person or body.

19. The certification board may, according to law, enter into an agreement with a government other than the Government of Québec, with a department of such a government, with an international organization or with a body of that government or organization.

20. An agreement entered into between the certification board and the authority responsible for the application of the Fisheries Act (Revised Statutes of Canada, 1985, chapter F-14) in Québec may allow for an exchange of nominative information necessary to ascertain a person's status as holder of a fisherman's, fisherman's helper's or apprentice fisherman's certificate or booklet, as well as the information necessary for the purposes of this Act and the regulations.

The agreement must be submitted to the Commission d'accès à l'information for an opinion in accordance with the procedure prescribed in section 70 of the

Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1).

CHAPTER IV

FINANCIAL PROVISIONS

21. The certification board may not, except with the authorization of the Government,

(1) contract a loan that causes the total of its current outstanding loans to exceed the amount determined by the Government;

(2) make a financial commitment in excess of the limits or in contravention of the terms and conditions determined by the Government;

(3) acquire or hold shares in a legal person or an interest in a partnership in excess of the limits or in contravention of the terms and conditions determined by the Government;

(4) transfer shares in a legal person or an interest in a partnership in excess of the limits or in contravention of the terms and conditions determined by the Government;

(5) acquire or transfer other assets in excess of the limits or in contravention of the terms and conditions determined by the Government;

(6) accept a gift or legacy to which a charge or condition is attached.

22. The certification board shall finance its activities. It may, by regulation approved by the Government, which may amend it, prescribe the payment of annual fees by the certificate holders, and the payment of fees for the examination of an application or for any other act performed by the certification board.

23. The Government may, subject to the terms and conditions it determines,

(1) guarantee the payment of the capital of and interest on any loan contracted by the certification board and the performance of its obligations;

(2) authorize the Minister of Finance to advance to the certification board any amount considered necessary for the pursuit of its mission.

The sums required for the purposes of this section shall be taken out of the consolidated revenue fund.

24. The monies received by the certification board must be allocated to the payment of its obligations. Any surplus shall be retained by the certification board, unless the Government decides otherwise.

CHAPTER V

ACCOUNTS AND REPORTS

25. The fiscal year of the certification board ends on 31 March.

26. The certification board shall formulate a plan of activities according to the form, content and intervals fixed by the Minister. The plan must be submitted to the Government for approval.

27. The books and accounts of the certification board shall be audited by the Auditor General each year and whenever so ordered by the Government.

The Auditor General's report must accompany the certification board's report of activities and financial statements.

28. The certification board shall, not later than 30 June each year, file with the Minister its financial statements and a report of its activities for the preceding fiscal year.

The financial statements and report of activities must contain all the information required by the Minister.

29. The Minister shall table the report of activities and financial statements of the certification board in the National Assembly within 30 days of receiving them or, if the Assembly is not sitting, within 30 days of resumption.

30. The certification board shall forward to the Minister, within the time and in the form prescribed by the Minister, any documents or other information the Minister requires on its activities.

CHAPTER VI

MISCELLANEOUS PROVISIONS

31. Where in the opinion of the Minister the certification board neglects or is unable to carry out its responsibilities, the Minister shall, after giving the certification board the opportunity to present observations, order it to take the necessary corrective measures; if the certification board fails to act, the Minister shall take the appropriate measures to ensure the Act and the regulations are applied, in particular by substituting the Minister's decisions for those of the certification board.

32. Schedule IV to the Act respecting administrative justice (1996, chapter 54), amended by section 16 of chapter 20 of the statutes of 1997, section 20 of chapter 64 of the statutes of 1997, section 874 of chapter 43 of the statutes of 1997 and section 172 of chapter 40 of the statutes of 1998, is again amended by inserting the following paragraph after paragraph 4:

“(4.0.1) section 17 of the Act respecting the Bureau d’accreditation des pêcheurs et des aides-pêcheurs du Québec (1999, chapter 32).”

33. The Minister of Agriculture, Fisheries and Food is responsible for the administration of this Act.

34. The provisions of this Act come into force on the date or dates to be fixed by the Government.