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D.1 Archaeological Sites Regulation (2003)

HISTORIC RESOURCES ACT

Pursuant to section 83 of the *Historic Resources Act*, the Commissioner in Executive Council orders as follows

1. The annexed *Archaeological Sites Regulation* is hereby made.

2. This Order shall come into force on the 1st day of April, 2003.

Dated at Whitehorse, in the Yukon Territory, this 25th day of March, 2003.

Commissioner of the Yukon

LOI SUR LE PATRIMOINE HISTORIQUE

Le commissaire en conseil exécutif, conformément à l'article 83 de la *Loi sur le patrimoine historique*, décrète :

1. Est établi le *Règlement sur les lieux archéologiques* paraissant en annexe.

2. Ce décret entre en vigueur le 1^{er} avril 2003.

Fait à Whitehorse, dans le territoire du Yukon, le 25 mars 2003.

Commissaire du Yukon

ARCHAEOLOGICAL SITES REGULATION

Definitions

1. The following definitions apply in this Regulation.

“archaeological site” means a site where an archaeological object is found; « *lieu archéologique* »

“Class 1 permit” means a permit that entitles the permittee to survey and document the characteristics of an archaeological site in a manner that does not alter or otherwise disturb the archaeological site; « *permis de classe 1* »

“Class 2 permit” means a permit that entitles the permittee

(a) to survey and document the characteristics of an archaeological site;

(b) to excavate an archaeological site;

(c) to remove archaeological artifacts from an archaeological site; or

(d) to otherwise alter or disturb an archaeological site.

« *permis de classe 2* »

Application

2. Subject to section 2.1 of the Act this Regulation applies to all lands and waters in the Yukon Territory other than

(a) those within the boundaries of a park, as defined in the *Canada National Parks Act*;

(b) any lands set apart as a national historic site of Canada under section 42 of that Act; and

(c) the lands set out in the schedule.

3. No person shall survey and document the characteristics of an archaeological site without a Class 1 or Class 2 permit.

4. No person shall excavate, alter, or otherwise disturb an archaeological site, or remove an archaeological object from an archaeological site, without a Class 2 permit.

Interprétation

1. Les définitions qui suivent s'appliquent au présent règlement.

« lieu archéologique » Lieu où est trouvé un artefact archéologique. “*archaeological site*”

« permis de classe 1 » Permis autorisant le titulaire à enregistrer les caractéristiques d'un lieu archéologique et à en lever le plan sans le modifier ni le perturber de quelque autre façon. “*Class 1 permit*”

« permis de classe 2 » Permis autorisant le titulaire à, selon le cas :

a) enregistrer les caractéristiques d'un lieu archéologique et à en lever le plan;

b) effectuer des fouilles dans ce lieu;

c) enlever des artefacts archéologiques de ce lieu;

d) modifier ou perturber ce lieu de quelque autre façon.

“*Class 2 permit*”

Champ d'application

2. Sous réserve de l'article 2.1 de la loi, le présent règlement s'applique à toutes les terres et toutes les eaux situées au Yukon, sauf:

a) celles qui sont situées dans les limites d'un parc au sens de la *Loi sur les parcs nationaux du Canada*;

b) les terres érigées en lieu historique national du Canada en vertu de l'article 42 de cette loi;

c) les terres mentionnées à l'annexe.

3. Nul ne peut, sans permis de classe 1 ou 2, rechercher un lieu archéologique ou des artefacts archéologiques ni lever le plan d'un tel lieu.

4. Nul ne peut, sans permis de classe 2, fouiller, modifier ou perturber de quelque autre façon un lieu archéologique ou en enlever un artefact archéologique.

Issuance of permits

5.(1) A person may apply for a Class 1 permit by submitting an application, in writing, to the Minister, setting out

- (a) the name and qualifications of the applicant and of all persons who will be working on the proposed project;
- (b) a description of the project, including a map and geographic coordinates of the project area; and
- (c) the objectives of the project.

(2) Subject to section 8, on receipt of an application made under subsection (1), the Minister shall issue a Class 1 permit for the proposed project if the applicant has complied with all conditions precedent to obtaining such a permit set out in any applicable land claims agreement.

6.(1) A person may apply for a Class 2 permit by submitting an application, in writing, to the Minister, setting out

- (a) the name and qualifications of the applicant and of all persons who will be working on the project;
- (b) a description of the project, including a map and geographic coordinates;
- (c) the objectives of the project;
- (d) plans for conservation of any archaeological objects proposed to be collected under the permit;
- (e) a copy of the project budget, including funds allocated for the preservation of archaeological artifacts, and a confirmation of the project funding; and
- (f) a description of the manner in which the archaeological site will be restored.

(2) Subject to section 8, on receipt of an application made under subsection (1), the Minister shall issue a Class 2 permit for the proposed project if

- (a) the applicant has demonstrated the expertise

Délivrance de permis

5.(1) Toute demande de permis de classe 1 doit être présentée par écrit au ministre et contenir les renseignements suivants :

- a) les nom et qualités du demandeur et de toute personne affectée au projet;
- b) la description du projet, y compris la carte et les coordonnées géographiques de la zone du projet;
- c) les objectifs du projet.

(2) Sous réserve de l'article 8, sur réception de la demande, le ministre délivre le permis de classe 1 pour le projet si le demandeur a satisfait aux conditions préalables à l'obtention du permis prévues par les accords applicables sur des revendications territoriales.

6.(1) Toute demande de permis de classe 2 doit être présentée par écrit au ministre et contenir les renseignements suivants :

- a) les nom et qualités du demandeur et de toute personne affectée au projet;
- b) la description du projet, y compris la carte et les coordonnées géographiques de la zone du projet;
- c) les objectifs du projet;
- d) les projets de conservation des artefacts archéologiques que l'on prévoit recueillir en vertu du permis;
- e) une copie du budget du projet, y compris les fonds affectés à la conservation des artefacts archéologiques, et la confirmation du financement du projet;
- f) la description de la manière dont le lieu archéologique sera remis en état.

(2) Sous réserve de l'article 8, sur réception de la demande, le ministre délivre le permis de classe 2 pour le projet si les conditions suivantes sont réunies :

- a) le demandeur démontre qu'il possède

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in archaeology necessary to conduct the project;

(b) the scientific and cultural benefits of the project outweigh the adverse impact of the project on the archaeological site; and

(c) the applicant has complied with all conditions precedent to obtaining such a permit set out in any applicable land claims agreement.

7. An applicant who has contravened this Regulation or the conditions of any previous permit or other authorization for the search for, or excavation of, archaeological sites that was issued in any country may be refused a permit under section 5 or 6 if the contravention has not been remedied.

Assignment

8. A permit cannot be assigned.

Expiration

9. A permit expires on December 31 of the year for which it was issued.

Restoration of Site

10. A person who excavates an archaeological site shall, on completion of the excavation, restore the site, in so far as is practicable, to its original state.

Reports

11.(1) On or before March 31 of the year following the year for which a permit was issued, the permittee shall

(a) provide the Minister with two copies of the report referred to in subsection (2) or (3), as the case may be; and

(b) provide a copy of that report to any party entitled to receive one by virtue of a land claims settlement agreement.

(2) A report of work done under a Class 1 permit shall set out the name of the permittee, the date of the report, the permit number and a description of the work undertaken, and shall include, for each archaeological site visited,

(a) a description of the site;

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l'expertise nécessaire dans le domaine archéologique pour mener à bien le projet;

b) les retombées scientifiques et culturelles du projet l'emportent sur les effets défavorables de celui-ci sur le lieu archéologique;

c) le demandeur a satisfait aux conditions préalables à l'obtention du permis prévues par les accords applicables sur des revendications territoriales.

7. Quiconque a contrevenu au présent règlement ou aux conditions d'un permis ou d'une autre autorisation antérieurs délivrés n'importe où dans le monde pour la recherche ou la fouille de lieux archéologiques ne peut se voir délivrer un permis en vertu des articles 5 ou 6, à moins d'avoir remédié au manquement.

Incessibilité

8. Les permis sont incessibles

Expiration

9. Tout permis expire le 31 décembre de l'année visée par celui-ci.

Remise en état des lieux archéologiques

10. La personne qui fouille un lieu archéologique doit, une fois les fouilles terminées, remettre le lieu, dans la mesure du possible, en l'état où il se trouvait avant les fouilles.

Rapports

11.(1) Au plus tard le 31 mars de l'année suivant celle visée par le permis, le titulaire doit fournir :

a) au ministre, deux copies du rapport visé aux paragraphes (2) ou (3), selon le cas;

b) une copie du rapport à chaque personne qui y a droit en vertu d'un accord sur des revendications territoriales.

(2) Dans le cas du permis de classe 1, le rapport doit contenir le nom du titulaire, la date du rapport, le numéro du permis et une description des travaux effectués ainsi que, pour chaque lieu archéologique exploré :

a) une description du lieu;

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(b) National Topographic Series maps, on a scale of 1:50,000 or 1:250,000, showing the location of the site;

(c) a map of the site, drawn to scale, showing all archaeological features; and

(d) representative photographs of the site.

(3) A report of work done under a Class 2 permit shall set out the name of the permittee, the date of the report and the permit number, and shall include, for each archaeological site visited,

(a) a description of the work undertaken, including

(i) a description of the site,

(ii) National Topographic Series maps, on a scale of 1:50,000 or 1:250,000, showing the location of the site,

(iii) a map of the site, drawn to scale, showing all archaeological features and excavation units,

(iv) a vertical scale drawing of the stratigraphy of each excavation unit,

(v) representative photographs of the site,

(vi) measurements of the depths at which all archaeological artifacts were found and their horizontal provenience, and

(vii) a catalogue, in paper or in electronic form, of all archaeological artifacts and faunal remains collected;

(b) a description of the methods used in data acquisition, recording and analysis, including those used in field, archival, and laboratory investigations;

(c) a description of any archaeological object conservation treatments and the identity of the conservator;

(d) a description of any environmental factors and recent history relating to the site;

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b) des cartes de la Série nationale de référence cartographique, à l'échelle de 1/50 000 ou de 1/250 000, indiquant l'emplacement du lieu;

c) une carte du lieu, dessinée à l'échelle, indiquant tous les vestiges archéologiques;

d) des photographies représentatives du lieu.

(3) Dans le cas du permis de classe 2, le rapport doit contenir le nom du titulaire, la date du rapport, le numéro du permis ainsi que, pour chaque lieu archéologique exploré :

a) une description des travaux effectués, y compris :

(i) une description du lieu,

(ii) des cartes de la Série nationale de référence cartographique, à l'échelle de 1/50 000 ou de 1/250 000, indiquant l'emplacement du lieu,

(iii) une carte du lieu, dessinée à l'échelle, indiquant tous les vestiges archéologiques et les unités de fouille,

(iv) des croquis à échelle verticale de la stratigraphie de chaque unité de fouille,

(v) des photographies représentatives du lieu,

(vi) les mesures de la profondeur à laquelle les artefacts archéologiques ont été trouvés et leur strate de provenance,

(vii) un catalogue, sur support papier ou sous forme électronique, des artefacts archéologiques et des restes fauniques recueillis;

b) la description des méthodes de collecte, d'enregistrement et d'analyse des données, notamment celles utilisées pour la recherche sur le terrain, dans les archives ou en laboratoire;

c) la description des traitements de conservation des artefacts archéologiques ainsi que le nom du conservateur;

d) la description de l'évolution récente du lieu et

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(e) an assessment of the current physical status of the site and any present or potential factors that could alter that status;

(f) an interpretation of the significance of the site based on a summary examination of the findings resulting from the work; and

(g) an assessment of the results of the investigation in relation to the scope and objectives of the project stated in the permit.

Repository

12. All archaeological artifacts collected by a permittee shall be submitted to the Minister on or before March 31 of the year following the year for which the permit was issued.

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des facteurs environnementaux pertinents;

e) l'évaluation de l'état physique actuel du lieu et de tout facteur, existant ou potentiel, qui pourrait le modifier;

f) l'interprétation de l'importance du lieu d'après l'examen sommaire des conclusions des travaux;

g) l'évaluation des résultats des recherches par rapport à l'étendue et aux objectifs du projet tels qu'ils sont indiqués dans le permis.

Dépôt

12. Au plus tard le 31 mars de l'année suivant celle visée par le permis, tous les artefacts archéologiques recueillis par le titulaire du permis doivent être présentés au ministre.

SCHEDULE
EXEMPT LANDS

ANNEXE
TERRES EXEMPTÉES

Item	Location	Legal Description	Article	Lieu	Description officielle
1.	Commanding Officer's Residence	Parcel S, Lot 1, Group 2, Government Reserve, CLSR Plan No. 67778	1.	Résidence du commandant	Parcelle S, lot 1, groupe 2, réserve gouvernementale, plan 67778 (CLSR)
2.	Commissioner's Residence (Buffer Zone)	Parcel T and Easterly portion of Parcel U, CLSR Plan No. 67778	2.	Résidence du commissaire (zone tampon)	Parcelle T et partie est de la parcelle U, plan 67778 (CLSR)
3.	NWMP Married Officer's Quarters	Portion of Lot U-1, Lot 1, Group 2, Government Reserve, CLSR Plan No. 51967	3.	Logements des agents mariés de la Police à cheval du Nord-Ouest	Partie du lot U-1, lot 1, groupe 2, réserve gouvernementale, plan 51967 (CLSR)
4.	St. Andrew's Church and Manse	Block C, Lot 1, Group 2, Government Reserve, CLSR Plan No. 8338A	4.	Église St. Andrew et son presbytère	Bloc C, lot 1, groupe 2, réserve gouvernementale, plan 8338A (CLSR)
5.	Lowe's Mortuary	North 45_ feet of Lot 4, Block I Ladue Estate, CLSR Plan No. 8338A	5.	Dépôt mortuaire de Lowe	Les 45 1/2 pieds les plus au nord du lot 4, bloc I du Ladue Estate, plan 8338A (CLSR)
6.	MacAuley's Residence	Lot 19, Block LD Ladue Estate, CLSR Plan No. 8338A	6.	Résidence de MacAuley	Lot 19, bloc LD du Ladue Estate, plan 8338A (CLSR)
7.	S.S. Keno National Historic Site	Lot 1025, Quad 116 B/3, Dawson City, CLSR Plan No. 73045	7.	Lieu historique national S.S. Keno	Lot 1025, quadrilatère 116 B/3, Dawson City, plan 73045 (CLSR)
8.	Custom's House (Dr. Brown's Residence)	Most easterly two thirds of Lot 20, Block U, Ladue Estate and Southerly 10 feet of Lot 19, Block U, Ladue Estate, CLSR Plan No. 8338A	8.	Maison de la douane (résidence du docteur Brown)	Les deux tiers les plus à l'est du lot 20, bloc U, Ladue Estate et les dix pieds les plus au sud du lot 19, bloc U, Ladue Estate, plan 8338A (CLSR)
9.	British Yukon Navigation Co. Building	Lot 1027, Water Block 4, Group 1052, CLSR Plan No. 8338	9.	Édifice de la British Yukon Navigation Co.	Lot 1027, bloc de lots de grève numéro 4, groupe 1052, plan 8338 (CLSR)
10.	Discovery Claim, Bonanza Creek, YT	Lot 587, Group 1052 Bonanza Creek Area, CLSR Plan No. 58479	10.	Concession de la découverte, ruisseau Bonanza, Yukon	Lot 587, groupe 1052 de la zone du ruisseau Bonanza, plan 58479 (CLSR)
11.	Upper Bonanza Creek Reserve	Lot 1002, Quad 115 O/14, CLSR Plan No. 68149	11.	Réserve du ruisseau Haut-Bonanza	Lot 1002, quadrilatère 115 O/14, plan 68149 (CLSR)
12.	Bear Creek Island and Slough	Lot 1002, Quad 116 B/3, CLSR Plan No. 65024	12.	Île Bear Creek et son marécage	Lot 1002, quadrilatère 116 B/3, plan 65024 (CLSR)

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| 13. | SS Klondike and Chilkoot Trail National Historic Sites, Maintenance and Works Compound | Lot 1032, Quad 105 D/11 in the City of Whitehorse, CLSR Plan No. 70735 | 13. | Aire d'entretien des lieux historiques nationaux S.S. Klondike et de la Piste-Chilkoot | Lot 1032, quadrilatère 105 D/11 dans la ville de Whitehorse, plan 70735 (CLSR) |
| 14. | Dredge # 4 National Historic Site, Bonanza Creek, YT | Lot 586, Group 1052, CLSR Plan No. 58479 | 14. | Lieu historique de la Drague-Numéro -Quatre, ruisseau Bonanza, Yukon | Lot 586, groupe 1052, plan 58479 (CLSR) |
| 15. | S.S. Klondike National Historic Site, Whitehorse, YT, Site for Steamer Klondike | Part of Parcels B and C and 100 foot reservation on shoreline of Yukon River, being part of Lot 19, Group 804, CLSR Plan No. 50123 | 15. | Lieu historique national S.S. Klondike, Whitehorse, Yukon, lieu du bateau à vapeur Klondike | Partie des parcelles B et C et réserve de 100 pieds le long du littoral de la rivière Yukon, lot 19, groupe 804, plan 50123 (CLSR) |
| 16. | Radio Repeater Site at Second Dome | Portion of Lot 581, Group 1052, CLSR Plan No. 53416 | 16. | Lieu du relais radio de Second Dome | Partie du lot 581, groupe 1052, plan 53416 (CLSR) |

THE TOWN OF THE CITY OF DAWSON

BYLAW #09 – 04

A bylaw to provide for the designation and protection of municipal heritage resources.

WHEREAS section 37(1) of the *Historic Resources Act*, R.S.Y. 2002, c. 109 provides that a municipal Council may, by bylaw, designate as a municipal historic site, any site in the municipality that, in the opinion of Council, has sufficient historic significance of the kind contemplated by section 15 of the Act;

WHEREAS section 15 of the *Historic Resources Act* supra provides, in part, that a site may be designated as a historic site if the site is an important illustration of the historic development of Yukon, or a specific locality in Yukon, or of the peoples of Yukon, or locality, and their respective cultures:

WHEREAS the Council of the City of Dawson considers it important to provide for the conservation and management of heritage resources in accordance with the following Vision:

'The built and natural heritage features of the Klondike Valley Cultural Landscape, of which the Historic Townsite forms an important component, will be managed in a way that improves the quality of life for residents of the City and the region and which provides an enhanced destination attraction for international tourism. The heritage management program will tell the story of the entire human history of the Klondike Valley, with particular emphasis on the Gold Rush era of 1897-1918.; and'

WHEREAS the Council of the City of Dawson wishes to establish guidelines and procedures, whereby historically significant sites in the community can be designated as municipal historic sites and whereby they can be protected.

NOW THEREFORE the Council of the municipality of the City of Dawson, in open meeting assembled, hereby ENACTS AS FOLLOWS:

SHORT TITLE

1. This bylaw may be cited as the "Heritage Bylaw".

DEFINITIONS

2. In this bylaw,

"Activity" means installation, demolition, modification, repair, restoration, renovation, excavation and exterior re-colouring.

"City" means the City of Dawson.

"Council" means the Council of the City of Dawson.

"Historic Townsite" means the combined area of the Downtown Heritage Management Area and the Residential Heritage Management Area as defined by the Official Community Plan and Zoning and Heritage Management Bylaw.

"Development Officer" means an employee of the City appointed to that position by resolution of Council or an authorized representative as designated in writing by the Chief Administrative Officer.

"Heritage Inventory" means a listing of the heritage resources in the City of Dawson adopted by Council.

"Heritage Resource" means a historic site, historic object, or any work or assembly of works of nature or human endeavour listed in the Heritage Inventory.

"Historic Resources Permit" means a permit issued by the Development Officer to authorize any proposed alteration to a Municipal Historic Site.

"Inspector" means any person appointed as a Bylaw Officer for the City.

"Minister" means the Minister of the Yukon Legislative Assembly responsible for the Historic Resources Act.

"Municipal Historic Site" means an area or place, parcel of land, building or structure, or the exterior or interior portion of a building or structure that is by itself, or by reason of containing a heritage resource, designated by Council as a Municipal Historic Site.

"Municipal Historic Sites Inventory" means a listing of the Municipal Historic Sites designated by Council.

"Settlement Land" means land defined as settlement land in a Yukon First Nation Final Agreement.

"Site" means as the case may require,

- (a) an area or a place, or
 - (b) a parcel of land, or
 - (c) a building or structure, or
 - (d) an exterior or interior portion or segment of a building or structure,
- whether it is privately owned or owned by a municipality or owned by the Crown or an agency of the municipality or Crown.

"Yukon Historic Resources Appeal Board" means the appeal board as established under the *Historic Resources Act*.

ADMINISTRATION OF THE HERITAGE BYLAW

3. The administration of this bylaw shall be under the management and control of the Development Officer.

HERITAGE INVENTORIES

4. The City must maintain an inventory, which shall be available for public inspection, of Municipal Historic Sites within the City limits, known as the Municipal Historic Sites Inventory, showing:
 - (1) the location of the site and description of its boundaries;
 - (2) an explanation of the significance of the site;
 - (3) the date of designation of the site;
 - (4) the names and residence addresses of the owners and lessees of the site, and;
 - (5) any other information Council thinks advisable.
5. The City must also maintain a general inventory, of all heritage resources, including those that have not been designated as Municipal Historic Sites, known as the Heritage Inventory. This inventory shall not be available for public inspection as it may contain personal information that is restricted.. The Heritage Inventory may include Sites, which have sufficient historical significance as contemplated by this Bylaw, but which have not been designated by Council as Municipal Historic Sites.

DESIGNATION OF HISTORIC SITES

6. Council may either, on its own motion, or upon petition by any person or group of persons designate any site as a Municipal Historic Site when it has determined, in its opinion, that the site is an important illustration of the historic or development of the Klondike valley, of which the Dawson townsite is a part, or the natural history or peoples and cultures of the Klondike Valley Cultural Landscape.
7. Any person or group of persons may petition Council to designate a site as a Municipal Historic Site. Any such petition shall be presented to the Development Officer.
8. The Development Officer shall prepare a report as to whether the Site meets the requirements of this Bylaw and has sufficient historical significance. Such report shall be submitted to Council at which time Council shall determine whether, in its opinion, the Site has sufficient historical significance.
9. Where Council proposes to designate a Municipal Historic Site it shall prepare a bylaw to that affect.
10. If the site proposed for designation is on settlement land, Council may not designate the site without the written consent of the governing body of the Yukon First Nation that governs the settlement land.

11. If the site proposed for designation is a residence, in which its owner resides, Council may not designate the site without the written consent of the owner.
12. A site that has no inherent historic significance may be included in a Municipal Historic Site if its inclusion is advisable for the protection or enhancement of the Municipal Historic Site.
13. Prior to preparing a bylaw to designate a site as a Municipal Historic Site, all sites being considered for designation shall be referred to the Heritage Advisory Committee for consideration and recommendation to Council as to whether the site meets the criteria for designation and whether it should be so designated.
14. Having prepared a bylaw to designate a site as a Municipal Historic Site, Council shall prepare a notice of the intended designation with a copy of the proposed bylaw attached, declaring the intention of Council to designate the site as a Municipal Historic Site. Such notice shall state a date, time, and place for a public hearing to be held by Council to receive objections and other representation with respect to the proposed bylaw, and shall contain such other information and particulars as Council thinks necessary. The date so stated shall be no earlier than 60 days after the latest date on which a copy of the notice of intended designation is served and the Council shall:
 - a) serve the owner and any lessee of the site, and the Minister with a copy of the notice of intended designation and attached bylaw;
 - b) publish a copy of the notice of intended designation in two (2) issues of a newspaper or one (1) issue of each of two (2) newspapers circulating in the area of the municipal site;
 - c) have the intention broadcast over radio and television as part of the service the broadcaster offers for publicizing community events; and
 - d) where the site is land within the boundaries of a description in a certificate of title under the *Land Titles Act*, file a copy of the notice of intended designation in the Land Titles office.
15. The Minister, and any person who has been served with a municipal notice of intended designation, and any other person or group affected by or interested in the proposed bylaw may attend at the hearing provided either alone or with counsel and make representations about the proposed bylaw.
16. If there are no objections to a proposed bylaw at the hearing, Council may, after the hearing,
 - (1) resolve not to proceed with the proposed bylaw, notwithstanding that there were no objections, or
 - (2) pass the bylaw.

17. Where there are objections to a proposed bylaw at a hearing held under this bylaw, Council may, after the hearing;
 - a) resolve not to proceed further with the proposed designation,
 - b) revoke the designation with respect to part of the site and pass it as amended, or
 - c) submit the proposed bylaw along with the objections to the Yukon Historic Resources Appeal Board and request the Appeal Board to hold a hearing in accordance with Section 42 of the *Historic Resources Act*.
18. The Yukon Historic Resources Appeal Board shall, after holding a hearing, prepare and submit a report of its recommendations to the City.
19. Upon receiving and considering a report from the Yukon Historic Resources Appeal Board in respect of a proposed bylaw, Council may,
 - a) resolve not to proceed with the proposed bylaw,
 - b) amend the proposed bylaw, or
 - c) pass the proposed bylaw without amendment.

APPEALS

20. In addition to the right of objection to the designation of a Site as, a Municipal Historic Site, any owner or lessee of the designated Site and any person or group affected by or interested in the designation, may appeal to Council at any time after the designation is made, but only if there is new information, which has been discovered since the making of the designation. This information must pertain to circumstances existing before the designation was made and must put in doubt the appropriateness of the designation. The appeal shall be taken by serving the City with a notice of appeal summarizing the reasons for appeal.
21. Upon being served with notice of a Municipal Historic Site designation appeal, Council shall either refer the appeal to the Yukon Historic Resources Appeal Board or hold a hearing and,
 - a) dismiss the appeal, or
 - b) by bylaw, revoke the designation, or
 - c) by bylaw, revoke the designation with respect to part of the site.
22. If Council refers the appeal to the Yukon Historic Resources Appeal Board, the Board shall hold a hearing in accordance with the provisions of the Historic Resources Act.
23. The Appeal Board shall, after holding a hearing, prepare and submit a report of its recommendations to the City.

24. Upon receiving and considering the report of the Yukon Historic Resources Appeal Board, Council may,
 - a) by bylaw, revoke the designation,
 - b) by bylaw, revoke the designation with respect to part of the site, or
 - c) by resolution, confirm the bylaw appealed from and dismiss the appeal.
25. Council may at any time, on its own motion and without a hearing, resolve not to proceed further with a proposed bylaw.
26. Where a bylaw as proposed, or as amended, has been passed under the authority of the Heritage Bylaw, Council may by a further bylaw, revoke or vary that bylaw, but the revocation or variation must be made by following the same procedure as is established for making designations when there are objections.
27. Where, under this bylaw, Council resolves not to proceed further with a proposed designation, or resolves to confirm a bylaw under appeal, or passes a bylaw making a designation, or by bylaw revokes a designation, Council
 - a) shall serve a copy of the resolution or the bylaw on the Minister and on the owner and any lessee of the affected site,
 - b) publish a notice of the resolution or bylaw in two (2) issues of a newspaper or one (1) issue of each of two (2) newspapers circulating in the area of the historic site;
 - c) where a notice of intended designation respecting the affected site has already been filed, the Development Officer shall similarly file notice of the resolution or bylaw.

PROTECTION OF SITES

28. No person shall demolish or move a Municipal Historic Site, or a Site proposed to be designated under this Bylaw, unless the activity is carried out in accordance with a Historic Resources Permit.
29. No person shall carry out an activity that will alter the historic character of a Municipal Historic Site or a Site proposed to be designated under this Bylaw, unless the activity is carried out in accordance with a Historic Resources Permit.
30. Upon receipt of an application for a development permit for an activity such as a building move, demolition or intervention that may alter the historic character of a Site listed on the Heritage Inventory, the Development Officer shall bring the application forward to determine if Council wishes to commence the process for designation.
31. Any person who proposes to carry out an activity that may alter the historic character of a Municipal Historic Site or a site proposed to be designated

under this Bylaw, prior to commencing the proposed activity, submit to the Development Officer an application for a Historic Resources Permit.

32. Upon receiving an application for a Historic Resources Permit, the Development Officer may
- a) refuse to issue a permit and shall provide reasons in writing to the applicant;
 - b) issue a permit or issue a permit with variations;
 - c) issue a permit with conditions necessary for the protection of the site; or
 - d) require the applicant to provide financial security to mitigate possible damage to the historic resource.
33. All applications for alteration or demolition of a Municipal Historic Site or a Site listed in the Heritage Inventory shall additionally comply with all City of Dawson Bylaws including but not limited to the City of Dawson Zoning and Heritage Management Bylaw, and, more specifically, sections 2, 3 and 8 of that Bylaw, which outlines requirements for development and demolition permits within the City of Dawson.

ENFORCEMENT

34. An Inspector or any person appointed under Part 4 of the *Historic Resources Act* may conduct investigations and may,
- a) with the consent of the occupant in charge of the place, enter any place;
 - b) at any reasonable time, enter any place to which the public is ordinarily admitted;
 - c) request the production of documents or things that seem relevant to the investigation;
 - d) upon giving a receipt, remove from any place documents produced in response to a request under this article and make copies of them or extracts from them;
 - e) upon giving a receipt, remove from any place any other thing produced in response to a request under this Article and retain possession of it for so long as a person having the right to withhold the thing from the Inspector consents to the Inspector having possession of the thing.
35. An Inspector who needs, but who cannot obtain, consent to enter a place, or who has been refused entry to a place, may apply to a Judge of the Territorial Court for a warrant authorizing entry of the place.
36. If a person refuses to comply with a request of an Inspector under this Bylaw the Inspector may apply to a Judge of the Territorial Court for an order for the production of the document or thing.

37. If a Judge of the Territorial Court is satisfied that there are reasonable grounds to believe that it is necessary that a place be entered in furtherance of an investigation under the Bylaw, the Judge may issue a warrant authorizing entry of the place by any person referred to in the order.
38. If a Judge is satisfied that there are reasonable grounds to believe that the production of a document or thing is necessary that a place be entered in furtherance of an investigation under the bylaw, the Judge may issue a warrant authorizing the seizure of the document or thing by any person referred to in the order.
39. An order issued under this Bylaw by a Judge of the Territorial Court which authorizes the seizure of a document or thing may be included in a warrant under this Bylaw authorizing entry of a place, or may be made separately from such a warrant.
40. A warrant issued under this Bylaw and an Order made under this Bylaw
 - a) shall be executed within any part of a day, if any, specified in the order; and
 - b) shall expire at the end of the day specified in the order or on the fourteenth day after the order is issued or made, whichever day ends first.

ORDERS TO REMEDY BREACHES

41. Where Council believes, on reasonable grounds, that a person is in breach of the Heritage Bylaw, or Part 5 of the *Historic Resources Act*, or a Municipal Historic Resources Permit, or a provision of an agreement entered into with the City under this Bylaw, Council may by order, in writing served upon the person,
 - a) require the person to remedy the breach within a period of time stated in the order, or
 - b) where Council has reason to believe that irreparable or costly damage is likely to result if the breach continues, require the person to remedy the breach forthwith upon the service of the order.
42. If a person, who is required by an order to remedy a breach, fails to obey the order, Council may, upon notice to the person, apply to a Judge of the Territorial Court for an order authorizing officers of the City to enter the affected Municipal Historic Site and take such steps as may be necessary to remedy the breach effectively, including
 - a) the removal of any workers, materials, or equipment found on the Municipal Historic Site, and
 - b) doing the work required to be done,

and the Judge may grant the order or such other order as the Judge thinks proper and may make the order subject to such conditions as the Judge thinks necessary.

43. Where Council believes that the delay to obtain an order under this Bylaw is likely to result in irreparable damage to historic resources or human remains, Council may, without such an order and with no further notice to the owner or lessee of the Municipal Historic Site, enter the Municipal Historic Site and take, or cause to be taken, such steps as may be necessary to halt the damage, but shall not take or cause to be taken any other steps except pursuant to and in accordance with the order of a Judge of the Territorial Court.
44. Where Council takes steps to remedy a breach committed by any person, the City may recover from the person,
- a) the costs and expenses necessarily incurred by the City in taking those steps, and
 - b) the amount of any grant made to the person by the City under this Bylaw by way of assistance.

APPEALS AGAINST ORDER OR ACTION OF THE CITY

45. A person aggrieved by an order made, or action taken, by the City under this Bylaw may appeal to a Judge of the Territorial Court within 30 days from the making of the order or the taking of the action and the Judge may,
- (1) confirm the legality of the order or, if it is in some way not legal, direct Council to vary or rescind it;
 - (2) confirm the legality of the action or, if it is in some way not legal, direct Council to modify it;
 - (3) give such direction about implementing the order or of the action as the Judge thinks proper.

COUNCIL POWERS

46. Council may engage in activities or expend money for one or more of the following purposes:
- (1) to acquire, conserve and develop heritage property and other heritage resources;
 - (2) to study and gain knowledge about the City's history and heritage;
 - (3) to increase public awareness, understanding and appreciation of the City's history and heritage;
 - (4) for any other activities that it considers necessary or desirable with respect to the conservation and management of heritage property and other heritage resources.
47. Council may, by bylaw, require the owner or lessee of a Municipal Historic Site to take measures for the repair, maintenance, preservation, protection or

restoration of the site, subject to the City providing assistance in the form of grants, loans, professional or technical or other advice and assistance to the owner.

48. Council may, by bylaw, enter into an agreement with the owner or lessee of a Municipal Historic Site for the purpose of providing for the maintenance, preservation or protection of the site, or with respect to providing financial and/or technical assistance in order to protect proposed or designated historic sites.

HERITAGE FUND

49. The City may by bylaw establish a heritage fund, for which the City may receive by donation, public subscription, devise, bequest or otherwise, money or property (personal or real).

ACQUISITION AND DISPOSAL OF MUNICIPAL HISTORIC SITES

50. If the Council believes it to be in the public interest, Council may acquire a Municipal Historic Site by gift, devise, purchase, lease, exchange, expropriation under the *Expropriation Act*, or otherwise; and, if the Municipal Historic Site is owned by the municipality may, sell, give or lease the Municipal Historic Site to any person or group for use or development according to any conditions of the lease, gift or sale.

HERITAGE ADVISORY COMMITTEE

51. The Heritage Advisory Committee, established by the Zoning and Heritage Management Bylaw #09-03 under Section 179(1) of the *Municipal Act* and Section 48(1) of the *Historic Resources Act*, shall:
- (1) Consider and make recommendations to the Development Officer regarding Historic Resource Permit applications;
 - (2) Consider and make recommendations to Council as to whether sites meet the criteria for designation as Municipal Historic Sites and should be designated;
 - (3) Perform the duties identified for the Heritage Advisory Committee in the Zoning and Heritage Management Bylaw; and
 - (4) Such other duties as the Council may delegate to it from time to time by bylaw or resolution.

PENALTIES

52. Any person who contravenes any provision of this bylaw is guilty of an offence.
53. Any person who commits an offence under this bylaw is, in addition to any other punishment, liable on summary conviction to:

- (1) A voluntary fine under section 20 of the Summary Convictions Act, issued in respect of an offence specified in Schedule "A" attached hereto and forming part of this bylaw; or
- (2) A fine not exceeding ten thousand dollars (\$10,000.00) where proceedings are commenced pursuant to the summary conviction provisions of the *Criminal Code of Canada*; or
- (3) A fine not exceeding five hundred dollars (\$500.00) where proceedings are commenced pursuant to the *Summary Conviction Act* of the Yukon.

54. Should any person owning or occupying real property within the City refuse or neglect to pay any penalties that have been levied pursuant to this bylaw, the Designated Officer may inform such person in default that if these charges are unpaid on the thirty-first day of December on the same year, these shall be added to and form part of the taxes payable in respect of that real property as taxes in arrears.

GENERAL INTERPRETATION

55. The invalidity of any section, sentence, or provision of this bylaw shall not affect the validity of any other part of this bylaw that can be given effect without such invalid part or parts.

COMING INTO FORCE

56. This bylaw shall come into full force and effect upon the ____ DAY OF _____, 2009.

READ A FIRST TIME THIS ____ DAY OF _____, 2009.

READ A SECOND TIME THIS ____ DAY OF _____, 2009.

READ A THIRD TIME AND FINALLY PASSED THIS ____ DAY OF _____, 2009.

ORIGINALS SIGNED BY:

John Steins
MAYOR

Eldo Enns
CAO



Zoning Bylaw



City of Dawson

Bylaw No. 12-27

Consolidated with #13-10, #13-11, #14-01, #14-08; #14-09 &14-16

A bylaw to adopt the Zoning Bylaw

WHEREAS the Council of the City of Dawson wishes to repeal its current Zoning Bylaw, as amended, and wishes to adopt a new Zoning Bylaw, pursuant to the *Municipal Act* (RSY 2002 c.154).

NOW THEREFORE the Council of the City of Dawson, in open meeting assembled, hereby enacts as follows:

1. This bylaw shall be cited as “The City of Dawson Zoning Bylaw No. 12-27”.
2. The following schedules attached hereto are hereby made part of this bylaw and adopted as The City of Dawson Zoning Bylaw:
 - (a) Schedule A (Zoning Bylaw Text);
 - (b) Schedule B (Zoning Map – Valley, Confluence and Bowl);
 - (c) Schedule C (Zoning Map – Historic Townsite);
 - (d) Schedule D (Heritage Management Map – Valley, Confluence and Bowl);
 - (e) Schedule E (Heritage Management Map – Historic Townsite); and
 - (f) Schedule F (Off-Street Parking and Loading Regulations).
3. The City of Dawson Zoning Bylaw No. 09-03, and all amendments thereto, are hereby repealed.

FIRST READING: December 21, 2012

PUBLIC NOTICE: January 16, 2013

SECOND READING: January 22, 2013

PUBLIC HEARING: February 4, 2013

THIRD READING and ADOPTION: April 23, 2013

Originals signed by:

Wayne Potoroka, Mayor

Jeff Renaud, CAO

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SCHEDULE A	Zoning Map – Valley, Confluence and Bowl
SCHEDULE B	Zoning Map – Historic Townsite
SCHEDULE C	Heritage Management Map – Valley, Confluence and Bowl
SCHEDULE D	Heritage Management Map – Historic Townsite
SCHEDULE E	Off-Street Parking and Loading Regulations

APPENDIX A	Heritage Management Regulations
APPENDIX B	Development Procedures
APPENDIX C	Sign Regulations
APPENDIX D	Deleted as per Bylaw #13-11
APPENDIX E	Subdivision Development Regulations

SCHEDULE A

Zoning Bylaw Text

This is Schedule A of the City of Dawson Zoning Bylaw No. 12-27.

1.0 BASIC PROVISIONS

1.1 Application

This bylaw shall be applicable to all of the land, buildings and structures, including the surface of water within the boundaries of the City of Dawson.

1.2 Conformity

Land, including air space and the surface of water, shall not be used and buildings and structures shall not be constructed, altered, located or used except as specifically permitted in the bylaw.

1.3 Severability

If any section, subsection, sentence, clause or phrase of this bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, the invalid portion shall be severed from the bylaw and such decision shall not affect the validity of the remaining portions of this bylaw.

1.4 Metric Units

Metric units are used for all measurements in this bylaw. Approximate imperial units are provided for convenience only.

1.5 Applicable Regulations

- .1 Where this bylaw sets out two or more regulations that could apply to a situation, the most stringent regulation shall apply.
- .2 Where this bylaw sets out both general and specific regulations that could apply to a situation, the specific regulation shall apply.

2.0 ADMINISTRATION

2.1 Inspection

- .1 The Chief Administrative Officer, Development Officer, or other persons appointed by Council shall administer this bylaw.
- .2 Persons appointed under Section 2.1.1 may enter any building or premises at any reasonable time for the purpose of administering or enforcing this bylaw.

2.2 Violation

Every person who:

- .1 violates any of the provisions of this bylaw;
- .2 causes or permits any act or thing to be done in contravention or violation of any of the provisions of this bylaw;
- .3 neglects or omits to do anything required under this bylaw;
- .4 carries out, causes or permits to be carried out any development in a manner prohibited by or contrary to any of the provisions of this bylaw;
- .5 fails to comply with an order, direction or notice given under this bylaw; or
- .6 prevents or obstructs, or attempts to prevent or obstruct, the authorized entry of an officer onto property under Section 2.1;

commits an offence under this bylaw.

2.3 Penalty

- .1 Every person violates any of the provisions of this bylaw, or who suffers or permits any act or thing to be done in contravention of this bylaw, or who refuses, omits, or neglects to fulfill, observe, carry out or perform any duty or obligation imposed by this bylaw is liable to a penalty and cost of prosecution .
- .2 Each day's continuance of an offence under Section 2.3.1 constitutes a new and separate offence.

3.0 DEFINITIONS

In this bylaw, all words or phrases shall have their normal or common meaning except where this is changed, modified or expanded by the definitions set forth below:

ACCESSORY means a use which is subordinate to a principal use on a parcel.

AGRICULTURE means growing, rearing, harvesting and sale of agricultural crops and livestock and includes processing the primary agricultural products harvested, reared, or produced on the parcel.

AMUSEMENT ESTABLISHMENT means a permanent building or structure that has been erected for the purpose of providing entertainment and amusement activities.

APARTMENT means a single building containing three or more dwellings, each of which has its principal access from an entrance common to the building.

BASEMENT means the portion of a building that is partially underground and has a ceiling that is less than 1.8 m (6 ft.) above grade.

BED AND BREAKFAST means a home occupation comprising of the commercial rental of up to three guest rooms all within a single-detached dwelling.

BUILDING means a roofed structure used or intended for supporting or sheltering any use or occupancy.

BULK FUEL FACILITY means a premise used for the storage, sales and distribution of bulk fuel products.

C-ZONE means all zones with the letter C as a prefix in the zone name.

CAMPGROUND means the provision of space for tents, or recreational vehicles intended to be occupied primarily by the traveling public for overnight accommodation.

COMMERCIAL AND RESIDENTIAL MIXED-USE means a building that has commercial uses located on the ground floor with residential dwelling units located on the upper floors of the building or on the ground floor behind the commercial uses.

COMMERCIAL SCHOOL means a school conducted for hire or gain, such as an art or drama school, dance studio, business, safety training or trade school or any other specialized school but shall not include a private academic, religious or philanthropic school.

COMMUNITY USE means land, buildings or facilities used by a government, government agency or Crown Corporation for uses such as administration, communications, public healthcare services, public education, public parks, public works, recreation, safety, sports and welfare.

CONTRACTOR SERVICE means the provision of electrical, plumbing, heating, painting and similar contractor services primarily to individual households and the accessory sale of goods normally associated with the contractor services. Contractor service does not include manufacturing activities or fleet storage of more than four vehicles.

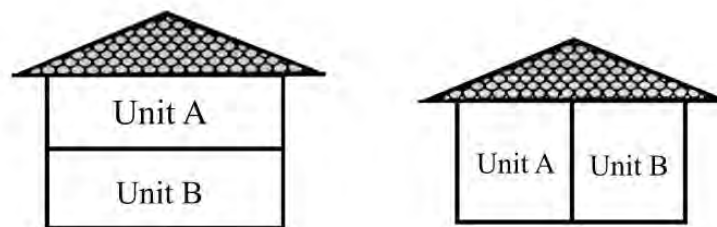
CONVENIENCE STORE means a retail commercial establishment, not exceeding 300 m² (3229 ft²) of floor area, supplying groceries and other daily household necessities to the immediate surrounding area.

CUL-DE-SAC means a length of a local street made for vehicular use, the end of which is permanently closed either by subdivision design or by a natural feature such as inaccessible terrain.

DANGEROUS GOODS means any products, substances or organisms defined as a dangerous good by Territorial or Federal legislation.

DUPLEX means a building that is divided horizontally or vertically into two separate dwellings as shown in Figure 3.1. Each dwelling has its own independent entrance and utility connections. A duplex does not include a secondary suite.

FIGURE 3.1 – ILLUSTRATION OF DUPLEX

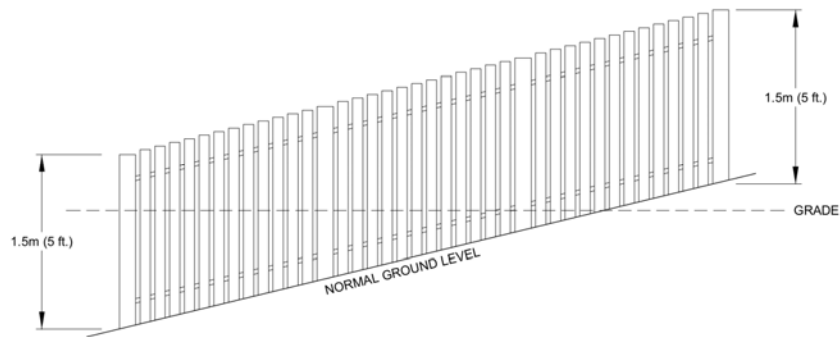


DWELLING UNIT means a suite operated as a housekeeping unit, used or intended to be used as a domicile by one or more persons and usually containing cooking, eating, living, sleeping and sanitary facilities.

EXTERIOR STORAGE means an area where goods or materials are stored outside. Exterior storage does not include the storage of goods and materials in accessory buildings.

FENCE means an artificially constructed barrier erected to enclose or screen property. As shown in Figure 3.2 fence height is the vertical distance between the natural ground level and the top of the fence at any given point.

FIGURE 3.2 – ILLUSTRATION OF FENCE HIEGHT

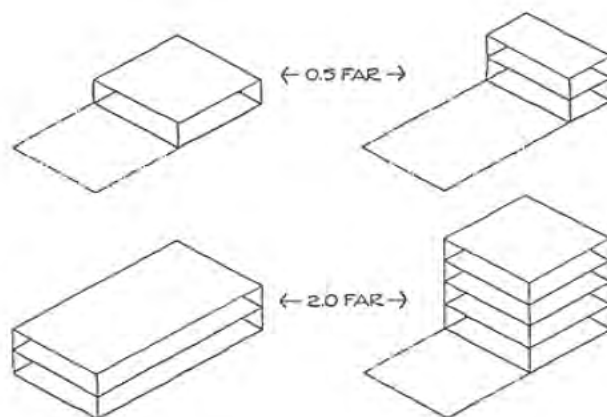


FLEET SERVICE means a fleet of vehicles for the delivery of people, goods or services, where such vehicles are not available for sale or long-term lease. This Use Class includes ambulance services, taxi services, bus lines, and messenger and courier services.

FLOOR AREA means the sum of the horizontal floor areas for each storey of the building or structure, measured to the exterior walls and contained within the exterior and basement walls.

FLOOR AREA RATIO (FAR) means the floor area of all buildings and structures on a parcel divided by the parcel area, as shown in Figure 3.3 below.

FIGURE 3.3 – ILLUSTRATION OF FLOOR AREA RATIO (FAR)

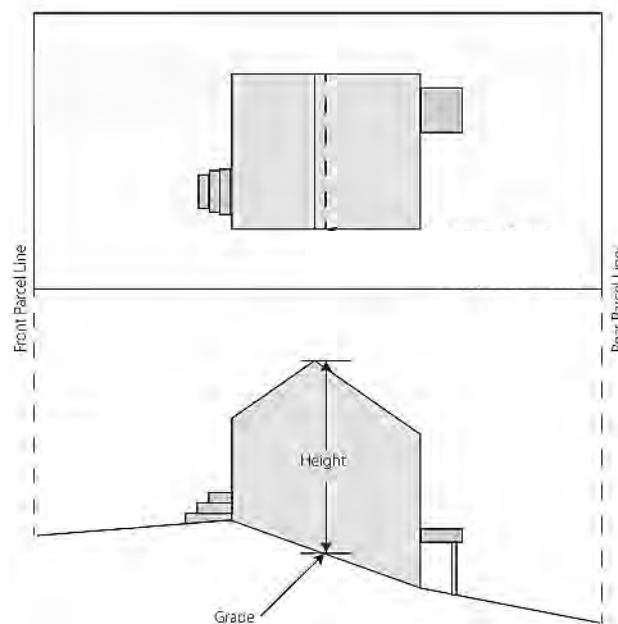


GRADE means the average elevation of all finished or unfinished ground measured at the exterior perimeter of the building or structure.

GREENHOUSE means a building that utilises transparent covering to heat air in order to provide a more hospitable environment to grow plants.

HEIGHT means the maximum vertical distance between grade and the highest point of the building or structure. As shown in Figure 3.2, fence height is an exception and is not measured from grade.

FIGURE 3.4 – ILLUSTRATION OF HEIGHT AND GRADE



HISTORIC TOWNSITE means the area as shown in Schedule C of this bylaw.

HOTEL means a building containing commercial sleeping units for guest accommodation and a lobby area for guest registration and access to the sleeping units. Hotels may also contain accessory uses such as a restaurant, licensed drinking facilities, liquor sales, retail sales, indoor recreation and meeting rooms.

HOME INDUSTRY means a small-scale industrial use operated accessory to a single-detached dwelling.

HOME OCCUPATION means a small professional or home based-business that generates no more than one business associated visit per day.

HOUSEHOLD REPAIR SERVICE means the provision of repair services to goods, equipment and appliances normally found within the home. Typical uses include appliance, radio and television repair shops, furniture refinishing and upholstery shops.

JUNKYARD means any building or land used for the wrecking, salvaging, dismantling or disassembly of vehicles, vehicle parts, vehicle frames or vehicle bodies.

LANE means a public right-of-way, less than 9.0 m (29.5 ft.) wide that provides a second access to a parcel at the side or rear.

MOTEL means a building containing commercial sleeping units for guest accommodation with separate entrances from the exterior of the building. Motels may contain an office for motel administration.

NATURAL RESOURCE DEVELOPMENT means the on-site removal, extraction, and primary processing of raw materials found on or under the site, or accessible from the site. Typical uses include clay pits, gravel pits, placer mining, sandpits and stripping of topsoil.

OFFICE SUPPORT SERVICE means the provision of a service that includes one or more of the following features:

- (a) the use of minor mechanical equipment for binding, duplicating, photographic processing or printing;
- (b) the provision of office maintenance or custodial services; or
- (c) the provision of office security and the rental, repair, sale or servicing of office equipment, furniture and machines.

Typical uses include film processing establishments, janitorial firms, office equipment sale and repair establishments and printing establishments.

PARCEL means any lot, block or other area in which land is held or into which it is subdivided, but does not include a highway, street or lane.

PARCEL, CORNER means the parcel at the intersection or junction of two or more streets; for the purpose of this definition the street does not mean a lane.

PARCEL AREA means the total horizontal area within the parcel lines of a parcel.

PARCEL COVERAGE means the percent of the parcel area that is covered by buildings and structures excluding parking areas, driveways and walkways.

PARCEL LINE the legally defined boundary of any parcel.

PARCEL LINE, EXTERIOR SIDE as illustrated in Figure 3.5, or in the case of an irregular lot, as illustrated in Figure 3.6, means a side parcel line that abuts a public roadway (excluding a lane) on a corner parcel.

FIGURE 3.5 – ILLUSTRATION OF PARCEL LINES

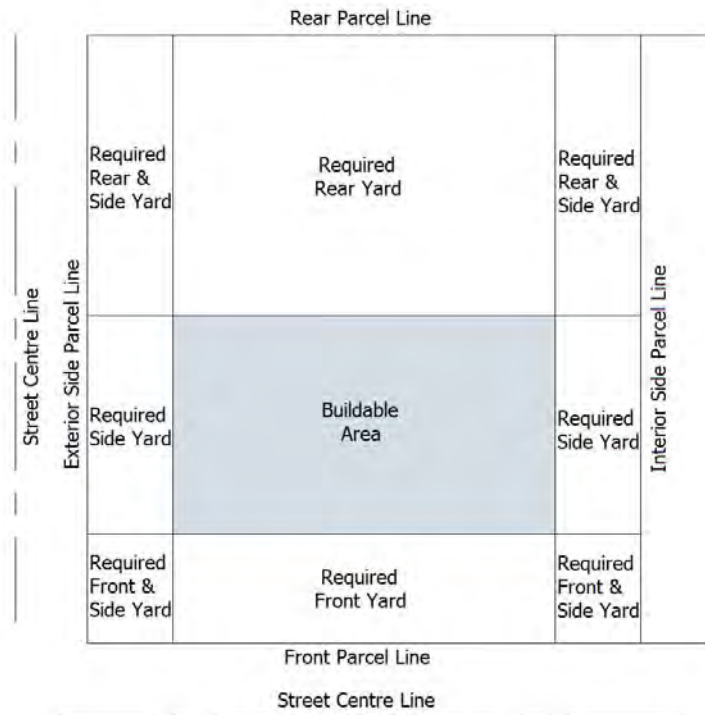
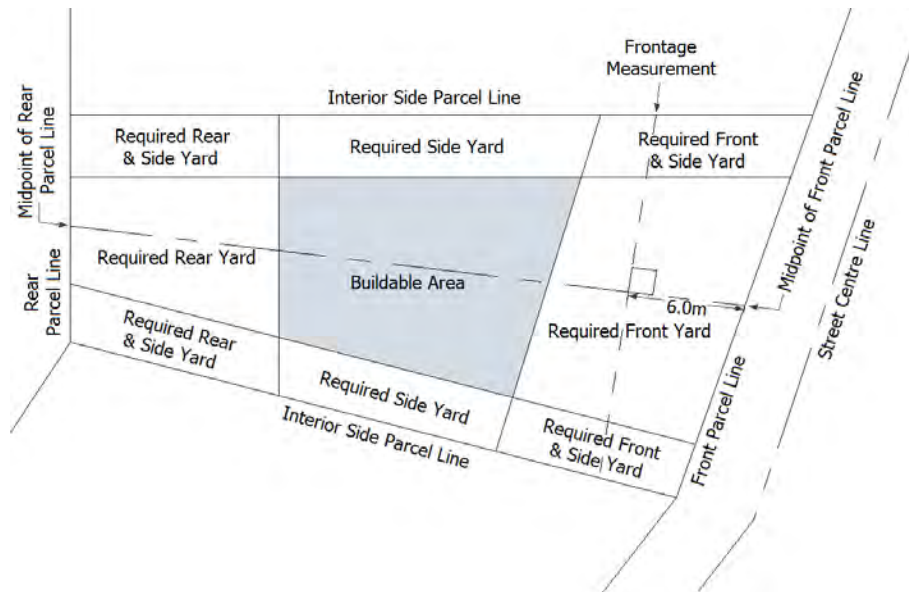


FIGURE 3.6 – ILLUSTRATION OF IRREGULAR PARCEL



PARCEL LINE, FRONT means any parcel line common to a parcel and one highway other than a lane as illustrated in Figure 3.5. Where a parcel is contiguous to the intersection of two highways (streets), the front parcel line is the shortest parcel line contiguous to a highway (street) other than a lane.

PARCEL LINE, INTERIOR SIDE as illustrated in Figure 3.5, or in the case of an irregular lot, as illustrated in Figure 3.6, means a parcel boundary between two or more parcels or a lane, other than a front or rear parcel line.

PARCEL LINE, REAR as illustrated in Figures 3.5 and 3.6 means the boundary of a parcel which lies the most opposite to, and is not connected to, the front parcel line.

PARCEL WIDTH (FRONTAGE) means the horizontal distance between the side parcel lines measured at right angles to the rear parcel line. As illustrated in Figure 3.6, the horizontal distance between parcel lines is measured at a 6.0 m (19.7 ft.) setback from the front parcel line.

PERSONAL SERVICE means the provision of personal services to an individual that are related to the care and appearance of the body, or the cleaning and repair of personal effects. Typical uses include barbershops, beauty salons, dressmakers, dry cleaning establishments and laundromats, hairdressers, shoe repair shops and tailors.

PRINCIPAL BUILDING means a building that contains floor space, the majority of which is used for the permitted principal use on a parcel.

PRINCIPAL USE means the main purpose for which the parcel, building or structure is used.

PROFESSIONAL OFFICE means and includes, but is not limited to, medical, dental, legal, accounting, engineering, real estate, newspaper and government.

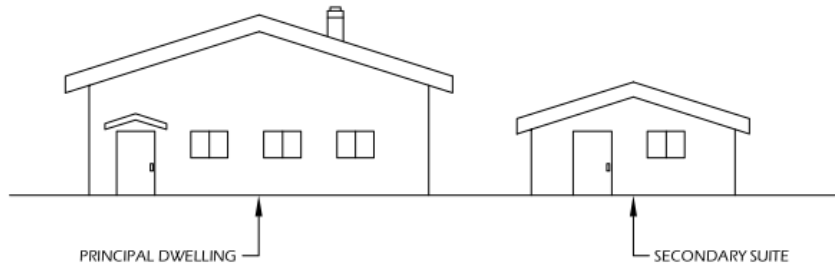
R-ZONE means all zones with the letter R as a prefix in the zone name.

RECREATION FACILITY means a recreational facility including but not limited to arenas, athletic fields, driving ranges, golf courses, outdoor rinks, stadiums and tennis courts.

RESIDENTIAL SECURITY UNIT means a dwelling that is secondary to a principal industrial or commercial use.

SECONDARY SUITE means a self-contained, accessory dwelling located within a principal single-detached dwelling or in an accessory building on the same parcel as a single-detached dwelling – as shown in Figure 3.7. A secondary suite has its own separate cooking, sleeping and bathing facilities and has direct access to the outside without passing through any part of the principal unit. A secondary suite is not a duplex.

FIGURE 3.7 – ILLUSTRATION OF SECONDARY SUITE IN AN ACCESSORY BUILDING



SERVICE EFFICIENCY LINK means a connecting link constructed between two approved buildings designed for the sole purpose of allowing publically funded institutions to share facilities to reduce operational costs.

SERVICE STATION means and includes, but is not limited to, fuel sales, automotive repairs and servicing, car wash and detailing, travel convenience services.

SETBACK means the minimum permitted distance between a class of building, structure or use specified in this bylaw and a parcel line or other feature specified in this bylaw.

SLEEPING UNIT means a room or set of habitable rooms with bathing facilities used for the lodging of a person or persons.

STREET VENDING means the sale of goods or services on a street, from a mobile stall or other temporary structure.

STRUCTURE means any construction fixed to, supported by, or sunk into land or water, but does not include concrete or asphalt paving or similar surfacing.

TEMPORARY means a period of two years or less.

TOWNHOUSE means a building divided into three or more dwelling units located side by side under one roof with private entrances to each dwelling from the exterior of the building and with each dwelling sharing at least one common wall.

YARD as illustrated in Figures 3.5 and 3.6 above means the area of setback required from a parcel line.

4.0 GENERAL REGULATIONS

This section applies to all zones established under this bylaw.

4.1 Location and Siting

No building or structure is permitted in a required front, rear or side yard unless otherwise specified in this bylaw.

4.2 Principal Buildings

No more than one principal building is permitted per parcel unless otherwise specified in this bylaw.

4.3 Setback Exceptions

The front, side and rear yard setback regulations of this bylaw do not apply to the following:

- .1 Chimneys, cornices, leaders, gutters, pilasters, belt courses, sills, bay windows, or other similar features provided that such projections do not exceed 0.6 m (2 ft.).
- .2 Steps, eaves, canopies, decorative overhangs, balconies or porches provided that they:
 - i. do not project more than 1.2 m (4 ft.) into a required front, rear or exterior side yard; and
 - ii. do not project more than 0.6 m (2 ft.) into a required interior side yard.
- .3 Uncovered patios, sun decks or terraces provided that they:
 - i. meet any fence height requirements of this bylaw; and
 - ii. do not project more than 2.4 m (8 ft.) into a required front yard.
- .4 Any other feature that the Development Officer approves for heritage conservation purposes, provided that it does not occupy more than 10% of the area required for the rear or side yard.
- .5 A service efficiency link in the P2 zone may be allowed by decision of Council where:
 - a) the service efficiency link has been approved by the owners of the linked buildings;
 - b) the proponent has identified the nature of the reduced operational costs created by the service efficiency link; and
 - c) the identified reduced operational costs are in the public interest.

4.4 Easements and Rights of Way

In addition to the regulations contained in this bylaw, buildings and structures must respect all other property encumbrances such as easements and rights of way.

4.5 Height Exceptions

The maximum height regulations of this bylaw do not apply to the following:

- .1 Chimneystacks.
- .2 Elevator housings.
- .3 Flagpoles.
- .4 Parapet walls.
- .5 Roof stairway entrances.
- .6 Skylights.
- .7 Steeples.
- .8 HVAC equipment.
- .9 Any other item deemed by the Development Officer to be of a similar nature to those noted above.

4.6 Fences and Screening

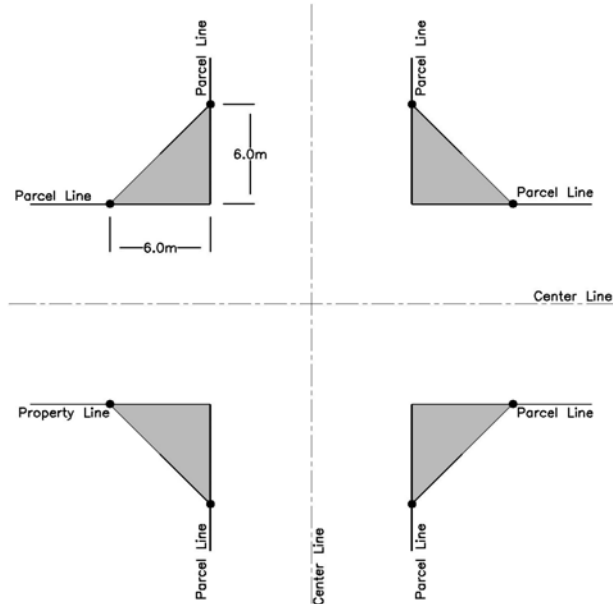
- .1 In all zones, fences are permitted in required front, rear or side yards.
- .2 In any R-Zone, a fence must:
 - i. not exceed a height of 1.2 m (4 ft.) in any required front yard; and
 - ii. not exceed a height of 1.8 m (6 ft.) in any other area including any required side or rear yard.
- .3 All exterior storage of goods and materials in any C-Zone must:
 - i. be located to the rear or side of the principal building;
 - ii. be screened from view from any public roadway other than a lane, and from adjacent sites in a R-Zone by fences, berms, landscape materials or a combination of these to the satisfaction of the Development Officer; and
 - iii. not exceed a height of 1.8 m (6 ft.) above grade.
- .4 Exterior storage or display of goods and materials in the M1 zone must:

- i. be screened from view from any public roadway other than a lane, and adjoining sites not in the M1 Zone by fences, berms, landscape materials or a combination of these to the satisfaction of the Development Officer; and
 - ii. not exceed a height of 2.4 m (8 ft.) above grade.
- .5 Junkyards and automobile wrecking yards are completely enclosed by a 2.4 m (8 ft.) high solid wooden fence or a 2.4 m (8 ft.) high chain link fence with continuous hedging or other screening to the satisfaction of the Development Officer.

4.7 Visibility at Intersections

As illustrated in Figure 4.1, on a corner parcel within the shaded space formed by the parcel lines, 6.0 m (19.7 ft.) from the point of intersection of the parcel lines, joining perpendicular to the parcel lines and diagonally joining the parcel lines, no landscaping screening, building or structure will be planted or erected to a height greater than 1.0 m (3.3 ft.) above the established grade of the street.

FIGURE 4.1 – ILLUSTRATION OF SIGHT TRIANGLE



4.8 Accessory Buildings and Structures

Accessory buildings and structures are permitted in all zones provided they comply with the following regulations:

- .1 Accessory buildings and structures are not permitted on any parcel unless the principal building to which the building or structure is accessory has already been erected or will be erected simultaneously.
- .2 Accessory buildings and structures must be setback at least 3.0 m (10 ft.) from any principal building.
- .3 In R-zones, accessory buildings and structures may be placed in a required rear or side yard, but:
 - i. They must be setback at least 0.6 m (2 ft.) from any rear or interior side parcel line;
 - ii. They must be set back at least 3.0 m (10 ft.) from any exterior side parcel line; and
 - iii. Where an accessory building or structure is a garage, it must setback at least 1.5 m (5 ft.) from any interior side parcel lines.
 - iv. Gardens and Greenhouses may be located in a front yard
- .4 In all R-Zones, C-Zones, and P-zones the combined area of all accessory buildings, excluding detached secondary suites, must not exceed:
 - i. 10% parcel coverage for parcels in the Historic Townsite; and
 - ii. 20% parcel coverage for parcels outside the Historic Townsite.
- .5 In all R-Zones and C-Zones, an accessory building must not exceed:
 - i. 10% parcel coverage for parcels in the Historic Townsite; and
 - ii. 20% parcel coverage for parcels outside the Historic Townsite.
- .6 An accessory building must not be used as dwelling or sleeping unit unless permitted as a secondary suite.

4.9 Secondary Suites

Where permitted, secondary suites must comply with the following regulations:

- .1 A secondary suite is only permitted within a single-detached dwelling or within an accessory building on the same parcel as a single-detached dwelling.
- .2 No more than one secondary suite is permitted per principal single-detached dwelling.

- .3 The maximum floor area of a secondary suite contained within a single-detached dwelling must not exceed 93 m² (1,001 ft²).
- .4 One parking space must be provided on the parcel for the secondary suite, in addition to the parking required for the single-detached dwelling.
- .5 A secondary suite is not permitted in conjunction with the operation of a boarding house or a bed and breakfast in the principal single-detached dwelling.

4.10 Home Occupations

Where permitted, home occupations must comply with the following regulations:

- .1 The maximum floor area of a home occupation must not exceed 25% of the total floor area of the principal building.
- .2 Other than a duly authorized sign, no exterior evidence of a home occupation is permitted to be visible on the parcel on which the home occupation is located. For the purposes of this section, the presence of a garden and/or greenhouse shall not be deemed to be exterior evidence of a home occupation.
- .3 No exterior storage of materials associated with a home occupation is permitted.
- .4 There shall be no manner of use or noise of an offensive or objectionable nature to interfere with the peace, quiet, and dignity of the neighbourhood.

4.11 Home Industries

Where permitted, home industries must comply with the following regulations:

- .1 A home industry is an accessory use that must only be conducted within the principal residential building and within up to one accessory building.
- .2 The home industry must not occupy more than 74 m² (796.5 ft²) of the dwelling unit, or 25% of the total floor area of the dwelling unit, whichever is less.
- .3 The combined floor area of accessory buildings used for home industry must not exceed 186 m² (2,002 ft²).
- .4 Except in the front yard setback, exterior storage of materials associated with the home industry will be permitted, provided that storage areas do not exceed one 93 m² (1,001 ft²), and are enclosed by a privacy fence or landscaped screen to ensure that the stored materials are not visible beyond the property line.
- .5 An exterior storage area must be set back at least 5.0 m (16.4 ft.) from any parcel line.
- .6 A home industry:
 - i. must not create a hazardous or dangerous condition for the neighbourhood or the environment;
 - ii. must not generate traffic congestion or parking problems for the City or the immediate neighbourhood;

- iii. must not produce odour, smoke, dust or fumes beyond the property line;
 - iv. must not involve materials or products that produce inflammable or explosive vapours, or gasses under normal Dawson City temperature extremes; and
 - v. must not produce interference with radio, television, telephone, or other electronic or communications device, where the interference is detectable on such an electronic or communications device located beyond the parcel line of the parcel on which the home industry is located.
- .7 No home industry may be used for the salvage or storage of derelict vehicles and equipment, used building, or domestic products and similar discarded materials.
- .8 Retail sales shall not be permitted in a home industry except for:
- i. products incidental to a service being provided;
 - ii. mail order sales;
 - iii. telephone sales, on-line sales, or other types of sales where the customer does not enter the premises to inspect or pick-up goods;
 - iv. direct distributorships where customers do not enter the premises to inspect, purchase or pickup goods; and
 - v. products produced on the site.

4.12 Gardens and Greenhouses

Gardens and greenhouses are permitted as an accessory use in all zones provided that they comply with all regulations for accessory buildings and structures laid out in this bylaw.

4.13 Bed and Breakfast Accommodations

Where permitted, bed and breakfasts must meet all the requirements of all other relevant municipal bylaws.

4.14 Public Utilities

- .1 Public utility facilities for the distribution of water, sewage, electrical power, telephone, cable television, and other similar services (but not including sewage treatment plants or electrical substations) are permitted in all zones.
- .2 Individual parcels for public utility facilities are exempt from minimum parcel area requirements.
- .3 All changes and new installations of a public utility must have a valid development permit.

4.15 Service Stations

Where permitted, service stations must conform to the following provisions:

- .1 Pump island storage tanks and related appurtenances must meet the requirements of all relevant Federal and Territorial legislation.
- .2 All repair equipment shall be kept, and all repair work shall be done, entirely within the building or in the maintenance yard.
- .3 All exterior lighting must deflect away from adjacent lots.
- .4 A minimum 1.8 m (6 ft.) fence must be provided on all property lines separating the parcel from any abutting R-Zone.

4.16 Parks and Natural Space

The permitted uses in the P1 zone are permitted in all other zones. Any development of a permitted P1 use must comply with all setbacks for the zoning in which it is being developed.

4.17 Heritage

The heritage of Dawson City and its region shall be managed in accordance with Appendix A of this bylaw and by the Heritage Management Plan (March 2008) adopted by Council, or any successor legislation.

5.0 ESTABLISHMENT OF ZONES

The area within the boundaries of the City of Dawson shall be divided into the zones identified in Column 1 and described in Column 2 of Table 1.

Table 1: Establishment of Zones

COLUMN 1 ZONES	COLUMN 2 TITLE ELABORATION
R1	Single-Detached & Duplex Residential
R2	Multi-Unit Residential
R3	Country Residential
C1	Downtown Core Commercial
C2	Service Commercial
M1	Industrial
A1	Agriculture
P1	Parks & Natural Space
P2	Institutional

The correct name of each zone provided for in this bylaw is set out in Column 1 of Table 1 and the inclusion of the title elaboration contained in Column 2 of Table 1 is for convenience only.

5.1 Location of Zones

The location of each zone is established in:

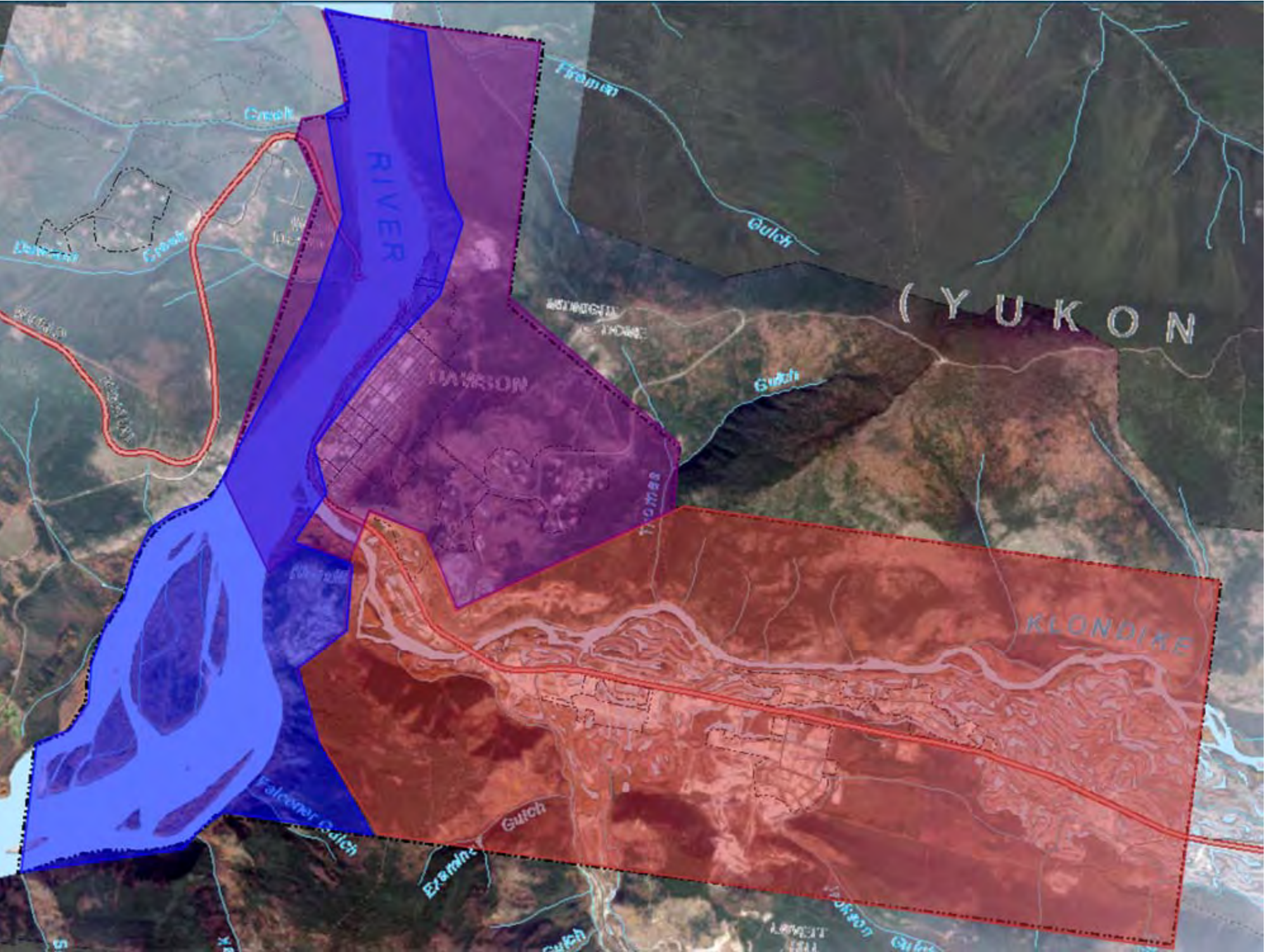
Schedule B titled ***“Zoning Map – Bowl, Valley and Confluence”***; and

Schedule C titled ***“Zoning Map – Historic Townsite”***.

5.2 Zone Boundaries

- .1 Where a zone boundary is shown on Schedule B, as following a highway or road right-of-way or watercourse, the centreline of the right-of-way or watercourse shall be the zone boundary.
- .2 Where the zone boundary does not follow a legally defined line, and where the distances are not specifically indicated, the location of the zoning boundary shall be determined by scaling from the zoning maps.

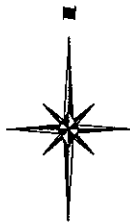
Schedule D: Valley, Bowl, and Confluence – Heritage Management Map



SCHEDULE 1
Historic Townsite Overlay
1997



OVERLAY AREA



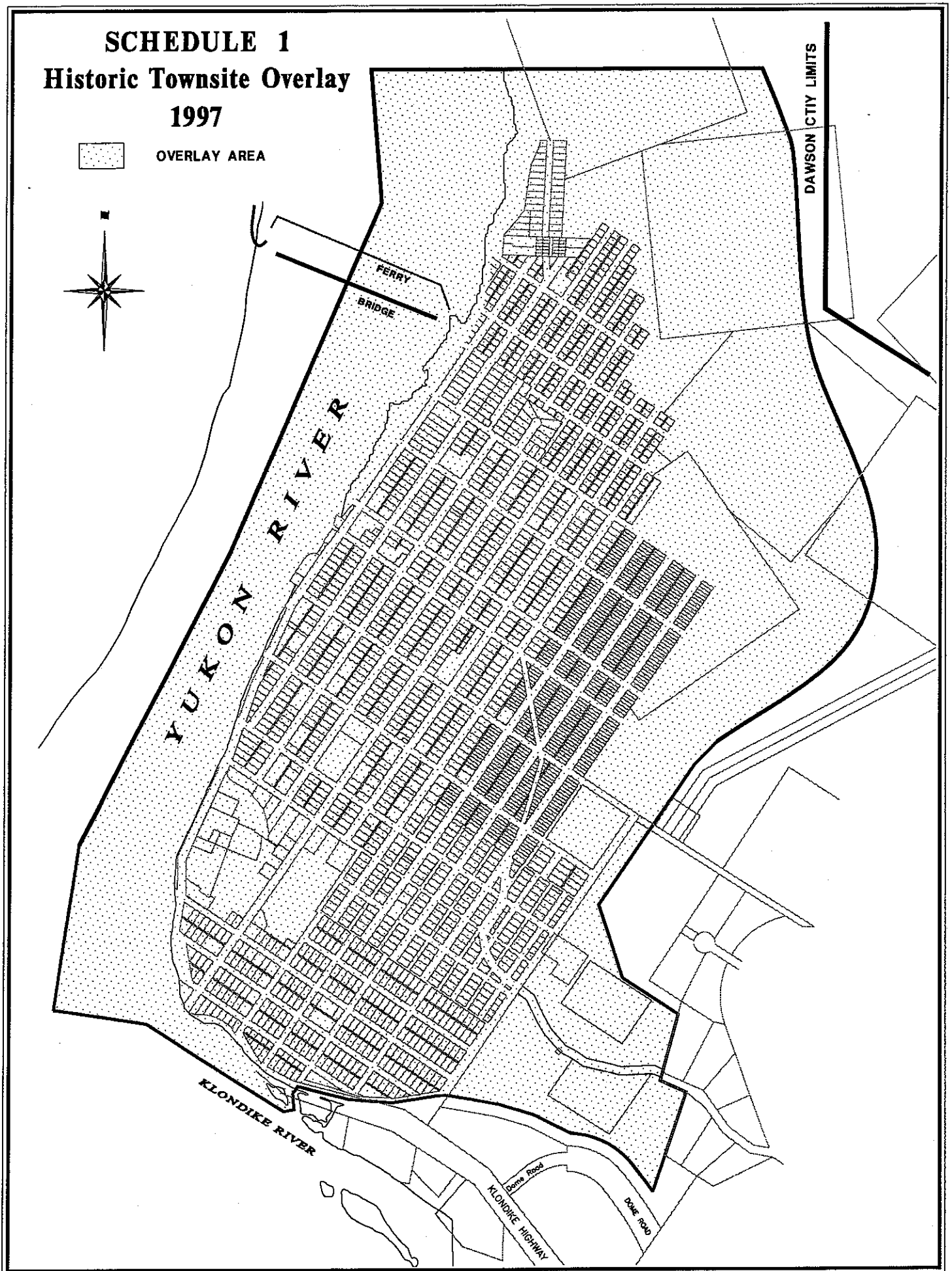
DAWSON CTY LIMITS

YUKON RIVER

FERRY
BRIDGE

KLONDIKE RIVER

Dome Road
KLONDIKE HIGHWAY
DOME ROAD



6.0 R1 ZONE (Single-Detached and Duplex Residential)

The purpose of the R1 zone is to permit single-detached and duplex dwellings.

6.1 Permitted Uses

The following use(s) and no others are permitted in the R1 zone:

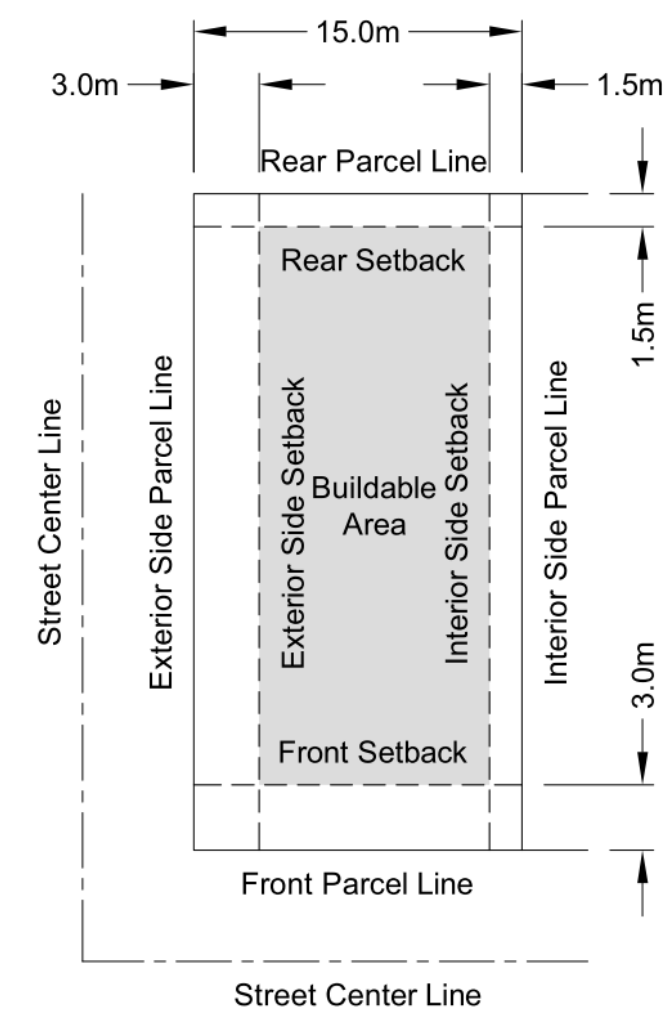
- .1 Accessory buildings and structures.
- .2 Bed and breakfasts.
- .3 Duplex dwellings.
- .4 Home occupations.
- .5 Secondary suites.
- .6 Single-detached dwellings.

6.2 Zone Specific Regulations

On a parcel located in an area zoned R1, no building or structure shall be constructed, located or altered, and no plan of subdivision approved which contravenes the regulations set out in the table below in which Column 1 sets out the matter to be regulated and Column 2 sets out the regulations.

COLUMN 1	COLUMN 2										
.1 Minimum parcel size	232.3 m ² (2,500 ft. ²)										
.2 Minimum parcel width	7.6 m (25 ft.)										
.3 Minimum setback of buildings from: • front parcel line • interior side parcel line ➤ for a dwelling ➤ for a non-dwelling accessory building • exterior side parcel line • rear parcel line	<table><tr><td>3.0 m</td><td>(10 ft.)</td></tr><tr><td>1.5m</td><td>(5 ft.)</td></tr><tr><td>0.6 m</td><td>(2 ft.)</td></tr><tr><td>3.0 m</td><td>(10 ft.)</td></tr><tr><td>1.5 m</td><td>(5 ft.)</td></tr></table>	3.0 m	(10 ft.)	1.5m	(5 ft.)	0.6 m	(2 ft.)	3.0 m	(10 ft.)	1.5 m	(5 ft.)
3.0 m	(10 ft.)										
1.5m	(5 ft.)										
0.6 m	(2 ft.)										
3.0 m	(10 ft.)										
1.5 m	(5 ft.)										
.4 Maximum parcel coverage	50%										
.5 Minimum floor area of dwelling unit	23.8 m ² (256 ft. ²)										
.6 Maximum height for: • Principal Building • Accessory Building	<table><tr><td>10.7 m</td><td>(35 ft.)</td></tr><tr><td>6.1 m</td><td>(20 ft.)</td></tr></table>	10.7 m	(35 ft.)	6.1 m	(20 ft.)						
10.7 m	(35 ft.)										
6.1 m	(20 ft.)										

FIGURE 6.0 – R1 ZONE MINIMUM PARCEL REQUIREMENTS



7.0 R2 ZONE (Multi-Unit Residential)

The purpose of the R2 zone is to permit multi-unit residential development in appropriate locations.

7.1 Permitted Uses

The following use(s) and no others are permitted in the R2 zone:

- .1 Accessory buildings and structures.
- .2 Apartments.
- .3 Home occupations.
- .4 Townhouses.

7.2 Zone Specific Regulations

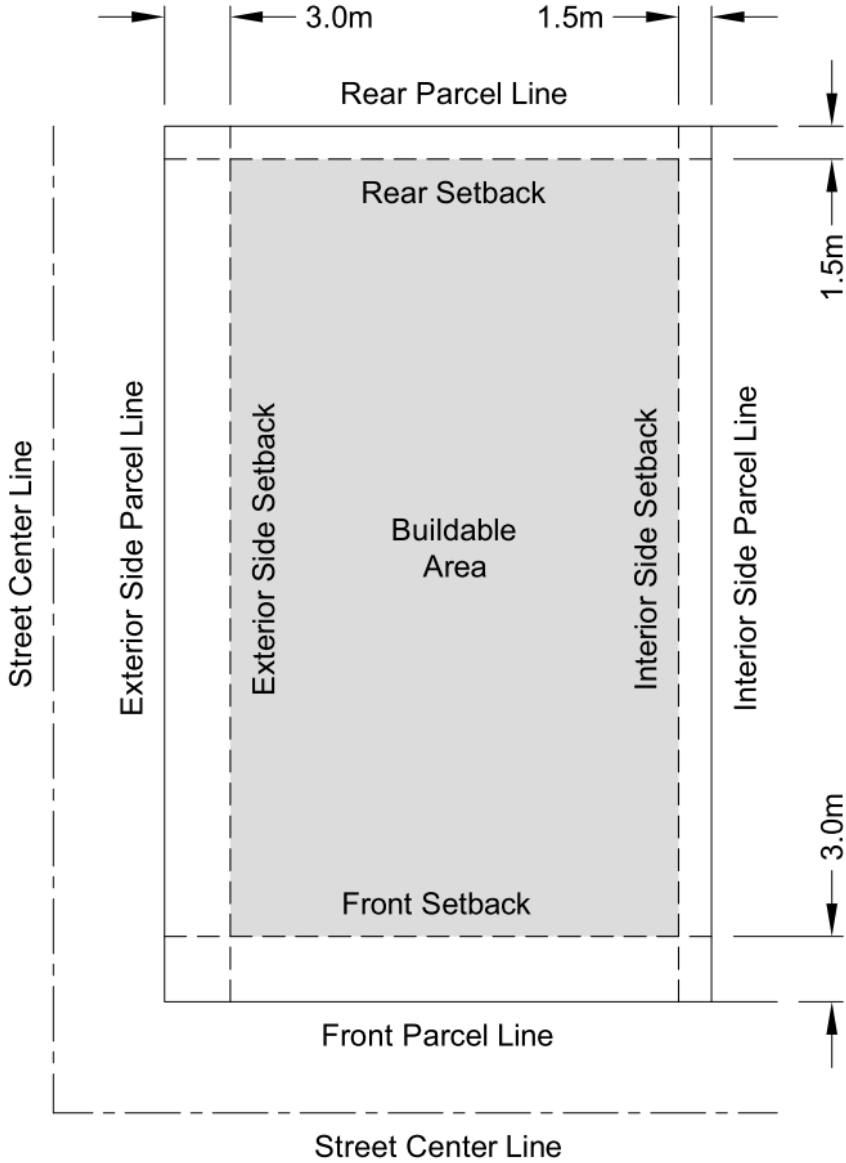
On a parcel located in an area zoned R2, no building or structure shall be constructed, located or altered, and no plan of subdivision approved which contravenes the regulations set out in the table below in which Column 1 sets out the matter to be regulated and Column 2 sets out the regulations.

COLUMN 1	COLUMN 2								
.1 Minimum Floor Area of Dwelling Unit	23.8 m ² (256 ft. ²)								
.2 Minimum parcel size	464.5 m ² (5,000 ft. ²)								
.3 Minimum parcel width	15.2 m (50 ft.)								
.4 Minimum setback of buildings from: • front parcel line • interior side parcel line • exterior side parcel line • rear parcel line	<table><tr><td>3.0 m</td><td>(10 ft.)</td></tr><tr><td>1.5 m</td><td>(5 ft.)</td></tr><tr><td>3.0 m</td><td>(10 ft.)</td></tr><tr><td>1.5 m</td><td>(5 ft.)</td></tr></table>	3.0 m	(10 ft.)	1.5 m	(5 ft.)	3.0 m	(10 ft.)	1.5 m	(5 ft.)
3.0 m	(10 ft.)								
1.5 m	(5 ft.)								
3.0 m	(10 ft.)								
1.5 m	(5 ft.)								
.5 Maximum height for: • Principal Building • Accessory Building	<table><tr><td>10.7 m</td><td>(35 ft.)</td></tr><tr><td>6.1 m</td><td>(20 ft.)</td></tr></table>	10.7 m	(35 ft.)	6.1 m	(20 ft.)				
10.7 m	(35 ft.)								
6.1 m	(20 ft.)								

7.3 Other Zone Specific Regulations

- .1 Each dwelling unit containing two or more bedrooms must be provided with not less than 37.2 m² (400 ft.²) of recreational space on-site either collectively or separately.

FIGURE 7.0 – R2 ZONE MINIMUM PARCEL REQUIREMENTS



8.0 R3 ZONE (Country Residential)

The purpose of the R3 zone is to permit low-density single-detached housing in a rural setting.

8.1 Permitted Uses

The following use(s) and no others are permitted in the R3 zone:

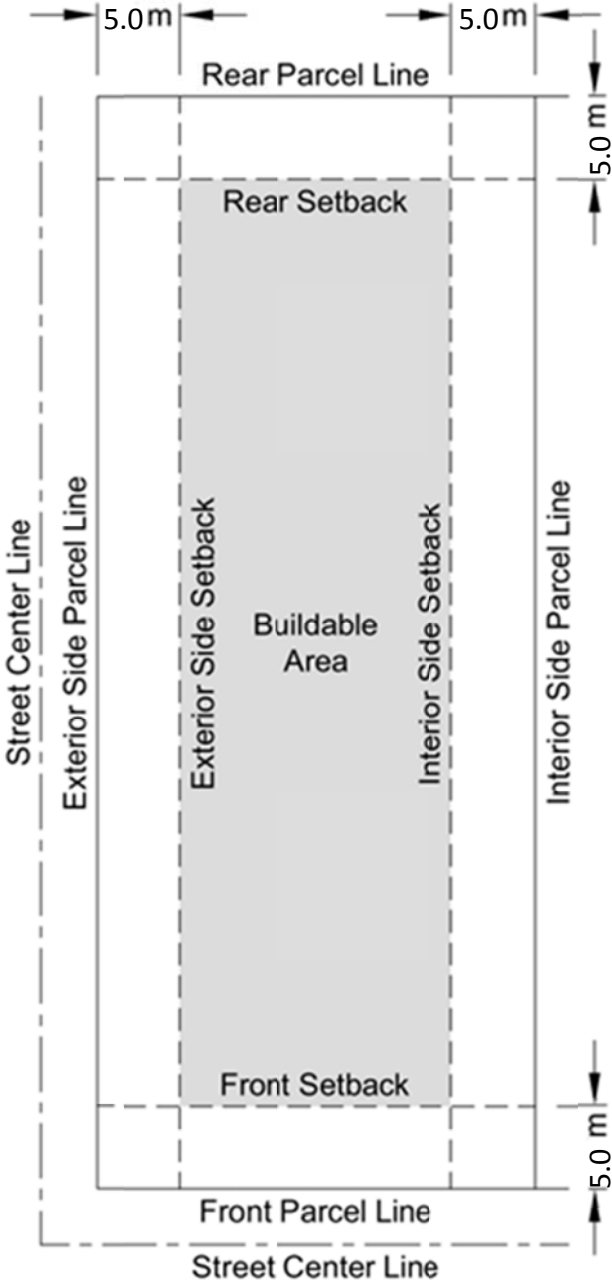
- .1 Accessory buildings and structures.
- .2 Bed and breakfasts.
- .3 Home industries.
- .4 Home occupations.
- .5 Secondary suites.
- .6 Single-detached dwellings.

8.2 Zone Specific Regulations

On a parcel located in an area zoned R3, no building or structure shall be constructed, located or altered, and no plan of subdivision approved which contravenes the regulations set out in the table below in which Column 1 sets out the matter to be regulated and Column 2 sets out the regulations.

COLUMN 1	COLUMN 2								
.1 Minimum parcel size	0.4 ha. (1 acre)								
.2 Maximum parcel size	1.6 ha. (4 acre)								
.3 Minimum setback of buildings from: • front parcel line • interior side parcel line • exterior side parcel line • rear parcel line	<table><tr><td>5.0 m</td><td>(16.4 ft.)</td></tr><tr><td>5.0 m</td><td>(16.4 ft.)</td></tr><tr><td>5.0 m</td><td>(16.4 ft.)</td></tr><tr><td>5.0 m</td><td>(16.4 ft.)</td></tr></table>	5.0 m	(16.4 ft.)	5.0 m	(16.4 ft.)	5.0 m	(16.4 ft.)	5.0 m	(16.4 ft.)
5.0 m	(16.4 ft.)								
5.0 m	(16.4 ft.)								
5.0 m	(16.4 ft.)								
5.0 m	(16.4 ft.)								
.4 Minimum floor area of dwelling	84 m ² (904 ft. ²)								
.5 Maximum height for: • Principal Building • Accessory Building	<table><tr><td>10.7 m</td><td>(35 ft.)</td></tr><tr><td>6.1 m</td><td>(20 ft.)</td></tr></table>	10.7 m	(35 ft.)	6.1 m	(20 ft.)				
10.7 m	(35 ft.)								
6.1 m	(20 ft.)								

FIGURE 8.0 – R3 ZONE MINIMUM PARCEL REQUIREMENTS



9.0 C1 ZONE (Core Commercial)

The purpose of the C1 zone is to permit and promote a vibrant commercial core with a mixture of commercial and residential uses.

9.1 Permitted Uses

The following use(s) and no others are permitted in the C1 zone:

- .1 Accessory buildings and structures.
- .2 Alcohol sales.
- .3 Amusement establishments.
- .4 Apartments.
- .5 Broadcasting and recording studios.
- .6 Child care services.
- .7 Commercial and residential mixed-use.
- .8 Commercial schools.
- .9 Contractor services
- .10 Convenience stores
- .11 Eating and drinking establishments.
- .12 Exhibition and convention facilities.
- .13 Flea markets.
- .14 Fleet services.
- .15 Gardens and greenhouses
- .16 Home Occupations
- .17 Hotels.
- .18 Household repair services.
- .19 Mobile catering food services.
- .20 Office support services.
- .21 Parking, non-accessory.
- .22 Personal service.
- .23 Professional offices.
- .24 Recreation facilities.
- .25 Retail stores.
- .26 Street vending.
- .27 Townhouses.
- .28 Veterinary services
- .29 Recycling Handling Centre

9.2 Zone Specific Regulations

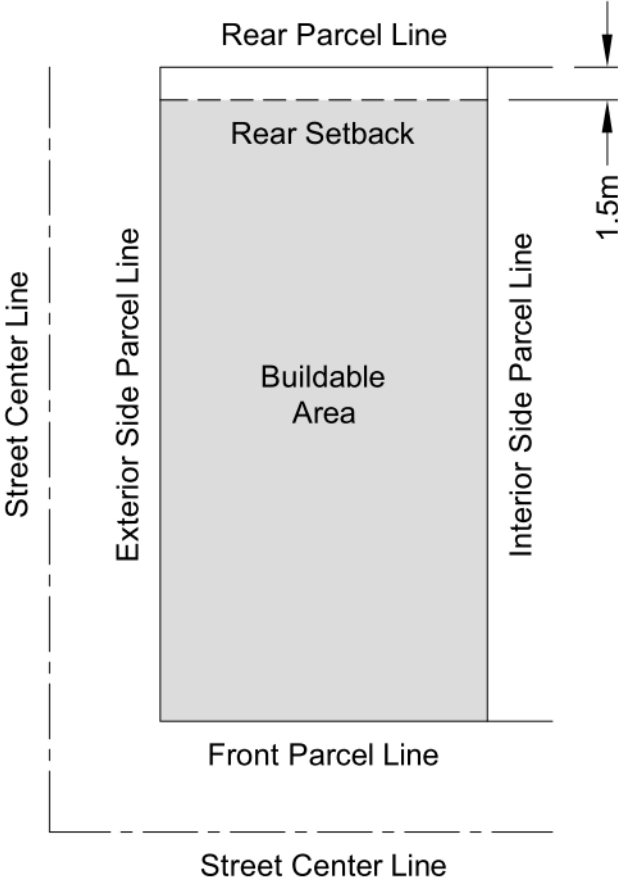
On a parcel located in an area zoned C1, no building or structure shall be constructed, located or altered, and no plan of subdivision approved which contravenes the regulations set out in the table below in which Column 1 sets out the matter to be regulated and Column 2 sets out the regulations.

COLUMN 1	COLUMN 2
.1 Minimum floor area of dwelling unit	23.8 m ² (256 ft ²)
.2 Minimum parcel size	464.5 m ² (5,000 ft ²)
.3 Minimum setback of buildings from: • front parcel line • interior side parcel line • exterior side parcel line • rear parcel line	0.0 m (0 ft.) 0.0 m (0 ft.) 0.0 m (0 ft.) 1.5 m (5 ft.)
.4 Maximum floor area ratio (FAR)	3.0
.5 Maximum building height	13.7 m (45 ft.)

9.3 Other Zone Specific Regulations

- .1 Off-street parking provisions shall be in accordance with the requirements of Schedule F (titled "Off-Street Parking and Loading Regulations") of this bylaw. except that:
 - i. Where the requirements for parking space cannot be met, the owner and the City may enter into an agreement to provide the required parking space in a communal or public parking lot; and/or
 - ii. Provide cash-in-lieu to the City in an amount as per the Fees and Charges Bylaw which will enable the City to provide an equivalent number of required off-street parking stalls in the core commercial district as a parking, non-accessory use.

FIGURE 9.0 – C1 ZONE MINIMUM PARCEL REQUIREMENTS



10.0 C2 ZONE (Service Commercial)

The purpose of the C2 zone is to permit a wide range of commercial uses that provide service to local industry and/or highway tourism and service needs.

10.1 Permitted Uses

The following use(s) and no others are permitted in the C2 zone:

- .1 Amusement establishments.
- .2 Auctioneering establishments.
- .3 Campgrounds.
- .4 Contractor services.
- .5 Convenience store.
- .6 Eating and drinking establishments.
- .7 Equipment rentals.
- .8 Fleet services.
- .9 Gardens and Greenhouses
- .10 Mobile home sales/rentals.
- .11 Motels.
- .12 Residential security units.
- .13 Service stations.
- .14 Vehicle and equipment sales, rental, service and storage.
- .15 Warehouse sales.
- .16 Temporary Worker Housing

10.2 Zone Specific Regulations

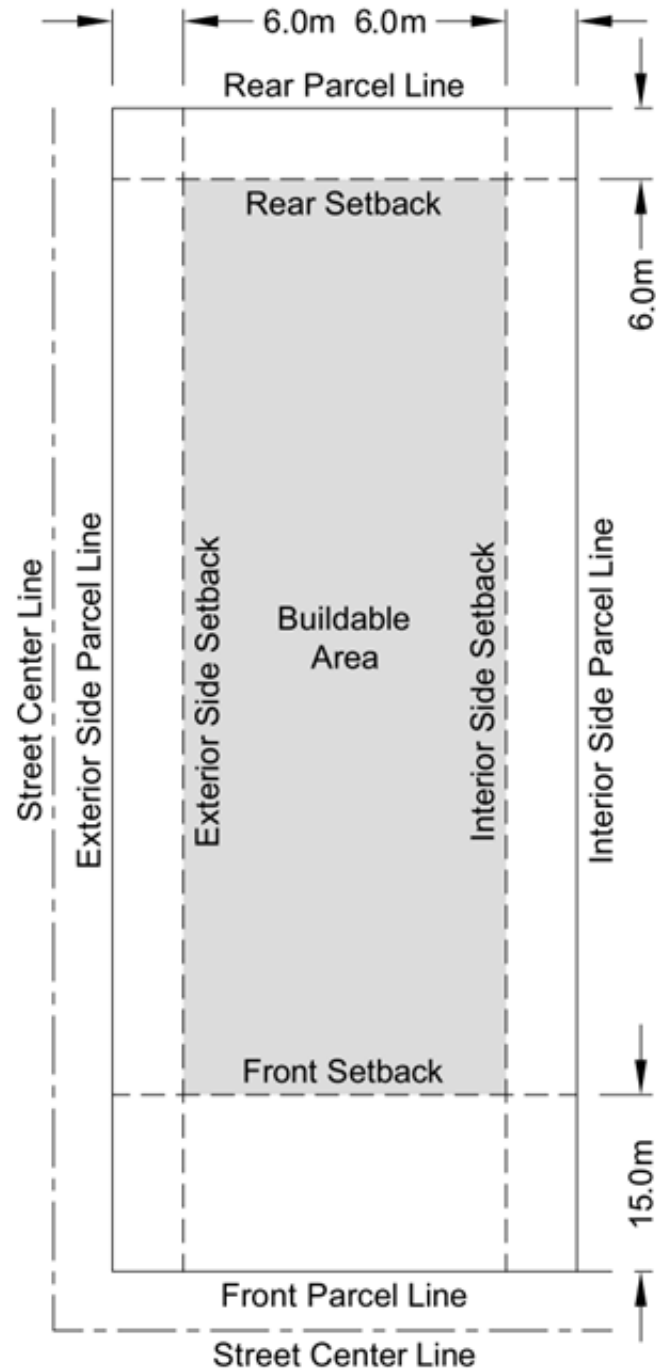
On a parcel located in an area zoned C2, no building or structure shall be constructed, located or altered, and no plan of subdivision approved which contravenes the regulations set out in the table below in which Column 1 sets out the matter to be regulated and Column 2 sets out the regulations.

COLUMN 1	COLUMN 2
.1 Maximum number of dwelling units	1 per parcel
.2 Minimum parcel size	0.4 ha (1 acre)
.3 Minimum setback of buildings from: • front parcel line • interior side parcel line • exterior side parcel line • rear parcel line	15.0 m (49.2 ft.) 6.0 m (19.7 ft.) 6.0 m (19.7 ft.) 6.0 m (19.7 ft.)
.4 Maximum parcel coverage	60%
.5 Maximum building height	10.7 m (35 ft.)

10.3 Other Zone Specific Regulations

- .1 Residential security units must:
 - i. be used solely by the owner, manager, or caretaker of the premises.
 - ii. not exceed a maximum size of 111.5 m² (1,200 ft.²); and
 - iii. be constructed and operational after the construction of the principal building.

FIGURE 10.0 – C2 ZONE MINIMUM PARCEL REQUIREMENTS



11.0 M1 ZONE (Industrial)

The purpose of the M1 zone is to permit industrial activities that provide industrial services, light manufacturing, warehousing, and storage.

11.1 Permitted Uses

The following use(s) and no others are permitted in the M1 zone:

- .1 Accessory buildings and structures.
- .2 Automobile and minor recreation vehicle sales/rentals.
- .3 Automotive and equipment repair shops.
- .4 Bulk fuel facilities, cleaning, servicing, repairing or testing of materials, goods and equipment normally associated with industrial or commercial businesses.
- .5 Contractor services.
- .6 Convenience vehicle rentals.
- .7 Fish farming and hatcheries.
- .8 Fleet services.
- .9 Gardens, Greenhouses and plant nurseries.
- .10 Junkyards.
- .11 Manufacturing or assembling of semi-finished or finished goods, products or equipment.
- .12 Natural resource development.
- .13 Office support services.
- .14 Processing of raw materials.
- .15 Recycling depots.
- .16 Residential security units.
- .17 Service stations.
- .18 Storage or transport of materials, goods and equipment.
- .19 Temporary storage.
- .20 Temporary worker housing.
- .21 Veterinary services.

11.2 Zone Specific Regulations

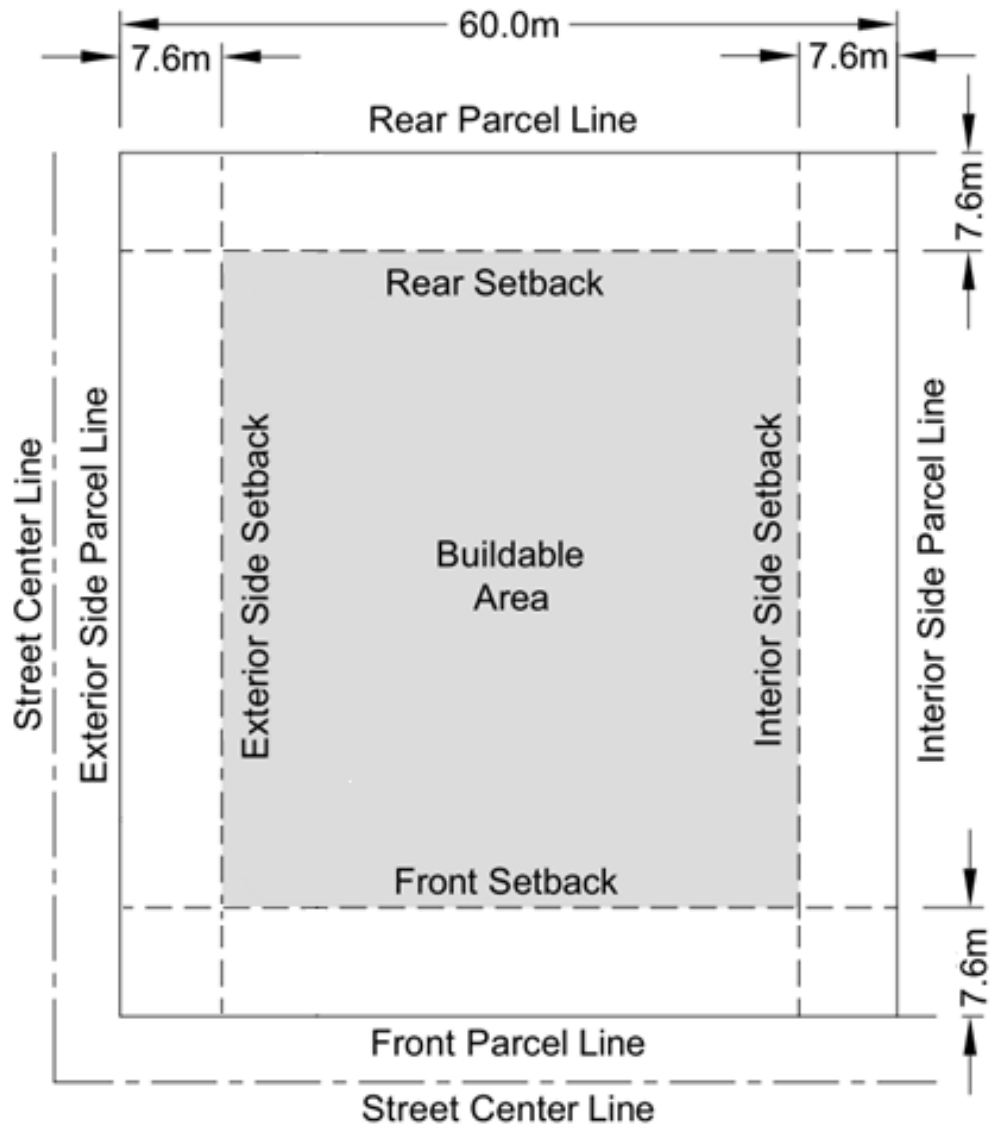
On a parcel located in an area zoned M1, no building or structure shall be constructed, located or altered, and no plan of subdivision approved which contravenes the regulations set out in the table below in which Column 1 sets out the matter to be regulated and Column 2 sets out the regulations.

COLUMN 1	COLUMN 2
.1 Minimum parcel size	0.4 ha (1 acre)
.2 Minimum setback of buildings from: • front parcel line • interior side parcel line • exterior side parcel line • rear parcel line	7.6 m (25 ft.) 7.6 m (25 ft.) 7.6 m (25 ft.) 7.6 m (25 ft.)
.3 Minimum setback of buildings from interior and rear parcel lines when they abut an R-zone:	15.2 m (50 ft.)
.4 Maximum building height	10.7 m (35 ft.)

11.3 Other Regulations

- .1 Residential security units must:
 - i. be used solely by the owner, manager, or caretaker of the premises.
 - ii. be maximum size of 111.5 m² (1,200 ft.²) is permitted; and
 - iii. be constructed and operational after the construction of the principal building.
- .2 Any indoor display, office, technical or administrative support areas or any retail sale operations must be accessory to the uses identified above. The floor area devoted to such accessory activities shall not exceed 33% of the total floor area of the building(s) devoted to the principal use.

FIGURE 11.0 – M1 ZONE MINIMUM PARCEL REQUIREMENTS



12.0 A1 ZONE (Agriculture)

The purpose of the A1 zone is to permit agriculture within the municipality.

12.1 Permitted Uses

The following use(s) and no others are permitted in the A1 zone:

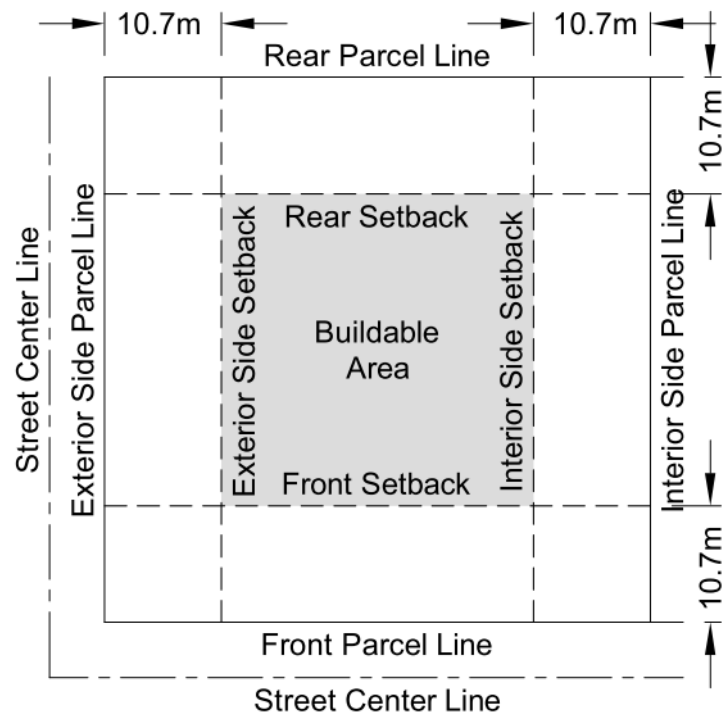
- .1 Accessory buildings and structures.
- .2 Agriculture.
- .3 Bed and breakfasts.
- .4 Home industries.
- .5 Home occupations.
- .6 Gardens and Greenhouses
- .7 Secondary suites.
- .8 Single-detached dwellings.

12.2 Zone Specific Regulations

On a parcel located in an area zoned A1, no building or structure shall be constructed, located or altered, and no plan of subdivision approved which contravenes the regulations set out in the table below in which Column 1 sets out the matter to be regulated and Column 2 sets out the regulations.

COLUMN 1	COLUMN 2
.1 Minimum setback of buildings from: • front parcel line • interior side parcel line • exterior side parcel line • rear parcel line	10.7 m (35 ft.) 10.7 m (35 ft.) 10.7 m (35 ft.) 10.7 m (35 ft.)
.2 Maximum building height	10.7 m (35 ft.)

FIGURE 12.0 – A1 ZONE MINIMUM PARCEL REQUIREMENTS



13.0 P1 ZONE (Parks and Natural Space)

The purpose of the P1 zone is to provide parks and natural areas for outdoor enjoyment.

13.1 Permitted Uses

The following use(s) and no others are permitted in the P1 zone:

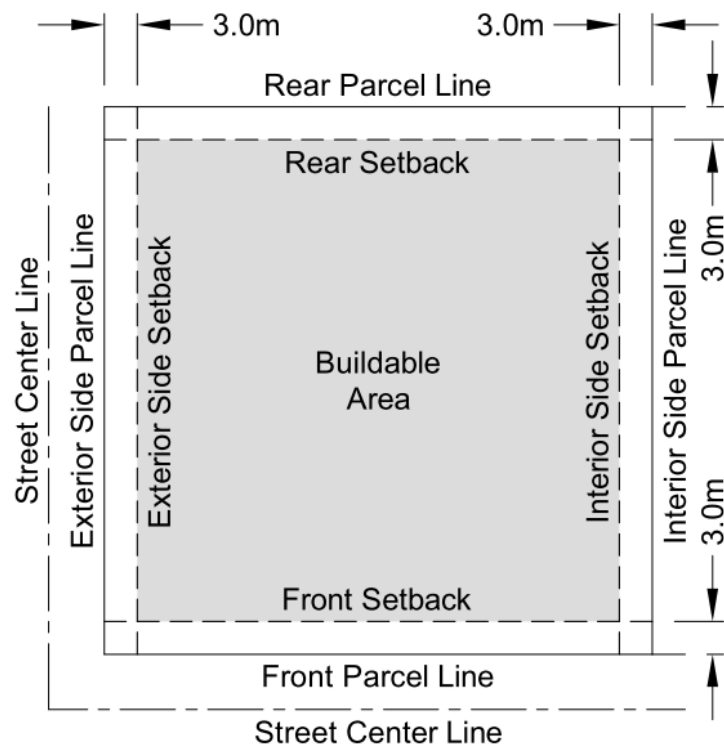
- .1 Accessory buildings and structures.
- .2 Environmental and natural conservation.
- .3 Gardens and greenhouses
- .4 Natural science exhibits and interpretive signage.
- .5 Outdoor recreation facilities.
- .6 Parking, non-accessory.
- .7 Public washrooms.
- .8 Scenic outdoor trails and bike paths.

13.2 Zone Specific Regulations

On a parcel located in an area zoned P1, no building or structure shall be constructed, located or altered, and no plan of subdivision approved which contravenes the regulations set out in the table below in which Column 1 sets out the matter to be regulated and Column 2 sets out the regulations.

COLUMN 1	COLUMN 2
.1 Minimum setback of buildings from: • front parcel line • interior side parcel line • exterior side parcel line • rear parcel line	3.0 m (10 ft.) 3.0 m (10 ft.) 3.0 m (10 ft.) 3.0 m (10 ft.)

FIGURE 13.0 – P1 ZONE MINIMUM PARCEL REQUIREMENTS



14.0 P2 ZONE (Institutional)

The purpose of the P2 zone is to provide for community facilities for use by the public, such as recreation and education facilities, government and health services, libraries and museums, etc.

14.1 Permitted Uses

The following use(s) and no others are permitted in the P2 zone:

- .1 Cemeteries
- .2 Education facilities
- .3 Funeral services
- .4 Recreation facilities
- .5 Libraries
- .6 Museums
- .7 Gardens and Greenhouses
- .8 Other community uses
- .9 Protective and emergency services
- .10 Religious assembly facilities

14.2 Zone Specific Regulations

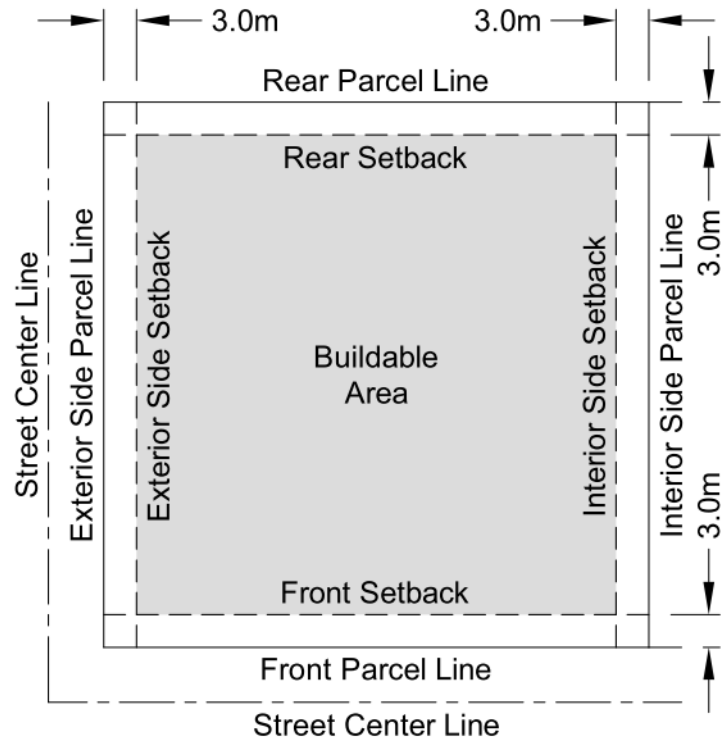
On a parcel located in an area zoned P2, no building or structure shall be constructed, located or altered, and no plan of subdivision approved which contravenes the regulations set out in the table below in which Column 1 sets out the matter to be regulated and Column 2 sets out the regulations.

COLUMN 1	COLUMN 2
.1 Minimum setback of buildings from: • front parcel line • interior side parcel line • exterior side parcel line • rear parcel line	3.0 m (10 ft.) 3.0 m (10 ft.) 3.0 m (10 ft.) 3.0 m (10 ft.)
.2 Maximum building height	10.7 m (35 ft.)

14.3 Other Regulations

- .1 The regulations contained in Section 9.2 of this bylaw (C1 zone specific regulations) apply to all P2 parcels that are located within the Historic Townsite as shown on Schedule D.

FIGURE 14.0 – P2 ZONE MINIMUM PARCEL REQUIREMENTS



SCHEDULE F

Off-Street Parking and Loading Requirements

1.0 Existing Building and Structures

The off-street parking requirements contained in this section shall not apply to buildings, structures or uses existing on the effective date of this bylaw, except that:

- .1 The off-street parking shall be provided and maintained in accordance with this section for any addition to such existing buildings or structure, or any change or addition to such use.
- .2 Off-street parking existing on the effective date of this bylaw shall not be reduced below the applicable off-street parking requirements of this section.

2.0 Required Number of Parking and Loading Spaces

- .1 The number of off-street parking spaces required for a class of building is calculated according to Table 1.0 in which Column I sets out the class of building and Column II sets out the number of required off-street parking spaces that are to be provided for each class of building in Column I.
- .2 The number of off-street loading spaces required for a class of building is calculated according to Table 2.0 of this schedule in which Column I sets out the class of building and Column II sets out the number of required off-street loading spaces that are to be provided for each class of building in Column I.
- .3 Where the calculation of the required off-street parking spaces or loading spaces results in a fraction, one parking or loading space shall be provided in respect of that fraction.
- .4 Where seating accommodation is the basis for a unit of measurement under this section and consists of benches, pews, booths or similar seating accommodation, each 1/2 m of width of such seating shall be deemed to be one seat.

3.0 Cash-in-lieu of on-site parking and loading

- .1 Except where cash-in-lieu is provided in accordance with the City of Dawson bylaws, the required off-street parking and loading spaces shall be located on the same parcel as the building they serve or on a separate lot within 150 m (492.1 ft.) of the building.
- .2 Council shall establish each year the value of one onsite parking stall and one onsite loading space. In establishing the value, Council shall take into considering the cost of providing it that shall include the cost of replacement land and improvements.

4.0 Dimensions and Access to Parking and Loading Spaces

- .1 Each off-street parking space required by this bylaw shall not be less than 2.7 m (9 ft.) wide or 5.8 m (19 ft.) long or have a vertical clearance less than 2.2 m (7.2 ft.).
- .2 Loading and unloading spaces shall be of adequate size and with adequate access, both to the satisfaction of the Development Officer, to accommodate the types of vehicles that will be loading and unloading, without those vehicles projecting into a public roadway. In no case shall the space be less than 28 m² (301.4 ft.²), or less than 2.6 m (8.4 ft.) wide, or have less than 3.7m (12 ft.) overhead clearance.
- .3 Where a parcel is adjacent to a rear lane, access to the internal aisle providing access to the parking or loading spaces shall be via the rear lane.
- .4 Where a bus stall is provided it shall be clearly marked "Tour Buses" and that parking stall shall be not less than 3.3 m (10.8 ft.) wide or 14.3 m (47 ft.) long or have a clearance of less than 3.3 m (10.8 ft.).

TABLE 1.0 REQUIRED OFF-STREET PARKING SPACES

USE	REQUIRED PARKING SPACES
<u>Residential</u>	
Single-detached and duplex dwelling	1 per dwelling unit
Townhouses and apartments	1 per dwelling unit
Senior citizens housing	1 per 4 dwelling units
Bed and breakfasts	1 per 2 bedrooms available for rent (in addition to the space required for the residential use)
<u>Institutional</u>	
Hospital	1 per 100 m ² of floor area
School	1 per classroom
Place of public assembly including arena, assembly halls, auditorium, club, lodge and fraternal building, community centre, convention hall, funeral parlour and undertaking establishment gymnasium, meeting hall, theatre and similar use	1 per 8 seats
Recreational use including curling rink	1 per 3.5 seats
Museum and public library	1 per 50 m ² of floor area

<u>Commercial Uses</u>	
Bank, business administrative or professional office	1 per 100 m ² of floor area
Medical or dental office or clinic	1 per 100 m ² of floor area
Retail store, personal service establishment, shopping centre, department store, and supermarket	1.5 per 100 m ² of floor area
Furniture and appliance sales, automobile and boat sales	1 per 150 m ² of floor area
Restaurant or eating establishment, lunch counter, diner, beer parlour, cocktail lounge, bar or other similar establishment for the sale and consumption of food or beverages on the premises	1 per 8 seats
Hotel/Hostel	1 per every 4 guestrooms with bus stall
	1 per every 2 guestrooms without bus stall
Motel	1 per guestroom
Billiard and pool hall	1 per playing table
Bowling alley	2 per alley
Laundromat	1 per 4 washing machines
Campground	1 per camping site plus 1 space for the operator
<u>Industrial Uses</u>	
Contractor or public works yard	1 per 150 m ² of floor area
Machinery sales and repair	1 per 150 m ² of floor area
Warehousing, storage	1 per 150 m ² of floor area
Tire repair	1 per 150 m ² of floor area plus 1 per service bay
Manufacturing and industrial	1 per 150 m ² of floor area

TABLE 2.0 REQUIRED OFF-STREET LOADING SPACES

CLASS OF BUILDING	REQUIRED LOADING SPACES
Retail store, manufacturing, fabricating, processing, warehousing and wholesaling establishment:	
i) Less than 2,000 m ² in floor area	1
ii) 2,000 to 4,000 m ² in floor area	2
iii) Greater than 4,000 m ² in floor area	3

APPENDIX A

"Heritage Management"

DHM - Downtown Heritage Management Area

(1) Purpose

To apply certain development and redevelopment criteria as specified in the Heritage Management Guidelines to those uses specified in the underlying district(s) of the Downtown Heritage Management Area in order to maintain the architectural style, streetscapes and landscape features common during the 1897-1918 Gold Rush era, as well as the extant valued resources of later periods.

(2) Application

- a) This Area applies to those lands defined in the Official Community Plan and in the maps appended to this bylaw that form a part of this bylaw.
- b) Where the provisions of the Management Area schedule are in conflict with the regulations of any other section of the Zoning and Heritage Management Bylaw, the more restrictive provisions shall take precedence. Where there is no conflict, the provisions of the Heritage Management Area shall be applied in conjunction with the regulations of the Underlying District(s) and other sections of the Zoning and Heritage Management Bylaw.
- c) Notwithstanding (2) b), for heritage conservation purposes, Council may exercise discretion in approving development permits where the development projects into a rear or side yard required by the underlying Zoning District by more than 10% of the required rear or side yard, or exceeds the maximum height, density or floor area ratio required by the underlying Zoning District, provided that there will be no detrimental impact on adjacent properties or the neighbourhood.
- d) Notwithstanding (2) b), for heritage conservation purposes, the Development Officer may exercise discretion in approving the projection of a development into a rear or side yard required by the underlying Zoning District, provided such projections do not exceed 10% of the required rear or side yard and that there will be no detrimental impact on adjacent properties or the neighbourhood.
- e) Notwithstanding (2) b), Council may also, at its sole discretion, as a heritage conservation incentive, approve an application for the subdivision of any land into lots that do not meet the minimum site area requirements prescribed for the underlying Zoning District when that subdivision is in keeping with the heritage integrity of the community and the development proposed for those lots meets the heritage management policies and guidelines of the Official Community Plan and the Zoning Bylaw, provided that there will be no detrimental impact on adjacent properties or the neighbourhood.

- f) The Development Officer shall apply the regulations of this Management Area to a Development Permit application involving new development or any existing development that, in the opinion of the Development Officer, is being substantially enlarged or increased in intensity.
- g) Notwithstanding that a development does not conform to this Management Area, where a Development Permit was issued prior to the adoption of this Management Area, such development shall be deemed to conform to the regulations contained within this Area. However, in the case of any subsequent changes including the extension or enlargement of or addition to the development, the provisions of this Area shall only apply to that particular extension, enlargement or addition and to that portion of the site which, in the opinion of the Development Officer, is related to and affected by the particular extension, enlargement or addition.
- h) This Area shall also apply to all public highways, roads, streets and lanes where streetscape features are involved, such as boardwalks, railings, street furniture, decorations, banners and utilities.

(3) Uses

The permitted uses are those specified in the underlying District(s).

(4) Regulations

All Use Classes

- a) Any structure being constructed on-site, assembled on-site, or moved on to the site must be done so in conformity with the regulations of the Heritage Management Area and must have been issued a Development Permit and which is valid at the time work is taking place.
- b) All applications must include drawings of all elevations.
- c) Any or all of the following must be provided at the discretion of the Development Officer:
 - Date, and style of built form.
 - Siting. Annotate drawings and/or photographs to describe the relationship between the proposed development and the context in terms of the following criteria:
 - Predominant setbacks, front, side and rear
 - Orientation

- Location, dimensions of circulation/access features
- Statement as to how views to and from the development will be retained
- Statement as to how significant archaeological features will be retained
- Scale. Annotate drawings, photographs to describe the relationship between the proposed development and the context in terms of the following criteria:
 - Scale of buildings
 - Lot coverage - pattern of arrangement of buildings and size of buildings
 - Floor to floor heights and relationship to the street
- Form. Annotate drawings, photographs to describe the relationship between the proposed development and the context in terms of the following design criteria:
 - Predominant form of neighbours
 - Roof form and skyline, ridge lines, roof slopes, chimneys, skylights
 - Proportions and number of openings
 - Solids-to-voids ratio
 - Relationship to internal and external spaces
- Materials and colours. Drawings or photographs to describe the relationship between the proposed development and the context in terms of the following design criteria:
 - Response to predominant materials, textures, and colour palate - contrasting
 - Quality of new materials
- Detailing. Annotate drawings, photographs to describe the relationship between the proposed development and the context in terms of the following design criteria:
 - Relationship of landscape elements to important existing details

- Unobtrusive design of new elements, such as solar panels, skylights, service buildings

d) Heritage Management Guidelines

(1) Treatment of existing buildings:

Post-Gold Rush buildings will not be altered to look like Gold Rush buildings. Their integrity will be maintained and respected to illustrate and interpret the full history of Dawson.

An appropriate balance between property maintenance and relic character will be maintained.

Historic buildings may be moved if there is a compelling reason to do so and if moving would conform to all zoning regulations.

Design Guidelines:

a) Gold Rush Era Building (1897-1918)

- Changes to existing structures will follow latest versions of '*Standards and Guidelines for Conservation of Historic Places in Canada*' **AND** '*Design Guidelines for Historic Dawson*'.
- New additions to existing structures will follow latest version of '*Design Guidelines for Conservation and Infill - Additions to Existing Historic Buildings*'.

b) Post Gold-Rush Era Building (1918-present)

- Changes to existing structures will follow latest versions of '*Standards and Guidelines for Conservation of Historic Places in Canada*' **AND** '*Design Guidelines for Conservation and Infill - Guidelines for Interventions to Buildings Erected After the Gold Rush Era*'.
- New additions to existing structures will follow latest version of '*Design Guidelines for Conservation and Infill - Additions to Existing Historic Buildings*'.

(2) Treatment of new construction:

- a) Buildings will replicate (reconstruct) the external design of the building that existed on that particular site during the Gold Rush era (ca. 1897-1918), when there is sound historic evidence as to the appearance of the former building.
- b) Replication refers only to massing and exterior design of the former building as seen from the street. The footprint and the appearance may be altered towards the rear of the site. Adjacent buildings in common ownership that are detached at the front may be connected at the rear to provide larger spaces and better interior circulation than detached buildings allow.

- c) Parks Canada streetscape elevations (1974), historic photographs of Dawson buildings, and other reference material will be used as the guides to indicate the appearance of the former buildings.
- d) Exception will be made when the height and/or massing of the former building is either too large or too small to accommodate the building program proposed or when there is insufficient evidence as to the appearance of the former building to enable a good replication. The owner and the City will work together to select another building that formerly stood in the vicinity, and that was the appropriate scale, as an alternative model for replication. The replication will not duplicate an existing building.
- e) New landscape features will follow the design guidelines and are subject to review in the development permit process.

Downtown Transitional Character Area. In exceptional circumstances consideration will be given to the construction of buildings that are larger than those that existed in the Gold Rush period. This will be permitted when the proposed building program is of a scale that is larger than historical precedent.

Downtown Character Area. Corner lots at intersections are particularly important to heritage character. The owners of vacant corner properties will be encouraged to build on them, with replications of the buildings that existed on that site during the Gold Rush.

Government Reserve Character Area. Landscape features, historic and new, are particularly highly valued and will follow heritage design guidelines.

Design Guidelines:

- a) Reconstruction (mandatory) will follow latest versions of '*Standards and Guidelines for Conservation of Historic Places in Canada*' **AND** '*Design Guidelines for Historic Dawson*' **AND** '*Design Guidelines for Conservation and Infill - Guidelines for Reconstructions*'.
- b) Downtown Transitional Area exceptions for infill will follow latest version of '*Design Guidelines for Architectural Conservation and Infill - Guidelines for the Downtown Transitional Area*'.

KRHM - Residential Heritage Management Area

(1) Purpose

To apply certain development and redevelopment criteria as specified in the Heritage Management Guidelines to those uses specified in the underlying District(s) of the Downtown Heritage Management Area in order to maintain the architectural style streetscapes and landscape features common during the 1897-1918 Gold Rush era, as well as the extant valued resources of later periods and the 'Dawson Style' described in the 'Dawson City Design Guidelines for Architectural Conservation and Infill'.

(2) Application

- a) This Area applies to those lands defined in the Official Community Plan and in the maps appended to this bylaw that form a part of this bylaw.
- b) Where the provisions of the Management Area schedule are in conflict with the regulations of any other section of the Zoning and Heritage Management Bylaw, the more restrictive provisions shall take precedence. Where there is no conflict, the provisions of the Heritage Management Area shall be applied in conjunction with the regulations of the Underlying District(s) and other sections of the Zoning and Heritage Management Bylaw.
- c) Notwithstanding (2) b), for heritage conservation purposes, Council may exercise discretion in approving development permits where the development projects into a rear or side yard required by the underlying Zoning District by more than 10% of the required rear or side yard, or exceeds the maximum height, density or floor area ratio required by the underlying Zoning District, provided that there will be no detrimental impact on adjacent properties or the neighbourhood.
- d) Notwithstanding (2) b), for heritage conservation purposes, the Development Officer may exercise discretion in approving the projection of a development into a rear or side yard required by the underlying Zoning District, provided such projections do not exceed 10% of the required rear or side yard and that there will be no detrimental impact on adjacent properties or the neighbourhood.
- e) Notwithstanding (2) b) Council may also, at its sole discretion, as a heritage conservation incentive, approve an application for the subdivision of any land into lots that do not meet the minimum site area requirements prescribed for the underlying Zoning District when that subdivision is in keeping with the heritage integrity of the community and the development proposed for those lots meets the heritage management policies and guidelines of the Official Community Plan and the Zoning Bylaw, provided that there will be no detrimental impact on adjacent properties or the neighbourhood.

- f) The Development Officer shall apply the regulations of this Management Area to a Development Permit application involving new development, or any existing development, that, in the opinion of the Development Officer, is being substantially enlarged or increased in intensity.
- g) Notwithstanding that a development does not conform to this Management Area, where a Development Permit was issued prior to the adoption of this Management Area, such development shall be deemed to conform to the regulations contained within this Area. However, in the case of any subsequent changes including the extension or enlargement of or addition to the development, the provisions of this Area shall only apply to that particular extension, enlargement or addition and to that portion of the site which, in the opinion of the Development Officer, is related to and affected by the particular extension, enlargement or addition.
- h) This Area shall also apply to all public highways, roads, streets and lanes where streetscape features are involved, such as boardwalks, railings, street furniture, decorations, banners and utilities.

(3) Uses

The permitted uses are those specified in the underlying District(s).

(4) Regulations

All Use Classes

- a) Any structure being constructed on-site, assembled on-site, or moved on to the site must be done so in conformity with the regulations of the Heritage Management Area and must have been issued a Development Permit and which is valid at the time work is taking place.
- b) All applications must include drawings of all elevations.
- c) Any or all of the following must be provided at the discretion of the Development Officer:
 - Date, and style of built form.
 - Siting. Annotate drawings and/or photographs to describe the relationship between the proposed development and the context in terms of the following criteria:
 - Predominant setbacks, front, side and rear
 - Orientation

- Location, dimensions of circulation/access features
- Statement as to how views to and from the development will be retained
- Statement as to how significant archaeological features will be retained
- Scale. Annotate drawings, photographs to describe the relationship between the proposed development and the context in terms of the following criteria:
 - Scale of buildings
 - Lot coverage - pattern of arrangement of buildings and size of buildings
 - Floor to floor heights and relationship to the street
- Form. Annotate drawings, photographs to describe the relationship between the proposed development and the context in terms of the following design criteria:
 - Predominant form of neighbours
 - Roof form and skyline, ridge lines, roof slopes, chimneys, skylights
 - Proportions and number of openings
 - Solids-to-voids ratio
 - Relationship to internal and external spaces
- Materials and colours. Drawings or photographs to describe the relationship between the proposed development and the context in terms of the following design criteria:
 - Response to pre-dominant materials, textures, and colour palate - contrasting
 - Quality of new materials
- Detailing. Annotate drawings, photographs to describe the relationship between the proposed development and the context in terms of the following design criteria:
 - Relationship of landscape elements to important existing details
 - Unobtrusive design of new elements, such as solar panels, skylights, service buildings

d) Heritage Management Guidelines

(1) Treatment of existing buildings:

- Post-Gold Rush buildings will not be altered to look like Gold Rush buildings. Their integrity will be maintained and respected to illustrate and interpret the full history of Dawson.
- An appropriate balance between property maintenance and relic character will be maintained.
- Historic buildings may be moved if there is a compelling reason to do so and if moving would conform to all zoning regulations.

Design Guidelines:

a) Gold Rush Era Building (1897-1918)

- Changes to existing structures will follow latest versions of '*Standards and Guidelines for Conservation of Historic Places in Canada*' **AND** '*Design Guidelines for Historic Dawson*'.
- New additions to existing structures will follow latest version of '*Design Guidelines for Conservation and Infill - Additions to Existing Historic Buildings*'.

b) Post Gold-Rush Era Building (1918-present)

- Changes to existing structures will follow latest versions of '*Standards and Guidelines for Conservation of Historic Places in Canada*' **AND** '*Design Guidelines for Conservation and Infill - Guidelines for Interventions to Buildings Erected After the Gold Rush Era*'.
- New additions to existing structures will follow latest version of '*Design Guidelines for Conservation and Infill - Additions to Existing Historic Buildings*'.

(2) Treatment of new construction:

Three optional approaches will be allowed:

1. Buildings may replicate (reconstruct) the external design of the building that existed on that particular site during the Gold Rush era (ca. 1897-1918), when there is sound historic evidence as to the appearance of the former building.
2. Buildings may replicate another historic residence in the vicinity.
Replication refers only to massing and exterior design of the former building as seen from the street. The footprint and the appearance may be altered towards the rear of the site. Adjacent buildings in common ownership that are detached at the front may

be connected at the rear to provide larger spaces and better interior circulation than detached buildings allow.

Parks Canada streetscape elevations (1974), historic photographs of Dawson buildings, and other reference material will be used as the guides to indicate the appearance of the former buildings.

3. New design in the *Dawson Style*. This option is recommended.

New landscape features will follow the design guidelines and are subject to review in the Development Permit process.

Design Guidelines:

- a) Reconstruction (optional) will follow latest versions of '*Standards and Guidelines for Conservation of Historic Places in Canada* **AND** '*Design Guidelines for Historic Dawson*'.
- b) Infill will follow latest version of '*Design Guidelines for Architectural Conservation and Infill - Guidelines for Infill: the Dawson Style*'.

VCBHM - Valley, Confluence and Bowl Heritage Management Area

(1) Purpose

To apply certain development and redevelopment criteria as specified in the Heritage Management Guidelines in order to maintain the heritage character of those portions of the Klondike Valley Cultural Landscape which lie within the jurisdiction of the City of Dawson. The purpose of the Valley, Confluence and Bowl Heritage Management Area includes the maintenance of architectural style, streetscapes and landscape features common to the entire range of history of the Dawson City region, with special emphasis on the 1897-1918 Gold Rush era; in addition to natural landscape features valued by the various constituents of the Dawson community, as well as landscape features, buildings and structures that relate to gold extraction, including selected dredge tailings.

(2) Application

- a) This Area applies to those lands defined in the Official Community Plan and in the maps appended to this bylaw that form a part of this bylaw.
- b) Where the provisions of the Management Area schedule are in conflict with the regulations of any other section of the Zoning and Heritage Management Bylaw, the more restrictive provisions shall take precedence. Where there is no conflict, the provisions of the Heritage

Management Area shall be applied in conjunction with the regulations of the Underlying District(s) and other sections of the Zoning and Heritage Management Bylaw.

- c) Notwithstanding (2) b), for heritage conservation purposes, Council may exercise discretion in approving development permits where the development projects into a rear or side yard required by the underlying Zoning District by more than 10% of the required rear or side yard, or exceeds the maximum height, density or floor area ratio required by the underlying Zoning District, provided that there will be no detrimental impact on adjacent properties or the neighbourhood.
- d) Notwithstanding (2) b), for heritage conservation purposes, the Development Officer may exercise discretion in approving the projection of a development into a rear or side yard required by the underlying Zoning District, provided such projections do not exceed 10% of the required rear or side yard and that there will be no detrimental impact on adjacent properties or the neighbourhood.
- e) Notwithstanding (2) b), Council may also, at its sole discretion, as a heritage conservation incentive, approve an application for the subdivision of any land into lots that do not meet the minimum site area requirements prescribed for the underlying Zoning District when that subdivision is in keeping with the heritage integrity of the community and the development proposed for those lots meets the heritage management policies and guidelines of the Official Community Plan and the Zoning Bylaw, provided that there will be no detrimental impact on adjacent properties or the neighbourhood.
- e) The Development Officer shall apply the regulations of this Management Area to a Development Permit application involving new development or any existing development that, in the opinion of the Development Officer, is being substantially enlarged or increased in intensity.
- f) Notwithstanding that a development does not conform to this Management Area, where a Development Permit was issued prior to the adoption of this Management Area, such development shall be deemed to conform to the regulations contained within this Area. However, in the case of any subsequent changes including the extension or enlargement of or addition to the development, the provisions of this Area shall only apply to that particular extension, enlargement or addition and to that portion of the site which, in the opinion of the Development Officer, is related to and affected by the particular extension, enlargement or addition.
- g) This Area shall also apply to all public highways, roads, streets and lanes where streetscape features are involved, such as boardwalks, railings, street furniture, decorations, banners and utilities.

(3) Uses

The permitted uses are those specified in the underlying District(s).

(4) Regulations

All Use Classes

- a) Any structure being constructed on-site, assembled on-site, or moved on to the site must be done so in conformity with the regulations of the Heritage Management Area and must have been issued a Development Permit and which is valid at the time work is taking place.
- b) All applications must include drawings of all elevations.
- c) Any or all of the following must be provided at the discretion of the Development Officer:
 - Date, and style of built form.
 - Siting. Annotate drawings and/or photographs to describe the relationship between the proposed development and the context in terms of the following criteria:
 - Predominant setbacks, front, side and rear
 - Orientation
 - Location, dimensions of circulation/access features
 - Statement as to how views to and from the development will be retained
 - Statement as to how significant archaeological features will be retained
 - Scale. Annotate drawings, photographs to describe the relationship between the proposed development and the context in terms of the following criteria:
 - Scale of buildings
 - Lot coverage - pattern of arrangement of buildings and size of buildings
 - Floor to floor heights and relationship to the street

- Form. Annotate drawings, photographs to describe the relationship between the proposed development and the context in terms of the following design criteria:
 - Predominant form of neighbours
 - Roof form and skyline, ridge lines, roof slopes, chimneys, skylights
 - Proportions and number of openings
 - Solids-to-voids ratio
 - Relationship to internal and external spaces
- Materials and colours. Drawings or photographs to describe the relationship between the proposed development and the context in terms of the following design criteria:
 - Response to pre-dominant materials, textures, and colour palate - contrasting
 - Quality of new materials
- Detailing. Annotate drawings, photographs to describe the relationship between the proposed development and the context in terms of the following design criteria:
 - Relationship of landscape elements to important existing details
 - Unobtrusive design of new elements, such as solar panels, skylights, service buildings

d) Heritage Management Guidelines

(1) Treatment of existing buildings:

Post-Gold Rush buildings will not be altered to look like Gold Rush buildings. Their integrity will be maintained and respected to illustrate and interpret the full history of Dawson.

An appropriate balance between property maintenance and relic character will be maintained.

Historic buildings may be moved if there is a compelling reason to do so and if moving would conform to all zoning regulations.

Design Guidelines:

- a) Gold Rush Era Building (1897-1918)
 - Changes to existing structures will follow latest versions of '*Standards and Guidelines for Conservation of Historic Places in Canada*' **AND** '*Design Guidelines for Historic Dawson*'.
 - New additions to existing structures will follow latest version of '*Design Guidelines for Conservation and Infill - Additions to Existing Historic Buildings*'.
- b) Post Gold-Rush Era Building (1918-present)
 - Changes to existing structures will follow latest versions of '*Standards and Guidelines for Conservation of Historic Places in Canada*' **AND** '*Design Guidelines for Conservation and Infill - Guidelines for Interventions to Buildings Erected After the Gold Rush Era*'.
 - New additions to existing structures will follow latest version of '*Design Guidelines for Conservation and Infill - Additions to Existing Historic Buildings*'.

(2) Treatment of new construction:

New development will represent good new architectural design and planning, and not reflect the Gold Rush style. The *Dawson Style* is an acceptable alternative.

Development permits will be assessed, in part, on the basis of minimizing impact on the landscape rather than displaying historic character.

Design Guidelines:

- a) Will optionally follow latest version of '*Design Guidelines for Architectural Conservation and Infill - Guidelines for Infill: the Dawson Style*'.

APPENDIX B

Existing “Development Procedures” Sections of the City of Dawson Zoning Bylaw No. 09-03

Section 1 - Development Permit Required

Except as otherwise provided in Section 3 of this bylaw, no person shall commence or cause or allow to be commenced any development or change of existing use or its intensity of use unless a development permit has been issued pursuant to the provisions of this Bylaw.

Section 2 - Development Permit Not Required

No development permit is required for the developments listed below, provided that such development conforms to all other provisions of this bylaw:

- (1) Regular maintenance and repair of any development, provided it does not include structural alterations or does not change the use or intensity of use of the land, building or structure; and in the Heritage Management Areas any repair to a building or structure that meets the Design Guidelines.
- (2) Landscaping where the existing grade and surface drainage pattern is not materially altered, except where landscaping is required as part of a development permit;
- (3) Minor utilities as determined by a Development Officer;
- (4) The use of a building or part thereof as a temporary polling station, returning officer's headquarters, candidate's campaign office and any other official temporary use in connection with a federal, territorial or municipal election, referendum or census;
- (5) a fence, wall or gate not exceeding 2 m (6.6 ft.) in height;
- (6) an accessory development not greater than 10 m² (108 ft.²) not exceeding 2.5 m (8.2 ft.) in height.
- (7) a sign provided that such sign conforms to all other provisions of this bylaw.

Section 3 - Appointment and Duties of Development Officers

- (1) The position of Development Officer is hereby established. One or more Development Officers may be appointed by resolution of Council.
- (2) A Development Officer shall:
 - a. receive and review development permit applications as to their completeness and be the sole determinant of completeness in accordance with Section 8;

- b. Refer a development permit application to any City Department, Federal, Territorial, or any other agency or body deemed appropriate by the Development Officer to obtain comments on the application;
- c. Consider and decide upon a development permit application for a minor alteration, referring it to other staff and/or at his discretion to the Heritage Advisory Committee for consideration and recommendation;
- d. Refer a development permit application for a major alteration to the Heritage Advisory Committee for consideration and recommendation;
- e. Refer an application for a new infill development (i.e. a new building) to the Heritage Advisory Committee for consideration and recommendation;
- f. Consider in consultation with the Heritage Advisory Committee the provision of external technical advice in the case of a major new building or very large alteration. This may be requested from the Yukon Government, Parks Canada, another government agency and/or a private sector architect or consultant.
- g. Refer a development permit application to Council if the Officer does not agree with the recommendations of the Heritage Advisory Committee
- h. Consider, and recommend to the Board of Variance an approval or refusal of, a variance to the land use regulations governing an application.
- i. Consider and decide upon, by exercising discretion, subsequent to review by the Heritage Advisory Committee, development permit applications in a Heritage Management Area, when, for heritage conservation purposes, the development projects into a required rear or side yard, provided such projections do not exceed 10% of the required rear or side yard and that there will be no detrimental impact on adjacent properties or the neighbourhood.
- j. Refer a development permit application in a Heritage Management Area to Council for consideration, subsequent to review by the Development Officer and the Heritage Advisory Committee, when, for heritage conservation purposes, the development projects into a required rear or side yard by more than 10% of the required rear or side yard, or exceeds maximum height, density or floor area ratio.
- k. Consider and decide upon a development permit application for only the foundation component of a permitted use inside the Historic Townsite, provided that it complies with this bylaw and that an acceptable security equal to the greater of 25% of the value

of the foundation or the appropriate fee listed in the *"Fees and Charges Bylaw"* is posted.

- l. Receive and review all applications for amendments to the Dawson City Zoning and Heritage Management Bylaw and consider and recommend to Council to approve or refuse such an application.
- m. Issue development permits and, where necessary, impose terms and conditions upon development permits which may bring the project into conformity with the Official Community Plan and all applicable bylaws, and mitigate any undesired effects of the proposed development.
- n. The design of all fences in the Historic Townsite shall be submitted to the Development Officer for approval.
- o. Undertake other duties specified in this Bylaw.
- p. Where a development permit application is for a temporary development, a Development Officer:
 - i. May consider and decide upon a development for a specific period of time, not exceeding one year;
 - ii. Shall impose a condition on such a permit that the City is not liable for any costs involved in the cessation or removal of the development at the expiration of the time period stated in the permit; and
 - iii. May require the applicant to post acceptable security guaranteeing the cessation or removal of the development to the greater of 25% of the value of the structure or \$2,000.

Section 4 - Heritage Advisory Committee

(1) The Heritage Advisory Committee is established pursuant to section 179(1) of the Municipal Act and shall:

- a) make recommendations to the Development Officer on, the heritage aspects of all development permit applications referred to the Committee by the Development Officer.
- b) In the event that the Committee recommends amendments to the development permit application, refer the application back to the applicant for revision and determine whether the application needs to be resubmitted to it for another review or whether it can be considered by the Development Officer only.

- c) Perform such other duties as may be prescribed by bylaw.
- d) Perform such other responsibilities as Council may delegate to it by resolution from time to time

Section 5 - Council

(1) The Council shall:

- a) By resolution appoint Development Officer(s) under this bylaw;
- b) By resolution appoint the members of the Heritage Advisory Committee for terms of office as specified under the Heritage Advisory Committee Bylaw;
- c) By resolution appoint the five members of the City of Dawson Board of Variance for a period of two years each. All members shall not be council members;
- d) Consider and decide upon all development permit applications in a Heritage Management Area, when, for heritage conservation purposes, the development projects into a required rear or side yard by more than 10% of the required rear or side yard, or exceeds maximum height, density or floor area ratio provided that there will be no detrimental impact on adjacent properties or the neighbourhood.
- e) Consider and decide upon all development permit applications that include an encroachment upon a public roadway or right-of-way;
- f) Consider and decide upon all applications to amend the City of Dawson Zoning and Heritage Management Bylaw;
- g) Consider and decide upon Heritage Management Guidelines and Design Guidelines for each Heritage Management Area;
- h) Consider and decide upon all appeals to Council;
- i) Consider and decide upon all development permit applications referred to Council in the case of a disagreement between the recommendations of the Heritage Advisory Committee and the opinion of the Development Officer. The decision of Council shall be final;
- j) Initiate, consider and decide upon a comprehensive review of this bylaw every five years; and,

- k) Take into account terms and conditions suggested by the Development officer and shall approve, disapprove, or approve with conditions development permits brought to its attention pursuant to Section 6 (1) paragraphs d, e, and j.

Section 6 - Board of Variance

- (1) The City of Dawson Board of Variance is hereby established pursuant to Section 290(5) and 306 to 308 of the Municipal Act.
- (2) The Board shall provide for applications to it and an appeal from it to Council in accordance with the provisions of the Municipal Act. A person may appeal to the Board of Variance who:
 - (a) Requests a variance or exemption from a zoning bylaw where there are practical difficulties or unnecessary hardships in the way of carrying out the development in accordance with the plan or bylaw by reason of the exceptional narrowness, shortness, shape, topographic features or any unspecified unusual conditions of a specified property.
- (3) The Board of Variance shall not approve an application for a variance or exemption if:
 - a) The unusual condition for which a variance or an exemption is being sought is the result of the applicant's or the property owner's action;
 - b) The variance or exemption being sought would constitute a special privilege inconsistent with the restrictions on the neighbouring properties in the same district;
 - c) The variance or exemption being sought would be contrary to the purposes and intent of the Official Community Plan or Zoning Bylaw and would injuriously affect the neighbouring properties;
 - d) The variance or exemption being sought would result in a change to a use that is not consistent with the permitted uses in the area
- (4) The Board may attach conditions to the granting of an appeal as in its opinion will preserve the purposes and intent of the Official Community Plan and Zoning and Heritage Management Bylaw.
- (5) In the case of a variance or exemption, the Board shall not vary density, height or floor area ratio in any district.
- (6) A decision of the Board of Variance may be appealed to the Council by the applicant or any other person within 14 days after the date of decision.

- (7) A decision of Council under this Division is final and binding and there is no further appeal from it.

Section 7 - Development Permit Applications

- (1) Information requirements:

- a) Application for a Development Permit shall be made to a Development Officer in writing on the prescribed form and shall be accompanied by the required fee with the following included:

- i) A site plan indicating:

- Proposed use and occupancy of the development;
- Legal description, setbacks, and yard distances of the proposed and existing development relative from property lines and from each other;
- Location of off-street loading and parking;
- All property lines and easements;
- Lot grading or foundation elevation, including highest and lowest elevations on property, road elevations (include centreline elevation), floor elevations relative to fill/land and existing and proposed utilities;
- Roads, water bodies, topography, vegetation, and other physical features of the land to be developed; and
- North arrow and scale.

- ii) Floor plans, elevations, and sections at a minimum scale of 1:200 or such other scale as required by a Development Officer; and

- iii) In the Heritage Management Areas any or all of the following at the discretion of the Development Officer:

- Date, and style of built form.
- Siting. Annotate drawings and/or photographs to describe the relationship between the proposed development and the context in terms of the following criteria:
 - Predominant setbacks, front, side and rear

- Orientation
- Location, dimensions of circulation/access features
- Statement as to how views to and from the development will be retained
- Statement as to how significant archaeological features will be retained
- Scale. Annotate drawings, photographs to describe the relationship between the proposed development and the context in terms of the following criteria:
 - Scale of buildings
 - Lot coverage - pattern of arrangement of buildings and size of buildings
 - Floor to floor heights and relationship to the street
- Form. Annotate drawings, photographs to describe the relationship between the proposed development and the context in terms of the following design criteria:
 - Predominant form of neighbours
 - Roof form and skyline, ridge lines, roof slopes, chimneys, skylights
 - Proportions and number of openings
 - Solids-to-voids ratio
 - Relationship to internal and external spaces
- Materials and colours. Drawings or photographs to describe the relationship between the proposed development and the context in terms of the following design criteria:
 - Response to pre-dominant materials, textures, and colour palate - contrasting
 - Quality of new materials
- Detailing. Annotate drawings, photographs to describe the relationship between the proposed development and the context in terms of the following design criteria:

- Relationship of landscape elements to important existing details

iv) In addition, the Development Officer may require the following:

- Geotechnical studies to support the proposed development;
- An approved onsite sewage disposal system in areas not presently serviced by the City's piped sewer system;
- Parking and traffic study;
- Landscaping site plan;
- A surveyor's certificate to verify the location of a development; and
- A certificate from a qualified, registered Professional Engineer or Architect to support the design of buildings and structures and their placement on the land.

b) An application shall not be considered to have been received until all requirements above have been submitted to the satisfaction of a Development Officer.

c) Notwithstanding b) above, a Development Officer may consider an application if, in a Development Officer's opinion, the development is of such a nature as to enable a decision to be made on the application without all of the required information.

(2) Public Notification of Decisions:

a) Within five working days after a decision on a development permit application, a Development Officer shall send a notice by regular mail of the decision to the applicant and post a notice in a place available to public view in the City offices, indicating whether the application was approved or refused, the legal description, and municipal address of the property.

b) Within five working days after granting a variance, a Development Officer shall also send a notice to adjacent landowners, as identified on the City Assessment Roll, advising them of the variance and the right of appeal. Adjacent landowners are owners of land that is contiguous to a site and include land that would be contiguous if not for a public roadway, river, stream, pipeline, power line or railway.

(3) Validity of Permit:

- a) When a permit has been issued by a Development Officer, the permit shall not be valid unless and until the conditions of the permit, save those of a continuing nature, have been fulfilled and no notice of appeal has been served on Council within a 14 day appeal period.
- b) When a permit has been approved, the permit shall not be valid until the decision is issued in writing.
- c) If the Board of Variance is served with notice of an appeal of its decision to the Yukon Municipal Board, such notice shall suspend the permit.
- d) The final determination of an appeal shall validate, amend or revoke, as the case may be, a development permit suspended under c).

(4) Permit Conditions:

- a) When issuing a permit, a Development Officer may impose such conditions as may be required to ensure compliance with this bylaw or deemed necessary
- c) A Development Officer may, as a condition of a permit, require the applicant to make satisfactory arrangements for the payment and supply of water, power, sewer and other services or facilities, or any of them.
- d) A permit may be refused when, in the opinion of a Development Officer, satisfactory arrangements have not been made for the payment and supply of water, power, sewer or other services or facilities, or any of them or if taxes on the property associated with the permit application have not been paid.
- e) A Development Officer may, as a condition of a permit, require that an applicant enter into a development agreement that may require the applicant to pay an offsite levy or redevelopment levy or both.

(5) Expiry of Permit:

- a) A permit issued in accordance with the notice of decision is valid for a period of twelve months from the date of issue. If at the expiry of this period the development has not been commenced or carried out with reasonable diligence, or at any time the development has been discontinued for a period of six months, or has not been actively carried out for a period of six months, this permit shall be null and void.
- b) Upon application, a Development Officer may grant an extension of the effective period of a permit only once, for a period not greater than twelve months.

- c) When a permit expires, a new application is required. Such application shall be dealt with as a first application and there shall be no obligation to approve it on the basis that a previous permit had been issued.

Section 8 - Appeals

Subject to the Municipal Act, any person affected by a decision may appeal the decision to the Council by serving written notice of appeal on the Council within 14 days after notice of the decision was given. The 14 day appeal period shall commence from either the newspaper publishing date, public notice in City offices, or the post mark date in the case of a letter notification, whichever is later.

Section 9 - Bylaw Amendments

(1) Text Amendments:

- a) Council may initiate any text amendment to this bylaw. Any such amendment shall be reviewed in accordance with Section (3).
- b) Any person may apply for an amendment to the text of this bylaw by paying the required application fee as specified in the *Fees Bylaw* and submitting a written statement to describe and justify the proposed amendment.

(2) Rezoning Applications:

- a) Council may initiate any amendment to the zoning maps. Any such amendment shall be reviewed in accordance with Section (3).
- b) An owner of land in the City, or an authorized agent of an owner, may apply to have the zoning designation of the land amended to another zoning designation.
- c) An application for a rezoning shall be made in writing to the Development Officer using the form provided and accompanied by the following:
 - i. documentation of ownership;
 - ii. a written statement to describe and justify the proposal;
 - iii. a map showing the proposed change in the context of adjacent land;
 - iv. the necessary processing and advertising fees as set out in the *Fees Bylaw*;
 - v. permission for right-of-entry onto the land by City Staff for reasonable inspection; and
 - vi. any additional information a Development Officer may require in order to prepare, evaluate, and make recommendation concerning the proposed amendment.

- d) A Development Officer may request the applicant to provide an analysis by a qualified professional, of the potential impact on land use, traffic, utilities, and other City services and facilities if the amendment proposes and increase in density or other intensification of use.
- e) An application may not be considered to have been received until all requirements of Section (2) c) have been submitted to the satisfaction of a Development Officer. Notwithstanding these requirements, the application may be considered if, in the opinion of a Development Officer, it is of such a nature as to enable a decision to be made without some of the required information.
- f) If it appears that the proposed amendment is one that is applicable to, and for the benefit of the City at large, or most of the persons affected in the area, then Council may direct that the application fee be returned to the applicant.

(3) Review Process:

- a) Upon receipt of a completed application for a text amendment or rezoning, a Development Officer shall initiate or undertake an investigation and analysis of the potential impacts of development under the proposed zone. The analysis shall be based upon the full development potential of the uses and development regulations specified in the proposed zone and not on the merits of any particular development proposal.
- b) The analysis shall, among other factors, consider the following criteria:
 - i. relationship to and compliance with the Official Community Plan, and other approved municipal plans and Council policy;
 - ii. relationship to and compliance with municipal plans in preparation;
 - iii. compatibility with surrounding development in terms of land use function and scale of development;
 - iv. traffic impacts;
 - v. relationship to, or impacts on, services such as water and sewage systems, public transit and other utilities and public facilities such as recreational facilities and schools;
 - vi. relationship to municipal land, right-of-way, or easement requirements;
 - vii. effect on the stability, retention and rehabilitation of desirable existing uses, buildings, or both in the area;
 - viii. necessity and appropriateness of the proposed text amendment or zone in the view of the stated intentions of the applicant; and
 - ix. relationship to any documented concerns and opinions of area residents and land owners regarding the application.
- c) Subsequently, the Development Officer shall:

- i. prepare a report on the proposed amendment; and
 - ii. submit a copy of the application, their recommendation and report to the Council.
 - d) Before approving a text amendment or rezoning, Council shall comply with the requirements and notification procedures set out in the Municipal Act.
- (4) Resubmission Interval:
- a) Where an application for an amendment to this bylaw has been refused by Council, another application for the same or substantially the same amendment shall not be submitted within twelve months of the date of the refusal unless Council otherwise directs.
- (5) Public Notification:
- a) Written notification letters produced by the City of Dawson describing the area affected by the proposed amendment, stating the date, time and place for the public hearing and the reasons for the amendment and an explanation of it shall be mailed to all properties prior to the public hearing within the following radii of the subject property:
 - i. within the Historic Townsite, 100m (328 ft.); and
 - ii. all other areas, 1km (3,281 ft.).
 - b) For zoning amendments proposed for one property, a zoning amendment notification sign shall be placed on the subject property following First Reading until such time as Council has ruled on the application. The sign shall state the details of the amendment and the date, time and place of the public hearing as well as contact information of the City of Dawson.
 - c) The applicant shall allow a sign manufacturer contracted by the City to install the sign on the subject property in a conspicuous location. The applicant shall pay the required fee for the sign as specified in the Fees Bylaw in addition to the application fee specified in Section (1) b).

Section 10 - Variances

- (1) The regulations of this bylaw may be varied if:
- a) The proposed development would not unduly interfere with the amenities of the neighbourhood, or materially interfere with or affect the use, enjoyment, safety or value of neighbouring properties;
 - b) The proposed development conforms with the use prescribed for that building or land in the district that applies to it; and

- c) Unusual site configuration, soil conditions, development design, or other factors, which are peculiar to the site and not common in the District, result in unnecessary hardship or practical difficulties for the proposed development to comply with the provisions of this bylaw.
- (2) All variances shall be limited to the site boundaries.

Section 11 - Public Record

- (1) A Development Officer shall keep and maintain, for inspection by the Public during normal office hours:
 - a) A copy of this bylaw, as amended;
 - b) A register of all development permit applications, including the decisions and the reasons therefore; and
 - c) Shall ensure that copies of the bylaw and amendments are obtainable by the public at the prescribed fee.

Section 12 - Enforcement and Penalties

- (1) General:
 - a) A Development Officer may enforce the provisions of this bylaw.
 - b) In undertaking enforcement measures, the Development Officer may commence actions under the Municipal Act and this bylaw simultaneously.
- (2) Offences:
 - a) Any person who contravenes, causes, or permits a contravention of this bylaw commits an offence.
 - b) Any person who constructs a building or structure, or makes an addition or alteration, thereto for which a development permit is required but has not been issued; or is in contravention of a condition of a development permit issued under this bylaw, commits an offence.
- (3) Notices:
 - a) Once a Development Officer has found a violation of this bylaw, a Development Officer may notify either the owner of the property, the person in possession of the land or development, the person responsible for the violation, of the contravention of this bylaw, by:

- i. delivering either in person, by ordinary mail or fax; a Notice of Violation; or
- ii. posting the notice in a conspicuous location on the site

b) Such Notice of Violation shall state:

- i. the nature of the violation of this bylaw;
- ii. the scope of the corrective measures required to comply with this bylaw; and
- iii. the time limit within which such corrective measures must be performed.

(4) Report to Council:

a) Where a Development Officer is satisfied that there is a continued contravention of this bylaw, a Development Officer may report such a contravention to Council in a timely manner if it appears the contravention will not be corrected in a timely manner.

b) Council may, on finding that any development or use of land or buildings is in contravention of this bylaw:

- i. direct the Development Officer to act on the matter in accordance with section (5);
- ii. suspend or revoke a development permit with respect to such contravention; and
- iii. apply to the Court for an injunction to restrain such contravention.

(5) Orders:

a) A Development Officer may issue to the owner of the property, the person in possession of the land or buildings, or the person responsible for the contravention, an order to comply with the provisions of this bylaw.

b) A Development Officer may order any person carrying out any development or doing anything in contravention of the Municipal Act, the Official Community Plan, this bylaw, or a development permit to:

- i. Direct a person to stop doing something, or to change the way in which the person is doing it;
- ii. Direct a person to take any action or measure necessary to remedy the contravention of the Act or bylaw, including the removal or demolition of a structure that has been erected or placed in contravention of a bylaw and, if necessary, to prevent a reoccurrence of the contravention;
- iii. State a time within which the person must comply with the directions; and
- iv. State that if the person does not comply with the directions within a specified time, the municipality will take the action or measure at the expense of the person.

- c) This order shall be delivered by double registered mail or be personally served on the person described in section (3) a).
- d) Where a person fails or refuses to comply with the Order, a Development Officer may take such action as is necessary to enforce the Order.
- e) The costs and expenses incurred by the City in carrying out an Order shall be placed on the tax roll as an additional tax against the property concerned, and that amount shall be collected in the same manner as taxes on the land.

(6) Suspension or Revocation of Permit:

- a) A Development Officer may suspend or revoke a development permit where:
 - i. the applicant fails to comply with the conditions of the issuance of the permit; or
 - ii. any person undertakes or causes or allows any development on a site contrary to the terms or conditions of a permit.
 - iii. the permit was issued on the basis of incorrect information or misrepresentation by the applicant; or
 - iv. the permit was issued in error.

(7) Offence Tickets:

- a) If the corrective measures described in a Notice of Violation issued pursuant to section (3) are not completed within the specified time, or if development continues after a permit has been revoked, the person to whom the Notice of Violation was issued may be issued an offence ticket by a Development Officer in the amount specified in section (8) b).
- b) The offence ticket shall specify the alleged offence committed by the person to whom the offence ticket is issued and require payment of the penalty by the specified date.
- c) The offence ticket shall be served personally or by double registered mail on the person identified in section (3) a).

(8) Penalties:

- a) Any person who commits an offence under section (2) is, upon summary conviction, liable to a fine as specified in the Summary Convictions Act.
- b) Any person who commits an offence under this bylaw is, in addition to any other punishment, liable on summary conviction to:

- i. a fine not exceeding \$10,000.00 where proceedings are commenced pursuant to the summary convictions provisions of the Criminal Code of Canada; or
 - ii. a fine not exceeding \$500.00 where proceedings are commenced pursuant to section 9(1) of the Summary Convictions Act of the Yukon.
- c) Where a person fails or refuses to comply with an Order pursuant to sections (2) and (5), that person is liable on summary conviction to a fine of not more than \$10,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for each day during which the offence continues.
- d) In addition to the penalties provided for under section (8) b), a person convicted of an offence pursuant to section (2) in respect to the use of land or buildings or development carried out in contravention of this bylaw, may be ordered to remove such development and reclaim the site at that person's own expense.
- e) Should any person owning or occupying real property within the City refuse or neglect to pay any penalties that have been levied pursuant to this bylaw, the Development Officer may inform such person in default that, if these charges are unpaid on the thirty-first (31st) day of December on the same year, these shall be added to and form part of the taxes payable in respect of that real property as taxes in arrears.

APPENDIX C

Existing “Sign” Sections of the City of Dawson Zoning Bylaw No. 09-03

Section 15 - Signs

- (1) No signs shall be erected within the City except those signs provided for in this bylaw. The erection, display, alteration, replacement or relocation of a sign, unless exempted under Part I, Section 3, requires a Development Permit.
- (2) Signs shall be either a fixed or free standing or projecting type and shall conform to the requirements listed in the following schedule:

Signs	Max. Size in m ²	Max. Size in ft. ²	Permitted Type
Home Occupation	.18	(1.93)	Fixed or free standing
Home Identification	.18	(1.93)	Fixed or free standing
Bed & Breakfast	.63	(6.78)	Fixed or free standing
Community Activity	.54	(5.81)	Fixed or free standing
Prohibition	.54	(5.81)	Fixed or free standing
Directional	.54	(5.81)	Free standing
Directory	5.76	(62.0)	Free standing except RS, RT
Public Building	2.80	(30.1)	Fixed or free standing
Advertising	14.40	(155.0)	Fixed or free standing or projecting
Banners	14.40	(155.0)	
Traffic Control	5.76	(62.0)	Fixed or free standing or projecting

The lettering for signage shall reflect the Design Guidelines only in the Historic Townsite.

- (3) Prior to erection, all fixed, free standing or projecting types of signs shall meet with the approval of the Development Officer.
- (4) No sign shall be erected that, in the opinion of City Council, interferes with traffic or the visibility of a traffic control device.
- (5) No freestanding sign may exceed the maximum permissible height for an accessory structure in the zone in which the sign is located.
- (6) An advertising sign may only be erected on the site where the service advertised is performed, or where the product advertised is made, sold or serviced.

- (7) Notwithstanding the above, campaign signs do not require Development Officer approval provided they're only placed after an election has been called and taken down within seven days after the election has ended.
- (8) Notwithstanding (1) through (6) above, City placed traffic type signs (including warning signs) and real estate 'for sale' signs under 1m² (9 ft²) do not require Development Officer approval.

APPENDIX E

"Subdivision Development"

Section 1 - Subdivision

- (1) Council shall not approve any application for the subdivision of any land within any zone, or on any site where the lots do not meet minimum site area requirements prescribed for that zone.
- (2) Notwithstanding (1), Council may, at its discretion, as a heritage conservation incentive, approve an application for the subdivision of any land within the Historic Townsite, into lots that do not meet the minimum site area requirements prescribed for the underlying Zoning District when that subdivision is in keeping with the heritage integrity of the community and the development proposed for those lots meets the heritage management policies and guidelines of the Official Community Plan and the Zoning Bylaw.

Section 2 - Site Access

- (1) All access points and boardwalk cuttings shall be located to the satisfaction of the City.
- (2) No person shall construct a driveway from a site to a public roadway if such driveway, in the opinion of the City, would create an unnecessary traffic hazard, unless there is no other practical method of vehicular access to the site.

Section 3 - Water and Sewer Facilities

- (1) No building, structure or land in any zone shall be used for any purpose where such purpose requires water or sanitary sewer services or both unless:
 - (a) Where municipal water and/or sewer infrastructure exists the owner or authorized agent provides a service connection to the building or structure at the property boundary; or
 - (b) Where no municipal services exist, the owner or authorized agent provides a private water supply and sewage disposal system approved in accordance with the authority having jurisdiction.

Section 4 - Moving of Structures

- (1) No person shall move a building or structure within, into or out of the City unless a Development Permit has first been obtained.
- (2) No person shall move a mobile home from a location within the Historic Townsite to another location within the Historic Townsite. A Development Permit is required to move a mobile home

from a location within the Historic Townsite to a location outside the Historic Townsite, however the fee is waived.

- (3) In making a decision on the moving of a building or buildings to a site within the City a Development Officer may:
- (a) Refer the application to the Territorial Building Inspector for a recommendation as to compliance to the National Building Code of the structure;
 - (b) Require such renovations and alterations as may be necessary for the building to conform to the requirements of the zone into which the building is proposed to be moved, and to conform to the Territorial Building and Plumbing codes;
 - (c) Refuse to issue a permit if:
 - i. There are any taxes or other charges due to the City with respect to the building or the lot on which it is situated, unless arrangements satisfactory to the Director of Finance of the City of Dawson have been made for payment of such taxes or other charges; or
 - ii. The building fails to conform to the requirements of this bylaw or the water and sewer bylaw.
 - iii. The building is not compatible, in the opinion of the Development Officer, with the character and appearance of existing buildings in the area in which the building is to be located.
 - (d) The Development Officer may require a performance bond to be posted or a certified cheque in the amount of the established cost of the required renovations or alterations pursuant to section 4(3)(b);
 - (e) If the applicant and/or owner of the building fails to complete the required renovations within such time as prescribed by the Development Officer, the City may use the funds posted in section 4(3)(d) and have the required renovations completed; and
 - (f) If the cost necessary for section 4(3)(e) is in excess of those funds posted in section 8(2)(d), the balance of the cost may be charged against the property as an extra levy.
- (3) All conditions of a development permit shall be satisfied within twelve (12) months of issuance of the permit.

Section 5 - Demolitions

- (1) Demolition will only be permitted when an application for a development permit for re-development of the site has been approved and issued.
- (2) Demolition of protected buildings and structures less than 40 years old will only be permitted if the proposed replacement would improve the quality of the built environment.
- (3) Demolition of buildings and structures more than 40 years old will be demolished only in exceptional circumstances as determined in the sole discretion of Council.
- (4) An acceptable security \$1.00 per square foot of the lot under consideration will be required to be posted upon issuance of a Development Permit for a demolition to ensure that the intended re-development proceeds.

D.4 Fisheries Act (1985)



CANADA

CONSOLIDATION

CODIFICATION

Fisheries Act

Loi sur les pêches

R.S.C., 1985, c. F-14

L.R.C. (1985), ch. F-14

Current to November 9, 2016

À jour au 9 novembre 2016

Last amended on April 5, 2016

Dernière modification le 5 avril 2016

OFFICIAL STATUS OF CONSOLIDATIONS

Subsections 31(1) and (2) of the *Legislation Revision and Consolidation Act*, in force on June 1, 2009, provide as follows:

Published consolidation is evidence

31 (1) Every copy of a consolidated statute or consolidated regulation published by the Minister under this Act in either print or electronic form is evidence of that statute or regulation and of its contents and every copy purporting to be published by the Minister is deemed to be so published, unless the contrary is shown.

Inconsistencies in Acts

(2) In the event of an inconsistency between a consolidated statute published by the Minister under this Act and the original statute or a subsequent amendment as certified by the Clerk of the Parliaments under the *Publication of Statutes Act*, the original statute or amendment prevails to the extent of the inconsistency.

NOTE

This consolidation is current to November 9, 2016. The last amendments came into force on April 5, 2016. Any amendments that were not in force as of November 9, 2016 are set out at the end of this document under the heading “Amendments Not in Force”.

CARACTÈRE OFFICIEL DES CODIFICATIONS

Les paragraphes 31(1) et (2) de la *Loi sur la révision et la codification des textes législatifs*, en vigueur le 1^{er} juin 2009, prévoient ce qui suit :

Codifications comme élément de preuve

31 (1) Tout exemplaire d'une loi codifiée ou d'un règlement codifié, publié par le ministre en vertu de la présente loi sur support papier ou sur support électronique, fait foi de cette loi ou de ce règlement et de son contenu. Tout exemplaire donné comme publié par le ministre est réputé avoir été ainsi publié, sauf preuve contraire.

Incompatibilité — lois

(2) Les dispositions de la loi d'origine avec ses modifications subséquentes par le greffier des Parlements en vertu de la *Loi sur la publication des lois* l'emportent sur les dispositions incompatibles de la loi codifiée publiée par le ministre en vertu de la présente loi.

NOTE

Cette codification est à jour au 9 novembre 2016. Les dernières modifications sont entrées en vigueur le 5 avril 2016. Toutes modifications qui n'étaient pas en vigueur au 9 novembre 2016 sont énoncées à la fin de ce document sous le titre « Modifications non en vigueur ».

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R.S.C., 1985, c. F-14

L.R.C., 1985, ch. F-14

An Act respecting fisheries

Loi concernant les pêches

Short Title

Titre abrégé

Short title

1 This Act may be cited as the *Fisheries Act*.

R.S., c. F-14, s. 1.

Titre abrégé

1 *Loi sur les pêches*.

S.R., ch. F-14, art. 1.

Interpretation

Définitions et interprétation

Definitions

2 (1) In this Act,

Aboriginal, in relation to a fishery, means that fish is harvested by an Aboriginal organization or any of its members for the purpose of using the fish as food, for social or ceremonial purposes or for purposes set out in a land claims agreement entered into with the Aboriginal organization; (*autochtone*)

analyst means a person who is designated under subsection 38(1) to perform the functions of an analyst; (*analyste*)

Canadian fisheries waters means all waters in the fishing zones of Canada, all waters in the territorial sea of Canada and all internal waters of Canada; (*eaux de pêche canadiennes*)

close time means a specified period during which fish to which it applies may not be fished, and “closed time” or “closed season” has a similar meaning; (*période d’interdiction et période de fermeture* ou *saison de fermeture*)

commercial, in relation to a fishery, means that fish is harvested under the authority of a licence for the purpose of sale, trade or barter; (*commerciale*)

fish includes

(a) parts of fish,

Définitions

2 (1) Les définitions qui suivent s’appliquent à la présente loi.

agent des pêches Personne désignée à ce titre en vertu du paragraphe 5(1). (*fishery officer*)

analyste Personne désignée en vertu du paragraphe 38(1) pour remplir les fonctions d’analyste. (*analyst*)

autochtone Qualifie la pêche pratiquée par une organisation autochtone ou ses membres à des fins de consommation personnelle, à des fins sociales ou cérémoniales ou à des fins prévues dans un accord sur des revendications territoriales conclu avec l’organisation autochtone. (*Aboriginal*)

bateau de pêche Construction flottante utilisée, équipée ou conçue pour la prise, la transformation ou le transport du poisson. (*fishing vessel*)

commerciale Qualifie la pêche pratiquée sous le régime d’un permis en vue de la vente, de l’échange ou du troc du poisson. (*commercial*)

eaux de pêche canadiennes Les eaux de la zone de pêche et de la mer territoriale du Canada, ainsi que les eaux intérieures canadiennes. (*Canadian fisheries waters*)

excuse légitime [Abrogée, 1991, ch. 1, art. 1]

(b) shellfish, crustaceans, marine animals and any parts of shellfish, crustaceans or marine animals, and

(c) the eggs, sperm, spawn, larvae, spat and juvenile stages of fish, shellfish, crustaceans and marine animals; (*poissons*)

fishery includes the area, locality, place or station in or on which a pound, seine, net, weir or other fishing appliance is used, set, placed or located, and the area, tract or stretch of water in or from which fish may be taken by the said pound, seine, net, weir or other fishing appliance, and also the pound, seine, net, weir, or other fishing appliance used in connection therewith; (*pêcherie*)

fishery guardian means a person who is designated as a fishery guardian pursuant to subsection 5(1); (*garde-pêche*)

fishery officer means a person who is designated as a fishery officer pursuant to subsection 5(1); (*agent des pêches*)

fish habitat means spawning grounds and any other areas, including nursery, rearing, food supply and migration areas, on which fish depend directly or indirectly in order to carry out their life processes; (*habitat*)

fishing means fishing for, catching or attempting to catch fish by any method; (*pêche*)

fishing vessel means any vessel used, outfitted or designed for the purpose of catching, processing or transporting fish; (*bateau de pêche*)

fishway means any device, work or other thing that provides for the free passage of fish, including a canal, a fish pump, a fish ladder, a fish elevator and a fish lock; (*passage migratoire*)

inspector means a person who is designated as an inspector pursuant to subsection 38(1); (*inspecteur*)

lawful excuse [Repealed, 1991, c. 1, s. 1]

Minister means the Minister of Fisheries and Oceans or, in respect of any matter related to the Northern Pipeline referred to in the *Northern Pipeline Act*, the member of the Queen's Privy Council for Canada designated as the Minister for the purposes of that Act; (*ministre*)

obstruction means any slide, dam or other thing impeding wholly or partially the free passage of fish; (*obstacle*)

garde-pêche Personne désignée à ce titre en vertu du paragraphe 5(1). (*fishery guardian*)

habitat S'agissant du poisson, toute aire dont dépend, directement ou indirectement, sa survie, notamment les frayères, les aires d'alevinage, de croissance ou d'alimentation et les routes migratoires. (*fish habitat*)

inspecteur Personne désignée à ce titre en vertu du paragraphe 38(1). (*inspector*)

ministre Le ministre des Pêches et des Océans ou, pour toute mesure ayant trait au pipe-line du Nord, le membre du Conseil privé de la Reine pour le Canada chargé de l'application de la *Loi sur le pipe-line du Nord*. (*Minister*)

obstacle Barrage, glissoir ou toute autre chose empêchant, partiellement ou complètement, le libre passage du poisson. (*obstruction*)

passage migratoire Tout dispositif, tout ouvrage ou toute autre chose qui permet le libre passage du poisson, notamment une pompe à poisson, une échelle à poisson, un ascenseur à poisson et une écluse à poisson. (*fishway*)

pêche Fait de prendre ou de chercher à prendre du poisson par quelque moyen que ce soit. (*fishing*)

pêcherie Lieu où se trouve un engin ou équipement de pêche tel que filet simple, filet-piège, senne, bordigue, ou étendue d'eau où le poisson peut être pris au moyen de l'un de ces engins ou équipements; y sont assimilés ces engins ou équipements de pêche eux-mêmes. (*fishery*)

période d'interdiction Période spécifiée pendant laquelle le poisson visé ne peut être pêché; **période de fermeture** ou **saison de fermeture** ont le même sens. (*close time*)

poissons

a) Les poissons proprement dits et leurs parties;

b) par assimilation :

(i) les mollusques, les crustacés et les animaux marins ainsi que leurs parties,

(ii) selon le cas, les œufs, le sperme, la laitance, le frai, les larves, le naissain et les petits des animaux mentionnés à l'alinéa a) et au sous-alinéa (i). (*fish*)

récréative Qualifie la pêche pratiquée sous le régime d'un permis à des fins sportives ou personnelles. (*recreational*)

recreational, in relation to a fishery, means that fish is harvested under the authority of a licence for personal use of the fish or for sport; (*récréative*)

vehicle means any conveyance that may be used for transportation, including aircraft. (*véhicule*)

Serious harm to fish

(2) For the purposes of this Act, serious harm to fish is the death of fish or any permanent alteration to, or destruction of, fish habitat.

R.S., 1985, c. F-14, s. 2; R.S., 1985, c. 35 (1st Supp.), ss. 1, 5; 1991, c. 1, s. 1; 2012, c. 19, s. 133, c. 31, s. 175.

Purposes

2.1 [Repealed, R.S., 1985, c. 35 (1st Supp.), s. 6]

Application

Provincial rights not affected

3 (1) Nothing in this Act shall be taken to authorize the granting of fishery leases that confer an exclusive right to fish in property belonging to a province.

Application of Act to Her Majesty

(2) This Act is binding on Her Majesty in right of Canada or a province.

R.S., c. F-14, s. 3; R.S., c. 17(1st Supp.), s. 9.

Licences to take spawn

4 Nothing in this Act precludes the granting by the Minister of written permission to obtain fish for purposes of stocking or artificial breeding or for scientific purposes.

R.S., c. F-14, s. 4.

Agreements, Programs and Projects

Minister may enter into agreements

4.1 (1) The Minister may enter into an agreement with a province to further the purposes of this Act, including an agreement with respect to one or more of the following:

- (a)** facilitating cooperation between the parties to the agreement, including facilitating joint action in areas of common interest, reducing overlap between their respective programs and otherwise harmonizing those programs;

véhicule Tout moyen de transport, notamment aéronef. (*vehicle*)

Dommages sérieux

(2) Pour l'application de la présente loi, la mort de tout poisson ou la modification permanente ou la destruction de son habitat sont considérées comme des dommages sérieux.

L.R. (1985), ch. F-14, art. 2; L.R. (1985), ch. 35 (1^{er} suppl.), art. 1 et 5; 1991, ch. 1, art. 1; 2012, ch. 19, art. 133, ch. 31, art. 175.

Objet

2.1 [Abrogé, L.R. (1985), ch. 35 (1^{er} suppl.), art. 6]

Application

Respect des droits provinciaux

3 (1) La présente loi n'a pas pour effet d'autoriser l'octroi de baux conférant un droit exclusif de pêcher dans le domaine public provincial.

Obligation de Sa Majesté

(2) La présente loi lie Sa Majesté du chef du Canada ou d'une province.

S.R., ch. F-14, art. 3; S.R., ch. 17(1^{er} suppl.), art. 9.

Permission de prendre du poisson

4 La présente loi ne porte pas atteinte au droit du ministre d'accorder la permission écrite de se procurer du poisson à des fins de repeuplement ou de reproduction artificielle, ou dans un but scientifique.

S.R., ch. F-14, art. 4.

Accords, programmes et projets

Pouvoirs du ministre

4.1 (1) Le ministre peut conclure avec toute province un accord visant la réalisation des objectifs de la présente loi, notamment en vue de faciliter :

- a)** une plus grande collaboration entre les parties afin, entre autres, de favoriser l'action concertée dans des domaines d'intérêt commun, l'harmonisation de leurs programmes respectifs et la réduction des chevauchements;

(b) facilitating enhanced communication between the parties, including the exchange of scientific and other information; and

(c) facilitating public consultation or the entry into arrangements with third-party stakeholders.

Contents of agreement

(2) An agreement may establish

(a) the roles, powers and functions of the parties;

(b) programs and projects;

(c) principles and objectives of the parties' respective programs and projects;

(d) standards, guidelines and codes of practice to be followed by the parties in the administration of their respective programs and projects;

(e) processes for policy development, operational planning and communication between the parties, including the exchange of scientific and other information;

(f) the administrative structures that will be used to carry out the agreement's objectives;

(g) the power of the parties to create committees and public panels and to conduct public consultations; and

(h) the circumstances and manner in which the province is to provide information on the administration and enforcement of a provision of its laws that the agreement provides is equivalent in effect to a provision of the regulations.

Regulations

(3) The Governor in Council may make regulations establishing the conditions under which the Minister may enter into or renew an agreement, including procedures for entering into or renewing the agreement.

Agreements to be published

(4) The Minister shall publish an agreement in the manner that he or she considers appropriate.

2012, c. 19, s. 134.

Declaration of equivalent provisions

4.2 (1) If an agreement entered into under section 4.1 provides that there is in force a provision under the laws of the province that is equivalent in effect to a provision of the regulations, the Governor in Council may, by order, declare that certain provisions of this Act or of the

b) une meilleure communication entre les parties, notamment par l'échange de renseignements scientifiques ou autres;

c) la consultation du public ou la conclusion d'ententes avec des tiers intéressés.

Contenu de l'accord

(2) L'accord peut prévoir :

a) les rôles et attributions des parties;

b) les programmes et projets à mettre en œuvre;

c) les principes et objectifs relatifs aux programmes et projets de chaque partie;

d) les normes, lignes directrices et codes de conduite devant être suivis par les parties dans la mise en œuvre de leurs programmes et projets respectifs;

e) les processus applicables à l'élaboration des orientations, à la planification des opérations et à la communication entre les parties, notamment l'échange de renseignements scientifiques ou autres;

f) les structures administratives pour mettre l'accord en œuvre;

g) le pouvoir des parties de créer des comités ou des groupes de discussion publics ou de tenir des consultations publiques;

h) les circonstances et les modalités de la communication par la province de renseignements sur la mise en œuvre de toute disposition du droit de la province dont il prévoit que l'effet est équivalent à celui d'une disposition des règlements.

Règlements

(3) Le gouverneur en conseil peut, par règlement, établir les conditions que doit respecter le ministre lorsqu'il conclut ou renouvelle un accord, notamment la marche à suivre.

Publication de l'accord

(4) Le ministre publie l'accord de la manière qu'il estime indiquée.

2012, ch. 19, art. 134.

Effet équivalent

4.2 (1) Lorsqu'un accord visé à l'article 4.1 prévoit qu'une disposition du droit de la province est d'effet équivalent à celui d'une disposition des règlements, le gouverneur en conseil peut, par décret, déclarer que certaines dispositions de la présente loi ou des règlements

regulations do not apply in the province with respect to the subject matter of the provision under the laws of the province.

Non-application of provisions

(2) Except with respect to Her Majesty in right of Canada, the provisions of this Act or of the regulations that are set out in the order do not apply within that province with respect to the subject matter of the provision under the laws of the province.

Revocation

(3) The Governor in Council may revoke the order if the Governor in Council is satisfied that the provision under the laws of the province is no longer equivalent in effect to the provision of the regulations or is not being adequately administered or enforced.

Notice to province

(4) The Governor in Council may revoke the order only if the Minister has given notice of the proposed revocation to the province.

Order ceases to have effect

(5) The order ceases to have effect either when it is revoked by the Governor in Council or when the agreement to which the order relates terminates or is terminated.

2012, c. 19, s. 134.

Report to Parliament

4.3 The Minister shall, as soon as feasible after the end of each fiscal year, prepare and cause to be laid before each house of Parliament a report on the administration of sections 4.1 and 4.2 in that fiscal year.

2012, c. 19, s. 134.

Objectives

4.4 (1) The Minister may implement programs and projects for the purposes of this Act and, to facilitate the implementation of a program or project, may

- (a) make grants and contributions;
- (b) make loans;
- (c) make recoverable expenditures on behalf of any person or body, or any federal or provincial minister, department or agency; and
- (d) guarantee the repayment of any financial obligation, or provide loan insurance or credit insurance in respect of such an obligation.

ne s'appliquent pas dans la province à l'égard du sujet visé par la disposition du droit de la province.

Non-application

(2) Sauf à l'égard de Sa Majesté du chef du Canada, la disposition de la présente loi ou des règlements visée dans le décret ne s'applique pas dans la province concernée à l'égard du sujet visé par la disposition du droit de la province.

Révocation

(3) Le gouverneur en conseil peut révoquer le décret s'il est d'avis que la disposition du droit de la province n'est pas mise en œuvre adéquatement ou qu'elle n'a plus un effet équivalent à celui de la disposition des règlements visée dans le décret.

Avis

(4) Le gouverneur en conseil ne peut révoquer le décret que si le ministre en a avisé la province concernée.

Cessation d'effet

(5) Le décret cesse d'avoir effet lorsqu'il est révoqué par le gouverneur en conseil ou lorsque l'accord en cause prend fin.

2012, ch. 19, art. 134.

Rapport au Parlement

4.3 Le ministre établit, dans les meilleurs délais suivant la fin de chaque exercice, un rapport portant sur l'application des articles 4.1 et 4.2 au cours de cet exercice et le fait déposer devant chaque chambre du Parlement.

2012, ch. 19, art. 134.

Objectifs

4.4 (1) Le ministre peut mettre en œuvre des programmes et des projets pour l'application de la présente loi. Il peut, pour faciliter leur mise en œuvre :

- a) accorder des subventions ou contributions;
- b) consentir des prêts;
- c) faire des dépenses pour le compte de toute personne ou de tout organisme ou tout autre ministre, ministère ou organisme fédéral ou provincial et recouvrer les sommes ainsi exposées;
- d) garantir le remboursement de tout engagement financier ou souscrire des assurances-prêts ou assurances-crédit à cet égard.

Regulations

(2) The Governor in Council may, on the recommendation of the Minister and the Minister of Finance, make regulations respecting such grants, contributions, loans, guarantees and insurance.

Agreements, etc.

(3) In exercising powers and performing functions under subsection (1), the Minister may

(a) enter into agreements — including an agreement under section 4.1 — or arrangements or transactions with any person or body, or any federal or provincial minister, department or agency; and

(b) with the approval of the Minister of Finance, requisition amounts in respect of such an agreement, arrangement or transaction to be paid out of the Consolidated Revenue Fund.

2012, c. 19, s. 134.

Fishery Officers and Fishery Guardians

Designation

5 (1) The Minister may designate any persons or classes of persons as fishery officers or fishery guardians for the purposes of this Act and may limit in any manner the Minister considers appropriate the powers that a fishery officer or fishery guardian may exercise under this Act or any other Act of Parliament.

Certificate of designation

(2) Each fishery officer and fishery guardian shall be provided with a certificate in a form the Minister considers appropriate certifying their designation as such and, where the powers of a fishery officer or fishery guardian are limited pursuant to subsection (1), specifying the powers that the officer or guardian may exercise under this Act or any other Act of Parliament.

Presentation of certificate

(3) On entering any place under this Act or any other Act of Parliament, a fishery officer or fishery guardian shall, on request, show the certificate of designation to the person in charge of the place.

Laws of certain First Nations

(4) The powers and protections that a fishery officer or fishery guardian has under this or any other Act of Parliament, including the powers and protections of a peace

Règlements

(2) Le gouverneur en conseil peut, sur recommandation du ministre et du ministre des Finances, prendre des règlements concernant les subventions, contributions, prêts, garanties et assurances.

Accords

(3) Dans l'exercice des attributions que lui confère le paragraphe (1), le ministre peut :

a) conclure des accords — notamment ceux visés à l'article 4.1 —, arrangements ou opérations avec toute personne ou tout organisme ou tout ministre, ministère ou organisme fédéral ou provincial;

b) avec l'approbation du ministre des Finances, demander que soient prélevés sur le Trésor les fonds relatifs à de tels accords, arrangements ou opérations.

2012, ch. 19, art. 134.

Agents des pêches et gardes-pêche

Désignation

5 (1) Le ministre peut désigner toute personne ou catégorie de personnes à titre d'agents des pêches ou de gardes-pêche pour l'application de la présente loi et peut restreindre, de la façon qu'il estime indiquée, les pouvoirs qu'un agent des pêches ou un garde-pêche est autorisé à exercer sous le régime de cette loi ou de toute autre loi fédérale.

Certificat de désignation

(2) Les personnes désignées à titre d'agents des pêches ou de gardes-pêche reçoivent un certificat de désignation dont la forme est approuvée par le ministre; celles dont les pouvoirs sont restreints reçoivent un certificat où sont énumérés ceux qu'elles sont autorisées à exercer.

Présentation du certificat

(3) L'agent des pêches et le garde-pêche sont tenus de présenter leur certificat de désignation, sur demande, au responsable du lieu qui fait l'objet de leur intervention.

Lois de certaines premières nations

(4) Les agents des pêches et les gardes-pêche disposent des pouvoirs et protections qui leur sont conférés par la présente loi ou toute autre loi fédérale, y compris ceux

officer under the *Criminal Code*, apply to a fishery officer or fishery guardian enforcing

(a) Nisga'a laws made under the Fisheries Chapter of the Nisga'a Final Agreement given effect by the *Nisga'a Final Agreement Act*;

(a.1) Tla'amin Laws, as defined in subsection 2(2) of the *Tla'amin Final Agreement Act*, made under Chapter 9 of the Agreement, as defined in subsection 2(1) of that Act, given effect by that Act;

(b) Tsawwassen Laws, within the meaning of subsection 2(2) of the *Tsawwassen First Nation Final Agreement Act*, made under chapter 9 of the Agreement, as defined in subsection 2(1) of that Act, given effect by that Act; or

(c) Maanulth Laws, within the meaning of subsection 2(2) of the *Maanulth First Nations Final Agreement Act*, made under chapter 10 of the Agreement, as defined in subsection 2(1) of that Act, given effect by that Act.

R.S., 1985, c. F-14, s. 5; 1991, c. 1, s. 2; 2000, c. 7, s. 22; 2008, c. 32, s. 28; 2009, c. 18, s. 21; 2014, c. 11, s. 22.

Factors To Be Taken into Account

Factors

6 Before recommending to the Governor in Council that a regulation be made in respect of section 35 or under paragraph 37(3)(c) or 43(1)(i.01) or subsection 43(5), and before exercising any power under subsection 20(2) or (3) or 21(1), paragraph 35(2)(b) or (c) or subsection 35(3), or under subsection 37(2) with regard to an offence under subsection 40(1) or with regard to harm to fish, the Minister shall consider the following factors:

(a) the contribution of the relevant fish to the ongoing productivity of commercial, recreational or Aboriginal fisheries;

(b) fisheries management objectives;

(c) whether there are measures and standards to avoid, mitigate or offset serious harm to fish that are part of a commercial, recreational or Aboriginal fishery, or that support such a fishery; and

(d) the public interest.

R.S., 1985, c. F-14, s. 6; 1991, c. 1, s. 2; 2012, c. 19, s. 135.

dont disposent les agents de la paix en vertu du *Code criminel*, pour l'exécution des lois suivantes :

a) les lois nisga'a adoptées sous le régime du chapitre sur les pêches de l'Accord définitif nisga'a mis en vigueur par la *Loi sur l'Accord définitif nisga'a*;

a.1) les lois tlaamines, au sens du paragraphe 2(2) de la *Loi sur l'accord définitif concernant les Tlaamins*, adoptées sous le régime du chapitre 9 de l'accord, au sens du paragraphe 2(1) de cette loi, mis en vigueur par celle-ci;

b) les lois tsawwassennes, au sens du paragraphe 2(2) de la *Loi sur l'accord définitif concernant la Première Nation de Tsawwassen*, adoptées sous le régime du chapitre 9 de l'accord, au sens du paragraphe 2(1) de cette loi, mis en vigueur par celle-ci;

c) les lois maanulthes, au sens du paragraphe 2(2) de la *Loi sur l'accord définitif concernant les premières nations maanulthes*, adoptées sous le régime du chapitre 10 de l'accord, au sens du paragraphe 2(1) de cette loi, mis en vigueur par celle-ci.

L.R. (1985), ch. F-14, art. 5; 1991, ch. 1, art. 2; 2000, ch. 7, art. 22; 2008, ch. 32, art. 28; 2009, ch. 18, art. 21; 2014, ch. 11, art. 22.

Facteurs à prendre en considération

Facteurs

6 Avant de recommander au gouverneur en conseil de prendre des règlements pour l'application de l'article 35 ou en vertu des alinéas 37(3)c) ou 43(1)i.01) ou du paragraphe 43(5) ou avant d'exercer un pouvoir visé aux paragraphes 20(2) ou (3) ou 21(1), aux alinéas 35(2)b) ou c) ou au paragraphe 35(3), ou au paragraphe 37(2) à l'égard d'une infraction au paragraphe 35(1) ou des dommages aux poissons, le ministre doit tenir compte des facteurs suivants :

a) l'importance du poisson visé pour la productivité continue des pêches commerciale, récréative et autochtone;

b) les objectifs en matière de gestion des pêches;

c) l'existence de mesures et de normes visant à éviter, à réduire ou à contrebalancer les dommages sérieux à tout poisson visé par une pêche commerciale, récréative ou autochtone, ou à tout poisson dont dépend une telle pêche;

d) l'intérêt public.

L.R. (1985), ch. F-14, art. 6; 1991, ch. 1, art. 2; 2012, ch. 19, art. 135.

Purpose

6.1 The purpose of section 6, and of the provisions set out in that section, is to provide for the sustainability and ongoing productivity of commercial, recreational and Aboriginal fisheries.

2012, c. 19, s. 135.

Fishery Leases and Licences

Fishery leases and licences

7 (1) Subject to subsection (2), the Minister may, in his absolute discretion, wherever the exclusive right of fishing does not already exist by law, issue or authorize to be issued leases and licences for fisheries or fishing, wherever situated or carried on.

Idem

(2) Except as otherwise provided in this Act, leases or licences for any term exceeding nine years shall be issued only under the authority of the Governor in Council.

R.S., c. F-14, s. 7.

Fees

8 Except where licence fees are prescribed in this Act, the Governor in Council may prescribe the fees that are to be charged for fishery or fishing licences.

R.S., c. F-14, s. 8.

Minister may cancel licence

9 The Minister may suspend or cancel any lease or licence issued under the authority of this Act, if

(a) the Minister has ascertained that the operations under the lease or licence were not conducted in conformity with its provisions; and

(b) no proceedings under this Act have been commenced with respect to the operations under the lease or licence.

R.S., 1985, c. F-14, s. 9; R.S., 1985, c. 31 (1st Suppl.), s. 95.

Fish Allocation for Financing Purposes

Allocation of fish

10 (1) For the proper management and control of fisheries and the conservation and protection of fish, the

Objet

6.1 L'objet de l'article 6 et des dispositions qui y sont visées est d'assurer la durabilité et la productivité continue des pêches commerciale, récréative et autochtone.

2012, ch. 19, art. 135.

Baux, permis et licences de pêche

Baux, permis et licences de pêche

7 (1) En l'absence d'exclusivité du droit de pêche conférée par la loi, le ministre peut, à discrétion, octroyer des baux et permis de pêche ainsi que des licences d'exploitation de pêcheries — ou en permettre l'octroi —, indépendamment du lieu de l'exploitation ou de l'activité de pêche.

Réserve

(2) Sous réserve des autres dispositions de la présente loi, l'octroi de baux, permis et licences pour un terme supérieur à neuf ans est subordonné à l'autorisation du gouverneur général en conseil.

S.R., ch. F-14, art. 7.

Droits

8 Le gouverneur en conseil peut fixer les droits exigibles pour les licences d'exploitation ou les permis de pêche à l'égard desquels aucun droit n'est déjà prévu par la présente loi.

S.R., ch. F-14, art. 8.

Révocation par le ministre

9 Le ministre peut suspendre ou révoquer tous baux, permis ou licences consentis en vertu de la présente loi si :

a) d'une part, il constate un manquement à leurs dispositions;

b) d'autre part, aucune procédure prévue à la présente loi n'a été engagée à l'égard des opérations qu'ils visent.

L.R. (1985), ch. F-14, art. 9; L.R. (1985), ch. 31 (1^{er} suppl.), art. 95.

Allocation de poisson aux fins de financement

Allocation de poisson

10 (1) Le ministre peut, pour la gestion et la surveillance judicieuses des pêches et pour la conservation

Minister may determine a quantity of fish or of fishing gear and equipment that may be allocated for the purpose of financing scientific and fisheries management activities that are described in a joint project agreement entered into with any person or body, or any federal or provincial minister, department or agency.

Quantity in licence

(2) The Minister may specify, in a licence issued under this Act, a quantity of fish or of fishing gear and equipment allocated for the purpose of financing those activities.

R.S., 1985, c. F-14, s. 10; 1991, c. 1, s. 3; 2012, c. 19, s. 411.

11 to 16 [Repealed, 1991, c. 1, s. 3]

Lobster Fisheries

17 [Repealed, 1991, c. 1, s. 4]

Licences for lobster pounds

18 (1) No one shall maintain a pound or enclosure in which lobsters, legally caught during the open season, are retained for sale during the close season at a place where the pound or enclosure is located, or for export therefrom, except under a licence from the Minister, and no lobsters shall be taken from any such pound or enclosure and disposed of during the close season at the place where it is located, except under a certificate from a fishery officer or fishery guardian, setting out the pound or enclosure from which the lobsters were taken and that they had been legally caught during the open season.

Marking of pounds

(2) Each pound or enclosure referred to in subsection (1) shall be marked with the name of the licensee and the number of his licence, and the marking shall be in black on a white ground, with letters and figures that are at least six inches in height.

Fee

(3) The annual fee for a licence referred to in subsection (1) shall be seventy-five dollars.

R.S., c. F-14, s. 18.

19 [Repealed, 1991, c. 1, s. 5]

et la protection du poisson, déterminer une quantité de poisson ou d'engins et d'équipements de pêche pouvant être allouée en vue du financement des activités scientifiques et de gestion des pêches visées dans des accords de projets conjoints conclus avec toute personne ou tout organisme ou tout ministre, ministère ou organisme fédéral ou provincial.

Quantité visée par un permis

(2) Le ministre peut, sur le permis octroyé en vertu de la présente loi, indiquer la quantité de poisson ou d'engins et d'équipements de pêche allouée en vue de ce financement.

L.R. (1985), ch. F-14, art. 10; 1991, ch. 1, art. 3; 2012, ch. 19, art. 411.

11 à 16 [Abrogés, 1991, ch. 1, art. 3]

Exploitation du homard

17 [Abrogé, 1991, ch. 1, art. 4]

Licence d'exploitation de parcs à homards ou de viviers

18 (1) Il est interdit, sans une licence délivrée par le ministre, de garder dans un parc ou un vivier des homards, légalement pris pendant la saison de pêche, pour vente sur les lieux pendant la période d'interdiction ou pour exportation. De même, il est interdit de sortir des homards d'un parc ou d'un vivier et de s'en départir sur les lieux pendant la période d'interdiction sans un certificat d'un agent des pêches ou d'un garde-pêche mentionnant le parc ou le vivier d'origine des homards et attestant qu'ils ont été capturés légalement durant la saison de pêche.

Marquage du parc ou vivier

(2) Chaque parc ou vivier porte le nom du titulaire de la licence et le numéro de celle-ci en caractères noirs sur fond blanc d'au moins six pouces de haut.

Droit

(3) Le droit annuel à verser pour la licence est de soixante-quinze dollars.

S.R., ch. F-14, art. 18.

19 [Abrogé, 1991, ch. 1, art. 5]

Fishways

Studies, analyses, samplings and evaluations

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

Minister's request

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

- (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;
- (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 that the Minister considers sufficient to permit the free passage of fish; or
- (g)** permit the escape, into the water below the obstruction or thing, at all times of the quantity of water that the Minister considers sufficient for the safety of fish or for the flooding of fish habitat to an appropriate depth.

Modification, repair and maintenance

(3) On the Minister's request, 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 to prevent harm to fish during the construction, implementation,

Passes migratoires

Études, analyses, évaluations ou échantillonnages

20 (1) Si le ministre l'estime nécessaire pour assurer le libre passage des poissons ou prévenir les dommages aux poissons, le propriétaire ou le responsable d'un obstacle — y compris toute autre chose dommageable pour les poissons — doit, à la demande du ministre et dans le délai qu'il précise, effectuer toute étude, analyse ou évaluation ou tout échantillonnage et fournir au ministre tout document et autre renseignement s'y rapportant ou se rapportant à l'obstacle ou à la chose, ou aux poissons ou à l'habitat qui sont touchés ou qui le seront vraisemblablement.

Demande du ministre

(2) Si le ministre l'estime nécessaire pour assurer le libre passage des poissons ou prévenir les dommages aux poissons, le propriétaire ou le responsable d'un obstacle — y compris toute autre chose dommageable pour les poissons — doit, à la demande du ministre et dans le délai et conformément aux spécifications fournies par celui-ci :

- a)** enlever l'obstacle ou la chose;
- b)** construire une passe migratoire;
- c)** mettre sur pied un système permettant la capture du poisson, son transport au-delà de l'obstacle ou de la chose et sa remise à l'eau;
- d)** installer un dispositif d'arrêt ou de déviation;
- e)** installer un grillage, un treillis, un filet ou un autre dispositif pour empêcher le passage du poisson dans un fossé, un chenal, un canal ou une prise d'eau;
- f)** veiller au maintien d'un débit d'eau qui est, de l'avis du ministre, suffisant pour assurer le libre passage du poisson;
- g)** veiller à l'écoulement, dans les eaux en aval de l'obstacle ou de la chose, de la quantité d'eau qui, de l'avis du ministre, suffit à assurer la sécurité du poisson ou la submersion de son habitat à une profondeur adéquate.

Modification, réparation et entretien

(3) Le propriétaire ou le responsable visé au paragraphe (2) doit, à la demande du ministre :

- a)** prendre toute disposition que le ministre juge nécessaire pour assurer le libre passage des poissons ou prévenir les dommages aux poissons pendant tout entretien ou toute construction, installation, mise sur

installation, modification or repair of anything mentioned in that subsection;

(b) operate and maintain that thing 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 request;

(c) stop or hinder fish from entering or passing through any fishway, or from surmounting any obstacle or leap;

(d) damage, remove or authorize the removal of any fish guard, screen, covering, netting or other device installed on the Minister's request; 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 request if the removal is required for modification, repair or maintenance.

R.S., 1985, c. F-14, s. 20; 2012, c. 19, s. 136, c. 31, s. 176.

Devices to prevent escape of fish

21 (1) The Minister may authorize the installation and maintenance of fish guards, screens, coverings, netting or other devices in waters to prevent fish held for breeding from escaping or for any other purpose that the Minister considers to be in the public interest.

Removal

(2) No person shall damage, remove or authorize the removal of such a fish guard, screen, covering, netting or other device, unless they are authorized to do so by the Minister.

R.S., 1985, c. F-14, s. 21; 2012, c. 19, s. 136.

pied, modification ou réparation faits au titre de ce paragraphe;

b) veiller à ce que tout élément visé à ce paragraphe soit en bon état et soit utilisé et entretenu conformément aux spécifications fournies par le ministre;

c) modifier ou réparer un tel élément conformément aux spécifications fournies par le ministre.

Obstruction — passage du poisson

(4) Il est interdit :

a) d'endommager ou d'obstruer une passe migratoire construite ou utilisée pour permettre au poisson de franchir ou de contourner un obstacle;

b) d'endommager ou d'obstruer une passe migratoire ou un dispositif d'arrêt ou de déviation construits ou installés à la demande du ministre;

c) de gêner ou d'arrêter le poisson afin de l'empêcher soit d'entrer ou de passer dans une passe migratoire, soit de surmonter un obstacle ou de sauter;

d) d'endommager ou d'enlever un grillage, un treillis, un filet ou un autre dispositif installé à la demande du ministre ou d'en autoriser l'enlèvement;

e) de pêcher à moins de vingt-trois mètres en aval de l'entrée inférieure de toute passe migratoire ou de tout obstacle ou espace à sauter.

Réserve

(5) Malgré l'alinéa (4)d), il est permis d'enlever un grillage, un treillis, un filet ou un autre dispositif installé à la demande du ministre ou d'en autoriser l'enlèvement si celui-ci est nécessaire pour la modification, la réparation ou l'entretien du dispositif.

L.R. (1985), ch. F-14, art. 20; 2012, ch. 19, art. 136, ch. 31, art. 176.

Dispositifs autorisés

21 (1) Le ministre peut, afin d'empêcher le poisson destiné à la reproduction de s'échapper ou à toute autre fin qu'il juge d'intérêt public, autoriser l'installation, dans des eaux, d'un grillage, d'un treillis, d'un filet ou d'un autre dispositif ainsi que son entretien.

Enlèvement

(2) Il est interdit, sans l'autorisation du ministre, d'endommager ou d'enlever tout dispositif visé au paragraphe (1), ou d'en autoriser l'enlèvement.

L.R. (1985), ch. F-14, art. 21; 2012, ch. 19, art. 136.

22 [Repealed, 2012, c. 19, s. 136]

General Prohibitions

Fishing in limits leased to another prohibited

23 No one shall fish for, take, catch or kill fish in any water, along any beach or within any fishery described in any lease or licence, or place, use, draw or set therein any fishing gear or apparatus, except by permission of the occupant under the lease or licence for the time being, or shall disturb or injure any such fishery.

R.S., c. F-14, s. 21.

Seines, nets, etc., not to obstruct navigation

24 Seines, nets or other fishing apparatus shall not be set or used in such manner or in such place as to obstruct the navigation of boats and vessels and no boats or vessels shall destroy or wantonly injure in any way seines, nets or other fishing apparatus lawfully set.

R.S., c. F-14, s. 22.

Setting gear during close time

25 (1) Subject to the regulations, no person shall place or set any fishing gear or apparatus in any water, along any beach or within any fishery during a close time.

Removal of gear

(2) Subject to the regulations and subsection (3), any person who places or sets any fishing gear or apparatus in any water, along any beach or within any fishery shall remove it when the gear or apparatus is not being tended and prior to the commencement of a close time.

Officer's discretion

(3) A fishery officer may permit fishing gear or apparatus to remain in the water, along a beach or within a fishery after the commencement of a close time for any period the fishery officer considers necessary to permit the removal of the gear or apparatus.

R.S., 1985, c. F-14, s. 25; 1991, c. 1, s. 6.

26 [Repealed, 2012, c. 19, s. 137]

27 [Repealed, 2012, c. 19, s. 137]

22 [Abrogé, 2012, ch. 19, art. 136]

Interdictions générales

Défense de pêcher dans les zones louées à d'autres

23 Il est interdit de pêcher ou de tuer du poisson dans les eaux, sur la grève ou dans une pêcherie mentionnées dans un bail ou une licence, ou d'y mouiller ou utiliser quelque engin ou appareil de pêche, sans la permission de l'occupant selon le bail ou la licence alors en vigueur; il est également interdit de troubler ou d'endommager pareille pêcherie.

S.R., ch. F-14, art. 21.

Les sennes, filets, etc. ne doivent pas gêner la navigation

24 Il est interdit de mouiller ou d'utiliser des sennes, filets ou autres engins de pêche de façon à nuire — ou à un endroit où ils pourraient nuire — à la navigation, de même qu'il est interdit aux bateaux de détruire ou d'endommager de façon injustifiée les sennes, filets ou autres engins de pêche légalement mouillés.

S.R., ch. F-14, art. 22.

Installation d'engins de pêche en période d'interdiction

25 (1) Sous réserve des règlements, il est interdit de placer des engins ou appareils de pêche dans les eaux, sur la grève ou dans une pêcherie durant une période d'interdiction.

Enlèvement des engins de pêche

(2) Sous réserve des règlements et du paragraphe (3), les personnes qui placent des engins ou appareils de pêche dans les eaux, sur la grève ou dans une pêcherie sont tenues de les enlever dès qu'elles ont cessé de s'en servir et au plus tard avant le début de la période d'interdiction.

Décision de l'agent des pêches

(3) L'agent des pêches peut permettre de laisser en place des engins ou appareils de pêche après le début d'une période d'interdiction pendant le temps qu'il estime nécessaire à leur enlèvement.

L.R. (1985), ch. F-14, art. 25; 1991, ch. 1, art. 6.

26 [Abrogé, 2012, ch. 19, art. 137]

27 [Abrogé, 2012, ch. 19, art. 137]

Use of explosives prohibited

28 No one shall hunt or kill fish or marine animals of any kind, other than porpoises, whales, walruses, sea-lions and hair seals, by means of rockets, explosive materials, explosive projectiles or shells.

R.S., c. F-14, s. 26.

Obstructing passage of fish or waters

29 (1) No person shall erect, use or maintain any seine, net, weir or other fishing appliance 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 appliance 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.

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

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.

32 [Repealed, 2012, c. 19, s. 139]

Interdiction d'utiliser des explosifs

28 Il est interdit de tuer du poisson, ou de chasser des animaux marins autres que le marsouin, la baleine, le morse, l'otarie et le phoque à poil, au moyen de fusées, d'explosifs ou d'obus ou projectiles explosifs.

S.R., ch. F-14, art. 26.

Filets, etc. obstruant le passage du poisson

29 (1) Il est interdit de construire, d'utiliser ou de mouiller tout engin ou équipement de pêche tel que filet simple, filet-piège ou senne qui :

a) obstrue indûment le passage du poisson dans les eaux de pêche canadiennes, qu'elles fassent ou non l'objet d'un droit de pêche exclusif;

b) obstrue plus des deux tiers de la largeur d'un cours d'eau ou plus d'un tiers de la largeur à marée basse du chenal principal d'un courant de marée.

Enlèvement

(2) Le ministre ou un agent des pêches peut enlever ou faire enlever tout engin ou équipement de pêche tel que filet simple, filet-piège ou senne qui, à son avis, entraîne l'obstruction visée à l'alinéa (1)a) ou b).

Courant de marée

(3) Pour l'application de l'alinéa (1)b), dans le cas où un courant de marée n'a pas de chenal principal à marée basse, la largeur du courant de marée est celle de son chenal principal.

L.R. (1985), ch. F-14, art. 29; 2012, ch. 31, art. 173.

30 [Abrogé, 2012, ch. 19, art. 138]

Interdiction générale

31 (1) Il est interdit, sauf autorisation du ministre, de pêcher, d'acheter, de vendre, de posséder ou d'exporter du poisson de quelque espèce que ce soit dans le but d'en faire de la farine de poisson, du fumier, du guano ou de l'engrais, ou pour le transformer en huile, farine de poisson, fumier ou autre produit fertilisant.

Exception

(2) Le ministre peut, par avis publié dans la *Gazette du Canada*, soustraire toute espèce de poisson à l'application totale ou partielle du paragraphe (1).

S.R., ch. F-14, art. 29.

32 [Abrogé, 2012, ch. 19, art. 139]

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.

Fisheries Protection and Pollution Prevention

Definitions

34 (1) For the purposes of sections 35 to 43,

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,

Possession et vente illégales

33 Il est interdit d'acheter, de vendre ou d'avoir en sa possession du poisson qui a été pêché en contravention avec la présente loi ou les règlements.

L.R. (1985), ch. F-14, art. 33; 1991, ch. 1, art. 8.

Définition de « plan de pêche »

33.1 (1) Au présent article, **plan de pêche** s'entend de tout plan annuel de pêche niska'a, au sens du chapitre sur les pêches de l'Accord définitif niska'a mis en vigueur par la *Loi sur l'Accord définitif niska'a*, approuvé, avec ou sans modification, par le ministre conformément à l'accord.

Contravention

(2) Il est interdit de contrevenir à toute clause du plan de pêche touchant les personnes qui se livrent à la prise ou à la récolte, à la vente ou à d'autres activités connexes dont il stipule qu'elle est assujettie au présent paragraphe.

Réserve

(3) Des poursuites ne peuvent être engagées en vertu du paragraphe (2) sauf, selon le cas :

a) en application d'un accord conclu au titre de l'article 93 du chapitre sur les pêches de l'accord relativement à l'exécution des lois fédérales ou des lois niska'a;

b) si le ministre, ou le fonctionnaire du ministère des Pêches et des Océans que celui-ci autorise, les juge nécessaires pour assurer l'application du plan de pêche.

2000, ch. 7, art. 23.

Protection des pêches et prévention de la pollution

Définitions

34 (1) Les définitions qui suivent s'appliquent aux articles 35 à 43.

eaux où vivent des poissons Les eaux de pêche canadiennes. (*water frequented by fish*)

habitat du poisson [Abrogée, 2012, ch. 19, art. 141]

immersion ou **rejet** Le versement, le déversement, l'écoulement, le suintement, l'arrosage, l'épandage, la vaporisation, l'évacuation, l'émission, le vidage, le jet, la décharge ou le dépôt. (*deposit*)

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*)

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).

R.S., 1985, c. F-14, s. 34; 2012, c. 19, s. 141.

Serious harm to fish

35 (1) No person shall carry on any work, undertaking or activity that results in serious harm to fish that are part of a commercial, recreational or Aboriginal fishery, or to fish that support such a fishery.

substance nocive

a) Toute substance qui, si elle était ajoutée à l'eau, altérerait ou contribuerait à altérer la qualité de celle-ci au point de la rendre nocive, ou susceptible de le devenir, pour le poisson ou son habitat, ou encore de rendre nocive l'utilisation par l'homme du poisson qui y vit;

b) toute eau qui contient une substance en une quantité ou concentration telle — ou qui, à partir de son état naturel, a été traitée ou transformée par la chaleur ou d'autres moyens d'une façon telle — que, si elle était ajoutée à une autre eau, elle altérerait ou contribuerait à altérer la qualité de celle-ci au point de la rendre nocive, ou susceptible de le devenir, pour le poisson ou son habitat, ou encore de rendre nocive l'utilisation par l'homme du poisson qui y vit.

La présente définition vise notamment les substances ou catégories de substances désignées en application de l'alinéa (2)a), l'eau contenant une substance ou une catégorie de substances en quantités ou concentrations égales ou supérieures à celles fixées en vertu de l'alinéa (2)b) et l'eau qui a subi un traitement ou une transformation désignés en application de l'alinéa (2)c). (*deleterious substance*)

Règlements

(2) Pour l'application de la définition de **substance nocive** au paragraphe (1), le gouverneur en conseil peut, par règlement :

a) désigner certaines substances ou catégories de substances;

b) fixer les quantités ou concentrations de certaines substances ou catégories de substances admissibles dans l'eau;

c) désigner certains traitements ou transformations qui, apportés à l'eau, en font une substance nocive.

L.R. (1985), ch. F-14, art. 34; 2012, ch. 19, art. 141.

Domages sérieux aux poissons

35 (1) Il est interdit d'exploiter un ouvrage ou une entreprise ou d'exercer une activité entraînant des dommages sérieux à tout poisson visé par une pêche commerciale, récréative ou autochtone, ou à tout poisson dont dépend une telle pêche.

Exception

(2) A person may carry on a work, undertaking or activity without contravening subsection (1) if

(a) the work, undertaking or activity is a prescribed work, undertaking or activity, or is carried on in or around prescribed Canadian fisheries waters, and the work, undertaking or activity is carried on in accordance with the prescribed conditions;

(b) the carrying on of the work, undertaking or activity is authorized by the Minister and the work, undertaking or activity is carried on in accordance with the conditions established by the Minister;

(c) the carrying on of the work, undertaking or activity is authorized by a prescribed person or entity and the work, undertaking or activity is carried on in accordance with the prescribed conditions;

(d) the serious harm is produced as a result of doing anything that is authorized, otherwise permitted or required under this Act; or

(e) the work, undertaking or activity is carried on in accordance with the regulations.

Regulations

(3) The Minister may, for the purposes of paragraph (2)(a), make regulations prescribing anything that is authorized to be prescribed.

Statutory Instruments Act

(4) Regulations made under subsection (3) are exempt from section 3 of the *Statutory Instruments Act*.

R.S., 1985, c. F-14, s. 35; 2012, c. 19, s. 142.

Throwing overboard of certain substances prohibited

36 (1) No one shall

(a) throw overboard ballast, coal ashes, stones or other prejudicial or deleterious substances in any river, harbour or roadstead, or in any water where fishing is carried on;

(b) leave or deposit or cause to be thrown, left or deposited, on the shore, beach or bank of any water or on the beach between high and low water mark, remains or offal of fish or of marine animals; or

(c) leave decayed or decaying fish in any net or other fishing apparatus.

Exception

(2) Il est permis d'exploiter un ouvrage ou une entreprise ou d'exercer une activité sans contrevenir au paragraphe (1) dans les cas suivants :

a) l'ouvrage, l'entreprise ou l'activité est visé par règlement ou est exploité ou exercé dans les eaux de pêche canadiennes visées par règlement ou à proximité et l'exploitation de l'ouvrage ou de l'entreprise ou l'exercice de l'activité est conforme aux conditions réglementaires;

b) l'exploitation de l'ouvrage ou de l'entreprise ou l'exercice de l'activité est autorisé par le ministre et est conforme aux conditions que celui-ci établit;

c) l'exploitation de l'ouvrage ou de l'entreprise ou l'exercice de l'activité est autorisé par toute autre personne ou entité précisée par règlement et est conforme aux conditions réglementaires;

d) les dommages sérieux sont entraînés par l'accomplissement d'un acte requis, autorisé ou autrement permis sous le régime de la présente loi;

e) l'exploitation de l'ouvrage ou de l'entreprise ou l'exercice de l'activité est conforme aux règlements.

Règlement

(3) Le ministre peut prendre toute mesure d'ordre réglementaire prévue par l'alinéa (2)a).

Loi sur les textes réglementaires

(4) Le règlement pris en vertu du paragraphe (3) est soustrait à l'application de l'article 3 de la *Loi sur les textes réglementaires*.

L.R. (1985), ch. F-14, art. 35; 2012, ch. 19, art. 142.

Interdiction de rejet

36 (1) Il est interdit de :

a) jeter par-dessus bord du lest, des cendres de charbon, des pierres ou d'autres substances nocives dans une rivière, un port, une rade, ou dans des eaux où se pratique la pêche;

b) laisser ou déposer ou faire jeter, laisser ou déposer sur la rive, la grève ou le bord de quelque cours ou nappe d'eau, ou sur la grève entre les laisses de haute et de basse mer, des déchets ou issues de poissons ou d'animaux marins;

c) laisser du poisson gâté ou en putréfaction dans un filet ou autre engin de pêche.

Disposal of remains, etc.

(2) Remains or offal described in subsection (1) may be buried ashore, above high water mark.

Deposit of deleterious substance prohibited

(3) Subject to subsection (4), no person shall deposit or permit the deposit of a deleterious substance of any type in water frequented by fish or in any place under any conditions where the deleterious substance or any other deleterious substance that results from the deposit of the deleterious substance may enter any such water.

Deposits authorized by regulation

(4) No person contravenes subsection (3) by depositing or permitting the deposit in any water or place of

(a) waste or pollutant of a type, in a quantity and under conditions authorized by regulations applicable to that water or place made by the Governor in Council under any Act other than this Act;

(b) a deleterious substance of a class and under conditions — which may include conditions with respect to quantity or concentration — authorized under regulations made under subsection (5) applicable to that water or place or to any work or undertaking or class of works or undertakings; or

(c) a deleterious substance the deposit of which is authorized by regulations made under subsection (5.2) and that is deposited in accordance with those regulations.

Regulations for authorizing certain deposits

(5) The Governor in Council may make regulations for the purpose of paragraph (4)(b) prescribing

(a) the deleterious substances or classes thereof authorized to be deposited notwithstanding subsection (3);

(b) the waters or places or classes thereof where any deleterious substances or classes thereof referred to in paragraph (a) are authorized to be deposited;

(c) the works or undertakings or classes thereof in the course or conduct of which any deleterious substances or classes thereof referred to in paragraph (a) are authorized to be deposited;

(d) the quantities or concentrations of any deleterious substances or classes thereof referred to in paragraph (a) that are authorized to be deposited;

Déchets

(2) Les déchets ou issues de poissons peuvent être enterrés sur la grève, au-delà de la laisse de haute mer.

Dépôt de substances nocives prohibé

(3) Sous réserve du paragraphe (4), il est interdit d'immerger ou de rejeter une substance nocive — ou d'en permettre l'immersion ou le rejet — dans des eaux où vivent des poissons, ou en quelque autre lieu si le risque existe que la substance ou toute autre substance nocive provenant de son immersion ou rejet pénètre dans ces eaux.

Immersion permise par règlement

(4) Par dérogation au paragraphe (3), il est permis d'immerger ou de rejeter :

a) les déchets ou les polluants désignés par les règlements applicables aux eaux ou lieux en cause pris par le gouverneur en conseil en application d'une autre loi, pourvu que les conditions, notamment les quantités maximales, qui y sont fixées soient respectées;

b) les substances nocives appartenant à une catégorie autorisée sous le régime des règlements applicables aux eaux ou lieux en cause, ou aux ouvrages ou entreprises ou à leurs catégories, pris en vertu du paragraphe (5), et ce selon les conditions — notamment quantités et degrés de concentration — prévues sous leur régime;

c) les substances nocives visées par règlement pris en vertu du paragraphe (5.2) si l'immersion ou le rejet est fait conformément à ce règlement.

Règlements d'application de l'al. (4)b)

(5) Pour l'application de l'alinéa (4)b), le gouverneur en conseil peut, par règlement, déterminer :

a) les substances ou catégories de substances nocives dont l'immersion ou le rejet sont autorisés par dérogation au paragraphe (3);

b) les eaux et les lieux ou leurs catégories où l'immersion ou le rejet des substances ou catégories de substances visées à l'alinéa a) sont autorisés;

c) les ouvrages ou entreprises ou catégories d'ouvrages ou d'entreprises pour lesquels l'immersion ou le rejet des substances ou des catégories de substances visées à l'alinéa a) sont autorisés;

d) les quantités ou les degrés de concentration des substances ou des catégories de substances visées à l'alinéa a) dont l'immersion ou le rejet sont autorisés;

(e) the conditions or circumstances under which and the requirements subject to which any deleterious substances or classes thereof referred to in paragraph (a) or any quantities or concentrations of those deleterious substances or classes thereof are authorized to be deposited in any waters or places or classes thereof referred to in paragraph (b) or in the course or conduct of any works or undertakings or classes thereof referred to in paragraph (c); and

(f) the persons who may authorize the deposit of any deleterious substances or classes thereof in the absence of any other authority, and the conditions or circumstances under which and requirements subject to which those persons may grant the authorization.

Regulations — Governor in Council

(5.1) The Governor in Council may make regulations establishing conditions for the exercise of the Minister's regulation-making power under subsection (5.2).

Regulations — Minister

(5.2) If regulations have been made under subsection (5.1), the Minister may make regulations

(a) authorizing the deposit of deleterious substances specified in the regulations, or substances falling within a class of deleterious substances specified in the regulations;

(b) authorizing the deposit of deleterious substances into waters or places falling within a class of waters or places;

(c) authorizing the deposit of deleterious substances resulting from a work, undertaking or activity falling within a class of works, undertakings or activities;

(d) establishing conditions, which may include conditions with respect to quantity or concentration, for the deposit of deleterious substances referred to in paragraphs (a) to (c); and

(e) establishing, for the purposes of paragraphs (a) to (c), classes of

(i) deleterious substances,

(ii) waters and places, and

(iii) works, undertakings and activities.

Directions by the Minister

(6) A person authorized to deposit a deleterious substance by or under regulations made under subsection (5) or (5.2) shall, when directed by the Minister, despite

e) les conditions, les quantités, les exigences préalables et les degrés de concentration autorisés pour l'immersion ou le rejet des substances ou catégories de substances visées à l'alinéa a) dans les eaux et les lieux visés à l'alinéa b) ou dans le cadre des ouvrages ou entreprises visés à l'alinéa c);

f) les personnes habilitées à autoriser l'immersion ou le rejet de substances ou de catégories de substances nocives en l'absence de toute autre autorité et les conditions et exigences attachées à l'exercice de ce pouvoir.

Règlement — gouverneur en conseil

(5.1) Le gouverneur en conseil peut, par règlement, prévoir les conditions d'exercice par le ministre du pouvoir de prendre un règlement en vertu du paragraphe (5.2).

Règlement — ministre

(5.2) Si un règlement est pris en vertu du paragraphe (5.1), le ministre peut, par règlement :

a) autoriser l'immersion ou le rejet des substances nocives qu'il y précise ou qui appartiennent à une catégorie qu'il y précise;

b) autoriser l'immersion ou le rejet de substances nocives dans des eaux ou lieux appartenant à une catégorie d'eaux ou de lieux;

c) autoriser l'immersion ou le rejet de substances nocives découlant de l'exploitation d'un ouvrage ou d'une entreprise ou de l'exercice d'une activité appartenant à une catégorie d'ouvrages, d'entreprises ou d'activités;

d) établir les conditions, notamment les quantités et degrés de concentration, à respecter pour l'immersion ou le rejet visé à l'un des alinéas a) à c);

e) établir, pour l'application des alinéas a) à c), des catégories de substances nocives, des catégories d'eaux ou de lieux et des catégories d'ouvrages, d'entreprises et d'activités.

Instructions ministérielles

(6) Malgré les règlements pris en vertu des alinéas (5)e) ou (5.2)d) ou les conditions dont sont assorties les autorisations visées à l'alinéa (5)f), les personnes autorisées à

any regulations made under paragraph (5)(e) or (5.2)(d) or any conditions set out in an authorization made under paragraph (5)(f), conduct any sampling, analyses, tests, measurements or monitoring, install or operate any equipment or comply with any procedures, and report any information, that is required by the Minister in order to determine whether the person is depositing the deleterious substance in the manner authorized.

R.S., 1985, c. F-14, s. 36; 2012, c. 19, s. 143.

Minister may require plans and specifications

37 (1) If a person carries on or proposes to carry on any work, undertaking or activity that results or is likely to result in serious harm to fish that are part of a commercial, recreational or Aboriginal fishery, or to fish that support such a fishery, or in the deposit of a deleterious substance in water frequented by fish or in any place under any conditions where that deleterious substance or any other deleterious substance that results from the deposit of that deleterious substance may enter any such waters, the person shall, on the request of the Minister — or without request in the manner and circumstances prescribed by regulations made under paragraph (3)(a) — provide the Minister with any plans, specifications, studies, procedures, schedules, analyses, samples, evaluations and other information relating to the work, undertaking or activity, or to the water, place or fish habitat that is or is likely to be affected by the work, undertaking or activity, that will enable the Minister to determine

(a) whether the work, undertaking or activity results or is likely to result in any serious harm to fish that are part of a commercial, recreational or Aboriginal fishery, or to fish that support such a fishery, that constitutes or would constitute an offence under subsection 40(1) and what measures, if any, would prevent that result or mitigate its effects; or

(b) whether there is or is likely to be a deposit of a deleterious substance by reason of the work, undertaking or activity that constitutes or would constitute an offence under subsection 40(2) and what measures, if any, would prevent that deposit or mitigate its effects.

Ecologically significant areas

(1.1) If a person proposes to carry on any work, undertaking or activity in any ecologically significant area, the person shall, on the request of the minister — or without request in the manner and circumstances prescribed by regulations made under paragraph (3)(a) — provide the Minister with any prescribed material and other information relating to the work, undertaking or activity, or to the water, place or fish habitat that is or is likely to be affected by the work, undertaking or activity.

immerger ou à rejeter des substances nocives sous le régime des règlements pris en vertu des paragraphes (5) ou (5.2) doivent, à la demande du ministre, prélever des échantillons, faire des analyses, tests, mesures ou contrôles, installer ou utiliser des appareils ou se conformer à des procédures et fournir des renseignements, selon le cas, que celui-ci juge nécessaires pour déterminer si les conditions de l'autorisation ont été respectées.

L.R. (1985), ch. F-14, art. 36; 2012, ch. 19, art. 143.

Obligation de fournir des plans et devis

37 (1) La personne qui exploite ou se propose d'exploiter un ouvrage ou une entreprise de nature à entraîner soit des dommages sérieux à tout poisson visé par une pêche commerciale, récréative ou autochtone, ou à tout poisson dont dépend une telle pêche, soit l'immersion d'une substance nocive dans des eaux où vivent des poissons ou son rejet en quelque autre lieu si la substance nocive en cause, ou toute autre substance nocive provenant de son rejet, risque de pénétrer dans ces eaux ou qui exerce ou se propose d'exercer une activité de même nature, doit à la demande du ministre — ou de sa propre initiative, dans les cas et de la manière prévus par les règlements pris en vertu de l'alinéa (3)a) —, lui fournir les documents — plans, devis, études, pièces, annexes, programmes, analyses, échantillons, évaluations — et autres renseignements pertinents, concernant l'ouvrage, l'entreprise ou l'activité ou les eaux, lieux ou habitats menacés, qui lui permettront de déterminer, selon le cas :

a) si l'ouvrage, l'entreprise ou l'activité est de nature à entraîner des dommages sérieux à tout poisson visé par une pêche commerciale, récréative ou autochtone, ou à tout poisson dont dépend une telle pêche en contravention avec le paragraphe 35(1) et quelles sont les mesures éventuelles à prendre pour prévenir ou limiter les dommages;

b) si l'ouvrage, l'entreprise ou l'activité est susceptible d'entraîner l'immersion ou le rejet d'une substance en contravention avec l'article 36 et quelles sont les mesures éventuelles à prendre pour prévenir ou limiter les dommages.

Lieu ayant une importance écologique

(1.1) La personne qui se propose d'exploiter un ouvrage ou une entreprise ou d'exercer une activité dans un lieu ayant une importance écologique doit à la demande du ministre — ou de sa propre initiative, dans les cas et de la manière prévus par les règlements pris en vertu de l'alinéa (3)a) —, lui fournir les documents et autres renseignements visés par règlement, concernant l'ouvrage, l'entreprise ou l'activité ou les eaux, lieux ou habitats menacés.

Powers of Minister

(2) If, after reviewing any material or information provided under subsection (1) or (1.1) and affording the persons who provided it a reasonable opportunity to make representations, the Minister or a person designated by the Minister is of the opinion that an offence under subsection 40(1) or (2) is being or is likely to be committed, or that the work, undertaking or activity results or is likely to result in harm to fish in an ecologically significant area, the Minister or the designated person may, by order, subject to regulations made under paragraph (3)(b),

(a) require any modifications or additions to the work, undertaking or activity or any modifications to any plans, specifications, procedures or schedules relating to it that the Minister or the designated person considers necessary in the circumstances, or

(b) restrict the carrying on of the work, undertaking or activity.

The Minister or the designated person may also direct the closing of the work or undertaking or the ending of the activity for any period that the Minister or the designated person considers necessary in the circumstances.

Regulations

(3) The Governor in Council may make regulations

(a) prescribing the manner and circumstances in which any information or material shall be provided to the Minister without request under subsection (1) or (1.1);

(b) prescribing the manner and circumstances in which the Minister or a person designated by the Minister may make orders under subsection (2) and the terms of the orders; and

(c) defining **ecologically significant area** for the purposes of subsection (1.1).

Consultation with provinces

(4) Where the Minister or a person designated by the Minister proposes to make an order pursuant to subsection (2), he shall offer to consult with the governments of any provinces that he considers to be interested in the proposed order and with any departments or agencies of the Government of Canada that he considers appropriate.

Exception

(5) Nothing in subsection (4) prevents the Minister or a person designated by the Minister from making an interim order pursuant to subsection (2) without the offer of

Pouvoirs du ministre

(2) Si, après examen des documents et des renseignements reçus au titre des paragraphes (1) ou (1.1) et après avoir accordé aux personnes qui les lui ont fournis la possibilité de lui présenter leurs observations, il est d'avis qu'il y a infraction ou risque d'infraction au paragraphe 35(1) ou à l'article 36 ou que l'ouvrage, l'entreprise ou l'activité est de nature à entraîner des dommages aux poissons dans un lieu ayant une importance écologique, le ministre ou son délégué peut, par arrêté et sous réserve des règlements pris en vertu de l'alinéa (3)b) :

a) soit exiger que soient apportées les modifications et adjonctions aux ouvrages, entreprises ou activités, ou aux documents s'y rapportant, qu'il estime nécessaires dans les circonstances;

b) soit restreindre l'exploitation de l'ouvrage ou de l'entreprise ou l'exercice de l'activité.

Il peut en outre ordonner la fermeture de l'ouvrage ou de l'entreprise ou la cessation de l'activité pour la période qu'il juge nécessaire en l'occurrence.

Règlements

(3) Le gouverneur en conseil peut, par règlement :

a) prévoir les cas où des documents et des renseignements doivent être fournis au titre des paragraphes (1) et (1.1) au ministre sans qu'il en fasse la demande, ainsi que le mode de communication;

b) prévoir les cas où le ministre ou son délégué peut prendre l'arrêté visé au paragraphe (2), ainsi que les modalités de fond et de forme applicables;

c) définir **lieu ayant une importance écologique** pour l'application du paragraphe (1.1).

Consultation

(4) S'il se propose de prendre l'arrêté visé au paragraphe (2), le ministre ou son délégué offre aux gouvernements provinciaux qu'il juge intéressés et aux ministères et organismes fédéraux de son choix de les consulter.

Exception

(5) Le paragraphe (4) n'empêche pas le ministre ou son délégué de prendre, sans offre de consultation, un arrêté

consultation referred to in subsection (4) where he considers that immediate action is necessary.

R.S., 1985, c. F-14, s. 37; 2012, c. 19, s. 144.

Power to designate

38 (1) The Minister may designate persons or classes of persons as inspectors or analysts for the purposes of the administration and enforcement of this Act.

Certificate to be produced

(2) The Minister shall provide every inspector with a certificate of designation and on entering any place or premises referred to in subsection (3) an inspector shall, if so required, show the certificate to the person in charge.

Authority to enter

(3) An inspector may, for a purpose related to verifying compliance with this Act, enter any place or premises, including a vehicle or vessel — other than a private dwelling-place or any part of any place or premises, including a vehicle or vessel, used as a permanent or temporary private dwelling-place — in which the inspector believes on reasonable grounds that

(a) there is anything that is detrimental to fish habitat; or

(b) there has been carried on, is being carried on or is likely to be carried on any work, undertaking or activity resulting or likely to result in

(i) serious harm to fish that are part of a commercial, recreational or Aboriginal fishery, or to fish that support such a fishery,

(ii) the deposit of a substance in water frequented by fish or in any place under any conditions where the substance or any other substance that results from the deposit of the substance may enter any such water.

Powers on entry

(3.1) The inspector may, for a purpose related to verifying compliance with this Act, examine any substance or product in the place or premises, take samples of it and conduct tests and measurements.

(3.2) to (3.5) [Repealed, 2012, c. 19, s. 145]

provisoire sous le régime du paragraphe (2) lorsqu'il estime nécessaire d'agir immédiatement.

L.R. (1985), ch. F-14, art. 37; 2012, ch. 19, art. 144.

Pouvoir de désignation

38 (1) Le ministre peut désigner toute personne — à titre individuel ou au titre de son appartenance à une catégorie déterminée — à titre d'inspecteur ou d'analyste pour l'exécution et le contrôle d'application de la présente loi.

Production du certificat

(2) Le ministre remet à l'inspecteur un certificat attestant sa qualité, que celui-ci présente, sur demande, au responsable du lieu qui fait l'objet de sa visite.

Accès au lieu

(3) L'inspecteur peut, à toute fin liée à la vérification du respect de la présente loi, entrer dans tout lieu — y compris un véhicule ou navire —, à l'exclusion d'un local d'habitation privé et d'une partie d'un lieu — y compris un véhicule ou navire — utilisée comme local d'habitation privé permanent ou temporaire —, s'il a des motifs raisonnables de croire :

a) qu'il s'y trouve toute chose dommageable pour l'habitat du poisson;

b) qu'il y a été, y est ou y sera vraisemblablement exploité un ouvrage ou une entreprise ou exercé une activité qui entraîne ou entraînera vraisemblablement :

(i) soit des dommages sérieux à tout poisson visé par une pêche commerciale, récréative ou autochtone, ou à tout poisson dont dépend une telle pêche,

(ii) soit l'immersion ou le rejet d'une substance dans des eaux où vivent des poissons, ou en quelque autre lieu où la substance ou toute autre substance provenant de son immersion ou rejet risque de pénétrer dans ces eaux.

Autres pouvoirs

(3.1) Il peut, en outre, à toute fin liée à la vérification du respect de la présente loi, examiner tout produit ou substance trouvé dans le lieu, en prélever des échantillons, faire des tests et prendre des mesures.

(3.2) à (3.5) [Abrogés, 2012, ch. 19, art. 145]

Duty to notify — serious harm to fish

(4) Every person shall without delay notify an inspector, a fishery officer or an authority prescribed by the regulations of an occurrence that results in serious harm to fish that are part of a commercial, recreational or Aboriginal fishery, or to fish that support such a fishery, that is not authorized under this Act, or of a serious and imminent danger of such an occurrence, if the person at any material time

(a) owns or has the charge, management or control of the work, undertaking or activity that resulted in the occurrence or the danger of the occurrence; or

(b) causes or contributes to the occurrence or the danger of the occurrence.

Duty to notify — deleterious substance

(5) If there occurs a deposit of a deleterious substance in water frequented by fish that is not authorized under this Act, or if there is a serious and imminent danger of such an occurrence, and detriment to fish habitat or fish or to the use by humans of fish results or may reasonably be expected to result from the occurrence, then every person shall without delay notify an inspector, a fishery officer or an authority prescribed by the regulations if the person at any material time

(a) owns or has the charge, management or control of

(i) the deleterious substance, or

(ii) the work, undertaking or activity that resulted in the deposit or the danger of the deposit; or

(b) causes or contributes to the occurrence or the danger of the occurrence.

Duty to take corrective measures

(6) Any person described in paragraph (4)(a) or (b) or (5)(a) or (b) shall, as soon as feasible, take all reasonable measures consistent with public safety and with the conservation and protection of fish and fish habitat to prevent the occurrence or to counteract, mitigate or remedy any adverse effects that result from the occurrence or might reasonably be expected to result from it.

Report

(7) As soon as feasible after the occurrence or after learning of the danger of the occurrence, the person shall provide an inspector, fishery officer or an authority prescribed by the regulations with a written report on the occurrence or danger of the occurrence.

Avis — destruction, détérioration ou perturbation

(4) Les personnes mentionnées ci-après avisent sans délai un inspecteur, un agent des pêches ou toute autre autorité désignée par règlement de tout événement — qui s'est produit ou qui est fort probable et imminent — entraînant des dommages sérieux à tout poisson visé par une pêche commerciale, récréative ou autochtone, ou à tout poisson dont dépend une telle pêche qui ne sont pas autorisés sous le régime de la présente loi :

a) la personne qui est responsable, à titre de propriétaire ou autrement, de l'ouvrage, de l'entreprise ou de l'activité à l'origine des dommages;

b) celle qui est à l'origine des dommages, ou y contribue.

Avis — rejet ou immersion

(5) En cas de rejet ou d'immersion — effectif ou fort probable et imminent — d'une substance nocive dans des eaux où vivent des poissons qui n'est pas autorisé sous le régime de la présente loi et qui nuit — ou risque de nuire — aux poissons ou à leur habitat ou à l'utilisation du poisson par l'homme, les personnes mentionnées ci-après avisent sans délai un inspecteur, un agent des pêches ou toute autre autorité désignée par règlement :

a) la personne qui est responsable, à titre de propriétaire ou autrement, selon le cas, de la substance nocive ou de l'ouvrage, de l'entreprise ou de l'activité à l'origine du rejet ou de l'immersion;

b) celle qui est à l'origine du rejet ou de l'immersion ou y contribue.

Obligation de prendre des mesures correctives

(6) La personne visée aux alinéas (4)a) ou b) ou (5)a) ou b) est tenue de prendre, le plus tôt possible dans les circonstances, toutes les mesures nécessaires qui soient compatibles avec la sécurité publique et la conservation et la préservation du poisson et de son habitat pour prévenir l'événement mentionné aux paragraphes (4) ou (5) ou pour neutraliser, atténuer ou réparer les dommages qui en résultent ou pourraient normalement en résulter.

Rapport

(7) Le plus tôt possible dans les circonstances après l'événement ou après avoir pris connaissance de la probabilité de l'événement, elle est tenue de produire un rapport écrit sur l'événement et de le communiquer à un inspecteur, à un agent des pêches ou à toute autre autorité désignée par règlement.

Corrective measures

(7.1) If an inspector or fishery officer, whether or not they have been notified under subsection (4) or (5) or provided with a report under subsection (7), is satisfied on reasonable grounds that immediate action is necessary in order to take any measures referred to in subsection (6), the inspector or officer may, subject to subsection (7.2), take any of those measures at the expense of any person described in paragraph (4)(a) or (b) or (5)(a) or (b) or direct such a person to take them at that person's expense.

Inconsistency

(7.2) Any direction of an inspector or fishery officer under this section that is inconsistent with any direction under the *Canada Shipping Act, 2001* is void to the extent of the inconsistency.

Access to property

(8) For the purposes of subsections (4) to (7.1), any inspector or other person may enter and have access through any place or premises, including a vehicle or vessel — other than a private dwelling-place or any part of any place or premises, including a vehicle or vessel, used as a permanent or temporary private dwelling-place — and may take all reasonable measures in order to ensure that those subsections are complied with. However, nothing in this subsection relieves any person from liability at law for illegal or negligent acts or omissions or for loss or damage caused to others by the entry, access or measure.

Regulations

(9) The Governor in Council may make regulations prescribing

- (a)** the authority for the purposes of subsection (4) or (5), the manner in which the notification under those subsections is to be made, the information to be contained in the notification and the circumstances in which no notification need be made;
- (b)** the authority for the purposes of subsection (7), the manner in which the report under that subsection is to be made, the information to be contained in the report and the circumstances in which no report need be made;
- (c)** the manner in which inspectors and fishery officers may take any measures or give any directions under subsection (7.1) and the conditions to which those measures are subject;
- (d)** the manner and circumstances in which any measures taken or directions given under subsection (7.1) may be reviewed, rescinded or varied; and

Mesures correctives

(7.1) Même en l'absence de l'avis exigé par les paragraphes (4) ou (5) ou du rapport mentionné au paragraphe (7), l'inspecteur ou l'agent des pêches peut, sous réserve du paragraphe (7.2), prendre ou faire prendre, aux frais de la personne visée aux alinéas (4)a) ou b) ou (5)a) ou b), les mesures mentionnées au paragraphe (6), ou ordonner à cette personne de le faire à ses frais lorsqu'il est convaincu, pour des motifs raisonnables, de l'urgence de ces mesures.

Incompatibilité

(7.2) En cas d'incompatibilité, les ordres donnés sous le régime de la *Loi de 2001 sur la marine marchande du Canada* l'emportent sur ceux donnés par l'inspecteur ou l'agent des pêches aux termes du présent article.

Accès

(8) L'inspecteur ou toute autre personne peut pénétrer en tout lieu, y compris un véhicule ou navire — à l'exclusion d'un local d'habitation privé et d'une partie d'un lieu — y compris un véhicule ou navire — utilisée comme local d'habitation privé permanent ou temporaire — et prendre toutes les mesures utiles en vue de l'application des paragraphes (4) à (7.1). Le présent paragraphe ne limite en rien toutefois leur responsabilité juridique pour des actes ou omissions négligents ou illégaux, ou pour les pertes ou dommages causés à des tiers par ces visites ou mesures.

Règlements

(9) Le gouverneur en conseil peut, par règlement :

- a)** désigner l'autorité mentionnée aux paragraphes (4) et (5) et préciser les modalités de l'avis à envoyer au titre de ces paragraphes ainsi que les cas où il n'est pas nécessaire;
- b)** désigner l'autorité mentionnée au paragraphe (7) et préciser les modalités du rapport à produire au titre de ce paragraphe ainsi que les cas où il n'est pas nécessaire;
- c)** fixer les modalités d'exercice des pouvoirs conférés aux inspecteurs ou agents des pêches par le paragraphe (7.1), ainsi que les conditions attachées aux mesures prises ou ordonnées par eux;
- d)** établir le mode de révision, de modification ou d'annulation des mesures prises ou ordonnées au titre du paragraphe (7.1), et déterminer les circonstances qui peuvent y donner lieu;

(e) any other matters necessary for or incidental to carrying out the purposes and provisions of this section.

Assistance to inspectors

(10) The owner or person in charge of any place or premises entered by an inspector under subsection (3) and every person found there shall give the inspector all reasonable assistance to enable the inspector to carry out their duties and functions under this section and shall provide the inspector with any information with respect to verifying compliance with this Act that the inspector requires.

Certificate of analyst as proof

(11) Subject to subsections (12) and (13), a certificate purporting to be signed by an analyst stating that he has analyzed or tested a substance or product and stating the result of his analysis or test is admissible in evidence in any prosecution for an offence under subsection 40(2) or (3) without proof of the signature or official character of the person appearing to have signed the certificate and, in the absence of any evidence to the contrary, is proof of the statements contained in the certificate.

Attendance of analyst

(12) The party against whom there is produced any certificate pursuant to subsection (11) may, with leave of the court, require the attendance of the analyst for the purposes of cross-examination.

Notice

(13) No certificate shall be admitted in evidence pursuant to subsection (11) unless the party intending to produce it has given to the party against whom it is intended to be produced reasonable notice of that intention together with a copy of the certificate in question.

R.S., 1985, c. F-14, s. 38; R.S., 1985, c. 31 (1st Suppl.), s. 34; 2001, c. 26, s. 300; 2012, c. 19, s. 145.

Search

39 (1) A fishery officer or inspector who has a warrant issued under subsection (2) in which the officer or inspector is named may enter any place or premises, including a vehicle or vessel — other than a private dwelling-place or any part of any place or premises, including a vehicle or vessel, used as a permanent or temporary private dwelling-place — in which the officer or inspector has reasonable grounds to believe that an offence under subsection 40(1), (2) or (3) is being or has been committed and search the place, premises, vehicle or vessel for evidence of the offence.

e) prendre toute autre mesure d'application du présent article.

Assistance à l'inspecteur

(10) Le propriétaire ou le responsable des lieux où l'inspecteur est autorisé à entrer en vertu du paragraphe (3), ainsi que les personnes qui s'y trouvent, sont tenus de lui prêter toute l'assistance possible dans l'exercice de ses fonctions et de lui donner les renseignements qu'il peut exiger pour la vérification du respect de la présente loi.

Certificat de l'analyste

(11) Sous réserve des paragraphes (12) et (13), le certificat censé signé par l'analyste, où il est déclaré que celui-ci a étudié telle substance ou tel produit et où sont donnés ses résultats, est admissible en preuve dans les poursuites engagées pour une infraction prévue au paragraphe 40(2) ou (3), sans qu'il soit nécessaire de prouver l'authenticité de la signature qui y est apposée ou la qualité officielle du signataire; sauf preuve contraire, le certificat fait foi de son contenu.

Présence de l'analyste

(12) La partie contre laquelle est produit le certificat peut, avec l'autorisation du tribunal, exiger la présence de l'analyste pour contre-interrogatoire.

Préavis

(13) Le certificat n'est admissible en preuve que si la partie qui entend le produire donne de son intention à la partie qu'elle vise un préavis suffisant, accompagné d'une copie du certificat.

L.R. (1985), ch. F-14, art. 38; L.R. (1985), ch. 31 (1^{er} suppl.), art. 34; 2001, ch. 26, art. 300; 2012, ch. 19, art. 145.

Perquisition

39 (1) L'inspecteur ou l'agent des pêches muni du mandat visé au paragraphe (2) peut, s'il a des motifs raisonnables de croire qu'une infraction prévue aux paragraphes 40(1), (2) ou (3) a été ou est commise, entrer et perquisitionner dans tout lieu — y compris un véhicule ou navire —, à l'exclusion d'un local d'habitation privé et d'une partie d'un lieu — y compris un véhicule ou navire — utilisée comme local d'habitation privé permanent ou temporaire —, en vue d'obtenir des éléments de preuve.

Authority to issue warrant

(2) On *ex parte* application, a justice of the peace may issue a warrant authorizing any fishery officer or inspector named in the warrant to enter and search any place or premises referred to in subsection (1), subject to any conditions that are specified in the warrant, if the justice is satisfied by information on oath that there are reasonable grounds to believe that there is in the place or premises

(a) anything on or in respect of which an offence under subsection 40(1), (2) or (3) is being or has been committed; or

(b) anything that there are reasonable grounds to believe will afford evidence with respect to the commission of an offence under subsection 40(1), (2) or (3).

Use of force

(3) In executing a warrant issued under subsection (2), an inspector named in the warrant may use force only if they are accompanied by a peace officer and the use of force has been specifically authorized in the warrant.

When warrant not necessary

(4) A fishery officer or inspector may exercise the powers of entry and search referred to in subsection (1) without a warrant issued under subsection (2) if the conditions for obtaining the warrant exist but by reason of exigent circumstances it would not be practical to obtain the warrant.

Exigent circumstances

(5) For the purposes of subsection (4), exigent circumstances include circumstances in which the delay necessary to obtain a warrant would result in danger to human life or safety or the loss or destruction of evidence.

R.S., 1985, c. F-14, s. 39; 1991, c. 1, s. 9; 2012, c. 19, s. 146.

Offence and punishment

40 (1) Every person who contravenes subsection 35(1) is guilty of an offence and liable

(a) on conviction on indictment,

(i) in the case of an individual,

(A) for a first offence, to a fine of not less than \$15,000 and not more than \$1,000,000, and

(B) for a second or subsequent offence, to a fine of not less than \$30,000 and not more than \$2,000,000, or to imprisonment for a term not exceeding three years, or to both,

Délivrance du mandat

(2) Sur demande *ex parte*, le juge de paix peut décerner un mandat autorisant, sous réserve des conditions éventuellement fixées, tout inspecteur ou agent des pêches qui y est nommé à entrer et perquisitionner dans tout lieu visé au paragraphe (1) s'il est convaincu, sur la foi d'une dénonciation sous serment, qu'il y a des motifs raisonnables de croire à la présence :

a) soit d'un objet qui sert ou donne lieu ou a servi ou donné lieu à une infraction prévue aux paragraphes 40(1), (2) ou (3);

b) soit d'un objet dont il y a des motifs raisonnables de croire qu'il servira à prouver la perpétration d'une telle infraction.

Usage de la force

(3) L'inspecteur nommé dans le mandat ne peut recourir à la force dans l'exécution du mandat que si celui-ci en autorise expressément l'usage et que si lui-même est accompagné d'un agent de la paix.

Perquisition sans mandat

(4) L'inspecteur ou l'agent des pêches peut exercer sans mandat les pouvoirs visés au paragraphe (1) lorsque l'urgence de la situation rend difficilement réalisable l'obtention du mandat, sous réserve que les conditions de délivrance de celui-ci soient réunies.

Situation d'urgence

(5) Pour l'application du paragraphe (4), il y a notamment urgence dans les cas où le délai d'obtention du mandat risquerait soit de mettre en danger des personnes, soit d'entraîner la perte ou la destruction d'éléments de preuve.

L.R. (1985), ch. F-14, art. 39; 1991, ch. 1, art. 9; 2012, ch. 19, art. 146.

Infractions et peines

40 (1) Quiconque contrevient au paragraphe 35(1) commet une infraction et encourt, sur déclaration de culpabilité :

a) par mise en accusation :

(i) s'il s'agit d'une personne physique :

(A) pour une première infraction, une amende d'au moins 15 000 \$ et d'au plus 1 000 000 \$,

(B) en cas de récidive, une amende d'au moins 30 000 \$ et d'au plus 2 000 000 \$ et un emprisonnement maximal de trois ans, ou l'une de ces peines,

(ii) in the case of a person, other than an individual or a corporation referred to in subparagraph (iii),

(A) for a first offence, to a fine of not less than \$500,000 and not more than \$6,000,000, and

(B) for a second or subsequent offence, to a fine of not less than \$1,000,000 and not more than \$12,000,000, and

(iii) in the case of a corporation that the court has determined to be a small revenue corporation,

(A) for a first offence, to a fine of not less than \$75,000 and not more than \$4,000,000, and

(B) for a second or subsequent offence, to a fine of not less than \$150,000 and not more than \$8,000,000; or

(b) on summary conviction,

(i) in the case of an individual,

(A) for a first offence, to a fine of not less than \$5,000 and not more than \$300,000, and

(B) for a second or subsequent offence, to a fine of not less than \$10,000 and not more than \$600,000, or to imprisonment for a term not exceeding six months, or to both,

(ii) in the case of a person, other than an individual or a corporation referred to in subparagraph (iii),

(A) for a first offence, to a fine of not less than \$100,000 and not more than \$4,000,000, and

(B) for a second or subsequent offence, to a fine of not less than \$200,000 and not more than \$8,000,000, and

(iii) in the case of a corporation that the court has determined to be a small revenue corporation,

(A) for a first offence, to a fine of not less than \$25,000 and not more than \$2,000,000, and

(B) for a second or subsequent offence, to a fine of not less than \$50,000 and not more than \$4,000,000.

Offence and punishment

(2) Every person who contravenes subsection 36(1) or (3) is guilty of an offence and liable

(a) on conviction on indictment,

(ii) s'il s'agit d'une personne, à l'exception d'une personne physique et de la personne morale visée au sous-alinéa (iii) :

(A) pour une première infraction, une amende d'au moins 500 000 \$ et d'au plus 6 000 000 \$,

(B) en cas de récidive, une amende d'au moins 1 000 000 \$ et d'au plus 12 000 000 \$,

(iii) s'il s'agit d'une personne morale que le tribunal déclare personne morale à revenus modestes :

(A) pour une première infraction, une amende d'au moins 75 000 \$ et d'au plus 4 000 000 \$,

(B) en cas de récidive, une amende d'au moins 150 000 \$ et d'au plus 8 000 000 \$;

b) par procédure sommaire :

(i) s'il s'agit d'une personne physique :

(A) pour une première infraction, une amende d'au moins 5 000 \$ et d'au plus 300 000 \$,

(B) en cas de récidive, une amende d'au moins 10 000 \$ et d'au plus 600 000 \$ et un emprisonnement maximal de six mois, ou l'une de ces peines,

(ii) s'il s'agit d'une personne, à l'exception d'une personne physique et de la personne morale visée au sous-alinéa (iii) :

(A) pour une première infraction, une amende d'au moins 100 000 \$ et d'au plus 4 000 000 \$,

(B) en cas de récidive, une amende d'au moins 200 000 \$ et d'au plus 8 000 000 \$,

(iii) s'il s'agit d'une personne morale que le tribunal déclare personne morale à revenus modestes :

(A) pour une première infraction, une amende d'au moins 25 000 \$ et d'au plus 2 000 000 \$,

(B) en cas de récidive, une amende d'au moins 50 000 \$ et d'au plus 4 000 000 \$.

Idem

(2) Quiconque contrevient aux paragraphes 36(1) ou (3) commet une infraction et encourt, sur déclaration de culpabilité :

(i) in the case of an individual,

(A) for a first offence, to a fine of not less than \$15,000 and not more than \$1,000,000, and

(B) for a second or subsequent offence, to a fine of not less than \$30,000 and not more than \$2,000,000, or to imprisonment for a term not exceeding three years, or to both,

(ii) in the case of a person, other than an individual or a corporation referred to in subparagraph (iii),

(A) for a first offence, to a fine of not less than \$500,000 and not more than \$6,000,000, and

(B) for a second or subsequent offence, to a fine of not less than \$1,000,000 and not more than \$12,000,000, and

(iii) in the case of a corporation that the court has determined to be a small revenue corporation,

(A) for a first offence, to a fine of not less than \$75,000 and not more than \$4,000,000, and

(B) for a second or subsequent offence, to a fine of not less than \$150,000 and not more than \$8,000,000; or

(b) on summary conviction,

(i) in the case of an individual,

(A) for a first offence, to a fine of not less than \$5,000 and not more than \$300,000, and

(B) for a second or subsequent offence, to a fine of not less than \$10,000 and not more than \$600,000, or to imprisonment for a term not exceeding six months, or to both,

(ii) in the case of a person, other than an individual or a corporation referred to in subparagraph (iii),

(A) for a first offence, to a fine of not less than \$100,000 and not more than \$4,000,000, and

(B) for a second or subsequent offence, to a fine of not less than \$200,000 and not more than \$8,000,000, and

(iii) in the case of a corporation that the court has determined to be a small revenue corporation,

(A) for a first offence, to a fine of not less than \$25,000 and not more than \$2,000,000, and

a) par mise en accusation :

(i) s'il s'agit d'une personne physique :

(A) pour une première infraction, une amende d'au moins 15 000 \$ et d'au plus 1 000 000 \$,

(B) en cas de récidive, une amende d'au moins 30 000 \$ et d'au plus 2 000 000 \$ et un emprisonnement maximal de trois ans, ou l'une de ces peines,

(ii) s'il s'agit d'une personne, à l'exception d'une personne physique et de la personne morale visée au sous-alinéa (iii) :

(A) pour une première infraction, une amende d'au moins 500 000 \$ et d'au plus 6 000 000 \$,

(B) en cas de récidive, une amende d'au moins 1 000 000 \$ et d'au plus 12 000 000 \$,

(iii) s'il s'agit d'une personne morale que le tribunal déclare personne morale à revenus modestes :

(A) pour une première infraction, une amende d'au moins 75 000 \$ et d'au plus 4 000 000 \$,

(B) en cas de récidive, une amende d'au moins 150 000 \$ et d'au plus 8 000 000 \$;

b) par procédure sommaire :

(i) s'il s'agit d'une personne physique :

(A) pour une première infraction, une amende d'au moins 5 000 \$ et d'au plus 300 000 \$,

(B) en cas de récidive, une amende d'au moins 10 000 \$ et d'au plus 600 000 \$ et un emprisonnement maximal de six mois, ou l'une de ces peines,

(ii) s'il s'agit d'une personne, à l'exception d'une personne physique et de la personne morale visée au sous-alinéa (iii) :

(A) pour une première infraction, une amende d'au moins 100 000 \$ et d'au plus 4 000 000 \$,

(B) en cas de récidive, une amende d'au moins 200 000 \$ et d'au plus 8 000 000 \$,

(iii) s'il s'agit d'une personne morale que le tribunal déclare personne morale à revenus modestes :

(A) pour une première infraction, une amende d'au moins 25 000 \$ et d'au plus 2 000 000 \$,

(B) for a second or subsequent offence, to a fine of not less than \$50,000 and not more than \$4,000,000.

Small revenue corporation status

(2.1) For the purpose of subsections (1) and (2), a court may determine a corporation to be a small revenue corporation if the court is satisfied that the corporation's gross revenues for the 12 months immediately before the day on which the subject matter of the proceedings arose — or, if it arose on more than one day, for the 12 months immediately before the first day on which the subject matter of the proceedings arose — were not more than \$5,000,000.

Relief from minimum fine

(2.2) The court may impose a fine that is less than the minimum amount provided for in subsection (1) or (2) if it is satisfied, on the basis of evidence submitted to the court, that the minimum fine would cause undue financial hardship. The court shall provide reasons if it imposes a fine that is less than the minimum amount provided for in either of those subsections.

Other offences

(3) Every person who

(a) in carrying on a work, undertaking or activity, fails to comply with a prescribed condition of an authorization under paragraph 35(2)(a) or (c), with a condition established by the Minister under paragraph 35(2)(b), or with a condition set out in the regulations or established under any other authorization issued under this Act,

(a.1) fails to provide any material or information as requested by the Minister under subsection 37(1) or (1.1) within a reasonable time after the request is made,

(b) fails to provide or submit any material, information or report that is to be provided or submitted under regulations made pursuant to subsection 37(3),

(c) fails to provide notification that he or she is required to provide under subsection 38(4) or (5),

(d) carries on any work, undertaking or activity described in subsection 37(1) or (1.1)

(i) otherwise than in accordance with any material or information relating to the work, undertaking or activity that he or she provides to the Minister under subsection 37(1) or (1.1),

(B) en cas de récidive, une amende d'au moins 50 000 \$ et d'au plus 4 000 000 \$.

Déclaration : personne morale à revenus modestes

(2.1) Pour l'application des paragraphes (1) et (2), le tribunal peut déclarer qu'une personne morale est une personne morale à revenus modestes s'il est convaincu que ses revenus bruts, dans la période d'un an précédant immédiatement la date de l'infraction — ou, si celle-ci a été commise sur plus d'un jour, dans la période d'un an précédant immédiatement le premier jour où elle a été commise —, n'excédaient pas 5 000 000 \$.

Allègement de l'amende minimale

(2.2) Le tribunal peut imposer une amende inférieure à l'amende minimale prévue aux paragraphes (1) ou (2) s'il est convaincu, sur le fondement de la preuve présentée, que l'amende minimale constituerait un fardeau financier excessif pour le contrevenant; le cas échéant, il motive sa décision.

Idem

(3) Commet une infraction et encourt, sur déclaration de culpabilité par procédure sommaire, une amende maximale de deux cent mille dollars lors d'une première infraction ou, en cas de récidive, une amende maximale de deux cent mille dollars et un emprisonnement maximal de six mois, ou l'une de ces peines, quiconque, selon le cas :

a) exploite un ouvrage ou une entreprise ou exerce une activité en contravention avec soit les conditions réglementaires dont est assortie l'autorisation visée aux alinéas 35(2)a) ou c), soit les conditions établies par le ministre au titre de l'alinéa 35(2)b), soit les conditions prévues par règlement ou toute autorisation délivrée sous le régime de la présente loi;

a.1) omet de fournir les documents et renseignements demandés par le ministre au titre des paragraphes 37(1) ou (1.1) dans un délai convenable suivant la demande;

b) omet de présenter les documents, renseignements ou rapports exigés aux termes des règlements d'application du paragraphe 37(3);

c) omet d'envoyer l'avis exigé aux termes des paragraphes 38(4) ou (5);

d) exploite un ouvrage ou une entreprise ou exerce une activité visés aux paragraphes 37(1) ou (1.1) sans

(ii) otherwise than in accordance with any such material or information as required to be modified by any order of the Minister under paragraph 37(2)(a), or

(iii) contrary to any order made by the Minister under subsection 37(2),

(e) fails to take any reasonable measures that he or she is required to take under subsection 38(6) or fails to take those measures in the required manner,

(f) fails to provide a report that he or she is required to provide under subsection 38(7),

(g) fails to comply with the whole or any part of a direction of an inspector or a fishery officer under subsection 38(7.1), or

(h) fails to comply with a request of the Minister made under section 20,

is guilty of an offence punishable on summary conviction and liable, for a first offence, to a fine not exceeding two hundred thousand dollars and, for any subsequent offence, to a fine not exceeding two hundred thousand dollars or to imprisonment for a term not exceeding six months, or to both.

(4) [Repealed, 1991, c. 1, s. 10]

Matters of proof

(5) For the purpose of any proceedings for an offence under subsection (2) or (3),

(a) a **deposit** as defined in subsection 34(1) takes place whether or not any act or omission resulting in the deposit is intentional; and

(b) no water is **water frequented by fish**, as defined in subsection 34(1), where proof is made that at all times material to the proceedings the water is not, has not been and is not likely to be frequented in fact by fish.

Application of fines

(6) All fines received by the Receiver General in respect of the commission of an offence under this section are to be credited to the Environmental Damages Fund, an account in the accounts of Canada, and used for purposes related to the conservation and protection of fish or fish habitat or the restoration of fish habitat, or for administering that Fund.

se conformer aux documents et renseignements fournis au ministre ou modifiés conformément à un arrêté pris par celui-ci en vertu de l'alinéa 37(2)a), ou encore sans respecter les termes d'un tel arrêté;

e) omet de prendre — ou de prendre de la manière prescrite — les mesures auxquelles l'oblige le paragraphe 38(6);

f) omet de produire le rapport exigé aux termes du paragraphe 38(7);

g) contrevient, en tout ou en partie, à tout ordre donné par l'inspecteur ou l'agent des pêches au titre du paragraphe 38(7.1);

h) contrevient à toute demande formulée par le ministre au titre de l'article 20.

(4) [Abrogé, 1991, ch. 1, art. 10]

Présomptions

(5) Dans les procédures engagées pour une des infractions prévues au paragraphe (2) ou (3) :

a) la définition qu'en donne le paragraphe 34(1) s'applique à l'immersion ou au rejet, même quand ils résultent d'une action ou abstention non intentionnelle;

b) sont exclues des eaux où vivent des poissons les eaux où il est établi qu'en fait, aux époques en cause dans les procédures, il n'y avait pas, n'y a pas ou n'y aura vraisemblablement pas de poissons.

Affectation

(6) Les sommes reçues par le receveur général en paiement d'amendes infligées à l'égard de toute infraction visée au présent article sont portées au crédit du Fonds pour dommages à l'environnement — ouvert parmi les comptes du Canada — et sont utilisées soit à des fins liées à la conservation et la protection du poisson ou de son habitat ou à la restauration de l'habitat du poisson soit pour l'administration du fonds.

Recommendations of court

(7) The court imposing the fine may recommend to the Minister that all or a portion of the fine credited to the Environmental Damages Fund be paid to a person or an organization specified by the court for a purpose referred to in subsection (6).

R.S., 1985, c. F-14, s. 40; 1991, c. 1, s. 10; 2012, c. 19, s. 147, c. 31, s. 174.

41 (1) to (3) [Repealed, 1991, c. 1, s. 11]

Action to enjoin not prejudiced by prosecution

(4) Notwithstanding that a prosecution has been instituted in respect of an offence under section 40, the Attorney General of Canada may commence and maintain proceedings to enjoin anything punishable as an offence under that section.

R.S., 1985, c. F-14, s. 41; 1991, c. 1, s. 11.

Civil liability to Her Majesty

42 (1) Where there occurs a deposit of a deleterious substance in water frequented by fish that is not authorized under section 36 or a serious and imminent danger thereof by reason of any condition, the persons who at any material time

(a) own the deleterious substance or have the charge, management or control thereof, or

(b) are persons other than those described in paragraph (a) who cause or contribute to the causation of the deposit or danger thereof,

are, subject to subsection (4) in the case of the persons referred to in paragraph (a) and to the extent determined according to their respective degrees of fault or negligence in the case of the persons referred to in paragraph (b), jointly and severally liable for all costs and expenses incurred by Her Majesty in right of Canada or a province, to the extent that those costs and expenses can be established to have been reasonably incurred in the circumstances, of and incidental to the taking of any measures to prevent any such deposit or condition or to counteract, mitigate or remedy any adverse effects that result or may reasonably be expected to result therefrom.

Recovery

(2) All the costs and expenses referred to in subsection (1) are recoverable by Her Majesty in right of Canada or a province with costs in proceedings brought or taken therefor in the name of Her Majesty in any such right in any court of competent jurisdiction.

Liability to fishermen

(3) Where, as a result of a deposit that is not authorized under section 36, a deleterious substance enters water

Recommandation du tribunal

(7) Le tribunal qui fixe le montant de l'amende à porter au crédit du Fonds pour dommages à l'environnement peut recommander au ministre qu'une partie ou la totalité de celle-ci soit versée à la personne ou à l'organisation qu'il précise à l'une des fins prévues au paragraphe (6).

L.R. (1985), ch. F-14, art. 40; 1991, ch. 1, art. 10; 2012, ch. 19, art. 147, ch. 31, art. 174.

41 (1) à (3) [Abrogés, 1991, ch. 1, art. 11]

Action par le procureur général

(4) Indépendamment des poursuites exercées pour l'une des infractions prévues à l'article 40, le procureur général du Canada peut engager des procédures en vue d'ordonner que cesse tout acte qui constitue une infraction prévue à cet article.

L.R. (1985), ch. F-14, art. 41; 1991, ch. 1, art. 11.

Recours civils

42 (1) En cas de rejet ou d'immersion défendu — effectif, ou fort probable et imminent — d'une substance nocive dans des eaux où vivent des poissons, les personnes visées aux alinéas a) et b) sont, sous réserve du paragraphe (4) dans le cas de celles qui sont mentionnées à l'alinéa a), et dans la mesure de leur faute ou négligence respective dans le cas de celles qui sont mentionnées à l'alinéa b), solidairement responsables des frais exposés par Sa Majesté du chef du Canada ou d'une province pour autant qu'il puisse être établi qu'ils découlent normalement des mesures prises en vue de prévenir le rejet ou l'immersion, ou le risque de rejet ou d'immersion, ou d'y remédier, ou encore de réduire ou d'atténuer tout dommage causé ou qui risque normalement d'en résulter. Les personnes visées se répartissent en deux catégories :

a) celles qui étaient propriétaires de la substance nocive ou avaient toute autorité sur celle-ci;

b) celles qui, ne relevant pas de la catégorie mentionnée à l'alinéa a), sont à l'origine du rejet ou de l'immersion, ou y ont contribué.

Recouvrement

(2) Les frais visés au paragraphe (1) sont recouvrables, avec dépens, en son nom par Sa Majesté du chef du Canada ou d'une province devant tout tribunal compétent.

Responsabilité solidaire

(3) En cas de pollution des eaux où vivent des poissons par une substance nocive lors d'un rejet ou d'une

frequented by fish, the persons described in paragraphs (1)(a) and (b) are, subject to subsection (4) in the case of the persons described in paragraph (1)(a) and to the extent determined according to their respective degrees of fault or negligence in the case of the persons described in paragraph (1)(b), jointly and severally liable for all loss of income incurred by any licensed commercial fisherman, to the extent that the loss can be established to have been incurred as a result of the deposit or of a prohibition to fish resulting therefrom, and all such loss is recoverable with costs in proceedings brought or taken therefor in any court of competent jurisdiction.

Defences to liability

(4) The liability of any person described in paragraph (1)(a) is absolute and does not depend on proof of fault or negligence but no such person is liable for any costs and expenses pursuant to subsection (1) or loss of income pursuant to subsection (3) if he establishes that the occurrence giving rise to the liability was wholly caused by

(a) an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or

(b) an act or omission with intent to cause damage by a person other than a person for whose wrongful act or omission he is by law responsible.

Exception

(5) Nothing in this section limits or restricts any right of recourse that any person who is liable pursuant to this section may have against any other person.

Limitation

(6) No proceedings may be commenced under subsections (1) to (3) at any time later than two years after the occurrence to which the proceedings relate could reasonably be expected to have become known to Her Majesty in right of Canada or a province or to any licensed commercial fisherman, as the case may be.

Exception

(7) Subsections (1) to (3) do not apply in respect of any deposit of a deleterious substance that, within the meaning of Part 8 or 9 of the *Canada Shipping Act, 2001*, constitutes a discharge of a pollutant caused by or otherwise attributable to a vessel.

immersion défendu, les personnes mentionnées aux alinéas (1)a) et b) sont, sous réserve du paragraphe (4) dans le cas de celles qui sont mentionnées à l'alinéa (1)a), et dans la mesure de leur faute ou négligence respective dans le cas de celles qui sont mentionnées à l'alinéa (1)b), solidairement responsables de toutes les pertes de revenu subies par les titulaires d'une licence de pêche commerciale dans la mesure où il peut être établi que ces pertes sont occasionnées par le rejet ou l'immersion ou par l'interdiction de pêcher qui en résulte, leur recouvrement pouvant être poursuivi avec dépens devant tout tribunal compétent.

Décharge de responsabilité

(4) La responsabilité des personnes mentionnées à l'alinéa (1)a) est absolue, même si leur faute ou négligence ne peut être prouvée, à l'égard des frais et des pertes de revenu respectivement visés aux paragraphes (1) et (3), à moins qu'elles n'établissent que le fait est entièrement attribuable :

a) soit à des actes de guerre, des hostilités, une guerre civile, une insurrection ou des phénomènes naturels exceptionnels, inévitables et irrésistibles;

b) soit à l'action ou abstention intentionnelle en vue de causer des dommages, de la part d'une personne dont elles ne sont pas légalement responsables.

Exception

(5) Le présent article ne limite pas les recours éventuels contre des tiers ouverts aux personnes qui y sont mentionnées.

Prescription

(6) Les poursuites visées aux paragraphes (1) à (3) se prescrivent par deux ans à compter du moment où l'on peut raisonnablement présumer que Sa Majesté du chef du Canada ou d'une province, ou le titulaire d'une licence de pêche commerciale, selon le cas, a eu connaissance du fait générateur.

Exception

(7) Les paragraphes (1) à (3) ne s'appliquent pas à l'immersion ou au rejet d'une substance nocive qui constitue, au sens des parties 8 ou 9 de la *Loi de 2001 sur la marine marchande du Canada*, un rejet de polluant imputable d'une manière ou d'une autre à un bâtiment.

Other civil remedies not affected

(8) No civil remedy for any act or omission is suspended or affected by reason only that the act or omission is authorized under this Act, is an offence under this Act or gives rise to civil liability under this Act.

R.S., 1985, c. F-14, s. 42; 2001, c. 26, s. 301.

Annual report

42.1 (1) The Minister shall, as soon as feasible after the end of each fiscal year, prepare and cause to be laid before each house of Parliament a report on the administration and enforcement of the provisions of this Act relating to fisheries protection and pollution prevention for that year.

Statistical summary

(2) The annual report shall include a statistical summary of convictions under section 40 for that year.

1991, c. 1, s. 11.1; 2012, c. 19, s. 148.

Regulations

Regulations

43 (1) The Governor in Council may make regulations for carrying out the purposes and provisions of this Act and in particular, but without restricting the generality of the foregoing, may make regulations

- (a)** for the proper management and control of the sea-coast and inland fisheries;
- (b)** respecting the conservation and protection of fish;
- (c)** respecting the catching, loading, landing, handling, transporting, possession and disposal of fish;
- (d)** respecting the operation of fishing vessels;
- (e)** respecting the use of fishing gear and equipment;
- (e.1)** respecting the marking, identification and tracking of fishing vessels;
- (e.2)** respecting the designation of persons as observers, their duties and their carriage on board fishing vessels;
- (f)** respecting the issue, suspension and cancellation of licences and leases;
- (g)** respecting the terms and conditions under which a licence and lease may be issued;

Autres recours

(8) Le fait qu'un acte ou une omission est autorisé aux termes de la présente loi, ou au contraire constitue une infraction à celle-ci, ou encore crée une responsabilité civile sous le régime de la présente loi, n'exclut pas le recours au civil à son égard.

L.R. (1985), ch. F-14, art. 42; 2001, ch. 26, art. 301.

Rapport annuel

42.1 (1) Au début de chaque exercice, le ministre établit dans les meilleurs délais un rapport sur l'exécution et le contrôle d'application des dispositions de la présente loi qui portent sur la protection des pêches et la prévention de la pollution au cours de l'exercice précédent et le fait déposer devant chaque chambre du Parlement.

Résumé statistique

(2) Le rapport comporte un résumé statistique des condamnations prononcées sous le régime de l'article 40 au cours de l'exercice visé.

1991, ch. 1, art. 11.1; 2012, ch. 19, art. 148.

Règlements

Règlements

43 (1) Le gouverneur en conseil peut prendre des règlements d'application de la présente loi, notamment :

- a)** concernant la gestion et la surveillance judiciaires des pêches en eaux côtières et internes;
- b)** concernant la conservation et la protection du poisson;
- c)** concernant la prise, le chargement, le débarquement, la manutention, le transport, la possession et l'écoulement du poisson;
- d)** concernant l'exploitation des bateaux de pêche;
- e)** concernant l'utilisation des engins et équipements de pêche;
- e.1)** concernant le marquage, l'identification et l'observation des bateaux de pêche;
- e.2)** concernant la désignation des observateurs, leurs fonctions et leur présence à bord des bateaux de pêche;
- f)** concernant la délivrance, la suspension et la révocation des licences, permis et baux;
- g)** concernant les conditions attachées aux licences, permis et baux;

(g.1) respecting any records, books of account or other documents to be kept under this Act and the manner and form in which and the period for which they shall be kept;

(g.2) respecting the manner in which records, books of account or other documents shall be produced and information shall be provided under this Act;

(h) respecting the obstruction and pollution of any waters frequented by fish;

(i) respecting the conservation and protection of spawning grounds;

(i.01) excluding fisheries from the definitions **Aboriginal**, **commercial** and **recreational**;

(i.1) for the purposes of paragraph 35(2)(a), prescribing anything that is authorized to be prescribed;

(i.2) respecting applications for the authorizations referred to in paragraph 35(2)(b) or (c);

(i.3) prescribing the conditions under which and requirements subject to which persons or entities referred to in paragraph 35(2)(c) may grant the authorization;

(i.4) respecting time limits for issuing authorizations referred to in paragraph 35(2)(b) or (c), or for refusing to do so;

(j) respecting the export of fish or any part thereof from Canada;

(k) respecting the taking or carrying of fish or any part thereof from one province to any other province;

(l) prescribing the powers and duties of persons engaged or employed in the administration or enforcement of this Act and providing for the carrying out of those powers and duties;

(m) where a close time, fishing quota or limit on the size or weight of fish has been fixed in respect of an area under the regulations, authorizing persons referred to in paragraph (l) to vary the close time, fishing quota or limit in respect of that area or any portion of that area;

(n) establishing a list of aquatic invasive species;

(o) respecting the control of aquatic invasive species, including regulations

g.1) concernant les registres, documents comptables et autres documents dont la tenue est prévue par la présente loi ainsi que la façon de les tenir, leur forme et la période pendant laquelle ils doivent être conservés;

g.2) concernant la façon dont les registres, documents comptables et autres documents doivent être présentés et les renseignements fournis sous le régime de la présente loi;

h) concernant l'obstruction et la pollution des eaux où vivent des poissons;

i) concernant la conservation et la protection des frayères;

i.01) excluant toute pêche de l'application des définitions de **autochtone**, **commerciale** et **récréative**;

i.1) pour l'application de l'alinéa 35(2)a), prévoyant toute mesure d'ordre réglementaire prévue par cet alinéa;

i.2) concernant les demandes visant l'obtention des autorisations visées aux alinéas 35(2)b) ou c);

i.3) prévoyant les conditions et exigences attachées à l'exercice, par les personnes ou entités visées à l'alinéa 35(2)c), du pouvoir de délivrer une autorisation;

i.4) concernant les délais relatifs à la délivrance des autorisations visées aux alinéas 35(2)b) ou c) ou au refus de délivrance;

j) concernant l'exportation de poisson;

k) concernant la prise ou le transport interprovincial de poisson;

l) prescrivant les pouvoirs et fonctions des personnes chargées de l'application de la présente loi, ainsi que l'exercice de ces pouvoirs et fonctions;

m) habilitant les personnes visées à l'alinéa l) à modifier les périodes de fermeture, les contingents ou les limites de taille ou de poids du poisson fixés par règlement pour une zone ou à les modifier pour un secteur de zone;

n) établissant la liste des espèces aquatiques envahissantes;

o) concernant le contrôle des espèces aquatiques envahissantes, en vue notamment :

- (i) respecting the prevention of the spread of such species,
- (ii) respecting the possession of members of such species, and their import, export and transport,
- (iii) respecting the release of members of such species into Canadian fisheries waters,
- (iv) respecting the handling of members of such species, or
- (v) requiring any person to keep any record, book or other document containing any information relevant to the control of such species, and respecting where, how and how long they are to be kept; and
- (p) prescribing anything that is required or authorized by this Act to be prescribed.

Regulations — Governor in Council

(2) The Governor in Council may make regulations establishing conditions for the exercise of the Minister's power to make regulations under subsection (3).

Amendments to list of aquatic invasive species

(3) The Minister may, by regulation, add species to the list of aquatic invasive species established by regulations made under paragraph (1)(n) or remove species from that list, and vary the places to which regulations made under paragraph (1)(o) apply.

Statutory Instruments Act

(4) Regulations made under subsection (3) are exempt from section 3 of the *Statutory Instruments Act*.

Regulations exempting certain Canadian fisheries waters

(5) The Governor in Council may make regulations exempting any Canadian fisheries waters from the application of sections 20, 21 and 35 and subsection 38(4).

R.S., 1985, c. F-14, s. 43; R.S., 1985, c. 35 (1st Suppl.), ss. 3, 7; 1991, c. 1, s. 12; 2012, c. 19, s. 149.

Recommendation

43.1 Orders and regulations under subsections 4.2(1) and (3), 34(2), 36(5) and (5.1), 37(3) and 38(9) and section 43 are made on the recommendation of the Minister or, if they are made for the purposes of and in relation to the subject matters set out in an order made under section

(i) de prévenir la propagation des espèces aquatiques envahissantes,

(ii) de régir la possession, l'importation, l'exportation ou le transport des organismes qui font partie d'une espèce aquatique envahissante,

(iii) de régir leur remise dans des eaux de pêche canadiennes,

(iv) de régir leur manutention,

(v) d'obliger toute personne à tenir tout livre, registre ou autre document contenant tout renseignement utile pour le contrôle des espèces aquatiques envahissantes et régir la manière de le faire ainsi que le lieu et la durée de leur conservation;

p) prévoyant toute mesure d'ordre réglementaire prévue par la présente loi.

Règlement — gouverneur en conseil

(2) Le gouverneur en conseil peut, par règlement, prévoir les conditions d'exercice par le ministre du pouvoir de prendre un règlement en vertu du paragraphe (3).

Modification de la liste des espèces aquatiques envahissantes

(3) Le ministre peut, par règlement, modifier la liste des espèces aquatiques envahissantes établie en application de l'alinéa (1)n) par adjonction ou suppression de toute espèce aquatique envahissante et modifier les lieux où les règlements pris en vertu de l'alinéa (1)o) sont applicables.

Loi sur les textes réglementaires

(4) Le règlement pris en vertu du paragraphe (3) est soustrait à l'application de l'article 3 de la *Loi sur les textes réglementaires*.

Règlement d'exemption — eaux de pêche canadiennes

(5) Le gouverneur en conseil peut, par règlement, exempter des eaux de pêche canadiennes de l'application des articles 20, 21 ou 35 ou du paragraphe 38(4).

L.R. (1985), ch. F-14, art. 43; L.R. (1985), ch. 35 (1^{er} suppl.), art. 3 et 7; 1991, ch. 1, art. 12; 2012, ch. 19, art. 149.

Recommandation

43.1 Les règlements et les décrets visés aux paragraphes 4.2(1) et (3), 34(2), 36(5) et (5.1), 37(3) et 38(9) et à l'article 43 sont pris sur recommandation du ministre ou, s'ils visent les fins précisées dans un décret pris en vertu

43.2, on the recommendation of the minister designated under that section.

2012, c. 19, s. 150.

Designation

43.2 (1) The Governor in Council may, on the recommendation of the Minister and any other federal minister, by order, designate that other minister as the minister responsible for the administration and enforcement of subsections 36(3) to (6) for the purposes and in relation to the subject-matters set out in the order.

Designated minister's powers, duties and functions

(2) The order may set out any powers, duties or functions of the Minister under this Act that the designated minister may exercise or perform — or any provisions of this Act in which a reference to the Minister is a reference to the designated minister — for the purposes of administering and enforcing subsections 36(3) to (6).

2012, c. 19, s. 150.

Marine Plants

Prohibition of harvesting of marine plants in certain cases

44 Except in accordance with the conditions of a licence issued by the Minister under section 45, no person shall harvest marine plants in the coastal waters of Canada in contravention of any regulation made pursuant to paragraph 46(a).

R.S., c. 17(1st Suppl.), s. 5.

Licences

45 The Minister may, on receipt of an application made in accordance with the regulations, issue a licence to the applicant for the harvesting of marine plants in the coastal waters of Canada for a term not exceeding one year and on such conditions relating to

- (a)** the nature of the gear and equipment to be used in the harvesting,
- (b)** the manner in which the harvesting is to be carried out,
- (c)** the quantity of marine plants authorized to be harvested thereunder, and
- (d)** the area or areas within the coastal waters of Canada where the harvesting is to be carried out or where harvesting may not be carried out,

de l'article 43.2 et portent sur les sujets qui y sont précisés, sur celle du ministre désigné au titre de cet article.

2012, ch. 19, art. 150.

Désignation

43.2 (1) Le gouverneur en conseil peut par décret, sur recommandation du ministre et de tout autre ministre fédéral, désigner cet autre ministre pour l'exécution et le contrôle d'application des paragraphes 36(3) à (6) à l'égard des fins et des sujets qui y sont précisés.

Attributions

(2) Le gouverneur en conseil peut préciser dans le décret celles des attributions du ministre prévues par la présente loi qui sont conférées au ministre désigné — ou celles des dispositions de la présente loi où la mention du ministre vaut mention du ministre désigné — pour l'exécution et le contrôle d'application des paragraphes 36(3) à (6).

2012, ch. 19, art. 150.

Plantes marines

Interdiction dans certains cas de récolter des plantes marines

44 Il est interdit, sauf en conformité avec les conditions d'un permis délivré par le ministre en vertu de l'article 45, de récolter, dans les eaux côtières du Canada, des plantes marines en violation d'un règlement d'application de l'alinéa 46a).

S.R., ch. 17(1^{er} suppl.), art. 5.

Permis

45 Le ministre peut, sur demande réglementaire, délivrer un permis de récolte de plantes marines dans les eaux côtières du Canada pour une période maximale d'un an, aux conditions qu'il estime nécessaires pour la protection et la conservation des réserves de ces plantes dans ces eaux et portant sur :

- a)** la nature des engins et de l'équipement à utiliser;
- b)** le mode de récolte;
- c)** la quantité autorisée en vertu du permis;
- d)** les zones d'autorisation et d'interdiction de récolte dans les eaux côtières du Canada.

S.R., ch. 17(1^{er} suppl.), art. 5.

as the Minister considers to be necessary for the protection and conservation of the marine plant resources of the coastal waters of Canada.

R.S., c. 17(1st Supp.), s. 5.

Regulations

46 The Governor in Council may make regulations

(a) prohibiting, subject to the conditions of any licence issued by the Minister under section 45,

(i) the harvesting of marine plants or of any class of marine plants,

(ii) the harvesting of marine plants or of any class of marine plants in quantities in excess of quantities specified in the regulations, or

(iii) the harvesting of marine plants or of any class of marine plants in a manner specified in the regulations,

in the coastal waters of Canada or any area or areas of the coastal waters of Canada specified in the regulations;

(b) prohibiting, notwithstanding the conditions of any licence, the harvesting of marine plants or of any class of marine plants in any area or areas of the coastal waters of Canada for such period or periods as are specified in the regulations;

(c) requiring persons to whom licences are issued under section 45 to maintain such books and records and to make such returns of information to the Minister as the Governor in Council deems necessary for the enforcement of this Act and the regulations; and

(d) prescribing the fees to be paid for licences issued under section 45.

R.S., c. 17(1st Supp.), s. 5; 1976-77, c. 35, s. 11.

Interpretation

47 For the purposes of sections 44 to 46,

coastal waters of Canada means all Canadian fisheries waters not within the geographical limits of any province; (*eaux côtières du Canada*)

harvest includes cut, take, dredge, rake or otherwise obtain; (*récolte*)

marine plant includes all benthic and detached algae, marine flowering plants, brown algae, red algae, green algae and phytoplankton. (*plante marine*)

R.S., c. 17(1st Supp.), s. 5.

Règlements

46 Le gouverneur en conseil peut, par règlement :

a) sous réserve des conditions d'un permis délivré par le ministre en vertu de l'article 45, interdire dans les eaux côtières du Canada ou dans toute zone de celles-ci qui y est spécifiée :

(i) la récolte de certaines plantes ou catégories de plantes marines,

(ii) le dépassement du plafond de récolte que fixe à leur égard le règlement,

(iii) leur récolte d'une façon défendue par le règlement;

b) interdire, par dérogation aux conditions de quelque permis que ce soit, la récolte de certaines plantes ou catégories de plantes marines dans une zone des eaux côtières du Canada, pour la ou les périodes spécifiées;

c) obliger les titulaires de permis délivrés en vertu de l'article 45 à tenir les livres et registres et à transmettre au ministre les renseignements qu'il juge nécessaires pour l'application de la présente loi et de ses règlements;

d) fixer les droits à payer pour les permis délivrés en vertu de l'article 45.

S.R., ch. 17(1^{er} suppl.), art. 5; 1976-77, ch. 35, art. 11.

Définitions

47 Les définitions qui suivent s'appliquent aux articles 44 à 46.

eaux côtières du Canada Les eaux de pêche canadiennes situées à l'extérieur des limites géographiques des provinces. (*coastal waters of Canada*)

plante marine S'entend notamment des algues benthiques et détachées, des plantes marines à fleurs et des algues brunes, rouges et vertes ainsi que du phytoplancton. (*marine plant*)

Saving

48 Nothing in sections 44 to 47 shall be construed as preventing traditional harvesting of marine plants by aborigines for their use as food.

R.S., c. 17(1st Suppl.), s. 5.

Powers of Fishery Officers and Fishery Guardians

Inspection

49 (1) Subject to subsection (2), for the purpose of ensuring compliance with this Act and the regulations, a fishery officer or fishery guardian may enter and inspect any place, including any premises, vessel or vehicle, in which the officer or guardian believes on reasonable grounds there is any work or undertaking or any fish or other thing in respect of which this Act or the regulations apply and may

- (a) open any container that the officer or guardian believes on reasonable grounds contains any fish or other thing in respect of which this Act or the regulations apply;
- (b) examine any fish or other thing that the officer or guardian finds and take samples of it;
- (c) conduct any tests or analyses and take any measurements; and
- (d) require any person to produce for examination or copying any records, books of account or other documents that the officer or guardian believes on reasonable grounds contain information that is relevant to the administration of this Act or the regulations.

Operation of data processing systems and copying equipment

(1.1) In carrying out an inspection of a place under subsection (1), a fishery officer or fishery guardian may,

- (a) use or cause to be used any data processing system at the place to examine any data contained in or available to the data processing system;
- (b) reproduce any record or cause it to be reproduced from the data in the form of a print-out or other intelligible output and remove the print-out or other output for examination or copying; and

récolte Action de recueillir, notamment en coupant, arrachant, draguant ou ratelant. (*harvest*)

S.R., ch. 17(1^{er} suppl.), art. 5.

Réserve

48 Les articles 44 à 47 n'ont pas pour effet d'empêcher la récolte traditionnelle des plantes marines par les autochtones pour leur alimentation.

S.R., ch. 17(1^{er} suppl.), art. 5.

Pouvoirs des agents des pêches et des gardes-pêche

Visite

49 (1) Pour l'application de la présente loi et de ses règlements, l'agent des pêches ou le garde-pêche peut, sous réserve du paragraphe (2), procéder à la visite de tous lieux — y compris un véhicule ou navire — et y effectuer des inspections, s'il a des motifs raisonnables de croire que s'y trouvent des poissons, objets ou ouvrages, ou qu'on y exploite une entreprise, assujettis à l'application de la présente loi ou de ses règlements; il est aussi autorisé à :

- a) ouvrir tout contenant dans lequel il a des motifs raisonnables de croire que se trouvent du poisson ou des objets assujettis à l'application de la présente loi ou de ses règlements;
- b) examiner les poissons ou tout objet qu'il y trouve et en prendre des échantillons;
- c) effectuer des essais, des analyses et des mesures;
- d) exiger de toute personne qu'elle lui fournisse pour examen ou copie les registres, documents comptables ou autres documents qu'il a des motifs raisonnables de croire contenir des renseignements utiles à l'application de la présente loi ou de ses règlements.

Usage d'ordinateurs et de photocopieuses

(1.1) Dans le cadre de sa visite, l'agent des pêches ou le garde-pêche peut :

- a) utiliser ou faire utiliser les systèmes informatiques se trouvant sur place afin de prendre connaissance des données qui y sont contenues ou auxquelles ces systèmes donnent accès;
- b) à partir de ces données, reproduire ou faire reproduire le document sous forme d'imprimé ou toute autre forme intelligible, qu'il peut emporter pour examen ou reproduction;

(c) use or cause to be used any copying equipment at the place to make copies of any record, book of account or other document.

Duty to assist

(1.2) The owner or person in charge of a place that is inspected by a fishery officer or fishery guardian under subsection (1) and every person found in the place shall

(a) give the officer or guardian all reasonable assistance to enable the officer or guardian to carry out the inspection and exercise any power conferred by this section; and

(b) provide the officer or guardian with any information relevant to the administration of this Act or the regulations that the officer or guardian may reasonably require.

Disposition of samples

(1.3) A fishery officer or fishery guardian who takes a sample under paragraph (1)(b) may dispose of it in any manner that the officer or guardian considers appropriate.

Warrant required to enter dwelling-house

(2) Where any place, premises, vessel or vehicle referred to in subsection (1) is a dwelling-house, a fishery officer or fishery guardian may not enter that dwelling-house without the consent of the occupant except under the authority of a warrant issued under subsection (3).

Authority to issue warrant

(3) Where on *ex parte* application a justice of the peace is satisfied by information on oath

(a) that the conditions for entry described in subsection (1) exist in relation to a dwelling-house,

(b) that entry to the dwelling-house is necessary for any purpose relating to the administration or enforcement of this Act, and

(c) that entry to the dwelling-house has been refused or that there are reasonable grounds for believing that entry thereto will be refused,

the justice of the peace may issue a warrant under his hand authorizing the fishery officer or fishery guardian named therein to enter that dwelling-house subject to such conditions as may be specified in the warrant.

(4) [Repealed, 1991, c. 1, s. 13]

R.S., 1985, c. F-14, s. 49; R.S., 1985, c. 31 (1st Supp.), s. 35; 1991, c. 1, s. 13.

c) utiliser ou faire utiliser les appareils de reprographie se trouvant sur place pour faire des copies de tout registre, document comptable ou autre document.

Obligation d'assistance

(1.2) Le propriétaire ou le responsable du lieu qui fait l'objet de la visite, ainsi que toute personne qui s'y trouve, sont tenus d'accorder à l'agent des pêches ou au garde-pêche toute l'assistance possible dans l'exercice de ses fonctions et de lui donner les renseignements qu'il peut valablement exiger dans le cadre de l'application de la présente loi ou de ses règlements.

Sort des échantillons

(1.3) L'agent des pêches ou le garde-pêche qui, en vertu du paragraphe (1), prend un échantillon peut ensuite en disposer ou le détruire de la façon qu'il estime indiquée.

Mandat pour maison d'habitation

(2) Dans le cas d'une maison d'habitation, l'agent des pêches ou le garde-pêche ne peuvent toutefois procéder à la visite sans l'autorisation de l'occupant que s'ils sont munis du mandat prévu au paragraphe (3).

Délivrance du mandat

(3) Sur demande *ex parte*, le juge de paix peut signer un mandat autorisant, sous réserve des conditions éventuellement fixées, l'agent des pêches ou le garde-pêche qui y est nommé à procéder à la visite d'une maison d'habitation s'il est convaincu, sur la foi d'une dénonciation sous serment, que sont réunis les éléments suivants :

a) les circonstances prévues au paragraphe (1) existent;

b) la visite est nécessaire pour l'application de la présente loi;

c) un refus a été opposé à la visite ou il y a des motifs raisonnables de croire que tel sera le cas.

(4) [Abrogé, 1991, ch. 1, art. 13]

L.R. (1985), ch. F-14, art. 49; L.R. (1985), ch. 31 (1^{er} suppl.), art. 35; 1991, ch. 1, art. 13.

Search

49.1 (1) A fishery officer with a warrant issued under subsection (2) may enter and search any place, including any premises, vessel or vehicle, in which the officer believes on reasonable grounds there is

- (a) any work or undertaking that is being or has been carried on in contravention of this Act or the regulations;
- (b) any fish or other thing by means of or in relation to which this Act or the regulations have been contravened; or
- (c) any fish or other thing that will afford evidence in respect of a contravention of this Act or the regulations.

Authority to issue warrant

(2) Where on *ex parte* application a justice of the peace is satisfied by information on oath that there are reasonable grounds to believe that there is in any place referred to in subsection (1) any fish or other thing referred to in subsection (1), the justice may issue a warrant authorizing the fishery officer named in the warrant to enter and search the place for the thing subject to any conditions that may be specified in the warrant.

Where warrant not necessary

(3) Notwithstanding subsection (1), a fishery officer may exercise the power of search referred to in that subsection without a warrant issued under subsection (2) if the conditions for obtaining the warrant exist but by reason of exigent circumstances it would not be practical to obtain the warrant.

Exigent circumstances

(4) For the purposes of subsection (3), exigent circumstances include circumstances in which the delay necessary to obtain the warrant would result in danger to human life or safety or the loss or destruction of evidence.

Powers during search

(5) In carrying out a search of a place under this section, a fishery officer may exercise any power mentioned in subsection 49(1), (1.1) or (1.3).

R.S., 1985, c. 31 (1st Supp.), s. 35; 1991, c. 1, s. 14.

Arrest

50 Any fishery officer, fishery guardian or peace officer may arrest without warrant a person who that fishery officer, guardian or peace officer believes, on reasonable

Pouvoirs de perquisition

49.1 (1) L'agent des pêches muni du mandat visé au paragraphe (2) peut pénétrer dans tous lieux — y compris un véhicule ou navire — et y effectuer une perquisition, s'il a des motifs raisonnables de croire, selon le cas :

- a) qu'on y exploite ou qu'on y a exploité un ouvrage ou une entreprise en contravention avec la présente loi ou ses règlements;
- b) que s'y trouvent des poissons ou objets qui ont donné lieu à une contravention de la présente loi ou de ses règlements;
- c) que s'y trouvent des poissons ou objets qui serviront à prouver la perpétration d'une telle infraction.

Délivrance du mandat

(2) Sur demande *ex parte*, le juge de paix peut signer un mandat autorisant, sous réserve des conditions éventuellement fixées, un agent des pêches nommément désigné à pénétrer dans un lieu visé au paragraphe (1) et à y effectuer une perquisition s'il est convaincu, sur la foi d'une dénonciation sous serment, qu'il y a des motifs raisonnables de croire à la présence du poisson ou des objets visés au paragraphe (1).

Perquisition sans mandat

(3) Par dérogation au paragraphe (1), l'agent des pêches peut exercer sans mandat le pouvoir de perquisition visé au paragraphe (2) lorsque l'urgence de la situation rend difficilement réalisable l'obtention du mandat, sous réserve que les conditions de délivrance de celui-ci soient réunies.

Situation d'urgence

(4) Pour l'application du paragraphe (3), il y a notamment urgence dans les cas où le délai d'obtention du mandat risquerait soit de mettre en danger des personnes, soit d'entraîner la perte ou la destruction d'éléments de preuve.

Pouvoirs

(5) L'agent des pêches peut, dans le cadre d'une perquisition effectuée en vertu du présent article, exercer les pouvoirs mentionnés aux paragraphes 49(1), (1.1) ou (1.3).

L.R. (1985), ch. 31 (1^{er} suppl.), art. 35; 1991, ch. 1, art. 14.

Arrestation

50 Les agents des pêches, gardes-pêche ou agents de la paix peuvent arrêter sans mandat toute personne dont ils ont des motifs raisonnables de croire qu'elle a commis

grounds, has committed an offence against this Act or any of the regulations, or whom he finds committing or preparing to commit an offence against this Act or any of the regulations.

R.S., c. F-14, s. 36.

Seizure of fishing vessel, etc.

51 A fishery officer or fishery guardian may seize any fishing vessel, vehicle, fish or other thing that the officer or guardian believes on reasonable grounds was obtained by or used in the commission of an offence under this Act or will afford evidence of an offence under this Act, including any fish that the officer or guardian believes on reasonable grounds

(a) was caught, killed, processed, transported, purchased, sold or possessed in contravention of this Act or the regulations; or

(b) has been intermixed with fish referred to in paragraph (a).

R.S., 1985, c. F-14, s. 51; 1991, c. 1, s. 15.

Entry by fishery officer

52 In the discharge of his duties, any fishery officer, fishery guardian or other person accompanying him or authorized to such effect by the fishery officer may enter on and pass through or over private property without being liable for trespass.

R.S., c. F-14, s. 39.

Disputes

53 Disputes between persons relating to fishing limits or claims to fishery stations, or relating to the position and use of nets and other fishing apparatus, shall be settled by the local fishery officer.

R.S., c. F-14, s. 40.

Distances between fisheries

54 Fishery officers may determine or prescribe the distance between each and every fishery and shall forthwith remove any fishing apparatus or materials that the owner neglects or refuses to remove, and the owner is liable for a contravention of this Act and for the cost of removing the apparatus and materials and any damages that may result therefrom.

R.S., c. F-14, s. 41.

Boundaries of estuary fishing

55 The Minister, or any fishery officer duly authorized by the Minister, has power to define the boundaries of tidal waters and estuaries and to designate what is the

une infraction à la présente loi ou à ses règlements ou qu'ils prennent en flagrant délit d'infraction ou se préparant à commettre une infraction à la présente loi ou à ses règlements.

S.R., ch. F-14, art. 36.

Saisie des bateaux de pêche

51 L'agent des pêches ou le garde-pêche peut saisir les bateaux de pêche, les véhicules, le poisson et tous autres objets dont il a des motifs raisonnables de croire qu'ils ont été obtenus par la perpétration d'une infraction à la présente loi, qu'ils ont servi à la perpétration d'une telle infraction ou qu'ils serviront à prouver l'infraction, notamment les poissons dont il a des motifs raisonnables de croire :

a) soit qu'ils ont été pêchés, tués, transportés, achetés, vendus ou transformés en contravention avec la présente loi ou ses règlements, ou que leur possession était interdite par cette loi ou ces règlements;

b) soit qu'ils ont été mêlés à ceux visés à l'alinéa a).

L.R. (1985), ch. F-14, art. 51; 1991, ch. 1, art. 15.

Droit de passage des agents des pêches

52 Dans l'exercice de leurs fonctions, l'agent des pêches, le garde-pêche et les personnes qui les accompagnent ou qui sont autorisées à cet effet par l'agent des pêches peuvent pénétrer dans une propriété privée et y circuler sans s'exposer à une poursuite pour violation du droit de propriété.

S.R., ch. F-14, art. 39.

Contestations

53 L'agent local des pêches règle les différends portant sur les limites de pêcheries ou sur des réclamations relatives à des stations de pêche, ou sur la position et l'usage de filets et autres engins de pêche.

S.R., ch. F-14, art. 40.

Distance entre les pêcheries

54 Les agents des pêches peuvent fixer la distance devant séparer les pêcheries; ils enlèvent sur-le-champ tous engins de pêche ou matériaux que le propriétaire néglige ou refuse d'enlever, lequel se rend coupable d'infraction à la présente loi et responsable des frais d'enlèvement et des dommages qui peuvent en résulter.

S.R., ch. F-14, art. 41.

Limites des pêches dans les estuaires

55 Le ministre, ou tout agent des pêches habilité par lui, a le pouvoir de délimiter les eaux de marées et les estuaires et de déterminer l'embouchure d'une rivière, d'un

mouth of any river, stream or other water for the purposes of this Act.

R.S., c. F-14, s. 42.

Gurry grounds

56 Gurry grounds may be designated or defined by any fishery officer.

R.S., c. F-14, s. 43.

Culture of Fish

Waters for propagation of fish

57 The Minister may authorize any river or other water to be set apart for the natural or artificial propagation of fish.

R.S., c. F-14, s. 44.

Special licences for oyster beds

58 Special licences and leases for any term of years may be granted to any person who wishes to plant or form oyster beds in any of the bays, inlets, harbours, creeks or rivers, or between any of the islands on the coast of Canada, and the holder of any such licence or lease has the exclusive right to the oysters produced or found on the beds within the limits of the licence or lease.

R.S., 1985, c. F-14, s. 58; 1999, c. 31, s. 123(F).

Authority to provinces to grant leases for oyster cultivation

59 (1) The Governor in Council may, on such terms and conditions as are agreed on, authorize the government of any province to grant leases of such areas of the sea-coast, bays, inlets, harbours, creeks, rivers and estuaries of the province as the government of the province considers suitable for the cultivation and production of oysters, and any persons to whom such leases are granted by the province, subject to the fishery regulations of Canada, have the exclusive right to the oysters produced or found on the beds within the limits of their respective leases.

Rights of Canada preserved

(2) Where an area referred to in subsection (1) or any part thereof is in a public harbour, nothing in that subsection prejudices the right or title of Canada to the enjoyment and use of the harbour for every purpose other than the cultivation and production of oysters.

R.S., 1985, c. F-14, s. 59; 1999, c. 31, s. 124(F).

Vacant Public Property

Vacant public property

60 (1) Every subject of Her Majesty may, for the purpose of landing, salting, curing and drying fish, use, and

cours d'eau ou de toute autre étendue d'eau pour l'application de la présente loi.

S.R., ch. F-14, art. 42.

Décharge pour issues ou déchets de poisson

56 Les décharges pour issues ou déchets de poisson peuvent être désignées ou définies par l'agent des pêches.

S.R., ch. F-14, art. 43.

Aquaculture

Rivières pour la reproduction du poisson

57 Le ministre peut autoriser la mise à part de toute rivière ou autre étendue d'eau pour la reproduction naturelle ou artificielle du poisson.

S.R., ch. F-14, art. 44.

Licences spéciales pour les huîtres

58 Peut bénéficier d'une licence ou d'un bail spécial, pour un nombre quelconque d'années, quiconque désire constituer des huîtres dans les baies, anses, havres ou cours d'eau, ou entre les îles proches des côtes canadiennes. Le cas échéant, le titulaire a un droit exclusif sur les huîtres produites ou trouvées sur les bancs dans les limites fixées dans la licence ou le bail.

L.R. (1985), ch. F-14, art. 58; 1999, ch. 31, art. 123(F).

Autorisation aux provinces de consentir des baux pour l'ostréiculture

59 (1) Le gouverneur en conseil peut, selon les modalités convenues, autoriser le gouvernement d'une province à consentir des baux pour les zones du littoral, des baies, anses, havres et cours d'eau de cette province que le gouvernement de celle-ci juge propices à l'ostréiculture; tous les preneurs possèdent, sous réserve des règlements fédéraux sur les pêches, un droit exclusif sur les huîtres produites ou trouvées sur les bancs compris dans les limites de leurs baux respectifs.

Sauvegarde des droits du Canada

(2) Si les zones visées au paragraphe (1) sont, en tout ou en partie, situées dans un havre public, aucune disposition de celui-ci ne porte atteinte au droit ou titre que possède le Canada à la jouissance de ce havre et à son utilisation à toute autre fin que l'ostréiculture.

L.R. (1985), ch. F-14, art. 59; 1999, ch. 31, art. 124(F).

Terrains publics vacants

Terrains publics vacants

60 (1) Tout sujet de Sa Majesté peut utiliser des terrains publics vacants, dont l'usage est de par la loi commun et

cut wood on, vacant public property that by law is common and accessory to public rights of fishery and navigation.

Prohibition

(2) No person shall occupy the same station on vacant public property described in subsection (1) unless it has been abandoned by the first occupant for twelve consecutive months.

Payment may be required

(3) At the expiration of the twelve months referred to in subsection (2), any new occupier shall pay the value of the flakes and stages and other property thereon, of which he takes possession, or the buildings and improvements may be removed by the original owner.

Leased property

(4) No property leased or licensed shall be deemed vacant.

R.S., c. F-14, s. 47.

Information Returns

Persons who may be required to provide information

61 (1) The following persons may be required under this Act to provide information or to keep records, books of account or other documents:

- (a)** any person who engages in fishing;
- (b)** any person who purchases fish for the purpose of resale;
- (c)** any owner, operator or manager of an enterprise that catches, cultures, processes or transports fish; and
- (d)** any agent or employee of a person referred to in paragraphs (a) to (c).

Information that may be required

(2) A person referred to in subsection (1) may be required to provide information or to keep records or other documents relating to any of the following matters:

- (a)** the number, sex, size, weight, species, product form, value or other particulars of any fish caught, cultured, processed, transported, sold or purchased;
- (b)** the time and place at which any fish was caught or landed and the person, enterprise or vessel by which the fish was caught or landed;

inhérent au droit public de pêche et de navigation, pour y débarquer, saler, préparer et faire sécher le poisson, et y couper du bois à ces fins.

Exclusivité

(2) Seul le premier occupant a l'usage d'un même poste de pêche sur les terrains visés au paragraphe (1) sauf s'il l'abandonne durant douze mois consécutifs.

Paiement

(3) Quiconque s'installe à un poste abandonné depuis au moins douze mois paie à leur propriétaire la valeur des séchoirs, ateliers de salage et autres biens qui s'y trouvent et dont il prend possession; sinon, les bâtiments et aménagements peuvent être enlevés par l'ancien occupant qui les a mis en place.

Propriété louée

(4) Les propriétés louées ou cédées sous licence ne sont pas réputées vacantes.

S.R., ch. F-14, art. 47.

Rapports

Personnes visées

61 (1) Les personnes suivantes peuvent être tenues sous le régime de la présente loi de fournir des renseignements ou de tenir des registres, documents comptables ou autres documents :

- a)** les pêcheurs;
- b)** ceux qui, en vue de la revente, achètent du poisson;
- c)** les propriétaires, exploitants ou directeurs d'une entreprise de pêche, d'aquaculture, de transformation ou de transport du poisson;
- d)** les mandataires ou salariés d'une personne visée aux alinéas a) à c).

Renseignements à fournir

(2) Les personnes visées au paragraphe (1) peuvent être tenues de fournir des renseignements ou de tenir des registres ou autres documents à l'égard des questions suivantes :

- a)** le nombre, la taille, le poids, l'espèce, la forme du produit, le sexe, la valeur ou les autres caractéristiques du poisson pêché, élevé, transformé, transporté, vendu ou acheté;

(c) the time and place at which any fish was purchased and the person, enterprise or vessel from which the fish was purchased;

(d) the vessels, gear and methods used and the number of persons employed for the purpose of catching fish;

(e) the buildings, equipment, products and methods used and the number of persons employed for the purpose of culturing or processing fish; and

(f) any other matter relating to the proper management and control of fisheries or the conservation and protection of fish.

Duty to keep books

(3) A person referred to in subsection (1) shall keep any records, books of account or other documents that may be required by the regulations or by the terms and conditions of any lease or licence issued to the person under this Act and the records, books of account or other documents shall be kept in the manner and form and for the period prescribed by the regulations, lease or licence.

Duty to provide information

(4) A person referred to in subsection (1) shall, on the request of any fishery officer or fishery guardian, provide the officer or guardian, or any authority designated by the officer or guardian, with any information relating to a matter mentioned in subsection (2) that the officer or guardian may request.

Idem

(5) A person referred to in subsection (1) shall, in accordance with the regulations and the terms and conditions of any lease or licence issued to the person under this Act, provide a fishery officer, a fishery guardian or any authority designated in the regulations, lease or licence with any information relating to a matter mentioned in subsection (2) that the regulations, lease or licence requires.

R.S., 1985, c. F-14, s. 61; 1991, c. 1, s. 18.

b) la date et le lieu de prise ou de débarquement du poisson ainsi que la personne, l'entreprise ou le bateau en cause;

c) la date et le lieu d'achat du poisson ainsi que le nom de la personne, de l'entreprise ou du bateau qui l'a vendu;

d) les bateaux, engins de pêche et méthodes utilisés ainsi que le nombre de personnes affectées aux opérations de pêche;

e) le nombre de personnes, les bâtiments et l'équipement affectés à l'aquaculture ou à la transformation du poisson ainsi que les produits et les méthodes utilisés;

f) toute autre question concernant la gestion et la surveillance judicieuses des pêches ou la conservation et la protection du poisson.

Obligation de tenir des registres

(3) Les personnes visées au paragraphe (1) doivent tenir les registres, documents comptables et autres documents que prévoient les règlements ou les baux, permis et licences qui leur ont été délivrés sous le régime de la présente loi; ces registres, documents comptables et autres documents sont tenus de la façon prévue par les règlements, les baux, les permis et les licences et conservés durant la période qu'ils fixent.

Obligation de fournir les renseignements

(4) Les personnes visées au paragraphe (1) sont tenues de fournir à l'agent des pêches ou au garde-pêche, ou de faire parvenir à l'autorité qu'il désigne, les renseignements qu'elles possèdent à l'égard des questions mentionnées au paragraphe (2) et qu'il leur demande.

Idem

(5) Les personnes visées au paragraphe (1) sont tenues de fournir, en conformité avec les règlements ou avec les documents — baux, permis ou licences — qui leur ont été délivrés sous le régime de la présente loi, au garde-pêche, à l'agent des pêches ou à toute autre autorité désignée par les règlements ou les documents, les renseignements qu'elles possèdent à l'égard des questions mentionnées au paragraphe (2) et que précisent ces règlements ou documents.

L.R. (1985), ch. F-14, art. 61; 1991, ch. 1, art. 18.

Obstruction and False Information

Obstruction

62 No person shall obstruct or hinder a fishery officer, a fishery guardian or an inspector who is carrying out duties or functions under this Act.

R.S., 1985, c. F-14, s. 62; R.S., 1985, c. 1 (2nd Supp.), s. 213; 1991, c. 1, s. 18.

False statements

63 (1) No person shall make a false or misleading statement, whether orally or in writing, to an inspector, a fishery officer, a fishery guardian, any authority designated by a fishery officer or a fishery guardian or any authority prescribed under paragraph 38(9)(a) or (b) who is carrying out duties or functions under this Act.

False statements in licence application

(2) No person shall make a false or misleading statement, whether orally or in writing, in an application for a lease or licence under this Act.

False records

(3) No person shall produce for examination or copying by an inspector, a fishery officer or a fishery guardian or any authority designated by a fishery officer or a fishery guardian any records, books of account or other documents that contain false or misleading information.

R.S., 1985, c. F-14, s. 63; 1991, c. 1, s. 18; 2012, c. 19, s. 151.

64 and 65 [Repealed, 1991, c. 1, s. 18]

66 [Repealed, 2012, c. 19, s. 152]

67 [Repealed, 2012, c. 19, s. 152]

68 [Repealed, 1991, c. 1, s. 20]

69 [Repealed, 2012, c. 19, s. 153]

Disposition of Seized Things

Custody of seized things

70 (1) A fishery officer or fishery guardian who seizes any fish or other thing under this Act may retain custody of it or deliver it into the custody of any person the officer or guardian considers appropriate.

Request by officer or guardian

(2) A person who is given custody of any fish or other thing under subsection (1) shall, on the request of a fishery officer or fishery guardian at any reasonable time,

Entrave et faux renseignements

Entrave

62 Il est interdit d'entraver l'action des agents des pêches, des gardes-pêche ou des inspecteurs dans l'exercice des fonctions que leur confère la présente loi.

L.R. (1985), ch. F-14, art. 62; L.R. (1985), ch. 1 (2^e suppl.), art. 213; 1991, ch. 1, art. 18.

Faussees déclarations

63 (1) Il est interdit de faire, oralement ou par écrit, une déclaration fausse ou trompeuse aux agents des pêches, aux gardes-pêche — ou à l'autorité qu'ils désignent —, aux autorités désignées en vertu des alinéas 38(9)a) ou b) ou aux inspecteurs qui exercent les attributions que leur confère la présente loi.

Faux renseignements

(2) Il est interdit de faire, oralement ou par écrit, une déclaration fausse ou trompeuse dans une demande de bail, de permis ou de licence visée par la présente loi.

Faux registres

(3) Nul ne peut remettre à un agent des pêches, à un garde-pêche — ou à l'autorité qu'il désigne — ou à un inspecteur, pour examen ou reproduction, un registre, document comptable ou autre document qui contient des renseignements faux ou trompeurs.

L.R. (1985), ch. F-14, art. 63; 1991, ch. 1, art. 18; 2012, ch. 19, art. 151.

64 et 65 [Abrogés, 1991, ch. 1, art. 18]

66 [Abrogé, 2012, ch. 19, art. 152]

67 [Abrogé, 2012, ch. 19, art. 152]

68 [Abrogé, 1991, ch. 1, art. 20]

69 [Abrogé, 2012, ch. 19, art. 153]

Aliénation des objets saisis

Garde des objets saisis

70 (1) L'agent des pêches ou le garde-pêche qui saisit du poisson ou un objet en vertu de la présente loi peut s'en réserver la garde ou l'attribuer à toute personne qu'il estime compétente.

Remise

(2) La personne à qui la garde du poisson ou des objets saisis est confiée est tenue, sur demande présentée à toute heure convenable par l'agent des pêches ou le

make the fish or thing available for inspection by or deliver it into the custody of the officer or guardian.

Perishables

(3) A fishery officer or fishery guardian who has custody of any fish or other perishable thing seized under this Act may dispose of it in any manner the officer or guardian considers appropriate and any proceeds realized from its disposition shall be paid to the Receiver General.

R.S., 1985, c. F-14, s. 70; 1991, c. 1, s. 21.

Detention of seized things

71 (1) Subject to this section, any fish or other thing seized under this Act, or any proceeds realized from its disposition, may be detained until the fish or thing or proceeds are forfeited or proceedings relating to the fish or thing are finally concluded.

Return on deposit of security

(2) Subject to subsection 72(4), a court may order any fish or other thing seized under this Act to be returned to the person from whom it was seized if security is given to Her Majesty in a form and amount that is satisfactory to the Minister.

Return where proceedings not instituted

(3) Subject to subsection 72(4), where proceedings are not instituted in relation to any fish or other thing seized under this Act, the fish or thing or any proceeds realized from its disposition shall be returned to the person from whom it was seized

(a) on the Minister's decision not to institute proceedings; or

(b) on the expiration of ninety days after the day of the seizure or any further period that may be specified in an order made under subsection (4).

Order to extend detention

(4) Where a court is satisfied, on the application of the Minister within ninety days after the day on which any fish or other thing is seized, that detention of the fish or thing for a period greater than ninety days is justified in the circumstances, the court may, by order, permit the fish or thing to be detained for any further period that may be specified in the order.

R.S., 1985, c. F-14, s. 71; 1991, c. 1, s. 21.

Recovery of costs

71.1 (1) Where a person is convicted of an offence under this Act, the court may, in addition to any punishment imposed, order the person to pay the Minister an

garde-pêche, d'en permettre l'inspection par lui ou de les lui remettre.

Marchandises périssables

(3) L'agent des pêches ou le garde-pêche qui a la garde de marchandises périssables saisies peut en disposer de la façon qu'il estime indiquée, le produit de l'aliénation étant versé au receveur général.

L.R. (1985), ch. F-14, art. 70; 1991, ch. 1, art. 21.

Rétention des objets saisis

71 (1) Sous réserve des autres dispositions du présent article, le poisson ou les objets saisis en vertu de la présente loi ou le produit de leur aliénation peuvent être retenus jusqu'à ce que leur confiscation soit prononcée ou qu'une décision définitive soit rendue lors des poursuites intentées à leur égard.

Remise sur dépôt d'une garantie

(2) Sous réserve du paragraphe 72(4), le tribunal peut ordonner la restitution au saisi du poisson ou des objets saisis, sur fourniture à Sa Majesté d'une garantie que le ministre juge acceptable quant au montant et à la forme.

Remise en l'absence de poursuites

(3) Sous réserve du paragraphe 72(4), lorsqu'aucune poursuite n'est intentée, le poisson ou les objets saisis sont restitués ou le produit de leur aliénation remis au saisi dès que le ministre décide de ne pas intenter de poursuites à leur égard ou à l'expiration du délai de quatre-vingt-dix jours qui suit la saisie ou de tout autre délai supérieur fixé par une ordonnance rendue en vertu du paragraphe (4).

Ordonnance de prolongation

(4) Le tribunal peut, par ordonnance, prolonger la période de rétention du poisson ou d'un objet saisi jusqu'à l'expiration du délai qu'il fixe si le ministre le lui demande dans les quatre-vingt-dix jours qui suivent la date de la saisie et s'il est convaincu que les circonstances le justifient.

L.R. (1985), ch. F-14, art. 71; 1991, ch. 1, art. 21.

Dépens

71.1 (1) Le tribunal qui déclare une personne coupable d'une infraction à la présente loi peut, en sus de toute autre peine infligée, ordonner au contrevenant

amount of money as compensation for any costs incurred in the seizure, storage or disposition of any fish or other thing seized under this Act by means of or in relation to which the offence was committed.

Debt due to Her Majesty

(2) Where a court orders a person to pay an amount of money as compensation under subsection (1), the amount and any interest payable on that amount constitute a debt due to Her Majesty and may be recovered as such in any court of competent jurisdiction.

1991, c. 1, s. 21.

Forfeiture of things

72 (1) Where a person is convicted of an offence under this Act, the court may, in addition to any punishment imposed, order that any thing seized under this Act by means of or in relation to which the offence was committed, or any proceeds realized from its disposition, be forfeited to Her Majesty.

Forfeiture of fish

(2) Where a person is convicted of an offence under this Act that relates to fish seized pursuant to paragraph 51(a), the court shall, in addition to any punishment imposed, order that the fish, or any proceeds realized from its disposition, be forfeited to Her Majesty.

Idem

(3) Where a person is charged with an offence under this Act that relates to fish seized pursuant to paragraph 51(a) and the person is acquitted but it is proved that the fish was caught in contravention of this Act or the regulations, the court may order that the fish, or any proceeds realized from its disposition, be forfeited to Her Majesty.

Forfeiture where ownership not ascertainable

(4) Where the ownership of any fish or other thing seized under this Act cannot be ascertained at the time of the seizure, the fish or thing is thereupon forfeited to Her Majesty.

R.S., 1985, c. F-14, s. 72; R.S., 1985, c. 31 (1st Suppl.), s. 96; 1991, c. 1, s. 21.

Disposal of forfeited things

73 (1) Subject to sections 75 to 77, any fish or other thing forfeited to Her Majesty under subsection 72(1), (2) or (3) shall be disposed of after the final conclusion of the proceedings relating to the fish or thing, as the Minister directs.

d'indemniser le ministre des frais engagés dans le cadre de la saisie, de la garde ou de l'aliénation du poisson ou des objets saisis qui ont servi ou donné lieu à la perpétration de l'infraction.

Créance de Sa Majesté

(2) L'indemnisation visée au paragraphe (1) et les intérêts afférents constituent une créance de Sa Majesté dont le recouvrement peut être poursuivi à ce titre devant toute juridiction compétente.

1991, ch. 1, art. 21.

Confiscation

72 (1) Le tribunal qui déclare une personne coupable d'une infraction à la présente loi peut, en sus de toute autre peine infligée, ordonner que tout objet saisi qui a servi ou donné lieu à la perpétration de l'infraction — ou le produit de son aliénation — soit confisqué au profit de Sa Majesté.

Confiscation du poisson

(2) Le tribunal qui déclare une personne coupable d'avoir commis une infraction à la présente loi relativement à du poisson saisi en vertu de l'alinéa 51a) est tenu, en sus de toute autre peine infligée, d'ordonner la confiscation au profit de Sa Majesté du poisson ou du produit de son aliénation.

Idem

(3) Le tribunal qui acquitte une personne accusée d'une infraction à la présente loi relativement à du poisson saisi en vertu de l'alinéa 51a) peut ordonner la confiscation au profit de Sa Majesté du poisson ou du produit de son aliénation s'il est prouvé que ce poisson a été pêché en contravention avec cette loi ou ses règlements.

Confiscation en l'absence de propriétaire

(4) Sont immédiatement confisqués au profit de Sa Majesté le poisson ou les objets saisis dont il est impossible de déterminer l'appartenance au moment de la saisie.

L.R. (1985), ch. F-14, art. 72; L.R. (1985), ch. 31 (1^{er} suppl.), art. 96; 1991, ch. 1, art. 21.

Aliénation des objets confisqués

73 (1) Sous réserve des articles 75 à 77, il est disposé, suivant les instructions du ministre, du poisson ou des objets confisqués en vertu des paragraphes 72(1), (2) et (3) lorsqu'une décision définitive met fin aux poursuites.

Disposal where ownership not ascertained

(2) Subject to sections 75 to 77, any fish or other thing forfeited to Her Majesty under subsection 72(4) shall be disposed of after the expiration of thirty days from the day of forfeiture, as the Minister directs.

Exception

(3) Notwithstanding subsection (2), where any fishing gear or equipment is forfeited under subsection 72(4), it may be disposed of immediately on its forfeiture, as the Minister directs.

R.S., 1985, c. F-14, s. 73; 1991, c. 1, s. 21.

Return of things not forfeited

73.1 (1) Subject to subsection (2), any fish or other thing seized under this Act, or any proceeds realized from its disposition, that are not forfeited to Her Majesty under section 72 shall, on the final conclusion of the proceedings relating to the fish or thing, be delivered to the person from whom the fish or thing was seized.

Exception

(2) Subject to subsection 72(4), where a person is convicted of an offence relating to any fish or other thing seized under this Act and the court imposes a fine but does not order forfeiture,

(a) the fish or thing may be detained until the fine is paid;

(b) it may be sold under execution in satisfaction of the fine; or

(c) any proceeds realized from its disposition may be applied in payment of the fine.

1991, c. 1, s. 21.

Release of seized fish

73.2 Notwithstanding anything in sections 70 to 73.1, a fishery officer or fishery guardian who seizes any fish under this Act may, at the time of the seizure, return to the water any fish that the officer or guardian believes to be alive.

1991, c. 1, s. 21.

Definitions

74 In sections 75 and 76,

court of appeal means, in the province in which an order under section 75 is made, the court of appeal for that province as defined in section 2 of the *Criminal Code*; (*cour d'appel*)

Idem

(2) Sous réserve des articles 75 à 77, il est disposé, suivant les instructions du ministre, du poisson ou des objets confisqués en vertu du paragraphe 72(4), à l'expiration du délai de trente jours qui suit la date de la confiscation.

Exception

(3) Par dérogation au paragraphe (2), il peut être disposé au moment de la confiscation, suivant les instructions du ministre, des engins et de l'équipement de pêche confisqués en vertu du paragraphe 72(4).

L.R. (1985), ch. F-14, art. 73; 1991, ch. 1, art. 21.

Remise des objets saisis mais non confisqués

73.1 (1) Sous réserve du paragraphe (2), lorsque, à l'issue des procédures portant sur le poisson ou les objets saisis, le tribunal n'a pas ordonné leur confiscation ou celle du produit de leur aliénation, les objets ou le produit sont remis au saisi.

Exception

(2) Sous réserve du paragraphe 72(4), les règles qui suivent s'appliquent lorsqu'une personne est déclarée coupable d'une infraction portant sur le poisson ou les objets saisis et que le tribunal inflige une amende mais n'ordonne pas la confiscation :

a) le poisson ou les objets peuvent être retenus jusqu'à l'acquittement de l'amende;

b) ils peuvent être vendus par adjudication forcée pour paiement de l'amende;

c) le produit de toute aliénation peut être affecté au paiement de l'amende.

1991, ch. 1, art. 21.

Remise à l'eau du poisson

73.2 Par dérogation aux articles 70 à 73.1, l'agent des pêches ou le garde-pêche peut au moment de la saisie remettre à l'eau tout poisson qu'il estime encore vivant.

1991, ch. 1, art. 21.

Définitions

74 Les définitions qui suivent s'appliquent aux articles 75 et 76.

cour d'appel Dans la province où l'ordonnance prévue à l'article 75 est rendue, la cour d'appel de cette province au sens de l'article 2 du *Code criminel*. (*court of appeal*)

***judge* means**

(a) in the Province of Quebec, a judge of the Superior Court for the district in which the thing in respect of which an application for an order under section 75 is made was seized,

(a.1) in the Province of Ontario, a judge of the Superior Court of Justice,

(b) in the Provinces of New Brunswick, Manitoba, Saskatchewan and Alberta, a judge of the Court of Queen's Bench,

(c) in the Province of Newfoundland and Labrador, a judge of the Trial Division of the Supreme Court,

(c.1) [Repealed, 1992, c. 51, s. 50]

(d) in the Provinces of Nova Scotia, British Columbia and Prince Edward Island, Yukon and the Northwest Territories, a judge of the Supreme Court, and

(e) in Nunavut, a judge of the Nunavut Court of Justice. (*juge*)

R.S., 1985, c. F-14, s. 74; R.S., 1985, c. 27 (2nd Supp.), s. 10; 1990, c. 16, s. 10, c. 17, s. 20; 1992, c. 51, s. 50; 1998, c. 30, s. 14; 1999, c. 3, s. 65; 2002, c. 7, s. 173; 2015, c. 3, s. 97.

Application by person claiming interest

75 (1) Where any thing other than fish is forfeited to Her Majesty under subsection 72(1) or (4), any person who claims an interest in the thing as owner, mortgagee, lienholder or holder of any like interest, other than a person convicted of the offence that resulted in the forfeiture or a person from whom the thing was seized, may, within thirty days after the forfeiture, apply in writing to a judge for an order pursuant to subsection (4).

Date of hearing

(2) The judge to whom an application is made pursuant to subsection (1) shall fix a day not less than thirty days after the date of filing of the application for the hearing thereof.

Notice

(3) The applicant shall serve a notice of the application and of the hearing on the Minister at least fifteen days before the day fixed for the hearing.

Order by judge

(4) Where, on the hearing of an application made pursuant to subsection (1), it is made to appear to the satisfaction of the judge,

juge

a) Dans la province de Québec, un juge de la Cour supérieure du district où l'objet ou le poisson visé par une demande d'ordonnance fondée sur l'article 75 a été saisi;

a.1) dans la province d'Ontario, un juge de la Cour supérieure de justice;

b) dans les provinces du Nouveau-Brunswick, du Manitoba, de la Saskatchewan et d'Alberta, un juge de la Cour du Banc de la Reine;

c) dans la province de Terre-Neuve-et-Labrador, un juge de la Section de première instance de la Cour suprême;

c.1) [Abrogé, 1992, ch. 51, art. 50]

d) dans les provinces de la Nouvelle-Écosse, de la Colombie-Britannique, de l'Île-du-Prince-Édouard, au Yukon et dans les Territoires du Nord-Ouest, un juge de la Cour suprême;

e) au Nunavut, un juge de la Cour de justice. (*juge*)

L.R. (1985), ch. F-14, art. 74; L.R. (1985), ch. 27 (2^e suppl.), art. 10; 1990, ch. 16, art. 10, ch. 17, art. 20; 1992, ch. 51, art. 50; 1998, ch. 30, art. 14; 1999, ch. 3, art. 65; 2002, ch. 7, art. 173; 2015, ch. 3, art. 97.

Demande faite par un tiers

75 (1) Sauf lorsqu'il s'agit de poisson confisqué, toute personne — autre que celle qui a été déclarée coupable de l'infraction ayant entraîné la confiscation, ou que le saisi — qui prétend avoir un droit sur un objet confisqué en vertu des paragraphes 72(1) ou (4), à titre de propriétaire, de créancier hypothécaire ou de titulaire de privilège ou de tout droit semblable, peut, dans les trente jours qui suivent la confiscation, demander par écrit à un juge de rendre l'ordonnance prévue au paragraphe (4).

Date de l'audition

(2) Le juge saisi de la demande visée au paragraphe (1) fixe, pour l'audition de celle-ci, une date postérieure d'au moins trente jours à son dépôt.

Avis

(3) Le demandeur fait parvenir au ministre un avis de la demande et de l'audition au moins quinze jours avant la date fixée pour celle-ci.

Ordonnance du juge

(4) Le juge fait droit à la requête en rendant une ordonnance déclarant que la confiscation ne porte pas atteinte au droit du demandeur et précisant la nature et l'étendue

(a) that the applicant is innocent of any complicity in the offence or alleged offence that resulted in the forfeiture and of any collusion in relation to that offence with the person who was convicted of, or who may have committed, the offence, and

(b) that the applicant exercised all reasonable care in respect of the person permitted to obtain the possession of the thing in respect of which the application is made to satisfy himself that the thing was not likely to be used contrary to this Act or the regulations, or, in the case of a mortgagee or lienholder, that he exercised such care with respect to the mortgagor or the liengiver,

the applicant is entitled to an order declaring that his interest is not affected by the forfeiture and declaring the nature and extent of his interest.

R.S., 1985, c. F-14, s. 75; 1991, c. 1, s. 22.

Appeal

76 (1) The applicant or the Minister may appeal to the court of appeal from an order made under subsection 75(4) and the appeal shall be asserted, heard and decided according to the ordinary procedure governing appeals to the court of appeal from orders or judgments of a judge.

Application to Minister

(2) The Minister shall, on application made to him by any person who has obtained a final order pursuant to this section or section 75,

(a) except in the case of any thing disposed of under subsection 70(3), direct that the thing to which the interest of the applicant relates be returned to the applicant; or

(b) direct that an amount equal to the value of the interest of the applicant, as declared in the order, be paid to him.

R.S., 1985, c. F-14, s. 76; 1991, c. 1, s. 23.

Exception

77 Sections 74 to 76 do not apply to

(a) any fishing gear or equipment that has been disposed of pursuant to subsection 73(3); or

(b) any fish that have been returned to the water pursuant to section 73.2.

R.S., 1985, c. F-14, s. 77; 1991, c. 1, s. 24.

de ce droit si, à l'audition de la demande, il constate la réunion des conditions suivantes :

a) il n'y a eu, à l'égard de l'infraction, réelle ou présumée, qui a entraîné la confiscation, aucune complicité ou collusion entre le demandeur et, selon le cas, la personne déclarée coupable ou tout auteur potentiel de l'infraction;

b) le demandeur a pris bien soin de s'assurer que l'objet ou le poisson visé par la demande ne servirait pas à la perpétration d'un acte contraire à la présente loi ou à ses règlements par la personne qui s'en est vu attribuer la possession ou, dans le cas d'un créancier hypothécaire ou d'un titulaire de privilège ou de droit semblable, le débiteur hypothécaire ou le débiteur assujéti au privilège ou droit en question.

L.R. (1985), ch. F-14, art. 75; 1991, ch. 1, art. 22.

Appel

76 (1) Le demandeur ou le ministre peut interjeter appel, auprès de la cour d'appel, d'une ordonnance rendue aux termes du paragraphe 75(4). L'exercice de ce droit ainsi que l'audition de l'appel et la décision en l'espèce suivent la procédure ordinaire en matière d'appel d'ordonnances ou de jugements d'un juge devant la cour d'appel.

Demande au ministre

(2) Sur demande du bénéficiaire d'une ordonnance finale rendue sous le régime du présent article ou de l'article 75, le ministre ordonne :

a) soit la restitution à l'intéressé de l'objet ou du poisson sur lequel il a fait valoir un droit, sauf dans le cas visé au paragraphe 70(3);

b) soit le versement à l'intéressé d'un montant égal à la valeur de son droit, telle qu'établie par l'ordonnance.

L.R. (1985), ch. F-14, art. 76; 1991, ch. 1, art. 23.

Exception

77 Les articles 74 à 76 ne s'appliquent pas :

a) aux engins et à l'équipement de pêche dont il a été disposé en vertu du paragraphe 73(3);

b) au poisson qui a été remis à l'eau en vertu de l'article 73.2.

L.R. (1985), ch. F-14, art. 77; 1991, ch. 1, art. 24.

Offence and Punishment

Punishment not otherwise provided for

78 Except as otherwise provided in this Act, every person who contravenes this Act or the regulations is guilty of

(a) an offence punishable on summary conviction and liable, for a first offence, to a fine not exceeding one hundred thousand dollars and, for any subsequent offence, to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding one year, or to both; or

(b) an indictable offence and liable, for a first offence, to a fine not exceeding five hundred thousand dollars and, for any subsequent offence, to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding two years, or to both.

R.S., 1985, c. F-14, s. 78; 1991, c. 1, s. 24.

Continuing offences

78.1 Where any contravention of this Act or the regulations is committed or continued on more than one day, it constitutes a separate offence for each day on which the contravention is committed or continued.

1991, c. 1, s. 24.

Offences by corporate officers, etc.

78.2 Where a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and is liable on conviction to the punishment provided for the offence, whether or not the corporation has been prosecuted.

1991, c. 1, s. 24.

Offences by employers

78.3 In any prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused.

1991, c. 1, s. 24.

Offences by licence holders

78.4 In any prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by a person in respect of any matter relating to any operations under a lease or licence issued to the accused pursuant to this Act or the regulations, whether

Infractions et peines

Peines dans les cas non spécifiés

78 Sauf disposition contraire de la présente loi, quiconque contrevient à celle-ci ou à ses règlements commet une infraction et encourt, sur déclaration de culpabilité :

a) par procédure sommaire, une amende maximale de cent mille dollars lors d'une première infraction ou, en cas de récidive, une amende maximale de cent mille dollars et un emprisonnement maximal d'un an, ou l'une de ces peines;

b) par mise en accusation, une amende maximale de cinq cent mille dollars lors d'une première infraction ou, en cas de récidive, une amende maximale de cinq cent mille dollars et un emprisonnement maximal de deux ans, ou l'une de ces peines.

L.R. (1985), ch. F-14, art. 78; 1991, ch. 1, art. 24.

Infractions continues

78.1 Il est compté une infraction distincte à la présente loi ou à ses règlements pour chacun des jours au cours desquels se commet ou se continue toute infraction à l'une de leurs dispositions.

1991, ch. 1, art. 24.

Dirigeants des personnes morales

78.2 En cas de perpétration par une personne morale d'une infraction à la présente loi, ceux de ses dirigeants, administrateurs ou mandataires qui l'ont ordonnée ou autorisée ou qui y ont consenti ou participé, sont considérés comme des coauteurs de l'infraction et encourt, sur déclaration de culpabilité, la peine prévue, que la personne morale ait été ou non poursuivie.

1991, ch. 1, art. 24.

Agents ou mandataires

78.3 Dans les poursuites pour infraction à la présente loi, il suffit, pour prouver l'infraction, d'établir qu'elle a été commise par un agent ou un mandataire de l'accusé, que cet agent ou mandataire ait été ou non identifié ou poursuivi. L'accusé peut se disculper en prouvant que la perpétration a eu lieu à son insu ou sans son consentement.

1991, ch. 1, art. 24.

Titulaires de permis et de licences

78.4 Dans les poursuites pour infraction à la présente loi, il suffit, pour prouver l'infraction, d'établir qu'elle a été commise par une personne exerçant des activités régies par un bail, une licence ou un permis délivré à l'accusé en vertu de la présente loi ou de ses règlements, que

or not the person is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused.

1991, c. 1, s. 24.

Burden of proving licence

78.5 In any prosecution for an offence under this Act, where a question arises as to whether a person was issued a licence, the burden is on the person to establish that the licence was issued.

1991, c. 1, s. 24.

Due diligence defence

78.6 No person shall be convicted of an offence under this Act if the person establishes that the person

(a) exercised all due diligence to prevent the commission of the offence; or

(b) reasonably and honestly believed in the existence of facts that, if true, would render the person's conduct innocent.

1991, c. 1, s. 24.

Additional fine

79 Where a person is convicted of an offence under this Act and the court is satisfied that as a result of committing the offence the person acquired monetary benefits or monetary benefits accrued to the person, the court may, notwithstanding the maximum amount of any fine that may otherwise be imposed under this Act, order the person to pay an additional fine in an amount equal to the court's finding of the amount of those monetary benefits.

R.S., 1985, c. F-14, s. 79; 1991, c. 1, s. 24.

Lease or licence cancelled, etc.

79.1 Where a person is convicted of an offence under this Act in respect of any matter relating to any operations under a lease or licence issued pursuant to this Act or the regulations, in addition to any punishment imposed, the court may, by order,

(a) cancel the lease or licence or suspend it for any period the court considers appropriate; and

(b) prohibit the person to whom the lease or licence was issued from applying for any new lease or licence under this Act during any period the court considers appropriate.

R.S., 1985, c. 31 (1st Suppl.), s. 97; 1991, c. 1, s. 24.

cette personne ait été ou non identifiée ou poursuivie. L'accusé peut se disculper en prouvant que la perpétration a eu lieu à son insu ou sans son consentement.

1991, ch. 1, art. 24.

Charge de la preuve

78.5 Dans les poursuites pour une infraction à la présente loi, il incombe, le cas échéant, à l'intéressé de démontrer qu'une licence ou un permis lui a été délivré.

1991, ch. 1, art. 24.

Disculpation

78.6 Nul ne peut être déclaré coupable d'une infraction à la présente loi s'il établit :

a) soit qu'il a pris les mesures nécessaires pour l'empêcher;

b) soit qu'il croyait raisonnablement et en toute honnêteté à l'existence de faits qui, avérés, l'innocenteraient.

1991, ch. 1, art. 24.

Amende supplémentaire

79 Le tribunal saisi d'une poursuite pour infraction à la présente loi peut, s'il est convaincu que le contrevenant a tiré des avantages financiers de la perpétration de celle-ci, lui infliger, indépendamment de l'amende maximale qui peut être infligée en vertu de cette loi, le montant qu'il juge égal à ces avantages, à titre d'amende supplémentaire.

L.R. (1985), ch. F-14, art. 79; 1991, ch. 1, art. 24.

Annulation ou suspension des permis, licences ou baux

79.1 En cas de déclaration de culpabilité pour une infraction à la présente loi commise dans l'exercice d'activités régies par un bail, une licence ou un permis délivré en vertu de cette loi ou de ses règlements, le tribunal peut, en sus de toute autre peine infligée, par ordonnance :

a) annuler la licence, le permis ou le bail ou les suspendre pour la période qu'il estime indiquée;

b) interdire au titulaire de présenter une nouvelle demande de licence, de permis ou de bail sous le régime de la présente loi pendant la période qu'il estime indiquée.

L.R. (1985), ch. 31 (1^{er} suppl.), art. 97; 1991, ch. 1, art. 24.

Orders of court

79.2 Where a person is convicted of an offence under this Act, in addition to any punishment imposed, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order containing any one or more of the following prohibitions, directions or requirements:

- (a) prohibiting the person from doing any act or engaging in any activity that may, in the opinion of the court, result in the continuation or repetition of the offence;
- (b) directing the person to take any action the court considers appropriate to remedy or avoid any harm to any fish, fishery or fish habitat that resulted or may result from the commission of the offence;
- (c) directing the person to publish, in any manner the court considers appropriate, the facts relating to the commission of the offence;
- (d) directing the person to pay the Minister an amount of money as compensation, in whole or in part, for the cost of any remedial or preventive action taken by or caused to be taken on behalf of the Minister as a result of the commission of the offence;
- (e) directing the person to perform community service in accordance with any reasonable conditions that may be specified in the order;
- (f) directing the person to pay Her Majesty an amount of money the court considers appropriate for the purpose of promoting the proper management and control of fisheries or fish habitat or the conservation and protection of fish or fish habitat;
- (g) directing the person to post a bond or pay into court an amount of money the court considers appropriate for the purpose of ensuring compliance with any prohibition, direction or requirement mentioned in this section;
- (h) directing the person to submit to the Minister, on application by the Minister within three years after the date of the conviction, any information respecting the activities of the person that the court considers appropriate in the circumstances; and
- (i) requiring the person to comply with any other conditions that the court considers appropriate for securing the person's good conduct and for preventing the person from repeating the offence or committing other offences under this Act.

1991, c. 1, s. 24.

Ordonnance du tribunal

79.2 En plus de toute peine infligée et compte tenu de la nature de l'infraction ainsi que des circonstances de sa perpétration, le tribunal peut rendre une ordonnance imposant à la personne déclarée coupable tout ou partie des obligations suivantes :

- a) s'abstenir de tout acte ou toute activité risquant d'entraîner, à son avis, la continuation de l'infraction ou la récidive;
- b) prendre les mesures qu'il estime justes pour réparer ou éviter les dommages aux poissons, aux pêcheries ou à l'habitat du poisson résultant ou susceptibles de résulter de la perpétration de l'infraction;
- c) publier, de la façon indiquée par lui, les faits liés à la perpétration de l'infraction;
- d) indemniser le ministre, en tout ou en partie, des frais qu'il a engagés pour la réparation ou la prévention des dommages résultant ou susceptibles de résulter de la perpétration de l'infraction;
- e) exécuter des travaux d'intérêt collectif à des conditions raisonnables;
- f) verser à Sa Majesté, en vue de promouvoir la protection du poisson ou de l'habitat du poisson ainsi que la gestion et la surveillance judicieuses des pêches ou de l'habitat du poisson, les montants qu'il estime indiqués;
- g) en garantie de l'acquittement des obligations imposées au titre du présent article, fournir le cautionnement ou déposer auprès de lui le montant qu'il estime indiqué;
- h) fournir au ministre, sur demande présentée par celui-ci dans les trois ans suivant la déclaration de culpabilité, les renseignements relatifs à ses activités que le tribunal estime justifiés en l'occurrence;
- i) se conformer aux autres conditions qu'il estime justifiées pour assurer la bonne conduite du contrevenant et empêcher toute récidive.

1991, ch. 1, art. 24.

Suspended sentence

79.3 (1) Where a person is convicted of an offence under this Act and the court suspends the passing of sentence pursuant to paragraph 731(1)(a) of the *Criminal Code*, the court may, in addition to any probation order made under that paragraph, make an order directing the person to comply with any prohibition, direction or requirement mentioned in section 79.2.

Imposition of sentence

(2) Where a person whose sentence has been suspended fails to comply with an order made under subsection (1) or is convicted, within three years after the day on which the order was made, of another offence under this Act, the court may, on the application of the Attorney General, impose any sentence that could have been imposed if the passing of sentence had not been suspended.

1991, c. 1, s. 24; 1995, c. 22, s. 17.

Debt due to Her Majesty

79.4 (1) Where the court makes an order under section 79.2 or 79.3 directing a person to pay an amount of money as compensation or for any other purpose, the amount and any interest payable on that amount constitute a debt due to Her Majesty and may be recovered as such in any court of competent jurisdiction.

Publication

(2) Where a person fails to comply with an order made under section 79.2 or 79.3 directing the person to publish the facts relating to the commission of an offence, the Minister may publish those facts and recover the costs of publication from the person.

Idem

(3) Where the Minister incurs publication costs under subsection (2), the amount of the costs and any interest payable on that amount constitute a debt due to Her Majesty and may be recovered as such in any court of competent jurisdiction.

1991, c. 1, s. 24.

Variation of orders

79.5 (1) A court that has made an order under section 79.2 or 79.3 may, on application by the Attorney General or the person to whom the order applies, require the person to appear before it and, after hearing the person and the Attorney General, vary the order in any of the following ways that the court considers appropriate because of a change in the circumstances of the person since the order was made:

(a) change the order or any prohibition, direction or requirement mentioned in the order;

Sursis

79.3 (1) Le tribunal qui, en vertu de l'alinéa 731(1)a) du *Code criminel*, surseoit au prononcé de la peine contre la personne déclarée coupable d'une infraction à la présente loi, en plus de toute ordonnance de probation rendue au titre de cet alinéa, peut, par ordonnance, enjoindre à cette personne de se conformer à l'une ou plusieurs des obligations mentionnées à l'article 79.2.

Inobservation de l'ordonnance

(2) Sur demande du procureur général, le tribunal peut, lorsqu'une personne visée par une ordonnance rendue en vertu du paragraphe (1) ne se conforme pas aux modalités de celle-ci ou est déclarée coupable d'une autre infraction à la présente loi dans les trois ans qui suivent la date de l'ordonnance, infliger à cette personne la peine qui aurait pu lui être infligée s'il n'y avait pas eu de sursis.

1991, ch. 1, art. 24; 1995, ch. 22, art. 17.

Créances de Sa Majesté

79.4 (1) Les sommes dont le paiement est ordonné aux termes d'une ordonnance rendue en vertu des articles 79.2 ou 79.3, ainsi que les intérêts afférents, constituent des créances de Sa Majesté dont le recouvrement peut être poursuivi à ce titre devant toute juridiction compétente.

Publication

(2) En cas de manquement à l'obligation de publication imposée en vertu des articles 79.2 ou 79.3, le ministre peut procéder à la publication et en recouvrer les frais auprès de la personne assujettie à l'obligation.

Idem

(3) Les frais de publication qu'engage le ministre au titre du paragraphe (2), ainsi que les intérêts afférents, constituent des créances de Sa Majesté dont le recouvrement peut être poursuivi à ce titre devant toute juridiction compétente.

1991, ch. 1, art. 24.

Modification de l'ordonnance

79.5 (1) Le tribunal qui a rendu une ordonnance en vertu de l'article 79.2 ou 79.3 peut, sur demande du procureur général ou de la personne visée, faire comparaître celle-ci et, après avoir entendu les observations de l'un et l'autre, modifier l'ordonnance, selon ce qui est applicable en l'espèce et lui paraît justifié par tout changement dans la situation de la personne, de l'une ou plusieurs des façons suivantes :

a) en modifiant les obligations qu'elle prévoit;

(b) relieve the person, either absolutely or partially and for any period that the court considers appropriate, of compliance with any prohibition, direction or requirement mentioned in the order; or

(c) extend or decrease the period during which the order shall remain in force.

Limitation

(2) Where an application has been heard by a court under subsection (1), no other application may be made in respect of the same order except with leave of the court.

1991, c. 1, s. 24.

Offence and punishment

79.6 Every person convicted of an offence under this Act who subsequently contravenes an order made under section 79.2 or 79.3 is guilty of

(a) an offence punishable on summary conviction and liable to a punishment not exceeding the maximum punishment to which a person is liable on summary conviction for the original offence; or

(b) an indictable offence and liable to a punishment not exceeding the maximum punishment to which a person is liable on conviction on indictment for the original offence.

1991, c. 1, s. 24.

Ticketable Offences

Procedure

79.7 (1) In addition to the procedures set out in the *Criminal Code* for commencing a proceeding, proceedings in respect of any offence prescribed by regulation may be commenced by a fishery officer, fishery guardian or inspector

(a) completing a ticket that consists of a summons portion and an information portion;

(b) delivering the summons portion of the ticket to the accused or mailing it to the accused at the accused's latest known address; and

(c) filing the information portion of the ticket with a court of competent jurisdiction before or as soon as practicable after the summons portion has been delivered or mailed.

Content of ticket

(2) The summons and information portions of a ticket shall

b) en dégageant cette personne, absolument ou partiellement ou pour la durée qu'il estime indiquée de telle de ces obligations;

c) en modifiant la période de validité de l'ordonnance.

Restriction

(2) Après audition de la demande visée au paragraphe (1), toute nouvelle demande relative à la même ordonnance est subordonnée à l'autorisation du tribunal.

1991, ch. 1, art. 24.

Infraction et peine

79.6 Quiconque est déclaré coupable d'une infraction à la présente loi et contrevient par la suite à une ordonnance rendue en vertu de l'article 79.2 ou 79.3 commet une infraction et encourt, sur déclaration de culpabilité :

a) par procédure sommaire, la peine maximale qui peut être infligée par la même procédure à la personne coupable de l'infraction originale;

b) par mise en accusation, la peine maximale qui peut être infligée par la même procédure à la personne qui est coupable de l'infraction originale.

1991, ch. 1, art. 24.

Contraventions

Procédure

79.7 (1) En plus des modes de poursuite prévus au *Code criminel*, les poursuites à l'égard des infractions désignées par règlement peuvent être intentées de la façon suivante : l'agent des pêches, le garde-pêche ou l'inspecteur :

a) remplit les deux parties — sommation et dénonciation — du formulaire réglementaire de contravention;

b) remet la partie sommation à l'accusé ou la lui envoie par la poste à sa dernière adresse connue;

c) dépose la partie dénonciation auprès du tribunal compétent avant, ou dès que possible après, la remise ou l'envoi par la poste de la partie sommation.

Contenu du formulaire de contravention

(2) Les deux parties du formulaire comportent les éléments suivants :

(a) set out a description of the offence and the time and place of its alleged commission;

(b) include a statement, signed by the fishery officer, fishery guardian or inspector who completes the ticket, that the officer, guardian or inspector, as the case may be, has reasonable grounds to believe that the accused committed the offence;

(c) set out the amount of the fine prescribed by regulation for the offence and the manner in which and period within which it may be paid;

(d) include a statement that if the accused pays the fine within the period set out in the ticket, a conviction will be entered and recorded against the accused; and

(e) include a statement that if the accused wishes to plead not guilty or for any other reason fails to pay the fine within the period set out in the ticket, the accused must appear in the court and at the time set out in the ticket.

Notice of forfeiture

(3) Where any fish or other thing is seized under this Act and proceedings relating to the fish or thing are commenced by way of the ticketing procedure described in subsection (1), the fishery officer, fishery guardian or inspector who completes the ticket shall give written notice to the accused that if the accused pays the fine prescribed by regulation within the period set out in the ticket, the fish or thing, or any proceeds realized from its disposition, shall thereupon be forfeited to Her Majesty.

Consequences of payment

(4) Where an accused to whom the summons portion of a ticket is delivered or mailed pays the fine prescribed by regulation within the period set out in the ticket,

(a) the payment constitutes a plea of guilty to the offence described in the ticket and a conviction shall be entered against the accused and no further action shall be taken against the accused in respect of that offence; and

(b) notwithstanding sections 71 to 77, any fish or other thing seized from the accused under this Act relating to the offence described in the ticket, or any proceeds realized from its disposition, are forfeited to Her Majesty and may be disposed of as the Minister directs.

a) description de l'infraction et indication du lieu et du moment où elle aurait été commise;

b) déclaration, signée par l'agent des pêches, le garde-pêche ou l'inspecteur qui remplit le formulaire et selon laquelle il a des motifs raisonnables de croire que l'accusé a commis l'infraction;

c) indication du montant de l'amende réglementaire pour l'infraction, ainsi que la mention du mode et du délai de paiement;

d) avertissement précisant qu'en cas de paiement de l'amende dans le délai fixé, une déclaration de culpabilité sera inscrite au dossier de l'accusé;

e) mention du fait que, en cas de plaidoyer de non-culpabilité ou de non-paiement de l'amende dans le délai fixé, l'accusé est tenu de comparaître au tribunal, au lieu, au jour et à l'heure indiqués.

Préavis de confiscation

(3) En cas de saisie de poisson ou d'autres objets sous le régime de la présente loi, dans le cadre de poursuites introduites à l'égard de ceux-ci par remise d'un formulaire de contravention en conformité avec le présent article, l'agent des pêches, le garde-pêche ou l'inspecteur qui remplit le formulaire est tenu de remettre à l'accusé un avis précisant que sur paiement de l'amende réglementaire dans le délai fixé, le poisson, les objets saisis ou le produit de leur aliénation seront confisqués au profit de Sa Majesté.

Conséquences du paiement

(4) Lorsque l'accusé à qui la partie sommation d'un formulaire de contravention a été remise ou envoyée par la poste paie l'amende réglementaire dans le délai fixé :

a) le paiement constitue un plaidoyer de culpabilité à l'égard de l'infraction décrite dans le formulaire et une déclaration de culpabilité est inscrite au dossier de l'accusé; aucune autre poursuite ne peut alors être intentée contre l'accusé à l'égard de cette infraction;

b) par dérogation aux articles 71 à 77, le poisson ou les objets saisis entre les mains de l'accusé en rapport avec l'infraction décrite dans le formulaire ou le produit de leur aliénation sont confisqués au profit de Sa Majesté et il en est disposé suivant les instructions du ministre.

Regulations

(5) The Governor in Council may make regulations prescribing

(a) offences under this Act to which this section applies and the manner in which those offences may be described in tickets; and

(b) the amount of the fine for a prescribed offence, which amount shall not exceed one thousand dollars.

1991, c. 1, s. 24.

Joint Liability

Who shall be liable

80 Unless otherwise specified, every proprietor, owner, agent, tenant, occupier, partner or person actually in charge, either as occupant or servant, shall be deemed to be jointly and severally liable for any penalties or moneys recovered under any provision of this Act or the regulations.

R.S., c. F-14, s. 62.

81 [Repealed, 1991, c. 1, s. 25]

Limitation of Suits

Limitation period

82 A proceeding by way of summary conviction in respect of an offence under this Act may not be commenced later than five years after the day on which the offence was committed.

R.S., 1985, c. F-14, s. 82; 1991, c. 1, s. 26; 2012, c. 19, s. 154.

Form of Procedure

Form of procedure

83 Except as otherwise provided in this Act, all penalties and forfeitures incurred under this Act or any of the regulations are recoverable and enforceable by summary proceedings taken under the provisions of the *Criminal Code* relating to summary convictions.

R.S., c. F-14, s. 65.

No quashing for want of form

84 No proceeding or conviction under this Act or any of the regulations shall be set aside or quashed on *certiorari* or otherwise for irregularity or defect in form, and no warrant of arrest or commitment shall be held void by reason of any defect therein, if it is therein alleged that

Règlements

(5) Le gouverneur en conseil peut prévoir par règlement :

a) les infractions à la présente loi auxquelles le présent article s'applique ainsi que la façon de les décrire dans le formulaire de contravention;

b) le montant de l'amende applicable, ce montant ne pouvant toutefois être supérieur à 1 000 \$.

1991, ch. 1, art. 24.

Responsabilité solidaire

Responsabilité

80 En l'absence de dispositions contraires, le propriétaire, possesseur, mandataire, locataire, occupant, associé ou la personne effectivement responsable, soit à titre d'occupant, soit à titre de préposé, sont réputés solidairement responsables des amendes ou sommes recouvrées en application de la présente loi ou de ses règlements.

S.R., ch. F-14, art. 62.

81 [Abrogé, 1991, ch. 1, art. 25]

Prescription

Prescription

82 Les poursuites relatives à toute infraction à la présente loi qui est punissable sur déclaration de culpabilité par procédure sommaire se prescrivent par cinq ans à compter de la date de l'infraction.

L.R. (1985), ch. F-14, art. 82; 1991, ch. 1, art. 26; 2012, ch. 19, art. 154.

Forme de la procédure

Forme de la procédure

83 Sauf disposition contraire expresse de la présente loi, les dispositions du *Code criminel* concernant les déclarations de culpabilité par procédure sommaire s'appliquent aux peines et confiscations encourues en vertu de la présente loi ou de ses règlements.

S.R., ch. F-14, art. 65.

Impossibilité d'annulation pour vice de forme

84 Les procédures engagées ou les condamnations prononcées sous le régime de la présente loi ou de ses règlements ne sont pas susceptibles d'annulation, par évocation ou autre voie de recours, pour irrégularité ou vice de forme, et les mandats d'arrêt ou de dépôt ne peuvent être

the defendant has been convicted and there is a good and valid conviction to sustain the same.

R.S., c. F-14, s. 66.

Applications of Penalties and Forfeitures

Penalties and forfeitures

85 The Governor in Council may prescribe the manner in which the proceeds of penalties and the proceeds of the sale of confiscated things shall be distributed.

R.S., c. F-14, s. 67.

Appeal in proceedings by indictment

86 (1) For the purpose of Part XXI of the *Criminal Code*, any order and any decision not to make an order under subsection 71.1(1), subsection 72(1), (2) or (3) or section 79, 79.1, 79.2 or 79.3 as well as any sentence passed by the court under this Act shall be considered a sentence within the meaning of section 673 of the *Criminal Code*.

Appeal in summary conviction proceedings

(2) For the purpose of Part XXVII of the *Criminal Code*, any order and any decision not to make an order under subsection 71.1(1), subsection 72(1), (2) or (3) or section 79, 79.1, 79.2 or 79.3 as well as any sentence passed by the court under this Act shall be considered a sentence within the meaning of section 785 of the *Criminal Code*.

R.S., 1985, c. F-14, s. 86; 1991, c. 1, s. 27.

Application of Act to Waters Other than Canadian Fisheries Waters

Application of Act to High Seas

87 (1) The provisions of this Act and the regulations that apply to any or all of Canadian fisheries waters, without anything in the context of those provisions indicating that they apply to any specified area of Canadian fisheries waters, shall, in relation to any fishing vessel or aircraft on or over the High Seas that is subject to the jurisdiction of Canada, or any act or thing done or omitted to be done on, from or by means of any such fishing vessel or aircraft, be deemed to extend and apply to the High Seas.

infirmés pour vice de forme, s'il y est allégué que le défendeur a été trouvé coupable et si une déclaration de culpabilité en bonne et due forme était la condamnation.

S.R., ch. F-14, art. 66.

Emploi des amendes et confiscations

Amendes et confiscations

85 Le gouverneur en conseil peut fixer le mode de répartition du produit des amendes et de la vente des objets ou poissons confisqués.

S.R., ch. F-14, art. 67.

Appel : acte d'accusation

86 (1) Pour l'application de la partie XXI du *Code criminel*, les ordonnances rendues en vertu des paragraphes 71.1(1), 72(1), (2) ou (3) ou des articles 79, 79.1, 79.2 ou 79.3, et toute décision de ne pas rendre une telle ordonnance, ainsi que toute peine infligée par le tribunal en vertu de la présente loi, sont assimilées à une peine au sens de l'article 673 du *Code criminel*.

Appel : procédure sommaire

(2) Pour l'application de la partie XXVII du *Code criminel*, les ordonnances rendues en vertu des paragraphes 71.1(1), 72(1), (2) ou (3) ou des articles 79, 79.1, 79.2 ou 79.3, et toute décision de ne pas rendre une telle ordonnance, ainsi que toute peine infligée par le tribunal en vertu de la présente loi, sont assimilées à une peine au sens de l'article 785 du *Code criminel*.

L.R. (1985), ch. F-14, art. 86; 1991, ch. 1, art. 27.

Application de la loi à d'autres eaux que les eaux de pêche canadiennes

Application à la haute mer

87 (1) Les dispositions de la présente loi et de ses règlements qui s'appliquent de façon générale à tout ou partie des eaux de pêche canadiennes sans viser spécifiquement, par leur contexte, une zone déterminée de celles-ci sont, relativement à tout bateau de pêche ou aéronef se trouvant en haute mer ou la survolant et ressortissant de la compétence du Canada, ou relativement à un fait — acte ou omission — survenu à bord, à partir ou au moyen de ce bateau ou aéronef, réputées s'appliquer également à la haute mer.

Regulations

(2) The Governor in Council may make regulations respecting fisheries located in waters other than Canadian fisheries waters applicable to vessels or aircraft subject to the jurisdiction of Canada.

Inconsistency or conflict

(3) Where there is any inconsistency or conflict between any regulations that apply to the High Seas by virtue of subsection (1) and any regulations made under subsection (2), the latter regulations prevail to the extent of the inconsistency or conflict, unless the context otherwise requires.

R.S., c. F-14, s. 69; 1976-77, c. 35, s. 19.

Jurisdiction of courts

88 All courts and justices in Canada have the same jurisdiction with respect to offences under this Act as they have under sections 257 and 258 of the *Canada Shipping Act, 2001* with respect to offences under that Act, and those sections apply to offences under this Act in the same manner and to the same extent as they apply to offences under the *Canada Shipping Act, 2001*.

R.S., 1985, c. F-14, s. 88; 1990, c. 44, s. 18; 2001, c. 26, s. 302.

Incorporation by Reference

Externally produced material

89 (1) A regulation made under this Act may incorporate by reference material produced by a person or body other than the Minister, including by a government, a government agency or an international body.

Jointly produced material

(2) A regulation made under this Act may incorporate by reference material produced jointly by the Minister and a government or government agency for the purpose of harmonizing the regulation with other laws.

Internally produced standards

(3) A regulation made under this Act may incorporate by reference technical or explanatory material produced by the Minister, such as specifications, test methods, procedures, construction standards, operational standards, safety standards and performance standards of a technical nature.

Incorporation as amended from time to time

(4) Material may be incorporated by reference as it exists on a particular date or as it is amended from time to time.

Règlements

(2) Le gouverneur en conseil peut prendre des règlements régissant la pêche dans les eaux autres que les eaux de pêche canadiennes et applicables aux bateaux et aéronefs ressortissant de la compétence du Canada.

Incompatibilité ou conflit

(3) Sauf indication contraire du contexte, les dispositions des règlements pris au titre du paragraphe (2) l'emportent sur les dispositions incompatibles des règlements qui s'appliquent à la haute mer en vertu du paragraphe (1).

S.R., ch. F-14, art. 69; 1976-77, ch. 35, art. 19.

Compétence

88 La compétence des tribunaux et juges du Canada à l'égard des infractions à la présente loi se détermine selon les articles 257 et 258 de la *Loi de 2001 sur la marine marchande du Canada*, ces articles s'appliquant à ces infractions comme si elles étaient prévues par cette loi.

L.R. (1985), ch. F-14, art. 88; 1990, ch. 44, art. 18; 2001, ch. 26, art. 302.

Incorporation par renvoi

Documents externes

89 (1) Peut être incorporé par renvoi dans tout règlement pris en vertu de la présente loi tout document produit par une personne ou un organisme autre que le ministre, notamment par un gouvernement, un organisme public ou une organisation internationale.

Documents produits conjointement

(2) Peut être incorporé par renvoi dans tout règlement pris en vertu de la présente loi tout document produit conjointement par le ministre et un organisme de droit public en vue d'harmoniser le règlement avec d'autres règles de droit.

Documents internes

(3) Peut être incorporé par renvoi dans tout règlement pris en vertu de la présente loi tout document de nature technique ou explicative produit par le ministre, notamment des spécifications, des méthodes d'essai, des procédures ou des normes de construction, d'exploitation, de rendement ou de sécurité.

Portée de l'incorporation par renvoi

(4) L'incorporation par renvoi peut viser le document soit dans sa version à une date donnée, soit avec ses modifications successives.

Transmission and publication

(5) For greater certainty, a document that is incorporated by reference in a regulation is not required to be transmitted for registration or publication in the *Canada Gazette* by reason only that it is incorporated by reference.

Interpretation

(6) Subsections (1) to (5) do not limit any authority to make regulations incorporating material by reference that exists apart from those subsections.

2012, c. 19, s. 155.

Defence

90 A person is not liable to be found guilty of an offence for any contravention in respect of which a document that is incorporated by reference in a regulation is relevant unless, at the time of the alleged contravention, it was accessible as required by section 91 or was accessible to the person.

2012, c. 19, s. 155.

Accessibility of incorporated documents

91 The Minister shall ensure that any document that is incorporated by reference under subsection 89(1) is accessible.

2012, c. 19, s. 155.

Transmission et publication

(5) Il est entendu que les documents qui sont incorporés par renvoi dans un règlement n'ont pas à être transmis pour enregistrement ni à être publiés dans la *Gazette du Canada* du seul fait de leur incorporation.

Interprétation

(6) Les paragraphes (1) à (5) n'ont pas pour objet d'empêcher la prise de règlements incorporant par renvoi des documents autres que ceux qui y sont visés.

2012, ch. 19, art. 155.

Moyen de défense

90 Aucune déclaration de culpabilité ne peut découler d'une contravention faisant intervenir un document, indice, taux ou nombre — incorporé par renvoi dans un règlement — se rapportant au fait reproché, sauf si, au moment de ce fait, le document, indice, taux ou nombre était accessible en application de l'article 91 ou était accessible à la personne en cause.

2012, ch. 19, art. 155.

Accessibilité

91 Le ministre veille à ce que tout document incorporé par renvoi en vertu du paragraphe 89(1) soit accessible.

2012, ch. 19, art. 155.

RELATED PROVISIONS

— R.S., 1985, c. 27 (2nd Supp.), s. 11

Transitional: proceedings

***11** Proceedings to which any of the provisions amended by the schedule apply that were commenced before the coming into force of section 10 shall be continued in accordance with those amended provisions without any further formality.

* [Note: Section 10 in force October 1, 1987, *see* SI/87-221.]

— R.S., 1985, c. 40 (4th Supp.), s. 2(2)

Transitional — proceedings

***(2)** Every proceeding commenced before the coming into force of this section under a provision amended by the schedule shall be taken up and continued under and in conformity with the amended provision without any further formality.

* [Note: Section 2 in force August 31, 1988, *see* SI/88-135.]

— 1990, c. 16, s. 24(1)

Transitional: proceedings

***24 (1)** Every proceeding commenced before the coming into force of this subsection and in respect of which any provision amended by this Act applies shall be taken up and continued under and in conformity with that amended provision without any further formality.

* [Note: Subsection 24(1) in force July 1, 1990, *see* SI/90-90.]

— 1990, c. 17, s. 45(1)

Transitional: proceedings

***45 (1)** Every proceeding commenced before the coming into force of this subsection and in respect of which any provision amended by this Act applies shall be taken up and continued under and in conformity with that amended provision without any further formality.

* [Note: Subsection 45(1) in force September 1, 1990, *see* SI/90-106.]

— 1998, c. 30, s. 10

Transitional — proceedings

***10** Every proceeding commenced before the coming into force of this section and in respect of which any provision amended by sections 12 to 16 applies shall be taken up and continued under and in conformity with that amended provision without any further formality.

* [Note: Section 10 in force April 19, 1999, *see* SI/99-37.]

DISPOSITIONS CONNEXES

— L.R. (1985), ch. 27 (2^e suppl.), art. 11

Disposition transitoire : procédures

***11** Les procédures intentées en vertu des dispositions modifiées en annexe avant l'entrée en vigueur de l'article 10 se poursuivent en conformité avec les nouvelles dispositions sans autres formalités.

* [Note: Article 10 en vigueur le 1^{er} octobre 1987, *voir* TR/87-221.]

— L.R. (1985), ch. 40 (4^e suppl.), par. 2(2)

Disposition transitoire : procédures

***(2)** Les procédures intentées, avant l'entrée en vigueur du présent article, en vertu de dispositions modifiées en annexe, se poursuivent en conformité avec ces dispositions, sans autres formalités.

* [Note: Article 2 en vigueur le 31 août 1988, *voir* TR/88-135.]

— 1990, ch. 16, par. 24(1)

Disposition transitoire : procédures

***24 (1)** Les procédures intentées avant l'entrée en vigueur du présent paragraphe et auxquelles des dispositions visées par la présente loi s'appliquent se poursuivent sans autres formalités en conformité avec ces dispositions dans leur forme modifiée.

* [Note: Paragraphe 24(1) en vigueur le 1^{er} juillet 1990, *voir* TR/90-90.]

— 1990, ch. 17, par. 45(1)

Disposition transitoire : procédures

***45 (1)** Les procédures intentées avant l'entrée en vigueur du présent paragraphe et auxquelles s'appliquent des dispositions visées par la présente loi se poursuivent sans autres formalités en conformité avec ces dispositions dans leur forme modifiée.

* [Note: Paragraphe 45(1) en vigueur le 1^{er} septembre 1990, *voir* TR/90-106.]

— 1998, ch. 30, art. 10

Procédures

***10** Les procédures intentées avant l'entrée en vigueur du présent article et auxquelles s'appliquent des dispositions visées par les articles 12 à 16 se poursuivent sans autres formalités en conformité avec ces dispositions dans leur forme modifiée.

* [Note: Article 10 en vigueur le 19 avril 1999, *voir* TR/99-37.]

— 2012, c. 31, s. 177

Ministerial authorizations

177 (1) An authorization issued by the Minister under section 32 or subsection 35(2) of the *Fisheries Act* as it existed before June 29, 2012, or under paragraph 32(2)(c) or paragraph 35(2)(b) of the *Fisheries Act* as it existed before the coming into force of subsection 142(2) of the *Jobs, Growth and Long-term Prosperity Act*, and that is still valid on the day on which that subsection 142(2) comes into force, is deemed to be an authorization issued by the Minister under paragraph 35(2)(b) of the *Fisheries Act* after that coming into force.

Amendment

(2) On the request of the holder of an authorization referred to in subsection (1) that is made within 90 days after the day on which subsection 142(2) of the *Jobs, Growth and Long-term Prosperity Act* comes into force, the Minister must examine the authorization, and the Minister may, within 210 days after the day on which that subsection 142(2) comes into force, confirm or amend the authorization or, if the Minister is of the opinion that the holder no longer needs an authorization, cancel it.

Conditions of authorizations

(3) Paragraph 40(3)(a) of the *Fisheries Act* does not apply to the holder of an authorization referred to in subsection (1) until 90 days after the day on which subsection 142(2) of the *Jobs, Growth and Long-term Prosperity Act* comes into force. However, if the holder makes a request under subsection (2), then that paragraph does not apply to that holder until the day on which that holder receives notice of the Minister's decision to confirm, amend or cancel the authorization or until 210 days after the day on which that subsection 142(2) comes into force, whichever is earlier.

— 2012, ch. 31, art. 177

Autorisation ministérielle

177 (1) Toute autorisation donnée par le ministre au titre de l'article 32 ou du paragraphe 35(2) de la *Loi sur les pêches* dans sa version avant le 29 juin 2012 ou au titre de l'alinéa 32(2)c) ou 35(2)b) de cette loi dans sa version avant l'entrée en vigueur du paragraphe 142(2) de la *Loi sur l'emploi, la croissance et la prospérité durable* et encore valide à la date d'entrée en vigueur de ce paragraphe 142(2) est réputée être une autorisation donnée par le ministre au titre de l'alinéa 35(2)b) de la *Loi sur les pêches* après l'entrée en vigueur de ce paragraphe 142(2).

Examen

(2) Sur demande du titulaire d'une autorisation visée au paragraphe (1) et présentée dans les quatre-vingt-dix jours suivant l'entrée en vigueur du paragraphe 142(2) de la *Loi sur l'emploi, la croissance et la prospérité durable*, le ministre examine l'autorisation et peut, dans les deux cent dix jours suivant cette date d'entrée en vigueur, la confirmer, la modifier ou, s'il est d'avis qu'une telle autorisation n'est plus requise, l'annuler.

Condition

(3) L'alinéa 40(3)a) de la *Loi sur les pêches* ne s'applique pas au titulaire d'une autorisation visée au paragraphe (1) dans les quatre-vingt-dix jours suivant l'entrée en vigueur du paragraphe 142(2) de la *Loi sur l'emploi, la croissance et la prospérité durable*. Toutefois, si une demande a été présentée au titre du paragraphe (2), cet alinéa ne s'applique pas au titulaire jusqu'au jour où il reçoit la décision du ministre confirmant, modifiant ou annulant l'autorisation ou jusqu'au deux cent dixième jour suivant la date d'entrée en vigueur de ce paragraphe 142(2), le premier en date étant à retenir.

AMENDMENTS NOT IN FORCE

— 1992, c. 47, s. 84 (Sch., s. 3)

1991, c. 1, s. 24

3 The heading preceding section 79.7 and section 79.7 are repealed.

— 2013, c. 25, s. 21

21 Subsection 5(4) of the *Fisheries Act* is amended by striking out “or” at the end of paragraph (b), by adding “or” at the end of paragraph (c) and by adding the following after paragraph (c):

(d) Yale First Nation laws, as defined in subsection 2(2) of the *Yale First Nation Final Agreement Act*, made under Chapter 8 of the Agreement, as defined in subsection 2(1) of that Act, given effect by that Act.

MODIFICATIONS NON EN VIGUEUR

— 1992, ch. 47, art. 84 (ann., art. 3)

1991, ch. 1, art. 24

3 L'article 79.7 et l'intertitre qui le précède sont abrogés.

— 2013, ch. 25, art. 21

21 Le paragraphe 5(4) de la *Loi sur les pêches* est modifié par adjonction, après l'alinéa c), de ce qui suit :

d) les lois de la Première Nation de Yale, au sens du paragraphe 2(2) de la *Loi sur l'accord définitif concernant la Première Nation de Yale*, adoptées sous le régime du chapitre 8 de l'accord, au sens du paragraphe 2(1) de cette loi, mis en vigueur par celle-ci.