

NUNATSIAVUT ASSEMBLY

IL 2023-02

AN ACT RESPECTING ACCESS FEES FOR DESIGNATES OF COMMERCIAL FISHING LICENCES HELD BY THE NUNATSIAVUT GOVERNMENT.

WHEREAS the Nunatsiavut Government is the holder of a number of commercial fishing licences;

WHEREAS the Nunatsiavut Government selects designates to undertake fisheries under those licences and manages fishing activity by designates;

WHEREAS the Nunatsiavut Government wishes to continue with the implementation of an access fee to support the Nunatsiavut Commercial Fisheries Fund, the purpose of which is to develop commercial fisheries in Nunatsiavut.


NOW THEREFORE be it enacted by the Nunatsiavut Assembly, as follows:

Short Title

1. This Act may be cited as the *Commercial Fisheries Designation Fee Act*.

Definitions

2. In this Act:
 - (a) “access fee” means, with respect to a designation, the fee prescribed by the Minister in regulations made under section 3;
 - (b) “designate” means a person who is the holder of a designation;
 - (c) “designation” means a designation made under a commercial fisheries licence held by the Nunatsiavut Government to execute one or more commercial fisheries;
 - (d) “fish” includes shellfish, crustaceans and marine mammals;
 - (e) “Minister” means the Nunatsiavut Minister of Lands and Natural Resources or such other Minister as may be designated as responsible for the administration of this Act; and
 - (f) “Nunatsiavut Commercial Fisheries Fund” means the fund established by the Nunatsiavut Government to hold monies reserved for the development of the commercial fishery in Nunatsiavut;

Passed as an act of the Assembly on June 14, 2023
1


Access fee

3. (1) A designate must pay an access fee to the Nunatsiavut Government to exploit one or more fisheries under a designation.
(2) The Minister must by regulation set the rates of access fees on the basis of amount of fish per pound landed but the rate must not be:
 - (a) less than \$0.02 per pound; and
 - (b) more than \$0.05 per pound.
(3) Access fees apply on the basis of the amount of fish landed under a designation, regardless of the number of landings.
(4) In making regulations under subsection (2) the Minister may set different access fees for different categories of designates or for different fisheries.
(5) The Minister must ensure that all access fees collected from designates are remitted to the Nunatsiavut Commercial Fisheries Fund.
(6) Despite subsection (1) the Minister may, by regulation, exempt the fishing of one or more species of fish from the requirement to pay an access fee.

When access fee is due

4. The access fee with respect to an amount of fish caught under a designation becomes due to the Nunatsiavut Government at the time the designate lands the fish at a fish processing plant.

Time and manner of access fee payment

5. (1) A designate must remit payment of the amount of access fee due to the Nunatsiavut Government within 30 days of the amount of access fee becoming due.
(2) The Minister may enter into arrangements with one or more fish processing plant operators for the purposes of authorizing those operators to collect access fee funds from designates and to remit those funds on behalf of designates to the Nunatsiavut Government in the manner directed by the Minister.
(3) Despite subsection (2), it is the responsibility of a designate to ensure all access fees it owes are paid to the Nunatsiavut Government.

Where access fee not paid

6. (1) If a designate fails to remit all or a portion of an access fee as required by this Act, the Minister may, until all outstanding access fees are remitted in full:
- (a) suspend or cancel the designation or designations currently held by the designate; and
 - (b) refuse to issue future designations to the designate.
- (2) If the Minister takes an action under subsection (1), the Minister must give to the person affected by that action a notice of suspension, cancellation or refusal specifying the reason for the Minister's decision.

Penalty for late remittance

7. (1) If a designate fails to remit an access fee at the time the fee becomes due to the Nunatsiavut Government, the Minister may assess a penalty of \$25 for each day of default to a maximum of \$5,000.
- (2) A penalty imposed under subsection (1) is in addition to the total amount of the access fee that is owed by a designate.

Interest

8. (1) The Minister may, by regulation, set a rate of interest to be charged to designates who fail to remit access fees when required under this Act.
- (2) Interest charged under this section is to be computed from the day following the day on which the access fee was required to be remitted until the day that the access fee is fully paid.

Minister may demand payment

9. (1) The Minister may demand payment of the amount of access fee, penalty and interest owing from a person to whom the demand is directed.
- (2) Evidence that a demand has been made under subsection (1) is proof, in the absence of evidence to the contrary, that the amounts specified in the demand are owing to the Nunatsiavut Government from the person to whom the demand is directed.

Amounts recoverable as debts

10. Access fees, penalties and interest payable under this Act are recoverable by the Nunatsiavut Government in an action in debt.

Waiver or cancellation of penalties or interest

11. Section 57 (write off of debts) and 58 (extinguishment of debts) of the *Financial Administration Act*, apply to access fees owed to the Nunatsiavut Government under this Act.

Records

12. Every designate shall keep records showing the amount of fish landed under its designations and the amount of access fees owed and paid to the Nunatsiavut Government.

Inspection and audit

13. The Minister may:
 - (a) demand that a designate produce records held by the designate related to fisheries executed by the designate and any access fees payable under this Act;
 - (b) demand that any other person produce any records held by the person related to fisheries executed by one or more designates and any access fees payable by one or more designates under this Act; and
 - (c) examine or audit the records provided under paragraphs (a) or (b) to ensure compliance with this Act and the regulations.

Regulations

14. The Minister may make regulations generally to give effect to the purposes of this Act, including regulations:
 - (a) prescribing forms and records that may be required to be completed by designates;
 - (b) respecting the method of collection and remittance of access fees and any conditions or requirements affecting the collection and remittance of access fees; and
 - (c) respecting the inspection and audit of records maintained by persons with respect to catches made under licence designations.

Minister may delegate functions

15. The Minister may, by Order, delegate any of the functions or exercise any of the powers stated in sections 7, 9 and 13 to one or more members of the Nunatsiavut Civil Service.

Minister must report to Assembly

16. The Minister must table a report to the Nunatsiavut Assembly in the Spring session of every year stating:
 - (a) The rates of access fees set by the Minister for the preceding year; and
 - (b) The amount of access fees collected in the preceding year.

2023 Access fees have retroactive effect

17. Any access fee set by the Minister in regulations made under section 15 for fishing seasons in 2023 apply retroactively to all fisheries executed by designates as of and including May 15, 2023.

Coming into Force

18. This Act comes into force on a day to be set by Order of the President of Nunatsiavut.