

1973

c 108 The Game and Fish Amendment Act, 1973 (No. 1)

Ontario

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CHAPTER 108

An Act to amend The Game and Fish Act

*Assented to November 15th, 1973
Session Prorogued March 5th, 1974*

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Game and Fish Act*, being chapter 186 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971, chapter 30, section 1, is further amended by renumbering paragraph 1 as paragraph 1*a* and by adding thereto the following paragraph:
 1. "Board" means the Game and Fish Hearing Board established under section 36*a*.s. 1,
amended
- 2.—(1) Subsection 5 of section 18 of the said Act is repealed and the following substituted therefor:s. 18 (5),
re-enacted
 - (5) No person shall enter or attempt to enter upon lands owned by the Crown that are used for the purpose of propagating or retaining game or fish without,Entry on
Crown lands
used for
propagating
or retaining
game or fish
 - (*a*) authority; or
 - (*b*) paying the fee prescribed by the regulations.
 - (2) The said section 18 is amended by adding thereto the following subsection:s. 18,
amended
 - (9) A copy of a letter purporting to be signed by the Minister authorizing any person to give the notice referred to in subsection 1 in respect of any land owned by the Crown is *prima facie* evidence of such letter and of the contents thereof.Copy of
Minister's
letter to
be evidence
3. Section 22 of the said Act is repealed.s. 22,
repealed
- 4.—(1) Subsection 3 of section 36 of the said Act is repealed and the following substituted therefor:s. 36 (3),
re-enacted
 - (3) Any person who applies in accordance with this Act and the regulations for,Issue of
certain
licences

- (a) an angling licence;
- (b) a licence to hunt game; or
- (c) a licence referred to in section 76,

and who meets the requirements of this Act and the regulations and who pays the prescribed fee is entitled to be issued the licence.

s. 36 (8),
re-enacted

- (2) Subsection 8 of the said section 36 is repealed and the following substituted therefor:

Wearing
of badge

(8) The holder of a licence of a class designated in the regulations shall, while hunting, wear in a conspicuous place on his person a badge furnished by the Ministry clearly showing the number of the licence.

ss. 36a-36d,
enacted

5. The said Act is amended by adding thereto the following sections:

Game and
Fish Hearing
Board

36a.—(1) The Game and Fish Hearing Board is established and shall be composed of not more than five members who shall be appointed by the Lieutenant Governor in Council, who shall hold office during pleasure and none of whom shall be members of the public service in the employ of the Ministry.

Chairman

(2) The Lieutenant Governor in Council may appoint one of the members of the Board as chairman.

Quorum

(3) Three members of the Board constitute a quorum.

Remuner-
ation

(4) The members of the Board shall be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time determines.

Interpre-
tation

36b.—(1) In this section and in sections 36c and 36d, "licence" means a licence other than a licence referred to in subsection 3 of section 36.

Refusal of
licence

(2) An issuer of licences may refuse to issue a licence where the refusal is reasonably necessary for the achievement of the purpose of this Act.

Notice of
refusal

(3) Where an issuer of licences refuses to issue a licence he shall serve notice of the refusal on the applicant for the licence.

Power of
Minister

36c.—(1) The Minister may cancel a licence where the continued existence of the licence is not in accordance with the purpose of this Act.

(2) Where the Minister proposes to cancel a licence under this Act, he shall serve or cause to be served notice of his proposal, together with written reasons therefor, on the holder of the licence. Notice of proposal to cancel licence

36d.—(1) A notice under section 36b or 36c shall inform the applicant or holder of the licence that he is entitled to a hearing by the Board if he mails or delivers to the Minister and to the Board, within fifteen days after the notice under section 36b or 36c is served on him, notice in writing requiring a hearing by the Board, and he may so require such a hearing. Notice requiring hearing

(2) Where an applicant or holder of the licence requires a hearing by the Board in accordance with subsection 1, the Board shall appoint a time for and hold the hearing and shall report thereon to the Minister. Holding of hearing

(3) The report of the Board shall contain a summary of the facts presented at the hearing and its opinion on the merits of the issuing or cancellation of the licence, as the case may be, in light of the facts and in view of the purpose of this Act, together with its reasons for its opinion. Report

(4) The Minister, after receiving and considering the report of the Board, may direct or refuse to direct the issuance of the licence or may carry out or refrain from carrying out his proposal to cancel the licence, as the case may be. Powers of Minister

(5) The applicant or holder of the licence who has required the hearing and such other persons as the Board may specify are parties to the hearing. Parties

(6) The Minister is entitled to be heard, by counsel or otherwise, upon a hearing under this section. Minister entitled to be heard

(7) Sections 6 to 16 and 21 to 23 of *The Statutory Powers Procedure Act, 1971* apply with respect to a hearing under this section. Application of 1971, c. 47

(8) The Board may extend the time for the giving of notice requiring a hearing by an applicant or holder of the licence under this section either before or after expiration of such time where it is satisfied that there are *prima facie* grounds for granting relief to the applicant or holder of the licence and that there are reasonable grounds for applying for the extension and the Board may give such directions as it considers proper consequent upon the extension. Extension of time for requiring hearing

(9) An applicant or holder of the licence who is a party to a hearing under this section shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced, or any report the contents of which will be given in evidence at the hearing. Examination of documentary evidence

Notice of
hearing

(10) Notice of a hearing under this section shall afford to the holder of the licence a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the retention of the licence.

Service of
notice

(11) Any notice required by section 36*b* or 36*c* to be served may be served personally or by registered mail addressed to the person upon whom notice is to be served at his latest known address, and where notice is served by registered mail it shall be deemed to be served on the fifth day after the day of mailing unless the person on whom notice is to be served establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice until a later date.

s. 39 (1),
re-enacted

- 6.—(1) Subsection 1 of section 39 of the said Act is repealed and the following substituted therefor:

Municipal
licences
to hunt
pheasants,
etc.

(1) Subject to subsection 5, the Minister may in writing authorize any municipality to pass by-laws for issuing and fixing the maximum number of licences to hunt, during the open season, pheasants, rabbits and foxes and for charging such fees therefor as he authorizes, and the Minister may fix the minimum number of such licences that the by-law shall provide for.

s. 39,
amended

- (2) The said section 39 is amended by adding thereto the following subsection:

Minister
may limit
his
authority
territorially

(5) The Minister may in his written authority referred to in subsection 1 exempt from the operation of subsection 1 any land of the Crown situate within the municipality or any land within the municipality, the owner of which has entered into an agreement under section 6, respecting such land.

s. 47 (2),
repealed

7. Subsection 2 of section 47 of the said Act is repealed.

s. 69 (1),
re-enacted

8. Subsection 1 of section 69 of the said Act is repealed and the following substituted therefor:

No traffic
in certain
fish

(1) No person shall sell, offer for sale, purchase or barter, or be concerned in the sale, purchase or barter, of an Atlantic salmon, (also known as ouananiche) taken from Ontario waters, a smallmouth bass, largemouth bass, maskinonge, brook trout, brown trout, rainbow trout or Aurora trout, but subject to such terms and conditions as are prescribed by the regulations,

- (a) under the authority of a licence to propagate and sell bass and trout, a sale may be made of smallmouth bass, largemouth bass, brook trout or rainbow trout propagated in Ontario for the purpose of stocking and of brook trout and rainbow trout for human consumption; and

(b) under the authority of a licence to sell trout, a sale may be made for human consumption of,

(i) brook trout and rainbow trout taken from waters outside Ontario,

(ii) live brook trout and rainbow trout propagated in Ontario and offered for sale in a restaurant or a retail shop, or

(iii) surplus stocks of brook trout and rainbow trout held under a fishing preserve licence.

9. Subsection 3 of section 79 of the said Act is repealed and the following substituted therefor: s. 79 (3), re-enacted

(3) This section does not apply where live game or a wolf Application of section is kept in captivity in a zoo operated by a municipality or for scientific or educational purposes in a public institution.

10.—(1) Section 91 of the said Act is amended by adding thereto the following paragraphs: s. 91, amended

3a. regulating, restricting or prohibiting the use of blinds and decoys;

6a. prescribing the fee to enter upon lands owned by the Crown that are used for the purpose of propagating or retaining game or fish.

(2) Paragraph 13 of the said section 91 is repealed and the following substituted therefor: s. 91, par. 13, re-enacted

13. prescribing the number of game animals, game birds or fur-bearing animals that may be taken or possessed.

11. This Act comes into force on the day it receives Royal Assent. Commencement

12. This Act may be cited as *The Game and Fish Amendment Act, 1973*. Short title

