



Modernizing the Substitute Operator Policy

Stakeholder
Engagement 2023



Link to online
engagement
site and to
complete
questionnaire



Purpose

The purpose of this session is to:

- Provide **background** and **context** for how **substitute operator supports** Owner Operators.
- To **seek your views and feedback** on how to better support inshore Owner Operators, through **the modernization of the Substitute Operator Policy.**

Owner Operator and Substitute Operator Policy

- Inshore Licence holders are required by the *Atlantic Fishery Regulations, 1985*, and the *Maritime Provinces Fishery Regulations* to be **on board the vessel and personally engaged in the fishing activities** authorized under the licence.
- The *Fishery (General) Regulations* allow an **exception** to the Owner Operator requirements so, "where the holder of a licence or the operator named in a licence is unable to engage in the activity authorized by the licence or use the vessel specified in the licence because of **circumstances beyond the control** of the holder or operator"
- Substitute Operators may be used for **limited periods of time** when it's not possible for licence holders to fish the licence personally:
 - Current policy identifies the circumstances and for how long a substitute operator may be used.

Why are we considering modernization?

- Over time, the Substitute Operator policy has become less consistent, leading to:
 - Differences in authorized categories and calculations of the medical substitute operator five-year maximum.
 - Inclusion of authorizations for ‘circumstances within the control of the licence holder’.
- We’ve examined options to make the policy:
 - **Consistent** for inshore licence holders.
 - **More transparent** across Atlantic Canada and Quebec.
- At the same time, we’ve looked for ways to provide:
 - **Flexibility** for licence holders.

What's being proposed?



Medical



Estate



**30-DAY
Discretionary**



Medical

- Licence holders are required to **personally fish the licence** issued in their name, as per Owner Operator (AFRs.19(2), MPFR 29.2(2)).
- Medical Substitute Operators (MSO) are able to be requested only when licence holders are unable to personally fish for medical reasons.
 - MSO provides licence holders **brief periods of time** for their recovery, with the expectation they will return to fishing the licence themselves.
 - If a licence holder can no longer personally operate the licence(s) issued to them, the five-year maximum **supports transition planning and a potential exit** from the fishery.
 - All licence and vessel registration **fees must be paid and renewed each year.**
 - MSOs can be used **in all commercial fisheries at any time.**
- 5-year maximum (**lifetime limit**) still applies.
 - Once a licence holder uses a medical substitute operator for **more than 49% of the season on any licence within their portfolio**, this will be counted in the 5-year limit. **(NEW)**
 - The maximum limit is non-consecutive.



Pregnancy/Parental Leave

Pregnancy Leave

Related to the physical condition of pregnancy

Parental Leave

Related to the post-birth of a child and specifically for childcare services.

- **New category**
- Could be captured under MSO category but will **NOT** count towards the five-year career maximum.
- DFO would accept Pregnancy/Parental leave **under the applicable Employment Insurance regime, with associated and required documentation.**



Estate

- **No change** from the current policy.
- Licences may be fished by a Substitute Operator for **up to 5 years** after the death of the licence holder.
 - Substitute Operators for estates can be used **in all fisheries at any time.**
 - The 5-year maximum is consecutive and provides **time for transition planning to reissue the licence.**
 - The estate **executor or administrator** must request an Estate Substitute Operator each year.
 - All licence and vessel registration **fees must be paid and renewed each year.**



30-day Discretionary

- Licence Holders can use **up to 30 days in a calendar year.**
- Discretionary days will be authorized **up to 30 days or a maximum of 50%** of a specific fishery, whichever is less.
- Fisheries with short seasons **will be excluded** from this category.
- In order to be eligible for the full 30 day maximum, licence holders must have a minimum of 60 fishing days across their licence portfolio/package.
- 30 day discretionary is to be used in instances where a substitute operator is required for circumstances **beyond the control of a licence holder**, which are not captured under Medical or Estate.
 - Circumstances **NOT** authorized under this category may include, but are not limited to:
 - Education, Vacation, Incarceration, Career Development, etc..
- **Cannot be used in combination** with medical substitute operator within the same fishery.



30-day Discretionary

Example Scenario

An inshore enterprise has a portfolio of licences totaling 60 fishing days, one licence is excluded due to short duration (36-hour halibut licence). In this instance, the fisher would only be authorized up to a maximum of 28 days within the calendar year rather than the full 30 days.



Further Policy Development

- We have heard **concerns about who can act as a substitute operator** and the potential effects that third parties can have over a licence holder through this policy.
- The current eligibility criteria for substitute operators differ across Atlantic Canada and Quebec.
- As a result, we are exploring options to strengthen **who may act as a substitute operator** in order of support Owner Operator.

Current Eligibility Criteria for NL

- Individuals using a substitute operator must not be employed outside the fishery, nor can they be involved in the fishery during the substitution period either on their own, or on any other fishing enterprise.
- The substitute operator **must hold a valid Professional Level I or Professional Level II*** certification issued by the Professional Fish Harvesters Certification Board (PFHCB); Apprentice level and FRC holders are not eligible to be a substitute operator.
- For substitute operators from outside of the NL Region, consideration will be given to individuals with a valid certificate from another fish harvester certification board in Atlantic Canada and Quebec, or with a commercial fish harvester registration issued by another DFO Region.

Engagement Question

What are your views of DFO's Substitute Operator policy, including the categories and time allotments?

Engagement Question

What are your views on updating the Substitute Operator Policy:

- to authorize pregnancy leave?
- to authorize parental leave?

Engagement Question

What is your level of support for the existing eligibility criteria in Newfoundland and Labrador Region?