

## **Review of Bill C-64, *Wrecked, Abandoned or Hazardous Vessels Act***

Last Updated: December 8, 2017

BC local governments may be interested in the following sections of the *Act* that are most relevant to them. This information was gathered from a staff review of the legislation on December 6, 2017; as well as the November 29, 2017 Transport Canada consultation on the National Strategy to Address Abandoned and Wrecked Vessels.

In summary, the *Act* will:

- Strengthen owner liability for their vessels, including costs for clean up.
- Address irresponsible vessel management, including prohibiting vessel abandonment.
- Enhance federal powers to take proactive action on problem vessels, including undertaking hazard assessments to inform measures.
- Introduce compliance and enforcement regime with offenses and penalties
- Clarify roles and responsibilities between Transport Canada and Fisheries, Oceans and the Canadian Coast Guard.

### **Application**

- Applies to all vessels, large and small, foreign and domestic, in all waters in and around Canada. This includes any seagoing vessels, such as hydrofoil boats, air-cushion vehicles, submersibles, floating craft, floating platforms, and floating homes if they are capable of navigation.
- It does not apply to vessels that are less than 5.5 m in length, that are designed to be primarily human- powered, or wind-powered.

### **Powers, Duties and Functions of Ministers**

- Gives powers, duties and functions to both the Minister of Transport and the Minister of Fisheries and Oceans. These Ministers can enter into agreements or arrangements with any persons, including the provincial government and local authorities, to carry out the purposes of the *Act*. This includes local governments.
- Allows the Minister of Transport to suspend, cancel, or refuse to issue or renew any document, including a certificate, license or permit, if the applicant or holder of the document has contravened a direction under the *Act*; or has not paid or reimbursed the government for a fine or penalty imposed on them under the *Act*.
- Gives the Canadian Coast Guard the lead in determining if the boat is a hazard.

The chart below outlines the roles and responsibilities of Transport Canada, the Canadian Coast Guard, and Fisheries and Oceans. It was shared at the Transport Canada consultation on November 29.

## Annex – Roles and responsibilities

Transport Canada	Canadian Coast Guard	Fisheries and Oceans
Develop regulations, policies, guidelines	Operational lead for addressing vessels of concern	Take appropriate actions on hazardous vessels/wrecks located in Small Craft Harbours
Issue insurance certificates and verify compliance with insurance requirements	Coordinate and determine hazard assessments	
Oversee and enforce the Salvage Convention and Receiver of Wreck provisions	Issue orders and/or take appropriate actions on hazardous vessels and wrecks, <u>including enforcement</u>	Order removal of dilapidated vessels left in Small Craft Harbours or take action directly
Enforcement of prohibitions (e.g., abandonment, dilapidated vessels)	Order removal of dilapidated vessels left on property under responsibility of the Minister of Fisheries, Oceans and the Canadian Coast Guard or take action directly	
Order removal of dilapidated vessels on Crown property or take action directly, except property under responsibility of the Minister of Fisheries, Oceans and the Canadian Coast Guard		

### Removal of Wrecks

- Brings into Canadian law the Nairobi International Convention on the Removal of Wrecks, 2007.
- Requires owners of vessels of 300 gross tonnage and above (90 – 100 ft and above), and vessels being towed, to maintain wreck removal insurance or other financial security (no mandatory insurance required for vessels under 300 gross tons).
- Makes vessel owners liable for costs to location, mark and remove a hazardous wreck resulting from a maritime accident.
- Allows the Minister of Fisheries and Ocean to Canadian Coast Guard to take action if the owner is unknown or fails to comply.

### Vessels and Wrecks of Concern

- Prohibits abandoning vessel unless authorized by law or in case of maritime emergency.
- Prohibits allowing a vessel to become a wreck.
- Makes it illegal to leave a vessel adrift for 48 hours.
- Prohibits leaving a vessel in poor condition/state of neglect in the same

area, or within 3 nautical miles) for more than 60 consecutive days without consent.

- Allows the federal government to take action by:
  - Ordering the owners to remove/dispose of vessels.
  - Ordering owners to take measures to prevent, mitigate or eliminate hazards posed by vessels.
  - Take direction action to remove/dispose of vessels if vessel is unknown or fails to comply, with the owner responsible for all costs and damages.
  - Sell or dispose of these vessels, subject to 30 day public notification process.

### **Receiver of Wreck**

- Gives the Minister of Transport the lead authority. The Minister can designate a person or class of persons as the Receiver of Wreck.
- Does not allow a salvor to take possession of a wreck unless they are being towed into Canada or are in danger. Salvor must submit an application to the Receiver of Wreck to take possession of the wreck.
- Receiver of Wreck determines whether the salvor can take or keep the vessel.
- Gives the owner of the boat 30 days to come forward to claim the vessel
- Provides enforcement powers such as inspection, detention, seizure and ability to issue monetary penalties.

### **Administration, Enforcement, and Penalties**

- Covers pleasure craft and commercial vessels of all sizes, in Canadian waters.
- Includes powers necessary to enable the Minister of Fisheries and Oceans, and the Canadian Coast Guard to determine whether a vessel or wreck poses, or may pose, a hazard and to ensure that action is taken.
- Established enforcement regime that authorizes monetary penalties, creates regulatory offences (summary convictions and indictments), and sets out penalty regime to deter non-compliance).
- Maximum penalties for certain violations (eg. Vessel abandonment) are far higher than other marine legislation to encourage removal and disposal of vessels (ie. If penalty is low, then it is cheaper to abandon a vessel and pay fine than to properly dispose of it).
- Penalties are applied for each day that the violation is committed and range from \$5000 to \$6 million and provides for imprisonment terms up to 3 years. Penalties are in place to encourage compliance, and not to punish.
- Establishes debt due to Crown for vessel owners. Government can seize assets, hold back tax refunds, etc.

**Other**

- Regulations can also be developed under the *Act*, to address such issues as establishing other penalties, imposing fees, and liability requirements for vessels under 300 gross tonnage.
- Provides for a five-year legislative review.