



Foyle Fisheries Act (Northern Ireland) 1952

1952 CHAPTER 5

[^{F1}PART VIA

AQUACULTURE

[^{F1}Aquaculture licences

F1 Pt. VIA (ss. 52A-52X) inserted (1.6.2008 so far as inserting for certain purposes ss. 52B, 52C, 52G, 52H, 52M, 52N, 52O, 52P, 52U and 52X, otherwise prosp.) by [Foyle and Carlingford Fisheries \(Northern Ireland\) Order 2007 \(S.I. 2007/915 \(N.I. 9\)\)](#), arts. 1(3), **3(1)** (with art. 32); S.R. 2008/232, art. 2, Sch.

PROSPECTIVE

52A Aquaculture licences

- (1) The Commission may, in accordance with the provisions of this Part, grant a licence (“an aquaculture licence”) to any person authorising that person to engage in aquaculture within any area specified in the licence (the “licensed area”).
- (2) An aquaculture licence may be granted notwithstanding any public right to fish in the area which, on the granting of the licence, becomes the licensed area.
- (3) Subject to subsection (4) the licensed area may include any part of the foreshore or any part of the bed of the sea or an estuary.
- (4) An aquaculture licence shall not specify any area—
 - (a) which forms either part of the foreshore or part of the bed of the sea or an estuary owned or lawfully occupied by any person, unless the licence is

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- granted to, or with the consent in writing of, the owner or lawful occupier of that part of the foreshore or that part of the bed of the sea or the estuary; or
- (b) which is within the limits of a several fishery, unless the licence is granted to, or with the consent in writing of, the owner or lawful occupier of that fishery.
- (5) A person shall not engage in aquaculture in the Foyle Area or the Carlingford Area except under, and in accordance with the conditions of, an aquaculture licence.
- (6) A person who contravenes subsection (5) shall be guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding 6 months, or to both;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years, or to both.

52B Applications for aquaculture licences

- (1) An application for an aquaculture licence shall be made to the Commission and shall—
- (a) contain such information and be made in such form and in such manner as may be prescribed;
- (b) be advertised, at the expense of the applicant, in such form and in such manner as may be prescribed; and
- (c) be accompanied by—
- (i) any consent required by section 52A(4); and
- (ii) the prescribed fee.
- (2) Without prejudice to any other provision of this Part, regulations under subsection (1) (a) may contain provisions similar to the provisions of Directive [85/337/EEC](#) and may, in particular, require the Commission, when considering whether to grant an aquaculture licence, to take account of any information received by, or representations made to, the Commission which relate to the impact of aquaculture on the environment.
- (3) The Commission may, by giving notice to the applicant, require him to furnish such further information as may be specified in the notice, within the period so specified, as the Commission may require for the purpose of determining the application.
- (4) If a person fails to furnish any information—
- (a) required under subsection (1)(a); or
- (b) specified in a notice under subsection (3) within the period specified in the notice,
- the Commission may refuse to proceed with the application.

52C Determination of applications for aquaculture licences

- (1) The Commission shall consider an application for an aquaculture licence and either—
- (a) grant the licence; or
- (b) refuse to grant the licence.
- (2) In determining an application for an aquaculture licence, the Commission shall consider any written representations relating to the application (including any representations made to the Commission which relate to the impact of aquaculture on the environment) which are received by the Commission within the period of 28 days

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- beginning with the date on which the application was last advertised in accordance with section 52B(1)(b).
- (3) As soon as practicable after determining an application for an aquaculture licence the Commission shall give—
- (a) the applicant; and
 - (b) each person who made representations considered under subsection (2), notice of the determination.
- (4) Where the Commission grants an aquaculture licence, the Commission shall, in such form and in such manner as may be prescribed, publish a notice stating that the licence has been granted.
- (5) Where the Commission grants an aquaculture licence, the licence—
- (a) shall, if no appeal is brought under section 52P, take effect on the expiration of 28 days from the date on which the Commission, in accordance with subsection (4), last published a notice stating that the licence had been granted;
 - (b) shall, if an appeal is brought under section 52P, take effect—
 - (i) if and so far as the licence is confirmed on appeal, from the date on which the appeal is determined;
 - (ii) if the appeal is withdrawn, on the date of the withdrawal of the appeal.

PROSPECTIVE

52D Form and conditions of aquaculture licences

- (1) An aquaculture licence shall define the position and limits of the licensed area by reference to a map or chart, either with or without descriptive matter (which, in the case of any discrepancy with the map or chart, shall prevail except in so far as may otherwise be provided by the licence).
- (2) Where any consent mentioned in section 52A(4) was given subject to any conditions or limitations, the licence shall be subject to such conditions or limitations and such fact shall be stated in the licence.
- (3) An aquaculture licence may contain such other conditions as the Commission shall determine.
- (4) Without prejudice to the generality of subsection (3), conditions contained in an aquaculture licence may relate to any of the following—
- (a) operational practices;
 - (b) monitoring and protection of the health of fish, aquatic invertebrate animals or aquatic plants and the reporting of incidences of disease and the presence of parasites;
 - (c) monitoring and inspection of the activities carried on pursuant to the licence;
 - (d) the type of ropes, trestles, fish cages or other equipment or structures which may be located within the licensed area;
 - (e) the marking, by buoys or otherwise, of the limits of the licensed area or any part of it, or of the location of ropes, trestles, fish cages or other structures within the licensed area;
 - (f) the keeping of records by the holder of the licence;

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- (g) the making of returns and the giving of other information to the Commission in relation to activities in the licensed area;
 - (h) the protection of the environment (including the man-made environment of heritage value) and the control of discharges from the licensed area;
 - (i) appropriate environmental, water quality and biological monitoring and, in particular, the provision of samples, or of facilities for taking samples in the licensed area;
 - (j) in relation to the farming or culture of fish—
 - (i) the amount of feed inputs;
 - (ii) annual or seasonal limits on stock inputs and outputs and the amount of stock in the licensed area or in any part of it;
 - (iii) the disposal of dead fish;
 - (iv) measures for preventing the escape of fish and arrangements for reporting any such escape;
 - (v) the movement of fish within, and in to or out of, the licensed area;
 - (k) the payment of any prescribed fee in relation to the licence.
- (5) An aquaculture licence may, in so far as is expedient for the purpose of giving effect to any conditions attached to it, exempt—
- (a) the holder of the aquaculture licence and any person acting under his directions; and
 - (b) a person who acquires fish of any kind taken in accordance with such conditions,
- from the restrictions imposed by section 34 or regulations made under section 13(gg) in so far as those restrictions apply to fish of that kind.

PROSPECTIVE

52E Duration of aquaculture licences

- (1) Subject to subsections (2) and (3), an aquaculture licence—
- (a) shall in the first instance be limited to a period specified by the Commission in writing, being a period of not less than 10 years and not exceeding 20 years, and
 - (b) on the expiration of that period shall, on the Commission being satisfied that reasonable progress has been, and is likely to continue to be, made in developing the licensed site, be renewed for a further period specified by the Commission in writing, not exceeding 20 years, and
 - (c) on the expiration of that period, on the Commission being satisfied as aforesaid, may be further renewed from time to time for such period specified by the Commission in writing but not, on any occasion, for a period exceeding 20 years.
- (2) Where an aquaculture licence has been granted—
- (a) to the occupier (not being the owner) of a several fishery or of any land included in the licensed area; or
 - (b) to any person with the consent of such an occupier,

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and the owner of the several fishery or land did not consent in writing to the grant of the licence, the licence shall remain in force only during the continuance in occupation of that occupier.

- (3) Where an aquaculture licence is granted with the consent in writing of any owner or occupier and a period is specified in the consent, the licence shall remain in force only for that period.

PROSPECTIVE

52F Effect of aquaculture licence

- (1) An aquaculture licence shall confer on the holder of the licence the exclusive right, in the licensed area, to deposit, introduce, propagate, dredge, harvest and take any fish, aquatic invertebrate animal or aquatic plant which is farmed or cultivated in accordance with the licence.
- (2) An aquaculture licence shall not—
- (a) except for the purpose of the farming or cultivation of fish, animals or plants of a kind specified in the licence, affect any right in or over the foreshore or the bed of the sea or any estuary, or any right of several fishery;
 - (b) for any purpose, affect any such right of any person which he enjoys under a local or personal Act or under Royal Charter, letters patent, prescription or immemorial usage, without the consent of that person.
- (3) Notwithstanding anything contained in this Act or any regulations made under this Act, the holder of an aquaculture licence and any person acting under his directions may, subject to the conditions contained in the licence, do anything authorised by the licence or anything that is necessary or expedient for doing anything authorised by the licence.
- (4) The ownership of any fish, aquatic invertebrate animal or aquatic plant the farming or cultivation of which is authorised by an aquaculture licence and which is farmed or cultivated in accordance with that licence vests in the holder of the licence and his executors, administrators or assigns.
- (5) Subject to section 52K, an aquaculture licence is not transferable by the holder, but the Commission may transfer it to another person in accordance with section 52L.
- (6) Except as permitted by or under this Act, if a person, by trespass, fishing or otherwise, interferes with anything done or being done pursuant to an aquaculture licence and the interference is carried on without the permission of the holder of the licence, then, notwithstanding the existence of any public right to fish, the person so interfering shall be guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding 6 months, or to both;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years, or to both.

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52G Variation of aquaculture licences by Commission

- (1) Subject to subsection (2), the Commission may, on its own initiative, vary an aquaculture licence (but not so as to extend the licensed area) if it considers that it is in the public interest to do so.
- (2) An aquaculture licence shall not be varied so as to affect any conditions or limitations subject to which a consent under section 52A(4) was given, or any period mentioned in such a consent, otherwise than with the consent in writing of the person or authority who gave the consent or his or its successor in title.
- (3) Where the Commission proposes to vary an aquaculture licence under this section, the Commission shall—
 - (a) give to the holder of the licence at least 28 days' notice of its proposal to do so and of the grounds upon which the variation is proposed to be made; and
 - (b) advertise, in such form and in such manner as may be prescribed, notice of its proposal to vary the licence.
- (4) Before varying the licence the Commission shall consider any written representations which are received by the Commission within the period of 28 days from—
 - (a) the date on which the Commission gave notice to the holder of the licence of the proposed variation; or
 - (b) the date on which notice of the proposal to vary the licence was last advertised in accordance with subsection (3)(b),whichever is the later.
- (5) Where the Commission varies a licence under this section the Commission shall give notice of the variation to the holder of the licence and the notice shall specify—
 - (a) the variation of the licence which the Commission has decided to make; and
 - (b) the date or dates on which the variation is to take effect.
- (6) Where the Commission varies a licence under this section, the Commission shall, in such form and in such manner as may be prescribed, publish a notice stating that the licence has been varied.
- (7) The Commission shall be liable to pay compensation to the holder of an aquaculture licence in respect of any loss or damage sustained by him as a result of any action taken by the Commission in relation to an aquaculture licence by virtue of subsection (1) and any dispute as to a person's entitlement to such compensation or as to the amount of it shall be referred to and determined by the Appeals Board.

52H Variation of aquaculture licences: applications by holder of licence

- (1) Subject to subsection (2), the holder of an aquaculture licence may, at any time after the expiration of 2 years from the granting of the licence, apply to the Commission, in such manner as may be prescribed, for the variation of the licence specified in the application.
- (2) An aquaculture licence shall not be varied so as to affect any conditions or limitations subject to which a consent under section 52A(4) was given, or any period mentioned in such a consent, otherwise than with the consent in writing of the person or authority who gave the consent or his or its successor in title.

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- (3) Where an application is made under subsection (1) for the variation of a licence (otherwise than solely by reducing the licensed area) sections 52A(3) and (4), 52B and 52C shall apply as they apply to the grant, or an application for the grant, of an aquaculture licence.

PROSPECTIVE

52I Revocation of aquaculture licences

- (1) The Commission may revoke an aquaculture licence if it is satisfied that the holder of the licence has not engaged in aquaculture in the licensed area for a continuous period of 2 years.
- (2) The Commission may revoke an aquaculture licence if—
- (a) it is satisfied that there has been a breach of a condition specified in the licence; or
 - (b) it considers that it is in the public interest to do so.
- (3) Where the Commission proposes to revoke an aquaculture licence, the Commission shall give the holder of the licence at least 28 days' notice of—
- (a) its intention to do so; and
 - (b) the grounds upon which the revocation is proposed to be made;
- and before revoking the licence the Commission shall consider any representations made by the holder of the licence before the expiration of the notice.
- (4) Where the Commission revokes an aquaculture licence the Commission shall give notice of the revocation to the person whose licence has been revoked, and the notice shall inform that person of his right of appeal under section 52P, and of the time within which the appeal may be brought.
- (5) The revocation of an aquaculture licence in accordance with this section shall not take effect until—
- (a) the expiry of the time allowed for making an appeal under section 52P; or
 - (b) if an appeal is made under section 52P—
 - (i) if and so far as the revocation of the licence is confirmed on appeal, the date on which the appeal is determined; or
 - (ii) if the appeal is withdrawn, on the date of the withdrawal of the appeal, whichever is the later.
- (6) The Commission shall be liable to pay compensation to a person who was the holder of an aquaculture licence in respect of any loss or damage sustained by that person as a result of any action taken by the Commission by virtue of subsection (2)(b) and any dispute as to a person's entitlement to such compensation or as to the amount of it shall be referred to and determined by the Appeals Board.

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PROSPECTIVE

52J Surrender of aquaculture licences

- (1) An aquaculture licence may, in accordance with subsections (2) to (5), be surrendered by its holder to the Commission if the Commission accepts the surrender.
- (2) The holder of an aquaculture licence who wishes to surrender it shall make an application for that purpose to the Commission on a form provided by the Commission for the purpose, giving such information and accompanied by such documentation as the Commission reasonably requires and accompanied by the fee payable in accordance with section 52N.
- (3) On receiving an application for the surrender of an aquaculture licence the Commission—
 - (a) shall inspect the licensed area, and
 - (b) may require the holder of the aquaculture licence to—
 - (i) provide the Commission with further information;
 - (ii) carry out such works in relation to the licensed area as the Commission may specify in writing.
- (4) Where the surrender of a licence is accepted by the Commission under this section the Commission shall issue a certificate (a “certificate of completion”) to the applicant and, on the issue of that certificate, the aquaculture licence shall cease to have effect.
- (5) If within the period of 3 months from the date on which the Commission receives an application to surrender a licence, or within such longer period as the Commission and the applicant may at any time agree in writing, the Commission has neither issued a certificate of completion nor given notice to the applicant that the Commission has refused the application, the Commission shall be deemed to have refused the application.

PROSPECTIVE

52K Vesting of aquaculture licences on death or bankruptcy of holder

- (1) On the death of the holder of an aquaculture licence, the licence shall be regarded as property forming part of the deceased's personal estate, whether or not it would be so regarded apart from this subsection, and shall accordingly vest in his personal representatives.
- (2) If a bankruptcy order is made against the holder of an aquaculture licence, the licence shall be regarded for the purposes of Parts VIII to X of the Insolvency (Northern Ireland) Order 1989 (insolvency of individuals; bankruptcy) as property forming part of the bankrupt's estate, whether or not it would be so regarded apart from this subsection, and shall accordingly vest as such in the trustee in bankruptcy.
- (3) A person in whom an aquaculture licence vests under this section shall become the holder of the aquaculture licence, in place of the prior holder, from the date of the vesting.

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- (4) Where an aquaculture licence vests in any person under this section, that person shall give notice of that fact to the Commission not later than the end of the period of 90 days, or such longer period as may be agreed with the Commission, beginning with the date of the vesting.

PROSPECTIVE

52L Transfer, etc. of aquaculture licences

- (1) An aquaculture licence may be transferred to another person in accordance with the following provisions of this section.
- (2) Where the holder of an aquaculture licence desires that the licence be transferred to another person (“the proposed transferee”) the aquaculture licence holder and the proposed transferee shall jointly make an application to the Commission for a transfer of the licence.
- (3) An application under subsection (2) for the transfer of an aquaculture licence shall be made on a form provided by the Commission for the purpose, accompanied by—
 - (a) such information as the Commission may reasonably require;
 - (b) where the aquaculture licence has been granted subject to the consent of the owner or lawful occupier of the foreshore, bed of the sea, estuary or any fishery, the consent in writing of that owner or lawful occupier, as the case may be, to the proposed transfer of the licence;
 - (c) the fee payable in accordance with section 52N; and
 - (d) the licence.
- (4) If the Commission is not satisfied that the licence should be transferred to the proposed transferee, it shall give notice of its refusal to transfer the licence to the holder of the aquaculture licence and the proposed transferee.
- (5) If, on an application under subsection (2), the Commission is satisfied that the licence should be transferred to the proposed transferee, the Commission shall effect a transfer of the aquaculture licence to the proposed transferee.
- (6) The Commission shall effect a transfer of an aquaculture licence under subsection (5) by causing the licence to be endorsed with the name and other particulars of the proposed transferee as the holder of the licence from such date specified in the endorsement as may be agreed with the applicants.
- (7) Nothing in this section shall affect the liability of the holder of an aquaculture licence for any failure by him, before any transfer under subsection (5) took effect, to comply within any condition of that licence.

52M Register of aquaculture licences

- (1) The Commission shall, in such manner as may be prescribed, maintain a register containing prescribed particulars of, or relating to, aquaculture licences.
- (2) Without prejudice to the generality of subsection (1), a register under this section may be maintained in electronic form.

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- (3) The Commission shall—
- (a) ensure that the contents of a register maintained under this section are available, at all reasonable times, for inspection (including, where practicable, inspection by electronic means) by the public free of charge; and
 - (b) afford members of the public reasonable facilities for obtaining from the Commission, on payment of reasonable charges, copies of entries in the register.
- (4) A register maintained under this section shall be conclusive evidence as to the terms of any aquaculture licence, or any condition to which such a licence is subject, as that licence, or that condition, as the case may be, has effect for the time being.

52N Fees in respect of applications for aquaculture licences, etc.

- (1) The Commission may in such manner as may be prescribed, provide for the payment to the Commission of fees in relation to—
- (a) applications for aquaculture licences under section 52B;
 - (b) the subsistence of an aquaculture licence;
 - (c) applications for the variation of an aquaculture licence under section 52H;
 - (d) applications for the surrender of an aquaculture licence under section 52J;
 - (e) applications for the transfer of an aquaculture licence under section 52L.
- (2) Regulations under subsection (1) may provide for the refund (in whole or in part) of fees in prescribed circumstances.]

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