



# Fisheries Act (Northern Ireland) 1966

## 1966 CHAPTER 17

### PART IV

#### PROTECTION OF FISHERIES

##### ABSTRACTION OF WATER FROM RIVERS AND LAKES

#### **59 Gratings to be set in watercourses diverted from rivers or lakes to prevent entry therein of fish.**

- (1) Where a watercourse to which this section applies carries water from a [<sup>F1</sup> river] [<sup>F2</sup> or lake]—
- (a) there shall be placed, at the points where the watercourse diverges from and returns to the river [<sup>F2</sup> or lake], gratings extending across the whole width of the watercourse and from the bottom of the bed or sill thereof to the level of the highest flood waters;
  - [<sup>F3</sup>(b) the space between the bars of such gratings shall not exceed—
    - (i) in the case of any grating placed at the point where the watercourse diverges from the river or lake, 5.1cm,
    - (ii) in the case of any grating installed before the date of the coming into operation of Article 16 of the Fisheries (Amendment) (Northern Ireland) Order 1991 and placed at the point where the watercourse returns to the river or lake, 5.1cm,
    - (iii) in the case of any grating installed on or after the date of the coming into operation of that Article of that Order, or installed before that date but renewed on or after it, and placed at the point where the watercourse returns to the river or lake, 2.5cm;]
  - (c) during the months of March, April and May and at any other time when the fry of salmon or trout are descending the river [<sup>F2</sup> or lake], there shall be placed over the entire surface of every such grating a wire lattice of such

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dimensions as to effectually prevent the admission of fry or small fish into the watercourse;

- (d) every such grating and such wire lattice shall be securely fixed in a permanent manner so as to prevent its being removed or opened, and shall be kept in constant repair.

- (2) If, in respect of any watercourse to which this section applies (other than a watercourse in relation to which an exemption granted by the Ministry under subsection (4) is for the time being in force), the provisions of subsection (1) are not complied with, the owner or occupier of any premises to which the watercourse leads, or any other person who made, uses or has the care or maintenance of the watercourse, shall be guilty of an offence, ...<sup>F4</sup>.

- (3) Without prejudice to subsection (2), if any person—
- (a) injures any grating or wire lattice placed in pursuance of subsection (1); or
  - (b) removes any such grating or lattice or part thereof, except, in the case of a lattice, during any period of the year during which such a lattice need not be maintained; or
  - (c) opens any such grating or lattice improperly; or
  - (d) permits any such grating or lattice to be injured or removed (except as is mentioned in paragraph ( b)) or improperly opened;

he shall be guilty of an offence.

- (4) If in respect of a watercourse to which this section applies,—
- (a) the Ministry is satisfied that sufficient arrangements will be made by means other than those specified in subsection (1) to prevent the admission of fish or fry into the watercourse, and that, having regard to those arrangements, exemption should be granted from the obligations imposed by subsection (1); or
  - (b) where the watercourse is a watercourse constructed for the purpose of conveying water as a motive power for machinery, it is proved to the satisfaction of the Ministry that exemption during any period from the obligations imposed by subsection (1) is necessary for the effective working of the machinery,<sup>F3</sup> or]

- <sup>F3</sup>(c) the Department is satisfied—
- (i) that the watercourse supplies a mill to which there belongs a dam,
  - (ii) that there is no fish pass in that dam,
  - (iii) that the waste gate on the upstream side of the mill sluices is erected in a channel suitable for the passage of fish, and
  - (iv) that exemption from the obligations imposed by subsection (1) is necessary to permit the free passage of fish,]

the Ministry may, by permit in writing, grant<sup>F3</sup> subject to such conditions as it considers appropriate] such exemption.

- (5) Where an exemption has been granted under subsection (4) the Ministry may at any time—
- (a) revoke the exemption; or
  - (b) vary or revoke any condition for the time being attaching to the exemption; or
  - (c) attach any condition or any further condition to the exception;

but no exemption shall be revoked nor shall any condition be varied or any condition or further condition imposed unless at least twenty-eight days' notice of the Ministry's

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intention to make a revocation or, as the case may be, to vary or impose the condition, has been given to the person who appears to the Ministry to be for the time being entitled to the benefit of exemption, and the Ministry has considered any representations made by him before the expiration of the notice.

[<sup>F3</sup>(5A) Subsection (3D) of section 58 shall apply in relation to an exemption under subsection (4) of this section in the same manner as it applies for the purposes of subsection (3C) of that section.]

[<sup>F3</sup>(6) This section applies to any watercourse conveying water which has been diverted from the main course of a river or lake, except where the water is conveyed to provide for navigation.]

(7) In this section “fry” in relation to salmon includes parr and smolts [<sup>F2</sup> and “watercourse” includes any pipe, culvert or other device].

<b>F1</b>	1968 c.31 (NI)
<b>F2</b>	1968 c.31 (NI)
<b>F3</b>	1991 NI 13
<b>F4</b>	1981 NI 7

*S.60 rep. by 1973 NI 2*

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