



# Fisheries Act (Northern Ireland) 1966

## 1966 CHAPTER 17

### PART V

#### REGULATION OF FISHING FOR SALMON, EELS AND FRESHWATER FISH

##### PROHIBITION OF CERTAIN METHODS OF FISHING

#### **62 Penalty for using certain devices for taking fish.**

- (1) If, for the purpose of taking<sup>[F1]</sup>, or facilitating the taking of,] any fish, any person uses or has in his possession or control, in or on the bank of or near the waters of any lake, river or estuary, any light or fire or any electrical or acoustical apparatus of any kind, he shall be guilty of an offence.
- (2) If, for the purpose of taking any fish, any person uses or has in his possession or control, in or on the bank of or near the waters of any lake, river or estuary, any instrument to which this subsection applies, he shall be guilty of an offence.
- (3) If any person throws, releases or discharges any missile or other object into any water for the purpose of taking or killing, or facilitating the taking or killing, of any<sup>[F1]</sup> salmon, trout or rainbow trout], he shall be guilty of an offence.
- (4) In subsection (2) the expression “instrument to which this subsection applies” means any otter, taylor or snare, spear, stroke-haul, gaff or other instrument of a similar kind<sup>[F2]</sup> or any instrument or device calculated in the course of normal use to foul-hook any fish], but does not include—
  - (a) a<sup>F1</sup> . . . taylor used or to be used solely as an auxiliary to lawful angling between sunrise and one hour after sunset; or
  - (b) a<sup>F1</sup> . . . taylor used or to be used by the holder of a fishing licence in respect of any box in a fishing weir solely for the purpose of lawfully removing fish therefrom; or
  - (c) an eel spear used for taking eels.

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Fisheries Act (Northern Ireland) 1966, PART V. (See end of Document for details)*

[<sup>F1</sup>(4A) In subsection (4)—

“gaff” means a hooked instrument (with or without a barb) used to penetrate the gills or body of a fish; and

“otter” means an otter lath or jack, and includes any instrument, whether used with a handline, or as an auxiliary to a rod and line, or otherwise for the purpose of running out lures, artificial or otherwise.]

- (5) A person who is guilty of an offence under subsection (1) or (2) shall be liable on summary conviction to a fine not exceeding [<sup>F3</sup> £500] or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

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

### **63 Fishing for salmon or trout by cross lines.**

[<sup>F4</sup>(1)] If any person takes or fishes for salmon or trout by means of cross lines in any river[<sup>F4</sup> or lake] he shall be guilty of an offence.

[<sup>F4</sup>(2) In subsection (1) “cross lines” means fishing lines—

- (a) reaching from one position to another across water and fixed or held at each of their ends, and
- (b) having attached to them one or more baited hooks or lures, artificial or otherwise.]

<b>F4</b>	1991 NI 13
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### **64 Penalty for taking salmon or trout in eel weir.**

- (1) If the owner or occupier of an eel weir takes or suffers to be taken therein any salmon or trout, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding [<sup>F5</sup> £500] or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.
- (2) Where a person is charged with an offence under this section it shall be a good defence to prove that such salmon or trout was taken unintentionally and, immediately upon being taken, was returned to the water without any avoidable injury.

<b>F5</b>	1981 NI 7
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### **65 Penalty for damming or teeming river or millrace for purpose of taking salmon or trout.**

If any person dams, teems or empties any river or millrace for the purpose of taking or destroying any salmon or trout, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding [<sup>F6</sup> £500] or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Fisheries Act (Northern Ireland) 1966, PART V. (See end of Document for details)*

F6 1981 NI 7

[REGULATIONS AS TO NETS, ETC.]

**66 Restrictions on use of nets.**

- (1) If any person—
- (a) uses any one or more than one net of any kind in such a manner as to obtain the same advantage as he would have obtained by using a net the meshes of which are of a size smaller than that for the time being permitted under this Act for nets of that kind; or
  - (b) uses a net covered with canvas, hide, or other substance for the purpose of taking small fish; or
  - (c) affixes or keeps up continued nets stretched across a river;
- he shall be guilty of an offence.
- (2) Subsection (1)( b) shall not apply to a net used either in the sea or within an estuary solely for the purpose of dredging for shell-fish.

**67 Mesh of nets made of non-rigid material for the taking of salmon in the sea or tideways.**

- (1) If, in the sea or in the tidal portion of a river, any person uses any net to which this section applies with a mesh of less size than<sup>[F7]</sup> 4.4 centimetres] from knot to knot, to be measured along the side of the square, or<sup>[F7]</sup> 17.6 centimetres] to be measured all round each such mesh, such measurements being taken in the clear when the net is wet, then, subject to subsection (2), he shall be guilty of an offence.
- (2) <sup>[F8]</sup>The Department]may by <sup>[F9]</sup>regulations] permit the use of nets to which this section applies having meshes of a less size than that specified in subsection (1), and this section shall have application with respect to any net to which such <sup>[F9]</sup>regulations] apply as if for the dimensions specified in subsection (1) there were substituted the dimensions specified in those <sup>[F9]</sup>regulations].
- (3) In this section the expression “net to which this section applies” means any net or other engine which is not formed of a rigid material and which is used for the taking of salmon.

F7 SR 1983/100

F8 S. 67(2): words in Act substituted (1.6.2009) by [Public Authorities \(Reform\) Act \(Northern Ireland\) 2009 \(c. 3\)](#), ss. 1(3)(b), 7(1), [Sch. 1 Pt. 2 para. 3\(1\)\(a\)](#) (with [Sch. 1 Pt. 1 para. 4\(3\)](#)); S.R. 2009/172, [art. 2\(a\)\(b\)](#)

F9 S. 67(2): word in Act substituted (1.6.2009) by [Public Authorities \(Reform\) Act \(Northern Ireland\) 2009 \(c. 3\)](#), ss. 1(3)(b), 7(1), [Sch. 1 Pt. 2 para. 3\(1\)\(c\)](#) (with [Sch. 1 Pt. 1 para. 4\(3\)](#)); S.R. 2009/172, [art. 2\(a\)\(b\)](#)

*Status: Point in time view as at 01/06/2009.*

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## 68 Meshes or openings of engines made of rigid material for the taking of salmon in the sea or tideways.

- (1) If, in the sea or in the tidal portion of a river, any person uses any engine to which this section applies with meshes or openings of less width than<sup>[F10]</sup> 7.5 centimetres] on each side of the square, or, where no meshes or openings of the nature of reticulations are used, of less width between the bars than<sup>[F10]</sup> 5 centimetres], he shall be guilty of an offence.
- (2) In this section the expression “engine to which this section applies” means any engine which is formed of rigid material and is used for the taking of salmon.

**F10** SR 1983/100

## 69 Use of salmon nets near mouths of rivers.

- (1) If any person (other than the owner of a several fishery within the limits thereof) shoots, draws or uses any net for taking salmon—
  - (a) at the mouth of any river; or
  - (b) within<sup>[F11]</sup> 805 metres] in any direction from the mouth of any river,
 he shall be guilty of an offence.
- <sup>[F12]</sup>(2) Any person (other than the owner of a several fishery in the whole of a river or its tributaries, within the limits of that several fishery)—
  - (a) who shoots, draws or stretches a net across the mouth or across any other part of a river; and
  - (b) who fails to leave open a channel which is—
    - (i) at least one-quarter of the width of the mouth of the river or, as the case may be, of that other part of the river, or 18 metres, whichever is the less, and
    - (ii) of sufficient depth and width to facilitate the passage of salmon in that river;
 shall be guilty of an offence.]
- (3) Where an order under section 16 defines the mouth of a tributary river, references in this section to the mouth of a river shall be construed as including references to the mouth of that tributary river.

**F11** SR 1983/100

**F12** 1991 NI 13

## 70 Powers of Board with respect to drift nets for the taking of salmon in the sea.

- (1) Where <sup>[F13]</sup>the Department][<sup>[F14]</sup>is] satisfied that it is expedient to control the use of drift nets for the taking of salmon in the sea, <sup>[F15]</sup>it] may make <sup>[F16]</sup>regulations] prohibiting, restricting or otherwise controlling—
  - (a) the use of such nets for fishing for salmon in the sea;
  - (b) the landing of salmon taken by means of such nets;
  - (c) the having in possession of salmon taken or landed in contravention of the <sup>[F16]</sup>regulations] .

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- (2) [<sup>F16</sup> Regulations] under this section restricting or otherwise controlling fishing for salmon may prescribe—
- (a) the classes of persons to whom there may be issued fishing licences in respect of nets to which the [<sup>F16</sup>regulations] apply;
  - (b) the classes of boats which may be used for the working of such nets;
  - (c) the maximum number of fishing licences which may be issued in any year in respect of such nets;
  - (d) the manner in which such licences shall be allocated in any case where the number of valid applications for such licences in any year exceeds the number prescribed under paragraph (c) in respect of that year.
- (3) If any person contravenes any [<sup>F16</sup>regulations] made under this section, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding [<sup>F17</sup> £1,000] or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

- F13** S. 70(1): words in Act substituted (1.6.2009) by Public Authorities (Reform) Act (Northern Ireland) 2009 (c. 3), ss. 1(3)(b), 7(1), **Sch. 1 Pt. 2 para. 3(1)(a)** (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, **art. 2(a)(b)**
- F14** Word in s. 70(1) substituted (1.6.2009) by Public Authorities (Reform) Act (Northern Ireland) 2009 (c. 3), ss. 1(3)(b), 7(1), **Sch. 1 Pt. 2 para. 3(18)** (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, **art. 2(b)**
- F15** S. 70(1): word in Act substituted (1.6.2009) by Public Authorities (Reform) Act (Northern Ireland) 2009 (c. 3), ss. 1(3)(b), 7(1), **Sch. 1 Pt. 2 para. 3(1)(b)** (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, **art. 2(a)(b)**
- F16** S. 70: word in Act substituted (1.6.2009) by Public Authorities (Reform) Act (Northern Ireland) 2009 (c. 3), ss. 1(3)(b), 7(1), **Sch. 1 Pt. 2 para. 3(1)(c)** (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, **art. 2(a)(b)**
- F17** 1981 NI 7

## 71 Restriction on use of nets in fresh water.

- (1) Save as is permitted by or under subsection (2), it shall not be lawful for any person to use any net in the freshwater portion of any river or in any lake.
- (2) Subsection (1) shall not apply to—
- (a) the use of a landing net or keep net solely as auxiliary to lawful fishing with rod and line;
  - (b) the lawful use of a net solely for the purpose of removing fish from traps in a fishing weir;
  - (c) the lawful use of a fixed engine under section 73;
  - (d) the lawful use in a several fishery of draft nets for the taking of salmon or trout where such nets were lawfully used during the open fishing season of one or more of the five years immediately preceding 1st January,<sup>[F18 1972]</sup>;
  - (e) the lawful use of draft nets for the capture of salmon or trout in any lake by members of the public who depend on such netting as a means of livelihood where—
    - (i) such nets are so used with the consent of every owner of a several fishery in that lake; and

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- (ii) such nets were so used with such consent or as of right by any such members of the public within the period of<sup>F18</sup> eighteen years immediately preceding 1st January 1986];
  - (f) the lawful use of nets for the taking of eels—
    - (i) in or in the vicinity of an eel weir; or
    - (ii) in accordance with regulations made under section 15;
  - (g) the lawful use, in accordance with <sup>F19</sup>regulations], of nets for the taking of fish other than salmon, trout or eels.
- (3) If any person uses a net in contravention of this section he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding <sup>F20</sup> £500] or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.
- (4) In this section, “trout” does not include pollen.

**F18** 1991 NI 13

**F19** S. 71(2)(g): word in Act substituted (1.6.2009) by [Public Authorities \(Reform\) Act \(Northern Ireland\) 2009 \(c. 3\)](#), ss. 1(3)(b), 7(1), **Sch. 1 Pt. 2 para. 3(1)(c)** (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, **art. 2(a)(b)**

**F20** 1981 NI 7

## 72 Mesh of nets for taking fish in fresh water.

- (1) No person shall, under section 71(2)( c), ( d), ( e) or ( g), use any net with a mesh of less size than—
- (a) such size as may be prescribed by <sup>F21</sup>regulations] ; or
  - (b) if no size is so prescribed, a size of<sup>F22</sup> 4.4 centimetres] from knot to knot, to be measured along the side of the square, or<sup>F22</sup> 17.6 centimetres] to be measured all round each mesh, such measurements being taken in the clear when the net is wet.
- (2) No person shall, under section 71(2)( f), use any net with a mesh of less size than—
- (a) such size as may be prescribed by regulations made under section 15; or
  - (b) if no size is so prescribed, the size specified in subsection (1)( b).
- (3) If any person contravenes subsection (1) or (2) he shall be guilty of an offence.

**F21** S. 72(1)(a): word in Act substituted (1.6.2009) by [Public Authorities \(Reform\) Act \(Northern Ireland\) 2009 \(c. 3\)](#), ss. 1(3)(b), 7(1), **Sch. 1 Pt. 2 para. 3(1)(c)** (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, **art. 2(a)(b)**

**F22** SR 1983/100

*Status: Point in time view as at 01/06/2009.*

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## PROHIBITION OF FISHING WEIRS AND FIXED ENGINES, WITH CERTAIN EXCEPTIONS

### 73 **Restriction with respect to fishing weirs or fixed engines in fresh water portion of rivers or lakes.**

- (1) It shall not be lawful for any person to erect or to use in the freshwater portion of any river or lake any fishing weir or a fixed engine of any description, unless that fishing weir or a fixed engine of that description was in existence and was lawfully used therein by that person or a predecessor in title of his during the open fishing season of one or more of the five years immediately preceding 1st January 1965.
- (2) If any person erects or uses a fishing weir or fixed engine in contravention of this section he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding [<sup>F23</sup> £1,000] or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.
- (3) The prohibition in subsection (1) shall not apply to—
  - (a) long lines used solely for the capture of eels; or
  - (b) any eel weir or any fixed engine for the capture of eels established and used in accordance with regulations made under section 15; or
  - (c) engines used in accordance with [<sup>F24</sup>regulations] for the capture of fish other than salmon or eels.

**F23** 1981 NI 7

**F24** S. 73(3)(c): word in Act substituted (1.6.2009) by **Public Authorities (Reform) Act (Northern Ireland) 2009 (c. 3)**, ss. 1(3)(b), 7(1), **Sch. 1 Pt. 2 para. 3(1)(c)** (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, **art. 2(a)(b)**

### 74 **Restriction on use of fixed engines for the capture of salmon in the sea or tideways.**

- (1) It shall not be lawful for any person to erect or to use any fixed engine for the capture of salmon in the sea or in the tidal portion of a river unless a certificate in regard to such a fixed engine was granted under the Salmon Fishery (Ireland) Act 1863 to him or a predecessor in title of his before the commencement of this Act and is for the time being subsisting unrevoked.
- (2) If any person erects or uses any fixed engine for the capture of salmon in contravention of this section he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding [<sup>F25</sup> £1,000] or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

**F25** 1981 NI 7

### 75 **Effect of certificate under section 6 of the Salmon Fishery (Ireland) Act 1863.**

A certificate under section 6 of the Salmon Fishery (Ireland) Act 1863 shall be conclusive evidence that the person named therein or his successor in title is the person entitled to exercise the right therein given, but it shall not render any fixed engine lawful which would otherwise be unlawful by reason of its being injurious to

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navigation, a common nuisance to the public right of fishing or otherwise in violation of the common law or any enactment (including this Act).

## 76 Power of Ministry to authorise the alteration of sites of fixed engines.

- (1) The owner of a fixed engine in respect of which a certificate has been granted under section 6 of the Salmon Fishery (Ireland) Act 1863 may apply to the Ministry for permission to remove the fixed engine from the place or position specified in the certificate and to erect it at some other place or in some other position.
- (2) If the Ministry, after causing a local public inquiry to be held, is satisfied that the removal and re-erection of the fixed engine will not unduly interfere with the reasonable and legitimate interests of any other person, the Ministry may grant a licence authorising the owner of the fixed engine to remove it from the place or position specified in the certificate and [<sup>F26</sup> for him and his successors in title] to erect and use it at such other place or in such other position, and subject to such conditions, and such limitations as to time or otherwise, as may be specified in the licence.
- (3) If the Ministry is satisfied that it is expedient in the interests of the salmon fisheries to revoke a licence granted under this section, or to vary the provisions of such a licence with respect to—
  - (a) the place or position in which a fixed engine is by the licence authorised to be erected and used, or
  - (b) any conditions or limitations contained in the licence,
 the Ministry may revoke the licence or, as the case may be, may make such variation in the terms of the licence as the case may require; but the Ministry shall not revoke or vary a licence under this subsection unless at least twenty-eight days' notice of the revocation or the proposed variation has been given to the holder of the licence, and, if the holder, before the expiration of the notice, so requires, the Ministry has caused a local public inquiry to be held.
- (4) Without prejudice to subsection (3), a licence granted under this section may be suspended or revoked in accordance with the provisions of Schedule 1.
- (5) Nothing in this section shall be deemed to empower the Ministry to authorise the erection of any fixed engine at a place or in a position where its use would be injurious to navigation or would contravene the provisions of any enactment.
- (6) Where, by licence under this section, the Ministry authorises any person to erect and use a fixed engine at a place or in a position other than that specified in the certificate referred to in subsection (1), for the purposes of this Act the certificate shall have effect during the currency of the licence as if the reference in the certificate to the place or position so specified were a reference to the first-mentioned place or position.

**F26** [1968 c.31 \(NI\)](#)

## 77 Power of Ministry to authorise variation in characteristics of fixed engines.

- (1) The owner of a fixed engine in respect of which a certificate has been granted under section 6 of the Salmon Fishery (Ireland) Act 1863 may apply to the Ministry for permission to substitute for that fixed engine or for more than one such fixed engine a fixed engine of different characteristics from the characteristics specified in the certificate.



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- (2) If the Ministry, after causing a local public inquiry to be held, is satisfied that such substitution will not unduly interfere with the reasonable and legitimate interests of any other person, the Ministry may accept the surrender of any certificate such as is referred to in subsection (1), and may grant a licence authorising the owner [<sup>F27</sup> and his successors in title] to erect and use—
- (i) in accordance with plans and specifications approved by the Ministry; and
  - (ii) at a place or in a position specified in the licence; and
  - (iii) subject to any conditions, or any limitations as to time or otherwise, contained in the licence,
- a fishing engine of such a kind as may be specified in the licence.
- (3) Upon the grant of a licence under subsection (2) any certificate surrendered to the Ministry in pursuance of that subsection shall cease to have effect, but without prejudice to the provisions of subsection (6) as to the revival of the certificate in the event of the licence being revoked under subsection (4) or (5).
- (4) If the Ministry is satisfied that it is expedient in the interests of the salmon fisheries to revoke a licence granted under this section or to vary the provisions of such a licence with respect to—
- (a) the characteristics of a fixed engine the erection and use of which is authorised by the licence, or
  - (b) the place or position in which such a fixed engine is so authorised to be erected, or
  - (c) any conditions or limitations contained in the licence,
- the Ministry may revoke the licence, or, as the case may be, may make such variation in the terms of the licence as the case may require; but the Ministry shall not revoke or vary a licence under this subsection unless at least twenty-eight days' notice of the revocation or the proposed variation has been given to the holder of the licence, and, if the holder, before the expiration of the notice, so requires, the Ministry has caused a local public inquiry to be held.
- (5) Without prejudice to subsection (4), a licence granted under this section may be suspended or revoked in accordance with the provisions of Schedule 1.
- (6) When a licence granted under this section is revoked—
- (a) the provisions of—
    - (i) this Act and any [<sup>F28</sup>regulations] made under this Act, and
    - (ii) any certificate under section 6 of the said Act of 1863 with respect to a fixed engine such as is first mentioned in subsection (1),shall have effect with respect to any such fixed engine as if the licence had not been granted; and
  - (b) the Ministry shall return to the person who immediately before the revocation of the licence was the holder thereof any certificate under the said section 6 which had been surrendered to the Ministry under subsection (2) by that person or by a predecessor in title of his.
- (7) The provisions of sections 74 to 76, and of this section, shall have effect with respect to a licence granted under subsection (2) in like manner as they have effect with respect to a certificate under the said section 6, as if the licence were such a certificate; and for the purposes of section 74(1) the licence shall be deemed to have been granted before the commencement of this Act.

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- (8) Section 79 shall not apply to the placing or continuance in accordance with the terms of a licence granted under subsection (2) of a fishing engine specified in such a licence.
- (9) Subsection (5) of section 76 shall apply for the purposes of this section as it applies for the purposes of that section.

**F27** 1968 c.31 (NI)

**F28** S. 77(6)(a)(i): word in Act substituted (1.6.2009) by **Public Authorities (Reform) Act (Northern Ireland) 2009 (c. 3)**, ss. 1(3)(b), 7(1), **Sch. 1 Pt. 2 para. 3(1)(c)** (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, **art. 2(a)(b)**

#### REGULATIONS AS TO FIXED ENGINES

### 78 Prohibition of erecting or using fixed engines at mouths of rivers.

- (1) If at or within<sup>F29</sup> 1610 metres] in any direction from the mouth of any salmon river any person, other than the owner of a several fishery within the limits thereof, erects or uses any fixed engine, that person shall be guilty of an offence ...<sup>F30</sup>.
- (2) Where an order under section 16 defines the mouth of a tributary river, the reference in subsection (1) to the mouth of any river shall be construed as including a reference to the mouth of that tributary river.

**F29** SR 1983/100

**F30** 1981 NI 7

### 79 Prohibition of bag nets in certain places.

- (1) Subject to subsection (3), no bag net shall be placed or allowed to remain in any river or estuary or within a distance of<sup>F31</sup> 4830 metres] from the mouth of any river.
- (2) If any bag net is placed or allowed to remain in contravention of this section—
- (a) it shall be deemed a common nuisance and may be taken possession of or destroyed; and
  - (b) the owner of the bag net shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding [<sup>F32</sup> £500] or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.
- (3) This section shall not apply to—
- (a) the placing or continuing, within<sup>F31</sup> 4830 metres] of the mouth of a river, of a bag net, where the owner of the bag net has the exclusive right of catching salmon in the whole of that river, including all tributary rivers and lakes upon the course of that river, and where that owner or a predecessor in title of his had on or immediately before 28th July 1863 exercised that right by means of a bag net at the place where the first-mentioned bag net is placed; or
  - (b) the placing or continuing, in accordance with the provisions of a licence granted under section 77(2), of a bag net the erection and use of which is authorised by the licence.

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**F31** SR 1983/100

**F32** 1981 NI 7

## **80 Regulations as to construction and user of bag nets.**

If any person maintains or uses any bag net—

- (a) the meshes of the nets of any leader whereof are not stretched to their full opening; or
- (b) which is so constructed that the leaders thereof cannot be raised and kept out of the water;

he shall be guilty of an offence ...<sup>F33</sup>.

**F33** 1981 NI 7

## REGULATIONS AS TO FISHING WEIRS

## **81 Free gaps in fishing weirs.**

(1) In every fishing weir (other than an eel weir with respect to which a licence granted by the Ministry under section 84 is for the time being in force) there shall be a free gap or opening in accordance with the following provisions:—

- (a) the free gap shall be situate in the deepest part of the stream;
- (b) the sides of the free gap shall be in line with and parallel to the direction of the stream at the weir;
- (c) the bottom of the free gap shall be level with the natural bed of the stream above and below the gap;
- (d) the width of the free gap at its narrowest part shall be not less than one-tenth part of the width of the stream:

Provided that it need not be wider than<sup>F34</sup> 15.2 metres], and must not be narrower than<sup>F34</sup> 91 centimetres];

- (e) no existing free gap in any fishing weir shall be reduced in width or a gap of less width substituted therefor or any alteration made therein so as to reduce the flow of water through the gap.

(2) The requirements of subsection (1), in so far as they relate to the provision of a free gap in every fishing weir, shall, in the case of a fishing weir in which there was no free gap on 1st January, 1965, be deemed to be complied with if immediately adjoining the weir there then was and continues to be a navigation gap which conforms in form and dimensions to the requirements of that subsection, and all the provisions of this Act which apply to free gaps in fishing weirs (other than those which require the free gap to be in the weir) shall apply to any such navigation gap.

(3) Where there is no free gap in a fishing weir or where a free gap has been made in a fishing weir but is not maintained in accordance with subsection (1), then, unless that fishing weir is an eel weir which is for the time being excepted from the application of subsection (1), the owner and the occupier of the fishing weir shall each be guilty of an offence ...<sup>F35</sup>.

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Fisheries Act (Northern Ireland) 1966, PART V. (See end of Document for details)*

- (4) Where the provisions of subsection (1) have been contravened <sup>F36</sup> . . . the Ministry, may provide or restore a free gap and may recover from the owner or the occupier of the fishing weir any expenses reasonably incurred in executing the works undertaken for that purpose.

**F34** SR 1983/100

**F35** 1981 NI 7

**F36** Words in s. 81(4) repealed (1.6.2009) by virtue of **Public Authorities (Reform) Act (Northern Ireland) 2009 (c. 3)**, ss. 1(3)(b), 6, 7(1), Sch. 1 Pt. 2 para. 3(19), **Sch. 3** (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, **art. 2(b)(e)**

## **82 Offence of affecting flow of water through free gap by alteration of bed of river.**

If any alteration is made in the bed of a river in such manner as to reduce the flow of water through the free gap in a fishing weir, the person making the alteration shall be guilty of an offence . . . <sup>F37</sup>.

**F37** 1981 NI 7

## **83 Fishing in or near or obstructing free gaps.**

- (1) Subject to subsection (4), if any person—
- (a) uses any fishing engine in a free gap in a fishing weir; or
  - (b) uses any fishing engine (not being a rod and line) within<sup>F38</sup> 45.5 metres] above or below any part of a fishing weir or the free gap in a fishing weir; or
  - (c) places any obstruction in a free gap; or
  - (d) uses any contrivance or does any act whereby fish may be scared, deterred or in any way prevented from freely entering and passing up and down a free gap at all times; or
  - (e) places any thing whatsoever in, over or across a free gap in a fishing weir, except a temporary bridge or board during the time only when the persons engaged in the fishing of that weir are passing over the free gap; or
  - (f) in any manner prevents the free and uninterrupted passage of fish through the free gap at any time; or
  - (g) authorises or instructs or permits any other person to do any of the acts referred to in the foregoing paragraphs;
- he shall be guilty of an offence.
- (2) Where the owner or occupier of a fishing weir is charged under subsection (1) with the offence of placing an obstruction in the free gap in that weir, and it is proved that the obstruction was placed in the free gap, it shall be presumed, until the contrary is shown, that the obstruction was placed in the free gap by him.
- (3) Where a person is convicted of an offence under this section in respect of an obstruction in the free gap of a fishing weir, <sup>F39</sup> . . . the Ministry, may cause the obstruction to be removed and may recover from that person any expenses reasonably incurred in so doing.

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Fisheries Act (Northern Ireland) 1966, PART V. (See end of Document for details)*

- (4) Where a licence granted by the Ministry under section 84 with respect to an eel weir is for the time being in force, this section shall not operate to penalise any act or thing authorised by the licence.

**F38** 1991 NI 13

**F39** Words in s. 83(3) repealed (1.6.2009) by virtue of [Public Authorities \(Reform\) Act \(Northern Ireland\) 2009 \(c. 3\)](#), ss. 1(3)(b), 6, 7(1), Sch. 1 Pt. 2 para. 3(20), [Sch. 3](#) (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, [art. 2\(b\)\(e\)](#)

#### **84 Operation of eel weir without free gap.**

- (1) The Ministry may by licence authorise the operation of a specified eel weir without a free gap, subject to such conditions as may be contained in the licence.
- (2) The Ministry may revoke, or may vary the conditions contained in, a licence granted under this section, where the Ministry is satisfied that such revocation or variation is expedient in the interests of the eel fisheries.
- (3) When the Ministry proposes to revoke a licence, or to vary any conditions, under subsection (2), otherwise than on the application of the holder of the licence, the Ministry shall—
- (a) give to the holder of the licence at least twenty-eight days' prior notice of its intention to do so; and
  - (b) state in the notice given under paragraph (a) the specific variation, if any, under consideration and the grounds upon which the revocation or variation is proposed to be made,
- and shall consider any representations in relation to the revocation or variation made by the holder before the expiration of the notice.
- (4) Without prejudice to subsection (2), a licence granted under this section may be suspended or revoked in accordance with the provisions of Schedule 1.

#### **85 Rules as to boxes in salmon weirs.**

- (1) The following rules shall be observed in relation to the construction and use of boxes in salmon weirs:—
- (a) the surface of the floor of the box shall be level with the natural bed of the river;
  - (b) the inscales and the heck of the box shall be capable of being removed and opened up;
  - (c) the bars of the heck of the box shall be placed perpendicularly;
  - (d) the inscales and the heck of the box shall be so constructed that no bar or part of a bar is nearer to any other bar or part of a bar than such distance as may be prescribed by [<sup>F40</sup>regulations], or if no distance is prescribed, a distance of [<sup>F41</sup>5.1 centimetres];
  - (e) the box shall not be built over or in any other manner hidden from public inspection.
- (2) If any person constructs or uses any box in a salmon weir in contravention of subsection (1), he shall be guilty of an offence ...<sup>F42</sup>.

*Status: Point in time view as at 01/06/2009.*

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- (3) If any box in a salmon weir is constructed in contravention of this section,<sup>F43</sup> . . . the Ministry may cause the parts of that box which do not comply with the requirements of this section to be removed, and may recover from the occupier of the weir any expenses reasonably incurred in so doing.

**F40** S. 85(1)(d): word in Act substituted (1.6.2009) by [Public Authorities \(Reform\) Act \(Northern Ireland\) 2009 \(c. 3\)](#), ss. 1(3)(b), 7(1), **Sch. 1 Pt. 2 para. 3(1)(c)** (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, **art. 2(a)(b)**

**F41** SR 1983/100

**F42** 1981 NI 7

**F43** Words in s. 85(3) repealed (1.6.2009) by virtue of [Public Authorities \(Reform\) Act \(Northern Ireland\) 2009 \(c. 3\)](#), ss. 1(3)(b), 6, 7(1), **Sch. 1 Pt. 2 para. 3(21)**, **Sch. 3** (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, **art. 2(b)(e)**

## 86 Construction of guiding walls appurtenant to salmon weirs.

- (1) There shall not be attached to a salmon weir in a river any guiding wall of greater length than—
- (a) [<sup>F44</sup>6 metres]; or
  - (b) such length, being less than [<sup>F44</sup>6 metres], as the Ministry may by order appoint with respect to a salmon weir specified in the order,
- that length being measured, in either case, from the upstream or downstream face of the weir along the centre line of the guiding wall.
- (2) There shall not be attached to any salmon weir any guiding wall which has the effect of narrowing up or preventing the ingress or discharge of water through or from the free gap in the weir.
- (3) If any salmon weir has a guiding wall in contravention of subsection (1) or (2), the following provisions shall have effect:—
- (a) the occupier of the weir shall be guilty of an offence . . .<sup>F45</sup>; and
  - (b) <sup>F46</sup> . . . the Ministry may cause the guiding wall to be altered or removed, and may recover from the occupier of the weir any expenses reasonably incurred in so doing.
- (4) If the occupier of a salmon weir in a river makes such use of any island or natural obstruction in the river as secures to him the advantage he would have obtained by attaching to the weir a guiding wall contravening subsection (1), he shall be guilty of an offence . . .<sup>F45</sup>.
- (5) In this section, the expression “guiding wall” means any spur or tail wall, leader or outrigger, but does not include the main wall of the salmon weir that connects the boxes of the weir with the bank of the river.

**F44** SR 1983/100

**F45** 1981 NI 7

**F46** Words in s. 86(3)(b) repealed (1.6.2009) by virtue of [Public Authorities \(Reform\) Act \(Northern Ireland\) 2009 \(c. 3\)](#), ss. 1(3)(b), 6, 7(1), **Sch. 1 Pt. 2 para. 3(22)**, **Sch. 3** (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, **art. 2(b)(e)**

*Status: Point in time view as at 01/06/2009.*

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## OTHER PROVISIONS

### 87 Restriction on possession of unlawful fishing engines, etc.

- (1) It shall not be lawful for any person to have in his possession or control in any waters or on or near the banks of any waters any fishing engine or lure or bait, if the use of that engine, lure or bait in those waters for the purpose of taking fish is unlawful.
- (2) Any person who has in his possession or control any fishing engine or lure or bait in contravention of this section shall be guilty of an offence.
- (3) Where a person is charged with an offence under subsection (2) in relation to the possession or control of a net and it is proved that he was found in possession or control of the net in or in the vicinity of the freshwater portion of a river or any lake, it shall be presumed that he had the possession or control of the net with intent to use it in the freshwater portion of the river or in the lake in contravention of section 71(1) unless and until he satisfies the court that at the time the offence is alleged to have been committed—
  - (a) he intended and was entitled to use the net in one of the manners specified in section 71(2); or
  - (b) if he was found in possession or control of the net in the vicinity of the boundary between the tidal and freshwater portions of a river, that he intended and was entitled to use the net in the tidal portion of the river or in the sea; and also proves, in either case, that he was the holder of a fishing licence, if such is required by or under this Act, for the net.

### 88 Taking salmon or trout unlawfully killed or found dead.

- (1) A person who by any means removes or causes to be removed from any waters—
  - (a) any salmon or trout which has been injured or killed otherwise than by lawful means; or
  - (b) any salmon or trout which has been found dead, from any cause whatever, by that person;shall be guilty of an offence.
- (2) Subsection (1) shall not apply to any of the following persons—
  - (a) any person acting under the authority of the Ministry; or
  - (b) <sup>F47</sup> . . . . .
  - (c) any owner of a fishery in those waters; or
  - (d) any agent of the owner of a fishery in those waters; or
  - (e) any member of the Royal Ulster Constabulary; or
  - (f) [<sup>F48</sup> any person acting under the authority of a district council]. [<sup>F49</sup> or]
  - [<sup>F49</sup>(g) any private water bailiff appointed to protect those waters.]
- (3) Where a person is charged with an offence under this section in respect of any fish it shall be a good defence to prove that he removed the fish from any waters, or caused it to be so removed, solely for the purpose of delivering it to a person designated in any of paragraphs ( a ) to ( f ) of subsection (2), and that he did so deliver it before being required to do so by any such person.

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**Status:** Point in time view as at 01/06/2009.

**Changes to legislation:** There are currently no known outstanding effects for the Fisheries Act (Northern Ireland) 1966, PART V. (See end of Document for details)

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| <p><b>F47</b> S. 88(2)(b) repealed (1.6.2009) by Public Authorities (Reform) Act (Northern Ireland) 2009 (c. 3), ss. 1(3)(b), 6, 7(1), Sch. 1 Pt. 2 para. 3(23), <b>Sch. 3</b> (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, <b>art. 2(b)(e)</b></p> <p><b>F48</b> SRO (NI) 1973/343</p> <p><b>F49</b> 1991 NI 13</p> |
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**Status:**

Point in time view as at 01/06/2009.

**Changes to legislation:**

There are currently no known outstanding effects for the Fisheries Act (Northern Ireland) 1966, PART V.