



# Fisheries Act (Northern Ireland) 1966

## 1966 CHAPTER 17

### PART V **N.I.**

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

### **N.I.**

#### 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. **N.I.****

- (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>F1</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>F2</sup>regulations] for the capture of fish other than salmon or eels.

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

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**F2** 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. **N.I.****

- (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>F3</sup> £1,000] or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

**F3** 1981 NI 7

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

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 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. **N.I.****

- (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>F4</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,

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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.

F4 1968 c.31 (NI)

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

- (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.
- (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>F5</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

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- (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>F6</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.
- (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.

**F5** 1968 c.31 (NI)

**F6** 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\(a\)\(b\)](#)

**Changes to legislation:**

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