



# Fisheries Act (Northern Ireland) 1966

## 1966 CHAPTER 17

### PART VII

#### RESTRICTIONS ON DEALINGS IN SALMON, TROUT AND EELS

##### **110 Prohibition of sale, etc., of salmon or trout unlawfully captured.**

- (1) Subject to the succeeding provisions of this section, if any person buys, sells, offers or exposes for sale or has in his possession any salmon or trout unlawfully captured, he shall be guilty of an offence under this Part and shall be liable—
  - <sup>F1</sup>(a) on summary conviction to a fine not exceeding £500 or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment and shall in addition be liable to a further fine not exceeding £50 for every salmon and £10 for every trout so bought, sold, offered or exposed for sale or found in his possession;
  - (b) on conviction on indictment to [<sup>F2</sup> an unlimited fine] or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.]
- (2) In any proceedings under this section, the onus of proving that the salmon or trout, the subject of the proceedings, was lawfully captured shall lie on the defendant.
- (3) Where a person, being a common carrier, is charged with the offence of having in his possession any salmon or trout unlawfully captured, it shall be a good defence to the charge for him to prove—
  - (a) that he had the salmon or trout in his possession as a common carrier and not otherwise; and
  - (b) that at the time at which the salmon or trout was accepted by him for carriage, the consignor delivered to him a certificate in writing signed by the consignor to the effect that the salmon or trout was lawfully captured.
- (4) Where a person is charged with an offence under subsection (1) in relation to a salmon or a trout, and—

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- (a) he proves that the fish was caught by rod and line at a particular place during a period other than the annual close season for angling for fish of that kind at that place; and
  - (b) he proves that the fish was caught by [<sup>F3</sup> a person who was the holder of a fishing licence authorising him to angle for salmon or, as the case may be, trout or who was exempted by byelaws made under section 37( f) from the requirement to hold such a licence],
- the charge against him shall be dismissed.
- (5) Where a person is charged with an offence under subsection (1) in relation to a salmon or a trout and—
- (a) he proves that he acquired the fish from a person who then was, or whom he believed on reasonable grounds then to have been, the holder of a dealer's licence issued under the succeeding provisions of this Part; or
  - (b) he satisfies the court that he had no reason to suppose the fish to have been unlawfully captured, and that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence;
- the charge against that person shall be dismissed.
- (6) If a person in a certificate signed by him and delivered to a common carrier under subsection (3)( b) makes any statement which to his knowledge is false, he shall be guilty of an offence [<sup>F4</sup> and shall be liable on summary conviction to a fine not exceeding £500.]

<b>F1</b>	1981 NI 7
<b>F2</b>	1984 NI 3
<b>F3</b>	1968 c.31 (NI)
<b>F4</b>	1981 NI 7

**[<sup>F5</sup>111 Prohibition of purchase, sale, etc., of salmon, trout, pollen and brown eels at certain times.**

- (1) If any person buys, sells, offers or exposes for sale or has in his possession for sale—
- (a) any salmon or trout at any time during the period from 15th September in any year to 31st January in the next-following year; or
  - (b) any pollen at any time during the period from 7th November in any year to 31st January in the then next-following year; or
  - (c) any brown eels at any time during the period from 16th January in any year to the date in that year of the commencement of the period mentioned in section 108(1)( c);
- he shall be guilty of an offence under this Part.
- (2) Subsection (1) shall not apply to any person buying, selling, offering or exposing for sale or having in his possession for sale any fish of a kind mentioned in paragraph ( a) or, as the case may be, ( b) or ( c) of that subsection which he proves was
- [<sup>F6</sup>(a) reared in a fish farm; or
  - (b) supplied by the Department.]
- (3) For the purposes of this section a person shall be deemed to have a salmon or trout or, as the case may be, a pollen or a brown eel in his possession for sale if it is found at any place, or on or in any vehicle, specified in a dealer's licence issued to him under

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the succeeding provisions of this Part, unless he satisfies the court that it was not his intention to sell it.

- (4) The Board may by byelaws substitute for the period mentioned in paragraph (a) or (b) of subsection (1), and the Ministry may by regulations substitute for the period mentioned in paragraph (c) of that subsection such other period as may be specified in the byelaws or, as the case may be, the regulations.
- (5) Notwithstanding anything in section 19(2) or 26(4), any byelaws or regulations made under subsection (4), shall be subject to affirmative resolution.]

F5 1968 c.31 (NI)

F6 1984 NI 2

## 112 Restriction on purchase of salmon, trout and eels.

- (1) Subject to subsection (2), a person who is not the holder, or the agent duly authorised in writing in that behalf of the holder, of a dealer's licence issued under the succeeding provisions of this Part and for the time being in force, and who buys salmon, trout or eels, [<sup>F7</sup> or being the holder of such a licence, or the agent of such a holder, buys salmon, trout or eels elsewhere than at the place or vehicle in respect of which the licence is in force], shall be guilty of an offence under this Part.
- (2) Subsection (1) shall not apply in relation to—
  - (a) the *bona fide* purchase by or on behalf of a person of salmon, trout or eels for use by the person in his own home; or
  - (b) the *bona fide* purchase of salmon, trout or eels by or on behalf of any person for use for catering purposes in premises in which he carries on the business of a hotel, restaurant or guest house or of providing board and lodging or meals for reward, if the purchase is made from—
    - (i) the holder of a dealer's licence for the time being in force; or
    - (ii) a fisherman who is lawfully engaged in taking and killing salmon, trout or eels, and who is the holder of a fishing licence which is for the time being in force and is available for use for the taking and killing of salmon or, as the case may be, trout or eels;and, in the case of a purchase from a fisherman, the purchaser—
    - (aa) obtains from the fisherman a statement in writing containing his name and address and the number of his fishing licence and stating that the salmon or, as the case may be, the trout or eels are of his own lawful capture, and
    - (bb) retains the statement [<sup>F8</sup> and keeps it at the premises in which he carries on the business] and produces it to an authorised officer when requested by the authorised officer to do so.
- (3) A person who is buying salmon, trout or eels and purports to be acting as an agent of the holder of a dealer's licence shall produce on demand by an authorised officer his authorisation to act as such agent and if he refuses or fails to produce his authorisation or, on the production thereof, refuses or fails to permit the authorised officer to read the authorisation there and then, he shall be guilty of an offence.
- (4) A person who when the production of the authorisation referred to in subsection (3) is lawfully demanded of him under this section does not produce the authorisation

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because he is not the holder of an authorisation shall be deemed to refuse or fail to produce his authorisation within the meaning of this section.

- (5) Where, pursuant to subsection (2), a person (in this subsection referred to as the vendor) selling salmon, trout or eels to another person gives to that person a statement in writing which, or any part of which, is, to the knowledge of the vendor, false or misleading, the vendor shall be guilty of an offence under this Part.
- (6) In this section authorised officer means
- (a) an officer of the Ministry authorised by the Ministry to exercise the powers conferred by this section; or
  - (b) a member of the Royal Ulster Constabulary; or
  - <sup>[F8]</sup>(c) an inspector or fishery conservation officer appointed by the Board.]

**F7** 1968 c.31 (NI)

**F8** 1991 NI 13

#### LICENCES FOR THE SALE OF SALMON, TROUT AND EELS

### 113 Prohibition of sale, etc., of salmon, trout and eels without licence.

- (1) Subject to subsection (3), no person shall sell, or offer or expose for sale, or have in his possession for sale at any place or from or in any vehicle, salmon, trout or eels unless he is the holder of a licence for the time being in force (in this Part referred to as a “dealer’s licence”) authorising him to sell salmon, trout or eels at that place, or, as the case may be, from that vehicle.
- (2) Any person who, not being the holder of a dealer’s licence, sells, offers or exposes for sale, or has in his possession for sale salmon, trout or eels, or being the holder of such a licence sells, offers or exposes for sale, or has in his possession for sale salmon, trout or eels at a place or, as the case may be, from or in a vehicle, other than that specified in the licence, shall be guilty of an offence under this Part.
- (3) This section shall not apply to—
- (a) the Board; or
  - (b) a fisherman selling only fish of his own lawful capture; or
  - (c) the holder of a fish culture licence under section 11, in relation to fish reared in the fish farm with respect to which the licence is in force; or
  - (d) a person who has possession of fish for use for catering purposes in premises in which he carries on the business of a hotel, restaurant or guest house or of providing board and lodging or meals for reward, or who sells fish or offers or exposes fish for sale as or as part of a meal in the ordinary course of such a business<sup>[F9]</sup>; or
  - (e) a person selling a fish in pursuance of section 181(2) or of a direction given by the Ministry under section 198(1)].

**F9** 1968 c.31 (NI)

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#### **114 Grant of licence.**

- (1) Where a person who is not for the time being disqualified under section 200 for holding a dealer's licence makes application in writing to the Board in the form prescribed by the Board and forwards therewith—
  - (a) a certificate signed by a justice of the peace that that person is a fit and proper person to receive a licence; and
  - (b) a fee<sup>F10</sup> of such amount] as may be prescribed by byelaws;the Board may grant a dealer's licence to that person.
- (2) A dealer's licence shall (unless previously terminated) continue in force until 31st December of the year in which it is granted and shall then expire.

F10 1991 NI 13

#### **115 Renewal of licence.**

- (1) Where the holder of a dealer's licence applies within the time before its expiration prescribed by the Board, or where a person who was the holder of a dealer's licence and is not for the time being disqualified under section 200 for holding such a licence applies within the time so prescribed after its expiration, and the application—
  - (a) is made in writing in the prescribed form; and
  - (b) is accompanied by a fee<sup>F11</sup> of such amount] as may be prescribed by byelaws;the Board may renew that licence.
- (2) Every dealer's licence renewed under this section shall (unless previously terminated) continue in force until the expiration of the calendar year for which the licence is renewed, and shall then expire.

F11 1991 NI 13

#### **116 Appeal from refusal of licence.**

- (1) When the Board refuse to grant to a person who has complied with the provisions of section 114 or 115 either a dealer's licence or, as the case may be, the renewal of a dealer's licence, they shall send to that person a notice—
  - (a) stating the grounds upon which the licence or renewal is refused; and
  - (b) informing him of his right of appeal under subsection (2) and of the time within which the appeal may be brought.
- (2) A person who is aggrieved by a refusal of the Board to grant to him a dealer's licence or to renew such a licence of which he is or was the holder may, within twenty-eight days from the date on which a notice under subsection (1) is served on him, appeal to the county court against such refusal.

#### **117 Separate licence required for each premises, etc.**

A separate and distinct dealer's licence shall be taken out by every person proposing to sell salmon, trout or eels in respect of each separate and distinct place or set of premises where, or, as the case may be, every vehicle from which, it is proposed to sell the same.

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## 118 Publication of licences.

- (1) Every holder of a dealer's licence shall cause that licence to be displayed prominently during business hours in the place or vehicle to which the licence relates, and, if he fails to do so, he shall be guilty of an offence under this Part.
- (2) Lists of persons holding dealers' licences shall be published by the Board at such times and places, and in such manner and form, as may be prescribed by the Board.

## 119 Temporary continuance of licence on death.

Where the holder of a dealer's licence dies, the licence shall, unless forfeited under section 200, enure for the benefit of his personal representative or his<sup>F12</sup> surviving spouse or civil partner] or any other member of his family until the expiration of two months from his death or such longer period as the Board may allow.

F12 SR 2005/479

## 120 Register to be kept by holder of licence.

- <sup>F13</sup>(1) Every holder of a dealer's licence—
- (a) shall keep or cause to be kept at the place or premises to which the licence relates or at such other place as may be permitted by the Board a register in such form as may be prescribed by byelaws—
    - (i) of all salmon, trout or eels acquired, by whatever means and whether in the course of his business as a dealer or otherwise, by him or by any person acting on his behalf, and
    - (ii) of all salmon, trout or eels disposed of, by whatever means and whether in the course of his business as a dealer or otherwise, by him or any person acting on his behalf; and
  - (b) shall enter or cause to be entered in the register such particulars relating to such salmon, trout or eels (other than any particulars as to price) as may be so prescribed.]
- (2) A separate register shall be kept in respect of each place or set of premises, or, as the case may be, each vehicle, with respect to which a dealer's licence is for the time being in force.
  - (3) Where a dealer's licence is issued with respect to a vehicle, the register referred to in subsection (1) shall be kept in that vehicle whenever the vehicle is being operated in the ordinary course of business, and at other times shall be kept at such place as may be prescribed<sup>F13</sup> by byelaws]; and, accordingly, references in this Part to any place or premises where the register is required to be kept shall, as the case requires, be construed as references to that vehicle or the place so prescribed.
  - (4) The particulars referred to in subsection (1) shall be entered in the register on the same day as that on which the purchases, receipts or sales were made or received.
  - (5) Subsection (1) shall not apply with respect to any one or more sales by retail made to any one person on any one day where the total weight of the fish sold to that person on that day does not exceed<sup>F14</sup> 2.25 kilograms], provided that a statement of the aggregate weight of all the fish which were the subject of such sales to all such persons on that day is entered in the register in such manner as may be prescribed<sup>F13</sup> by byelaws].

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- (6) Any authorised officer may inspect any register kept in pursuance of this section during such time as the place where the register is required to be kept under this section is open for the carrying on of business or at such other reasonable hours as the Board may prescribe by byelaws; and it shall be the duty of the licence-holder and of every person keeping the register, upon the request of an authorised officer, to produce for inspection by him that register, and also all invoices, consignment notes, receipts and other documents (including copies thereof where the originals are not available) which may be required to verify any entry in or explain any omission from the register, and to allow the authorised officer to take copies of or extracts from the register or any such document.
- (7) A demand for the inspection of a register or other document under subsection (6) shall be deemed to have been duly made to the licence-holder if the demand is made verbally at the place, premises or vehicle where the register is required to be kept under subsection (1) or (3) to any person in the employment of the licence-holder.
- (8) A person who holds or has held a dealer's licence shall preserve and retain any register kept by him under this section [<sup>F15</sup> together with any documents which may be required to verify any entry in or explain any omission from that register] for a period of six months after the expiration of the latest year in which an entry was made in the register.
- (9) Any holder of a dealer's licence who contravenes any provision of this section shall be guilty of an offence under this Part.
- (10) Any person who wilfully or negligently makes or causes to be made in a register kept under this section any entry which is false or misleading in any material particular shall be guilty of an offence under this Part.
- (11) In this section “authorised officer” has the same meaning as in section 112(6).

**F13** 1991 NI 13  
**F14** SR 1983/100  
**F15** 1968 c.31 (NI)

*S.121 rep. by 1981 NI 7*

## OTHER PROVISIONS

### **122 Marking of packages containing salmon, trout or eels.**

- (1) Every package containing salmon, trout or eels in course of transit in Northern Ireland shall be marked conspicuously on the outside with the words "salmon and trout" or the word "salmon", or the word "trout", or the word "eels", as the case may require, and shall have also marked thereon or on a label affixed thereto the name and address of the consignor thereof.
- (2) Where any package containing salmon, trout or eels is not marked in the manner required by this section, any person—
  - (a) sending or consigning the package for transit in Northern Ireland; or

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- (b) carrying the package in Northern Ireland for reward (except in a case where that person proves that he did not know or could not reasonably have known that the package contained salmon, trout or eels);  
shall be guilty of an offence under this Part.

### 123 Penalties for offences under Part VII.

Any person guilty of an offence under any provision of this Part (other than [<sup>F16</sup> section 110(6)]) shall be liable—

- <sup>F17</sup>(a) on summary conviction to a fine not exceeding £500 or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment;  
(b) (except for an offence under section 120 or 122) on conviction on indictment to [<sup>F18</sup> an unlimited fine] or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.]

**F16** 1981 NI 7  
**F17** 1981 NI 7  
**F18** 1984 NI 3

### [<sup>F19</sup>123A Power to apply this Part to other species of fish.

- (1) The Department may by order provide that this Part shall apply, subject to such modifications and exceptions as may be specified in the order, to any species of freshwater fish so specified.
- (2) In subsection (1) “modifications” includes additions, omissions and amendments.
- (3) An order made under subsection (1) shall be subject to negative resolution.]

**F19** 1991 NI 13



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