



Fisheries Act (Northern Ireland) 1966

1966 CHAPTER 17

PART XI

AUTHORISED PERSONS

POWERS

172 ^{F1} General powers of authorised persons.

- (1) An authorised person may, for the purposes of the protection of the fisheries, at any time—
- (a) enter into and pass through or along [^{F2} or remain on] the banks or borders of any lakes or rivers or of the tributaries thereof;
 - (b) with boats or otherwise, enter upon any such lakes or rivers;
 - (c) enter upon and examine all weirs, sluices, mill dams, fish passes, mill races and watercourses communicating with such lakes or rivers, and pass along the same;
 - (d) stop, enter and search any boat which has been or is engaged or is about to engage in fishing;
 - (e) examine all standing, floating or other nets whatsoever;
 - (f) examine all fish and all fishing engines found in any place which by this Act he is authorised to enter, and for that purpose open any package found in such place and containing or suspected of containing any fish or fishing engine;
 - (g) seize any unlawful fishing engine or any lawful fishing engine which is being unlawfully used;
 - (h) seize any fish in the possession of a person found or suspected of committing an offence under any statutory provision relating to fisheries or any fish which have been or are suspected of having been unlawfully captured;
 - (i) seize any other thing whatsoever by means of, or in relation to, which an offence under any provision of this Act has been or is suspected of having been committed;

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(j) do all such other acts and things as he is authorised to do under this Act.

[^{F3}(1A) Without prejudice to subsection (1)(a), an authorised person other than a private water bailiff may for the purpose of preventing or detecting the commission of an offence against any provision of this Act at any time enter on and traverse any land either on foot or, where there is a suitable roadway, lane or path, in a motor vehicle.

(1B) Where, by virtue of subsection (1A), an authorised person brings a motor vehicle onto any land, he shall not cause or permit that vehicle to stand or remain in such a position as to cause or be likely to cause any danger or obstruction.

(1C) An authorised person, on leaving any land which he has entered by virtue of this section, shall leave that land as effectually secured against trespassers as he found it.]

(2) Nothing in this section shall be construed as authorising any person to enter any enclosed garden or any dwelling house or the curtilage thereof except where the ordinary road or passage to any weir, dam or dyke traverses such garden or curtilage.

(3) In this section, “suspected” means suspected on reasonable grounds.

F1 Mod., 1967 c.7 (NI)

F2 1968 c.31 (NI)

F3 1991 NI 13

173 Power of justice of the peace to grant warrant to enter certain places.

(1) Where upon a sworn complaint in writing it appears to any justice of the peace that there are reasonable grounds for believing that a breach of the provisions of this Act or any regulation or byelaw made thereunder has been committed within any enclosed garden or any dwelling house or the curtilage thereof, he may by warrant under his hand empower an authorised person to enter that garden or dwelling house or the curtilage thereof [^{F4} if need be using such force as is reasonable in the circumstances].

(2) A warrant under this section shall not continue in force for more than seven days from the date thereof [^{F4} and may, except where a specific time for execution is mentioned in the warrant, be executed at any reasonable time].

[^{F4}(3) A person authorised to enter premises by virtue of a warrant issued under this section—
 (a) may take with him such other authorised persons and such equipment he considers may be necessary; and
 (b) shall, on leaving any unoccupied premises which he has entered by virtue of such a warrant, leave them as effectually secured against trespassers as he found them.

(4) In this section “authorised person” does not include a private water bailiff.]

F4 1991 NI 13

174 Boarding and examination of fishing boats.

(1) Any authorised person to whom this section applies may do, with respect to any boat [^{F5} which is or has been] employed in fishing, all or any of the following things—

(a) board the boat;

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- ^{F5}(aa) require the attendance of the master and of any other persons who are or have been on board the boat and require all such persons to do anything which appears to him to be necessary for facilitating the performance of his functions;]
- (b) examine the certificate of registration or other official papers and the fishing engines of the boat [^{F5} (including any fishing gear appurtenant to or used in association with any such engine)], and ascertain whether the provisions of this Act or any instrument made thereunder have been complied with and whether the master and other persons [^{F6} are or have been carrying on fishing in contravention of any statutory provision];
- (c) seize any unlawful fishing engine or any lawful fishing engine [^{F5} which is being, or is reasonably suspected of having been,] unlawfully used and any fishing gear appurtenant to or used in association with any such engine.
- [^{F7}(1A) Any authorised person to whom this section applies may, for the purpose of enforcing regulations made under section 124, do all or any of the following things with respect to any vehicle or equipment which is or has been employed in fishing—
- (a) enter in or on the vehicle or equipment;
- (b) require the attendance of the person in charge of, and any other persons in or on or using, the vehicle or equipment and require all such persons to do anything which appears to him to be necessary for facilitating the performance of his functions;
- (c) in relation to any vehicle, examine—
- (i) any fish in or on the vehicle;
- (ii) any apparatus on the vehicle, including any fishing engine and any fishing gear used in association with any such engine;
- (iii) any document relating to the vehicle;
- (d) in relation to any equipment, examine that equipment and any fish in or on the equipment;
- (e) seize—
- (i) any vehicle or equipment which is being, or is reasonably suspected of having been, used in the commission of an offence under any regulation made under section 124;
- (ii) any fish in respect of which an offence is being, or is reasonably suspected of having been, committed under any regulation made under section 124.]
- (2) If the master of a fishing boat refuses to produce the certificate of registration or other papers of the boat when required to do so by any person acting under subsection (1), [^{F6} or if he or any other person who is or has been on board the boat refuses without reasonable excuse to attend upon the authorised person or to do anything which the authorised person requires him to do for facilitating the performance of his functions, he or, as the case may be, that other person] shall be guilty of an offence [^{F8} and shall be liable on summary conviction to a fine not exceeding £1,000].
- (3) This section applies to the following authorised persons, that is to say—
- (a) a member of the Royal Ulster Constabulary;
- (b) an officer appointed by the Ministry;
- (c) a person to whom section 166(2) applies.

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- (4) In this section “certificate of registration” includes any certificate issued under section [F6 124(2)(a)], and any certificate issued with respect to a boat registered under [F9 the [F10 Part II of the Merchant Shipping Act 1995]].

F5	1981 NI 7
F6	1981 NI 7
F7	2001 c. 4 (NI)
F8	1981 NI 7
F9	1993 c. 22
F10	1995 c. 21

175 Detention of sea-fishing boats, etc.

[F11(1)] Any authorised person, being a person to whom section 166(2) applies or an officer appointed by the Ministry, may, in any case where it appears to him that a person has committed an offence under any provision of this Act relating to sea-fishing or the taking of salmon in the sea, without summons, warrant or other process, both take that person and the boat to which he belongs and the crew thereof to the [F12 port which appears to him to be the nearest convenient port, or require that person to take it and them there,] and bring him or them as soon as practicable before a competent court, and in the meantime detain him, it and them in the port until the alleged offence has been inquired into or adjudicated upon by such court.

[F11(2)] Where it appears to an officer of the Board that a person has committed an offence under any provision of this Act relating to the taking of salmon in the sea, that officer may exercise the powers conferred on an authorised person by subsection (1).]

F11	1991 NI 13
F12	1981 NI 7

176 ^{F13} Apprehension of offenders.

(1) If any person (in this section referred to as [F14 “the alleged offender”]) is found offending against any provision of this Act,—

- (a) an authorised person may require [F14 the alleged offender] to desist from the offence and to give his name and address; and
- (b) if [F14 the alleged offender]—
 - ^{F15}(i) after being so required, wilfully continues the offence or refuses or fails to give his name and address [F16 to the satisfaction of the authorised person] [F15, or
 - (ii) resides outside the United Kingdom,]

the authorised person and any person acting under his directions may apprehend the [F14 alleged offender.]

(2) Where [F14 the alleged offender] is apprehended under this section by an authorised person who is not a member of the Royal Ulster Constabulary that person shall forthwith deliver [F14 the alleged offender] into the custody of a member of the Royal Ulster Constabulary to be dealt with according to law.

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^{F15}(2A) Where the alleged offender resides outside the United Kingdom he may be detained by a member of the Royal Ulster Constabulary until a summons charging him with the relevant offence has been served upon him, and after the service of the summons he may be further detained until he enters into a recognizance, with such sureties or other security as, subject to subsection (2B), the justice of the peace or other person before whom the recognizance is entered into thinks fit, conditioned for his appearance at the time and place stated in the summons; and any such summons may, notwithstanding anything in section 7 of the Sunday Observance Act (Ireland), 1695, be served on a Sunday.

(2B) The amount in which any party to a recognizance taken under subsection (2A) is bound, or the amount of any security required to be deposited under that subsection in lieu of sureties, shall not be greater than the amount of any fine which could be imposed on the alleged offender if he were convicted of the relevant offence.]

(3) In this section the expression “authorised person” includes any person who by virtue of any fishing rights exercisable by him has an interest in the fishery in which the relevant offence is committed.

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| F13 | Mod., 1967 c.7 (NI) |
| F14 | 1968 c.31 (NI) |
| F15 | 1968 c.31 (NI) |
| F16 | 1991 NI 13 |

177 Powers in relation to fishing engines, etc.

Without prejudice to any other provision of this Act, where an authorised person finds—

- (a) during the annual close season for salmon and trout or the weekly close time—
 - (i) any passage in any fishing engine or contrivance closed or obstructed; or
 - (ii) any fishing engine or any contrivance whatsoever placed or used in contravention of this Act or any instrument made thereunder; or
- (b) at any time, any obstruction other than an obstruction authorised by a licence granted under section 84(1) in the free gap of a fishing weir or in a fish pass; or
- (c) at any time, any obstruction in the waste gate appurtenant to any mill or factory when such waste gate is required by law to be open,

he may open such passages and remove such obstructions, doing no unnecessary damage, and seize and remove all things so found or used contrary to the provisions of this Act or any instrument made thereunder.

178 ^{F17} Powers of inspection, examination and detention.

(1) Every person (in this section referred to as an “authorised officer”) being an officer of the Ministry authorised by the Ministry to exercise the powers conferred by this section, or a member of the Royal Ulster Constabulary or an officer of the Board, is hereby authorised to do all or any of the following things—

- (a) to stop and search any person, conveying or suspected of conveying fish of any kind, or any instrument, poison, explosive or thing used or adapted for taking fish unlawfully and to [^{F18} examine] any fish, instrument or substance

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which that person is found to be conveying, and for that purpose to open and search any vehicle or package in which any fish, instrument or substance is or is suspected of being conveyed;

(b) at all reasonable times to enter upon and have free access to the interior of^[F19] and, where he suspects that an offence under any provision of the Act is being, or has been, committed, to carry out a search of]

(i) any premises in which fish is or is believed to be sold, or kept or exposed for sale or stored; or

(ii) any premises in which any instrument or substance intended for the destruction of fish is or is believed to be kept; or

(iii) the premises of any person engaged in the business of carrying goods for reward; or

(iv) any aerodrome, pier, quay, wharf, jetty or dock or premises thereon; or

(v) any aircraft, boat, railway wagon, motor lorry, cart, or other vessel or vehicle of whatever kind used for the conveyance of goods; or

(vi) any hotel, guest house, restaurant or other premises or place at which board and lodging or meals are provided for reward;

(c) to examine all fish found in any place which he is authorised by this section to enter, and for that purpose to open any package found in such place and containing or suspected of containing fish;

(d) to stop, enter, and search, on any waters, or the banks thereof, any boat used or suspected of being used for fishing or containing or suspected of containing fish unlawfully captured, and to examine all fish and all fishing engines or fishing gear found therein, and for that purpose to open any package which contains or is suspected of containing any fish or fishing engine or fishing gear;

(e) to take, remove, and detain in his custody any fish (either together with or without any package in which the same may be contained) found in the course of the exercise of any of the powers conferred by this section in respect of which an offence under this Act is being or is suspected of being committed, or which have been or are suspected of having been unlawfully captured^[F20] or which are, or are believed to be, liable to forfeiture under this Act];

(f) to take, remove, and detain in his custody any fishing engine, boat, vehicle or thing liable or believed to be liable to forfeiture under this Act;

(g) to demand and take the name and address of the person having custody of any fish or other article which the authorised officer is authorised under this section to examine^[F19], to demand the age of such a person who is apparently under the age of 18], and also to demand and take from such person the name and address of the owner of such fish or other article.

^[F19](h) to demand and take the name and address of any person who is fishing or whom he suspects to be about to fish or to have fished within the preceding half hour and to demand the age of such a person who is apparently under the age of 18.]

(2) Where an authorised officer detains in his custody under the authority of this section any particular thing, he shall as soon as conveniently may be take such steps as may be proper to have the person guilty, or suspected to be guilty, of the offence committed or suspected to have been committed in relation to that thing dealt with according to law.

(3) A person who refuses or fails to give his own name and address^[F19] to the satisfaction of the authorised officer] or the name and address (so far as known to him) of any

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other person, when lawfully demanded under this section, shall be guilty of an offence [^{F21} and shall be liable on summary conviction—

- (a) except in a case such as is mentioned in paragraph (b), to a fine not exceeding £1,000;
 - (b) where the person charged with the offence satisfies the court that any fish in connection with which the offence was committed were sea-fish taken only by rod and line or that any other article in connection with which the offence was committed was used, or (having regard to the circumstances of the offence) was capable of being used, only in connection with fishing for sea-fish by rod and line, to a fine not exceeding £200].
- (4) This section shall not authorise entry into any premises which are used exclusively as a private dwelling.
- (5) In this section “believed” and “suspected” mean respectively believed on reasonable grounds and suspected on reasonable grounds.

F17 Mod., 1967 c.7 (NI)

F18 1968 c.31 (NI)

F19 1991 NI 13

F20 1968 c.31 (NI)

F21 1981 NI 7

179 Persons using, etc., fishing engines to produce fishing licence therefor on demand.

- (1) If any person using [^{F22} at any place] a fishing engine for which a licence is required under this Act, or having such a fishing engine erected or in fishing order ...^{F23} in his possession in or near any fishing place ...^{F23} fails on demand to produce to an authorised person a fishing licence [^{F24} by or by virtue of which he is authorised to use that fishing engine at that place], he shall be guilty of an offence.
- (2) Where a person is charged with an offence under this section consisting of a failure to produce a fishing licence for a fishing engine to which subsection (1) applies, being a fishing engine in his possession, it shall be a good defence to prove that he had the fishing engine in his possession as a manufacturer or seller thereof and not for the purpose of using it.
- (3) A person shall not be charged with an offence under this section consisting of a failure to produce a fishing licence for a fishing engine in any of the circumstances referred to in subsection (1) if upon demand being made by an authorised person for the production of a fishing licence under that subsection, the first-mentioned person—
 - (a) then and there gives to the authorised person his name and address and any evidence of his identity then available and also gives a reasonable explanation of his failure to produce the fishing licence at that time; and
 - (b) [^{F25}within five days] thereafter, and in accordance with any reasonable requirement then communicated to him by the authorised person, produces to the authorised person or to any other person designated by him—
 - (i) a licence authorising the first-mentioned person to use the fishing engine at that place and time [^{F22} or, if the fishing engine is a rod and line which he was using to fish for fish of any kind, and by reason of his age he was at that time exempted by byelaws made under

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section 37(*f*) from the requirement to hold a fishing licence for a rod and line to fish for fish of that kind, evidence of his age]; and
(ii) evidence of the identity of the first-mentioned person.

^{F22}(4) A person who is guilty of an offence under subsection (1) by reason of a contravention of that subsection which consists only of the use or possession of a rod and line shall be liable on summary conviction to a fine not exceeding [^{F26} £200.]

F22 1968 c.31 (NI)

F23 1968 c.31 (NI)

F24 1968 c.31 (NI)

F25 1991 NI 13

F26 1981 NI 7

^{F27}179A Production of permits issued under section 7A.

(1) If any person—

- (a) using at any waters the fishing rights in which are owned by the Department a fishing engine for which a permit is required under section 7A, or
- (b) having such a fishing engine erected or in fishing order in his possession in or near such a place,

fails on demand to produce to an authorised person a permit by or by virtue of which he is authorised to use that fishing engine in those waters, he shall be guilty of an offence.

(2) Subsections (2) to (4) of section 179 shall apply in relation to an offence under subsection (1) in the same manner as those provisions apply to an offence under subsection (1) of that section, but with the omission from subsection (3)(b)(i) of that section of the words “by byelaws made under section 37(1)(f)”.

(3) In this section “authorised person” means—

- (a) an officer appointed by the Department, and
- (b) an officer of the Board.]

F27 1991 NI 13

180 Procedure for disposal of boat or fishing engine seized in certain cases.

Where a persons in exercise of powers conferred on him by this Act, seizes any boat (other than a sea-fishing boat)[^{F28}, fishing engine, vehicle or equipment] and no other person is charged with an offence under any provision of this Act in relation thereto, the first-mentioned person shall, as soon as may be, apply to a court of summary jurisdiction sitting for the petty sessions district in which the boat[^{F28}, fishing engine, vehicle or equipment], as the case may be, was seized for an order for its disposal under this section, and thereupon the following provisions shall have effect:—

- (a) if, in the case of a boat[^{F28} or a vehicle or equipment], the court finds that, at the time of its seizure,[^{F28} the boat, vehicle or equipment] had been, was being, or was about to be, used for a purpose which under this Act[^{F28} or any regulation made under section 124] is unlawful, the court shall order it to be forfeited;

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- (b) if, in the case of a fishing engine, the court finds that it is a fishing engine the use of which is prohibited by law, the court shall order it to be forfeited and destroyed;
- (c) if, in the case of a fishing engine, the court finds that it is a lawful fishing engine which at the time of its seizure had been, was being or was about to be, unlawfully used, the court shall order it to be forfeited;
- (d) in any other case, the court shall order the boat^{F28}, fishing engine, vehicle or equipment] to be returned to the person who appears to the court to be the owner thereof;

and where any fishing engine is forfeited in pursuance of this section any fishing gear appurtenant to or used for the purposes of that fishing engine which has been seized in the exercise of any power conferred by this Act shall also be forfeited.

F28 2001 c. 4 (NI)

181 Procedure for disposal of fish seized or detained.

- (1) Where in the exercise of the powers conferred by section 127(10), 172^{F29}, 174] or 178 a person seizes or detains any fish and the fish is likely to become unfit for human food before the matter can conveniently be dealt with by a court, the succeeding provisions of this section shall have effect.
- (2) If the fish is a fish that may for the time being be lawfully taken, bought and sold, having regard to its kind, size and condition and the season of the year (in this section referred to as “lawful fish”), the person seizing or detaining the fish shall, in accordance with any directions given to him by the Ministry or the Board, sell the fish, unless by virtue of an instruction given to him by the Ministry or the Board on any occasion, or in accordance with the terms of any general authorisation in writing given to him by the Ministry or the Board, he is permitted or required to dispose of it in some other manner.
- (3) If the fish is not lawful fish, the person shall destroy or otherwise dispose of it in accordance with any instruction or authorisation such as is referred to in subsection (2).
- (4) When a person proposes to sell, destroy or otherwise dispose of any fish in pursuance of subsection (2) or (3) he may produce the fish to a justice of the peace, and the justice of the peace may give to the person producing the fish a certificate in writing describing the fish and any marks, peculiarities or other particulars thereof pointed out to him by that person.
- (5) A certificate given by a justice of the peace under subsection (4) shall be *prima facie* evidence of all matters of fact such as are described in that subsection as are stated therein.
- (6) Any sum of money representing the proceeds of sale of fish sold by a person under subsection (2) shall forthwith be paid by that person to the Ministry, or, where the fish is a salmon, an eel or a freshwater fish, to the Board, and—
 - (a) where no other person is charged with an offence under any provision of this Act in relation to the fish, any such sum shall be disposed of as the Ministry or, as the case may be, the Board may direct;

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- (b) where some other person is charged with such an offence and is acquitted, a sum equal in amount to the net proceeds of the sale of the fish shall be paid to that other person by the Ministry or, as the case may be, the Board;
- (c) where some other person is convicted of such an offence, a sum equal in amount to the net proceeds of sale of the fish shall be applied by the Ministry or, as the case may be, the Board, in accordance with section 198, in the same manner as if the fish had been sold under that section.

F29 2001 c. 4 (NI)

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