



# Fisheries Act (Northern Ireland) 1966

## 1966 CHAPTER 17

### PART XII

#### SUPPLEMENTAL PROVISIONS

##### [<sup>F1</sup>GENERAL CONSIDERATIONS]

**F1** [1968 c.31 \(NI\)](#)

##### [<sup>F2</sup>185A Preservation of amenity.]

In the exercise of their functions under this Act the Ministry and the Board shall have regard to the following matters, that is to say, the desirability of—

- (a) preserving natural beauty or amenity,
  - (b) conserving flora, fauna and geological or physiographical features of special interest, and
  - (c) protecting buildings and other objects of architectural or historic interest,
- in so far as those matters are capable of being affected by that exercise.]

**F2** [1968 c.31 \(NI\)](#)

##### [<sup>F3</sup>JURISDICTION OF WATER APPEALS COMMISSION FOR NORTHERN IRELAND UNDER THIS ACT]

**F3** [1991 NI 13](#)

*Status: Point in time view as at 01/04/2007.*

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

## 185B Jurisdiction of Appeals Commission.

<sup>F4</sup> .....]

**F4** S. 185B repealed (1.4.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#), art. 308(2), **Sch. 13** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch.1 Pt. II (subject to art. 3, Sch. 2)

## LEGAL PROCEEDINGS

### 186 Complaints.

[<sup>F5</sup>(1)] A complaint charging the commission of a summary offence under any provision of this Act may be heard and determined by a court of summary jurisdiction whether or not the complainant is an authorised person for the purposes of Part XI.

[<sup>F5</sup>(2) Notwithstanding anything in Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981, summary proceedings for an offence under section 45 (including that section as applied by section 7A), or Part VII may be brought at any time within the period of six months from the date on which evidence, sufficient in the opinion of the Board to justify a prosecution for the offence, comes to the knowledge of the Board; but no such proceedings shall be brought by virtue of this section more than two years after the commission of the offence.

(3) For the purposes of subsection (2) a certificate purporting to be signed by the Chairman of the Board, as to the date on which such evidence as aforesaid came to the knowledge of the Board, shall be conclusive evidence thereof.]

**F5** 1991 NI 13

*S.187 rep. by 1981 NI 7*

### 188 Jurisdiction in offences committed at sea.

(1) Where any part of a petty sessions district adjoins the sea coast or any estuary, the jurisdiction of any court of summary jurisdiction sitting for that district or of any resident magistrate or justice of the peace having authority in that district shall extend to all offences under any provision of this Act committed by any person at sea, in the same manner as it extends to offences committed on land within that district.

(2) Any court of summary jurisdiction or any resident magistrate or justice of the peace referred to in subsection (1) may do all or any of the following acts or things in relation to any such offence as is mentioned in that subsection in like manner as it or he has power to do so in relation to offences committed or goods or chattels situate on land within the petty sessions district for which that court sits or in which that magistrate or justice has authority—

- (a) issue warrants for the arrest of any person so offending, whether such person be on land at any place or at sea;
- (b) employ any person or any ways and means which may be lawfully employed for making such arrest;

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- (c) exercise all lawful powers and remedies for the apprehension, committal or punishment of persons so offending;
- (d) exercise all lawful powers and remedies for the seizure at sea of the boat, goods and chattels of any person so offending.

### 189 Service of documents.

In addition to the methods of service permitted by section 24 of the Interpretation Act (Northern Ireland) 1954, any document which is required or permitted under this Act to be served on any person, being the <sup>[F6]</sup> master, charterer or owner of or a person employed on a boat, may be served on that person by being left at or on board that boat.

F6 1981 NI 7

*Ss.190, 191 rep. by 1981 NI 7*

### 192 Additional defence for persons charged with buying, etc., undersized fish.

- (1) Where, under any provision of this Act, a person is charged with the offence of buying, selling, offering or exposing for sale or, as the case may be, having in his possession or having in his possession for sale <sup>[F7]</sup> any fish caught in contravention of any regulation made under section 124 or] any undersized fish, and he satisfies the court—
  - (a) that he had no reason to suppose that any fish dealt with by him as described in this subsection <sup>[F7]</sup> had been so caught or] were undersized fish; and
  - (b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or by any person under his control;

the charge against that person shall be dismissed.

- (2) In subsection (1) “undersized” in relation to fish of any description means of a size less than the size prescribed with respect to fish of that description by, as the case may be, section 51(2), <sup>[F8]</sup> or 52(2)] <sup>[F9]</sup> or regulations under section 15(1)(c)(iv), byelaws under section 26(1)(f)] or an order under section 127.

F7 1981 NI 7

F8 1981 NI 7

F9 1968 c.31 (NI)

### 193 Detention of offender pending return of warrant of distress.

- (1) Where, upon the conviction of any person for an offence under this Act, a warrant of distress is issued, the court may order the person so convicted to be detained and kept in custody, or, if he is not present, to be arrested and kept in custody, until the day appointed for the return of the warrant of distress (being a day not later than eight days from the day on which the warrant is issued) unless he enters into a recognisance to the satisfaction of the court for his appearance before the court on that day.
- (2) In this section the expression “court” means the court of summary jurisdiction before which the offender is convicted, and “warrant of distress” means a warrant of distress issued under the provisions of the Summary Jurisdiction Acts (Northern Ireland).

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*S.194 rep. by 1981 NI 7*

## FORFEITURES

### **195<sup>F10</sup> Forfeiture of boat, fishing engine, etc., as statutory consequence of conviction.**

- (1) Subject to subsection (2), where a person is convicted of an offence under any provision of this Act, any fish illegally [<sup>F11</sup> either] taken by him or in his possession at the time of the offence and also any boat (other than a sea-fishing boat), and any fishing engine or other thing whatsoever by means or in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited.
- (2) Subsection (1) shall not apply to a vehicle.
- <sup>F11</sup>(3) Where more than twenty per cent. by weight of the fish contained in any package are undersized fish, all the fish contained in that package shall, for the purposes of determining under subsection (1) whether they were illegally taken or are illegally in any person's possession, be deemed to be undersized fish.
- (4) In subsection (3) “undersized” has the same meaning as in section 192(2).]

**F10** Mod., 1967 c.7 (NI)

**F11** 1968 c.31 (NI)

### **196<sup>F12</sup> Non-obligation of court to pronounce or record forfeiture.**

Where, as a statutory consequence of a conviction under this Act, a particular thing stands forfeited, then, notwithstanding any enactment or rule of law, it shall not be necessary for the court—

- (a) to pronounce the fact of such forfeiture at the time of adjudication; or
- (b) to record the fact of such forfeiture in the petty sessions Order Book or in the order of conviction.

**F12** Mod., 1967 c.7 (NI)

### **[<sup>F13</sup>197<sup>F14</sup> Power of court to order forfeiture of vehicle.**

- (1) Where a person is convicted of an offence under any provision of this Act, application may be made, by notice under [<sup>F15</sup> Part VII of the Magistrates' Courts (Northern Ireland) Order 1981], to a court of summary jurisdiction for the petty sessions district in which that person resides, or in which the offence was committed, for an order that any vehicle used by him as an aid to the commission of the offence shall be forfeited.
- (2) An application under this section shall not be made—
  - (a) in any event, until the expiration of the period within which notice of an appeal against the conviction may be given or an application to have a case stated in connection therewith may be made, or

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- (b) where such a notice is given or application made, until the conviction is affirmed or, as the case may be, the appeal is abandoned or dismissed or the application to have a case stated is finally disposed of,
- but, subject to the foregoing provisions of this subsection, shall be made as soon as may be after the conviction in question.
- (3) A court shall not make an order under this section for the forfeiture of a vehicle unless, not less than fourteen days before the date of the hearing, the notice under<sup>F15</sup> Part VII of the said Order of 1981] has been served by the applicant—
- (a) on the person convicted, and
- (b) on any person, other than the person convicted, who appears to the applicant to have an interest in the vehicle.
- (4) Without prejudice to subsection (3) of this section or to<sup>F15</sup> paragraph (4) of Article 76 of the said Order of 1981], on an application by notice under this section the court may direct that the notice be published by the applicant in such manner as the court thinks fit.
- (5) Any person on whom a notice is served under subsection (3), and any other person claiming to have an interest in the vehicle, shall be entitled to appear and be heard and adduce evidence on the hearing of the application.
- (6) Notwithstanding any limitations imposed by<sup>F15</sup> Article 163 of the said Order of 1981], in any proceedings in consequence of an application under this section the court may make such order as to the costs of the application and the proceedings, and the extent to which they are to be paid by any party thereto, as it thinks fit.]

**F13** 1968 c.31 (NI)  
**F14** Mod., 1967 c.7 (NI)  
**F15** 1981 NI 26

## **198**<sup>F16</sup> **Disposal of forfeitures.**

- (1) Where any thing is forfeited under this Act, <sup>F17</sup> and an order for its destruction is not made under section 180(*b*), the person by whom it was seized or any other person in whose custody it is shall<sup>F18</sup> . . . apply to the Ministry for a direction as to the disposal of that thing, and whether or not such an application is made the Ministry may direct], subject to section 199, that it be sold or otherwise disposed of in such manner as the Ministry thinks fit, or be returned to the person who appears to the Ministry to be the owner.

<sup>F18</sup>(1AA) An application under subsection (1) shall be made—

- (a) before the expiration of the period of 28 days from the date of the order by, or the conviction in consequence of, which the thing was forfeited, or
- (b) where notice of appeal against the order or conviction is given, before the expiration of 14 days from the date on which the order or conviction is affirmed or, as the case may be, the appeal is abandoned.]

<sup>F19</sup>(1A) Where the Ministry proposes to direct that any thing be sold under subsection (1) or otherwise disposed of (except by returning it to a person who appears to be its owner), the Ministry shall serve notice in writing of the proposal on the person, if any, in consequence of whose conviction the thing was, or was ordered to be, forfeited, and shall also—

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- (a) serve a like notice on any other person who appears to the Ministry to have an interest in that thing; or
  - (b) if that thing appears not to be the property of the person convicted, if any, and the Ministry is not aware of the name and address of any other person such as is mentioned in paragraph ( a ), publish in one or more than one newspaper circulating in the locality where the offence was committed, or in such other locality as appears to the Ministry to be appropriate, a notice stating that the Ministry proposes to direct as aforesaid.]
- (2) Subject to any directions given by the court on an appeal under section 199, any sum of money representing the net proceeds of the sale under subsection (1) of any thing, shall be disposed of in like manner as is provided with respect to any fine that is or might have been imposed under this Act for the offence in relation to which the forfeiture was incurred.

<b>F16</b>	Mod., 1967 c.7 (NI)
<b>F17</b>	1968 c.31 (NI)
<b>F18</b>	1991 NI 13
<b>F19</b>	1968 c.31 (NI)

### 199 <sup>F20</sup> Appeal from refusal of Ministry to annul forfeiture in certain cases.

- (1) Without prejudice to any right of appeal from a determination or order of a court of summary jurisdiction, where any thing is forfeited under this Act, a person who claims to be entitled to possession of that thing and who is aggrieved by a refusal of the Ministry to return it to him under section 198(1) may, upon giving to the Ministry and (in a case relating to salmon or inland fisheries) to the Board, within fourteen days from—
- <sup>F21</sup>(a) the date of the conviction or court order by virtue of which that thing was forfeited [<sup>F21</sup>, or
  - (b) the date of service on him of any notice which is served as mentioned in subsection (1A) of section 198 or, where no such notice is served on him, the date (or the last date, if more than one) of the publication of any notice such as is mentioned in paragraph ( b ) of that subsection, whichever is the later,]
- notice in writing of his appeal under this section specifying the proceedings in consequence of which the forfeiture was incurred and giving particulars of that thing sufficient to identify it, within twenty-eight days from that date appeal to the county court on the ground that—
- <sup>F22</sup>(i) the use of that thing in any manner referred to in section 180, [<sup>F23</sup> 195 or 197] was without his knowledge, connivance or consent; or
  - <sup>F22</sup>(ii) the contravention of this Act or of any statutory instrument made under this Act by reason of which the forfeiture was incurred was inadvertent or was of such a trivial or insignificant nature that that forfeiture should not be upheld.
- (2) On an appeal under this section, the Ministry and the Board shall be entitled to appear, be heard and adduce evidence before the court.
- (3) On an appeal under this section, the county court may, on being satisfied as to either of the grounds mentioned in subsection (1), annul the forfeiture and direct the return to the appellant of the thing forfeited.

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<sup>F21</sup>(4) A person shall not be entitled to appeal under this section against the refusal of the Ministry to return to him any thing that has been forfeited under this Act if that thing was forfeited by virtue of an order made by a court under section 180 or 197 and he gave notice of appeal under<sup>F24</sup> Article 144 of the Magistrates' Courts (Northern Ireland) Order 1981] against that order or applied for a case stated under<sup>F24</sup> Article 146 of that Order] in connection with it.]

**F20** Mod., 1967 c.7 (NI)

**F21** 1968 c.31 (NI)

**F22** 1968 c.31 (NI)

**F23** 1968 c.31 (NI)

**F24** 1981 NI 26

## 200 Forfeiture of licences.

- (1) If the person who is the holder of a licence issued by the Board is convicted of an offence under any provision of this Act, the court may direct the licence to be forfeited and declare that person to be disqualified for holding a licence of the same kind during such period as the court may direct, being a period not exceeding one year in the case of a first conviction and not exceeding five years in the case of a second or subsequent conviction.
- (2) If a person who is not the holder of a licence is convicted of an offence under any provision of this Act, the court may declare that person to be disqualified for holding a licence during such period as the court may direct, being a period not exceeding one year in the case of a first conviction, and not exceeding five years in the case of a second or subsequent conviction.
- (3) Where under section 74(1) of the Foyle Fisheries Act (Northern Ireland) 1952 a licence issued by the Foyle<sup>F25</sup>, Carlingford and Irish Lights] Commission (in this section referred to as “the Commission”) is forfeited and the person who was the holder of that licence is declared to be disqualified for holding a licence of the Commission during a specified period, then, as a statutory consequence of such forfeiture and disqualification,—
  - (a) any corresponding licence issued by the Board which is held by that person shall stand forfeited; and
  - (b) that person shall be disqualified for holding such a licence of the Board during the same period as he is disqualified for holding a licence of the Commission.
- (4) Where a licence is directed to be forfeited under subsection (1) or where it stands forfeited under subsection (3) it shall thereupon cease to be in force.
- (5) Where a person is convicted by a court of an offence against this Act or against the Foyle Fisheries Acts, the clerk of the court shall, as soon as may be, in either case forward to each of the Board and the Commission a duly authenticated certificate of the conviction,<sup>F26</sup> . . . .
- (6) In this section “licence”, in relation to a licence of the Board, means a fishing licence or a dealer's licence, and for the purposes of this section [<sup>F27</sup> byelaws may specify the classes of fishing licence which are to be deemed to be licences of the same kind].

**F25** SI 1999/859

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**F26** 1991 NI 13  
**F27** 1968 c.31 (NI)

## PENALTIES

### 201 Penalties for offences.

- (1) <sup>F28</sup> A person who commits an offence under any provision of this Act for which a penalty is not provided by any provision of this Act other than this section shall be liable on summary conviction to a fine not exceeding [<sup>F29</sup> £500].
- (2) The Board may prescribe lower penalties for breach of a particular byelaw, and the Ministry may prescribe lower penalties for breach of a particular regulation, than the penalty provided under subsection (1), and that subsection shall, in any such case, be construed as if such lower penalties were substituted for that so provided.

**F28** Mod., 1967 c.7 (NI)  
**F29** 1981 NI 7

### 202 Continuing offences.

- (1) Where a person is convicted of an offence under any provision of this Act and the contravention in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and, subject to subsections (3) and (4), shall be liable on summary conviction, in addition to any other penalty, to a fine not exceeding [<sup>F30</sup> £50] for each day on which the contravention is so continued.
- (2) An offence under this section shall be a continuing offence and accordingly fresh proceedings in respect thereof may be taken from time to time.
- (3) In the application of this section in relation to an offence under section 73 [<sup>F31</sup> 74 or 79], subsection (1) shall have effect as if for the [<sup>F31</sup> word “50”] there were substituted the [<sup>F31</sup> word “200 ”].

*Subs.(4) rep. by 1981 NI 7*

**F30** 1981 NI 7  
**F31** 1981 NI 7

### 203 Disposal of fines.

- (1) Every fine imposed for an offence under any provision of this Act, other than an offence under Part VIII or IX or under any other such provision in its application to sea-fisheries, shall, notwithstanding any other enactment, be paid—
- if the offence was committed in the Londonderry Area, in like manner as is provided by section 77 of the Foyle Fisheries Act (Northern Ireland) 1952 with respect to fines imposed for offences under that Act; and
  - in any other case, subject to subsection (2), to the Board.



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- (2) When a fine has been imposed for an offence under any provision of this Act in a case to which subsection (1)( *b* ) applies, and a member of the Royal Ulster Constabulary was the means of bringing to justice the person by whom the offence was committed, and the court imposing the fine so certifies, then—
- (a) one-third of the fine shall be paid to the Ministry of Home Affairs<sup>F32</sup> and shall be appropriated in aid of the moneys provided by [<sup>F33</sup> the Parliament of the United Kingdom] for defraying the costs, charges and expenses of the said Constabulary; and
  - (b) the remainder of the fine shall be paid to the Board.

**F32** Now S of S, SI 1973/2163

**F33** SI 1973/2163

## EVIDENCE

### 204 Proof of documents.

<sup>F34</sup> Without prejudice to [<sup>F35</sup> Article 7 of the Departments (Northern Ireland) Order 1999], in any proceedings, a document purporting to be a copy of any document or instrument in writing, being a document or instrument made or issued (whether before or after the passing of this Act) under the Fisheries Acts or this Act, but not being a statutory rule to which [<sup>F36</sup> Article 9 of the Statutory Rules (Northern Ireland) Order 1979 ] applies, shall if it is certified to be a true copy—

- (a) in the case of a document or instrument made or issued or deemed to be made or issued by the Board, under the seal of the Board; or
- (b) in the case of a document or instrument made or issued or deemed to be made or issued by the Ministry, under the hand of a Secretary or Assistant Secretary of the Ministry,

be *prima facie* evidence of the document or instrument and of the facts—

- (i) that the document or instrument was duly made; and
- (ii) that all matters and things by the Fisheries Acts or this Act required to be done previously to the making or issue of the document or instrument were duly done and performed.

**F34** Mod., 1967 c.7 (NI)

**F35** 1999 NI 1

**F36** 1979 NI 12

### 205 Recovery and evidence of expenses.

- (1) Where under this Act the Ministry is or the Board are authorised to recover from any person the expenses of any work,—
- (a) the Ministry or, as the case may be, the Board may certify the amount of those expenses; and
  - (b) the amount so certified shall be recoverable by the Ministry or, as the case may be, the Board as a debt due to it or them, and, without prejudice to any right of the Ministry or the Board to sue in the High Court for the recovery

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thereof, shall be recoverable in the county court by civil bill or summarily as a civil debt.

- (2) Where, in pursuance of subsection (1), an action is taken by the Ministry or the Board in the county court for the recovery of the amount of any expenses, the court shall have jurisdiction to hear and determine the action notwithstanding that, by reason of the extent of the claim or otherwise, the case would not, but for this provision, be within the jurisdiction of a county court.
- (3) A certificate under subsection (1) shall be *prima facie* evidence of the amount of the expenses stated therein and of the liability of the person named therein to pay that amount and of the right of the Ministry or the Board, as the case may be, to recover that amount.

## INTERPRETATION

### 206<sup>F37</sup> Interpretation.

(1) In this Act—

“angling for salmon or trout” means angling for salmon or trout with rod and line;

“annual close season for angling for salmon” has the meaning given to it by section 95(1);

“annual close season for angling for trout” has the meaning given to it by section 95(2);

“annual close season for eels” has the meaning given to it by section 107;

“annual close season for pollen” has the meaning given to it by section 105;

“annual close season for salmon and trout” has the meaning given to it by section 89;

[<sup>F38</sup>“the Appeals Commission” has the meaning given in section 11A(3);]

“authorised person”, for the purposes of Part XI, has the meaning given to it by section 166;

“bag net” includes any net of similar construction to a bag net;

“bank” includes the sea-shore and any land adjacent thereto;

“the Board” means the Fisheries Conservancy Board for Northern Ireland;

“boat” includes any ship, barge, cot, curragh or vessel;

“box”, in relation to a fishing weir, includes a crib or cruive;

[<sup>F39</sup>“bring to land” in relation to fish includes bringing the fish within the limits of a harbour;]

[<sup>F40</sup>“brown eels” means eels other than silver eels;]

“byelaws” means byelaws made by the Board under section 26;

*Definitions rep. by 1981 NI 7*

“dam” means a dam, weir, dyke, sluice, embankment or structure built or placed in or in connection with any river for or in connection with the sustaining of water for any purpose [<sup>F40</sup> but does not include an embankment erected solely to prevent erosion of the banks of the river or to protect adjacent lands from flooding];

“daytime” means the period between sunrise and sunset;

“dealer's licence” has the meaning given to it by section 113(1);

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“deleterious matter” means any substance (including an explosive and an anaesthetic) the entry or discharge of which into any waters is liable to render those or any other waters poisonous or injurious to fish, spawning grounds or the food of any fish, or to injure fish in their value as human food or to impair the usefulness of the bed and soil of any waters as spawning grounds or their capacity to produce the food of fish;

“district board” means any of the boards of conservators referred to in section 34(2);

“draft net” includes a seine;

“eels” means fresh water eels;

“eel weir” means a fishing weir used solely for taking eels;

“estuary” includes a harbour or roadstead;

“financial year”, in relation to the Board, means a year ending on 31st December;

“fish” includes shell-fish;

[<sup>F39</sup> “fish farm” shall be construed in accordance with section 10;]

“fish pass” means a channel for the free run or migration of fish in, over or in connection with an obstruction in a river, lake or watercourse and includes a fish ladder or any other contrivance which facilitates the passage of fish;

“fisheries” includes all fisheries, whether several or public;

“the Fisheries Acts” means the Fisheries Acts (Northern Ireland) 1842 to 1954;

“fishing engine” means any engine, net, instrument or device whatsoever capable of being used for taking or killing fish;

“fishing licence” means a fishing licence issued by the Board under Part III;

“fishing weir” means any erection, structure or obstruction fixed to the soil across or partly across a river and incorporating one or more openings wherein fish may be taken which is used for the purpose of taking, or facilitating the taking of, fish; but does not include a fixed engine;

“fixed engine” means—

(a) any stake, bag, stop and still or fixed draft net; or

(b) any net, implement, engine or device fixed to the soil or secured by anchors or held by hand or made stationary in any other way and used solely for the purpose of taking or facilitating the taking of fish, not being a fishing weir, or a rod and line (however used)<sup>F38</sup> or a handline];

“the Foyle Fisheries Acts” means the Foyle Fisheries Acts (Northern Ireland) 1952 and 1962;

“free gap” means a free gap in a fishing weir;

“freshwater fish” means any fish living in fresh water exclusive of fish of a kind that migrates to or from tidal waters;

*Definitions rep. by 1968 c.31 (NI); 1981 NI 7*

“heck” means a grating mounted at the upstream end of a box in a fishing weir and so constructed as to prevent the passage of fish without obstructing the flow of water;

“inquiry” means an inquiry conducted under section 20;

“inland fishery” means any fishery of whatsoever kind, other than a salmon fishery, in inland waters;

“inland waters” means the waters of any river above the boundary between the tidal and freshwater portions thereof, and the waters of any freshwater lake;

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“inscales” means a pair of gratings mounted at the downstream end of a box in a fishing weir and converging towards the centre in the upstream direction to form between the upstream ends a vertical gap, the effect of the arrangement being to permit the passage of fish into the box and hinder their escape therefrom;

“instrument” and “statutory instrument”, when used in relation to an instrument in writing, have the same meaning as in section 1 of the Interpretation Act (Northern Ireland) 1954, and a reference to an instrument, or to an instrument of any kind, made under this Act includes a reference to an instrument deemed to be made under this Act;

“lawful fishing engine” means any fishing engine the use of which (except during particular times, in particular places, or in a particular manner) is not prohibited by or under this Act;

“licensee”, in relation to [<sup>F41</sup> a shell-fish fishery licence] means the person for the time being entitled to that licence;

“the Londonderry Area” has the meaning given to it by section 2(1) of the Foyle Fisheries Act (Northern Ireland) 1952 ;

“the Ministry” means the Ministry of Agriculture;

“the Minister” means the Minister of Agriculture;

“net” includes all descriptions of tackle, trawl, trammel, stake, bag, coghill, fyke, eel, haul, draft and seine nets, and all other engines or devices, of whatsoever construction or materials, or howsoever known or styled, which are used for the taking of fish;

[<sup>F42</sup>“Northern Ireland zone” has the same meaning as in the Northern Ireland Act 1998;]

[<sup>F43</sup>“the Newry Area” has the meaning given to it by section 2(1) of the Foyle Fisheries (Northern Ireland) Act 1952;]

“open fishing season” in relation to fish of any kind means any season that is not the annual close season for such fish;

“owner”, in relation to land, has the same meaning as in section 2 of the Public Health (Ireland) Act 1878 ;

*Definitions rep. by 1981 NI 7*

[<sup>F40</sup> “package” includes any tank or other container;]

“private water bailiff” means a water bailiff appointed under section ...<sup>F44</sup> 170;

“regulations” means regulations made by the Ministry;

“river” includes a tributary or a branch of a river and any stream or watercourse;

“rod and line” means a fishing engine consisting of a single rod and line;

“salmon” includes all fish of the salmon kind and sea trout;

“salmon fishery” includes any salmon fishery, whether in fresh water, any estuary or the sea;

“salmon river” means any river that is frequented by salmon;

*Definition rep. by 1968 c.31 (NI)*

“salmon weir” means a fishing weir used for taking salmon;

“sea-fish” means fish of any kind found in the sea, but does not include salmon;

“sea-fishery” includes any fishery, other than a salmon fishery, in the sea or an estuary;

“sea-fishing boat” does not include a boat used for fishing for salmon in the sea;

“several fishery” means any fishery lawfully possessed and enjoyed as such under any title whatsoever, being a good and valid title at law, exclusively of the public

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by any person or persons whether in navigable waters or in waters not navigable, and whether the soil covered by such waters be vested in such person or persons or in any other person;

“shell-fish” includes all edible aquatic molluscs and crustaceans;

[<sup>F39</sup> “shell-fish fishery licence” means a licence granted under section 131 and includes a licence which is deemed to be such a licence by virtue of paragraph 2 of Schedule 3 to the Fisheries Amendment (Northern Ireland) Order 1981 ;]

[<sup>F40</sup> “silver eels” means physiologically maturing eels in spawning livery;]

*Definition rep. by 1981 NI 7*

“stake net” includes a stake weir and any fixed engine of similar construction to a stake net;

“statutory provision” has the same meaning as in section 1(*f*) of the Interpretation Act (Northern Ireland) 1954 ;

“substance” includes any liquid or gas;

“trout”, when used without any qualification, includes—

- (a) all fish of the brown trout kind; and
- (b) save in Part III, sections 51 and 71, Part VI (except as provided in section 106), Part VII and Schedule 4, pollen or fresh-water herring;

but does not include sea trout or rainbow trout;

“unseasonable” when used with respect to any fish means a fish which is about to spawn, or which has spawned and has not recovered from spawning;

“waste lands” includes any uncultivated or unoccupied lands;

“waters” includes any river, lake, watercourse or estuary or any part of the sea [<sup>F42</sup> within the Northern Ireland zone];

*Definition rep. by SI 2002/790*

“weekly close time” has the meaning assigned to it by section 97.

- (2) References in this Act to a fish or to any kind of fish shall be construed as including—
  - (a) references to part of a fish or to part of a fish of that kind; and
  - (b) references to the spawn, fry, brood or young of fish or of fish of that kind.
- (3) Where an order under section 16 defines the mouth of a river, the mouth of a tributary river, the boundary between the tidal and freshwater portions of a river, the point or points to or from which distances are to be measured ... <sup>F45</sup> any areas within which it is prohibited to use or practice certain methods of fishing, [<sup>F40</sup> or the boundary at sea between so much of [<sup>F42</sup> the Northern Ireland zone] as is within, and so much thereof as is without, the Londonderry Area,] such mouth, boundary, point or points, or areas shall for all purposes of and all proceedings under this Act be as so defined for the time being.
- (4) References in this Act to the landing of fish shall not include the landing of fish which have previously been landed outside Northern Ireland.
- (5) Subject to section 127(11), references in any provision of this Act which relates to the buying, selling, offering or exposing for sale or having possession of fish of any kind to fish of that kind shall not be construed as including references to fish of that kind which have been [<sup>F38</sup> preserved by drying, smoking, cooking or canning].

<sup>F40</sup>(5A) References in section 111 ... <sup>F44</sup> to the buying, selling, offering or exposing for sale or having possession for sale, or possession, of fish of any kind during any particular period shall not be construed as including references to the buying, selling, offering or

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exposing for sale or having possession for sale, or possession, of fish of that kind which have been lawfully taken or killed outside that period and preserved by freezing.]

- (6) Any reference in this Act to an offence under a provision of this Act shall include a reference to an offence under any statutory instrument made by virtue of a provision of this Act.

F37 Mod., 1967 c.7 (NI)  
 F38 1991 NI 13  
 F39 1981 NI 7  
 F40 1968 c.31 (NI)  
 F41 1981 NI 7  
 F42 SI 2002/790  
 F43 SI 1999/859  
 F44 1981 NI 7  
 F45 1968 c.31 (NI)

## 207 Extension to hand lines of provisions relating to angling.

- (1) Subject to subsection (2), the provisions of this Act relating to angling shall extend to fishing by hand line, and accordingly any reference to a rod and line shall be construed as including a reference to a hand line.
- (2) The provisions to which subsection (1) applies shall not include any provision of Part III ...<sup>F46</sup>.

F46 1968 c.31 (NI)

## SAVING

## [<sup>F47</sup>208 Saving for right of owner to take materials from streams

Nothing in this Act other than section 48 shall prejudice the right of any owner to take materials from any stream.]

F47 2001 c. 4 (NI)

## TRANSITIONAL

## 209 Transitional provisions.

Without prejudice to the provisions of section 29 of the Interpretation Act (Northern Ireland) 1954<sup>F48</sup> . . .

- (a) any statutory instrument made under the Fisheries Acts or any other enactment repealed by this Act in relation to any matter with respect to which an instrument may be made by the Ministry under any provision of this Act

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and in force immediately before the commencement of that provision shall thereafter continue in force and be deemed to be an instrument made under that provision;

- (b) any statutory instrument made under the Fisheries Acts in relation to any matter with respect to which byelaws may be made under section 26 and in force immediately before the commencement of Part II shall thereafter continue in force and shall be deemed to be a byelaw;
- (c) any thing prescribed under any provision of the Fisheries Acts otherwise than by a statutory instrument and standing unrevoked immediately before the commencement of any provision of this Act corresponding to the first-mentioned provision shall be deemed to have been prescribed under that provision of this Act;
- (d) any enactment referring to a board of conservators or the district of such a board shall, so far as applicable, be construed as referring to the Board and to any area within which the Board are authorised by this Act to exercise their functions;
- (e) any proceedings taken in respect of a contravention of any provision of the Fisheries Acts or any other enactment, being an enactment repealed by this Act, or any statutory instrument made under those Acts or any such enactment, shall be prosecuted and continued under the corresponding provision of this Act, and in relation to those proceedings that corresponding provision shall have effect as if for the penalties provided for a contravention thereof there were substituted the penalties provided for a contravention of the first-mentioned provision.

F48 1983 NI 21

#### GENERAL

*S.210, with Schedule 7, effects amendments.*

*S.211, with Schedule 8, effects repeals*

#### **212 Application to the Londonderry Area.**

- (1) Without prejudice to any other provision of this Act the following provisions shall not (except in so far as any of them have effect with respect to sea-fisheries) apply to the Londonderry Area<sup>F49</sup> or the Newry Area], that is to say,—  
sections 13 to 16, Parts II and III <sup>F50</sup> (except section 45),] sections 46 to 50, 62 to 73 and 78 to 88, Part VI, and sections 110, 111, 120(5), 160, 161, 170<sup>F51</sup>, 170A and 171] to 174,<sup>F51</sup> 175(2),] <sup>F52</sup> 176 to<sup>F51</sup> 179 and 180 to] 181 and 197].
- (2) In the application of this Act to the Londonderry Area<sup>F49</sup> or the Newry Area]
  - (a) references to the Board shall be construed as references to the Foyle<sup>F49</sup>, Carlingford and Irish Lights] Commission; and
  - (b) references to byelaws shall be construed as references to regulations made under section 13 of the Foyle Fisheries Act (Northern Ireland) 1952 .
- (3) The Ministry shall consult with the Foyle<sup>F49</sup>, Carlingford and Irish Lights] Commission before—

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- (a) commencing to develop or improve any waters in the Londonderry Area<sup>F49</sup> or the Newry Area] for angling, under section 2 or 3; or
- (b) approving, under section 6, any programme relating to such waters.

<b>F49</b>	SI 1999/859
<b>F50</b>	1968 c.31 (NI)
<b>F51</b>	1991 NI 13
<b>F52</b>	1968 c.31 (NI)

### **213 Commencement.**

*Subs.(1)(2) rep. by SLR 1973*

#### **(3) Commencement**

### **214 Short title.**

This Act may be cited as the Fisheries Act (Northern Ireland) 1966.



**Status:**

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**Changes to legislation:**

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