



# Fisheries Act (Northern Ireland) 1966

## 1966 CHAPTER 17

### PART XII

#### SUPPLEMENTAL PROVISIONS

##### FORFEITURES

#### **195<sup>F1</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>F2</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>F2</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).]

**F1** Mod., 1967 c.7 (NI)

**F2** 1968 c.31 (NI)

#### **196<sup>F3</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—

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- (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.

**F3** Mod., 1967 c.7 (NI)

**[<sup>F4</sup>197 Power of court to order forfeiture of vehicle.**

<sup>F5</sup>

- (1) Where a person is convicted of an offence under any provision of this Act, application may be made, by notice under [<sup>F6</sup> Part VII of the Magistrates' Courts (Northern Ireland) Order 1981], to a court of summary jurisdiction <sup>F7</sup> ..., 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
  - (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>F6</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>F6</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>F6</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.]

**F4** 1968 c.31 (NI)

**F5** Mod., 1967 c.7 (NI)

**F6** 1981 NI 26

**F7** Words in s. 197(1) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 58(4), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

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## 198<sup>F8</sup> Disposal of forfeitures.

- (1) Where any thing is forfeited under this Act, [<sup>F9</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>F10</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>F10</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>F11</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—

- (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>F8</b>	Mod., 1967 c.7 (NI)
<b>F9</b>	1968 c.31 (NI)
<b>F10</b>	1991 NI 13
<b>F11</b>	1968 c.31 (NI)

## 199<sup>F12</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<sup>F13</sup> . . . , within fourteen days from—
- <sup>F14</sup>(a) the date of the conviction or court order by virtue of which that thing was forfeited [<sup>F14</sup>, or

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- (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>F15</sup>(i) the use of that thing in any manner referred to in section 180, [<sup>F16</sup> 195 or 197] was without his knowledge, connivance or consent; or
- <sup>F15</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 <sup>F17</sup> . . . 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.
- <sup>F14</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>F18</sup> Article 144 of the Magistrates' Courts (Northern Ireland) Order 1981] against that order or applied for a case stated under [<sup>F18</sup> Article 146 of that Order] in connection with it.]

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

**F13** Words in s. 199(1) repealed (1.6.2009) by Public Authorities (Reform) Act (Northern Ireland) 2009 (c. 3), ss. 1(3)(b), 6, 7(1), Sch. 1 Pt. 2 para. 3(41)(a), **Sch. 3** (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, **art. 2(b)(e)**

**F14** 1968 c.31 (NI)

**F15** 1968 c.31 (NI)

**F16** 1968 c.31 (NI)

**F17** Words in s. 199(2) repealed (1.6.2009) by Public Authorities (Reform) Act (Northern Ireland) 2009 (c. 3), ss. 1(3)(b), 6, 7(1), Sch. 1 Pt. 2 para. 3(41)(b), **Sch. 3** (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, **art. 2(b)(e)**

**F18** 1981 NI 26

## 200 Forfeiture of licences.

- (1) If the person who is the holder of a licence issued by [<sup>F19</sup>the Department] 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

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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>[F20]</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 <sup>[F19]</sup>the Department] which is held by that person shall stand forfeited; and
  - (b) that person shall be disqualified for holding such a licence of <sup>[F19]</sup>the Department] 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 <sup>[F19]</sup>the Department] and the Commission a duly authenticated certificate of the conviction,<sup>F21</sup> . . . .
- (6) In this section “licence” , in relation to a licence of <sup>[F19]</sup>the Department], means a fishing licence or a dealer's licence, and for the purposes of this section <sup>[F22]</sup><sup>[F23]</sup>regulations] may specify the classes of fishing licence which are to be deemed to be licences of the same kind].

**F19** S. 200(1)(3)(5)(6): words in Act substituted (1.6.2009) by Public Authorities (Reform) Act (Northern Ireland) 2009 (c. 3), ss. 1(3)(b), 7(1), **Sch. 1 Pt. 2 para. 3(1)(a)** (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, **art. 2(a)(b)**

**F20** SI 1999/859

**F21** 1991 NI 13

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

**F23** S. 200(6): 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)**

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