



# Fisheries Act (Northern Ireland) 1966

## 1966 CHAPTER 17

### PART IV

#### PROTECTION OF FISHERIES

##### OBSTRUCTIONS TO PASSAGE OF FISH

#### **58 Provisions in relation to sluices, etc., of mills deriving water from rivers.**

- (1) The following provisions shall apply in relation to every mill<sup>[F1]</sup>, whether or not for the time being it is used or capable of being used as such,] which derives its supply of water from a <sup>[F2]</sup>river]:—
- (a) if there is a fish pass in the dam belonging to the mill, or if the dam is a weir and is not provided with a channel such as is mentioned in paragraph ( b), the<sup>[F1]</sup> mill sluice nearest to the point where water is abstracted from a river for the mill] and the waste gates or over-falls shall be kept shut—
    - (i) for twenty-four consecutive hours in each week between the hour of six o'clock on Saturday afternoon and six o'clock on the next-following Monday morning; and
    - (ii) during any other period when the mill is not being worked;
  - (b) if there is no fish pass in the dam belonging to the mill and if the waste gate on the upstream side of the mill sluices is erected in a channel suitable for the passage of fish, the mill sluices shall be kept shut and the waste gate kept open during the periods specified in sub-paragraphs (i) and (ii) of paragraph ( a).
- (2) <sup>[F1]</sup>Subject to subsection (3),] if the provisions of paragraph ( a) or paragraph ( b) of subsection (1) are not complied with, the occupier of the mill shall be guilty of an offence ... <sup>F3</sup>.

<sup>[F1]</sup>(3) The occupier of a mill shall not be guilty of an offence under this section if—

- (a) he proves—
  - (i) that compliance with paragraph (a) or (b) (whichever is applicable) of subsection (1) would have injuriously interfered with the machinery or water power of the mill, and

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*Changes to legislation: There are currently no known outstanding effects for the Fisheries Act (Northern Ireland) 1966, Section 58. (See end of Document for details)*

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- (ii) that the mill was in regular use immediately before the date of the coming into operation of Article 15 of the Fisheries (Amendment) (Northern Ireland) Order 1991 and that there has been no alteration of use since that date; or
  - (b) he is the holder of a certificate issued by the Department under subsection (3A) and has not acted in contravention of that certificate.
- (3A) Where the Department is satisfied that—
- (a) having regard to the nature of the dam or of the river or of the kinds of fish frequenting or likely to frequent the river, it is unnecessary or unreasonable to insist upon compliance with the requirements of subsection (1); or
  - (b) alternative arrangements are provided to protect and facilitate the free passage of fish,
- the Department may issue certificates exempting, in such circumstances, to such extent and subject to such conditions as it considers appropriate, the occupiers of mills from the requirements of subsection (1).
- (3B) Where a certificate has been granted under subsection (3A) the Department may at any time—
- (a) revoke the certificate; or
  - (b) vary or revoke any condition for the time being attaching to the certificate; or
  - (c) attach any condition or any further condition to the certificate;
- but no certificate shall be revoked nor shall any condition be varied or any condition or further condition imposed unless at least 28 days' notice of the Department's intention to make the revocation or, as the case may be, to vary or impose the condition, has been given to the person who appears to the Department to be for the time being entitled to the benefit of the certificate, and the Department shall consider representations made by him before the expiration of the notice.
- (3C) Subsection (3D) shall apply where the Department—
- (a) under subsection (3A), refuses to grant a certificate or grants a certificate subject to conditions,
  - (b) under subsection (3B), revokes a certificate, varies or revokes any condition for the time being attaching to a certificate, or attaches any condition or any further condition to a certificate.
- (3D) Where this subsection applies—
- (a) the Department shall give to the applicant or the holder of the certificate, as the case may be, notification of the reasons for its actions; and
  - (b) the applicant or the holder of the certificate may, within 28 days from the date on which such notification is given, appeal to the Appeals Commission.
- (3E) Where—
- (a) it appears to the Department that a mill has fallen into disuse, and
  - (b) the Department is unable, after making reasonable enquiries, to ascertain the identity of the owner or occupier of the mill,
- the Department may take such steps as it considers necessary to ensure that the mill sluices and the waste gates or over-falls of the mill are kept shut.]
- (4) In this section “mill sluices” means the sluices<sup>[F1</sup> or gate valves] which admit water to a mill.

**Changes to legislation:** There are currently no known outstanding effects for the Fisheries Act (Northern Ireland) 1966, Section 58. (See end of Document for details)

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| <b>F1</b> | 1991 NI 13     |
| <b>F2</b> | 1968 c.31 (NI) |
| <b>F3</b> | 1981 NI 7      |

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