



# Fisheries Act (Northern Ireland) 1966

## 1966 CHAPTER 17

### [<sup>F1</sup>PART III

#### FISHING LICENCES

F1 1968 c.31 (NI)

#### 37 Power to make [<sup>F2</sup>regulations] respecting fishing licences.

[<sup>F3</sup>(1)] [<sup>F4</sup>Regulations] made by [<sup>F5</sup>the Department] under subsection (1) of section 26 may (without prejudice to the provisions of paragraphs ( g), ( h) and ( i) of that subsection or to the provisions of section 70(2)( a), ( c) or ( d)),—

- (a) authorise the issue of different classes of fishing licence in respect of any one or more than one kind of fish, or any one or more than one description of fishing engine, specified in the [<sup>F4</sup>regulations] ;
- (b) prescribe different forms, periods of duration, territorial limitations, terms and conditions, or duties, in respect of different classes of licence and, in the case of different classes of licence, provide that reduced duties may be paid by [<sup>F6</sup>persons of such class or description as is specified in the [<sup>F4</sup>regulations]];
- [<sup>F3</sup>(c) limit, subject to subsection (2), the number of licences which may be issued to authorise the use of fishing engines for the taking of fish;]
- (d) prescribe the records to be kept and the returns to be made by the holder of any licence to fish with rod and line or hand line;
- (e) provide for an appeal to [<sup>F7</sup>a magistrates' court] against the revocation by [<sup>F5</sup>the Department] of, or the refusal of [<sup>F5</sup>the Department] to issue or renew, any fishing licence;
- (f) provide for the exemption of persons who have not attained the age of sixteen, or such other age as may be prescribed by the [<sup>F4</sup>regulations] , from the requirement to hold a fishing licence to fish for, take or kill fish of any kind so prescribed by rod and line or hand line.

[<sup>F3</sup>(2) Nothing in [<sup>F4</sup>regulations] made under subsection (1)(c) shall affect the lawful use by any person of—

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- (a) a rod and line or a handline in the freshwater portion of any river or lake,
- (b) a draft net in the circumstances specified in section 71(2)(d),
- (c) a fishing weir or fixed engine in the circumstances specified in section 73(1).

(3) In subsection (1)(c)—

“licences” means licences of any class specified in the [<sup>F4</sup>regulations], and  
“fish” does not include eels.]

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| <b>F2</b> | S. 37 heading: word in Act substituted (1.6.2009) by <b>Public Authorities (Reform) Act (Northern Ireland) 2009 (c. 3), ss. 1(3)(b), 7(1), Sch. 1 Pt. 2 para. 3(1)(c)</b> (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, <b>art. 2(a)(b)</b> |
| <b>F3</b> | 1991 NI 13   |
| <b>F4</b> | S. 37: word in Act substituted (1.6.2009) by <b>Public Authorities (Reform) Act (Northern Ireland) 2009 (c. 3), ss. 1(3)(b), 7(1), Sch. 1 Pt. 2 para. 3(1)(c)</b> (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, <b>art. 2(a)(b)</b>         |
| <b>F5</b> | S. 37(1): words in Act substituted (1.6.2009) by <b>Public Authorities (Reform) Act (Northern Ireland) 2009 (c. 3), ss. 1(3)(b), 7(1), Sch. 1 Pt. 2 para. 3(1)(a)</b> (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, <b>art. 2(a)(b)</b>     |
| <b>F6</b> | 2001 c. 4 (NI)   |
| <b>F7</b> | Words in s. 37(1)(e) substituted (1.6.2009) by <b>Public Authorities (Reform) Act (Northern Ireland) 2009 (c. 3), ss. 1(3)(b), 7(1), Sch. 1 Pt. 2 para. 3(9)</b> (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, <b>art. 2(a)(b)</b>          |

### 38 Arrangements for the issue of certain licences.

[<sup>F8</sup> The Department] may make arrangements for the issue through agents of fishing licences of such classes as may be prescribed.

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| <b>F8</b> | S. 38: words in Act substituted (1.6.2009) by <b>Public Authorities (Reform) Act (Northern Ireland) 2009 (c. 3), ss. 1(3)(b), 7(1), Sch. 1 Pt. 2 para. 3(1)(a)</b> (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, <b>art. 2(a)(b)</b> |
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### 39 Angling licences to be non-transferable.

A fishing licence to fish with rod and line or hand line shall be used only by the person to whom it is issued and shall not be transferable.

### 40 Effect of fishing licences.

A fishing licence shall operate in accordance with the terms of the [<sup>F9</sup>regulations] under which it is issued and of the licence but shall not be construed—

- (a) as conferring on any person using any fishing engine any right of fishing in any place, being a right which he does not otherwise possess; or
- (b) as affecting the rights of any person other than the licence-holder or, in the case of a licence to which section 39 does not apply, the person using the fishing engine; or
- (c) as making legal any fishing engine that would otherwise be illegal, or as implying any recognition of the legality of any fishing engine; or
- (d) as rendering lawful anything which is unlawful by virtue of any enactment other than this Part.

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**F9** S. 40: 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)**

#### **41 Prohibition of unlicensed fishing.**

- (1) Unless expressly empowered to do so under any provision made by or under this Act or any other enactment for the time being in force, a person shall not fish for, take or kill salmon, eels or any freshwater fish except under the authority of a [<sup>F10</sup>fishing licence] issued pursuant to [<sup>F11</sup>regulations] made under this Act and in accordance with the terms and conditions of that [<sup>F10</sup>fishing licence] and of the [<sup>F11</sup>regulations] relating to it.
- (2) Unless expressly empowered as mentioned in subsection (1), a person shall not have in his possession in or near any fishing place any fishing engine for the taking or killing of salmon, eels or freshwater fish which is erected or in fishing order, unless there is in force a fishing licence by or by virtue of which he is authorised to use that fishing engine at that place.
- (3) Subject to section 43, any person who acts, or causes or permits any other person to act, in contravention of subsection (1) or (2) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding—
  - (a) where such contravention consists only of the unlicensed but otherwise lawful use or possession of a rod and line or hand line, [<sup>F12</sup> £200]; and
  - (b) in any other case, [<sup>F12</sup> £500].
- [<sup>F13</sup>(4) Nothing in this section shall apply to a person—
  - (a) who fishes lawfully by rod and line in a production pond at a fish farm operated by the holder of a fish culture licence granted under section 11; or
  - (b) who has for that purpose in his possession a rod and line at or near a fish farm.
- (5) In subsection (4)(a) "production pond" means a pond—
  - (a) used for the artificial propagation and culture of fish, and
  - (b) designated for the purposes of this subsection as a production pond in a fish culture licence granted under section 11.]
  - [<sup>F14</sup>(6) In this section "fishing licence" means a fishing licence issued under Part III or a fishing licence issued by the Foyle, Carlingford and Irish Lights Commission under regulations made by the Commission under the Foyle Fisheries Act (Northern Ireland) 1952.
  - (7) In relation to a fishing licence issued by the Foyle, Carlingford and Irish Lights Commission, the reference in subsection (1) to [<sup>F11</sup>regulations] shall be construed as a reference to regulations made by the Commission under the Foyle Fisheries Act (Northern Ireland) 1952.]

**F10** Words in s. 41(1) substituted (1.6.2008) by **Foyle and Carlingford Fisheries (Northern Ireland) Order 2007** (S.I. 2007/915 (N.I. 9)), arts. 1(3), 34(1), **Sch. 2 para. 2(6)(a)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

**F11** S. 41(1)(7): 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)**

**F12** 1981 NI 7

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**F13** 1991 NI 13

**F14** S. 41(6)(7) added (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), 34(1), **Sch. 2 para. 2(6)(b)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

#### 42 Charging of certain offences under s.41.

In charging an offence under section 41 by reason of a contravention of subsection (1) of that section it shall be sufficient—

- (a) where the offence is one to which section 41(3)(a) applies, to describe the offence as “unlicensed angling contrary to section 41 of the Fisheries Act (Northern Ireland) 1966 ”; and
- (b) in any other case, to describe the offence as “fishing by unlicensed and unfair means contrary to section 41 of the Fisheries Act (Northern Ireland) 1966” .

#### 43 Defences to charges under section 41.

- (1) Where a person is charged under section 41 with an offence which consists of taking fish which he is not licensed to take, it shall be a good defence for him to prove that, at the time when that fish was taken, he was engaged in lawfully fishing for another kind of fish and that the first-mentioned fish was taken unintentionally and, immediately upon being taken, was returned to the water without any avoidable injury.
- (2) Where a person is charged under section 41 with an offence which consists of having a fishing engine in his possession as mentioned in subsection (2) of that section, it shall be a good defence for him to prove that he had the fishing engine in his possession as manufacturer or seller thereof and not for the purpose of using it.

#### 44 Complimentary licences.

[<sup>F15</sup>The Department] may <sup>F16</sup>. . . authorise the issue to a person not ordinarily resident in Northern Ireland of a complimentary licence to use a rod and line and, where [<sup>F17</sup>it] do so, nothing in this Act or in any [<sup>F18</sup>regulations] made by [<sup>F15</sup>the Department] thereunder shall require that person to pay any licence duty in respect of that licence.

**F15** S. 44: 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)**

**F16** Words in s. 44 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(10), **Sch. 3** (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, **art. 2(b)(e)**

**F17** S. 44: 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)(b)** (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, **art. 2(a)(b)**

**F18** S. 44: 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)**

#### 45 Falsification, etc., of licences.

[<sup>F19</sup>(1)] A person who—

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- (a) uses or, with intent to deceive, presents a fishing licence for any time, date, period, place or purpose other than that for which that licence is valid; or
- (b) uses or presents, as being a fishing licence of which he is the holder, a fishing licence issued in the name of any other person; or
- (c) uses or presents a fishing licence that has been to his knowledge either in any manner altered (otherwise than by a person duly authorised by [<sup>F20</sup>the Department] ) or fraudulently counterfeited;

shall be guilty of an offence.

[<sup>F21</sup>(2) In this section “fishing licence” means a fishing licence issued under Part III or a fishing licence issued by the Foyle, Carlingford and Irish Lights Commission under regulations made by the Commission under the Foyle Fisheries Act (Northern Ireland) 1952.]]

**F19** S. 45 renumbered (1.6.2008) as s. 45(1) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), 34(1), **Sch. 2 para. 2(7)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

**F20** S. 45(1)(c): 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)**

**F21** S. 45(2) added (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), 34(1), **Sch. 2 para. 2(7)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

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