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STATUTORY INSTRUMENTS

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**1981 No. 227 (N.I. 7)**

**Fisheries Amendment (Northern Ireland) Order 1981**

- - - - - 18th February 1981

**Title and commencement**

1.—(1) This Order may be cited as the Fisheries Amendment (Northern Ireland) Order 1981.

(2) Except for Article 3(1)(a) and Part I of Schedule 1, which shall come into operation on such day as the Head of the Department of Agriculture may by order appoint<sup>F1</sup>, this Order shall come into operation on the expiration of a period of one month from the day on which it is made.

**F1** fully exercised by SR 1983/75

**Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order “the principal Act” means the Fisheries Act (Northern Ireland) 1966 .

**Variation of punishments or mode of trial for certain offences**

3.—(1) For the purpose of varying the maximum punishment on conviction of offences (generally described in column 2 of Schedule 1) against certain provisions of—

- (a) the Foyle Fisheries Act (Northern Ireland) 1952 ;
- (b) the principal Act; and
- (c) the Fish Industry Act (Northern Ireland) 1972 ,

the provisions of those Acts specified in column 1 of Parts I, II and III respectively of Schedule 1 shall have effect with the substitution for the maximum punishments specified in column 3 of the respective punishments specified in column 4, and where in the case of any offence no punishment on conviction on indictment is specified in column 3 but such a punishment is specified in column 4, proceedings in respect of the offence instead of being taken summarily may alternatively be taken by way of indictment and the defendant on conviction on indictment shall be liable to a punishment not exceeding that specified in column 4.

*Para. (2) amends s. 63(5) of 1952 c. 5 (NI)*

(3) In the principal Act—

- (a) the maximum fine which may be imposed on summary conviction for an offence under section 55(1), 56(3), 58(2), 59(2), 78(1), 80, 81(3), 82, 85(2) or 86(3)(a) and (4) shall

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be increased from £100 to £500 (which is the maximum fine which may be imposed on summary conviction under section 201) and accordingly ... *residue amends ss.55, 56, 58, 59, 78, 80—82, 85, 86 of 1966 c.17 (NI)*

*Sub-paras. (b)#(f) amend ss.110, 170, 174, 178, 202 of 1966 c.17 (NI)*

*Para. (4) amends s. 5 and repeals s. 6 of 1967 c. 7 (NI)*

*Para. (5) amends s. 7(6) of 1972 c. 4 (NI)*

*Art. 4 amends s. 17 of 1966 c. 17 (NI)*

*Art. 5 inserts s. 20(3)(4) in 1966 c. 17 (NI)*

*Arts.6, 7, 8, with Schedule 2, substitute ss. 124, 126, Part IX of 1966 c.17 (NI)*

*Art.9 amends s. 174 of 1966 c. 17 (NI)*

### **Transitional provisions, amendments and repeals**

**10.—(1)** The transitional provisions set out in Schedule 3 shall have effect.

*Paras. (2)(3), with Schedule 4, effect amendments*

*Para. (4), with Schedule 5, effects repeals*

*Schedules 1, 2—Amendments*

SCHEDULE 3

Article 10(1).

TRANSITIONAL PROVISIONS

Punishments

1. A provision of this Order which relates to the punishment by way of fine or imprisonment for any offence or which permits proceedings in respect of any offence to be taken by way of indictment where heretofore they could be taken only summarily shall not affect the punishment for or proceedings in respect of an offence committed before the commencement of that provision.

Shell-fish

2. An oyster bed licence purporting to have been granted under section 131 of the principal Act (as originally enacted) before the date of the commencement of Article 8 shall, if (so far as relevant)

- (a) consents corresponding to those mentioned in subsection (4) of that section (as substituted by that Article) were given before that date, or
- (b) the consents mentioned in that sub-section are given within the period of one year from that date,

and the consents (except a consent given by the Secretary of State or the Crown Estate Commissioners) either have been transmitted by the licensee to the Department of Agriculture or are so transmitted before the expiration of that period, be deemed to be a shell-fish fishery licence for the culture of oysters, and shall have effect as if section 131 (as substituted by Article 8) had been in force when the licence was granted, and the licence was duly granted under it (and accordingly sections 133, 135 and 137 shall apply to the licence and section 136 shall apply to the fishery to which it relates).

3. Where any consent referred to in paragraph 2( a) or ( b) has been or is given subject to any conditions or limitations which are not specified in the licence, the licence may be varied to specify those conditions and limitations and section 133(5) of the principal Act shall not apply to that variation.

4. Where a licence such as is first mentioned in paragraph 2 is, by virtue of that paragraph, deemed to be a shell-fish fishery licence, the Department of Agriculture after consultation with the licensee may, notwithstanding any limitation in section 133(5)( a) of the principal Act, vary the licence so as to incorporate, subject to the limits mentioned in section 133(1)( c)(ii) and (iii), a term fixing the duration of the licence and conditions about the proper formation, development and cultivation of the fishery.

5. On the expiration of the period mentioned in sub-paragraph ( b) of paragraph 2 any oyster bed licence in the case of which the conditions mentioned in that paragraph have not been met shall cease to have effect.

6. Where following an application made by any person before the date of the commencement of Article 8 for an oyster bed licence the Department of Agriculture had before that date caused a local public inquiry to be held under section 132 of the principal Act (as originally enacted), the Department may treat the application as an application for a shell-fish fishery licence and (if minded

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following consideration of the report of the person who conducted the inquiry to grant the licence) grant such a licence to the applicant without complying with section 132 (as substituted by Article 8).

*Schedule 4—Amendments.*

*Schedule 5—Repeals*

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**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- [Sch.1 PtsIII rev in pt \(prosp\) by S.I. 1994/2795 \(N.I.\) art.26\(2\)Sch.3](#)