



Foyle Fisheries Act (Northern Ireland) 1952

1952 CHAPTER 5

PART VI

PROTECTION OF FISHERIES

PROHIBITION OF CERTAIN METHODS OF FISHING FOR, AND OF PRACTICES LIABLE TO DESTROY, SALMON AND OTHER FISH

[^{F1}40] Penalty for use or possession of deleterious matter.

- (1) If any person uses in any waters any deleterious matter for the capture, destruction or injury of fish he shall be guilty of an offence against this Act.
- (2) If any person being on the bank of or near any waters has in his possession or under his control any deleterious matter he shall be guilty of an offence against this Act.
- (3) It shall be a good defence to a charge under sub-section (2) for the defendant to prove that the deleterious matter was in his possession or under his control for an innocent purpose.
- (4) Every person guilty of an offence under this section shall be liable—
 - (a) on summary conviction, to a fine not exceeding[^{F2} £100], or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment;
 - (b) on conviction on indictment to[^{F2} an unlimited fine] or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.

Subs. (5) rep. by 1996 NI 24

Changes to legislation: There are currently no known outstanding effects for the Foyle Fisheries Act (Northern Ireland) 1952. (See end of Document for details)

F2 1984 NI 3

[^{F3}41 Penalty for pollution.

(1) ^{F4}. . . If any person causes or knowingly permits any deleterious matter to enter any river he shall be guilty of an offence against this Act and shall be liable

- [^{F5}(a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or to both.]

(1A) ^{F6}

(2) ^{F7}

[^{F8}(3) Where a person (in this section referred to as “the person convicted”) has been convicted of an offence under subsection (1), the Commission]

- (a) after consulting the owner of the fishing rights in the waters affected by the pollution; or
- (b) without such consultation if the [^{F8} Commission], upon making reasonable enquiries, is unable to ascertain the name and address of the owner,

may—

- (i) carry out such [^{F9}reinstatement] of the waters as is reasonable in the circumstances, and
- (ii) recover the cost thereof from the person convicted.

(4) Any question as to—

- (a) the reasonableness of any [^{F10}reinstatement] to be undertaken under paragraph (i) of subsection (3); or
- (b) the costs to be recoverable under paragraph (ii) of that subsection,

shall be referred to arbitration under and in accordance with the provisions of [^{F11}Part I of the Arbitration Act 1996].

(5) Nothing in this section shall affect any right of the owner of fishing rights in the waters affected by the pollution to bring civil proceedings against the person convicted; but in assessing damages in any such proceedings the court shall take into account the value of any [^{F12}reinstatement] carried out by the [^{F8} Commission] under subsection (3).

[^{F8}(6) Subsection (5) applies in relation to any such right vested in the Commission.]

F3 1962 c. 5 (NI)

F4 Words in s. 41(1) repealed (1.4.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006](#) (S.I. 2006/3336 (N.I. 21)), arts. 1(2), 308, **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)

F5 1994 NI 15

F6 S. 41(1A) repealed (1.6.2008) by [Foyle and Carlingford Fisheries \(Northern Ireland\) Order 2007](#) (S.I. 2007/915 (N.I. 9)), arts. 1(3), 26(1), 34(2), **Sch. 3** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

F7 S. 41(2) repealed (1.4.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006](#) (S.I. 2006/3336 (N.I. 21)), arts. 1(2), 308, **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)

F8 1991 NI 13

F9 Words in s. 41(3)(i) substituted (1.6.2008) by [Foyle and Carlingford Fisheries \(Northern Ireland\) Order 2007](#) (S.I. 2007/915 (N.I. 9)), arts. 1(3), **14(a)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

- F10** Word in s. 41(4)(a) substituted (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **14(c)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.
- F11** Words in s. 41(4) substituted (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **14(b)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.
- F12** Word in s. 41(5) substituted (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **14(c)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

Modifications etc. (not altering text)

- C1** S. 41 restricted by Water (Northern Ireland) Order 1999 (S.I. 1999/662 (N.I. 6)), art. 10(a) (as substituted (1.4.2007) by Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2), **281(1)** (with arts. 8(8), 121(3), 307)); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

42 Penalty for using, etc., certain devices for taking fish.

- [^{F13}(1) If, for the purpose of taking or facilitating the taking of any fish, any person uses or has in his possession or control, in any river or on or near the banks thereof—
- (a) any light or fire; or
 - (b) any electrical or acoustical apparatus of any kind,
- he shall be guilty of an offence against this Act.]

- (2) If, for the purpose of taking any fish, any person uses or has in his possession or control in any river or on or near the banks thereof, any otter, [^{F14}tailer or snare,] spear, strokehaul, gaff or other instrument of a similar kind, he shall, subject to sub-section (3) of this section, be guilty of an offence against this Act.

- (3) Sub-section (2) of this section shall not apply to the use, possession or control of—
- (a) a ^{F15} . . . [^{F14F15} . . . tailer] used or to be used solely as an auxiliary to lawful angling between sunrise and one hour after sunset, or
 - (b) a ^{F15} . . . [^{F14F15} . . . tailer] used or to be used by the holder of a fishing licence in respect of any box in a fishing weir or fishing mill dam solely for the purpose of lawfully removing fish therefrom, or
 - (c) an eel spear used for taking eels.

- [^{F16}(3A) If any person throws, releases or discharges any missile or other object into any water for the purpose of taking or killing, or facilitating the taking or killing of, any fish, he shall be guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding 6 months, or to both;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years, or to both.]

- (4) Every person guilty of an offence under sub-section (1) or (2) of this section shall be liable on summary conviction thereof to a fine not exceeding [^{F17}level 3 on the standard scale] or to imprisonment for any term not exceeding [^{F18}six] months or to both such fine and such imprisonment.

- [^{F19}(5) In this section—

“gaff” means a hooked instrument (with or without a barb) used to penetrate the gills or body of a fish; and

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“otter” means an otter lath or jack, and includes any instrument, whether used with a handline, or as an auxiliary to a rod and line, or otherwise for the purpose of running out lures, artificial or otherwise.]

- F13** S. 42(1) substituted (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **15(1)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.
- F14** 1962 c. 5 (NI)
- F15** Words in s. 42(3)(a)(b) repealed (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), 15(2), 34(2), **Sch. 3** (with art. 32); S.R. 2008/232, **art. 2**, Sch.
- F16** S. 42(3A) inserted (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **15(3)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.
- F17** 1984 NI 3
- F18** 1968 c. 31 (NI)
- F19** S. 42(5) added (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **15(4)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

43 Fishing for salmon or trout in a river by cross lines.

[^{F20}(1)] If any person takes, catches or fishes for any salmon or trout by means of cross lines in any river, he shall be guilty of an offence against this Act.

[^{F21}(2) In subsection (1) “cross lines” means fishing lines—

- (a) reaching from one position to another across water and fixed or held at each of their ends; and
- (b) having attached to them one or more baited hooks or lures, artificial or otherwise.]

- F20** S. 43 renumbered (1.6.2008) as s. 43(1) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **16** (with art. 32); S.R. 2008/232, **art. 2**, Sch.
- F21** S. 43(2) added (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **16** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

44 Damming, etc., river or mill race for purpose of taking salmon or trout.

If any person dams, teems or empties any river or water-course for the purpose of taking or destroying any salmon or trout, such person shall be guilty of an offence against this Act.

45 Taking fish unlawfully killed or found dead.

- (1) Every person who by any means removes or causes to be removed from any river—
- (a) any salmon or trout which have been killed otherwise than by lawful means, or
 - (b) any salmon or trout which have been found dead, from any cause whatever, by such person,
- shall be guilty of an offence against this Act.
- (2) This section shall not apply to—
- (a) any person acting under the authority of the Ministry, or
 - (b) any member or officer of the Commission, or

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- (c) any owner of a fishery or his agent acting under the written authority of the Commission, or
- (d) so far as respects the removal or causing to be removed of any diseased salmon or trout, or any salmon or trout found dead from any cause, any member of the Royal Ulster Constabulary or any [^{F22}person acting under the authority of a district council][^{F23}or
- (e) a private river watcher appointed to protect the waters in question.]

[^{F24}(3) Where a person mentioned in subsection (2)(a), (c), (d) or (e) removes fish from a river as mentioned in subsection (1) or causes fish to be so removed, he shall inform the Commission of that fact as soon as is practicable.]

F22 Words in s. 45(2)(d) substituted (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **17(a)(i)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

F23 S. 45(2)(e) and preceding word added (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **17(a)(ii)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

F24 S. 45(3) added (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **17(b)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

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