

Foyle Fisheries Act (Northern Ireland) 1952

1952 CHAPTER 5

PART VIII

LEGAL PROCEEDINGS

67 Application of penal provisions of Act.

The provisions of this Act relating to offences apply to—

- (a) acts and omissions in the Londonderry Area^{F1} or the Newry Area] by any person, and
- (b) acts and omissions in any part of the Foyle Area^{F1} or the Carlingford Area] by a person resident in Northern Ireland.

F1 SI 1999/859

68 Penalties for offences.

- (1) Any person who commits an offence against this Act for which a penalty is not provided by any other provision of this Act shall be liable on summary conviction to a fine not exceeding^{F2} level 2 on the standard scale^{F3}. . . .
- (2) ^{F4}

F2 1984 NI 3

F3 Words in s. 68(1) repealed (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), 26(2)(a), 34(2), **Sch. 3** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

F4 S. 68(2) repealed (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), 26(2)(b), 34(2), **Sch. 3** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

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

[^{F5}69 Saving for acts done for artificial propagation, scientific purposes or improvement of fisheries.

- (1) Nothing in this Act shall prohibit anything done for the purpose of the artificial propagation of fish, for some scientific purpose or for the improvement of any fishery—
 - (a) by the Commission;
 - (b) by a person to whom a permit is issued under this section (or any other person acting under his directions), under the authority of, and subject to the conditions of, that permit.
- (2) The Commission may, by permit in writing and subject to any specified conditions, authorise any named person to do, at any season of the year, any specified things for any of the purposes mentioned in subsection (1) and in particular, without prejudice to the generality of the foregoing—
 - (a) to catch fish of any specified kind and to have in his possession fish of that kind or their ova for the purpose of artificial propagation, transplantation, the stocking, restocking or improvement of any fishery or for any scientific purpose, and for the purpose of so catching to have in his possession, erect and use any fishing engine of a specified kind or to have in his possession and use any substance of a specified kind;
 - (b) to buy or sell ova or fry of fish of any specified kind for the purpose of stocking or restocking, or for any scientific purpose;
 - (c) to dispose of fish taken in accordance with the terms of the permit in such manner and on such terms as may be specified.
- (3) A permit under this section shall not authorise anything to be done in relation to a several fishery otherwise than with the consent of the owner of that fishery.
- (4) A person to whom a permit has been given by the Commission shall, if when doing anything pursuant to the permit he is so requested by an authorised person, produce the permit to that person.
- (5) In this section “specified” means specified in a permit.]

<p>F5 S. 69 substituted (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), 27 (with art. 32); S.R. 2008/232, art. 2, Sch.</p>

70 Residence of body corporate.

For the purposes of this Part a body corporate shall be deemed to be resident in Northern Ireland if it is incorporated under the law of Northern Ireland.

71 Offences by bodies corporate.

Where an offence against this Act was committed by a body corporate and is proved to have been so committed with the consent or approval of, or to have been facilitated by any neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate, that person shall also be guilty of the offence and may be proceeded against and punished accordingly.

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72 Trial of offences.

Notwithstanding anything contained in any other enactment, an offence against this Act may be heard and determined by a court of summary jurisdiction upon the complaint, oral or otherwise, of the Commission or an officer of the Commission or a member of the Royal Ulster Constabulary but not of any other person, except with the consent of the Commission.

73 Evidence of mouths of rivers, boundaries between tidal and freshwater portions of rivers, points of mouths of rivers to or from which distances are to be measured.

- (1) Where any regulations define—
- (a) the mouth of a river, or
 - (b) the mouth of any tributary river, or
 - (c) the boundary between the tidal and freshwater portions of any river, or
 - (d) the point or points to or from which distances are to be measured under this Act,

such mouth, boundary, point or points shall for the purposes of any proceedings under this Act be as so defined.

- (2) Where any regulations define the space within which it is by or under this Act prohibited to use certain fishing engines, the space so defined shall for the purposes of any proceedings under this Act be taken to be the area within which it is prohibited to use those fishing engines.

74 Forfeiture of licences.

(1 ^{F6} (a)

If the person who is the holder of a [^{F7}fishing licence] issued by the Commission is convicted of an offence to which this sub-section applies the court may direct the [^{F7}fishing licence] to be forfeited and declare that person to be disqualified for holding a [^{F7}fishing licence] of the Commission for such period, not exceeding one year, as the court may direct.

- (b) This sub-section applies to—
- (i) an offence under any section of this Act,
 - (ii) an offence under any section of the Fisheries Acts.

- (2) Where a person who is the holder of a [^{F7}fishing licence] issued by the Commission is convicted by a court of justice in the Republic of Ireland of an offence under the law of the Republic of Ireland relating to fisheries, and as a result of such conviction, the [^{F7}fishing licence] is declared to be forfeited and that person is declared to be disqualified for a particular period for holding a [^{F7}fishing licence] of the Commission, the Commission shall direct the [^{F7}fishing licence] to be forfeited and that person shall be disqualified for holding a [^{F7}fishing licence] for that period.

- (3) Where a [^{F7}fishing licence] is directed to be forfeited under this section, it shall thereupon cease to be in force.

- ^{F8}(4) Where a person is convicted by a court of an offence against this Act or against the Fisheries Acts, the clerk of the court shall as soon as may be in either case forward

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to each of the Commission and the [^{F9}Department] a duly authenticated certificate of the conviction,^{F10} . . .]

- (5) A document purporting to be a copy of a conviction or order made by a court of justice in the Republic of Ireland and to be certified in accordance with the law of the Republic of Ireland shall, for the purposes of this section, be evidence of such conviction or order without further proof, unless the contrary is shown.

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| F6 | Where a licence is forfeited and its holder disqualified, any corresponding licence issued by the Fisheries Conservancy Board for NI is forfeited and the holder disqualified for holding a licence of the Board, 1966 c.17 (NI) s.200(3) |
| F7 | Words in s. 74 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. 1(7) (with art. 32); S.R. 2008/232, art. 2 , Sch. |
| F8 | 1966 c. 17 (NI) |
| F9 | Word in s. 74(4) substituted (8.5.2016) by The Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016/76) , art. 1(3), Sch. 6 para. 18 (with art. 9(2)) |
| F10 | 1991 NI 13 |

75 Forfeiture of boats, fishing engines, etc., as statutory consequence of conviction.

Where a person is convicted of an offence against this Act,^{F11} the court by which he is convicted may make such other order as to the forfeiture of—

- (a) any fish illegally taken by him or in his possession at the time of the offence;
- (b) any boat, fishing engine, equipment or any other thing by means or in respect of which the offence is committed,

as the court thinks fit.]

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| F11 | Words in s. 75 substituted (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)) , arts. 1(3), 28(1) (with art. 32); S.R. 2008/232, art. 2 , Sch. |
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76 Non-obligation of Court to pronounce or record forfeiture.

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| F12 | S. 76 repealed (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)) , arts. 1(3), 28(2), 34(2), Sch. 3 (with art. 32); S.R. 2008/232, art. 2 , Sch. |
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77^{F13} Disposal of fines.

- (1) Save as provided in sub-section (2) of this section, all fines imposed for offences under this Act shall, notwithstanding any other enactment, be paid to the Commission.
- (2) When a fine has been imposed for an offence under this Act and a member of the Royal Ulster Constabulary was the means of bringing to justice the person by whom the offence was committed, then—
 - (a) one-third of that fine shall be paid to the Ministry of Home Affairs^{F14} and shall be appropriated in aid of the moneys provided by [^{F15} the Parliament of the United Kingdom] for defraying the costs, charges and expenses of the said Constabulary; and

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(b) the remainder of that fine shall be paid to the Commission.

F13 App., 1966 c. 17 (NI)
F14 Now S of S, SI 1973/2163
F15 SI 1973/2163

78 Disposal of forfeitures.

- (1) Where any thing is forfeited under this Act, the Ministry may direct 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.
- (2) The net proceeds of a sale under sub-section (1) of this section shall be paid to or disposed of for the benefit of the Commission in such manner as the Ministry shall direct.

79 Proof of regulations, bye-laws, etc.

- (1) In any proceedings, a document purporting to be a copy of any instrument in writing made or issued (whether before or after the passing of this Act) under the Fisheries Acts or this Act in relation to the Foyle Area^{F16} or the Carlingford Area] or any part thereof shall, if it is certified under the common seal of the Commission to be a true copy, be *prima facie* evidence of the instrument.
- (2) The Documentary Evidence Act, 1868 , as amended by the Documentary Evidence Act, 1882 , shall apply to the Commission in like manner as the said Acts apply to certain rule-making authorities under section three^{F17} of the Rules Publication Act (Northern Ireland), 1925 .

F16 SI 1999/859
F17 1958 c. 18 (NI) see now 1979 NI 12

80 Inquiries.

- (1) The Commission may from time to time hold an inquiry in relation to the fisheries of the Foyle Area^{F18} or the Carlingford Area] or any of them and the best means to be adopted for the management, conservation, protection or improvement thereof.
- (2) An inquiry may be conducted by the Commission or by a person appointed by it for the purpose.

F18 SI 1999/859

81 Powers in relation to inquiry.

- (1) The Commission or person holding an inquiry may—
 - (a) summon witnesses to attend at the inquiry,
 - (b) examine on oath (which any member of the Commission or that person, as the case may be, is hereby authorised to administer) witnesses attending at the inquiry,

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- (c) require any witness to produce any documents in his power or control which the Commission or that person, as the case may be, considers necessary for the purposes of the inquiry.
- (2) A witness at an inquiry shall be entitled to the same immunities and privileges as if he were a witness before the High Court.
- (3) If any person—
- (a) on being duly summoned to attend as a witness at an inquiry makes default in attending, or
 - (b) being in attendance, refuses to take an oath which he is lawfully required to take, or to produce any document in his power or control which he is lawfully required to produce, or to answer any question which he is lawfully required to answer,
- he shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding^{F19} £25].

F19 1984 NI 3

[^{F20}82 Calculation of time periods

- (1) In this Act, or any regulations made under this Act, where a period of time is expressed to begin on, or be reckoned from, a particular day, that day shall not be included in the period.
- (2) In this Act, or any regulations made under this Act, where a period of time is expressed to end on, or to be reckoned to, a particular day, that day shall be included in the period.
- (3) In this Act, or any regulations made under this Act, where the time limited for the doing of anything expires on a Saturday, Sunday or a public holiday, the time so limited shall extend to and the thing may be done on the first following day that is not a Saturday, Sunday or a public holiday.
- (4) Where any document or notice is received by the Commission or the Appeals Board outside the business hours of the Commission, or as the case may be, the Appeals Board, the document or notice shall be deemed to have been received on the first following day which is not a Saturday, Sunday or public holiday.
- (5) In subsections (3) and (4)—
 - (a) “business hours” means such hours as may be prescribed for the purposes of this section;
 - (b) “public holiday” means any day which is prescribed for the purposes of this section.
- (6) Subsections (2), (3), (4) and (8) of section 39 of the Interpretation Act (Northern Ireland) 1954 shall not apply to this Act.]

F20 S. 82 inserted (1.6.2008) by *Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9))*, arts. 1(3), 31 (with art. 32); S.R. 2008/232, art. 2, Sch.

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