



# Foyle Fisheries Act (Northern Ireland) 1952

## 1952 CHAPTER 5

### PART VI

#### PROTECTION OF FISHERIES

##### PROTECTION OF YOUNG AND BREEDING FISH

#### **46 Taking, etc., spawn, smolts or fry of salmon or trout.**

[<sup>F1</sup>(1)] If any person—

- (a) wilfully takes, sells, purchases, or has in his possession the spawn, smolts or fry of salmon or trout, or
- (b) wilfully obstructs the passage of the smolts or fry of salmon or trout, or
- (c) injures or disturbs the spawn or fry of salmon or trout, or
- (d) injures or disturbs any spawning bed, bank or shallow where the spawn or fry of salmon or trout may be,

he shall be guilty of an offence against this Act.

[<sup>F2</sup>(2)] It shall be a defence for a person charged with an offence under subsection (1)(a) in relation to the spawn of any salmon or trout to prove—

- (a) that the spawn had been produced at a—
  - (i) fish farm (as defined in the Fisheries Act (Northern Ireland) 1966); or
  - (ii) a licensed area (within the meaning of section 52X(1)); or
- (b) that he believed on reasonable grounds that it had been so produced.

(3) If any person removes any material from the bed of the freshwater portion of any river in the Londonderry Area or the Newry Area—

- (a) without the consent of the Commission under subsection (4); or
- (b) otherwise than in accordance with the conditions of a consent granted by the Commission under subsection (4),

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*Changes to legislation: There are currently no known outstanding effects for the Foyle Fisheries Act (Northern Ireland) 1952, Section 46. (See end of Document for details)*

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he shall be guilty of an offence against this Act.

- (4) The Commission may, on the application of any person, grant its consent to the removal of material from the bed of the freshwater portion of a river on such conditions as it thinks fit.
- (5) Where the Commission—
- (a) on an application for a consent under subsection (4), has refused a consent; or
  - (b) in giving a consent under subsection (4), has given that consent subject to conditions,
- the person who applied for the consent may appeal to the Water Appeals Commission for Northern Ireland against the decision within 28 days from the day on which notice of the decision was given to that person.
- (6) In relation to the jurisdiction of the Water Appeals Commission for Northern Ireland under this section, Article 293 of the Water and Sewerage Services (Northern Ireland) Order 2006 shall have effect as if, in paragraphs (6) to (8) of that Article, references to the relevant Department were references to the Foyle, Carlingford and Irish Lights Commission.
- (7) A consent under subsection (4) does not confer on any person a right to remove material from the bed of a river which (apart from this section) he would not otherwise have.
- (8) Nothing done under and in accordance with the conditions of a consent under subsection (4) constitutes an offence under subsection (1) or section 47.]

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| <p><b>F1</b> S. 46 renumbered (1.6.2008) as s. 46(1) by <a href="#">Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9))</a>, arts. 1(3), <b>18</b> (with art. 32); S.R. 2008/232, <b>art. 2</b>, Sch.</p> <p><b>F2</b> S. 46(2)-(8) added (1.6.2008) by <a href="#">Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9))</a>, arts. 1(3), <b>18</b> (with art. 32); S.R. 2008/232, <b>art. 2</b>, Sch.</p> |
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