



Fisheries Act (Northern Ireland) 1966

1966 CHAPTER 17

PART IV

PROTECTION OF FISHERIES

PROTECTION OF FISHING WATERS FROM POISONING, ETC., AND POLLUTION

46 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.
- (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.
- (3) It shall be a good defence to a charge under subsection (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—
 - ^{F1}(a) on summary conviction to a fine not exceeding £500 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

F1 1981 NI 7

F2 1984 NI 3

Changes to legislation: There are currently no known outstanding effects for the Fisheries Act (Northern Ireland) 1966. (See end of Document for details)

47 **Penalty for pollution.**

- (1) Subject to subsection (2), if any person causes or knowingly permits any deleterious matter to enter any waters he shall be guilty of an offence and shall be liable
- [^{F3}(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.]

[^{F3}(1A) If in the case of a continuing offence under subsection (1), the offender continues to contravene that subsection, he shall be guilty of a further offence and shall be liable on summary conviction to an additional fine not exceeding one-twentieth of level 5 on the standard scale for each day on which the offence is continued.]

- (2) Nothing in subsection (1) shall operate to penalise the discharge of any substance or article to which section 9 of the Radioactive Substances Act 1960 applies.

[^{F4}(3) Where a person (in this section referred to as "the person convicted") has been convicted of an offence under subsection (1), [^{F5}the Department]—

- (a) after consulting the owner of the fishing rights in the waters affected by the pollution; or
- (b) without such consultation if [^{F5}the Department] , upon making reasonable enquiries, is unable to ascertain the name and address of the owner,

may—

- (i) carry out such [^{F6} 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 [^{F6} 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 the Arbitration Act (Northern Ireland) 1937.

- (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 [^{F6} reinstatement] carried out by [^{F5}the Department] under subsection (3).]

F3 1994 NI 15

F4 1991 NI 13

F5 S. 47(3)(5): 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)**

F6 2001 c. 4 (NI)

Modifications etc. (not altering text)

C1 S. 47 restricted (1.4.2007) by **Water (Northern Ireland) Order 1999 (S.I. 1999/662 (N.I. 6))**, art. 10(b) (as substituted 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)

Changes to legislation:

There are currently no known outstanding effects for the Fisheries Act (Northern Ireland) 1966.