



Fisheries Act (Northern Ireland) 1966

1966 CHAPTER 17

PART IV

PROTECTION OF FISHERIES

PROTECTION OF YOUNG AND BREEDING FISH

48 Taking, etc., spawn or fry of salmon, trout or eels.

- (1) [^{F1}Subject to subsections (1A) and (2)] if any person—
- wilfully takes, sells, purchases, or has in his possession the spawn, ...^{F2} or fry of salmon, trout or eels; or
 - wilfully obstructs the passage of the ...^{F2} fry of salmon, trout or eels; or
 - injures or disturbs the spawn or fry of salmon, trout or eels; or
 - injures or disturbs any spawning bed, bank or shallow where the spawn or fry of salmon, trout or eels may be,

he shall be guilty of an offence.

[^{F1}(1A) It shall not be an offence under subsection (1)(a) for the owner of an eel several fishery to take or have in his possession the fry of eels where he has removed those fry from that several fishery solely for the purpose of returning them to an upstream part of the same several fishery.

(1B) Subsection (1A) applies to a person acting under the direction of the owner of an eel several fishery in the same manner as it applies to such an owner.]

- (2) Where a person is charged with the offence of taking or having in his possession any ...^{F2} fry in contravention of subsection (1)(a), it shall be a good defence for him to prove that he removed the ...^{F2} fry from a system of waters solely for the purpose of preserving them from some immediate danger (whether actual or reasonably apprehended) and that he returned, or intended to return, them to an adjacent safer part of the same system of waters, without any avoidable injury, as soon as reasonably practicable.

Changes to legislation: There are currently no known outstanding effects for the Fisheries Act (Northern Ireland) 1966, Section 48. (See end of Document for details)

[^{F1}(3) In this section—

- (a) “fry” (except in subsection (1)(d))—
 - (i) in relation to salmon, includes parr and smolts,
 - (ii) in relation to trout, includes trout of a length less than fifteen centimetres measured from the tip of the snout to the fork or cleft of the tail, and
 - (iii) in relation to eels, includes elvers; and
- (b) “trout” includes rainbow trout.]

[^{F3}(4) It shall be a defence for a person charged with an offence under subsection (1)(a) in relation to the spawn of any salmon to prove—

- (a) that the spawn had been produced at a fish farm; or
- (b) that he believed on reasonable grounds that it had been so produced.

(5) If any person removes any material from the bed of any river—

- (a) without the consent of [^{F4}the Department] under subsection (6); or
- (b) otherwise than in accordance with the conditions of a consent granted by [^{F4}the Department] under subsection (6),

he shall be guilty of an offence.

(6) [^{F4} The Department] may, on the application of any person, grant its consent to the removal of material from the bed of a river on such conditions as it thinks fit.

(7) Where [^{F4}the Department]—

- (a) on an application for a consent under subsection (6), has refused a consent; or
- (b) in giving a consent under subsection (6), has given that consent subject to conditions,

the person who applied for the consent may appeal to the Appeals Commission against the decision within 28 days from the day on which notice of the decision was given to that person.

(8) A consent under subsection (6) 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.

(9) Nothing done under and in accordance with the conditions of a consent under subsection (6) constitutes an offence under subsection (1) or section 49.]

F1 1991 NI 13

F2 1968 c.31 (NI)

F3 2001 c. 4 (NI)

F4 S. 48: 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)**

Changes to legislation:

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