



Fisheries Act (Northern Ireland) 1966

1966 CHAPTER 17

PART I

FUNCTIONS OF THE MINISTRY OF AGRICULTURE

DEVELOPMENT AND IMPROVEMENT OF FACILITIES FOR ANGLING

[^{F1}1A **Promotion of angling.**

The Department may promote angling and for that purpose may—

- (a) exercise any of the functions conferred on it by sections 2 to 7;
- (b) encourage and advise bodies interested in angling; and
- (c) take such other steps as appear to it appropriate to secure the furtherance and development of angling.]

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2 Acquisition and development of waters for angling.

- (1) The Ministry shall have power to acquire by agreement fishing rights in any inland waters, for the purpose of developing or improving facilities for angling, and accordingly may, so far as is reasonably necessary for or is incidental to that purpose, so acquire—
 - (a) any estate in land by virtue of which such rights are exercisable; and
 - (b) any estate in any other land which the Ministry is satisfied it is expedient to acquire for the safeguarding or the full enjoyment or exploitation of those rights.
- (2) Where fishing rights in respect of any waters have been acquired by the Ministry under subsection (1), the Ministry may do all such things as are necessary or expedient for the proper development of those waters, and of any land acquired under that subsection,

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for angling or for the provision of facilities or amenities for persons authorised by the Ministry to enter thereon.

- (3) Without prejudice to the generality of the provisions of subsection (2), the things that may be done in exercise of the powers conferred by that subsection shall include—
- (a) the provision of proper means of access to waters used or capable of being used for angling, including the provision of roads, stiles, jetties, quays or boats;
 - (b) the removal or exclusion from any such waters of any predatory animal or of either any other animal or any plant, organism or substance which is harmful to fish of a particular kind or the food of fish; and
 - (c) the stocking of any such waters with fish in pursuance of section 10.

[F²³ Development of derelict waters for angling.

- (1) This section applies where—
 - (a) the Department is of the opinion that any inland waters should be developed for angling; and
 - (b) the person who is entitled to the fishing rights in those waters is unknown or cannot be found.
- (2) The Department may—
 - (a) undertake the development of those waters for angling; or
 - (b) authorise an approved developer to undertake such development in accordance with an approved scheme submitted to the Department by that developer.
- (3) Before undertaking or authorising the development of any waters in pursuance of subsection (2), the Department shall on at least two occasions and at intervals of not less than 14 days publish in one or more than one newspaper circulating in the locality in which the waters are situated and in the Belfast Gazette, a notice—
 - (a) containing particulars sufficient to identify the waters;
 - (b) stating that the Department proposes to develop those waters or, as the case may be, that the Department proposes to authorise their development in accordance with a scheme;
 - (c) indicating in a general manner the Department's proposals for such development or, as the case may be, the nature of the scheme;
 - (d) specifying, where the Department proposes to authorise such development in accordance with a scheme, the name and address of the approved developer who has submitted the scheme and the name and address of a place at which copies of the scheme may be inspected at reasonable times; and
 - (e) calling upon any person who claims any right of fishing in those waters or who objects to their development, to notify the Department of his claim, or of his objection and of the grounds thereof, within such period as may be specified in the notice, being a period expiring no earlier than 28 days from the date of the second notice so published.
- (4) The Department shall serve a copy of any notice published under subsection (3) upon every person who appears to the Department to be an owner of land adjoining the waters in question.
- (5) Where—

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- (a) a notice has been published under subsection (3) with respect to any waters;
and
 - (b) any person notifies the Department of his claim to fishing rights in those waters or any part thereof and produces to the Department prima facie evidence of his title,
- the Department shall not, with respect to those waters or, as the case may be, any such part thereof, take any further action under this section.
- (6) Where—
- (a) a notice has been published under subsection (3) with respect to any waters;
and
 - (b) any person notifies the Department of his objection and of the grounds thereof, the Department shall consider that objection unless, in its opinion, the objection is vexatious, frivolous or insubstantial.
- (7) Nothing in subsection (5) or (6) shall prejudice the power of the Department to provide assistance under section 5 for the development or improvement of such waters for angling in accordance with a programme agreed upon under section 6 by the Department and such a person as is mentioned in either of those subsections, or any other power conferred by this Part.
- (8) If, in relation to the waters referred to in a notice published by the Department under subsection (3) or in relation to any part of those waters—
- (a) no claim to fishing rights is notified to the Department under subsection (5) or no objection is so notified under subsection (6); or
 - (b) all claims and objections so notified are withdrawn or disposed of;
- the Department—
- (i) may, in accordance with the proposals referred to in the notice, execute such works and do such things as the Department is by section 2(2) and (3) empowered to execute or do in the case of waters the fishing rights in respect of which are owned by the Department; or
 - (ii) may authorise the approved developer to implement the approved scheme.
- (9) In relation to waters to which subsection (8) applies—
- (a) the Department or, as the case may be, the approved developer may, to the exclusion of any other person, exercise in all respects the rights of the owner of a several fishery;
 - (b) the Department may, in particular, issue permits in respect of such waters in accordance with section 7A, or
 - (c) the approved developer may, in particular, issue to persons making application therefor permits for periods not exceeding one year authorising them to fish in any such waters, and charge such reasonable sums for the issue of such permits as the approved developer may determine.
- (10) Where, under subsection (2), the Department undertakes the development of any waters for angling, those waters shall for the purposes of section 24(b) and of any provision of this Act relating to the protection of waters the fishing rights in which are owned by the Department be deemed to be such waters.
- (11) Where, under subsection (2), the Department undertakes the development of any waters for angling, the Department may acquire by agreement any estate in land which

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the Department is satisfied it is expedient to acquire for the exploitation of those waters.

- (12) In this section and in sections 3A and 4—
 “approved developer” means—
 (a) any person intending to develop any waters for angling, or
 (b) any body or association of persons established for or having among its objects such development;
 and approved by the Department for the purposes of this section;
 “scheme” means a scheme submitted to the Department under section 3A, and
 “approved scheme” means such a scheme which has been approved by the Department under that section; and
 “waters” include any part thereof.
- (13) The Department shall not approve a developer for the purposes of this section unless it is satisfied that the development will provide—
 (a) angling for members of the public or a section thereof, or
 (b) angling associated with a catering establishment registered in a register maintained under paragraph (a), (b) or (c) of section 10(1) of the Development of Tourist Traffic Act (Northern Ireland) 1948.
- (14) In this section (except subsection (7)) and in sections 3A and 4 references to the development of waters shall be construed as including references to the improvement, maintenance and management of waters.
- (15) Nothing in this section shall be taken to prejudice the title of any person (including the Department) in relation to fishing rights in waters to which it applies.]

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[^{F3}3A Schemes for development of derelict waters.

- (1) A scheme submitted to the Department for the purposes of section 3 shall be—
 (a) in such form and contain such particulars as may be prescribed by regulations;
 and
 (b) accompanied by such documents as may be so prescribed.
- (2) A fee of such amount as may be prescribed by regulations, made with the approval of the Department of Finance and Personnel, shall be payable by the approved developer on submitting a scheme.
- (3) The Department may approve a scheme with or without amendments.
- (4) In considering whether to give its approval to a scheme, the Department shall take into account such matters as are in its opinion appropriate and, in particular—
 (a) the nature of the scheme and its potential effect on other fisheries;
 (b) the financial and other resources available to the developer proposing the scheme;
 (c) the arrangements made by the developer with owners of land to facilitate access to the waters to which the scheme relates; and
 (d) the extent to which those waters, are already open to the public for angling.

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- (5) Approval of a scheme shall be expressed to expire after the specified period.
- (6) Approval of a scheme may be—
 - (a) given subject to conditions; and
 - (b) withdrawn on failure to comply with those conditions.
- (7) The Department, on the application of the developer who proposed a scheme or otherwise, may vary an approval so as to—
 - (a) restrict the specified period; or
 - (b) add, remove or vary conditions to which the approval is subject.
- (8) On the expiration of the specified period the approved developer shall cease to occupy the waters forthwith.
- (9) Nothing in this section shall preclude an approved developer, who has in consequence of subsection (8) ceased to occupy waters, from submitting to the Department a further scheme in respect of those waters.
- (10) In this section and in section 4 “the specified period” means, subject to subsection (11) and section 4(3), such period as the Department may specify in relation to an approved scheme, being a period which expires no less than 5 years and no more than 15 years from the date on which the Department under section 3(2)(b) authorises the approved developer to undertake development of the waters in accordance with the scheme.
- (11) Where, under subsection (6), the Department withdraws its approval of a scheme, the specified period shall come to an end on the expiration of 30 days from the date on which the Department notifies the approved developer of that withdrawal, and subsection (8) and section 4 shall apply accordingly.]

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[^{F4}4 Provisions supplemental to sections 3 and 3A.

- (1) The following provisions of this section shall have effect where—
 - (a) the Department has under section 3—
 - (i) undertaken the development of any waters for angling, or
 - (ii) authorised an approved developer to undertake such development in accordance with an approved scheme; and
 - (b) a person claiming to be entitled to fishing rights in respect of those waters (in this section referred to as “the owner”) thereafter produces to the Department proof of his title to the rights.
- (2) Where the Department is the occupier of the waters, the Department shall be entitled to remain in occupation for the period of 5 years from the date on which the owner produces to the Department proof of his title to the fishing rights in respect of the waters.
- (3) Where an approved developer is the occupier of the waters, that developer shall be entitled to remain in occupation until the expiration of—
 - (a) the period of 5 years from the date on which the owner produces to the Department proof of his title to the fishing rights in respect of the waters, or
 - (b) the specified period,

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whichever is the earlier.

- (4) On the expiration of the period for which the occupier is by virtue of subsection (2) or (3) entitled to remain in occupation of the waters, the occupier shall cease to occupy the waters forthwith; but nothing in this subsection or in subsection (3) shall prejudice the Department's powers under section 3A(6) and (7).
- (5) The occupier shall pay compensation to the owner in respect of its occupation of the waters for the period beginning—
- (a) if the occupier is the Department, on the date when the Department first began to undertake the development of the waters; or
 - (b) if the occupier is an approved developer, on the date when the Department authorised that developer to undertake the development of the waters in accordance with an approved scheme;
- and ending on the date when, in accordance with subsection (2) or (3), the occupier ceases to be entitled to occupy the waters.
- (6) Any question as to—
- (a) the sufficiency of any evidence tendered by the owner in proof of his title to the fishing rights;
 - (b) whether compensation is payable under subsection (5); or
 - (c) the amount of such compensation;
- shall, in default of agreement, be referred to and determined by the Lands Tribunal.
- (7) No proceedings shall be brought under subsection (6) after the expiration of the period of one year from the date on which the occupier is obliged by virtue of section 3A(8) or subsection (4) of this section to cease to occupy the waters.
- (8) When assessing compensation under subsection (6), the Lands Tribunal shall have regard to—
- (a) the extent to which fishing rights in the waters were exercised by the owner during the 10 years immediately preceding the date when the Department first began to undertake the development of the waters or, as the case may be, authorised the approved developer to undertake such development in accordance with an approved scheme; and
 - (b) the value of any development of the waters for angling, undertaken by the occupier.
- (9) Occupation of any waters such as are mentioned in subsection (1) shall not confer on the occupier any rights in respect of such waters other than those mentioned in section 3 or this section.
- (10) In this section—
- “the occupier” means—
- (a) where the Department has undertaken the development of waters for angling, the Department, and
 - (b) where the Department has authorised an approved developer to undertake such development in accordance with an approved scheme, that developer;
- “the owner” has the meaning given in subsection (1)(b).]

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5 Payment of grants and execution of works for the development, etc., of waters for angling.

- (1) The Ministry, upon the application of—
- (a) any person who is, by virtue of his ownership of any fishing rights, for the time being entitled to take fish in any inland waters; or
 - (b) any association of persons established for the purpose of developing or improving any waters for angling,
- may, in accordance with the terms of a programme approved by the Ministry under section 6,—
- (i) make grants to that person or association towards any expenditure reasonably incurred by him or them for the purposes of developing or improving any such waters for angling or of providing or improving facilities or amenities for anglers on or in connection with such waters;
 - (ii) cause such works to be executed and do such things as are expedient for any such purposes.
- (2) Without prejudice to the generality of paragraph (i) of subsection (1), the purposes for which grants may be made under that paragraph or for which works may be executed or any thing done under paragraph (ii) of that subsection shall include the doing of any thing which may, under section 2(2) and (3), be done by the Ministry in the case of waters the fishing rights in respect of which are owned by the Ministry.

6 Programme for the development, etc., of waters for angling.

- (1) A person applying to the Ministry under subsection (1) of section 5 for any assistance such as is described in paragraph (i) or (ii) of that subsection, or a person so applying on behalf of any association, shall submit to the Ministry a programme for the development or improvement of the waters with respect to which the application is made, and the Ministry may approve the programme without modification or subject to any modification that may be agreed upon between the Ministry and the applicant, or may refuse to approve the programme.
- (2) In determining the amount of any grant for which application is made under section 5(1)(i) or the nature or extent of any works proposed to be executed or thing to be done under section 5(1)(ii), the Ministry shall have regard to—
- (a) the security of tenure of the applicant or, as the case may be, the association or any of their members of any estate in land by virtue of which any right of taking fish in those waters is exercisable by him or them;
 - (b) any representations made to the Ministry by any other person who has such an estate in land, and the willingness of any such other person to enter into an agreement with the Ministry or the applicant for the furtherance of the purposes of the programme;
 - (c) the provisions of the programme with respect to the amount of any financial contribution to be made or work to be done for the purposes of the programme by the person making the application or, as the case may be, the association or any of their members;
 - (d) the amount of any contribution to be made for the purposes of the programme by a district council^{F5} under section 37 of the Local Government (Ireland) Act 1898 ;
 - (e) any other sources of financial assistance available to the applicant; and

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- (f) the extent to and the terms on which facilities for angling in the waters to which the programme relates will be made available to members of the public or any section thereof.
- (3) A programme approved by the Ministry under subsection (1) may be modified with the Ministry's approval, and thereafter shall have effect for the purposes of this section as so modified.
- (4) Subject to subsection (5), where the Ministry has approved a programme under this section, the Ministry may revoke its approval if, at any time before the carrying out of the programme is completed, it appears to the Ministry—
- (a) that any term of the programme or any condition imposed in connection with the payment of a grant or instalments thereof, or the execution of any works, or the doing of any thing, under section 5 in relation to the programme has not been, or is not likely to be, complied with; or
 - (b) that in connection with an application for approval of the programme or of any modification of the programme the applicant gave information which was false or misleading in a material respect;
- and if before the revocation any payment is made by way of grant in respect of the programme, the Ministry may recover the payment, or so much thereof as it thinks fair, as a simple contract debt in any court of competent jurisdiction.
- (5) Before revoking an approval under subsection (4), the Ministry shall—
- (a) give to the applicant or any other person to whom any grant would be payable by the Ministry under the programme, or from whom any payment of such a grant would be recoverable, a written notification of the reasons for the proposed revocation; and
 - (b) afford to each such person an opportunity of appearing before and being heard by a person appointed for the purpose by the Ministry; and
 - (c) consider the report of the person so appointed and supply a copy of the report to each person who was entitled to appear before the person submitting it.
- (6) For the purpose of giving effect to the provisions of a programme to which the Ministry has given its approval under this section, or of securing the observance by any person of conditions attached to such approval, the Ministry may enter into an agreement with any person or association, by or on behalf of whom the programme was submitted, or with any person acting on behalf of such an association, or with any other person such as is referred to in subsection (2)(b), on such terms and conditions as the Ministry thinks fit; and without prejudice to the generality of the foregoing provisions of this subsection, the agreement may include provisions for ensuring that any disposition by any such person or association of fishing rights over the waters to which the programme relates or of any land held in connection therewith shall be made on such terms as may be appropriate for securing the continued observance of the conditions by his or their successors in title.

F5 1972 c.9 (NI) see s.133(2) of that Act
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7 **Compilation and publication of angling guide.**

- (1) The Ministry may enter into arrangements with persons claiming to be entitled to fishing rights in any waters for such persons to supply to the Ministry—
- (a) particulars as to—

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- (i) the availability or otherwise of any such waters for angling by members of the public; and
 - (ii) the terms upon which waters are made so available; and
 - (b) such other information in relation to those waters as may appear to the Ministry to be of interest to persons wishing to engage in angling therein.
- (2) The Ministry may publish, or may enter into arrangements with any body established under any enactment for the promotion of the development of tourist traffic in Northern Ireland for the publication of, any particulars or information supplied to the Ministry under subsection (1), in the form of an angling guide.
- (3) Where the Ministry supplies to any persons copies of an angling guide published by the Ministry under this section, it may make such reasonable charges therefor as will defray any expenses incurred by the Ministry in relation to the preparation and publication of the guide.

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