



Fisheries (Amendment) Act (Northern Ireland) 2001

2001 CHAPTER 4

An Act to amend the Fisheries Act (Northern Ireland) 1966. [20th March 2001]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

Regulation of sea-fisheries in Northern Ireland inshore waters

1.—(1) Section 124 of the principal Act (sea-fishing regulations) shall be amended as follows.

(2) In subsection (1) after “sea-fisheries” insert “in Northern Ireland inshore waters or”.

(3) In subsection (2) after paragraph (d) insert—

“(dd) prohibiting in any area specified in the regulations, either without limitation of time or for any period so specified,—

(i) fishing from or by means of any vehicle or any vehicle of a specified description;

(ii) fishing by means of a specified description of equipment;”.

(4) After subsection (2) insert—

“(2A) The power to make regulations under this section may be exercised for—

- (a) the conservation or enhancement of the natural beauty or amenity of marine or coastal areas (including their geological or physiographical features) or of any features of archaeological or historic interest in those areas; or
 - (b) the conservation of flora or fauna which are dependent on, or associated with, a marine or coastal environment.”.
- (5) After subsection (3) add—
- “(4) Where—
- (a) a person commits an offence under subsection (3); and
 - (b) a vehicle or equipment is used in the commission of the offence,
- then, in addition to that person, any person who caused or permitted the commission of the offence is guilty of an offence.
- (5) For the purposes of this section—
- (a) “Northern Ireland inshore waters” means the area adjacent to the coast of Northern Ireland and to the landward of a limit of 6 miles from the baseline from which the breadth of the territorial sea is measured, up to the mean high-water mark of ordinary spring tides; and
 - (b) “sea-fisheries” includes any fishery within that area.”.

Enforcement of regulatory powers in relation to sea-fisheries in Northern Ireland inshore waters

2.—(1) In section 174 of the principal Act (boarding and examination of fishing boats), after subsection (1) insert—

“(1A) Any authorised person to whom this section applies may, for the purpose of enforcing regulations made under section 124, do all or any of the following things with respect to any vehicle or equipment which is or has been employed in fishing—

- (a) enter in or on the vehicle or equipment;
- (b) require the attendance of the person in charge of, and any other persons in or on or using, the vehicle or equipment and require all such persons to do anything which appears to him to be necessary for facilitating the performance of his functions;
- (c) in relation to any vehicle, examine—
 - (i) any fish in or on the vehicle;
 - (ii) any apparatus on the vehicle, including any fishing engine and any fishing gear used in association with any such engine;
 - (iii) any document relating to the vehicle;

- (d) in relation to any equipment, examine that equipment and any fish in or on the equipment;
- (e) seize—
 - (i) any vehicle or equipment which is being, or is reasonably suspected of having been, used in the commission of an offence under any regulation made under section 124;
 - (ii) any fish in respect of which an offence is being, or is reasonably suspected of having been, committed under any regulation made under section 124.”.

(2) Section 180 (procedure for disposal of boat or fishing engine seized in certain cases) shall be amended as follows—

- (a) for “or any fishing engine” substitute “, fishing engine, vehicle or equipment”;
- (b) for “or fishing engine”, wherever those words occur, substitute “, fishing engine, vehicle or equipment”;
- (c) in paragraph (a)—
 - (i) after “boat” insert “or a vehicle or equipment”;
 - (ii) for “it”, where it first occurs, substitute “the boat, vehicle or equipment”;
 - (iii) after “Act” insert “or any regulation made under section 124”.

(3) In section 181(1) of the principal Act (procedure for disposal of fish seized or detained) after “172” insert “, 174”.

(4) In section 183(2) of the principal Act (obstructing or impeding authorised persons) after “174(1)(aa)” insert “or (1A)(b)”.

Disturbing spawning beds, etc.

3.—(1) At the end of section 48 of the principal Act (taking, etc., spawn or fry of salmon, trout or eels) add—

“(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 the Board under subsection (6); or
- (b) otherwise than in accordance with the conditions of a consent granted by the Board under subsection (6),

he shall be guilty of an offence.

(6) The Board 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 the Board—

(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.”.

(2) For section 208 of the principal Act substitute—

“208 Saving for right of owner to take materials from streams

208. Nothing in this Act other than section 48 shall prejudice the right of any owner to take materials from any stream.”.

Charges for fishing permits

4. In section 7A(1)(b) of the principal Act (permits to fish in Department’s waters) for “Department of Finance and Personnel may approve” substitute “Department may determine”.

Power of Board to make byelaws

5. In section 26 of the principal Act (power of Board to make byelaws)—

(a) in subsection (1) after paragraph (kk) insert—

“(kkk) anything relating in any manner to the management and protection of the fisheries;”;

(b) after subsection (2) insert—

“(3) The power to make byelaws under this section in relation to the regulation of fishing for salmon may be exercised for—

(a) the conservation or enhancement of the natural beauty or amenity of marine or coastal areas (including their geological or

physiographical features) or of any features of archaeological or historic interest in those areas; or

- (b) the conservation of flora or fauna which are dependent on, or associated with, a marine or coastal environment.”.

Reduced duties for Fisheries Conservancy Board licences

6. In section 37(1) of the principal Act (power of Board to make byelaws respecting fishing licences) in paragraph (b) for the words from “persons holding” to the end substitute “persons of such class or description as is specified in the byelaws”.

Reinstatement of polluted waters

7. In section 47 of the principal Act (penalty for pollution)—

- (a) in subsection (3)(i) for “restocking to restore the fish population” substitute “reinstatement”;
- (b) in subsections (4)(a) and (5) for “restocking” substitute “reinstatement”.

Interpretation

8. In this Act “the principal Act” means the Fisheries Act (Northern Ireland) 1966 (c. 17).

Short title

9. This Act may be cited as the Fisheries (Amendment) Act (Northern Ireland) 2001.