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STATUTORY INSTRUMENTS

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**1991 No. 1466**

**The Fisheries (Amendment) (Northern Ireland) Order 1991**

*Enforcement of principal Act*

**Fishery Conservation Officers**

**24.**—(1) Water bailiffs shall, instead of being so called, be called fishery conservation officers; and accordingly—

- (a) any enactment or instrument passed or made before the commencement of this Article, shall have effect so far as may be necessary in consequence of the change of title made by this Article, as if for any reference to a water bailiff there were substituted a reference to a fishery conservation officer; and
- (b) documents and forms printed or duplicated for use in connection with functions of water bailiffs may be used notwithstanding that they contain references to such bailiffs and those references shall be construed as references to fishery conservation officers.

(2) In paragraph (1) “water bailiffs” means water bailiffs appointed by the Fisheries Conservancy Board.

**Private water bailiffs**

**25.**—(1) In section 170 of the principal Act (appointment etc., of private water bailiffs)—

- (a) in subsection (3) for the words from “or, where” to “may be,” there shall be substituted the words “ and the Department, and the Board and ”;
- (b) after subsection (5) there shall be inserted the following subsection—

“(5A) Where a person who has appointed a private water bailiff revokes that appointment, that person shall, within 14 days of the revocation, serve written notice thereof on the clerk of petty sessions for the petty sessions district in which the court by which the appointment was confirmed, sits.” ;

- (c) for subsection (6) there shall be substituted the following subsection—

“(6) Where—

- (a) the appointment of a person as a private water bailiff has been confirmed under subsection (4) or revoked under subsection (5), or
- (b) notice of the revocation of such an appointment has been received under subsection (5A),

the clerk of the court shall notify the Department and the Board of such confirmation or revocation or, as the case may be, such notice, as soon as practicable.” ;

- (d) after subsection (7) there shall be inserted the following subsections—

“(7A) Any person or society mentioned in paragraphs (a) to (e) of subsection (1) who employs any person to act as a private water bailiff shall, before 31st January in each year, make to the Board a return in such form and containing such information as may be prescribed by byelaws.

*Status: Point in time view as at 01/01/2006.*

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(7B) The Board shall maintain a register of the names and addresses of those who are entitled to act as private water bailiffs.

(7C) The register to be maintained under subsection (7B) shall be open to inspection by the Department.” ;

(e) in subsection (8), after paragraph (b) there shall be inserted the following—

“or

(c) fails to serve written notice under subsection (5A) within the time specified in that subsection; or

(d) fails to make a return to the Board under subsection (7A) by the date specified in that subsection;” .

(2) After section 170 of the principal Act there shall be inserted the following section—

**“Duration of appointments of private water bailiffs.**

**170A.**—(1) Any person whose appointment as a private water bailiff is confirmed after the coming into operation of Article 25 of the Fisheries (Amendment) (Northern Ireland) Order 1991 shall, unless his appointment is renewed in accordance with Schedule 5A, cease to be a private water bailiff on the expiration of the period of 5 years from the date of that confirmation.

(2) Any person whose appointment as a private water bailiff was confirmed before the coming into operation of that Article of that Order shall, unless his appointment is renewed in accordance with Schedule 5A, cease to be a private water bailiff either—

(a) on the expiration of the period of 5 years from the date of that confirmation, or

(b) on the expiration of the period of 1 year from the date of the coming into operation of that Article of that Order,

whichever period is longer.

(3) In subsections (5), (5A), (6) and (8) of section 170 references (in whatever terms) to a person's appointment as a private water bailiff shall be construed as including references to the renewal of his appointment as such.

(4) Nothing in this section shall preclude the re-appointment under section 170 of a person who ceases, by virtue of subsection (1) or (2), to be a private water bailiff.”.

(3) The provisions set out in Schedule 1 shall be inserted after Schedule 5 to the principal Act as Schedule 5A.

**Powers of certain authorised persons**

**26.** In section 172 of the principal Act (general powers of authorised persons), after subsection (1) there shall be inserted the following subsections—

“(1A) Without prejudice to subsection (1)(a), an authorised person other than a private water bailiff may for the purpose of preventing or detecting the commission of an offence against any provision of this Act at any time enter on and traverse any land either on foot or, where there is a suitable roadway, lane or path, in a motor vehicle.

(1B) Where, by virtue of subsection (1A), an authorised person brings a motor vehicle onto any land, he shall not cause or permit that vehicle to stand or remain in such a position as to cause or be likely to cause any danger or obstruction.

(1C) An authorised person, on leaving any land which he has entered by virtue of this section, shall leave that land as effectually secured against trespassers as he found it.” .

### **Warrants to enter certain premises**

27. In section 173 of the principal Act (power of justice of the peace to grant warrant to enter certain places)—

- (a) in subsection (1) for the words from “at such time” onwards there shall be substituted the words “ if need be using such force as is reasonable in the circumstances ”;
- (b) in subsection (2) at the end there shall be added the words “ and may, except where a specific time for execution is mentioned in the warrant, be executed at any reasonable time ”; and
- (c) after subsection (2) there shall be added the following subsections—
  - “(3) A person authorised to enter premises by virtue of a warrant issued under this section—
    - (a) may take with him such other authorised persons and such equipment he considers may be necessary; and
    - (b) shall, on leaving any unoccupied premises which he has entered by virtue of such a warrant, leave them as effectually secured against trespassers as he found them.
  - (4) In this section “authorised person” does not include a private water bailiff.” .

### **Detention of sea-fishing boats, etc. by officers of the Board**

28. In section 175 of the principal Act—

- (a) the existing provision shall be numbered as subsection (1); and
- (b) after that subsection there shall be added the following subsection—
  - “(2) Where it appears to an officer of the Board that a person has committed an offence under any provision of this Act relating to the taking of salmon in the sea, that officer may exercise the powers conferred on an authorised person by subsection (1).” .

### **Amendment of enforcement powers**

29.—(1) In section 176 of the principal Act (apprehension of offenders), in paragraph (1)(b) (i) after the word “address” there shall be inserted the words “ to the satisfaction of the authorised person ”.

(2) In subsection (1) of section 178 of the principal Act (powers of authorised officers)—

- (a) in paragraph (b) after the words “interior of” there shall be inserted the words “ and, where he suspects that an offence under any provision of the Act is being, or has been, committed, to carry out a search of ”;
- (b) in paragraph (g) after the word “examine” there shall be inserted the words “ , to demand the age of such a person who is apparently under the age of 18 ”;
- (c) after paragraph (g) there shall be added the following paragraph—
  - “(h) to demand and take the name and address of any person who is fishing or whom he suspects to be about to fish or to have fished within the preceding half hour and to demand the age of such a person who is apparently under the age of 18.” .

(3) In subsection (3) of that section, after the word “address” (where it occurs for the first time) there shall be inserted the words “ to the satisfaction of the authorised officer ”.

**Production of licences and permits issued by Department**

**30.**—(1) In section 179 of the principal Act (persons using, etc. fishing engines to produce licence therefor on demand), in paragraph (b) of subsection (3), for the words “as soon as practicable” there shall be substituted the words “within five days”.

(2) After section 179 of the principal Act there shall be inserted the following section—

**“Production of permits issued under section 7A.**

**179A.**—(1) If any person—

- (a) using at any waters the fishing rights in which are owned by the Department a fishing engine for which a permit is required under section 7A, or
- (b) having such a fishing engine erected or in fishing order in his possession in or near such a place,

fails on demand to produce to an authorised person a permit by or by virtue of which he is authorised to use that fishing engine in those waters, he shall be guilty of an offence.

(2) Subsections (2) to (4) of section 179 shall apply in relation to an offence under subsection (1) in the same manner as those provisions apply to an offence under subsection (1) of that section, but with the omission from subsection (3)(b)(i) of that section of the words “by byelaws made under section 37(1)(f)”.

(3) In this section “authorised person” means—

- (a) an officer appointed by the Department, and
- (b) an officer of the Board.”.

**Jurisdiction of Water Appeals Commission for Northern Ireland**

**31.** After section 185A of the principal Act (preservation of amenity) there shall be inserted the following heading and section—

*“Jurisdiction of Water Appeals Commission for Northern Ireland under this Act*

**Jurisdiction of Appeals Commission.**

**185B.**—(1) In relation to the exercise of the jurisdiction of the Appeals Commission under this Act, Article 8 of the Water and Sewerage Services (Northern Ireland) Order 1973 shall have effect subject to the following modifications—

- (a) in paragraphs (2) to (5) references to the Department within the meaning of that Article shall be construed as references to the Department within the meaning of this Act;
- (b) paragraph (8) shall have effect as if for the words from “Schedules” onwards there were substituted “section 11A(3) or 132(2) of the Fisheries Act (Northern Ireland) 1966”.

(2) Where the Appeals Commission may determine an appeal under this Act—

- (a) the appeal shall be heard by such member of the Appeals Commission as the Chief Commissioner may appoint in that behalf;
- (b) except where an appeal is to be decided solely by reference to written representations, the Chief Commissioner may, after consultation with the Appeals Commission and the Department, appoint an assessor to sit with the member appointed under paragraph (a) at the appeal to advise him on any matters arising;

- (c) notwithstanding paragraphs (a) and (b), any decision on the appeal shall be made by the Appeals Commission.
- (3) Where the Appeals Commission may hold an inquiry under this Act—
  - (a) the inquiry shall be held by such member of the Appeals Commission as the Chief Commissioner may appoint in that behalf;
  - (b) the Chief Commissioner may, after consultation with the Appeals Commission and the Department, appoint an assessor to sit with the member appointed under paragraph (a) at the inquiry or hearing to advise him on any matters arising;
  - (c) notwithstanding paragraphs (a) and (b), any report on the inquiry or hearing shall be made by the Appeals Commission.
- (4) The Appeals Commission may pay to any assessor appointed under subsection (2)(b) or (3)(b) such fees and allowances as the Commission, with the approval of the Department, may approve.”.

#### **Time limit for certain summary offences**

**32.** In section 186 of the principal Act (complaints)—

- (a) the existing provision shall be numbered as subsection (1); and
- (b) after that subsection there shall be added the following subsections—

“(2) Notwithstanding anything in Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981, summary proceedings for an offence under section 45 (including that section as applied by section 7A), or Part VII may be brought at any time within the period of six months from the date on which evidence, sufficient in the opinion of the Board to justify a prosecution for the offence, comes to the knowledge of the Board; but no such proceedings shall be brought by virtue of this section more than two years after the commission of the offence.

(3) For the purposes of subsection (2) a certificate purporting to be signed by the Chairman of the Board, as to the date on which such evidence as aforesaid came to the knowledge of the Board, shall be conclusive evidence thereof.”.

#### **Applications for disposal of forfeitures**

**33.** In section 198 of the principal Act—

- (a) in subsection (1) the words from “before” to “was forfeited” shall be omitted; and
- (b) immediately after that subsection there shall be inserted the following subsection—

“(1AA) An application under subsection (1) shall be made—

- (a) before the expiration of the period of 28 days from the date of the order by, or the conviction in consequence of, which the thing was forfeited, or
- (b) where notice of appeal against the order or conviction is given, before the expiration of 14 days from the date on which the order or conviction is affirmed or, as the case may be, the appeal is abandoned.”.

**Status:**

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**Changes to legislation:**

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