



# Foyle Fisheries Act (Northern Ireland) 1952

## 1952 CHAPTER 5

### PART VI

#### PROTECTION OF FISHERIES

*[<sup>F1</sup>Unlicensed fishing, etc.*

**F1** Ss. 35A, 35B and preceding cross heading inserted (1.6.2008) by [Foyle and Carlingford Fisheries \(Northern Ireland\) Order 2007 \(S.I. 2007/915 \(N.I. 9\)\)](#), arts. 1(3), **11** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

#### **35A Prohibition of unlicensed fishing**

- (1) A person shall not fish for, take or kill salmon or such other kind of fish as may be prescribed for the purposes of this section except—
  - (a) under the authority of a fishing licence; and
  - (b) in accordance with the terms and conditions of that licence and of any regulations relating to it.
- (2) A person shall not have in his possession in or near any fishing place any fishing engine for the taking or killing of salmon or such other kind of fish as may be prescribed for the purposes of this section, which is erected or in fishing order, unless there is in force a fishing licence by virtue of which he is authorised to use that fishing engine at that place.
- (3) A person who acts, or causes or permits another person to act, in contravention of subsection (1) or (2) shall be guilty of an offence against this Act.
- (4) If any person using at any place a fishing engine for which a fishing licence is required under this Act, or having such a fishing engine erected or in fishing order in his possession in or near any fishing place, fails on demand to produce to an authorised

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person a fishing licence by virtue of which he is authorised to use that fishing engine at that place, he shall be guilty of an offence against this Act.

- (5) A person guilty of an offence under subsection (3) or (4) by reason of a contravention of subsection (1), (2) or (4) which consists only of the use or possession of a rod and line or hand line shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) A person who—
- (a) uses or, with intent to deceive, presents a fishing licence for any time, date, period, place or purpose other than that for which that licence is valid; or
  - (b) uses or presents, as being a fishing licence of which he is the holder, a fishing licence issued in the name of any other person; or
  - (c) uses or presents a fishing licence that has been to his knowledge either in any manner altered (otherwise than by a person duly authorised by the Commission) or fraudulently counterfeited;
- shall be guilty of an offence against this Act.
- (7) In charging an offence under this section by reason of a contravention of subsection (1) it shall be sufficient—
- (a) where the contravention consists only of the use or possession of a rod and line or hand line, to describe the offence as “unlicensed angling contrary to section 35A of the Foyle Fisheries Act (Northern Ireland) 1952”; and
  - (b) in any other case, to describe the offence as “fishing by unlicensed means contrary to section 35A of the Foyle Fisheries Act (Northern Ireland) 1952”.
- (8) In this section and in section 35B “fishing licence” means—
- (a) a licence issued by the Commission under regulations made by the Commission under this Act; or
  - (b) a licence corresponding to a licence mentioned in paragraph (a) and issued by a body approved for the purposes of this paragraph by NSMC.
- (9) In relation to a fishing licence issued by a body other than the Commission, the reference to regulations in subsection (1)(b) shall be construed as a reference to regulations or byelaws relating to that licence.
- (10) This section is subject to section 35B.

### **35B Exceptions, defences, etc. in relation to offences under section 35A**

- (1) Subsections (1) and (2) of section 35A do not apply in relation to anything which a person is expressly empowered to do under any provision made by or under this Act or any other statutory provision.
- (2) Nothing in section 35A applies to a person—
- (a) who fishes lawfully by rod and line in a production pond at a licensed area (within the meaning of section 52X(1)); or
  - (b) who has for that purpose in his possession a rod or line at or near a licensed area.
- (3) In subsection (2) “production pond” means a pond—
- (a) used for the artificial propagation and culture of fish; and

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- (b) designated by the Commission for the purposes of this subsection as a production pond in an aquaculture licence.
- (4) Where a person is charged under section 35A with an offence which consists of taking fish which he is not licensed to take, it shall be a good defence for him to prove that—
- (a) at the time when that fish was taken, he was engaged in lawfully fishing for another kind of fish; and
  - (b) that the first-mentioned fish was taken unintentionally and, immediately upon being taken, was returned to the water without any avoidable injury.
- (5) Where a person is charged under section 35A with an offence which consists of—
- (a) having a fishing engine in his possession as mentioned in subsection (2) of that section; or
  - (b) a failure to produce a fishing licence for a fishing engine in any of the circumstances referred to in subsection (4) of that section,
- it shall be a good defence for him to prove that he had the fishing engine in his possession as manufacturer or seller of the fishing engine and not for the purpose of using it.
- (6) A person shall not be charged with an offence under section 35A consisting of failure to produce a fishing licence for a fishing engine in any of the circumstances referred to in subsection (4) of that section if upon demand being made by an authorised person for the production of a fishing licence under that subsection, the first mentioned person—
- (a) then and there gives to the authorised person his name and address and any evidence of his identity then available and also gives a reasonable explanation of his failure to produce the fishing licence at that time; and
  - (b) within 5 days thereafter, and in accordance with any reasonable requirement then communicated to him by the authorised person, produces to the authorised person or to any other person designated by him—
    - (i) a fishing licence authorising him to use the fishing engine at that place and time; and
    - (ii) evidence of his identity.]

#### REGULATIONS AS TO NETS

### 36 Restrictions on use of nets.

If any person—

- (a) makes use of or fishes with any net formed with a false bottom (except nets for the taking of eels), or
  - (b) places two or more nets one behind the other, or
  - (c) uses any nets covered with canvas, hide, or other substance for the purpose of taking small fish, or
  - (d) affixes or keeps up continued nets stretched across any river,
- he shall be guilty of an offence against this Act.

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### 37 Mesh of nets for the taking of salmon in the sea and tideways.

- (1) If, on any part of the coast or within any bay, estuary or tideway thereof, any person uses any net to which this section applies with a mesh of less size than [<sup>F2</sup>4.5 centimetres] from knot to knot, to be measured along the side of the square, or [<sup>F3</sup>18 centimetres] to be measured all round each such mesh, such measurement being taken in the clear when the net is wet, then, subject to sub-section (2) of this section, he shall be guilty of an offence against this Act.
- (2) The Commission may by regulation under section thirteen permit the use of nets to which this section applies having meshes of a less size than that specified in sub-section (1) of this section.
- (3) In this section the expression “net to which this section applies” means any net or other engine which is not formed of a rigid material and which is used for the taking of salmon.

**F2** Words in s. 37(1) substituted (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **12(1)(a)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

**F3** Words in s. 37(1) substituted (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **12(1)(b)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

### 38 Use of salmon nets near mouths of rivers.

- (1) If any person (other than the owner of a several fishery within the limits thereof) shoots, draws, or uses any net for taking salmon at the mouth of any river or within [<sup>F4</sup>805 metres] seaward or [<sup>F4</sup>805 metres] inwards or along the coast from the mouth of any river, he shall be guilty of an offence against this Act.

[<sup>F5</sup>(2) If a person—

- (a) shoots, draws or stretches a net across the mouth or across any other part of a river; and
- (b) fails to leave open a channel which is—
  - (i) at least one-quarter of the width of the mouth of the river or, as the case may be, of that other part of the river, and
  - (ii) of sufficient depth and width to facilitate the passage of salmon in that river,

he shall be guilty of an offence against this Act.]

- (3) Where regulations under this Act define the mouth of any tributary river, references in this section to the mouth of any river shall be construed as including references to the mouth of that tributary river.

**F4** Words in s. 38(1) substituted (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **12(2)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

**F5** S. 38(2) substituted (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **13** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

### 39 Restriction on possession of unlawful net, etc.

- (1) No person shall have in his possession or control in any river or on or near the banks of any river any net or other instrument or lure or bait the use of which for the purpose of taking salmon, trout or other fish is unlawful.
- (2) Any person who has in his possession or control any net or other instrument or lure or bait in contravention of this section shall be guilty of an offence against this Act.
- (3) Where—
  - (a) a person is found in possession of or has in his control any net in the vicinity of the boundary between the tidal and freshwater portions of any river, and
  - (b) by reason thereof such person is charged with an offence under this section, it shall be a good defence to such charge for such person to prove that he is the holder of a [<sup>F6</sup> fishing licence] to use such net and that such net is intended for use in such tidal portion.

**F6** Words in s. 39(3) substituted (1.6.2008) by [Foyle and Carlingford Fisheries \(Northern Ireland\) Order 2007 \(S.I. 2007/915 \(N.I. 9\)\)](#), arts. 1(3), 34(1), **Sch. 2 para. 1(6)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

#### PROHIBITION OF CERTAIN METHODS OF FISHING FOR, AND OF PRACTICES LIABLE TO DESTROY, SALMON AND OTHER FISH

### [<sup>F7</sup> 40 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 against this Act.
- (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 against this Act.
- (3) It shall be a good defence to a charge under sub-section (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—
  - (a) on summary conviction, to a fine not exceeding [<sup>F8</sup> £100], or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment;
  - (b) on conviction on indictment to [<sup>F8</sup> 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*

**F7** 1962 c. 5 (NI)

**F8** 1984 NI 3

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#### [<sup>F9</sup>41 Penalty for pollution.

- (1) <sup>F10</sup> . . . If any person causes or knowingly permits any deleterious matter to enter any river he shall be guilty of an offence against this Act and shall be liable
- [<sup>F11</sup>(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.]
- (1A) <sup>F12</sup> . . . . .
- (2) <sup>F13</sup> . . . . .
- [<sup>F14</sup>(3) Where a person (in this section referred to as “the person convicted”) has been convicted of an offence under subsection (1), the Commission]
- (a) after consulting the owner of the fishing rights in the waters affected by the pollution; or
- (b) without such consultation if the [<sup>F14</sup> Commission], upon making reasonable enquiries, is unable to ascertain the name and address of the owner,
- may—
- (i) carry out such [<sup>F15</sup>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 [<sup>F16</sup>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 [<sup>F17</sup>Part I of the Arbitration Act 1996].
- (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 [<sup>F18</sup>reinstatement] carried out by the [<sup>F14</sup> Commission] under subsection (3).
- [<sup>F14</sup>(6) Subsection (5) applies in relation to any such right vested in the Commission.]

**F9** 1962 c. 5 (NI)

**F10** Words in s. 41(1) repealed (1.4.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006](#) (S.I. 2006/3336 (N.I. 21)), arts. 1(2), 308, **Sch. 13** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

**F11** 1994 NI 15

**F12** S. 41(1A) repealed (1.6.2008) by [Foyle and Carlingford Fisheries \(Northern Ireland\) Order 2007](#) (S.I. 2007/915 (N.I. 9)), arts. 1(3), 26(1), 34(2), **Sch. 3** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

**F13** S. 41(2) repealed (1.4.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006](#) (S.I. 2006/3336 (N.I. 21)), arts. 1(2), 308, **Sch. 13** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

**F14** 1991 NI 13

**F15** Words in s. 41(3)(i) substituted (1.6.2008) by [Foyle and Carlingford Fisheries \(Northern Ireland\) Order 2007](#) (S.I. 2007/915 (N.I. 9)), arts. 1(3), **14(a)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

**F16** Word in s. 41(4)(a) substituted (1.6.2008) by [Foyle and Carlingford Fisheries \(Northern Ireland\) Order 2007](#) (S.I. 2007/915 (N.I. 9)), arts. 1(3), **14(c)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

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**F17** Words in s. 41(4) substituted (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **14(b)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

**F18** Word in s. 41(5) substituted (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **14(c)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

#### Modifications etc. (not altering text)

**C1** S. 41 restricted by Water (Northern Ireland) Order 1999 (S.I. 1999/662 (N.I. 6)), art. 10(a) (as substituted (1.4.2007) 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)

## 42 Penalty for using, etc., certain devices for taking fish.

[<sup>F19</sup>(1) If, for the purpose of taking or facilitating the taking of any fish, any person uses or has in his possession or control, in any river or on or near the banks thereof—

- (a) any light or fire; or
- (b) any electrical or acoustical apparatus of any kind,

he shall be guilty of an offence against this Act.]

(2) If, for the purpose of taking any fish, any person uses or has in his possession or control in any river or on or near the banks thereof, any otter, [<sup>F20</sup>tailer or snare,] spear, strokehaul, gaff or other instrument of a similar kind, he shall, subject to sub-section (3) of this section, be guilty of an offence against this Act.

(3) Sub-section (2) of this section shall not apply to the use, possession or control of—

- (a) a <sup>F21</sup> . . . [<sup>F20F21</sup> . . . tailer] used or to be used solely as an auxiliary to lawful angling between sunrise and one hour after sunset, or
- (b) a <sup>F21</sup> . . . [<sup>F20F21</sup> . . . tailer] used or to be used by the holder of a fishing licence in respect of any box in a fishing weir or fishing mill dam solely for the purpose of lawfully removing fish therefrom, or
- (c) an eel spear used for taking eels.

[<sup>F22</sup>(3A) If any person throws, releases or discharges any missile or other object into any water for the purpose of taking or killing, or facilitating the taking or killing of, any fish, he shall be guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding 6 months, or to both;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years, or to both.]

(4) Every person guilty of an offence under sub-section (1) or (2) of this section shall be liable on summary conviction thereof to a fine not exceeding [<sup>F23</sup>level 3 on the standard scale] or to imprisonment for any term not exceeding [<sup>F24</sup>six] months or to both such fine and such imprisonment.

[<sup>F25</sup>(5) In this section—

“gaff” means a hooked instrument (with or without a barb) used to penetrate the gills or body of a fish; and

“otter” means an otter lath or jack, and includes any instrument, whether used with a handline, or as an auxiliary to a rod and line, or otherwise for the purpose of running out lures, artificial or otherwise.]

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- F19** S. 42(1) substituted (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **15(1)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.
- F20** 1962 c. 5 (NI)
- F21** Words in s. 42(3)(a)(b) repealed (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), 15(2), 34(2), **Sch. 3** (with art. 32); S.R. 2008/232, **art. 2**, Sch.
- F22** S. 42(3A) inserted (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **15(3)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.
- F23** 1984 NI 3
- F24** 1968 c. 31 (NI)
- F25** S. 42(5) added (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **15(4)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

#### 43 Fishing for salmon or trout in a river by cross lines.

[<sup>F26</sup>(1)] If any person takes, catches or fishes for any salmon or trout by means of cross lines in any river, he shall be guilty of an offence against this Act.

[<sup>F27</sup>(2) In subsection (1) “cross lines” means fishing lines—

- (a) reaching from one position to another across water and fixed or held at each of their ends; and
- (b) having attached to them one or more baited hooks or lures, artificial or otherwise.]

- F26** S. 43 renumbered (1.6.2008) as s. 43(1) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **16** (with art. 32); S.R. 2008/232, **art. 2**, Sch.
- F27** S. 43(2) added (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **16** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

#### 44 Damming, etc., river or mill race for purpose of taking salmon or trout.

If any person dams, teems or empties any river or water-course for the purpose of taking or destroying any salmon or trout, such person shall be guilty of an offence against this Act.

#### 45 Taking fish unlawfully killed or found dead.

- (1) Every person who by any means removes or causes to be removed from any river—
  - (a) any salmon or trout which have been killed otherwise than by lawful means, or
  - (b) any salmon or trout which have been found dead, from any cause whatever, by such person,
 shall be guilty of an offence against this Act.
- (2) This section shall not apply to—
  - (a) any person acting under the authority of the Ministry, or
  - (b) any member or officer of the Commission, or
  - (c) any owner of a fishery or his agent acting under the written authority of the Commission, or



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- (d) so far as respects the removal or causing to be removed of any diseased salmon or trout, or any salmon or trout found dead from any cause, any member of the Royal Ulster Constabulary or any [<sup>F28</sup>person acting under the authority of a district council][<sup>F29</sup>or
- (e) a private river watcher appointed to protect the waters in question.]

[<sup>F30</sup>(3) Where a person mentioned in subsection (2)(a), (c), (d) or (e) removes fish from a river as mentioned in subsection (1) or causes fish to be so removed, he shall inform the Commission of that fact as soon as is practicable.]

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| <p><b>F28</b> Words in s. 45(2)(d) substituted (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), <b>17(a)(i)</b> (with art. 32); S.R. 2008/232, <b>art. 2</b>, Sch.</p> <p><b>F29</b> S. 45(2)(e) and preceding word added (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), <b>17(a)(ii)</b> (with art. 32); S.R. 2008/232, <b>art. 2</b>, Sch.</p> <p><b>F30</b> S. 45(3) added (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), <b>17(b)</b> (with art. 32); S.R. 2008/232, <b>art. 2</b>, Sch.</p> |
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#### PROTECTION OF YOUNG AND BREEDING FISH

#### 46 Taking, etc., spawn, smolts or fry of salmon or trout.

[<sup>F31</sup>(1) If any person—

- (a) wilfully takes, sells, purchases, or has in his possession the spawn, smolts or fry of salmon or trout, or
- (b) wilfully obstructs the passage of the smolts or fry of salmon or trout, or
- (c) injures or disturbs the spawn or fry of salmon or trout, or
- (d) injures or disturbs any spawning bed, bank or shallow where the spawn or fry of salmon or trout may be,

he shall be guilty of an offence against this Act.

[<sup>F32</sup>(2) It shall be a defence for a person charged with an offence under subsection (1)(a) in relation to the spawn of any salmon or trout to prove—

- (a) that the spawn had been produced at a—
  - (i) fish farm (as defined in the Fisheries Act (Northern Ireland) 1966); or
  - (ii) a licensed area (within the meaning of section 52X(1)); or
- (b) that he believed on reasonable grounds that it had been so produced.

(3) If any person removes any material from the bed of the freshwater portion of any river in the Londonderry Area or the Newry Area—

- (a) without the consent of the Commission under subsection (4); or
- (b) otherwise than in accordance with the conditions of a consent granted by the Commission under subsection (4),

he shall be guilty of an offence against this Act.

(4) The Commission may, on the application of any person, grant its consent to the removal of material from the bed of the freshwater portion of a river on such conditions as it thinks fit.

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- (5) Where the Commission—
- (a) on an application for a consent under subsection (4), has refused a consent; or
  - (b) in giving a consent under subsection (4), has given that consent subject to conditions,
- the person who applied for the consent may appeal to the Water Appeals Commission for Northern Ireland against the decision within 28 days from the day on which notice of the decision was given to that person.
- (6) In relation to the jurisdiction of the Water Appeals Commission for Northern Ireland under this section, Article 293 of the Water and Sewerage Services (Northern Ireland) Order 2006 shall have effect as if, in paragraphs (6) to (8) of that Article, references to the relevant Department were references to the Foyle, Carlingford and Irish Lights Commission.
- (7) A consent under subsection (4) 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.
- (8) Nothing done under and in accordance with the conditions of a consent under subsection (4) constitutes an offence under subsection (1) or section 47.]

- F31** S. 46 renumbered (1.6.2008) as s. 46(1) by [Foyle and Carlingford Fisheries \(Northern Ireland\) Order 2007 \(S.I. 2007/915 \(N.I. 9\)\)](#), arts. 1(3), **18** (with art. 32); S.R. 2008/232, **art. 2**, Sch.
- F32** S. 46(2)-(8) added (1.6.2008) by [Foyle and Carlingford Fisheries \(Northern Ireland\) Order 2007 \(S.I. 2007/915 \(N.I. 9\)\)](#), arts. 1(3), **18** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

#### **47 Disturbing fish on spawning beds.**

If any person disturbs fish on the spawning beds or attempts (except by means of lawful angling with rod and line) to catch fish thereon, he shall be guilty of an offence against this Act.

#### **48 Penalties for taking, buying, etc., unseasonable salmon or trout.**

- (1) Every person who at any time wilfully takes, kills, destroys, buys, sells, exposes for sale or has in his custody or possession any unclean or unseasonable salmon or trout, shall be guilty of an offence against this Act and shall be liable on summary conviction thereof to a fine not exceeding<sup>[F33]</sup> level 3 on the standard scale] or to imprisonment for any term not exceeding<sup>[F34]</sup> six] months or to both such fine and such imprisonment.
- (2) Where a person is charged with taking a salmon or trout in contravention of this section it shall be a good defence to prove that such salmon or trout was taken accidentally, and was returned without injury to the water immediately upon being taken.

- F33** 1984 NI 3  
**F34** 1968 c. 31 (NI)

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## MISCELLANEOUS OFFENCES

### 49 Obstructing persons lawfully fishing.

If any person obstructs any person lawfully engaged in fishing or in proceeding to or in returning from lawful fishing, such first-mentioned person shall be guilty of an offence against this Act.

### 50 Placing fishing engine with intent to prevent fish entering nets lawfully set.

If any person wilfully and maliciously places any fishing engine with intent to prevent fish from entering the nets of any other person set and placed in a lawful manner such first-mentioned person shall be guilty of an offence against this Act.

### 51 Giving warning to persons unlawfully fishing.

If any person gives or causes to be given or aids or assists in giving any signal or warning to any person engaged in fishing unlawfully of the approach of any member or officer of the Commission, member of the Royal Ulster Constabulary or river watcher appointed under section fifty-five, he shall be guilty of an offence against this Act.

### [<sup>F35</sup>51A Use of boat or vehicle as aid to commission of offence.

- (1) If any person uses a boat or vehicle as an aid to the commission of an offence against this Act or, within the Foyle Area<sup>F36</sup> or the Carlingford Area], against the provisions of the Fisheries Acts or the corresponding law of the Republic of Ireland he shall be guilty of an offence against this Act.
- (2) Every person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a fine not exceeding<sup>F37</sup> level 3 on the standard scale], or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment;
  - (b) on conviction on indictment, to<sup>F37</sup> an unlimited fine] or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.
- (3) If the offence under this section is committed in respect of a vehicle section seventy-five of this Act shall not apply in relation to the vehicle, but ...<sup>F38</sup> the court [<sup>F39</sup> by which the person is sentenced] may order the vehicle to be forfeited.]

**F35** 1962 c. 5 (NI)

**F36** SI 1999/859

**F37** 1984 NI 3

**F38** 1968 c. 31 (NI)

**F39** 1968 c. 31 (NI)

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*Changes to legislation: There are currently no known outstanding effects for the Foyle Fisheries Act (Northern Ireland) 1952, PART VI. (See end of Document for details)*

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AGENTS FOR FISHERY OWNERS

**52 Appointment**

- (1) Any fishery owner may by power of attorney under his hand appoint an agent to act for him for the purposes of this Act.
- (2) All things which by this Act are directed to be done by or with relation to any person may be lawfully done by or with relation to an agent appointed by him under this section and the agent may be dealt with in all respects as that person himself might have been dealt with under this Act.
- (3) Every agent appointed under this section shall have full power, in the name and on behalf of his principal, to take part in or act upon any inquiry, or prosecute, oppose or defend any complaint, appeal, action, writ, suit or other proceeding or to attend, vote at and take part in any meeting or do or suffer any other act for the purposes of this Act.
- (4) Every person who appoints an agent under this section shall be bound by the acts of the agent, according to the authority committed to him, as fully as if that person had so acted.
- (5) Every power of attorney under this section shall be produced, inspected or registered and copies and extracts thereof made at such times and places and in such manner as the Commission may prescribe.

(6) A power of attorney under this section may be in the following form—

“I, A. B.  
of .....

hereby appoint C. D.  
of .....

to be my lawful attorney to act for me in all respects as if I myself were present and acting, and I make this appointment under the Foyle Fisheries Act (Northern Ireland), 1952.

Dated this ..... day  
of .....,  
19.....

(Signed) A. B.”

(7) Where a person is convicted of an offence against this Act, he shall thereafter be disqualified from being appointed an agent under this section for a period of seven years from the date of conviction.

**Changes to legislation:**

There are currently no known outstanding effects for the Foyle Fisheries Act (Northern Ireland) 1952, PART VI.