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STATUTORY INSTRUMENTS

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**2007 No. 915**

The Foyle and Carlingford Fisheries  
(Northern Ireland) Order 2007

**PART II**

AQUACULTURE

**Aquaculture**

3.—(1) In the 1952 Act, after Part VI, there shall be inserted—

**“PART VIA**

AQUACULTURE

*Aquaculture licences*

**Aquaculture licences**

**52A.**—(1) The Commission may, in accordance with the provisions of this Part, grant a licence (“an aquaculture licence”) to any person authorising that person to engage in aquaculture within any area specified in the licence (the “licensed area”).

(2) An aquaculture licence may be granted notwithstanding any public right to fish in the area which, on the granting of the licence, becomes the licensed area.

(3) Subject to subsection (4) the licensed area may include any part of the foreshore or any part of the bed of the sea or an estuary.

(4) An aquaculture licence shall not specify any area—

- (a) which forms either part of the foreshore or part of the bed of the sea or an estuary owned or lawfully occupied by any person, unless the licence is granted to, or with the consent in writing of, the owner or lawful occupier of that part of the foreshore or that part of the bed of the sea or the estuary; or
- (b) which is within the limits of a several fishery, unless the licence is granted to, or with the consent in writing of, the owner or lawful occupier of that fishery.

(5) A person shall not engage in aquaculture in the Foyle Area or the Carlingford Area except under, and in accordance with the conditions of, an aquaculture licence.

(6) A person who contravenes subsection (5) 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.

### **Applications for aquaculture licences**

**52B.**—(1) An application for an aquaculture licence shall be made to the Commission and shall—

- (a) contain such information and be made in such form and in such manner as may be prescribed;
- (b) be advertised, at the expense of the applicant, in such form and in such manner as may be prescribed; and
- (c) be accompanied by—
  - (i) any consent required by section 52A(4); and
  - (ii) the prescribed fee.

(2) Without prejudice to any other provision of this Part, regulations under subsection (1) (a) may contain provisions similar to the provisions of Directive [85/337/EEC](#) and may, in particular, require the Commission, when considering whether to grant an aquaculture licence, to take account of any information received by, or representations made to, the Commission which relate to the impact of aquaculture on the environment.

(3) The Commission may, by giving notice to the applicant, require him to furnish such further information as may be specified in the notice, within the period so specified, as the Commission may require for the purpose of determining the application.

(4) If a person fails to furnish any information—

- (a) required under subsection (1)(a); or
- (b) specified in a notice under subsection (3) within the period specified in the notice,

the Commission may refuse to proceed with the application.

### **Determination of applications for aquaculture licences**

**52C.**—(1) The Commission shall consider an application for an aquaculture licence and either—

- (a) grant the licence; or
- (b) refuse to grant the licence.

(2) In determining an application for an aquaculture licence, the Commission shall consider any written representations relating to the application (including any representations made to the Commission which relate to the impact of aquaculture on the environment) which are received by the Commission within the period of 28 days beginning with the date on which the application was last advertised in accordance with section 52B(1)(b).

(3) As soon as practicable after determining an application for an aquaculture licence the Commission shall give—

- (a) the applicant; and
- (b) each person who made representations considered under subsection (2),

notice of the determination.

(4) Where the Commission grants an aquaculture licence, the Commission shall, in such form and in such manner as may be prescribed, publish a notice stating that the licence has been granted.

(5) Where the Commission grants an aquaculture licence, the licence—

- (a) shall, if no appeal is brought under section 52P, take effect on the expiration of 28 days from the date on which the Commission, in accordance with subsection (4), last published a notice stating that the licence had been granted;
- (b) shall, if an appeal is brought under section 52P, take effect—
  - (i) if and so far as the licence is confirmed on appeal, from the date on which the appeal is determined;
  - (ii) if the appeal is withdrawn, on the date of the withdrawal of the appeal.

### **Form and conditions of aquaculture licences**

**52D.**—(1) An aquaculture licence shall define the position and limits of the licensed area by reference to a map or chart, either with or without descriptive matter (which, in the case of any discrepancy with the map or chart, shall prevail except in so far as may otherwise be provided by the licence).

(2) Where any consent mentioned in section 52A(4) was given subject to any conditions or limitations, the licence shall be subject to such conditions or limitations and such fact shall be stated in the licence.

(3) An aquaculture licence may contain such other conditions as the Commission shall determine.

(4) Without prejudice to the generality of subsection (3), conditions contained in an aquaculture licence may relate to any of the following—

- (a) operational practices;
- (b) monitoring and protection of the health of fish, aquatic invertebrate animals or aquatic plants and the reporting of incidences of disease and the presence of parasites;
- (c) monitoring and inspection of the activities carried on pursuant to the licence;
- (d) the type of ropes, trestles, fish cages or other equipment or structures which may be located within the licensed area;
- (e) the marking, by buoys or otherwise, of the limits of the licensed area or any part of it, or of the location of ropes, trestles, fish cages or other structures within the licensed area;
- (f) the keeping of records by the holder of the licence;
- (g) the making of returns and the giving of other information to the Commission in relation to activities in the licensed area;
- (h) the protection of the environment (including the man-made environment of heritage value) and the control of discharges from the licensed area;
- (i) appropriate environmental, water quality and biological monitoring and, in particular, the provision of samples, or of facilities for taking samples in the licensed area;
- (j) in relation to the farming or culture of fish—
  - (i) the amount of feed inputs;
  - (ii) annual or seasonal limits on stock inputs and outputs and the amount of stock in the licensed area or in any part of it;
  - (iii) the disposal of dead fish;
  - (iv) measures for preventing the escape of fish and arrangements for reporting any such escape;

- (v) the movement of fish within, and in to or out of, the licensed area;
  - (k) the payment of any prescribed fee in relation to the licence.
- (5) An aquaculture licence may, in so far as is expedient for the purpose of giving effect to any conditions attached to it, exempt—
- (a) the holder of the aquaculture licence and any person acting under his directions; and
  - (b) a person who acquires fish of any kind taken in accordance with such conditions,
- from the restrictions imposed by section 34 or regulations made under section 13(gg) in so far as those restrictions apply to fish of that kind.

### **Duration of aquaculture licences**

- 52E.**—(1) Subject to subsections (2) and (3), an aquaculture licence—
- (a) shall in the first instance be limited to a period specified by the Commission in writing, being a period of not less than 10 years and not exceeding 20 years, and
  - (b) on the expiration of that period shall, on the Commission being satisfied that reasonable progress has been, and is likely to continue to be, made in developing the licensed site, be renewed for a further period specified by the Commission in writing, not exceeding 20 years, and
  - (c) on the expiration of that period, on the Commission being satisfied as aforesaid, may be further renewed from time to time for such period specified by the Commission in writing but not, on any occasion, for a period exceeding 20 years.
- (2) Where an aquaculture licence has been granted—
- (a) to the occupier (not being the owner) of a several fishery or of any land included in the licensed area; or
  - (b) to any person with the consent of such an occupier,

and the owner of the several fishery or land did not consent in writing to the grant of the licence, the licence shall remain in force only during the continuance in occupation of that occupier.

(3) Where an aquaculture licence is granted with the consent in writing of any owner or occupier and a period is specified in the consent, the licence shall remain in force only for that period.

### **Effect of aquaculture licence**

**52F.**—(1) An aquaculture licence shall confer on the holder of the licence the exclusive right, in the licensed area, to deposit, introduce, propagate, dredge, harvest and take any fish, aquatic invertebrate animal or aquatic plant which is farmed or cultivated in accordance with the licence.

- (2) An aquaculture licence shall not—
- (a) except for the purpose of the farming or cultivation of fish, animals or plants of a kind specified in the licence, affect any right in or over the foreshore or the bed of the sea or any estuary, or any right of several fishery;
  - (b) for any purpose, affect any such right of any person which he enjoys under a local or personal Act or under Royal Charter, letters patent, prescription or immemorial usage, without the consent of that person.

(3) Notwithstanding anything contained in this Act or any regulations made under this Act, the holder of an aquaculture licence and any person acting under his directions may, subject to

the conditions contained in the licence, do anything authorised by the licence or anything that is necessary or expedient for doing anything authorised by the licence.

(4) The ownership of any fish, aquatic invertebrate animal or aquatic plant the farming or cultivation of which is authorised by an aquaculture licence and which is farmed or cultivated in accordance with that licence vests in the holder of the licence and his executors, administrators or assigns.

(5) Subject to section 52K, an aquaculture licence is not transferable by the holder, but the Commission may transfer it to another person in accordance with section 52L.

(6) Except as permitted by or under this Act, if a person, by trespass, fishing or otherwise, interferes with anything done or being done pursuant to an aquaculture licence and the interference is carried on without the permission of the holder of the licence, then, notwithstanding the existence of any public right to fish, the person so interfering 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.

#### **Variation of aquaculture licences by Commission**

**52G.**—(1) Subject to subsection (2), the Commission may, on its own initiative, vary an aquaculture licence (but not so as to extend the licensed area) if it considers that it is in the public interest to do so.

(2) An aquaculture licence shall not be varied so as to affect any conditions or limitations subject to which a consent under section 52A(4) was given, or any period mentioned in such a consent, otherwise than with the consent in writing of the person or authority who gave the consent or his or its successor in title.

(3) Where the Commission proposes to vary an aquaculture licence under this section, the Commission shall—

- (a) give to the holder of the licence at least 28 days' notice of its proposal to do so and of the grounds upon which the variation is proposed to be made; and
- (b) advertise, in such form and in such manner as may be prescribed, notice of its proposal to vary the licence.

(4) Before varying the licence the Commission shall consider any written representations which are received by the Commission within the period of 28 days from—

- (a) the date on which the Commission gave notice to the holder of the licence of the proposed variation; or
- (b) the date on which notice of the proposal to vary the licence was last advertised in accordance with subsection (3)(b),

whichever is the later.

(5) Where the Commission varies a licence under this section the Commission shall give notice of the variation to the holder of the licence and the notice shall specify—

- (a) the variation of the licence which the Commission has decided to make; and
- (b) the date or dates on which the variation is to take effect.

(6) Where the Commission varies a licence under this section, the Commission shall, in such form and in such manner as may be prescribed, publish a notice stating that the licence has been varied.

(7) The Commission shall be liable to pay compensation to the holder of an aquaculture licence in respect of any loss or damage sustained by him as a result of any action taken by the Commission in relation to an aquaculture licence by virtue of subsection (1) and any dispute as to a person's entitlement to such compensation or as to the amount of it shall be referred to and determined by the Appeals Board.

#### **Variation of aquaculture licences: applications by holder of licence**

**52H.**—(1) Subject to subsection (2), the holder of an aquaculture licence may, at any time after the expiration of 2 years from the granting of the licence, apply to the Commission, in such manner as may be prescribed, for the variation of the licence specified in the application.

(2) An aquaculture licence shall not be varied so as to affect any conditions or limitations subject to which a consent under section 52A(4) was given, or any period mentioned in such a consent, otherwise than with the consent in writing of the person or authority who gave the consent or his or its successor in title.

(3) Where an application is made under subsection (1) for the variation of a licence (otherwise than solely by reducing the licensed area) sections 52A(3) and (4), 52B and 52C shall apply as they apply to the grant, or an application for the grant, of an aquaculture licence.

#### **Revocation of aquaculture licences**

**52I.**—(1) The Commission may revoke an aquaculture licence if it is satisfied that the holder of the licence has not engaged in aquaculture in the licensed area for a continuous period of 2 years.

(2) The Commission may revoke an aquaculture licence if—

- (a) it is satisfied that there has been a breach of a condition specified in the licence; or
- (b) it considers that it is in the public interest to do so.

(3) Where the Commission proposes to revoke an aquaculture licence, the Commission shall give the holder of the licence at least 28 days' notice of—

- (a) its intention to do so; and
- (b) the grounds upon which the revocation is proposed to be made;

and before revoking the licence the Commission shall consider any representations made by the holder of the licence before the expiration of the notice.

(4) Where the Commission revokes an aquaculture licence the Commission shall give notice of the revocation to the person whose licence has been revoked, and the notice shall inform that person of his right of appeal under section 52P, and of the time within which the appeal may be brought.

(5) The revocation of an aquaculture licence in accordance with this section shall not take effect until—

- (a) the expiry of the time allowed for making an appeal under section 52P; or
- (b) if an appeal is made under section 52P—
  - (i) if and so far as the revocation of the licence is confirmed on appeal, the date on which the appeal is determined; or
  - (ii) if the appeal is withdrawn, on the date of the withdrawal of the appeal,
 whichever is the later.

(6) The Commission shall be liable to pay compensation to a person who was the holder of an aquaculture licence in respect of any loss or damage sustained by that person as a result

of any action taken by the Commission by virtue of subsection (2)(b) and any dispute as to a person's entitlement to such compensation or as to the amount of it shall be referred to and determined by the Appeals Board.

### **Surrender of aquaculture licences**

**52J.**—(1) An aquaculture licence may, in accordance with subsections (2) to (5), be surrendered by its holder to the Commission if the Commission accepts the surrender.

(2) The holder of an aquaculture licence who wishes to surrender it shall make an application for that purpose to the Commission on a form provided by the Commission for the purpose, giving such information and accompanied by such documentation as the Commission reasonably requires and accompanied by the fee payable in accordance with section 52N.

(3) On receiving an application for the surrender of an aquaculture licence the Commission—

- (a) shall inspect the licensed area, and
- (b) may require the holder of the aquaculture licence to—
  - (i) provide the Commission with further information;
  - (ii) carry out such works in relation to the licensed area as the Commission may specify in writing.

(4) Where the surrender of a licence is accepted by the Commission under this section the Commission shall issue a certificate (a “certificate of completion”) to the applicant and, on the issue of that certificate, the aquaculture licence shall cease to have effect.

(5) If within the period of 3 months from the date on which the Commission receives an application to surrender a licence, or within such longer period as the Commission and the applicant may at any time agree in writing, the Commission has neither issued a certificate of completion nor given notice to the applicant that the Commission has refused the application, the Commission shall be deemed to have refused the application.

### **Vesting of aquaculture licences on death or bankruptcy of holder**

**52K.**—(1) On the death of the holder of an aquaculture licence, the licence shall be regarded as property forming part of the deceased's personal estate, whether or not it would be so regarded apart from this subsection, and shall accordingly vest in his personal representatives.

(2) If a bankruptcy order is made against the holder of an aquaculture licence, the licence shall be regarded for the purposes of Parts VIII to X of the Insolvency (Northern Ireland) Order 1989 (insolvency of individuals; bankruptcy) as property forming part of the bankrupt's estate, whether or not it would be so regarded apart from this subsection, and shall accordingly vest as such in the trustee in bankruptcy.

(3) A person in whom an aquaculture licence vests under this section shall become the holder of the aquaculture licence, in place of the prior holder, from the date of the vesting.

(4) Where an aquaculture licence vests in any person under this section, that person shall give notice of that fact to the Commission not later than the end of the period of 90 days, or such longer period as may be agreed with the Commission, beginning with the date of the vesting.

### **Transfer, etc. of aquaculture licences**

**52L.**—(1) An aquaculture licence may be transferred to another person in accordance with the following provisions of this section.

(2) Where the holder of an aquaculture licence desires that the licence be transferred to another person (“the proposed transferee”) the aquaculture licence holder and the proposed transferee shall jointly make an application to the Commission for a transfer of the licence.

(3) An application under subsection (2) for the transfer of an aquaculture licence shall be made on a form provided by the Commission for the purpose, accompanied by—

- (a) such information as the Commission may reasonably require;
- (b) where the aquaculture licence has been granted subject to the consent of the owner or lawful occupier of the foreshore, bed of the sea, estuary or any fishery, the consent in writing of that owner or lawful occupier, as the case may be, to the proposed transfer of the licence;
- (c) the fee payable in accordance with section 52N; and
- (d) the licence.

(4) If the Commission is not satisfied that the licence should be transferred to the proposed transferee, it shall give notice of its refusal to transfer the licence to the holder of the aquaculture licence and the proposed transferee.

(5) If, on an application under subsection (2), the Commission is satisfied that the licence should be transferred to the proposed transferee, the Commission shall effect a transfer of the aquaculture licence to the proposed transferee.

(6) The Commission shall effect a transfer of an aquaculture licence under subsection (5) by causing the licence to be endorsed with the name and other particulars of the proposed transferee as the holder of the licence from such date specified in the endorsement as may be agreed with the applicants.

(7) Nothing in this section shall affect the liability of the holder of an aquaculture licence for any failure by him, before any transfer under subsection (5) took effect, to comply within any condition of that licence.

### **Register of aquaculture licences**

**52M.—**(1) The Commission shall, in such manner as may be prescribed, maintain a register containing prescribed particulars of, or relating to, aquaculture licences.

(2) Without prejudice to the generality of subsection (1), a register under this section may be maintained in electronic form.

(3) The Commission shall—

- (a) ensure that the contents of a register maintained under this section are available, at all reasonable times, for inspection (including, where practicable, inspection by electronic means) by the public free of charge; and
- (b) afford members of the public reasonable facilities for obtaining from the Commission, on payment of reasonable charges, copies of entries in the register.

(4) A register maintained under this section shall be conclusive evidence as to the terms of any aquaculture licence, or any condition to which such a licence is subject, as that licence, or that condition, as the case may be, has effect for the time being.

### **Fees in respect of applications for aquaculture licences, etc.**

**52N.—**(1) The Commission may in such manner as may be prescribed, provide for the payment to the Commission of fees in relation to—

- (a) applications for aquaculture licences under section 52B;
- (b) the subsistence of an aquaculture licence;



- (c) applications for the variation of an aquaculture licence under section 52H;
  - (d) applications for the surrender of an aquaculture licence under section 52J;
  - (e) applications for the transfer of an aquaculture licence under section 52L.
- (2) Regulations under subsection (1) may provide for the refund (in whole or in part) of fees in prescribed circumstances.

#### *Foyle and Carlingford Aquaculture Licensing Appeals Board*

### **Foyle and Carlingford Aquaculture Licensing Appeals Board**

**52O.**—(1) There is hereby established a body to be known as the Foyle and Carlingford Aquaculture Licensing Appeals Board (“the Appeals Board”).

(2) The Appeals Board shall consist of 8 members to be appointed by NSMC.

(3) At least one of the members of the Appeals Board shall be a solicitor or barrister qualified to practice in any part of the Foyle Area or the Carlingford Area.

(4) In appointing the other members of the Appeals Board, NSMC shall—

- (a) have regard to the desirability of having as members of the Appeals Board persons with knowledge and experience of fisheries, aquaculture, financial matters or environmental protection; and
- (b) to the extent practicable, endeavour to ensure that there is an equitable balance between men and women in the composition of the Appeals Board.

(5) NSMC shall appoint a Chairperson from among the members of the Appeals Board.

(6) The Department may make regulations providing for the payment to the Appeals Board of fees in relation to appeals under section 52P.

(7) The Department may make grants to the Appeals Board out of money appropriated by Act of the Assembly.

(8) Such grants shall be of such amounts and be made on such terms and conditions as the Department may determine.

(9) Schedule 3A shall have effect in relation to the Board.

### **Appeals from decisions with respect to aquaculture licences**

**52P.**—(1) A person aggrieved by a decision of the Commission—

- (a) to grant or to refuse to grant an aquaculture licence;
- (b) to specify any condition in an aquaculture licence;
- (c) to vary an aquaculture licence under section 52G;
- (d) to vary or to refuse to vary an aquaculture licence under section 52H;
- (e) to revoke an aquaculture licence under section 52I;
- (f) to refuse to transfer an aquaculture licence under section 52L;
- (g) to refuse to accept the surrender of an aquaculture licence under section 52J;

may appeal to the Appeals Board.

(2) An appeal to the Appeals Board shall be made by sending a notice of appeal to the Appeals Board so that it is received by the Appeals Board—

- (a) in the case of a decision of the Commission to grant an aquaculture licence or specify any condition in an aquaculture licence, not later than 28 days after the date on which notice to grant the licence was last published in accordance with section 52C(4);
  - (b) in the case of a decision by the Commission to vary an aquaculture licence under section 52G or 52H, not later than 28 days after the date on which notice of the decision to vary the licence was last published in accordance with section 52G(6);
  - (c) in the case of a decision of the Commission—
    - (i) to refuse to grant an aquaculture licence;
    - (ii) to refuse to vary an aquaculture licence under section 52H;
    - (iii) to revoke an aquaculture licence; or
    - (iv) to refuse to transfer an aquaculture licence,
 not later than 28 days after the date on which notice of the disputed decision was received by the person aggrieved;
  - (d) in the case of a decision (or deemed decision) of the Commission to refuse to accept the surrender of an aquaculture licence under section 52J, not later than 28 days after the date on which in accordance with subsection (5) of that section, notice of the refusal was given to the applicant or, as the case may be, the Commission was deemed to have refused the application.
- (3) The Appeals Board may—
- (a) confirm or set aside the decision which is the subject of the appeal, or any part of it; or
  - (b) substitute its decision on the matter for that of the Commission.
- (4) Where, on an appeal under subsection (1), the Appeals Board determines that the decision of the Commission should be altered, the Commission shall give effect to the determination and shall publish, in such manner and such form as may be prescribed, notice of the determination.
- (5) Schedule 3B shall have effect with respect to appeals under subsection (1).
- (6) The Department may make regulations providing for such additional, incidental, consequential or supplemental procedural matters in respect of appeals to the Appeals Board as appear to the Department to be necessary or expedient.
- (7) Without prejudice to the generality of subsection (6), regulations under that subsection may make provision—
- (a) in relation to the class or classes of persons who may be heard at an oral hearing;
  - (b) for the manner of the notification of the determination of an appeal; and
  - (c) the availability for inspection by the public of documents or extracts from documents relating to appeals, the period of such availability, and the purchase by the public of copies of such documents or extracts from such documents.

### **Reasons to be given for decisions**

**52Q.** Where—

- (a) the Commission gives any decision—
  - (i) to grant or refuse to grant an aquaculture licence;
  - (ii) to specify any condition in an aquaculture licence;
  - (iii) to vary an aquaculture licence under section 52G;
  - (iv) to vary or to refuse to vary an aquaculture licence under section 52H;

- (v) to revoke an aquaculture licence under section 52I;
- (vi) to refuse to transfer an aquaculture licence under section 52L; or
- (b) the Commission gives any decision, or is deemed to give any decision, to refuse to accept the surrender of an aquaculture licence under section 52J; or
- (c) the Appeals Board gives a decision in relation to a dispute referred to it under section 52G(7) or 52I(6) or determines an appeal under section 52P,

it shall be the duty of the Commission or, as the case may be, the Appeals Board, to state the reasons for the decision or determination.

### *Miscellaneous*

#### **Recapture of escaped stock**

**52R.**—(1) The Commission may take such action as it considers necessary to recapture stock which has escaped from a licensed area.

(2) The Commission may, notwithstanding any other provision of this Act, authorise—

- (a) the holder of an aquaculture licence; or
- (b) a person other than the holder of an aquaculture licence,

to take such action as is specified in the authorisation to recapture stock which has escaped from a licensed area.

(3) An authorisation referred to in subsection (2) may be granted subject to such conditions, if any, as the Commission considers necessary or expedient.

(4) The reasonable costs of—

- (a) any action taken by the Commission under subsection (1);
- (b) a person taking action in pursuance of an authorisation under subsection (2),

may be recovered from the holder of the aquaculture licence whose stock has escaped as a civil debt recoverable summarily by the person who incurred the costs.

#### **Offences of making false or misleading statements or false entries**

**52S.**—(1) A person who, for the purpose of obtaining for himself or for another any grant of an aquaculture licence, any variation of an aquaculture licence or any transfer of an aquaculture licence, makes a statement which he knows to be false or misleading in a material particular, or recklessly makes any statement which is false or misleading in a material particular, shall be guilty of an offence.

(2) A person who intentionally makes a false entry in any record required to be kept by virtue of an aquaculture licence shall be guilty of an offence.

(3) A person guilty of an offence under subsection (1) or (2) shall be liable—

- (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.

#### **Inquiries and inspections**

**52T.**—(1) Without prejudice to section 80, the Commission may, with respect to any licensed area, make such inquiries and examination by an officer of the Commission (within the meaning of section 53) or otherwise, and require from the holder of the aquaculture licence

to which the licensed area relates such information as the Commission considers necessary or proper, and the holder of the aquaculture licence shall afford all facilities for such inquiries and examination, and give such information, accordingly.

(2) Without prejudice to any provision of Part VII, for the purpose of an examination under subsection (1) an officer authorised in writing in that behalf by the Commission, on producing his authority if so required, may at any reasonable time—

- (a) enter any licensed area; and
- (b) examine that area and all fish, buildings, structures, rafts, trays, devices and other things found there; and
- (c) obtain, take away and dispose of samples (which shall be marked, labelled or otherwise made capable of identification) of any fish, animal or plant or of any water or other substance, found there,

and the holder of an aquaculture licence shall afford to such an officer facilities for the exercise by him of any right conferred by this subsection.

(3) Nothing in this section shall be construed as authorising any person to enter—

- (a) any enclosed garden;
- (b) any dwelling-house or the curtilage thereof.

## **Regulations**

**52U.**—(1) Regulations made under this Part by the Commission shall be subject to the approval of NSMC.

(2) As soon as practicable after it makes any regulations under this Part, the Commission or, as the case may be, the Department, shall publish in at least two newspapers circulating in the Foyle Area and the Carlingford Area notice—

- (a) stating that the regulations have been made and giving a general description of their content;
- (b) specifying a place at which, and the hours between which, a copy of the regulations may be inspected.

(3) Regulations made under this Part by the Commission or by the Department may contain such supplementary, incidental and transitional provision as the Commission or, as the case may be, the Department, thinks necessary or appropriate.

(4) The Commission or, as the case may be, the Department, shall cause regulations made under this Part to be laid before the Assembly as soon as may be after they are made, and regulations under this Part shall be subject to negative resolution.

## **Transitional provision – existing licences in the Foyle and Carlingford Areas**

**52V.**—(1) This section applies to a licence which—

- (a) is granted under section 11, Part IX or Part IXA, as the case may be, of the Fisheries Act (Northern Ireland) 1966;
- (b) is in force immediately before the coming into operation of Article 3 of the Foyle and Carlingford Fisheries (Northern Ireland) Order 2007; and
- (c) authorises the doing of any act in any area of the Foyle Area or the Carlingford Area in respect of which the provisions contained in that Article are in operation.

(2) On and after the coming into operation of Article 3 of the Foyle and Carlingford Fisheries (Northern Ireland) Order 2007, a licence to which this section applies shall, for so

long as it would have continued in force apart from this section, have effect as an aquaculture licence granted under section 52A, subject to the same conditions as were attached to the licence immediately before that Article came into operation.

### **Transitional provision – applications, etc. for certain licences in the Foyle Area and the Carlingford Area**

**52W.**—(1) This section applies to an application for a licence under section 11, Part IX or Part IXA of the Fisheries Act (Northern Ireland) 1966 which—

- (a) relates to any area in the Foyle Area or the Carlingford Area in respect of which the provisions contained in Article 3 of the Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 are in operation; and
- (b) has not been determined by the Department before the date on which the provisions of Article 3 of that Order came into operation as respects that area.

(2) Subject to paragraph (3), the provisions of this Part and any regulations made under any provision of this Part shall apply to applications to which this section applies as if they were applications under this Part.

(3) Anything done in relation to an application to which this section applies under a relevant provision of the Fisheries Act (Northern Ireland) 1966 shall be deemed to have been done under the corresponding provision of this Act.

(4) In subsection (3), “relevant provision” means any of the following provisions of the Fisheries Act (Northern Ireland) 1966—

- (a) sections 11 to 11C;
- (b) Part IX;
- (c) Part IXA.

### **Interpretation**

**52X.**—(1) In this Part—

“the Appeals Board” means the Foyle and Carlingford Aquaculture Licensing Appeals Board established by section 52O(1);

“aquaculture” means the farming or cultivation of any fish, aquatic invertebrate animal or aquatic plant, including any aquatic form of food suitable for the nutrition of fish;

“aquaculture licence” means an aquaculture licence applied for or granted under this Part;

“licensed area” means the area specified in an aquaculture licence;

“notice” means notice in writing;

“notice of appeal” means a notice of appeal under section 52P(2);

“prescribed” means prescribed by regulations under this Part;

“regulations” (except in sections 52O(6) and 52P(6)) means regulations made by the Commission under this Part;

“vary”, in relation to the conditions of an aquaculture licence, means adding to the conditions or varying or rescinding any of the conditions, and “variation” shall be construed accordingly.

(2) In this Part, “fish” means—

- (a) freshwater fish of any kind;
- (b) salmon and other fish of a kind that migrates to and from the sea;

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**Changes to legislation:** There are currently no known outstanding effects for the The Foyle and Carlingford Fisheries (Northern Ireland) Order 2007, PART II. (See end of Document for details)

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- (c) eels and elvers;
- (d) sea-fish;
- (e) shell-fish;
- (f) the spawn, fry, brood and spat of any fish;
- (g) any part of any fish.

(3) In subsection (2)(a), “freshwater fish” means any fish living in fresh water, other than a kind of fish that migrates to and from the sea.”

(2) The provisions set out in Schedule 1 shall be inserted after the Third Schedule to the principal Act as Schedule 3A and Schedule 3B of that Act.

**Commencement Information**

- II** [Art. 3](#) partly in operation; [art. 3](#) not in operation at date Order made see [art. 1\(3\)](#); [art. 3\(1\)](#) in operation in so far as it inserts sections 52B, 52C, 52G, 52H, 52M, 52N, 52O, 52P, 52U and 52X into the 1952 Act for certain purposes at 1.6.2008 by [S.R. 2008/232](#), [art. 2](#), [Sch.](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Foyle and Carlingford Fisheries (Northern Ireland) Order 2007, PART II.