



Fisheries Act (Northern Ireland) 1966

CHAPTER 17

BELFAST
HER MAJESTY'S STATIONERY OFFICE
PRICE 10s. 6d. NET

Fisheries Act (Northern Ireland) 1966

[1966. Ch. 17]

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14 & 15 Eliz. 2



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An Act to extend the functions of the Ministry of Agriculture in relation to fisheries and to make provision for the development and improvement of fisheries by, or with the assistance of, that Ministry; to establish the Fisheries Conservancy Board for Northern Ireland, and to define their functions; to provide for the transfer to that Board of the property, rights and liabilities of, and to dissolve, the existing boards of conservators; to consolidate with amendments the Fisheries Acts (Northern Ireland) 1842 to 1954 and certain other enactments relating to fisheries; otherwise to amend the law with respect to fisheries; and for purposes connected with those matters.

[21st June, 1966]

BE it enacted by the Queen's most Excellent Majesty, and the Senate and the House of Commons of Northern Ireland in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

FUNCTIONS OF THE MINISTRY OF AGRICULTURE

Preliminary

1.—(1) Subject to the provisions of this Act, the Ministry of Agriculture (in this Act referred to as "the Ministry") shall be responsible in Northern Ireland for the supervision and protection of fisheries and for fostering the establishment and development of fisheries, and for those purposes shall exercise the functions conferred on the Ministry by this Act.

Responsibility of the Ministry for fisheries in Northern Ireland.

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(2) Subsection (1) shall have effect without prejudice to any provision of the Foyle Fisheries Acts.

Development and improvement of facilities for angling

Acquisition
and
development
of waters
for angling.

2.—(1) The Ministry shall have power to acquire by agreement fishing rights in any inland waters, for the purpose of developing or improving facilities for angling, and accordingly may, so far as is reasonably necessary for or is incidental to that purpose, so acquire—

- (a) any estate in land by virtue of which such rights are exercisable; and
- (b) any estate in any other land which the Ministry is satisfied it is expedient to acquire for the safeguarding or the full enjoyment or exploitation of those rights.

(2) Where fishing rights in respect of any waters have been acquired by the Ministry under subsection (1), the Ministry may do all such things as are necessary or expedient for the proper development of those waters, and of any land acquired under that subsection, for angling or for the provision of facilities or amenities for persons authorised by the Ministry to enter thereon.

(3) Without prejudice to the generality of the provisions of subsection (2), the things that may be done in exercise of the powers conferred by that subsection shall include—

- (a) the provision of proper means of access to waters used or capable of being used for angling, including the provision of roads, stiles, jetties, quays or boats;
- (b) the removal or exclusion from any such waters of any predatory animal or of either any other animal or any plant, organism or substance which is harmful to fish of a particular kind or the food of fish; and
- (c) the stocking of any such waters with fish in pursuance of section 10.

Development
of derelict
waters for
angling.

3.—(1) Where the Ministry is of the opinion that any inland waters should be developed for angling and where the person who is entitled to any fishing rights in those waters is unknown or cannot be found, the Ministry may undertake the development or improvement of those waters for angling in accordance with the provisions of this section.

(2) Before undertaking the development or improvement of any waters in pursuance of subsection (1), the Ministry shall on at least two occasions and at intervals of not less than fourteen days

publish in one or more than one newspaper circulating in the locality where the waters are situated a notice—

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- (a) containing particulars sufficient to identify the waters;
- (b) stating that the Ministry proposes so to develop or improve those waters;
- (c) indicating in a general manner the Ministry's proposals for such development or improvement; and
- (d) calling upon any person who claims any right of fishing in those waters to notify the Ministry of his claim within such period as may be specified in the notice, being a period expiring not earlier than twenty-eight days from the date of the second notice so published.

(3) Where—

- (a) a notice has been published under subsection (1) with respect to any waters; and
- (b) any person notifies the Ministry of his claim to fishing rights in those waters or any part thereof and produces to the Ministry *prima facie* evidence of his title,

the Ministry shall not, with respect to those waters or, as the case may be, any such part thereof, take any further action under this section, but without prejudice to its power to provide assistance under section 5 for the development or improvement of those waters for angling in accordance with a programme agreed upon by the Ministry and that person under section 6, or to any other power conferred by this Part.

(4) If in relation to the waters referred to in a notice published by the Ministry under subsection (2), or any part of those waters,—

- (a) no claim to fishing rights is notified to the Ministry under subsection (3); or
- (b) all claims so notified are withdrawn or disposed of;

the Ministry may, in accordance with the proposals referred to in the notice, execute such works and do such things as the Ministry is, by section 2 (2) and (3) empowered to execute or do in the case of waters the fishing rights in respect of which are owned by the Ministry.

(5) For the purposes of section 24 (b) and of any provision of this Act relating to the protection of waters the fishing rights in which are owned by the Ministry, waters to which subsection (4) applies shall be deemed to be waters such as are first-mentioned; and in relation to waters to which that subsection applies the Ministry may, to the exclusion of any other person, exercise the rights of the owner of a several fishery, and may, in particular, issue to persons making application therefor permits for periods

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not exceeding one year authorising them to fish in any such waters, and charge such reasonable sums for the issue of such permits as may be approved by the Ministry of Finance, in all respects as if those rights were rights of the Ministry.

Provisions
supplemental
to section 3.

4.—(1) The succeeding provisions of this section shall have effect where the Ministry has, under section 3, undertaken the development or improvement of any waters for angling, and a person claiming to be entitled to fishing rights in respect of those waters (in this section referred to as “the owner”) at any time thereafter produces to the Ministry proof of his title to those rights.

(2) The Ministry’s occupation of the waters referred to in subsection (1) shall be, and be deemed always to have been, occupation in trust for the owner.

(3) If any question arises as to the sufficiency of any evidence tendered by the owner in proof of his title to the fishing rights or with respect to any account between the Ministry and the owner relating to those rights, that question shall, if the owner so requires, (but without prejudice to any other remedy available to the owner) be referred to arbitration under and in accordance with the provisions of the Arbitration Act (Northern Ireland) 1937.

1 Edw. 8 &
1 Geo. 6,
c. 8.

(4) Any arbitration under subsection (3) shall be conducted by a single arbitrator to be appointed by both parties, or, if the parties are unable to agree upon an arbitrator, by two arbitrators, one of whom shall be appointed by each party.

9&10 Geo.5,
c. 57.

(5) Section 5 of the Acquisition of Land (Assessment of Compensation) Act 1919 (provisions as to costs) shall, so far as applicable, have effect for the purposes of any arbitration under subsection (3).

(6) Nothing in this section shall affect any permit issued by the Ministry under section 3 (5) with respect to any waters such as are referred to in subsection (1), the period of which has not yet expired, but every such permit shall continue in force in all respects according to its tenor.

(7) Subsection (6) shall have effect without prejudice to any obligation of the Ministry to account to the owner for any sums received by the Ministry in consideration of the issue of any permit to which that subsection applies.

Payment of
grants and
execution of
works for
the develop-
ment, etc., of

5.—(1) The Ministry, upon the application of—

(a) any person who is, by virtue of his ownership of any fishing rights, for the time being entitled to take fish in any inland waters; or

(b) any association of persons established for the purpose of developing or improving any waters for angling, PART I
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waters for
angling.
may, in accordance with the terms of a programme approved by the Ministry under section 6,—

- (i) make grants to that person or association towards any expenditure reasonably incurred by him or them for the purposes of developing or improving any such waters for angling or of providing or improving facilities or amenities for anglers on or in connection with such waters;
- (ii) cause such works to be executed and do such things as are expedient for any such purposes.

(2) Without prejudice to the generality of paragraph (i) of subsection (1), the purposes for which grants may be made under that paragraph or for which works may be executed or any thing done under paragraph (ii) of that subsection shall include the doing of any thing which may, under section 2 (2) and (3), be done by the Ministry in the case of waters the fishing rights in respect of which are owned by the Ministry.

6.—(1) A person applying to the Ministry under subsection (1) of section 5 for any assistance such as is described in paragraph (i) or (ii) of that subsection, or a person so applying on behalf of any association, shall submit to the Ministry a programme for the development or improvement of the waters with respect to which the application is made, and the Ministry may approve the programme without modification or subject to any modification that may be agreed upon between the Ministry and the applicant, or may refuse to approve the programme. Programme
for the
development,
etc., of
waters for
angling.

(2) In determining the amount of any grant for which application is made under section 5 (1) (i) or the nature or extent of any works proposed to be executed or thing to be done under section 5 (1) (ii), the Ministry shall have regard to—

- (a) the security of tenure of the applicant or, as the case may be, the association or any of their members of any estate in land by virtue of which any right of taking fish in those waters is exercisable by him or them;
- (b) any representations made to the Ministry by any other person who has such an estate in land, and the willingness of any such other person to enter into an agreement with the Ministry or the applicant for the furtherance of the purposes of the programme;
- (c) the provisions of the programme with respect to the amount of any financial contribution to be made or work to be

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*cont.*61 & 62 Vict.,
c. 37.

done for the purposes of the programme by the person making the application or, as the case may be, the association or any of their members;

- (d) the amount of any contribution to be made for the purposes of the programme by a district council under section 37 of the Local Government (Ireland) Act 1898;
- (e) any other sources of financial assistance available to the applicant; and
- (f) the extent to and the terms on which facilities for angling in the waters to which the programme relates will be made available to members of the public or any section thereof.

(3) A programme approved by the Ministry under subsection (1) may be modified with the Ministry's approval, and thereafter shall have effect for the purposes of this section as so modified.

(4) Subject to subsection (5), where the Ministry has approved a programme under this section, the Ministry may revoke its approval if, at any time before the carrying out of the programme is completed, it appears to the Ministry—

- (a) that any term of the programme or any condition imposed in connection with the payment of a grant or instalments thereof, or the execution of any works, or the doing of any thing, under section 5 in relation to the programme has not been, or is not likely to be, complied with; or
- (b) that in connection with an application for approval of the programme or of any modification of the programme the applicant gave information which was false or misleading in a material respect;

and if before the revocation any payment is made by way of grant in respect of the programme, the Ministry may recover the payment, or so much thereof as it thinks fair, as a simple contract debt in any court of competent jurisdiction.

(5) Before revoking an approval under subsection (4), the Ministry shall—

- (a) give to the applicant or any other person to whom any grant would be payable by the Ministry under the programme, or from whom any payment of such a grant would be recoverable, a written notification of the reasons for the proposed revocation; and
- (b) afford to each such person an opportunity of appearing before and being heard by a person appointed for the purpose by the Ministry; and

- (c) consider the report of the person so appointed and supply a copy of the report to each person who was entitled to appear before the person submitting it. PART I
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(6) For the purpose of giving effect to the provisions of a programme to which the Ministry has given its approval under this section, or of securing the observance by any person of conditions attached to such approval, the Ministry may enter into an agreement with any person or association by or on behalf of whom the programme was submitted, or with any person acting on behalf of such an association, or with any other person such as is referred to in subsection (2) (b), on such terms and conditions as the Ministry thinks fit; and without prejudice to the generality of the foregoing provisions of this subsection, the agreement may include provisions for ensuring that any disposition by any such person or association of fishing rights over the waters to which the programme relates or of any land held in connection therewith shall be made on such terms as may be appropriate for securing the continued observance of the conditions by his or their successors in title.

7.—(1) The Ministry may enter into arrangements with persons claiming to be entitled to fishing rights in any waters for such persons to supply to the Ministry— Compilation
and publica-
tion of
angling
guide.

(a) particulars as to—

(i) the availability or otherwise of any such waters for angling by members of the public; and

(ii) the terms upon which waters are made so available; and

(b) such other information in relation to those waters as may appear to the Ministry to be of interest to persons wishing to engage in angling therein.

(2) The Ministry may publish, or may enter into arrangements with any body established under any enactment for the promotion of the development of tourist traffic in Northern Ireland for the publication of, any particulars or information supplied to the Ministry under subsection (1), in the form of an angling guide.

(3) Where the Ministry supplies to any persons copies of an angling guide published by the Ministry under this section, it may make such reasonable charges therefor as will defray any expenses incurred by the Ministry in relation to the preparation and publication of the guide.

PART I
—cont.*Other provisions for the improvement and
protection of fisheries*General
power for
stocking of
waters.

8. Where the Ministry is satisfied—

- (a) that for the purpose of developing or improving the fishery of any waters it is expedient to introduce into those or any other waters fish of any kind; and
- (b) that the introducing of fish of that kind will not interfere with the reasonable and legitimate interests of any other person,

the Ministry may acquire, and may do such things as are necessary to establish in any such waters, any fish of that kind, or any eggs or young thereof.

Power of
Ministry to
improve
fisheries at
expense of
other
persons.

9.—(1) For the purpose of improving any fishery, the Ministry may by agreement with and at the expense of any other person either execute any works or do any thing which that person is entitled to execute or do.

(2) Without prejudice to the generality of subsection (1), the things which may be done by the Ministry in pursuance of an agreement under that subsection shall include any of the things referred to in paragraphs (a), (b) and (c) of section 2 (3).

(3) The execution of any works or the doing of any thing by the Ministry by agreement with any other person under subsection (1) shall not diminish in any respect any responsibility of that other person for any act or thing done in pursuance of the agreement.

Power of
Ministry to
establish a
fish farm.

10.—(1) The Ministry may establish and operate an undertaking for the culture of fish (in this Act referred to as a “fish farm”) for the purposes—

- (a) of providing yearling or other fish, or fry or ova, for the stocking or restocking of any waters under section 8, or of any waters the fishing rights in which are owned by, or which are under the control of,—
 - (i) the Ministry, or
 - (ii) any other person, or
 - (iii) any association of persons interested in the fishery of any waters; and
- (b) in so far as any fish reared in such a fish farm are not required for the purposes mentioned in paragraph (a), of providing fish for human consumption.

(2) Where, under subsection (1) (a), the Ministry provides fish for the purposes of any other person or any association, the

Ministry may do so on such terms as it thinks fit, and may in particular do so in consideration of the payment to the Ministry of a sum of money less than the market value of the fish, or without payment, regard being had to—

PART I
—cont.

- (a) any undertaking given to the Ministry by that person or association as to the provision by him or them of facilities for angling by members of the public or any section thereof; or
- (b) any proposals of that person or association (whether or not contained in a programme of angling development under section 6) for the development or improvement of any waters for fishing and for the care and protection of such waters after such development or improvement has been carried out.

11.—(1) The Ministry may by licence (in this section referred to as a “fish culture licence”) authorise, subject to such conditions as may be contained in the licence, any person to operate a fish farm at a place specified in the licence, and in connection therewith to carry on such operations in relation to the culture of fish of any kind specified in the licence as may be so specified.

Fish
culture
licences.

(2) The conditions which may be contained in a fish culture licence shall include conditions as to the times and seasons at and the manner in which fish may be taken; and the licence may, in so far as is expedient for the purpose of giving effect to any such conditions, exempt—

- (a) the holder of the 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 111 in so far as those restrictions apply to fish of that kind.

(3) Without prejudice to subsection (2), and notwithstanding anything contained in this Act or any regulation or byelaw made under this Act, a person to whom a fish culture licence is granted and any person acting under his directions may, subject to the conditions contained in the licence, do any of the things authorised by the licence.

- (4) The Ministry may amend a fish culture licence—
 - (a) on the Ministry’s own motion, within ten years from the date on which the licence was granted; or
 - (b) on the application of the holder of the licence, at any time.

PART I
—cont.

thing to be done in relation to a several fishery otherwise than with the consent of the owner of that fishery.

(3) Notwithstanding anything contained in this Act or any instrument made thereunder, a person to whom a permit is issued under subsection (1) or any other person acting under the directions of such first-mentioned person may, subject to any conditions specified in the permit, do any of the things authorised by the permit without incurring any penalty under this Act.

(4) A person to whom a permit has been given by the Ministry under this section shall, if when doing anything pursuant to the permit he is so requested by an authorised person, produce the permit to that person.

(5) In subsection (4), “authorised person” has the same meaning as in section 166 (1) and (2).

Regulations
with
respect to
eel fishing.

15.—(1) The Ministry may make such regulations as appear to the Ministry expedient for the management (other than financial), conservation, protection and improvement of the eel fisheries of Northern Ireland, other than the eel fisheries of the Londonderry Area, and, without prejudice to the generality of the foregoing provisions, may by such regulations do the following things:—

- (a) regulate the establishment and use of eel weirs and the manner of erecting or hanging fishing engines therein;
- (b) fix and alter the close seasons for eels;
- (c) prescribe—
 - (i) the amounts of licence duties payable to the Fisheries Conservancy Board for Northern Ireland established under Part II in respect of licences for the use of fishing engines (other than rod and line) for the taking of eels;
 - (ii) the description and form of any fishing engine to be used for the taking of eels;
 - (iii) the minimum sizes of the meshes of nets, or the apertures in other fishing engines, used for taking eels;
 - (iv) the minimum sizes or weight of eels which may be taken;
 - (v) the times and places or the mode at or in which any fishing engine may be used for taking eels;
- (d) subject to subsection (2), amend or revoke any byelaw relating in any manner to eels or eel fisheries.

(2) Nothing in this section shall affect the power of the said Board to make byelaws under section 26 with respect to the taking of eels with rod and line. PART I
—cont.

(3) If any person contravenes a regulation made under this section, he shall be guilty of an offence.

Definitions of mouths of rivers, etc.

16.—(1) For the purposes of this Act, the Ministry may by order define, by reference to a map or otherwise,— Definitions
of mouths
of rivers,
etc.

- (a) the mouth of any river at its entrance into any lake or the sea;
- (b) the mouth of any tributary river at its entrance into any other river;
- (c) the boundary between the tidal and freshwater portions of any river;
- (d) the point or points to or from which distances are to be measured under this Act;
- (e) the areas within which it is prohibited under this Act to use or practise certain methods of fishing.

(2) Where several rivers flow into a common mouth or estuary, an order under this section may declare that the outlets of such rivers form separate mouths.

Records and returns

17.—(1) The Ministry may make regulations with respect to— Records and
returns by
holders of
fishing
licences and
dealers'
licences
and persons
engaged in
the sea-fish
industry.

- (a) the records to be kept and the returns to be made by—
 - (i) holders of fishing licences;
 - (ii) holders of dealers' licences;
 - (iii) persons engaged in business in connection with the wholesale distribution or the processing of sea-fish;
- (b) the persons to whom, the times at which, and the forms in which the returns are to be made;
- (c) the heads under which particulars are to be included in such records or returns; and
- (d) such other matters with respect to the records or returns (including the inspection, verification and copying of records by an officer of the Ministry) as may seem expedient.

(2) Every person required by regulations made under this section to keep any record or to make any return, who—

- (a) fails or refuses to keep records or make a return in accordance in all respects with the regulations; or
- (b) makes in a record or return any statement which to his knowledge is false or misleading in any material respect, shall be guilty of an offence.

PART I—*cont.***Disclosure of
returns and
information.**

18.—(1) Subject to subsection (2), returns or any information contained in returns furnished pursuant to section 17 shall not, without the consent of the person by whom any return was made, or, as the case may be, the person to whose business the returns relate, be disclosed otherwise than to the Ministry or an officer of the Ministry.

(2) Subsection (1) shall not apply to—

- (a) the disclosure of returns or information in the form of a summary of similar returns or information furnished by or obtained from a number of persons, if the summary is so framed as not to enable particulars relating to any individual or any individual business to be ascertained from it; or
- (b) any disclosure of information made for the purposes of any legal proceedings pursuant to this Act, or for the purposes of any report of any such proceedings; or
- (c) the disclosure of any such returns or information in so far as the disclosure is required or authorised by or under this Act.

(3) If any person discloses any information in contravention of this section, he shall be guilty of an offence.

*Regulations***Regulations.**

19.—(1) The Ministry may make regulations prescribing anything which, under this Act, may be prescribed by regulations, and providing for any matter in respect of which regulations may be made under this Act.

(2) Regulations made under this Act shall be subject to negative resolution.

*Inquiries***Power of
Ministry to
hold in-
quiries and
investiga-
tions.**

20.—(1) The Ministry may cause local or other inquiries to be held or investigations to be made in relation to the fisheries of Northern Ireland or any of them and the best means to be adopted for the management, conservation, protection or improvement thereof, or in relation to the operation of this Act.

(2) This section shall not be construed as empowering the Ministry to cause inquiries to be held or investigations to be made in any case in relation to which the Foyle Fisheries Commission is authorised to hold inquiries under section 80 of the Foyle Fisheries Act (Northern Ireland) 1952.

21. Where the Ministry is required under any provision of this Act to cause a public inquiry or public meeting to be held, sufficient notice of that inquiry or meeting shall be deemed to be given if, not less than fourteen days before the holding of the inquiry or meeting, notice of the time and place at which the inquiry or meeting is to be held, and of the matters to be inquired into or considered thereat, is given by advertisement inserted in one or more than one newspaper circulating in the district where the inquiry or meeting is to be held.

PART I
—cont.
Notice of meetings and inquiries.

Report

22. The Ministry shall cause to be prepared and laid before Parliament an annual report containing for the year to which it relates—

Annual report by the Ministry.

- (a) particulars of the Ministry's proceedings under this Act; and
- (b) so far as is practicable, a statistical account of the fisheries of Northern Ireland, arranged and classified under such different heads as appear to the Ministry to be most suited for the purpose; and
- (c) particulars of the receipt and payment of any sums of money which the Ministry, under the provisions of this Act, receives or pays.

Financial provisions

23.—(1) Subject to the succeeding provisions of this Part and without prejudice to section 29 (1), there shall be defrayed out of moneys provided by Parliament—

Expenses.

- (a) any expenditure incurred by the Ministry under this Act, including, in particular,—
 - (i) any sums expended in acquiring fishing rights under section 2 or in developing or improving any waters for angling or any land under that section or section 3;
 - (ii) any sums paid under section 4 to a person claiming fishing rights in waters developed or improved by the Ministry under section 3;
 - (iii) any grants paid, or the cost of any works executed or things done, under section 5 in pursuance of a programme of angling development approved by the Ministry under section 6;
 - (iv) any expenditure incurred in publishing an angling guide under section 7;
 - (v) any expenditure incurred in relation to the stocking of any waters under section 8;

PART I
—cont.

- (vi) subject to subsection (2), the cost of executing any works or doing any thing which the Ministry is by this Act authorised to execute or do at the expense of any other person;
 - (vii) any expenses incurred in relation to a fish farm established under section 10; and
 - (viii) any sums expended for the purposes of research or investigations carried out by the Ministry under section 12 or of any grants or other assistance provided for other persons under that section; and
- (b) any increase attributable to any provision of this Act in the sums which are authorised or required to be so defrayed under any other enactment.

(2) The payment under subsection (1) of the amount of any expenses incurred by the Ministry in executing any works or doing any thing that may be so executed or done under this Act at the expense of any other person shall be subject to the reimbursement of the Ministry in the like amount by the person at whose expense the works are executed or the thing is done.

(3) There shall be paid into the Exchequer any sums received by the Ministry under subsection (2) in reimbursement of any payment such as is described in that subsection.

Appropriations
in aid.

24. There shall be appropriated in aid of moneys provided by Parliament for defraying the expenses incurred by the Ministry under this Act any sums received by the Ministry under this Act (other than sums to which sections 23 (3) and 29 (2) apply), including, in particular,

- (a) any sum paid to the Ministry by a district council under section 37 (1) (a) or (b) (i) of the Local Government (Ireland) Act 1898, by way of contribution towards the amount of any such expenses;
- (b) any sum paid to the Ministry by any person in respect of a permit issued to him by the Ministry authorising him to fish in any waters the fishing rights in respect of which are owned by the Ministry;
- (c) any sum recovered by the Ministry under section 6 (4) in consequence of the revocation by the Ministry of its approval of a programme of development under that section;
- (d) any sum received by the Ministry in respect of the sale of fish from a fish farm operated by the Ministry under section 10; and

- (e) any other sum paid to the Ministry by a person interested in the development of a fishery to defray any expenses incurred under this Act in relation to that fishery. PART I
—*cont.*

PART II

THE FISHERIES CONSERVANCY BOARD FOR NORTHERN IRELAND

Constitution and functions

25.—(1) There shall be established a body to be called the Fisheries Conservancy Board for Northern Ireland (in this Act referred to as “the Board”), whose functions shall be the conservation, protection and improvement of the salmon and the inland fisheries of Northern Ireland, other than the fisheries of the Londonderry Area. Establishment and functions of the Board.

(2) Without prejudice to the generality of subsection (1), the Board may, in the exercise of their functions, do any of the following things—

- (a) take legal proceedings for the enforcement of any statutory provision with respect to salmon or inland fisheries;
- (b) make to the Ministry such suggestions and representations as the Board think proper in relation to any matter pertaining to such fisheries, and advise the Ministry upon any such matter which is referred to them by the Ministry;
- (c) act in co-operation with any other body or person for the purpose of publicising any such fisheries as a tourist attraction;
- (d) apply and expend, subject to the provisions of this Act, any money paid to the Board in such manner as the Board think proper for the protection or conservation of any such fishery;
- (e) execute such works and do such things as the Board consider expedient for the improvement of any such fishery;

so however that the Board shall not exercise any power such as is referred to in paragraph (e) otherwise than with the approval of the Ministry or in accordance with the terms of any authorisation in writing given to them by the Ministry.

(3) The provisions of Schedule 2 shall have effect with respect to the Board.

(4) Part III of Schedule 1 to the House of Commons Disqualification Act 1957 (which specifies certain offices the holders of which are disqualified under that Act) shall, in its application (by section 10 of and Schedule 3 to that Act) to the Senate and 5 & 6 Eliz. 2,
c. 20.

PART II
—*cont.*

the House of Commons of Northern Ireland, have effect as if there were inserted therein, in the appropriate place in alphabetical order, the following entry—

“Chairman of the Fisheries Conservancy Board for Northern Ireland”.

Power of
Board to
make
byelaws.

26.—(1) Subject to subsection (2), the Board may, with the approval of the Ministry, make such byelaws as appear to the Board to be expedient for the conservation or protection of any fisheries to which section 25 applies, and, without prejudice to the generality of the foregoing provisions, may make byelaws with respect to the following matters:—

- (a) the regulation of fishing and preservation of good order amongst persons fishing;
- (b) the times and seasons for the taking of fish or for any mode of taking fish and the conditions subject to which fish may be taken;
- (c) prohibiting any mode of taking or destroying fish;
- (d) the times and places at, or the mode in, which any fishing engine may be used;
- (e) the description and form of nets or other fishing engines to be used, and the size of the meshes of those nets or the apertures in those other engines;
- (f) the size (whether determined by measurement or by weight) of fish which may be taken;
- (g) the making of applications for, and the issue, alteration, renewal and revocation of fishing licences, whether generally or in specified cases;
- (h) the form of and the conditions attaching to fishing licences;
- (i) the duties payable in respect of fishing licences;
- (j) the protection of waters from any predatory animals;
- (k) the prohibition of any practice whatsoever tending to impede the lawful capture of fish or to be in any manner detrimental to the fisheries;
- (l) anything which under this Act may be prescribed by byelaws or in respect of which byelaws are by this Act authorised to be made.

(2) Byelaws shall not be made under subsection (1) with respect to any matter in relation to which the Ministry is by this Act empowered to make regulations.

(3) The Board shall be a rule-making authority for the purposes of the Statutory Rules Act (Northern Ireland) 1958.

PART II
—cont.
1958, c. 18.

(4) All byelaws made by the Board shall be laid before Parliament by the Ministry, and shall be subject to negative resolution.

(5) If any person contravenes a byelaw, he shall be guilty of an offence.

Financial provisions affecting the Board

27. The Board may, with the written consent of the Ministry and the Ministry of Finance or in accordance with the terms of any authorisation in writing given to them by the Ministry and the Ministry of Finance, borrow such sums as they may require for the purposes of their functions.

Borrowing powers.

28.—(1) The Board shall, with respect to each of their financial years, forward to the Ministry for its approval estimates of their receipts and payments in that year.

Duty of Board to make to Ministry a yearly return of estimated receipts and payments.

(2) Estimates under subsection (1) shall be prepared in accordance with any directions given to the Board by the Ministry in that behalf, and shall be furnished to the Ministry at such times as the Ministry may direct.

(3) The Ministry may approve estimates furnished to it under subsection (2), subject to such modifications as it thinks fit, and may give directions to the Board as to the manner in which any excess of receipts so approved over payments so approved is to be applied, or any excess of payments so approved over receipts so approved is to be met.

29.—(1) For the purpose of meeting any approved excess of the payments of the Board in any of their financial years over their receipts in that year, the Ministry may make to the Board, out of moneys provided by Parliament, advances of such amounts repayable over such periods and on such terms as may be approved by the Ministry of Finance, so however that the aggregate amount of such advances at any time outstanding shall not exceed twenty thousand pounds.

Power of Ministry to make advances to the Board.

(2) Any sums received by the Ministry by way of repayment of or interest on advances under subsection (1) shall be paid into the Exchequer.

PART II
—cont.
Accounts
of the
Board.

30.—(1) The Board shall keep proper accounts and other records in relation to the accounts and shall prepare in respect of each of their financial years a statement of account.

(2) The Ministry may give directions as to the accounts to be kept by the Board, the form of such accounts and the particulars to be contained therein, and as to the records to be kept by the Board, and the Board shall act in accordance with those directions.

Audit.

31. The accounts of the Board shall be audited by auditors appointed by the Board and approved by the Ministry, and no person shall be qualified to be so appointed unless he is a member of a body of accountants for the time being recognised for the purposes of section 155 (1) (a) of the Companies Act (Northern Ireland) 1960 by the Ministry of Commerce.

1960, c. 22.

Returns and information

Annual
reports of
the Board.

32.—(1) The Board shall annually make to the Ministry a report of their work during their preceding financial year, and the report shall include a statement of the accounts of the Board for that year together with a copy of any report made by the auditors on the accounts.

(2) The Ministry shall cause every such report to be laid before Parliament.

Duty of
Board to
disclose
information
to Ministry.

33. Without prejudice to the requirement imposed by section 32, the Board shall provide the Ministry with such returns or information relating to their proceedings or undertaking as the Ministry may from time to time require, and for those purposes shall permit any person authorised by the Ministry in that behalf to inspect and make copies of their accounts, books, documents and papers, and shall afford such explanation thereof as that person or the Ministry may reasonably require.

*Abolition of fishery districts and dissolution of
district boards of conservators*

Abolition of
fishery
districts
and dis-
solution of
district
boards.

34.—(1) The existing fishery districts to which this section applies are hereby abolished.

(2) The respective boards of conservators for the fishery districts abolished by subsection (1) (in this Act referred to as the “district boards”) are hereby dissolved.

(3) The provisions of Schedule 3 shall have effect in relation to the dissolution of each district board.

(4) In subsection (1) the expression “existing fishery districts to which this section applies” means the fishery districts constituted by the Fishery Districts (Northern Ireland) Order 1925, other than the district so constituted as the Londonderry District.

35.—(1) The Ministry may make arrangements for transferring to the service of the Board (but not without the consent of the person proposed to be transferred) any person who, having been in the employment of a district board on 1st January 1965 was in that employment at the commencement of this Act. and a person transferred in pursuance of such arrangements shall, subject to subsection (2), be deemed to have been appointed by the Board in exercise of their powers under this Act.

PART II
—cont.
Power of Ministry to make arrangements for the transfer of staff of district boards to the service of the Board.

(2) Arrangements made under subsection (1) shall include arrangements for ensuring that a person transferred to the service of the Board under that subsection shall be employed by the Board upon terms and conditions not less favourable than those which immediately before the date of transfer applied to his employment by the district board, with such increases of salary and other benefits as may before the date of transfer have by virtue of those terms accrued to him by efflux of time and such further increases of salary and other benefits as may have been conferred on him by the district board, with the approval of the Ministry, before that date.

36.—(1) Every person who was in the permanent employment of a district board immediately before the commencement of this Act and who by reason or in consequence of the dissolution of the district board suffers any direct pecuniary loss by the termination of his employment and to whom no payment in respect of redundancy arising from the dissolution of the district board is payable under any other enactment, shall be entitled to compensation under this section for that loss, and such compensation shall be payable by the Board.

Compensation for loss of office.

(2) Any question arising with respect to any claim for compensation under subsection (1) shall be referred to and determined by the Ministry and the Ministry of Finance.

(3) The reference in subsection (1) to a person in the permanent employment of a district board shall not be construed as including a person employed by such a board on a seasonal or part-yearly basis.

PART III

FISHING LICENCES

37.—(1) Subject to subsection (5), a person shall not erect or use any fishing engine for the taking of salmon, eels or freshwater fish unless there is for the time being in force with respect to that fishing engine a licence issued under the succeeding provisions of this Part authorising the use of that fishing engine or, where bye-

Licences for fishing engines (other than rod and line).

PART III
—cont.

laws prescribe different licence duties for fishing engines of any description when used for taking fish of different kinds, authorising the use of such an engine for the taking of such fish of any kind so prescribed.

(2) If any person contravenes subsection (1) or causes or permits any other person to contravene that subsection, he shall be guilty of an offence.

(3) Without prejudice to section 64, if any person takes salmon or causes or permits salmon to be taken in a fishing engine of any description which is licensed only for the taking of eels or freshwater fish, he shall be guilty of an offence.

(4) Where a person is charged with the offence of taking salmon in a fishing engine not licensed for the taking of salmon, it shall be a good defence for him to prove—

(a) that at the time when the salmon was so taken he was engaged in fishing for—

(i) sea-fish; or

(ii) freshwater fish or eels;

and in a case to which sub-paragraph (ii) applies, that he was the holder of a fishing licence authorising him to use the fishing engine for the taking of fish of a kind referred to in that sub-paragraph; and

(b) that the salmon was taken unintentionally and, immediately upon being taken, was returned to the water without any avoidable injury.

(5) This section shall not apply to—

(a) a rod and line; or

(b) a gaff, tailer or landing net used solely as an auxiliary to angling; or

(c) the use for the taking of fish other than salmon of a fishing engine licensed for the taking of salmon.

Licences for fishing for salmon with rod and line.

38.—(1) A person shall not use a rod and line to fish for, take or kill salmon unless he is the holder of a licence (in this Act referred to as a “salmon rod licence”) issued under the succeeding provisions of this Part and for the time being in force authorising him to fish for salmon with rod and line, or, where he so uses more than one rod and line at the same time, unless he is the holder of the requisite number of such licences.

(2) If any person contravenes subsection (1) he shall be guilty of an offence and shall, for each rod and line with respect to which an offence is committed, be liable on summary conviction to a fine not exceeding treble the amount of the licence duty (not being

a reduced duty under section 43 or 44) for the time being payable under this Part in respect of a salmon rod licence other than such a licence as is referred to in section 40 (4). PART III
—cont.

(3) Where a person is charged under this section with the offence of taking a salmon with rod and line, not being the holder of a salmon rod licence, or, as the case may be, the requisite number of such licences, it shall be a good defence for him to prove—

(a) that at the time when the salmon was so taken he was engaged in fishing for—

(i) sea-fish; or

(ii) freshwater fish or eels;

and, in a case to which sub-paragraph (ii) applies, that he was the holder of a freshwater rod licence then in force; and

(b) that the salmon was taken unintentionally and, immediately upon being taken, was returned to the water without any avoidable injury.

(4) In this section and section 39 “the requisite number of licences” means the number of licences required by virtue of section 40 (7) (b).

39.—(1) Subject to subsection (3), a person shall not use a rod and line to fish for, take or kill freshwater fish or eels unless he is the holder of a licence (in this Act referred to as a “freshwater rod licence”) issued under the succeeding provisions of this Part and for the time being in force authorising him to fish for such fish with rod and line, or, where he so uses more than one rod and line at the same time, unless he is the holder of the requisite number of such licences. Licences for
fishing for
freshwater
fish and eels
with rod
and line.

(2) If any person contravenes subsection (1) he shall be guilty of an offence and shall, for each rod and line with respect to which an offence is committed, be liable on summary conviction to a fine not exceeding treble the amount of the licence duty (not being a reduced duty under section 43 or 44) for the time being payable under this Part in respect of a freshwater rod licence other than such a licence as is referred to in section 40 (4).

(3) Subsection (1) shall not apply to the use of a rod and line for the taking of fish such as are described in that subsection—

(a) by the holder of a salmon rod licence during the period for which that salmon rod licence is valid; or

(b) by a person who has not attained the age of sixteen years.

PART III
—cont.
Issue of
fishing
licences.

40.—(1) Subject to the succeeding provisions of this section, the Board shall, upon the application, made in such form as the Board may require, of a person (other than a person who is for the time being disqualified under section 200 for holding a fishing licence) who tenders to them the amount of licence duty for the time being payable under this Part in respect of a fishing engine of the description specified in his application, issue to that person, in accordance with the provisions of this section, a fishing licence in respect of a fishing engine of that description.

(2) Where byelaws permitting the payment of licence duties by instalments are for the time being in force with respect to a fishing engine of any description, subsection (1) shall have effect in relation to applications for fishing licences in respect of fishing engines of that description, as if for the reference therein to the amount of licence duty for the time being payable under this Part in respect of the fishing engine there were substituted a reference to such portion of the licence duty as is for the time being payable in accordance with the byelaws at the time of making the application.

(3) A fishing licence (other than a licence to fish with rod and line to which subsection (4) applies) shall be in force for the year stated in that behalf in the licence.

(4) The Board shall issue to a person who makes application therefor in accordance with subsection (1) a fishing licence for angling for salmon, or, as the case may be, for angling for freshwater fish and eels, with rod and line during a limited period of seven days (in this Act referred to as a “seven day salmon rod licence” and a “seven day freshwater rod licence” respectively), and such a licence shall be in force only for the period specified in that behalf in the licence.

(5) The Board may make arrangements for the issue through agents of fishing licences to fish with rod and line or with hand line.

(6) A fishing licence shall be in such form as the Board may determine, and shall state—

- (a) the description of the fishing engine to which it relates;
- (b) the period for which it is to be in force; and
- (c) any conditions prescribed by byelaws subject to which it is issued.

(7) A separate fishing licence shall be required in respect of—

- (a) each fishing engine to which section 37 applies; and
- (b) each rod and line used at the same time for taking fish of a kind to which section 38 or 39 applies.

(8) A fishing licence to fish with rod and line shall be used only by the person to whom it is issued, and shall not be transferable.

(9) Where—

PART III
—cont.

- (a) byelaws made under section 70 are for the time being in force prohibiting, restricting or otherwise controlling the use of drift nets for the taking of salmon in the sea; and
- (b) application is made by any person to the Board for a fishing licence in respect of such a net, being a net of a description to which the byelaws apply,

the Board may, notwithstanding anything in subsection (1), refuse to issue to that person the fishing licence for which the application is made, if they are not satisfied that he is a person who, in accordance with the provisions of the byelaws, is entitled to fish for salmon in the sea with such a net.

(10) A person aggrieved by a refusal of the Board under subsection (9) to issue a fishing licence for which he has made application in accordance with subsection (1) may (without prejudice to any other remedy) appeal to the Ministry against the refusal, and on such an appeal—

- (a) the Ministry may confirm or reverse the Board's decision; and
- (b) where the Ministry reverses the Board's decision, the Board shall issue to that person the fishing licence for which application was made by him.

41.—(1) Subject to subsection (2) and without prejudice to any other provision made by or under this Act, every fishing licence shall operate to authorise, for the purposes of this Part, the use, during the period specified in the licence, of a fishing engine of the description referred to therein.

Effect of
fishing
licences.

(2) Subsection (1) shall not be construed—

- (a) as conferring on any person using any fishing engine any right of fishing in any place, being a right which he does not otherwise possess; or
- (b) as affecting the rights of any person other than the person using the fishing engine; or
- (c) as making legal any fishing engine that would otherwise be illegal, or as implying any recognition of the legality of any fishing engine; or
- (d) as rendering lawful anything which is unlawful by virtue of any enactment other than this Part.

42.—(1) Subject to subsection (7), there shall be payable to the Board in respect of every fishing licence a licence duty, the amount of which shall, subject to section 15 (1) (c) (i) and sections 43 and 44, be determined in accordance with the succeeding provisions of this section.

Duties on
fishing
licences.

PART III
—cont.

(2) The Board may by byelaws prescribe the amount of licence duty for the time being payable under subsection (1) in respect of a fishing licence relating to a fishing engine of any description to which the byelaws apply, other than a fishing engine (not being a rod and line) to be used for the taking of eels.

(3) Subject to subsection (4) and sections 43 and 44, unless and until byelaws are made under subsection (2) in that behalf, the amount of licence duty payable in respect of a fishing licence of any description referred to in column (1) of Part I of Schedule 4 to fish with rod and line shall be the amount set out in column (2) of that Part in relation to a licence of that description.

(4) Where the applicant for a salmon rod licence (other than a seven day salmon rod licence) holds a freshwater rod licence for the time being in force in respect of which the licence duty for the time being payable in respect of a freshwater rod licence (other than a seven day freshwater rod licence) has been paid, the amount of licence duty payable by him in respect of the salmon rod licence shall, subject as may be provided by byelaws made under subsection (2) in that behalf, be an amount equal to the excess of the amount of the duty for the time being payable under this section in respect of such a salmon rod licence over the amount so payable in respect of such a freshwater rod licence.

(5) Unless and until byelaws are made under subsection (2) with respect to fishing engines of any description referred to in column (1) of Part II of Schedule 4, there shall be payable by way of licence duties in respect of fishing engines of any such description the amounts respectively specified in column (2) of that Part.

(6) Any reference in Schedule 4 to a draft net shall not be construed as including a reference to such a net which is used solely for the taking of freshwater fish other than trout for bait for fishing.

(7) Where on any occasion the Board by resolution authorise the issue to a person not ordinarily resident in Northern Ireland of a complimentary salmon rod licence or freshwater rod licence, subsection (1) shall not have effect so as to require that person to pay any licence duty in respect of that licence.

Reduced
licence
duties
payable in
certain
circum-
stances by
persons
holding
licences of
the Foyle
Fisheries
Commission.

43.—(1) So long as the amount of any fee payable to the Foyle Fisheries Commission under section 13 (2) of the Foyle Fisheries Act (Northern Ireland) 1952 in respect of a licence to use a single salmon rod (not being a licence that is valid only for a reduced period) is not less than the amount of duty for the time being payable under this Part in respect of a salmon rod licence, the amount of licence duty payable to the Board in respect of a salmon rod licence (or, where in any year application is made by

the same person for more than one such licence, in respect of the first such licence issued to him or, where he holds more than one such licence of the said Commission, in respect of each of an equivalent number of licences of the Board), by a person who—

PART III
—cont.

(a) is the holder of a licence such as is first mentioned which is for the time being in force; and

(b) at the time when he makes application for the salmon rod licence produces the licence referred to in paragraph (a);

shall be the amount specified in Part III of Schedule 4, or such other amount as may for the time being be prescribed by byelaws, and accordingly, in relation to such an application, subsection (3) of section 42 shall have effect as if for the amount for the time being payable under that subsection in respect of a salmon rod licence there were substituted the amount for the time being payable under this subsection.

(2) If in any year the amount of any fee payable under section 13 (2) of the said Act of 1952 in respect of a licence such as is described in subsection (1) is less than the amount of duty for the time being payable under this Part in respect of a salmon rod licence, the amount of licence duty payable to the Board in respect of a salmon rod licence (or, where in any year application is made by the same person for more than one such licence, in respect of the first such licence issued to him or, where he holds more than one such licence of the said Commission in respect of each of an equivalent number of licences of the Board) by a person such as is described in paragraphs (a) and (b) of subsection (1) shall be an amount equal to the aggregate of—

(a) the excess of the amount of licence duty for the time being payable in respect of a salmon rod licence over the amount of the fee paid by him in respect of the first-mentioned licence; and

(b) the amount specified in Part III of Schedule 4, or such other amount as may, for the time being, be prescribed by byelaws;

and accordingly, in relation to such an application subsection (3) of section 42 shall have effect as if for the amount for the time being payable under that subsection there were substituted an amount equal to that aggregate.

(3) In this section “salmon rod licence” shall not be construed as including a seven day salmon rod licence.

(4) If at any time regulations under section 13 (2) of the said Act of 1952 provide for the payment to the said Commission of fees in respect of licences to use rod and line for the taking of fish

PART III
—cont.

other than salmon, subsections (1) to (3) shall have effect in relation to the licence duty payable in respect of freshwater rod licences in like manner as they have effect with respect to the licence duty payable in respect of salmon rod licences, with the substitution for references to a salmon rod, a salmon rod licence and a seven day salmon rod licence respectively of references to such a rod and line as is mentioned in this subsection, a freshwater rod licence and a seven day freshwater rod licence, and with the omission of the words “the amount specified in Part III of Schedule 4, or” and “other” in both places where they occur.

Reduced licence duties payable in certain circumstances by persons holding licences granted by boards of conservators in the Republic of Ireland. Falsification, etc., of licences.

44. The Board may charge reduced licence duties for licences to fish with rod and line, where the applicant for the licence is the holder of such a licence issued by any board of conservators in the Republic of Ireland, if the Ministry, by notice published in the Belfast Gazette, notifies that it is satisfied that corresponding advantages are to be given in the Republic of Ireland to the holders of licences to fish with rod and line issued by the Board.

45. A person who—

- (a) uses or, with intent to deceive, presents a fishing licence for any year, 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 Board) or fraudulently counterfeited;

shall be guilty of an offence.

PART IV

PROTECTION OF FISHERIES

Protection of fishing waters from poisoning, etc., and pollution

Penalty for use or possession of deleterious matter.

46.—(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.

(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.

(3) It shall be a good defence to a charge under subsection (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— PART IV
—cont.

- (a) on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment;
- (b) on conviction on indictment to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment;

and he shall also be liable in either case to an additional fine not exceeding five pounds in respect of each fish taken by him.

(5) Orders shall not be made under section 1 or section 5 of the Probation Act (Northern Ireland) 1950 in respect of any offence under this section. 1950, c. 7.

47.—(1) Subject to subsection (2), if any person causes or knowingly permits any deleterious matter to enter any waters he shall be guilty of an offence and shall be liable on summary conviction— Penalty for
pollution.

- (a) in the case of a first offence under this section, to a fine not exceeding one hundred pounds; and
- (b) in the case of a second or any subsequent offence under this section, to a fine not exceeding two hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

(2) Nothing in subsection (1) shall operate to penalise the discharge of any substance or article to which section 9 of the Radioactive Substances Act 1960 applies. 8 & 9 Eliz. 2,
c. 34.

Protection of young and breeding fish

48.—(1) If any person— Taking, etc.,
spawn,
smolts or
fry of
salmon,
trout or
eels.

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

he shall be guilty of an offence.

(2) Where a person is charged with the offence of taking or having in his possession any smolts or fry in contravention of subsection (1) (a), it shall be a good defence for him ~~to prove that he removed the smolts or fry from a system of waters solely for the~~

PART IV
—cont.

purpose of preserving them from some immediate danger (whether actual or reasonably apprehended) and that he returned, or intended to return, them to an adjacent safer part of the same system of waters, without any avoidable injury, as soon as reasonably practicable.

Chasing, etc.,
spawning
fish.

49. If any person chases, injures or disturbs spawning fish or fish on the spawning beds or attempts (otherwise than by means of lawful angling with rod and line) to catch fish thereon, he shall be guilty of an offence.

Penalties for
taking, etc.,
unseasonable
salmon or
trout.

50.—(1) Any person who at any time wilfully takes or kills or who knowingly buys, sells, offers or exposes for sale or has in his custody or possession any unseasonable salmon or trout shall be guilty of an offence.

(2) A person who is guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment, and shall also be liable to a further fine of five pounds for each salmon or trout in respect of which an offence is committed.

Prohibition
against sale,
etc., of
immature
salmon or
trout.

51.—(1) Any person who buys, sells, offers or exposes for sale, or has in his possession for sale, any salmon or trout which is immature shall be guilty of an offence, and shall be liable on summary conviction in the case of a first offence under this section to a fine not exceeding fifty pounds and in the case of a second or any subsequent offence under this section to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

(2) For the purposes of this section the expression “immature” means that the fish is of a length less than that prescribed by byelaw, or, if no length is so prescribed, of a length less than eight inches measured from the tip of the snout to the fork or cleft of the tail.

Taking
undersized
pollen.

52.—(1) Any person who wilfully takes, kills or destroys, or who buys, sells, offers or exposes for sale, or has in his custody or possession any undersized pollen shall be guilty of an offence.

(2) In this section the expression “undersized pollen” means pollen of a length less than that prescribed by byelaw, or, if no length is so prescribed, of a length less than seven and one-half inches measured from the tip of the snout to the fork or cleft of the tail.

*Obstructions to passage of fish*PART IV
—cont.Removal of
natural
obstructions
in rivers to
allow free
passage of
fish.

53.—(1) Where in a river natural obstructions of any kind prevent or impede the free passage of fish, the Ministry may, on the application of any person interested in a fishery in the river or of the Board, authorise the construction of works or the making of alterations in the bed of the river so as to secure the free passage of fish at all times, if the Ministry is satisfied that such construction or alterations will not impair the effective working power of any mill or the drainage of any lands.

(2) Any works constructed or alterations made under subsection (1) shall be executed in accordance with plans, sections and specifications approved by the Ministry.

(3) Subject to subsection (6), the cost of any work or alterations authorised under subsection (1) shall be borne by the person on whose application the authorisation is given.

(4) Where, under subsection (1), the Ministry authorises the construction of works or the making of alterations in the bed of a river, the Ministry may, by agreement with the person on whose application the authorisation is given, cause the works or alterations so authorised to be executed.

(5) For the purposes of the execution of any works or alterations in pursuance of an agreement made under subsection (4), the Ministry may, in so far as is reasonably necessary for or incidental to those purposes, do such of the things referred to in Schedule 2 to the Drainage Act (Northern Ireland) 1947 (clearing, widening, deepening, etc., of watercourses) as are appropriate thereto, and in the doing thereof may to the like extent exercise any power which is exercisable by it under that Act as extended by any other enactment, other than a power of acquiring land compulsorily. 1947, c. 9.

(6) Section 13 of the Drainage Act (Northern Ireland) 1964 (power of Ministry to contribute to cost of works) shall have effect with respect to works or alterations executed under this section in like manner as it has effect with respect to works executed under section 12 of that Act, and as if after the reference therein to the said section 12 there were inserted a reference to this section. 1964, c. 31.

(7) Where the execution of any works or alterations in pursuance of an authorisation given under subsection (1) results in damage or injury to any person, that person may recover compensation from the person on whose application the authorisation was given.

PART IV
—cont.

Construction of fish passes in dams in salmon rivers.

54.—(1) Where a dam is constructed in a salmon river, a fish pass sufficient to permit the free passage through the dam of salmon, trout and eels at all times shall be provided and maintained by the owner of the dam.

(2) Subsection (1) shall not apply so as to require the provision of a fish pass in conjunction with a dam erected before 10th August 1842 unless the Ministry, on the application of any person interested in a fishery in the river or of the Board, and on being satisfied that there will be no impairment in any navigation or in the effective working power of any mill to which the dam belongs, by order directs that a fish pass be provided as required by this section.

(3) Every fish pass provided under this section shall be constructed in accordance with plans, sections and specifications approved by the Ministry.

(4) The cost of providing a fish pass shall be borne—

- (a) in the case of a dam with respect to which an order is made under subsection (2), by the person on whose application the order is made; and
- (b) in any other case, by the owner of the dam.

(5) Where in contravention of subsection (1) the owner of a dam does not provide a fish pass in conjunction with that dam, the Ministry may by notice in writing require him to do so, and if he fails to comply with the notice within any reasonable period specified therein the Ministry may cause a fish pass to be constructed and may recover from the person liable under subsection (4) any expenses reasonably incurred in executing the works undertaken for that purpose.

(6) If any owner of a dam fails to provide such a fish pass as he is required by this section to provide, or, where such a fish pass has been provided (whether by him or not), fails to maintain it in an efficient state, he shall be guilty of an offence.

Penalty for taking fish in a fish pass, using fishing engines in a fish pass or placing obstacles in a fish pass.

55.—(1) If any person—

- (a) takes or kills any fish in a fish pass; or
 - (b) uses any fishing engine in a fish pass; or
 - (c) places any obstacle or contrivance of any kind or does any thing in or near a fish pass in order to deter or prevent fish from freely entering or passing through the fish pass at all times; or
 - (d) authorises or permits any other person to do any of the acts referred to in the foregoing paragraphs;
- he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds.

(2) Where a person is convicted under subsection (1) (c) of the offence of placing an obstacle or contrivance in a fish pass, the Board or, failing the Board, the Ministry may cause the obstacle or contrivance to be removed and may recover from that person any expenses reasonably incurred in so doing.

PART IV
—cont.

(3) Where—

(a) an offence under this section has been committed in relation to a fish pass provided in connection with a mill dam in such circumstances as to appear to the court to afford reasonable grounds for believing that the offence was committed—

(i) by some person in the employment or under the control of the owner or occupier of the mill; or

(ii) with the knowledge or connivance of the owner or occupier or of the person in charge of the mill; or

(iii) through the default of reasonable precaution on the part of the owner or occupier to prevent the offence; and

(b) the person who committed the offence is unknown or cannot be found; and

(c) the owner or occupier of the mill is charged with the offence;

the owner or occupier shall be deemed to be guilty of the offence and shall be punishable accordingly.

56.—(1) No person, other than a person to whom subsection (2) applies, shall use any fishing engine (other than a rod and line) at any place within two hundred yards above or below any dam.

Restrictions on the use of fishing engines at or in the vicinity of dams.

(2) Subsection (1) shall not apply to any person who is for the time being the owner of a several fishery in any place referred to in that subsection, and who is a successor in title of any other person who had exercised in that place the right of taking fish during the period of twenty years immediately preceding 14th August 1850.

(3) If any person contravenes subsection (1) he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding one hundred pounds.

57.—(1) Subject to subsection (2), if any person at any time in any pool, work or watercourse appurtenant to a mill either wilfully takes or kills any fish or uses a fishing engine for the purpose of taking or obstructing fish, he shall be guilty of an offence and shall be liable on summary conviction to a fine not

Penalty for taking fish in works or watercourses appurtenant to mills.

PART IV
—cont.

exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

(2) Subsection (1) shall not apply to the lawful use of a rod and line for the taking of fish of any kind otherwise than during the annual close season for angling for fish of that kind.

(3) Where—

(a) an offence under this section has been committed by means of shutting down or closing any gate or sluice which is under the exclusive power of the occupier of the mill; and

(b) the person who committed the offence is unknown or cannot be found; and

(c) the occupier of the mill is charged with the offence;

the occupier shall be deemed to be guilty of the offence and shall be punishable accordingly.

(4) Where—

(a) an offence under this section has been committed in such circumstances as to appear to the court to afford reasonable grounds for believing that the offence was committed—

(i) by some person in the employment or under the control of the owner or occupier of the mill; or

(ii) with the knowledge or connivance of the owner or occupier or of the person in charge of the mill; or

(iii) through the default of reasonable precaution on the part of the owner or occupier to prevent the offence; and

(b) the person who committed the offence is unknown or cannot be found; and

(c) the owner or occupier of the mill is charged with the offence;

the owner or occupier shall be deemed to be guilty of the offence and shall be punishable accordingly.

Provisions
in relation
to sluices,
etc., of mills
deriving
water from
salmon
rivers.

58.—(1) The following provisions shall apply in relation to every mill which derives its supply of water from a salmon river:—

(a) if there is a fish pass in the dam belonging to the mill, or if the dam is a weir and is not provided with a channel such as is mentioned in paragraph (b), the mill sluices and the waste gates or over-falls shall be kept shut—

(i) for twenty-four consecutive hours in each week between the hour of six o'clock on Saturday afternoon and six o'clock on the next-following Monday morning; and

(ii) during any other period when the mill is not being worked; PART IV
—cont.

(b) if there is no fish pass in the dam belonging to the mill and if the waste gate on the upstream side of the mill sluices is erected in a channel suitable for the passage of fish, the mill sluices shall be kept shut and the waste gate kept open during the periods specified in sub-paragraphs (i) and (ii) of paragraph (a).

(2) If the provisions of paragraph (a) or paragraph (b) of subsection (1) are not complied with, the occupier of the mill shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds.

(3) Where the occupier of a mill is charged with an offence under this section, it shall be a good defence to prove that compliance with paragraph (a) or paragraph (b) (whichever is applicable) of subsection (1) would have injuriously interfered with the machinery or water power of the mill.

(4) In this section “mill sluices” means the sluices which admit water to a mill.

Abstraction of water from rivers and lakes

59.—(1) Where a watercourse to which this section applies carries water from a salmon river—

(a) there shall be placed, at the points where the watercourse diverges from and returns to the river, gratings extending across the whole width of the watercourse and from the bottom of the bed or sill thereof to the level of the highest flood waters;

(b) the space between the bars of every such grating shall not exceed two inches in any place;

(c) during the months of March, April and May and at any other time when the fry of salmon or trout are descending the river, there shall be placed over the entire surface of every such grating a wire lattice of such dimensions as to effectually prevent the admission of fry or small fish into the watercourse;

(d) every such grating and such wire lattice shall be securely fixed in a permanent manner so as to prevent its being removed or opened, and shall be kept in constant repair.

(2) If, in respect of any watercourse to which this section applies (other than a watercourse in relation to which an exemption granted by the Ministry under subsection (4) is for the time

Gratings to be set in watercourses diverted from salmon rivers to prevent entry therein of fish.

PART IV
—cont.

being in force), the provisions of subsection (1) are not complied with, the owner or occupier of any premises to which the watercourse leads, or any other person who made, uses or has the care or maintenance of the watercourse, shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding one hundred pounds.

- (3) Without prejudice to subsection (2), if any person—
- (a) injures any grating or wire lattice placed in pursuance of subsection (1); or
 - (b) removes any such grating or lattice or part thereof, except, in the case of a lattice, during any period of the year during which such a lattice need not be maintained; or
 - (c) opens any such grating or lattice improperly; or
 - (d) permits any such grating or lattice to be injured or removed (except as is mentioned in paragraph (b)) or improperly opened;

he shall be guilty of an offence.

- (4) If in respect of a watercourse to which this section applies,—
- (a) the Ministry is satisfied that sufficient arrangements will be made by means other than those specified in subsection (1) to prevent the admission of fish or fry into the watercourse, and that, having regard to those arrangements, exemption should be granted from the obligations imposed by subsection (1); or
 - (b) where the watercourse is a watercourse constructed for the purpose of conveying water as motive power for machinery, it is proved to the satisfaction of the Ministry that exemption during any period from the obligations imposed by subsection (1) is necessary for the effective working of the machinery,

the Ministry may, by permit in writing, grant such exemption.

- (5) Where an exemption has been granted under subsection (4) the Ministry may at any time—
- (a) revoke the exemption; or
 - (b) vary or revoke any condition for the time being attaching to the exemption; or
 - (c) attach any condition or any further condition to the exemption;

but no exemption shall be revoked nor shall any condition be varied or any condition or further condition imposed unless at least twenty-eight days' notice of the Ministry's intention to make a revocation or, as the case may be, to vary or impose the con-

dition, has been given to the person who appears to the Ministry to be for the time being entitled to the benefit of the exemption, and the Ministry has considered any representations made by him before the expiration of the notice.

PART IV
—cont.

(6) This section applies to any watercourse conveying water for the supply of towns, for the irrigation of land, as motive power for machinery, or for any purpose other than the supply of water for navigation or for fish ponds.

(7) In this section “fry” in relation to salmon includes parr and smolts.

60.—(1) Where in the exercise of any power conferred by or under any enactment a local authority or a statutory water undertaking applies for or makes any scheme or vesting order in relation to any proposal for the abstraction of water from any river or lake, that authority or undertaking shall, in addition to any notice which by or under any enactment is required to be given to any other person, give notice of the application for or making of that scheme or vesting order (as the case may be) to the Ministry and also—

Duty of local authorities and statutory water undertakings to give notice with respect to certain schemes and vesting orders.

(a) where the said river or lake or the area affected by any such scheme or vesting order lies wholly or in part within the Londonderry Area, to the Foyle Fisheries Commission;

(b) where the said river, lake or area does not lie wholly within the Londonderry Area, to the Board.

(2) In this section “statutory water undertaking” means any board, commissioners or other body supplying water under any private or local Act.

Interpretation

61. In this Part “mill” includes any factory, machine, building or other work by or for which water is taken or used for any purpose.

Interpretation of Part IV.

PART V

REGULATION OF FISHING FOR SALMON, EELS AND FRESHWATER FISH

Prohibition of certain methods of fishing

62.—(1) If, for the purpose of taking any fish, any person uses or has in his possession or control, in or on the bank of or near the waters of any lake, river or estuary, any light or fire or any electrical or acoustical apparatus of any kind, he shall be guilty of an offence.

Penalty for using certain devices for taking fish.

PART V
—cont.

(2) If, for the purpose of taking any fish, any person uses or has in his possession or control, in or on the bank of or near the waters of any lake, river or estuary, any instrument to which this subsection applies, he shall be guilty of an offence.

(3) 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 salmon or trout, he shall be guilty of an offence.

(4) In subsection (2) the expression “instrument to which this subsection applies” means any otter, tailer or snare, spear, stroke-haul, gaff or other instrument of a similar kind, but does not include—

- (a) a gaff or tailer used or to be used solely as an auxiliary to lawful angling between sunrise and one hour after sunset; or
- (b) a gaff or tailer used or to be used by the holder of a fishing licence in respect of any box in a fishing weir solely for the purpose of lawfully removing fish therefrom; or
- (c) an eel spear used for taking eels.

(5) A person who is guilty of an offence under subsection (1) or (2) shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

Fishing for salmon or trout by cross lines.
Penalty for taking salmon or trout in eel weir.

63. If any person takes or fishes for salmon or trout by means of cross lines in any river he shall be guilty of an offence.

64.—(1) If the owner or occupier of an eel weir takes or suffers to be taken therein any salmon or trout, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

(2) Where a person is charged with an offence under this section it shall be a good defence to prove that such salmon or trout was taken unintentionally and, immediately upon being taken, was returned to the water without any avoidable injury.

Penalty for damming or teeming river or mill race for purpose of taking salmon or trout.

65. If any person dams, teems or empties any river or millrace for the purpose of taking or destroying any salmon or trout, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

Regulations as to nets, etc.

66. —(1) If any person—

(a) uses any one or more than one net of any kind in such a manner as to obtain the same advantage as he would have obtained by using a net the meshes of which are of a size smaller than that for the time being permitted under this Act for nets of that kind; or

(b) uses a net covered with canvas, hide, or other substance for the purpose of taking small fish; or

(c) affixes or keeps up continued nets stretched across a river; he shall be guilty of an offence.

(2) Subsection (1) (b) shall not apply to a net used either in the sea or within an estuary solely for the purpose of dredging for shell-fish.

67.—(1) If, in the sea or in the tidal portion of a river, any person uses any net to which this section applies with a mesh of less size than one and three-quarter inches from knot to knot, to be measured along the side of the square, or seven inches to be measured all round each such mesh, such measurements being taken in the clear when the net is wet, then, subject to subsection (2), he shall be guilty of an offence.

(2) The Board may by byelaws permit the use of nets to which this section applies having meshes of a less size than that specified in subsection (1), and this section shall have application with respect to any net to which such byelaws apply as if for the dimensions specified in subsection (1) there were substituted the dimensions specified in those byelaws.

(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.

68.—(1) If, in the sea or in the tidal portion of a river, any person uses any engine to which this section applies with meshes or openings of less width than three inches on each side of the square, or, where no meshes or openings of the nature of reticulations are used, of less width between the bars than two inches, he shall be guilty of an offence.

(2) In this section the expression “engine to which this section applies” means any engine which is formed of rigid material and is used for the taking of salmon.

PART V
—cont.

Restrictions
on use of
nets.

Mesh of
nets made of
non-rigid
material for
the taking
of salmon in
the sea or
tideways.

Meshes or
openings of
engines made
of rigid
material for
the taking of
salmon in
the sea or
tideways.

PART V
—cont.
Use of
salmon nets
near mouths
of rivers.

69.—(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—

- (a) at the mouth of any river; or
- (b) within half a mile in any direction from the mouth of any river,

he shall be guilty of an offence.

(2) If any person (other than the owner of a several fishery in the whole of a river and its tributaries, within the limits of that several fishery) shoots, draws or stretches any net entirely across the mouth or across any other part of a river, he shall be guilty of an offence.

(3) Where an order under section 16 defines the mouth of a tributary river, references in this section to the mouth of a river shall be construed as including references to the mouth of that tributary river.

Powers of
Board with
respect to
drift nets for
the taking of
salmon in the
sea.

70.—(1) Where the Board are satisfied that it is expedient to control the use of drift nets for the taking of salmon in the sea, they may make byelaws prohibiting, restricting or otherwise controlling—

- (a) the use of such nets for fishing for salmon in the sea;
- (b) the landing of salmon taken by means of such nets;
- (c) the having in possession of salmon taken or landed in contravention of the byelaws.

(2) Byelaws under this section restricting or otherwise controlling fishing for salmon may prescribe—

- (a) the classes of persons to whom there may be issued fishing licences in respect of nets to which the byelaws apply;
- (b) the classes of boats which may be used for the working of such nets;
- (c) the maximum number of fishing licences which may be issued in any year in respect of such nets;
- (d) the manner in which such licences shall be allocated in any case where the number of valid applications for such licences in any year exceeds the number prescribed under paragraph (c) in respect of that year.

(3) If any person contravenes any byelaw made under this section, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds

or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment. PART V
—cont.

71.—(1) Save as is permitted by or under subsection (2), it shall not be lawful for any person to use any net in the fresh-water portion of any river or in any lake. Restriction on use of nets in fresh water.

(2) Subsection (1) shall not apply to—

- (a) the use of a landing net or keep net solely as auxiliary to lawful fishing with rod and line;
- (b) the lawful use of a net solely for the purpose of removing fish from traps in a fishing weir;
- (c) the lawful use of a fixed engine under section 73;
- (d) the lawful use in a several fishery of draft nets for the taking of salmon or trout where such nets were lawfully used during the open fishing season of one or more of the five years immediately preceding 1st January, 1965;
- (e) the lawful use of draft nets for the capture of salmon or trout in any lake by members of the public who depend on such netting as a means of livelihood where—
 - (i) such nets are so used with the consent of every owner of a several fishery in that lake; and
 - (ii) such nets were so used with such consent or as of right by any such members of the public within the period of twenty years immediately preceding 1st January 1965;
- (f) the lawful use of nets for the taking of eels—
 - (i) in or in the vicinity of an eel weir; or
 - (ii) in accordance with regulations made under section 15;
- (g) the lawful use, in accordance with byelaws, of nets for the taking of fish other than salmon, trout or eels.

(3) If any person uses a net in contravention of this section he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

(4) In this section, “trout” does not include pollen.

72.—(1) No person shall, under section 71 (2) (c), (d), (e) or (g), use any net with a mesh of less size than— Mesh of nets for taking fish in fresh water.

- (a) such size as may be prescribed by byelaw; or
- (b) if no size is so prescribed, a size of one and three-quarter

PART V
—cont.

inches from knot to knot, to be measured along the side of the square, or seven inches to be measured all round each mesh, such measurements being taken in the clear when the net is wet.

(2) No person shall, under section 71 (2) (*f*), use any net with a mesh of less size than—

(*a*) such size as may be prescribed by regulations made under section 15; or

(*b*) if no size is so prescribed, the size specified in subsection (1) (*b*).

(3) If any person contravenes subsection (1) or (2) he shall be guilty of an offence.

*Prohibition of fishing weirs and fixed engines,
with certain exceptions*

Restriction
with respect
to fishing
weirs or
fixed engines
in fresh
water
portion of
rivers or
lakes.

73.—(1) It shall not be lawful for any person to erect or to use in the freshwater portion of any river or lake any fishing weir or a fixed engine of any description, unless that fishing weir or a fixed engine of that description was in existence and was lawfully used therein by that person or a predecessor in title of his during the open fishing season of one or more of the five years immediately preceding 1st January 1965.

(2) If any person erects or uses a fishing weir or fixed engine in contravention of this section he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

(3) The prohibition in subsection (1) shall not apply to—

(*a*) long lines used solely for the capture of eels; or

(*b*) any eel weir or any fixed engine for the capture of eels established and used in accordance with regulations made under section 15; or

(*c*) engines used in accordance with byelaws for the capture of fish other than salmon or eels.

Restriction
on use of
fixed engines
for the
capture
of salmon in
the sea
or tideways.
26 & 27 Vict.,
c. 114.

74.—(1) It shall not be lawful for any person to erect or to use any fixed engine for the capture of salmon in the sea or in the tidal portion of a river unless a certificate in regard to such a fixed engine was granted under the Salmon Fishery (Ireland) Act 1863 to him or a predecessor in title of his before the commencement of this Act and is for the time being subsisting unrevoked.

(2) If any person erects or uses any fixed engine for the capture of salmon in contravention of this section he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

PART V
—cont.

75. A certificate under section 6 of the Salmon Fishery (Ireland) Act 1863 shall be conclusive evidence that the person named therein or his successor in title is the person entitled to exercise the right therein given, but it shall not render any fixed engine lawful which would otherwise be unlawful by reason of its being injurious to navigation, a common nuisance to the public right of fishing or otherwise in violation of the common law or any enactment (including this Act).

Effect of certificate under section 6 of the Salmon Fishery (Ireland) Act 1863.

76.—(1) The owner of a fixed engine in respect of which a certificate has been granted under section 6 of the Salmon Fishery (Ireland) Act 1863 may apply to the Ministry for permission to remove the fixed engine from the place or position specified in the certificate and to erect it at some other place or in some other position.

Power of Ministry to authorise the alteration of sites of fixed engines.

(2) If the Ministry, after causing a local public inquiry to be held, is satisfied that the removal and re-erection of the fixed engine will not unduly interfere with the reasonable and legitimate interests of any other person, the Ministry may grant a licence authorising the owner of the fixed engine to remove it from the place or position specified in the certificate and to erect and use it at such other place or in such other position, and subject to such conditions, and such limitations as to time or otherwise, as may be specified in the licence.

(3) If the Ministry is satisfied that it is expedient in the interests of the salmon fisheries to revoke a licence granted under this section, or to vary the provisions of such a licence with respect to—

- (a) the place or position in which a fixed engine is by the licence authorised to be erected and used, or
- (b) any conditions or limitations contained in the licence,

the Ministry may revoke the licence or, as the case may be, may make such variation in the terms of the licence as the case may require; but the Ministry shall not revoke or vary a licence under this subsection unless at least twenty-eight days' notice of the revocation or the proposed variation has been given to the holder of the licence, and, if the holder, before the expiration of the

PART V
—cont.

notice, so requires, the Ministry has caused a local public inquiry to be held.

(4) Without prejudice to subsection (3), a licence granted under this section may be suspended or revoked in accordance with the provisions of Schedule 1.

(5) Nothing in this section shall be deemed to empower the Ministry to authorise the erection of any fixed engine at a place or in a position where its use would be injurious to navigation or would contravene the provisions of any enactment.

(6) Where, by licence under this section, the Ministry authorises any person to erect and use a fixed engine at a place or in a position other than that specified in the certificate referred to in subsection (1), for the purposes of this Act the certificate shall have effect during the currency of the licence as if the reference in the certificate to the place or position so specified were a reference to the first-mentioned place or position.

Power of
Ministry to
authorise
variation in
character-
istics of
fixed engines.

77.—(1) The owner of a fixed engine in respect of which a certificate has been granted under section 6 of the Salmon Fishery (Ireland) Act 1863 may apply to the Ministry for permission to substitute for that fixed engine or for more than one such fixed engine a fixed engine of different characteristics from the characteristics specified in the certificate.

(2) If the Ministry, after causing a local public inquiry to be held, is satisfied that such substitution will not unduly interfere with the reasonable and legitimate interests of any other person, the Ministry may accept the surrender of any certificate such as is referred to in subsection (1), and may grant a licence authorising the owner to erect and use—

(i) in accordance with plans and specifications approved by the Ministry; and

(ii) at a place or in a position specified in the licence; and

(iii) subject to any conditions, or any limitations as to time or otherwise, contained in the licence,

a fishing engine of such a kind as may be specified in the licence.

(3) Upon the grant of a licence under subsection (2) any certificate surrendered to the Ministry in pursuance of that subsection shall cease to have effect, but without prejudice to the provisions of subsection (6) as to the revival of the certificate in the event of the licence being revoked under subsection (4) or (5).

(4) If the Ministry is satisfied that it is expedient in the interests of the salmon fisheries to revoke a licence granted under this section or to vary the provisions of such a licence with respect to—

PART V
—cont.

- (a) the characteristics of a fixed engine the erection and use of which is authorised by the licence, or
- (b) the place or position in which such a fixed engine is so authorised to be erected, or
- (c) any conditions or limitations contained in the licence,

the Ministry may revoke the licence, or, as the case may be, may make such variation in the terms of the licence as the case may require; but the Ministry shall not revoke or vary a licence under this subsection unless at least twenty-eight days' notice of the revocation or the proposed variation has been given to the holder of the licence, and, if the holder, before the expiration of the notice, so requires, the Ministry has caused a local public inquiry to be held.

(5) Without prejudice to subsection (4), a licence granted under this section may be suspended or revoked in accordance with the provisions of Schedule 1.

(6) When a licence granted under this section is revoked—

- (a) the provisions of—
 - (i) this Act and any byelaws made under this Act, and
 - (ii) any certificate under section 6 of the said Act of 1863 with respect to a fixed engine such as is first mentioned in subsection (1),
 shall have effect with respect to any such fixed engine as if the licence had not been granted; and
- (b) the Ministry shall return to the person who immediately before the revocation of the licence was the holder thereof any certificate under the said section 6 which had been surrendered to the Ministry under subsection (2) by that person or by a predecessor in title of his.

(7) The provisions of sections 74 to 76, and of this section, shall have effect with respect to a licence granted under subsection (2) in like manner as they have effect with respect to a certificate under the said section 6, as if the licence were such a certificate; and for the purposes of section 74 (1) the licence shall be deemed to have been granted before the commencement of this Act.

(8) Section 79 shall not apply to the placing or continuance in accordance with the terms of a licence granted under subsection (2) of a fishing engine specified in such a licence.

PART V
—cont.

(9) Subsection (5) of section 76 shall apply for the purposes of this section as it applies for the purposes of that section.

Regulations as to fixed engines

Prohibition
of erecting or
using fixed
engines at
mouths of
rivers.

78.—(1) If at or within one mile in any direction from the mouth of any salmon river any person, other than the owner of a several fishery within the limits thereof, erects or uses any fixed engine, that person shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds.

(2) Where an order under section 16 defines the mouth of a tributary river, the reference in subsection (1) to the mouth of any river shall be construed as including a reference to the mouth of that tributary river.

Prohibition
of bag nets in
certain
places.

79.—(1) Subject to subsection (3), no bag net shall be placed or allowed to remain in any river or estuary or within a distance of three miles from the mouth of any river.

(2) If any bag net is placed or allowed to remain in contravention of this section—

- (a) it shall be deemed a common nuisance and may be taken possession of or destroyed; and
- (b) the owner of the bag net shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

(3) This section shall not apply to—

- (a) the placing or continuing, within three miles of the mouth of a river, of a bag net, where the owner of the bag net has the exclusive right of catching salmon in the whole of that river, including all tributary rivers and lakes upon the course of that river, and where that owner or a predecessor in title of his had on or immediately before 28th July 1863 exercised that right by means of a bag net at the place where the first-mentioned bag net is placed; or
- (b) the placing or continuing, in accordance with the provisions of a licence granted under section 77 (2), of a bag net the erection and use of which is authorised by the licence.

80. If any person maintains or uses any bag net—

- (a) the meshes of the nets of any leader whereof are not stretched to their full opening; or
- (b) which is so constructed that the leaders thereof cannot be raised and kept out of the water;

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds.

PART V
—cont.
Regulations
as to
construction
and user of
bag nets.

Regulations as to fishing weirs

81.—(1) In every fishing weir (other than an eel weir with respect to which a licence granted by the Ministry under section 84 is for the time being in force) there shall be a free gap or opening in accordance with the following provisions:—

Free gaps in
fishing
weirs.

- (a) the free gap shall be situate in the deepest part of the stream;
- (b) the sides of the free gap shall be in line with and parallel to the direction of the stream at the weir;
- (c) the bottom of the free gap shall be level with the natural bed of the stream above and below the gap;
- (d) the width of the free gap at its narrowest part shall be not less than one-tenth part of the width of the stream:
Provided that it need not be wider than fifty feet, and must not be narrower than three feet;
- (e) no existing free gap in any fishing weir shall be reduced in width or a gap of less width substituted therefor or any alteration made therein so as to reduce the flow of water through the gap.

(2) The requirements of subsection (1), in so far as they relate to the provision of a free gap in every fishing weir, shall, in the case of a fishing weir in which there was no free gap on 1st January, 1965, be deemed to be complied with if immediately adjoining the weir there then was and continues to be a navigation gap which conforms in form and dimensions to the requirements of that subsection, and all the provisions of this Act which apply to free gaps in fishing weirs (other than those which require the free gap to be in the weir) shall apply to any such navigation gap.

(3) Where there is no free gap in a fishing weir or where a free gap has been made in a fishing weir but is not maintained in accordance with subsection (1), then, unless that fishing weir is an

PART V
—cont.

eel weir which is for the time being excepted from the application of subsection (1), the owner and the occupier of the fishing weir shall each be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds.

(4) Where the provisions of subsection (1) have been contravened the Board or, failing the Board, the Ministry, may provide or restore a free gap and may recover from the owner or the occupier of the fishing weir any expenses reasonably incurred in executing the works undertaken for that purpose.

Penalty for affecting flow of water through free gap by alteration of bed of river.

82. If any alteration is made in the bed of a river in such manner as to reduce the flow of water through the free gap in a fishing weir, the person making the alteration shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds.

Fishing in or near or obstructing free gaps.

83.—(1) Subject to subsection (4), if any person—

- (a) uses any fishing engine in a free gap in a fishing weir; or
- (b) uses any fishing engine (not being a rod and line) within fifty yards above or below any part of a fishing weir or the free gap in a fishing weir; or
- (c) places any obstruction in a free gap; or
- (d) uses any contrivance or does any act whereby fish may be scared, deterred or in any way prevented from freely entering and passing up and down a free gap at all times; or
- (e) places any thing whatsoever in, over or across a free gap in a fishing weir, except a temporary bridge or board during the time only when the persons engaged in the fishing of that weir are passing over the free gap; or
- (f) in any manner prevents the free and uninterrupted passage of fish through the free gap at any time; or
- (g) authorises or instructs or permits any other person to do any of the acts referred to in the foregoing paragraphs;

he shall be guilty of an offence.

(2) Where the owner or occupier of a fishing weir is charged under subsection (1) with the offence of placing an obstruction in the free gap in that weir, and it is proved that the obstruction was placed in the free gap, it shall be presumed, until the contrary is shown, that the obstruction was placed in the free gap by him.

(3) Where a person is convicted of an offence under this section in respect of an obstruction in the free gap of a fishing weir, the Board or, failing the Board, the Ministry, may cause the obstruction to be removed and may recover from that person any expenses reasonably incurred in so doing.

PART V
—cont.

(4) Where a licence granted by the Ministry under section 84 with respect to an eel weir is for the time being in force, this section shall not operate to penalise any act or thing authorised by the licence.

84.—(1) The Ministry may by licence authorise the operation of a specified eel weir without a free gap, subject to such conditions as may be contained in the licence.

Operation of
eel weir
without free
gap.

(2) The Ministry may revoke, or may vary the conditions contained in, a licence granted under this section, where the Ministry is satisfied that such revocation or variation is expedient in the interests of the eel fisheries.

(3) When the Ministry proposes to revoke a licence, or to vary any conditions, under subsection (2), otherwise than on the application of the holder of the licence, the Ministry shall—

- (a) give to the holder of the licence at least twenty-eight days' prior notice of its intention to do so; and
- (b) state in the notice given under paragraph (a) the specific variation, if any, under consideration and the grounds upon which the revocation or variation is proposed to be made,

and shall consider any representations in relation to the revocation or variation made by the holder before the expiration of the notice.

(4) Without prejudice to subsection (2), a licence granted under this section may be suspended or revoked in accordance with the provisions of Schedule 1.

85.—(1) The following rules shall be observed in relation to the construction and use of boxes in salmon weirs:—

Rules as to
boxes in
salmon
weirs.

- (a) the surface of the floor of the box shall be level with the natural bed of the river;
- (b) the inscales and the heck of the box shall be capable of being removed and opened up;
- (c) the bars of the heck of the box shall be placed perpendicularly;

PART V
—cont.

(d) the inscales and the heck of the box shall be so constructed that no bar or part of a bar is nearer to any other bar or part of a bar than such distance as may be prescribed by byelaws, or if no distance is prescribed, a distance of two inches;

(e) the box shall not be built over or in any other manner hidden from public inspection.

(2) If any person constructs or uses any box in a salmon weir in contravention of subsection (1), he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds.

(3) If any box in a salmon weir is constructed in contravention of this section, the Board or, failing the Board, the Ministry may cause the parts of that box which do not comply with the requirements of this section to be removed, and may recover from the occupier of the weir any expenses reasonably incurred in so doing.

Construction
of guiding
walls
appurtenant
to salmon
weirs.

86.—(1) There shall not be attached to a salmon weir in a river any guiding wall of greater length than—

(a) twenty feet; or

(b) such length, being less than twenty feet, as the Ministry may by order appoint with respect to a salmon weir specified in the order,

that length being measured, in either case, from the upstream or downstream face of the weir along the centre line of the guiding wall.

(2) There shall not be attached to any salmon weir any guiding wall which has the effect of narrowing up or preventing the ingress or discharge of water through or from the free gap in the weir.

(3) If any salmon weir has a guiding wall in contravention of subsection (1) or (2), the following provisions shall have effect:—

(a) the occupier of the weir shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds; and

(b) the Board or, failing the Board, the Ministry may cause the guiding wall to be altered or removed, and may recover from the occupier of the weir any expenses reasonably incurred in so doing.

(4) If the occupier of a salmon weir in a river makes such use of any island or natural obstruction in the river as secures to him the advantage he would have obtained by attaching to the weir a guiding wall contravening subsection (1), he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds.

PART V
—cont.

(5) In this section, the expression “guiding wall” means any spur or tail wall, leader or outrigger, but does not include the main wall of the salmon weir that connects the boxes of the weir with the bank of the river.

Other provisions

87.—(1) It shall not be lawful for any person to have in his possession or control in any waters or on or near the banks of any waters any fishing engine or lure or bait, if the use of that engine, lure or bait in those waters for the purpose of taking fish is unlawful.

Restriction
on possession
of unlawful
fishing
engines, etc.

(2) Any person who has in his possession or control any fishing engine or lure or bait in contravention of this section shall be guilty of an offence.

(3) Where a person is charged with an offence under subsection (2) in relation to the possession or control of a net and it is proved that he was found in possession or control of the net in or in the vicinity of the freshwater portion of a river or any lake, it shall be presumed that he had the possession or control of the net with intent to use it in the freshwater portion of the river or in the lake in contravention of section 71 (1) unless and until he satisfies the court that at the time the offence is alleged to have been committed—

(a) he intended and was entitled to use the net in one of the manners specified in section 71 (2); or

(b) if he was found in possession or control of the net in the vicinity of the boundary between the tidal and freshwater portions of a river, that he intended and was entitled to use the net in the tidal portion of the river or in the sea;

and also proves, in either case, that he was the holder of a fishing licence, if such is required by or under this Act, for the net.

88.—(1) A person who by any means removes or causes to be removed from any waters—

(a) any salmon or trout which has been injured or killed otherwise than by lawful means; or

Taking
salmon
or trout
unlawfully
killed or
found dead.

PART V
—cont.

(b) any salmon or trout which has been found dead, from any cause whatever, by that person; shall be guilty of an offence.

(2) Subsection (1) shall not apply to any of the following persons—

- (a) any person acting under the authority of the Ministry; or
- (b) any officer of the Board; or
- (c) any owner of a fishery in those waters; or
- (d) any agent of the owner of a fishery in those waters; or
- (e) any member of the Royal Ulster Constabulary; or
- (f) any sanitary officer of a local authority.

(3) Where a person is charged with an offence under this section in respect of any fish it shall be a good defence to prove that he removed the fish from any waters, or caused it to be so removed, solely for the purpose of delivering it to a person designated in any of paragraphs (a) to (f) of subsection (2), and that he did so deliver it before being required to do so by any such person.

PART VI

TIMES OF FISHING FOR SALMON, TROUT, POLLEN AND EELS

Annual close season for salmon and trout caught otherwise than by rod and line

Annual close season for salmon and trout.

89. In this Act the expression “the annual close season for salmon and trout” means, in relation to any locality, the period during which it is declared by a byelaw for the time being in force and applicable to that locality to be unlawful to fish for, take or kill salmon or trout with a fishing engine other than rod and line.

Penalties for fishing otherwise than by rod and line for salmon or trout during the annual close season for salmon and trout.

90.—(1) If any person fishes for, takes or wilfully kills salmon or trout during the annual close season for salmon and trout, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment, and shall in addition be liable to a further fine not exceeding five pounds for every salmon or trout taken or so killed by him.

(2) This section shall not apply to—

- (a) the fishing for or taking of salmon or trout by rod and line, or the killing of salmon or trout so taken; or

- (b) the fishing for, taking or killing of salmon or trout in any fish farm with respect to which a fish culture licence under section 11 is for the time being in force, in accordance with the terms of the licence.

PART VI
—cont.

91.—(1) During the annual close season for salmon and trout every net, leader or other moveable part of a fixed engine used for the taking of salmon or trout shall be removed from the poles or fixtures to which it is attached and shall be taken from thence.

Provisions to be observed in relation to fixed engines during the annual close season for salmon and trout.

(2) If in respect of any fixed engine there is a contravention of the provisions of subsection (1), the occupier of the fixed engine shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

(3) Nothing in this section shall be construed as rendering liable to any penalty a person who satisfies the court that he was prevented by floods, storm or stress of weather from complying with subsection (1) during the continuance of that prevention.

92.—(1) Within thirty-six hours of the commencement of the annual close season for salmon and trout, all the moveable parts of a salmon weir shall be removed from the weir and shall be taken from thence.

Dismantlement of salmon weirs during the annual close season for salmon and trout.

(2) The moveable parts of a salmon weir shall not be placed in or on that weir earlier than thirty-six hours before the expiration of the annual close season.

(3) During the annual close season (except the first and the last thirty-six hours thereof) the moveable parts of a salmon weir shall not be allowed to remain in or on that weir.

(4) If in respect of any salmon weir there is a contravention of the provisions of subsection (1), (2) or (3) the occupier of the weir shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

(5) Nothing in subsection (4) shall be construed as rendering liable to any penalty an occupier of a salmon weir who satisfies the court that he was prevented by floods, storm or stress of weather from complying with subsection (1) during the continuance of that prevention.

PART VI
—cont.

(6) Where the occupier of a salmon weir is convicted of an offence under this section, the Board, or, failing the Board, the Ministry, may cause to be removed from the salmon weir the moveable parts in respect of which the offence was committed and may recover from the occupier any expenses reasonably incurred in so doing.

(7) In this section the expression “moveable parts” means, in relation to a salmon weir, the inscales and heck of every box in the salmon weir and all other fittings and articles used in connection with those boxes which are capable of removal.

Removal of nets from banks, etc., of waters during the annual close season for salmon and trout.

93.—(1) All nets used for taking salmon or trout shall be removed from the banks of any waters and from the vicinity thereof during the annual close season for salmon and trout.

(2) If subsection (1) is not complied with in regard to any net, the owner of, or the person who used, that net shall be guilty of an offence.

Use of nets in inland waters during the annual close season for salmon and trout.

94.—(1) Subject to subsection (2), if any person, during the annual close season for salmon and trout, does, in the freshwater portion of any river or lake, any of the following things—

(a) places, affixes or attaches any net to any stake, bridge, sluice or lock gates of a canal or other such fixed erection;

or

(b) lays, draws or fishes with any net whatsoever;

he shall be guilty of an offence.

(2) This section shall not apply to—

(a) the use of a landing net or keep net solely as auxiliary to lawful fishing with rod and line;

(b) the lawful use of a net for the taking of eels; or

(c) the lawful use, in accordance with byelaws, of nets for the taking of fish other than salmon, trout or eels.

Annual close season for angling for salmon and annual close season for angling for trout

Annual close season for angling for salmon and annual close season for angling for trout.

95.—(1) In this Act the expression “the annual close season for angling for salmon” means, in relation to any locality, the period during which it is declared by a byelaw for the time being in force and applicable to that locality to be unlawful to fish for or take salmon with rod and line, or, if no period is prescribed, the period from 31st October in any year to 31st January in the then next-following year.

(2) In this Act the expression “the annual close season for angling for trout” means, in relation to any locality, the period

during which it is declared by a byelaw for the time being in force and applicable to that locality to be unlawful to fish for or take trout with rod and line, or, if no period is prescribed, the period from 28th September in any year to the last day of February in the then next-following year.

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96. If during the annual close season for angling for salmon or the annual close season for angling for trout any person fishes for, takes or wilfully kills salmon or trout, as the case may be, with rod and line, he shall be guilty of an offence.

Angling for salmon or for trout during annual close season for angling for salmon or annual close season for angling for trout.
Weekly close time.

Weekly close time for salmon and trout caught otherwise than by rod and line

97. In this Act the expression “the weekly close time” means, in relation to any locality, the period prescribed by byelaw as such for that locality, or if no period is prescribed, the period commencing at 6 o’clock a.m. on each Saturday and ending at 6 o’clock a.m. on the then next-following Monday.

98.—(1) Subject to subsection (2), if, during the weekly close time, any person fishes for, takes or wilfully kills salmon or trout he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

Penalty for fishing otherwise than by rod and line for salmon or trout during the weekly close time.

(2) Subsection (1) shall not apply to the lawful use of a rod and line for the taking of salmon or trout otherwise than during the annual close season for angling for salmon or, as the case may be, the annual close season for angling for trout.

99.—(1) During the weekly close time—

- (a) the netting of the leader of every bag net used for catching salmon shall be raised and kept out of the water; and
- (b) all other nets used as fixed engines for the taking of salmon or trout shall be wholly removed from the water.

Provisions to be observed in relation to certain fixed engines during the weekly close time.

(2) If in respect of any bag net the provisions of subsection (1) (a), or if in respect of any other net to which subsection (1) (b) applies the provisions of subsection (1) (b), are not complied with, the occupier of that bag net or net shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

(3) Nothing in this section shall be construed as rendering liable to any penalty a person who satisfies the court that he was

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prevented by floods, storm, or stress of weather from complying with subsection (1) during the continuance of that prevention.

Provisions to be observed in relation to salmon weirs during the weekly close time.

100.—(1) During the weekly close time the inscales and heck of each box in a salmon weir shall be either removed or opened out in such a manner that a clear opening of not less than four feet in width is left open therein from the top to the bottom of the box and a free, direct and uninterrupted space of that width is effectually secured for the passage of all fish, both up and down, through the box.

(2) If in respect of any salmon weir the provisions of subsection (1) are not complied with, the occupier thereof shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds in respect of each box in the weir the inscales and heck whereof are not removed or opened out as required by subsection (1).

(3) Nothing in subsection (2) shall be construed as rendering liable to any penalty a person who satisfies the court that he was prevented by floods, storm or stress of weather from complying with subsection (1) during the continuance of that prevention.

Penalty for preventing fish from passing through boxes, etc., during the weekly close time.

101. If any person, during the weekly close time—

(a) uses any means or contrivance to prevent the free passage of fish through any box or gap in a salmon weir or through any fixed engine; or

(b) in any way or by any means wilfully frightens or scares or attempts to frighten or scare any fish from passing through such a box or gap or through the traps or eyes of a fixed engine;

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

Scaring or obstructing free passage of salmon or trout during the weekly close time.

102.—(1) Without prejudice to section 101, if any person scares, impedes or obstructs the free passage of salmon or trout during the weekly close time, he shall be guilty of an offence.

(2) This section shall not apply to any person who takes fish lawfully by rod and line during the weekly close time.

Use of nets in inland waters during the weekly close time.

103.—(1) Subject to subsection (2), if any person, during the weekly close time, does, in the freshwater portion of any river or lake, any of the following things—

(a) places, affixes or attaches any net to any stake, bridge, sluice, lock gate of a canal or other such fixed erection; or
 (b) lays, draws or fishes with any net whatsoever;
 he shall be guilty of an offence.

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(2) This section shall not apply to—

- (a) the use of a landing net or keep net solely as auxiliary to lawful fishing with rod and line;
 (b) the lawful use of a net for the taking of eels; or
 (c) the lawful use, in accordance with byelaws, of nets for the taking of fish other than salmon, trout or eels.

Other restrictions as to times of fishing for salmon and trout

104.—(1) Subject to subsection (3), it shall not be lawful for any person to use any net for the capture of salmon or trout in the freshwater portion of any river between the hours of eight o'clock in the evening and six o'clock in the morning.

Restriction on use of salmon or trout nets during certain hours in fresh-water portions of rivers.

(2) If any person contravenes subsection (1) he shall be guilty of an offence.

(3) This section shall not apply to the use of a landing net or keep net solely as auxiliary to lawful fishing with rod and line.

Pollen

105. In this Act, the expression “the annual close season for pollen” means, in relation to any locality, the period from 31st October in any year to 31st January in the then next-following year or such other period as may be declared by a byelaw for the time being in force and applicable to that locality to be a period during which it is unlawful to fish for, take or kill pollen.

Annual close season for pollen.

106. The provisions of section 90 and of section 98 shall apply to pollen in the same way as they apply to salmon and trout, with the substitution therein of references to pollen for references to salmon or trout, and of references to the annual close season for pollen for references to the annual close season for salmon and trout, and with the omission from section 98 (2) of the words from “otherwise” to the end of the subsection.

Extension of sections 90 and 98 to pollen.

Eels

107. In this Act the expression “the annual close season for eels” means in relation to any locality and for the purposes of the taking of eels by means of a fishing engine of any description, other than rod and line, the period during which it is declared by

Annual close season for eels.

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a regulation under section 15 for the time being in force and applicable to that locality to be unlawful to fish for or take eels by means of a fishing engine of that description, or if no period is so prescribed,—

- (a) in relation to the taking of eels by means of fishing weirs or fixed engines (other than long lines), the period from 9th January in any year to 31st May in that year; and
- (b) in relation to the taking of eels by any means other than a fishing engine to which paragraph (a) applies (except by rod and line), the period from 9th January in any year to 30th April in that year.

Prohibition of taking, etc., eels, otherwise than by rod and line, during the annual close season.

108.—(1) Subject to subsection (2), and without prejudice to section 109, if any person—

- (a) during the annual close season for eels taken otherwise than by means of a fishing engine to which section 107 (a) applies, fishes for, takes or wilfully kills eels by any method whatsoever; or
- (b) during the annual close season for eels taken by means of such a fishing engine, fishes for, takes or kills eels by means of such a fishing engine; or
- (c) has in his possession during such period as may be prescribed by regulations, or, if no period is so prescribed, during the period from 31st March in any year to the then next-following 30th April, any eel other than an eel that he proves was captured elsewhere than in any part of Northern Ireland outside the Londonderry Area;

he shall be guilty of an offence and shall be liable on summary conviction in the case of a first offence under this section to a fine not exceeding fifty pounds, and in the case of a second or any subsequent offence under this section to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

(2) Paragraphs (a) and (b) of subsection (1) shall not apply to the fishing for or taking of eels by rod and line, or the killing of eels so taken, and paragraph (c) of that subsection shall not apply to a person who, having any eel in his possession during the period referred to therein, proves that the eel was caught by rod and line at a particular place by the holder of a freshwater rod licence otherwise than during any period for the time being fixed by byelaws as a close season for angling for eels.

(3) The Ministry may by order made subject to affirmative resolution provide that this section shall have effect as if the words in subsection (1) (c) from “other” onwards were omitted.

109.—(1) If any person places or hangs any fishing engine for taking eels in an eye or gap of any fishing weir during—

- (a) the annual close season for eels taken by means of a fishing engine to which section 107 (a) applies; or
- (b) the daytime, within any period that is not the annual close season for eels taken by a fishing engine to which section 107 (a) applies,

he shall be guilty of an offence and shall be liable on summary conviction for a first or, as the case may be, a second or subsequent offence under this section to the same penalty as is provided by section 108 for a first or, as the case may be, a second or subsequent offence under that section.

(2) Where a person is charged with an offence under this section and it is proved that at a particular time a fishing engine for taking eels was placed or was hanging in an eye or gap of a fishing weir, and that that person was at that time the occupier of the fishing weir, then it shall, until the contrary is proved, be presumed that the fishing engine was so placed or hung by him.

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Placing fishing engines for taking eels in eyes, etc. of fishing weirs during the annual close season for eels or during the daytime.

PART VII

RESTRICTIONS ON DEALINGS IN SALMON, TROUT AND EELS

110.—(1) Subject to the succeeding provisions of this section, if any person buys, sells, offers or exposes for sale or has in his possession any salmon or trout unlawfully captured, he shall be guilty of an offence under this Part and shall be liable on summary conviction, in addition to the penalty specified in section 123, to a fine not exceeding five pounds for each salmon or trout so bought, sold, offered or exposed for sale or found in his possession.

Prohibition of sale, etc., of salmon or trout unlawfully captured.

(2) In any proceedings under this section, the onus of proving that the salmon or trout, the subject of the proceedings, was lawfully captured shall lie on the defendant.

(3) Where a person, being a common carrier, is charged with the offence of having in his possession any salmon or trout unlawfully captured, it shall be a good defence to the charge for him to prove—

- (a) that he had the salmon or trout in his possession as a common carrier and not otherwise; and
- (b) that at the time at which the salmon or trout was accepted by him for carriage, the consignor delivered to him a certificate in writing signed by the consignor to the effect that the salmon or trout was lawfully captured.

(4) Where a person is charged with an offence under subsection (1) in relation to a salmon or a trout, and—

- (a) he proves that the fish was caught by rod and line at a

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particular place during a period other than the annual close season for angling for fish of that kind at that place; and

- (b) he proves that the fish was caught by the holder of a salmon rod licence or (in the case of a trout) of a freshwater rod licence,

the charge against him shall be dismissed.

(5) Where a person is charged with an offence under subsection (1) in relation to a salmon or a trout and—

- (a) he proves that he acquired the fish from a person who then was, or whom he believed on reasonable grounds then to have been, the holder of a dealer's licence issued under the succeeding provisions of this Part; or
- (b) he satisfies the court that he had no reason to suppose the fish to have been unlawfully captured, and that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence;

the charge against that person shall be dismissed.

(6) If a person in a certificate signed by him and delivered to a common carrier under subsection (3) (b) makes any statement which to his knowledge is false, he shall be guilty of an offence under this Part.

Prohibition of purchase, sale, etc., of salmon and trout at certain times.

111.—(1) If any person buys, sells, offers or exposes for sale or has in his possession for sale any salmon or trout at any time during the period from 15th September in any year to 31st January in the then next-following year, he shall be guilty of an offence under this Part.

(2) This section shall not apply to any person buying, selling, offering or exposing for sale or having in his possession for sale, any salmon or trout which he proves was supplied by—

- (a) a person who was, or whom he believed on reasonable grounds to be, the holder of a fish culture licence granted under section 11; or

(b) the Ministry.

Restriction on purchase of salmon, trout and eels.

112.—(1) Subject to subsection (2), a person who is not the holder, or the agent duly authorised in writing in that behalf of the holder, of a dealer's licence issued under the succeeding provisions of this Part and for the time being in force, and who buys salmon, trout or eels, shall be guilty of an offence under this Part.

(2) Subsection (1) shall not apply in relation to—

- (a) the *bona fide* purchase by or on behalf of a person of salmon, trout or eels for use by the person in his own home; or
- (b) the *bona fide* purchase of salmon, trout or eels by or on behalf of any person for use for catering purposes in premises in which he carries on the business of a hotel, restaurant or guest house or of providing board and lodging or meals for reward, if the purchase is made from—
- (i) the holder of a dealer's licence for the time being in force; or
 - (ii) a fisherman who is lawfully engaged in taking and killing salmon, trout or eels, and who is the holder of a fishing licence which is for the time being in force and is available for use for the taking and killing of salmon or, as the case may be, trout or eels;
- and, in the case of a purchase from a fisherman, the purchaser—
- (aa) obtains from the fisherman a statement in writing containing his name and address and the number of his fishing licence and stating that the salmon or, as the case may be, the trout or eels are of his own lawful capture, and
 - (bb) retains the statement and produces it to an authorised officer when requested by the authorised officer to do so.

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(3) A person who is buying salmon, trout or eels and purports to be acting as an agent of the holder of a dealer's licence shall produce on demand by an authorised officer his authorisation to act as such agent and if he refuses or fails to produce his authorisation or, on the production thereof, refuses or fails to permit the authorised officer to read the authorisation there and then, he shall be guilty of an offence.

(4) A person who when the production of the authorisation referred to in subsection (3) is lawfully demanded of him under this section does not produce the authorisation because he is not the holder of an authorisation shall be deemed to refuse or fail to produce his authorisation within the meaning of this section.

(5) Where, pursuant to subsection (2), a person (in this subsection referred to as the "vendor") selling salmon, trout or eels to another person gives to that person a statement in writing which, or any part of which, is, to the knowledge of the vendor, false or misleading, the vendor shall be guilty of an offence under this Part.

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(6) In this section “authorised officer” means—

- (a) an officer of the Ministry authorised by the Ministry to exercise the powers conferred by this section; or
- (b) a member of the Royal Ulster Constabulary; or
- (c) an officer of the Board.

Licences for the sale of salmon, trout and eels

Prohibition
of sale, etc.,
of salmon,
trout and
eels without
licence.

113.—(1) Subject to subsection (3), no person shall sell, or offer or expose for sale, or have in his possession for sale at any place or from or in any vehicle, salmon, trout or eels unless he is the holder of a licence for the time being in force (in this Part referred to as a “dealer’s licence”) authorising him to sell salmon, trout or eels at that place, or, as the case may be, from that vehicle.

(2) Any person who, not being the holder of a dealer’s licence, sells, offers or exposes for sale, or has in his possession for sale salmon, trout or eels, or being the holder of such a licence sells, offers or exposes for sale, or has in his possession for sale salmon, trout or eels at a place or, as the case may be, from or in a vehicle, other than that specified in the licence, shall be guilty of an offence under this Part.

(3) This section shall not apply to—

- (a) the Board; or
- (b) a fisherman selling only fish of his own lawful capture; or
- (c) the holder of a fish culture licence under section 11, in relation to fish reared in the fish farm with respect to which the licence is in force; or
- (d) a person who has possession of fish for use for catering purposes in premises in which he carries on the business of a hotel, restaurant or guest house or of providing board and lodging or meals for reward, or who sells fish or offers or exposes fish for sale as or as part of a meal in the ordinary course of such a business.

Grant of
licence.

114.—(1) Where a person who is not for the time being disqualified under section 200 for holding a dealer’s licence makes application in writing to the Board in the form prescribed by the Board and forwards therewith—

- (a) a certificate signed by a justice of the peace that that person is a fit and proper person to receive a licence; and
- (b) a fee of ten shillings or such other fee as may be prescribed by byelaws;

the Board may grant a dealer’s licence to that person.

(2) A dealer’s licence shall (unless previously terminated) continue in force until 31st December of the year in which it is granted and shall then expire.

115.—(1) Where the holder of a dealer's licence applies within the time before its expiration prescribed by the Board, or where a person who was the holder of a dealer's licence and is not for the time being disqualified under section 200 for holding such a licence applies within the time so prescribed after its expiration, and the application—

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—cont.
Renewal of
licence.

- (a) is made in writing in the prescribed form; and
- (b) is accompanied by a fee of ten shillings or such other fee as may be prescribed by byelaws;

the Board may renew that licence.

(2) Every dealer's licence renewed under this section shall (unless previously terminated) continue in force until the expiration of the calendar year for which the licence is renewed, and shall then expire.

116.—(1) When the Board refuse to grant to a person who has complied with the provisions of section 114 or 115 either a dealer's licence or, as the case may be, the renewal of a dealer's licence, they shall send to that person a notice—

Appeal from
refusal of
licence.

- (a) stating the grounds upon which the licence or renewal is refused; and
- (b) informing him of his right of appeal under subsection (2) and of the time within which the appeal may be brought.

(2) A person who is aggrieved by a refusal of the Board to grant to him a dealer's licence or to renew such a licence of which he is or was the holder may, within twenty-eight days from the date on which a notice under subsection (1) is served on him, appeal to the county court against such refusal.

117. A separate and distinct dealer's licence shall be taken out by every person proposing to sell salmon, trout or eels in respect of each separate and distinct place or set of premises where, or, as the case may be, every vehicle from which, it is proposed to sell the same.

Separate
licence
required for
each
premises,
etc.

118.—(1) Every holder of a dealer's licence shall cause that licence to be displayed prominently during business hours in the place or vehicle to which the licence relates, and, if he fails to do so, he shall be guilty of an offence under this Part.

Publication
of licences.

(2) Lists of persons holding dealers' licences shall be published by the Board at such times and places, and in such manner and form, as may be prescribed by the Board.

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Temporary
continuance
of licence
on death.

119. Where the holder of a dealer's licence dies, the licence shall, unless forfeited under section 200, enure for the benefit of his personal representative or his widow or any other member of his family until the expiration of two months from his death or such longer period as the Board may allow.

Register to
be kept by
holder of
licence.

120.—(1) Every holder of a dealer's licence shall keep or cause to be kept at the place or premises to which the licence relates or at such other place as may be prescribed by the Board a register in such form as may be so prescribed of all purchases and receipts of salmon, trout or eels for sale by him, and all sales of salmon, trout or eels made by him, and shall enter or cause to be entered therein such particulars as may be so prescribed (which shall not include any particulars as to price) of such purchases, receipts and sales.

(2) A separate register shall be kept in respect of each place or set of premises, or, as the case may be, each vehicle, with respect to which a dealer's licence is for the time being in force.

(3) Where a dealer's licence is issued with respect to a vehicle, the register referred to in subsection (1) shall be kept in that vehicle whenever the vehicle is being operated in the ordinary course of business, and at other times shall be kept at such place as may be prescribed by the Board; and, accordingly, references in this Part to any place or premises where the register is required to be kept shall, as the case requires, be construed as references to that vehicle or the place so prescribed.

(4) The particulars referred to in subsection (1) shall be entered in the register on the same day as that on which the purchases, receipts or sales were made or received.

(5) Subsection (1) shall not apply with respect to any one or more sales by retail made to any one person on any one day where the total weight of the fish sold to that person on that day does not exceed five pounds, provided that a statement of the aggregate weight of all the fish which were the subject of such sales to all such persons on that day is entered in the register in such manner as may be prescribed by the Board.

(6) Any authorised officer may inspect any register kept in pursuance of this section during such time as the place where the register is required to be kept under this section is open for the carrying on of business or at such other reasonable hours as the Board may prescribe by byelaws; and it shall be the duty of the licence-holder and of every person keeping the register, upon the request of an authorised officer, to produce for inspection by him that register, and also all invoices, consignment notes, receipts

and other documents (including copies thereof where the originals are not available) which may be required to verify any entry in or explain any omission from the register, and to allow the authorised officer to take copies of or extracts from the register or any such document.

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(7) A demand for the inspection of a register or other document under subsection (6) shall be deemed to have been duly made to the licence-holder if the demand is made verbally at the place, premises or vehicle where the register is required to be kept under subsection (1) or (3) to any person in the employment of the licence-holder.

(8) A person who holds or has held a dealer's licence shall preserve and retain any register kept by him under this section for a period of six months after the expiration of the latest year in which an entry was made in the register.

(9) Any holder of a dealer's licence who contravenes any provision of this section shall be guilty of an offence under this Part.

(10) Any person who wilfully or negligently makes or causes to be made in a register kept under this section any entry which is false or misleading in any material particular shall be guilty of an offence under this Part.

(11) In this section "authorised officer" has the same meaning as in section 112 (6).

Exportation of salmon

121.—(1) No unclean or unseasonable salmon, and no salmon caught during the time at which the sale of salmon is prohibited in the district where it is caught, shall be exported or entered for exportation from Northern Ireland.

Prohibition of the exportation of salmon at certain times.

(2) If any person exports salmon or enters salmon for exportation in contravention of subsection (1) he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding five pounds in respect of each salmon so exported or entered for exportation.

(3) The burden of proving that any salmon entered for exportation between 3rd September in any year and 30th April in the then next-following year is not so entered in contravention of subsection (1) shall lie on the person entering the same for exportation.

Other provisions

122.—(1) Every package containing salmon, trout or eels in course of transit in Northern Ireland shall be marked con-

Marking of packages containing

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salmon,
trout
or eels.

spicuously on the outside with the words 'salmon and trout' or the word 'salmon', or the word 'trout', or the word 'eels', as the case may require, and shall have also marked thereon or on a label affixed thereto the name and address of the consignor thereof.

(2) Where any package containing salmon, trout or eels is not marked in the manner required by this section, any person—

(a) sending or consigning the package for transit in Northern Ireland; or

(b) carrying the package in Northern Ireland for reward (except in a case where that person proves that he did not know or could not reasonably have known that the package contained salmon, trout or eels);

shall be guilty of an offence under this Part.

Penalties for
offences
under
Part VII.

123. Any person guilty of an offence under any provision of this Part (other than a provision of section 121) shall be liable on summary conviction in the case of a first such offence to a fine not exceeding fifty pounds, and in the case of a second or any subsequent offence under the same provision of this Part to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

PART VIII

SEA-FISHERIES

Regulations

Power of
Ministry to
make
regulations
for the
management,
conservation,
protection
and improve-
ment of
sea-fisheries.

124.—(1) The Ministry may make such regulations as appear to the Ministry to be expedient for the management, conservation, protection and improvement of sea-fisheries in any manner with respect to which the Parliament of Northern Ireland has power to make laws and, without prejudice to the generality of the foregoing provisions, may so make regulations with respect to the following matters—

(a) the registry of boats engaged in fishing;

(b) the regulation of fishing and the preservation of good order amongst the persons engaged therein;

(c) the times, seasons and places for the taking of fish or for any mode of taking fish and the conditions subject to which fish may be taken;

(d) the times and places or the manner at or in which any fishing engine to be employed in those fisheries may be used;

(e) the description and form of fishing engines to be used in those fisheries and the characteristics of such engines;

- (f) the prohibition of the use of any fishing engine or of any kind of fishing engine; PART VIII
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- (g) the prohibition of the use at any time or season of any fishing engine which the Ministry deems injurious to those fisheries;
- (h) the imposition of prohibitions or restrictions of an emergency character on the taking by means of any fishing engine of a kind specified in the regulations of any fish of a kind so specified during a period (not exceeding one year in duration) so specified, where the Ministry is satisfied that such prohibitions or restrictions are necessary for the protection of those fisheries;
- (i) the prohibition of any practice whatsoever tending to impede the lawful capture of fish or to be in any manner detrimental to those fisheries.

(2) If any person contravenes a regulation made under subsection (1), he shall be guilty of an offence; and if in the case of any fishing boat there is a contravention of such a regulation, the master, the owner and the charterer, if any, of that boat shall each be guilty of an offence.

(3) In paragraphs (e) to (h) of subsection (1) "fishing engine" includes any fishing gear appurtenant to or used in association with a fishing engine.

125.—(1) Regulations may prohibit, either absolutely or subject to any conditions specified in the regulations, the use within the waters of any area so specified, being an area within such part of the fishery limits of the British Islands as is mentioned in section 4 (2) of the Fishery Limits Act 1964, in or from any boat or any boat of a class so specified, of any method or any specified method of trawling or seining (including fishing by means of any kind of net hauled along the bottom of the sea whether by a moving boat or by any mechanical appliance in an anchored boat). Power of Ministry to prohibit trawling within certain waters.
1964, c. 72.

(2) If any person contravenes a regulation such as is referred to in subsection (1) he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds.

126. If any person lands, or knowingly sells or offers or exposes for sale or has in his possession for the purpose of sale—

- (a) any fish caught in contravention of any regulation such as is referred to in section 125; or
- (b) any fish caught in contravention of byelaws made under section 3 (1) of the Steam Trawling (Ireland) Act 1889 Landing or selling fish caught in contravention of regulations under section 125 or fish caught in 52 & 53 Vict., c. 74.

PART VIII
—*cont.*
contraven-
tion of
byelaws
under
52 & 53 Vict.,
c. 74, s. 3 (1).

with respect to any area other than an area lying wholly within such part of the fishery limits of the British Islands as is mentioned in section 4 (2) of the Fishery Limits Act 1964;
he shall be guilty of an offence.

Undersized sea-fish

Minimum
sizes of
sea-fish.

127.—(1) Subject to subsections (5) and (6), no person shall land, sell or offer or expose for sale, or have in his possession for the purpose of sale, any sea-fish of any description, being a fish of a smaller size than such size as may be prescribed in relation to sea-fish of that description by an order of the Ministry made subject to negative resolution, and orders under this subsection may prescribe a different size in relation to landing from that prescribed for other purposes.

(2) Subject to any exemption granted under subsection (7), no person shall have in his possession for the purpose of processing or otherwise using in the course of any business any fish to which subsection (1) applies.

(3) Where an order under subsection (1) prescribes a size for fish of any description (whether in relation to landing only or for all the purposes of the subsection), then, except in so far as provision is made to the contrary by such an order, a person who lands a part of a fish of that description shall be deemed to contravene that subsection if the part is of a smaller size than the size so prescribed.

(4) Where, in the course of any fishing operations conducted by means of a fishing boat, any sea-fish of any description which are of less than the minimum size prescribed in relation to sea-fish of that description by any order under subsection (1) are taken on board the boat, those fish shall be returned to the sea forthwith.

(5) An order under subsection (1) may provide for exempting any fishing boat from the obligation under subsection (4) to return fish of any description specified in the order if and so long as such conditions as may be imposed by or under the order are complied with; and if and so long as such further conditions, if any, as may be so imposed are complied with, any fish retained on board under such an exemption shall be excepted from the prohibitions of subsection (1).

23 & 24 Geo. 5,
c. 45.

(6) Where an order under subsection (1) of section 4 of the Sea-Fishing Industry Act 1933 (which section prohibits the landing in Great Britain and disposal there of sea-fish of less than the prescribed size and requires such fish, if taken on board any fishing boat in waters adjacent to the United Kingdom and within

the fishery limits of the British Islands, or any British fishing boat registered in the United Kingdom wherever that boat may be, to be returned to the sea) is for the time being in force with respect to fish of any description, then, in relation to fish of that description,—

PART VIII
—cont.

(a) no order shall be made under subsection (1) for purposes corresponding to those of the first-mentioned order prescribing any lesser size than the size prescribed by the first-mentioned order; and

(b) subsection (4) shall not have effect;

and where, pursuant to section 6 (1) of the Sea Fish Industry Act 1959, an order under section 4 (1) of the said Act of 1933 provides for exempting any fishing boat or class of fishing boat from the obligation to return fish of any description specified in the order if and so long as such conditions as may be imposed by or under the order are complied with, then, if and so long as such further conditions, if any, as may be so imposed are complied with, any fish retained on board under such an exemption shall be excepted from the prohibitions of subsection (1).

8 & 9 Eliz. 2,
c. 7.

(7) Where it appears to an officer authorised in that behalf by the Ministry that any fish which have been caught are fish to which subsection (1) applies, the officer may grant in writing to any person such exemption from subsection (2) as the officer considers requisite to enable the fish to be disposed of.

(8) If any person contravenes this section, that person shall be guilty of an offence, and if in the case of any fishing boat subsection (4) is not complied with, the master, the owner and the charterer, if any, of that boat shall each be guilty of an offence.

(9) Any person, master, owner or charterer who is guilty of an offence under subsection (8) shall be liable on summary conviction—

(a) in the case of a first offence, to a fine not exceeding one hundred pounds;

(b) in the case of a second or subsequent offence, to a fine not exceeding two hundred pounds.

(10) Any officer of a market authority acting within the limits of a market which that authority has power to regulate, may seize any sea-fish which are landed, sold or offered or exposed for sale by any person in contravention of this section or which any person has in his possession in contravention of this section and for the purposes of this subsection may exercise any power conferred on an authorised officer by section 178.

PART VIII
—cont.

(11) In this section “sea-fish” includes fish which has been cured, frozen or otherwise preserved, and “market authority” means any authority or person having power to regulate a market.

Other provisions

Use of
beaches, etc.,
by fishermen
for purposes
of sea-
fishing.

128.—(1) Any fisherman or any person employed by a fisherman may—

- (a) enter upon all such beaches, strands and waste lands on or adjoining the seashore or any estuary as may be necessary for the purpose of sea-fishing; and
- (b) draw up and spread nets and land fish upon any such beach, strand or waste land.

(2) If any person resists or forcibly obstructs any other person exercising any right conferred by subsection (1), the first-mentioned person shall be guilty of an offence.

(3) Subsection (1) shall not be construed as authorising the erection of any fixtures or fixed nets on any beach, strand or waste land.

Use by
fishermen
of land
adjoining
fishing
places.

129.—(1) Any fisherman engaged in sea-fishing, and any person watching on behalf of, directing, guiding, assisting or helping to attend to the nets of any such fisherman may, subject to subsection (2), enter any land in the vicinity of any fishing place for the purpose of watching for or of drawing or carrying ashore fish, or for the purposes of directing and guiding any fisherman engaged or about to engage in fishing.

(2) Subsection (1) shall not authorise any person to enter an enclosed garden or any cultivated land bearing a growing crop.

(3) If any person resists or forcibly obstructs any other person exercising any right conferred by subsection (1) the first-mentioned person shall be guilty of an offence.

Fishing boats
and gear,
etc., picked
up at sea to
be delivered
at nearest
coastguard
station.

130.—(1) Any person who finds or picks up at sea any fishing boat, rigging, gear or other appurtenance of fishing boats or any net, buoy, float or fishing implement, shall as soon as possible deliver it up to the officer in charge of the nearest coastguard station and such officer shall be considered as agent of the receiver of wreck for the district in which such delivery takes place, and shall place it in the custody of the receiver.

(2) If any person wilfully contravenes subsection (1) he shall be guilty of an offence.

PART IX

SHELL-FISH

Oyster bed licences

131.—(1) The Ministry may, subject to the provisions of this Part, grant a licence (in this Act referred to as an “oyster bed licence”) authorising the formation of an oyster bed—

Power of Ministry to grant oyster bed licence.

- (a) being an oyster bed between high-water and low-water mark or partly above and partly below low-water mark (including the lowest water-mark of spring tides), by—
- (i) the owner of a several fishery, within the limits of that fishery;
 - (ii) the owner of the bed and soil of an estuary, within that estuary;
 - (iii) the owner or occupier of land bordering on the sea or an estuary, on the shore adjacent to that land;
 - (iv) any person, with the consent in writing of the owner or occupier of land bordering on the sea or an estuary, on the shore adjacent to that land;

(b) being an oyster bed below low-water mark, by any person.

(2) An oyster bed licence shall not be granted to form an oyster bed—

- (a) in any place where the Ministry is satisfied that the public exercise and enjoy *bona fide* a substantially profitable fishing for oysters, or
- (b) within the limits of an oyster bed or oyster fishery the property of any private person, or
- (c) within the limits of any several fishery without the consent in writing of the owner of that fishery.

132. Before granting an oyster bed licence the Ministry shall cause a local public inquiry to be held as to the expediency of granting the licence.

Inquiry into application for an oyster bed licence.

133.—(1) An oyster bed licence—

- (a) shall define the position and limits of the oyster bed by reference to a map, either with or without descriptive matter (which, in the case of any discrepancy with the map, shall prevail except in so far as may otherwise be provided by the licence);
- (b) may be subject to any conditions or limitations specified in the licence;

Form, conditions and duration of oyster bed licence.

PART IX
—cont.

(c) subject to subsections (2) and (3), may be limited to any period of time specified in the licence.

(2) Where an oyster bed licence has been granted to the occupier of land bordering on the sea or an estuary or to any person with the consent of such an occupier, the licence shall remain in force only during the continuance in occupation of the person who was in occupation at the time when the licence was granted.

(3) Where an oyster bed licence is granted to a person with the written consent of any owner and a period is named in the consent, the licence shall remain in force only for that period.

Publication
of oyster bed
licence.

134. When the Ministry grants an oyster bed licence, the Ministry shall cause notice of the grant to be published in the Belfast Gazette and in such one or more than one newspaper as the Ministry considers appropriate.

Effect of
oyster bed
licence.

135.—(1) An oyster bed licence shall not, except for the purpose of forming or planting an oyster bed, affect any rights in or over the shore or bed of the sea.

(2) Subject to subsection (1), every oyster bed licence shall be binding and conclusive on the Crown and on all persons whomsoever, and shall operate to vest in the licensee, his heirs, executors, administrators and assigns, such rights and privileges as are thereby given, according to the tenor thereof, free from all prior or other rights, titles, estates or interests whatsoever.

Offences with
respect to
licensed
oyster bed.

136.—(1) If any person (other than the licensee or a person employed by him) knowingly does, within the limits of an oyster bed with respect to which an oyster bed licence is for the time being in force, any of the following things:—

- (a) uses any implement, except a fishing engine adapted solely for catching free swimming fish and so used as not to disturb or injure in any manner the oyster bed or any oysters or the oyster fishery;
- (b) dredges for any ballast or substance except under lawful authority for improving the navigation;
- (c) deposits any stone, ballast, rubbish or substance;
- (d) places any implement, apparatus, material, substance or thing that is prejudicial or likely to be prejudicial to the oyster bed or oysters or to the oyster fishery, except for a lawful purpose of navigation or anchorage;
- (e) disturbs or injures in any manner, except as mentioned in

paragraph (d), the oyster bed or oysters or the oyster fishery;

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—cont.

- (f) interferes with or takes away any oysters from the bed without the consent of the licensee or the owner or occupier of the bed;

he shall be guilty of an offence.

(2) Where a person does any act in contravention of subsection (1), then, whether he has or has not been prosecuted or convicted of an offence under that subsection, he shall be liable to make full compensation to the licensee for all damage sustained by the licensee by reason of that act, and such compensation shall be recoverable by the licensee in any court of competent jurisdiction.

137.—(1) An oyster bed licence may be suspended or revoked in accordance with the provisions of Schedule 1, and in the application of those provisions for the purposes of this section—

Suspension
or revocation
of oyster bed
licence.

- (a) “licence” shall mean an oyster bed licence; and
(b) the references in paragraphs 1 and 3 to the fishery with respect to which the licence was issued shall be construed as references to the oyster bed to which the oyster bed licence relates.

(2) Without prejudice to paragraph 3 of Schedule 1, the Ministry may revoke an oyster bed licence—

- (a) within a period of three years from the date of the licence, if the Ministry considers that the licensee has not taken the necessary steps to form the oyster bed to which the licence relates; or
(b) at any time, if the Ministry is not satisfied that the licensee is properly cultivating the oyster bed to which the licence relates;

but, before revoking an oyster bed licence under this subsection, the Ministry shall—

- (i) give to the licensee a written notification of the reasons for the proposed revocation; and
(ii) accord to the licensee an opportunity of appearing before and being heard by a person appointed for the purpose by the Ministry; and
(iii) consider the report of the person so appointed and supply a copy of the report to the licensee.

(3) Without prejudice to section 20, for the purposes of subsection (2) the Ministry may make such investigations, and may require the licensee to furnish such information as the Ministry

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—cont.

thinks fit, and the licensee shall afford all facilities for such investigations and give such information accordingly.

(4) Upon the revocation of an oyster bed licence, all rights conferred by the licence shall absolutely determine.

Oyster fishery orders

Power of
Ministry to
make oyster
fishery order.

138.—(1) The Ministry may, on the application of any person, make an order (in this Act referred to as an “oyster fishery order”), subject to negative resolution, for the establishment, improvement, maintenance and regulation of an oyster fishery on the shore and bed of the sea or of an estuary or tidal river (hereinafter referred to as “the seashore”) above or below, or partly above and partly below, low-water mark.

(2) An oyster fishery order shall be in such form and shall contain such provisions as appear to be expedient, and may constitute a body corporate for the purposes of and in accordance with the provisions of the order.

(3) Where any portion of the seashore proposed to be comprised in an oyster fishery order belongs to the Crown, the Ministry shall not make the order without the consent of the Crown Estate Commissioners.

Procedure on
application
for oyster
fishery order.

139.—(1) Where the Ministry, in pursuance of an application under section 138, proposes to make an oyster fishery order, the Ministry shall cause one month’s notice of its intention to make the order—

(a) to be published in the district to be affected by the order; and

(b) to be given to every person appearing to the Ministry to have an interest in, or in land adjoining, the portion of the seashore to which the proposed order relates,

and shall receive any representations in writing made before the expiration of the notice.

(2) On the expiration of the notice referred to in subsection (1) the Ministry shall cause a local public inquiry to be held with respect to the proposed oyster fishery order.

(3) As soon as may be after the inquiry referred to in subsection (2), the Ministry shall consider any representations received under subsection (1) and the report of the person by whom the inquiry was held, and thereupon shall either make or refuse to make an oyster fishery order.

140. When the Ministry makes an oyster fishery order, the Ministry shall—

- (a) cause the order to be published in such manner as appears to the Ministry appropriate for bringing the order to the attention of every person concerned; and
- (b) give notice of the order to every person appearing to the Ministry to have an interest in or in lands adjoining the portion of the seashore to which the order relates.

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—cont.
Publication
of oyster
fishery order.

141.—(1) Subject to subsection (2), an oyster fishery order shall confer upon the grantee within the limits of the oyster fishery named in the order, the exclusive right of depositing, propagating, dredging and fishing for and taking oysters, and, in exercise of that right, the grantee may, within the limits of the fishery, make and maintain oyster beds, and at any season collect oysters and remove them from place to place, and deposit them as and where he thinks fit, and do all other things which he thinks proper for obtaining, storing and disposing of the produce of the fishery or for the regulation of the fishery.

Effect of
oyster fishery
order.

(2) No oyster fishery order shall take away or abridge any right of several fishery or any right of any person with respect to any portion of the seashore, being a right enjoyed under a local or special Act or under Royal Charter, letters patent, prescription or immemorial usage, without the consent of that person.

142. If, with respect to any oyster fishery granted under an oyster fishery order, any person—

- (a) wilfully trespasses on the fishery, or
- (b) not being a grantee named in the order or not having the written permission of the grantee or, where more than two, of at least two-thirds of the grantees, takes any oysters therefrom,

he shall be guilty of an offence.

Trespass on
oyster
fishery.

143.—(1) An oyster fishery order may be suspended or revoked in accordance with the provisions of Schedule 1, and in the application of those provisions for the purposes of this section references to a licence shall be construed as references to an oyster fishery order.

Suspension
or revocation
of oyster
fishery order.

(2) Without prejudice to paragraph 3 of Schedule 1, the Ministry may revoke an oyster fishery order if the Ministry is not satisfied that the grantee is properly cultivating the oyster fishery to which the oyster fishery order relates, but, before revoking an oyster fishery order under this subsection, the Ministry shall—

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—cont.

- (a) give to the grantee a written notification of the reasons for the proposed revocation; and
- (b) accord to the grantee an opportunity of appearing before and being heard by a person appointed for the purpose by the Ministry; and
- (c) consider the report of the person so appointed and supply a copy of the report to the grantee.

(3) Without prejudice to section 20, for the purposes of subsection (2) the Ministry may make such investigations and require from the grantee such information as the Ministry thinks fit, and the grantee shall afford all facilities for such investigations and give such information accordingly.

(4) Upon the revocation of an oyster fishery order, all rights conferred by the oyster fishery order shall absolutely determine.

*Close season for oysters*Close season
for oysters.

144. In this Act the expression “the close season for oysters” means, in relation to any locality,—

- (a) the period during which it is declared by a regulation made under section 124 for the time being in force and applicable to that locality to be unlawful to take oysters; or
- (b) if no such regulation is in force, the period from 30th April in any year to 31st August in the same year.

Power of
Ministry to
prohibit the
taking of
oysters
during a
specified
period.

145. The Ministry may by regulations prohibit during such period not exceeding three years as may be specified in the regulations the taking of oysters in any locality specified in the regulations.

Taking
oysters
during the
close season
for oysters
or during
the period
specified in
a regulation
under section
145.

146.—(1) If any person, in any locality, takes or has in his possession, sells, offers or exposes for sale or buys any oyster—

- (a) during the period which is, in relation to that locality, the close season for oysters, or
- (b) during the period specified in a regulation made under section 145 relating to that locality,

he shall be guilty of an offence.

(2) Nothing in subsection (1) shall render unlawful—

- (a) the removal or laying down during the close season for oysters of oyster brood from or in an oyster bed by the owner thereof or by a person employed by him;

- (b) the possession, selling, offering or exposing for sale or buying by any person in any locality of an oyster which he proves was lawfully taken in some other locality;
- (c) anything done pursuant to or in consequence of an order made under section 147 or 148.

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147.—(1) The Ministry may, for the purpose of supplying a specified oyster bed, by order authorise the taking of oysters from a specified natural public bed lying below the level of the lowest water of spring tides during a specified part of the close season for oysters.

Power of Ministry to authorise the taking of oysters for certain purposes during the close season for oysters.

(2) If any oysters taken by authority of an order under this section are brought to shore by any person or are sold or offered or exposed for sale by any person or are found in the possession of any person on land or are used by any person for any purpose other than supplying the oyster bed specified in the order, that person shall be guilty of an offence.

148. The Ministry may, upon the application of any person interested in an oyster fishery, by order authorise the taking of any foreign oysters from a specified oyster bed during a specified part of the close season for oysters.

Power of Ministry to authorise the taking of certain kinds of oysters during the close season for oysters.

Miscellaneous provisions with respect to oyster fisheries

149.—(1) The Ministry may make such regulations as appear to be expedient for the increase, improvement and protection of the oyster fisheries, and, without prejudice to the generality of the foregoing provisions or to the powers conferred on the Ministry by section 124, the Ministry may by regulations do the following things—

Power of Ministry to make regulations with respect to oyster fisheries.

- (a) make provision to prevent the destruction or removal from the natural beds of small unsizeable oysters, and for this purpose—
- (i) fix the size of the smallest oysters which may be removed from natural beds, and
- (ii) appoint such means to be adopted in the taking of oysters as will secure the return to the sea of all oysters of less size than that so fixed;
- (b) prohibit, during the close season for oysters or in any place where the taking of oysters is prohibited by an order under section 145 and during the period specified in the order, any boat having on board a dredge or other implement whatsoever for the taking of oysters.

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—cont.

(2) If any person contravenes a regulation made under this section he shall be guilty of an offence.

Power of person interested in oyster bed or fishery to appoint water bailiff.

150.—(1) Any of the following persons, namely,—

- (a) the owner or occupier of an oyster bed;
- (b) the grantee of an oyster fishery under an oyster fishery order;
- (c) an association of persons interested in the protection or improvement of an oyster fishery;

may for the protection of that oyster bed or fishery and for the due enforcement of the provisions of this Act and any regulations made thereunder, appoint a person to be a water bailiff.

(2) A water bailiff appointed under this section—

- (a) may enforce any provisions of this Act and any regulations under this Act, being provisions or regulations having effect with respect to the oyster bed or fishery specified in his instrument of appointment, and
- (b) shall have all the powers conferred by this Act upon a private water bailiff,

and all the provisions of this Act with respect to a private water bailiff shall apply to a bailiff appointed under this section.

(3) Where under an oyster fishery order there are more than two grantees, the powers conferred by this section may be exercised by any two of them.

Mussels, periwinkles and cockles

Extension of sections 131 to 137 to mussel beds, periwinkle beds and cockle beds.

151. Sections 131 to 137 shall apply to mussel beds and fisheries, periwinkle beds and fisheries and cockle beds and fisheries as they apply to oyster beds and fisheries, and the Ministry is hereby empowered to grant in respect of the said beds and fisheries a licence such as is mentioned in section 131.

Extension of sections 138 to 143 to mussel beds, etc.

152. Sections 138 to 143 shall apply to mussels and mussel beds and mussel fisheries as they respectively apply to oysters and oyster beds and oyster fisheries.

Close season for mussels, periwinkles and cockles.

153.—(1) The Ministry may by regulations fix a period in each year within which it shall not be lawful to take mussels, periwinkles or cockles from any locality specified in the regulations or to have in possession or to sell mussels, periwinkles or cockles taken from that locality; and any period so fixed in relation to a locality shall be the close season for mussels, periwinkles or cockles, as the case may be, in that locality.

(2) If any person, in any locality, takes or has in his possession or sells, offers or exposes for sale or buys any mussels, periwinkles or cockles during a period which is, in relation to that locality, the close season for mussels or, as the case may be, the close season for periwinkles or for cockles, he shall be guilty of an offence.

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—cont.

154.—(1) The Ministry may by regulations prohibit during such period not exceeding three years as may be specified in the regulations the taking of mussels, periwinkles or cockles in any locality specified in the regulations.

Power of Ministry to prohibit the taking of mussels, periwinkles and cockles during a specified period.

(2) If any person, in any locality, takes or has in his possession or sells, offers or exposes for sale or buys any mussels or, as the case may be, any periwinkles or any cockles during the period specified in regulations made under subsection (1) relating to that locality and to fish of that kind, he shall be guilty of an offence.

(3) Subsection (2) shall not apply to the possession, selling, offering or exposing for sale or buying by any person in any locality of any fish which he proves was lawfully taken in some other locality.

155.—(1) The Ministry may make such regulations as appear to the Ministry to be expedient for the increase, improvement and protection of the mussel fisheries, periwinkle fisheries and cockle fisheries, and, without prejudice to the generality of the foregoing provisions or to the powers conferred on the Ministry by section 124, the Ministry may by such regulations do with respect to any such fisheries or with respect to mussels or periwinkles or cockles or any beds thereof any of the things which it is by section 149 empowered to do with respect to oysters and oyster beds and oyster fisheries.

Power of Ministry to make regulations with respect to mussel, periwinkle and cockle fisheries.

(2) If any person contravenes a regulation made under subsection (1) he shall be guilty of an offence.

Crabs and lobsters

156.—(1) If any person lands, sells, offers or exposes for sale or has in his possession for the purpose of sale—

Restrictions on landing, etc., certain edible crabs.

- (a) any edible crab of a size less than four inches and a quarter measured across the broadest part of the back; or
- (b) any edible crab which is carrying any spawn attached to the tail or other exterior part of the crab or which is in such condition as to show that, at the time when it was taken, it was carrying spawn so attached; or

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—cont.

(c) any edible crab which has recently cast its shell;
he shall be guilty of an offence.

(2) Where a person is charged with an offence under this section in relation to any edible crab, it shall be a good defence to prove that the crab was intended for bait for fishing.

(3) On the commencement of an order under section 127 prescribing any size with respect to crabs of any kind for the purposes of that section, subsection (1) (a) shall cease to have effect with respect to crabs of that kind.

Restrictions on landing, etc., under-sized lobsters.

157.—(1) If any person lands, sells, offers or exposes for sale or has in his possession for the purpose of sale any lobster of a size less than nine inches measured from the tip of the beak to the end of the tail when spread as far as possible flat, he shall be guilty of an offence.

(2) On the commencement of an order under section 127 prescribing any size with respect to lobsters for the purposes of that section, subsection (1) shall cease to have effect.

Restrictions on landing, etc., spawning lobsters.

158.—(1) If the Ministry by regulations so directs, no person shall land, sell, offer or expose for sale, or have in his possession for the purpose of sale, any lobster which is carrying any spawn attached to the tail or some other exterior part of the lobster, or which is in such a condition as to show that, at the time when it was taken, it was carrying spawn so attached.

(2) If any person contravenes subsection (1) he shall be guilty of an offence.

Power of Ministry to prohibit the taking of crabs and lobsters in certain areas.

159.—(1) The Ministry may by regulations restrict or prohibit either absolutely or subject to any conditions specified in the regulations the taking of any edible crab or lobster or any such crab or lobster of any condition or description within any area specified in the regulations, during such period of years or during such period either in every year or in any number of years as may be specified in the regulations.

(2) If any person contravenes a regulation made under subsection (1) he shall be guilty of an offence.

(3) Nothing contained in a regulation referred to in subsection (1) shall apply to a several right of fishery.

PART X

MISCELLANEOUS OFFENCES

Obstructing persons lawfully fishing.

160. If any person unlawfully 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.

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

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—cont.
Placing fishing engine with intent to prevent fish entering any other fishing engine lawfully set.

162. If any person, without the permission of the owner thereof, removes, takes, uses or employs any boat he shall be guilty of an offence.

163.—(1) Every boat used for fishing, other than a fishing boat excepted from the application of this section by subsection (3), shall have upon some conspicuous place thereof the name of the owner, or of one of the owners where more than one, and of his place of residence, painted in clear legible characters or letters of not less than two inches in length.

Taking or using boats without permission. Names of owners to be painted on fishing boats.

(2) If, in respect of any boat to which this section applies the provisions of subsection (1) are not complied with, the owner of the boat or any person using it shall be guilty of an offence.

(3) This section shall not apply to any fishing boat registered under Part IV of the Merchant Shipping Act 1894 or to any boat which, so far as it is used for fishing, is used solely for catching fish otherwise than for profit.

57 & 58 Vict., c. 60.

164. If any person without authority from the owner or occupier enters into or upon a several fishery for the purpose of fishing, or kills or takes any fish therein, he shall be guilty of an offence.

Unauthorised entry on several fishery.

165. If any person kills, takes or destroys any fish in any pond, private canal or reservoir without the authority of the owner of such pond, private canal or reservoir, he shall be guilty of an offence.

Unauthorised fishing in private ponds.

PART XI

AUTHORISED PERSONS

Definitions

166.—(1) In this Part—
“authorised person” means a person being—

Definitions for purposes of Part XI.

- (a) a member of the Royal Ulster Constabulary, or
- (b) an officer appointed by the Ministry, or
- (c) an officer of the Board, or
- (d) a private water bailiff;

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—cont.

“officer of the Board” means an inspector or water bailiff appointed by the Board;

“private water bailiff” means a water bailiff appointed under section 150 or 170.

(2) In sections 174 to 177, 179, 184 and 185 the expression “authorised person” includes—

- (a) any British sea-fishery officer, and
- (b) any member of the coastguard service.

(3) In subsection (2) “British sea-fishery officer” means any officer mentioned in section 11 (2) of the Sea Fisheries Act 1883 or section 25 of the Sea Fish Industry Act 1951.

46 & 47 Vict.,
c. 22.
14 & 15 Geo.
6, c. 30.

Provisions with respect to particular classes of authorised persons

Amendment
of 6 & 7
Will. 4, c. 13,
s. 15, as to
purposes for
which
members of
the Royal
Ulster
Constabulary
may be
employed.
6 & 7 Will. 4,
c. 13.

167.—(1) Subject to subsection (2), any member of the Royal Ulster Constabulary may enforce the provisions of this Act or of any instrument made under this Act, notwithstanding anything in section 15 of the Constabulary (Ireland) Act 1836 as it applies to the said Constabulary.

(2) Save as provided in the exception to the proviso to the said section 15 (being an exception of any case where forcible resistance is actually made and is proved by information on oath), no member of the Royal Ulster Constabulary shall enter upon any lands or waters for the purpose of enforcing the fishing rights of any owner or occupier thereof, or of any person in whom fishing rights are vested.

Restriction
on powers of
officers of
the Board.

168.—(1) Subject to subsection (2), an officer of the Board shall not enter upon any lands or waters for the purpose of enforcing the fishing rights of any owner or occupier thereof, or of any person in whom fishing rights are vested.

(2) Subsection (1) shall not apply in any case where the fishing rights in question are rights of the Ministry.

Additional
powers of
coastguard.

169. In addition to any other powers expressly conferred by this Act, any member of the coastguard service may, for the purposes of this Act, on land or sea—

- (a) execute the warrants of any justice of the peace or resident magistrate as fully and effectually as any person duly authorised and empowered to execute warrants of justices or of resident magistrates may do so on land within their respective jurisdictions;
- (b) do all such other acts on sea or land in relation to the preservation of the peace among persons engaged in

fishing as any member of the Royal Ulster Constabulary may lawfully do; PART XI
—cont.

- (c) levy all penalties directed to be enforced against any person offending against the provisions of this Act.

170.—(1) Any of the following persons, namely,

- (a) any person who by virtue of any fishing rights in any lake or river has an interest in the preservation of the fish therein; or Appoint-
ment, etc., of
private water
bailiffs.

- (b) any persons who have united themselves into a society for the preservation of any fishery in any lake or river; or

- (c) the owner of any salmon fishery on the sea coast,

may by instrument in writing in the form set out in Schedule 5 appoint any person (other than a person disqualified under subsection (7)) to be a private water bailiff for the protection of the fisheries in any such lake or river or the tributaries thereof, or on such part of the sea coast.

(2) A person appointed to be a private water bailiff shall not act in that capacity until his appointment is confirmed by a court of summary jurisdiction sitting for the petty sessions district (or any one such district where there are more than one) within which the private water bailiff is appointed to act.

(3) A person making application under subsection (2) for confirmation of the appointment of a person as a private water bailiff shall, not less than fourteen days before the date of the hearing of the application, give notice in writing of the application to the Board, and the Board shall be entitled to appear before the court, be heard and adduce evidence on the hearing of the application, and may do so by an officer of the Board or by solicitor or counsel.

(4) The confirmation of the appointment of a person as a private water bailiff shall be effected by the resident magistrate endorsing the instrument of appointment.

(5) Where a court of summary jurisdiction has confirmed the appointment of a person to act as a private water bailiff within the petty sessions district for which the court sits or within any such districts of which that district is one, the court upon complaint made to it, may revoke the appointment, and thereupon the appointment shall be terminated.

(6) When the appointment of a person to be a private water bailiff is confirmed by a court of summary jurisdiction under subsection (4) or revoked under subsection (5), the clerk of the

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—cont.

court shall notify the Board of such confirmation or revocation as soon as practicable.

(7) An officer of the Board shall be disqualified for appointment as a private water bailiff.

(8) If any person—

(a) acts as a private water bailiff without having his appointment confirmed under subsection (4); or

(b) so acts after his appointment has been revoked either by a court under subsection (5) or by his employer;

he shall be guilty of an offence.

(9) The powers conferred by this Part on a private water bailiff shall be exercisable only for the protection of the fishery specified in his instrument of appointment.

Warrant for
exercise of
powers.

171. The production by an officer of the Board or a private water bailiff of the instrument of his appointment shall be a sufficient warrant for his exercising the authority conferred on him by this Part, but the production of that instrument shall not be necessary unless he has been first required to produce it.

*Powers*General
powers of
authorised
persons.

172.—(1) An authorised person may, for the purposes of the protection of the fisheries, at any time—

(a) enter into and pass through or along the banks or borders of any lakes or rivers or of the tributaries thereof;

(b) with boats or otherwise, enter upon any such lakes or rivers;

(c) enter upon and examine all weirs, sluices, mill dams, fish passes, mill races and watercourses communicating with such lakes or rivers, and pass along the same;

(d) stop, enter and search any boat which has been or is engaged or is about to engage in fishing;

(e) examine all standing, floating or other nets whatsoever;

(f) examine all fish and all fishing engines found in any place which by this Act he is authorised to enter, and for that purpose open any package found in such place and containing or suspected of containing any fish or fishing engine;

(g) seize any unlawful fishing engine or any lawful fishing engine which is being unlawfully used;

(h) seize any fish in the possession of a person found or suspected of committing an offence under any statutory

provision relating to fisheries or any fish which have been or are suspected of having been unlawfully captured;

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—cont.

(i) seize any other thing whatsoever by means of, or in relation to, which an offence under any provision of this Act has been or is suspected of having been committed;

(j) do all such other acts and things as he is authorised to do under this Act.

(2) Nothing in this section shall be construed as authorising any person to enter any enclosed garden or any dwelling house or the curtilage thereof except where the ordinary road or passage to any weir, dam or dyke traverses such garden or curtilage.

(3) In this section, “suspected” means suspected on reasonable grounds.

173.—(1) Where upon a sworn complaint in writing it appears to any justice of the peace that there are reasonable grounds for believing that a breach of the provisions of this Act or any regulation or bylaw made thereunder has been committed within any enclosed garden or any dwelling house or the curtilage thereof, he may by warrant under his hand empower an authorised person to enter that garden or dwelling house or the curtilage thereof at such time in the day or night as may be mentioned in the warrant.

Power of justice of the peace to grant warrant to enter certain places.

(2) A warrant under this section shall not continue in force for more than seven days from the date thereof.

174.—(1) Any authorised person to whom this section applies may do, with respect to any boat employed in fishing, all or any of the following things—

Boarding and examination of fishing boats.

(a) board the boat;

(b) examine the certificate of registration or other official papers and the fishing engines of the boat, and ascertain whether the provisions of this Act or any instrument made thereunder have been complied with and whether the master and other persons on board are carrying on fishing in the manner required under this Act or any such instrument;

(c) seize any unlawful fishing engine or any lawful fishing engine unlawfully used and any fishing gear appurtenant to or used in association with any such engine.

(2) If the master of a fishing boat refuses to produce the certificate of registration or other papers of the boat when required to do so by any person acting under subsection (1), he shall be guilty of an offence.

(3) This section applies to the following authorised persons, that is to say—

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—cont.

- (a) a member of the Royal Ulster Constabulary;
- (b) an officer appointed by the Ministry;
- (c) a person to whom section 166 (2) applies.

(4) In this section “certificate of registration” includes any certificate issued under section 124 (1) (a), and any certificate issued with respect to a boat registered under Part IV of the Merchant Shipping Act 1894.

Detention of
sea-fishing
boats, etc.

175. Any authorised person, being a person to whom section 166 (2) applies or an officer appointed by the Ministry, may, in any case where it appears to him that a person has committed an offence under any provision of this Act relating to sea-fishing or the taking of salmon in the sea, without summons, warrant or other process, both take that person and the boat to which he belongs and the crew thereof to the nearest or most convenient port and bring him or them as soon as practicable before a competent court, and in the meantime detain him, it and them in the port until the alleged offence has been inquired into or adjudicated upon by such court.

Apprehen-
sion of
offenders.

176.—(1) If any person (in this section referred to as “the offender”) is found offending against any provision of this Act,—

- (a) an authorised person may require the offender to desist from the offence and to give his name and address; and
- (b) if the offender, after being so required, wilfully continues the offence or refuses or fails to give his name and address, the authorised person and any person acting under his directions may apprehend the offender.

(2) Where the offender is apprehended under this section by an authorised person who is not a member of the Royal Ulster Constabulary that person shall forthwith deliver the offender into the custody of a member of the Royal Ulster Constabulary to be dealt with according to law.

(3) In this section the expression “authorised person” includes any person who by virtue of any fishing rights exercisable by him has an interest in the fishery in which the relevant offence is committed.

Powers in
relation to
fishing
engines, etc.

177. Without prejudice to any other provision of this Act, where an authorised person finds—

- (a) during the annual close season for salmon and trout or the weekly close time—
 - (i) any passage in any fishing engine or contrivance closed or obstructed; or
 - (ii) any fishing engine or any contrivance whatsoever

placed or used in contravention of this Act or any instrument made thereunder; or

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(b) at any time, any obstruction other than an obstruction authorised by a licence granted under section 84 (1) in the free gap of a fishing weir or in a fish pass; or

(c) at any time, any obstruction in the waste gate appurtenant to any mill or factory when such waste gate is required by law to be open,

he may open such passages and remove such obstructions, doing no unnecessary damage, and seize and remove all things so found or used contrary to the provisions of this Act or any instrument made thereunder.

178.—(1) Every person (in this section referred to as an “authorised officer”) being an officer of the Ministry authorised by the Ministry to exercise the powers conferred by this section, or a member of the Royal Ulster Constabulary or an officer of the Board, is hereby authorised to do all or any of the following things—

Powers of
inspection,
examination
and
detention.

- (a) to stop and search any person, conveying or suspected of conveying fish of any kind, or any instrument, poison, explosive or thing used or adapted for taking fish unlawfully and to inspect any fish, instrument or substance which that person is found to be conveying, and for that purpose to open and search any vehicle or package in which any fish, instrument or substance is or is suspected of being conveyed;
- (b) at all reasonable times to enter upon and have free access to the interior of—
- (i) any premises in which fish is or is believed to be sold, or kept or exposed for sale or stored; or
 - (ii) any premises in which any instrument or substance intended for the destruction of fish is or is believed to be kept; or
 - (iii) the premises of any person engaged in the business of carrying goods for reward; or
 - (iv) any aerodrome, pier, quay, wharf, jetty or dock or premises thereon; or
 - (v) any aircraft, boat, railway wagon, motor lorry, cart, or other vessel or vehicle of whatever kind used for the conveyance of goods; or
 - (vi) any hotel, guest house, restaurant or other premises or place at which board and lodging or meals are provided for reward;
- (c) to examine all fish found in any place which he is authorised

PART XI
—cont.

by this section to enter, and for that purpose to open any package found in such place and containing or suspected of containing fish;

- (d) to stop, enter, and search, on any waters, or the banks thereof, any boat used or suspected of being used for fishing or containing or suspected of containing fish unlawfully captured, and to examine all fish and all fishing engines or fishing gear found therein, and for that purpose to open any package which contains or is suspected of containing any fish or fishing engine or fishing gear;
- (e) to take, remove, and detain in his custody any fish (either together with or without any package in which the same may be contained) found in the course of the exercise of any of the powers conferred by this section in respect of which an offence under this Act is being or is suspected of being committed, or which have been or are suspected of having been unlawfully captured;
- (f) to take, remove, and detain in his custody any fishing engine, boat, vehicle or thing liable or believed to be liable to forfeiture under this Act;
- (g) to demand and take the name and address of the person having custody of any fish or other article which the authorised officer is authorised under this section to examine, and also to demand and take from such person the name and address of the owner of such fish or other article.

(2) Where an authorised officer detains in his custody under the authority of this section any particular thing, he shall as soon as conveniently may be take such steps as may be proper to have the person guilty, or suspected to be guilty, of the offence committed or suspected to have been committed in relation to that thing dealt with according to law.

(3) A person who refuses or fails to give his own name and address or the name and address (so far as known to him) of any other person, when lawfully demanded under this section, shall be guilty of an offence.

(4) This section shall not authorise entry into any premises which are used exclusively as a private dwelling.

(5) In this section “believed” and “suspected” mean respectively believed on reasonable grounds and suspected on reasonable grounds.

Persons
using, etc.,
fishing
engines to

179.—(1) If any person using a fishing engine for which a licence is required under this Act, or having such a fishing engine erected or in fishing order, or found with such a fishing engine in

his possession in or near any fishing place or going to or returning from fishing, fails on demand to produce to an authorised person a fishing licence for that fishing engine, he shall be guilty of an offence.

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—cont.
produce
fishing
licence
therefor on
demand.

(2) Where a person is charged with an offence under this section consisting of a failure to produce a fishing licence for a fishing engine to which subsection (1) applies, being a fishing engine in his possession, it shall be a good defence to prove that he had the fishing engine in his possession as a manufacturer or seller thereof and not for the purpose of using it.

(3) A person shall not be charged with an offence under this section consisting of a failure to produce a fishing licence for a fishing engine in any of the circumstances referred to in subsection (1) 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) as soon as practicable 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 licence authorising the first-mentioned person to use the fishing engine at that place and time; and
 - (ii) evidence of the identity of the first-mentioned person.

180. Where a person, in exercise of powers conferred on him by this Act, seizes any boat (other than a sea-fishing boat) or any fishing engine and no other person is charged with an offence under any provision of this Act in relation thereto, the first-mentioned person shall, as soon as may be, apply to a court of summary jurisdiction sitting for the petty sessions district in which the boat or fishing engine, as the case may be, was seized for an order for its disposal under this section, and thereupon the following provisions shall have effect:—

Procedure
for disposal
of boat or
fishing
engine seized
in certain
cases.

- (a) if, in the case of a boat, the court finds that, at the time of its seizure, it had been, was being, or was about to be, used for a purpose which under this Act is unlawful, the court shall order it to be forfeited;
- (b) if, in the case of a fishing engine, the court finds that it is a fishing engine the use of which is prohibited by law, the court shall order it to be forfeited and destroyed;
- (c) if, in the case of a fishing engine, the court finds that it is

PART XI
—cont.

a lawful fishing engine which at the time of its seizure had been, was being or was about to be, unlawfully used, the court shall order it to be forfeited;

(d) in any other case, the court shall order the boat or fishing engine to be returned to the person who appears to the court to be the owner thereof;

and where any fishing engine is forfeited in pursuance of this section any fishing gear appurtenant to or used for the purposes of that fishing engine which has been seized in the exercise of any power conferred by this Act shall also be forfeited.

Procedure
for disposal
of fish seized
or detained.

181.—(1) Where in the exercise of the powers conferred by section 127 (10), 172 or 178 a person seizes or detains any fish and the fish is likely to become unfit for human food before the matter can conveniently be dealt with by a court, the succeeding provisions of this section shall have effect.

(2) If the fish is a fish that may for the time being be lawfully taken, bought and sold, having regard to its kind, size and condition and the season of the year (in this section referred to as “lawful fish”), the person seizing or detaining the fish shall, in accordance with any directions given to him by the Ministry or the Board, sell the fish, unless by virtue of an instruction given to him by the Ministry or the Board on any occasion, or in accordance with the terms of any general authorisation in writing given to him by the Ministry or the Board, he is permitted or required to dispose of it in some other manner.

(3) If the fish is not lawful fish, the person shall destroy or otherwise dispose of it in accordance with any instruction or authorisation such as is referred to in subsection (2).

(4) When a person proposes to sell, destroy or otherwise dispose of any fish in pursuance of subsection (2) or (3) he may produce the fish to a justice of the peace, and the justice of the peace may give to the person producing the fish a certificate in writing describing the fish and any marks, peculiarities or other particulars thereof pointed out to him by that person.

(5) A certificate given by a justice of the peace under subsection (4) shall be *prima facie* evidence of all matters of fact such as are described in that subsection as are stated therein.

(6) Any sum of money representing the proceeds of sale of fish sold by a person under subsection (2) shall forthwith be paid by that person to the Ministry, or, where the fish is a salmon, an eel or a freshwater fish, to the Board, and—

(a) where no other person is charged with an offence under any provision of this Act in relation to the fish, any such sum

shall be disposed of as the Ministry or, as the case may be, the Board may direct; PART XI
—cont.

- (b) where some other person is charged with such an offence and is acquitted, a sum equal in amount to the net proceeds of the sale of the fish shall be paid to that other person by the Ministry or, as the case may be, the Board;
- (c) where some other person is convicted of such an offence, a sum equal in amount to the net proceeds of sale of the fish shall be applied by the Ministry or, as the case may be, the Board, in accordance with section 198, in the same manner as if the fish had been sold under that section.

Protection of authorised persons

182. If any person assaults—

- (a) any person exercising any power conferred by this Part; or
- (b) any officer of the Ministry or of the Board whilst doing any thing authorised by any of the provisions of this Act specified in Schedule 6; or
- (c) any authorised officer acting under section 112 or 120, or any officer acting under section 17 or 127;

Penalty for assaulting authorised person.

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

183. If any person obstructs or impedes—

- (a) any person exercising any power conferred by this Part; or
- (b) any officer of the Ministry or of the Board whilst doing any thing authorised by any of the provisions of this Act specified in Schedule 6; or
- (c) any authorised officer acting under section 112 or 120, or any officer acting under section 17 or 127;

Obstructing or impeding authorised person.

he shall be guilty of an offence.

184. If any person makes or causes to be made or aids or assists in making any signal or warning to any person engaged in fishing unlawfully, of the approach of an authorised person, he shall be guilty of an offence.

Giving warning to persons unlawfully fishing.

185. An authorised person shall not be liable for any loss or damage occasioned by or in the course of the exercise of any of the powers conferred on him by this Act unless such loss or damage was caused by him wantonly or maliciously.

Indemnification of authorised persons.

PART XII

SUPPLEMENTAL PROVISIONS

Legal Proceedings

- Complaints.** **186.** A complaint charging the commission of a summary offence under any provision of this Act may be heard and determined by a court of summary jurisdiction whether or not the complainant is an authorised person for the purposes of Part XI.
- Extension of time limit for summary proceedings under sections 125 and 126.** **187.** Notwithstanding anything contained in section 34 (a) of the Magistrates' Courts Act (Northern Ireland) 1964 (which provides that a magistrates' court shall not have jurisdiction to hear and determine a complaint charging the commission of a summary offence unless the complaint was made within six months from the time when the offence was committed or ceased to continue), such a court shall have jurisdiction to hear and determine a complaint charging the commission of such an offence under section 125 or 126 provided that the complaint is made within one year from the time when the offence was committed or ceased to continue.
- Jurisdiction in offences committed at sea.** **188.—**(1) Where any part of a petty sessions district adjoins the sea coast or any estuary, the jurisdiction of any court of summary jurisdiction sitting for that district or of any resident magistrate or justice of the peace having authority in that district shall extend to all offences under any provision of this Act committed by any person at sea, in the same manner as it extends to offences committed on land within that district.
- (2) Any court of summary jurisdiction or any resident magistrate or justice of the peace referred to in subsection (1) may do all or any of the following acts or things in relation to any such offence as is mentioned in that subsection in like manner as it or he has power to do so in relation to offences committed or goods or chattels situate on land within the petty sessions district for which that court sits or in which that magistrate or justice has authority—
- (a) issue warrants for the arrest of any person so offending, whether such person be on land at any place or at sea;
 - (b) employ any person or any ways and means which may be lawfully employed for making such arrest;
 - (c) exercise all lawful powers and remedies for the apprehension, committal or punishment of persons so offending;
 - (d) exercise all lawful powers and remedies for the seizure at sea of the boat, goods and chattels of any person so offending.

189. In addition to the methods of service permitted by section 24 of the Interpretation Act (Northern Ireland) 1954, any document which is required or permitted under this Act to be served on any person, being the owner or master of or a person employed on a boat, may be served on that person by being left at or on board that boat.

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—*cont.*
Service of documents.
1954, c. 33.

190. If any person to whom a summons under section 125 or 126 is directed cannot be conveniently met with, it shall be deemed sufficient service of such summons upon him if a copy thereof is left for him at the usual place of abode or place of business, the same being within the United Kingdom, of the owner of the boat on which such person was when the offence was committed.

Service in prosecutions under sections 125 and 126.

191.—(1) The court before which a person is convicted of an offence under section 125 may by order provide that, if the fine imposed upon him is not paid within fifteen days after the conviction or such longer period as the court may have allowed for payment of the fine under section 101 (1) of the Magistrates' Courts Act (Northern Ireland) 1964, one-half thereof shall be paid by, and may be recovered under the Summary Jurisdiction Acts (Northern Ireland) from, such owner as is referred to in section 190, and that in default of payment by the person convicted of the remainder of the said fine within a further period of eight days, the same may be recovered from the owner under the said Acts.

Recovery of fines in prosecutions under section 125.

(2) Any sum paid by an owner under subsection (1) may be recovered by him as a debt from the person convicted.

192.—(1) Where, under any provision of this Act, a person is charged with the offence of buying, selling, offering or exposing for sale or, as the case may be, having in his possession or having in his possession for sale any undersized fish, and he satisfies the court—

Additional defence for persons charged with buying, etc., undersized fish.

(a) that he had no reason to suppose that any fish dealt with by him as described in this subsection were undersized fish; and

(b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or by any person under his control;

the charge against that person shall be dismissed.

(2) In subsection (1) "undersized" in relation to fish of any description means of a size less than the size prescribed with respect to fish of that description by, as the case may be, section 51 (2), 52 (2), 156 (1) (a) or 157 (1) or an order under section 127.

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—cont.

Detention of offender pending return of warrant of distress.

193.—(1) Where, upon the conviction of any person for an offence under this Act, a warrant of distress is issued, the court may order the person so convicted to be detained and kept in custody, or, if he is not present, to be arrested and kept in custody, until the day appointed for the return of the warrant of distress (being a day not later than eight days from the day on which the warrant is issued) unless he enters into a recognisance to the satisfaction of the court for his appearance before the court on that day.

(2) In this section the expression “court” means the court of summary jurisdiction before which the offender is convicted, and “warrant of distress” means a warrant of distress issued under the provisions of the Summary Jurisdiction Acts (Northern Ireland).

Abolition of right of appeal against order of dismissal in fishery cases.
40 & 41 Vict., c. 56.

194. Section 74 of the County Officers and Courts (Ireland) Act 1877 (right of appeal against order of dismissal of a complaint charging the commission of a summary offence under the Fisheries Acts) shall cease to have effect.

Forfeitures

Forfeiture of boat, fishing engine, etc., as statutory consequence of conviction.

195.—(1) Subject to subsection (2), where a person is convicted of an offence under any provision of this Act, any fish illegally taken by him or in his possession at the time of the offence and also any boat (other than a sea-fishing boat), and any fishing engine or other thing whatsoever by means or in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited.

(2) Subsection (1) shall not apply to a vehicle.

Non-obligation of court to pronounce or record forfeiture.

196. Where, as a statutory consequence of a conviction under this Act, a particular thing stands forfeited, then, notwithstanding any enactment or rule of law, it shall not be necessary for the court—

(a) to pronounce the fact of such forfeiture at the time of adjudication; or

(b) to record the fact of such forfeiture in the petty sessions Order Book or in the order of conviction.

Power of court to order forfeiture of vehicle.

197. Where a person is convicted of an offence under any provision of this Act, the court by which he is sentenced may order that any vehicle used by him as an aid to the commission of the offence shall be forfeited.

Disposal of forfeitures.

198.—(1) Where any thing is forfeited under this Act, the Ministry may (unless an order with respect to that thing has been made under section 180 (b)) direct, subject to section 199, that

it be sold or otherwise disposed of in such manner as the Ministry thinks fit, or be returned to the person who appears to the Ministry to be the owner. PART XII
—cont.

(2) Subject to any directions given by the court on an appeal under section 199, any sum of money representing the net proceeds of the sale under subsection (1) of any thing, shall be disposed of in like manner as is provided with respect to any fine that is or might have been imposed under this Act for the offence in relation to which the forfeiture was incurred.

199.—(1) Without prejudice to any right of appeal from a determination or order of a court of summary jurisdiction, where any thing is forfeited under this Act, a person who claims to be entitled to possession of that thing and who is aggrieved by a refusal of the Ministry to return it to him under section 198 (1) may, upon giving to the Ministry and (in a case relating to salmon or inland fisheries) to the Board, within fourteen days from the date of the conviction or court order by virtue of which that thing was forfeited, notice in writing of his appeal under this section specifying the proceedings in consequence of which the forfeiture was incurred and giving particulars of that thing sufficient to identify it, within twenty-eight days from that date appeal to the county court on the ground that— Appeal from
refusal of
Ministry to
annul
forfeiture in
certain cases.

- (a) the use of that thing in any manner referred to in section 180 or 195 was without his knowledge, connivance or consent; or
- (b) the contravention of this Act or of any statutory instrument made under this Act by reason of which the forfeiture was incurred was inadvertent or was of such a trivial or insignificant nature that the forfeiture should not be upheld.

(2) On an appeal under this section, the Ministry and the Board shall be entitled to appear, be heard and adduce evidence before the court.

(3) On an appeal under this section, the county court may, on being satisfied as to either of the grounds mentioned in subsection (1), annul the forfeiture and direct the return to the appellant of the thing forfeited.

200.—(1) If the person who is the holder of a licence issued by the Board is convicted of an offence under any provision of this Act, the court may direct the licence to be forfeited and declare that person to be disqualified for holding a licence of the same kind during such period as the court may direct, being a period not exceeding one year in the case of a first conviction and Forfeiture of
licences.

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—cont.

not exceeding five years in the case of a second or subsequent conviction.

(2) If a person who is not the holder of a licence is convicted of an offence under any provision of this Act, the court may declare that person to be disqualified for holding a licence during such period as the court may direct, being a period not exceeding one year in the case of a first conviction, and not exceeding five years in the case of a second or subsequent conviction.

(3) Where under section 74 (1) of the Foyle Fisheries Act (Northern Ireland) 1952 a licence issued by the Foyle Fisheries Commission (in this section referred to as “the Commission”) is forfeited and the person who was the holder of that licence is declared to be disqualified for holding a licence of the Commission during a specified period, then, as a statutory consequence of such forfeiture and disqualification,—

(a) any corresponding licence issued by the Board which is held by that person shall stand forfeited; and

(b) that person shall be disqualified for holding such a licence of the Board during the same period as he is disqualified for holding a licence of the Commission.

(4) Where a licence is directed to be forfeited under subsection (1) or where it stands forfeited under subsection (3) it shall thereupon cease to be in force.

(5) Where a person is convicted by a court of an offence against this Act or against the Foyle Fisheries Acts, the clerk of the court shall, as soon as may be, in either case forward to each of the Board and the Commission a duly authenticated certificate of the conviction, and, notwithstanding the provisions of any statutory instrument, such a certificate shall not be subject to any stamp.

(6) In this section “licence”, in relation to a licence of the Board, means a fishing licence or a dealer’s licence, and for the purposes of this section licences such as are described in Part I of Schedule 4 and licences to fish with hand line shall be deemed to be licences of the same kind, and licences to use fishing engines of any kind specified in Part II of that Schedule (other than hand lines) shall be deemed to be licences of the same kind.

Penalties

Penalties for offences.

201.—(1) A person who commits an offence under any provision of this Act for which a penalty is not provided by any provision of this Act other than this section shall be liable on summary conviction to a fine not exceeding fifty pounds.

(2) The Board may prescribe lower penalties for breach of a

particular byelaw, and the Ministry may prescribe lower penalties for breach of a particular regulation, than the penalty provided under subsection (1), and that subsection shall, in any such case, be construed as if such lower penalties were substituted for that so provided.

PART XII
—cont.

202.—(1) Where a person is convicted of an offence under any provision of this Act and the contravention in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and, subject to subsections (3) and (4), shall be liable on summary conviction, in addition to any other penalty, to a fine not exceeding five pounds for each day on which the contravention is so continued.

Continuing offences.

(2) An offence under this section shall be a continuing offence and accordingly fresh proceedings in respect thereof may be taken from time to time.

(3) In the application of this section in relation to an offence under section 73 or 74, subsection (1) shall have effect as if for the words “five pounds” there were substituted the words “fifty pounds”.

(4) In the application of this section in relation to an offence under section 79, subsection (1) shall have effect as if for the words “five pounds” there were substituted the words “twenty pounds”.

203.—(1) Every fine imposed for an offence under any provision of this Act, other than an offence under Part VIII or IX or under any other such provision in its application to sea-fisheries, shall, notwithstanding any other enactment, be paid—

Disposal of fines.

(a) if the offence was committed in the Londonderry Area, in like manner as is provided by section 77 of the Foyle Fisheries Act (Northern Ireland) 1952 with respect to fines imposed for offences under that Act; and

(b) in any other case, subject to subsection (2), to the Board.

(2) When a fine has been imposed for an offence under any provision of this Act in a case to which subsection (1) (b) applies, and a member of the Royal Ulster Constabulary was the means of bringing to justice the person by whom the offence was committed, and the court imposing the fine so certifies, then

(a) one-third of the fine shall be paid to the Ministry of Home Affairs and shall be appropriated in aid of the moneys provided by Parliament for defraying the costs, charges and expenses of the said Constabulary; and

(b) the remainder of the fine shall be paid to the Board.

PART XII
—cont.

Proof of documents.
12 Geo. 5,
c. 6.

Evidence

204. Without prejudice to section 3 of the Ministries of Northern Ireland Act (Northern Ireland) 1921, in any proceedings, a document purporting to be a copy of any document or instrument in writing, being a document or instrument made or issued (whether before or after the passing of this Act) under the Fisheries Acts or this Act, but not being a statutory rule to which section 6 of the Statutory Rules Act (Northern Ireland) 1958 applies, shall if it is certified to be a true copy—

(a) in the case of a document or instrument made or issued or deemed to be made or issued by the Board, under the seal of the Board; or

(b) in the case of a document or instrument made or issued or deemed to be made or issued by the Ministry, under the hand of a Secretary or Assistant Secretary of the Ministry,

be *prima facie* evidence of the document or instrument and of the facts—

(i) that the document or instrument was duly made; and

(ii) that all matters and things by the Fisheries Acts or this Act required to be done previously to the making or issue of the document or instrument were duly done and performed.

Recovery and evidence of expenses.

205.—(1) Where under this Act the Ministry is or the Board are authorised to recover from any person the expenses of any work,—

(a) the Ministry or, as the case may be, the Board may certify the amount of those expenses; and

(b) the amount so certified shall be recoverable by the Ministry or, as the case may be, the Board as a debt due to it or them, and, without prejudice to any right of the Ministry or the Board to sue in the High Court for the recovery thereof, shall be recoverable in the county court by civil bill or summarily as a civil debt.

(2) Where, in pursuance of subsection (1), an action is taken by the Ministry or the Board in the county court for the recovery of the amount of any expenses, the court shall have jurisdiction to hear and determine the action notwithstanding that, by reason of the extent of the claim or otherwise, the case would not, but for this provision, be within the jurisdiction of a county court.

(3) A certificate under subsection (1) shall be *prima facie* evidence of the amount of the expenses stated therein and of the liability of the person named therein to pay that amount and of the right of the Ministry or the Board, as the case may be, to recover that amount.

*Interpretation*PART XII
—cont.
Interpreta-
tion.

206.—(1) In this Act—

- “angling for salmon or trout” means angling for salmon or trout with rod and line;
- “annual close season for angling for salmon” has the meaning given to it by section 95 (1);
- “annual close season for angling for trout” has the meaning given to it by section 95 (2);
- “annual close season for eels” has the meaning given to it by section 107;
- “annual close season for pollen” has the meaning given to it by section 105;
- “annual close season for salmon and trout” has the meaning given to it by section 89;
- “authorised person”, for the purposes of Part XI, has the meaning given to it by section 166;
- “bag net” includes any net of similar construction to a bag net;
- “bank” includes the sea-shore and any land adjacent thereto;
- “the Board” means the Fisheries Conservancy Board for Northern Ireland;
- “boat” includes any ship, barge, cot, curragh or vessel;
- “box”, in relation to a fishing weir, includes a crib or cruive;
- “byelaws” means byelaws made by the Board under section 26;
- “close season for cockles” has the meaning given to it by section 153;
- “close season for mussels” has the meaning given to it by section 153;
- “close season for oysters” has the meaning given to it by section 144;
- “close season for periwinkles” has the meaning given to it by section 153;
- “dam” means a dam, weir, dyke, sluice, embankment or structure built or placed in or in connection with any river for or in connection with the sustaining of water for any purpose;
- “daytime” means the period between sunrise and sunset;
- “dealer’s licence” has the meaning given to it by section 113 (1);
- “deleterious matter” means any substance (including an explosive and an anaesthetic) the entry or discharge of

PART XII
—cont.

which into any waters is liable to render those or any other waters poisonous or injurious to fish, spawning grounds or the food of any fish, or to injure fish in their value as human food or to impair the usefulness of the bed and soil of any waters as spawning grounds or their capacity to produce the food of fish;

“district board” means any of the boards of conservators referred to in section 34 (2);

“draft net” includes a seine;

“eels” means fresh water eels;

“eel weir” means a fishing weir used solely for taking eels;

“estuary” includes a harbour or roadstead;

“financial year”, in relation to the Board, means a year ending on 31st December;

“fish” includes shell-fish;

“fish pass” means a channel for the free run or migration of fish in, over or in connection with an obstruction in a river, lake or watercourse and includes a fish ladder or any other contrivance which facilitates the passage of fish;

“fisheries” includes all fisheries, whether several or public;

“the Fisheries Acts” means the Fisheries Acts (Northern Ireland) 1842 to 1954;

“fishing engine” means any engine, net, instrument or device whatsoever capable of being used for taking or killing fish;

“fishing licence” means a fishing licence issued by the Board under Part III;

“fishing weir” means any erection, structure or obstruction fixed to the soil across or partly across a river and incorporating one or more openings wherein fish may be taken which is used for the purpose of taking, or facilitating the taking of, fish; but does not include a fixed engine;

“fixed engine” means—

(a) any stake, bag, stop and still or fixed draft net; or

(b) any net, implement, engine or device fixed to the soil or secured by anchors or held by hand or made stationary in any other way and used solely for the purpose of taking or facilitating the taking of fish, not being a fishing weir, or a rod and line (however used);

1962, c. 5.

“the Foyle Fisheries Acts” means the Foyle Fisheries Acts (Northern Ireland) 1952 and 1962;

“free gap” means a free gap in a fishing weir;

“freshwater fish” means any fish living in fresh water exclusive of fish of a kind that migrates to or from tidal waters;

- “freshwater rod licence” has the meaning given to it by section 39 (1); PART XII
—cont.
- “grantee”, in relation to an oyster fishery order, means the person for the time being entitled to the oyster fishery to which that order relates;
- “heck” means a grating mounted at the upstream end of a box in a fishing weir and so constructed as to prevent the passage of fish without obstructing the flow of water;
- “inquiry” means an inquiry conducted under section 20;
- “inland fishery” means any fishery of whatsoever kind, other than a salmon fishery, in inland waters;
- “inland waters” means the waters of any river above the boundary between the tidal and freshwater portions thereof, and the waters of any freshwater lake;
- “inscales” means a pair of gratings mounted at the downstream end of a box in a fishing weir and converging towards the centre in the upstream direction to form between the upstream ends a vertical gap, the effect of the arrangement being to permit the passage of fish into the box and hinder their escape therefrom;
- “instrument” and “statutory instrument”, when used in relation to an instrument in writing, have the same meaning as in section 1 of the Interpretation Act (Northern Ireland) 1954, and a reference to an instrument, or to an instrument of any kind, made under this Act includes a reference to an instrument deemed to be made under this Act;
- “lawful fishing engine” means any fishing engine the use of which (except during particular times, in particular places, or in a particular manner) is not prohibited by or under this Act;
- “licensee”, in relation to an oyster bed licence means the person for the time being entitled to that licence;
- “the Londonderry Area” has the meaning given to it by section 2 (1) of the Foyle Fisheries Act (Northern Ireland) 1952;
- “the Ministry” means the Ministry of Agriculture;
- “the Minister” means the Minister of Agriculture;
- “net” includes all descriptions of tackle, trawl, trammel, stake, bag, coghill, fyke, eel, haul, draft and seine nets, and all other engines or devices, of whatsoever construction or materials, or howsoever known or styled, which are used for the taking of fish;
- “open fishing season” in relation to fish of any kind means any season that is not the annual close season for such fish;

PART XXII
—cont.

41 & 42 Vict.,
c. 52.
8 & 9 Vict.,
c. 108.
13 & 14 Vict.,
c. 88.
29 & 30 Vict.,
c. 97.
32 & 33 Vict.,
c. 92.
47 & 48 Vict.,
c. 48.

- “owner”, in relation to land, has the same meaning as in section 2 of the Public Health (Ireland) Act 1878;
- “oyster bed licence” means a licence granted under section 17 of the Fisheries (Ireland) Act 1845, or section 41 of the Fisheries (Ireland) Act 1850, or section 4 of the Oyster Fishery (Ireland) Amendment Act 1866, or section 14 of the Fisheries (Ireland) Act 1869, or section 131;
- “oyster fishery order” means an order made under the Oyster Cultivation (Ireland) Act 1884 or under section 138;
- “private water bailiff” means a water bailiff appointed under section 150 or 170;
- “regulations” means regulations made by the Ministry;
- “river” includes a tributary or a branch of a river and any stream or watercourse;
- “rod and line” means a fishing engine consisting of a single rod and line;
- “salmon” includes all fish of the salmon kind and sea trout;
- “salmon fishery” includes any salmon fishery, whether in fresh water, any estuary or the sea;
- “salmon river” means any river that is frequented by salmon;
- “salmon rod licence” has the meaning given to it by section 38 (1);
- “salmon weir” means a fishing weir used for taking salmon;
- “sea-fish” means fish of any kind found in the sea, but does not include salmon;
- “sea-fishery” includes any fishery, other than a salmon fishery, in the sea or an estuary;
- “sea-fishing boat” does not include a boat used for fishing for salmon in the sea;
- “several fishery” means any fishery lawfully possessed and enjoyed as such under any title whatsoever, being a good and valid title at law, exclusively of the public by any person or persons whether in navigable waters or in waters not navigable, and whether the soil covered by such waters be vested in such person or persons or in any other person;
- “shell-fish” includes all edible aquatic molluscs and crustaceans;
- “spring tides” means ordinary spring tides;
- “stake net” includes a stake weir and any fixed engine of similar construction to a stake net;
- “statutory provision” has the same meaning as in section 1 (f) of the Interpretation Act (Northern Ireland) 1954;
- “substance” includes any liquid or gas;

“trout”, when used without any qualification, includes—

PART XII
—cont.

- (a) all fish of the brown trout kind; and
- (b) save in Part III, sections 51 and 71, Part VI (except as provided in section 106), Part VII and Schedule 4, pollen or fresh-water herring;

but does not include sea trout or rainbow trout;

“unseasonable” when used with respect to any fish means a fish which is about to spawn, or which has spawned and has not recovered from spawning;

“waste lands” includes any uncultivated or unoccupied lands;

“waters” includes any river, lake, watercourse or estuary or any part of the sea within such part of the fishery limits of the British Islands as is mentioned in section 4 (2) of the Fishery Limits Act 1964;

“weekly close time” has the meaning assigned to it by section 97.

(2) References in this Act to a fish or to any kind of fish shall be construed as including—

- (a) references to part of a fish or to part of a fish of that kind; and
- (b) references to the spawn, fry, brood or young of fish or of fish of that kind.

(3) Where an order under section 16 defines the mouth of a river, the mouth of a tributary river, the boundary between the tidal and freshwater portions of a river, the point or points to or from which distances are to be measured or any areas within which it is prohibited to use or practice certain methods of fishing, such mouth, boundary, point or points, or areas shall for all purposes of and all proceedings under this Act be as so defined for the time being.

(4) References in this Act to the landing of fish shall not include the landing of fish which have previously been landed outside Northern Ireland.

(5) Subject to section 127 (11), references in any provision of this Act which relates to the buying, selling, offering or exposing for sale or having possession of fish of any kind to fish of that kind shall not be construed as including references to fish of that kind which have been dried or frozen or which have been preserved in tins or other containers.

(6) Any reference in this Act to an offence under a provision of this Act shall include a reference to an offence under any statutory instrument made by virtue of a provision of this Act.

PART XII
—cont.

Extension to
hand lines
of provisions
relating to
angling.

207.—(1) Subject to subsection (2), the provisions of this Act relating to angling shall extend to fishing by hand line, and accordingly any reference to a rod and line shall be construed as including a reference to a hand line.

(2) The provisions to which subsection (1) applies shall not include any provision of Part III or Schedule 4.

Saving

Saving for
right of
owner to
take
materials
from streams.
Transitional
provisions.

208. Nothing in this Act shall prejudice the right of any owner to take materials from any stream.

Transitional

209. Without prejudice to the provisions of section 29 of the Interpretation Act (Northern Ireland) 1954 or of Schedule 3—

- (a) any statutory instrument made under the Fisheries Acts or any other enactment repealed by this Act in relation to any matter with respect to which an instrument may be made by the Ministry under any provision of this Act and in force immediately before the commencement of that provision shall thereafter continue in force and be deemed to be an instrument made under that provision;
- (b) any statutory instrument made under the Fisheries Acts in relation to any matter with respect to which byelaws may be made under section 26 and in force immediately before the commencement of Part II shall thereafter continue in force and shall be deemed to be a byelaw;
- (c) any thing prescribed under any provision of the Fisheries Acts otherwise than by a statutory instrument and standing unrevoked immediately before the commencement of any provision of this Act corresponding to the first-mentioned provision shall be deemed to have been prescribed under that provision of this Act;
- (d) any enactment referring to a board of conservators or the district of such a board shall, so far as applicable, be construed as referring to the Board and to any area within which the Board are authorised by this Act to exercise their functions;
- (e) any proceedings taken in respect of a contravention of any provision of the Fisheries Acts or any other enactment, being an enactment repealed by this Act, or any statutory instrument made under those Acts or any such enactment, shall be prosecuted and continued under the corresponding provision of this Act, and in relation to those proceedings that corresponding provision shall have effect as if for the penalties provided for a contravention thereof there were substituted the penalties provided for a contravention of the first-mentioned provision.

*General*PART XII
—*cont.*
Amendments
of enact-
ments.

210. The enactments referred to in the first column of Schedule 7 shall have effect subject to the amendments specified in the second column of that Schedule, being minor amendments or amendments designed to give effect to, or consequential on, the provisions of this Act.

211. The enactments referred to in the first and second columns of Schedule 8 shall, so far as unrepealed, be repealed to the extent specified in the third column of that schedule. Repeals.

212.—(1) Without prejudice to any other provision of this Act the following provisions shall not (except in so far as any of them have effect with respect to sea-fisheries) apply to the Londonderry Area, that is to say,— Application
to the
Londonderry
Area.

sections 13 to 16, Parts II and III, sections 46 to 50, 62 to 73 and 78 to 88, Part VI, and sections 110, 111, 120 (5), 160, 161, 170 to 174, and 176 to 181.

(2) In the application of this Act to the Londonderry Area—

(a) references to the Board shall be construed as references to the Foyle Fisheries Commission; and

(b) references to byelaws shall be construed as references to regulations made under section 13 of the Foyle Fisheries Act (Northern Ireland) 1952.

(3) The Ministry shall consult with the Foyle Fisheries Commission before—

(a) commencing to develop or improve any waters in the Londonderry Area for angling, under section 2 or 3; or

(b) approving, under section 6, any programme relating to such waters.

213.—(1) Subject to subsection (2), this Act shall come into operation on such date as may be appointed by an order made by the Minister, and different dates may be appointed for the commencement of different provisions. Commence-
ment.

(2) This section and section 214 shall come into operation on the passing of this Act.

(3) Where an order is made under subsection (1) with respect to any provision of this Act, any reference in that provision to the commencement of this Act shall be construed as a reference to the time at which that provision comes into operation.

214. This Act may be cited as the Fisheries Act (Northern Ireland) 1966. Short title.

Sections
11 (6), 76 (4),
77 (5), 84 (4),
137 (1) (2),
143 (1) (2).

SCHEDULE 1

SUSPENSION AND REVOCATION OF LICENCES

1. Where the Ministry has reason to suspect that the holder of a licence has contravened any of the provisions of this Act relating to the fishery or, as the case may be, the fixed engine or fishing weir with respect to which the licence was issued, or any such provision of a by-law or regulation, or any condition of the licence, the Ministry may, pending investigation of the suspected contravention and on giving notice in writing to the holder specifying the suspected contravention, suspend the licence.

2. When a licence is suspended under paragraph 1 the Ministry shall, within a period of twenty-eight days from the date of the suspension, either remove the suspension or revoke the licence under paragraph 3.

3. The Ministry may revoke a licence where the Ministry is satisfied that the holder of the licence has contravened—

(a) any of the provisions of this Act relating to the fishery or, as the case may be, the fixed engine or fishing weir with respect to which the licence was issued, or any such provision of a by-law or regulation; or

(b) any condition of the licence:

or has, in his application for the licence, made a statement which is false in any material particular.

4. Where the Ministry proposes to revoke a licence, other than a licence suspended under paragraph 1 the Ministry shall give to the holder of the licence at least twenty-eight days' prior notice of its intention to do so and of the grounds upon which the revocation is proposed to be made; and before revoking the licence the Ministry shall consider any representations in relation thereto made by the holder before the expiration of the notice.

5. Where the Ministry revokes a licence the Ministry shall send by post a 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 paragraph 6, and of the time within which the appeal may be brought.

6. A person whose licence has been revoked under paragraph 3 may, within twenty-eight days from the date on which a notice under paragraph 5 is served on him, appeal to the county court on the ground that there has not been any contravention or false statement such as is described in paragraph 3 or that the contravention or false statement was inadvertent or was of such a trivial or insignificant nature that the licence should not be revoked.

7. The county court, in deciding an appeal brought under paragraph 6, shall state the reasons for its decision, and its decision shall be final.

8. When a licence is suspended or revoked, the person who was the holder of the licence shall, within fourteen days of receiving a request for its return to the Ministry, return the licence to the Ministry together with any copies thereof issued to him by the Ministry, and if he fails to do so, he shall be guilty of an offence.

SCHEDULE 2

Section
25 (3).

THE FISHERIES CONSERVANCY BOARD FOR NORTHERN IRELAND

Incorporation and constitution

1. The Board shall be a body corporate, and section 19 of the Interpretation Act (Northern Ireland) 1954 shall apply to them.

2. The Board shall consist of a Chairman and fourteen other members.

3.—(1) The Chairman and the other members of the Board shall be appointed by the Minister from among persons appearing to him to be qualified for the office, and of the members other than the Chairman—

(a) one, who shall be Deputy Chairman, shall be an officer of the Ministry;

(b) one shall be a member of any body established under any enactment for the promotion of the development of tourist traffic in Northern Ireland, nominated by the Minister of Commerce;

(c) three shall be the representatives of any companies for the time being recognised by the Minister as substantially interested in the commercial operation of any salmon or eel fishery, to be chosen after consultation with the companies;

(d) three shall be the respective representatives of the commercial fishermen (other than the companies for the time being recognised by the Minister for the purposes of head (c)) of—

(i) Lough Erne,

(ii) Lough Neagh, and

(iii) the coastal salmon fisheries,

to be chosen after consultation with representatives of any bodies for the time being recognised by the Minister as bodies representative of,—

(aa) each of the major types of commercial fishing carried on in those loughs, and

(bb) persons engaged in those fisheries;

(e) six shall be rod anglers chosen by the Minister from any list of candidates not being less than ten in number that may be submitted to the Minister by any bodies for the time being recognised by the Minister as bodies representative of a substantial number of anglers.

(2) Section 18 (2) of the Interpretation Act (Northern Ireland) 1954 shall apply to every appointment made under sub-paragraph (1), but not so as to authorise the payment of remuneration to any person except in accordance with the provisions of paragraph 9.

(3) The Minister may by order made subject to affirmative resolution amend paragraph 2 and sub-paragraph (1) so as to provide for the appointment of one or more than one additional member to represent any salmon or inland fishery interest or interests which appear to him to lack adequate representation on the Board.

(4) An order under sub-paragraph (3) may make such consequential amendments in paragraph 4 as appear to the Minister to be expedient.

SEC. 2
—cont.

4.—(1) The Chairman and each of the members referred to in paragraph 3 (1) (a), (b) and (c) shall (unless in the meantime he dies or resigns) hold office for such period as the Minister may determine.

(2) One of the members referred to in head (d) of paragraph 3 (1) and three of the members referred to in head (e) of paragraph 3 (1) shall in the first instance be appointed to hold office for a period of three years, and the remainder of the members referred to in those heads shall in the first instance be appointed to hold office for a period of six years.

(3) At the expiration of the term of office of the members who were in the first instance appointed for a period of three years, the Minister shall appoint in their places new members, who shall hold office for a period of six years; and thereafter at intervals of three years the Minister shall appoint new members in place of those whose terms of office have expired.

(4) A person shall, on ceasing to be a member, be eligible for re-appointment.

(5) The provisions of this paragraph shall have effect without prejudice to paragraph 3 (2).

5. Without prejudice to paragraph 3 (2) or 4, a person shall cease to be a member of the Board if—

(a) by notice in writing to the Minister he resigns, or

(b) he is on more than three consecutive occasions absent without permission of the Board from meetings of the Board.

6. If a member of the Board dies or ceases to be a member before the expiration of the term for which he was appointed, the term of his successor shall be so fixed as to expire at the end of the first-mentioned term, but the Minister may, if he thinks fit, defer the making of an appointment until the expiration of the first-mentioned term.

7. The Board may act notwithstanding any vacancy among their members.

8. No defect in the appointment of any person acting as a Chairman, Deputy Chairman or member of the Board shall vitiate any proceedings of the Board in which he has taken part.

Remuneration

9.—(1) There shall be paid to the Chairman of the Board such remuneration, if any, and such allowance for expenses incurred in connection with the business of the Board as the Ministry with the approval of the Ministry of Finance may determine.

(2) No remuneration shall be paid to any other member of the Board, but there shall be paid to any such other member such allowances for expenses incurred by him in connection with the business of the Board as the Board with the approval of the Ministry may determine.

Proceedings

10.—(1) The quorum for a meeting of the Board may be fixed by the Board, and unless so fixed shall be five.

(2) The Chairman of the Board or, in his absence, the Deputy Chairman, shall act as chairman of every meeting; but if at any

meeting neither the Chairman nor the Deputy Chairman is present within five minutes after the time appointed for holding the meeting, the members present may choose one of their number to be chairman of the meeting. SCH. 2
—cont.

(3) Every question at a meeting shall be decided by the votes of a majority of those present and voting.

(4) In the case of an equal division of votes, the chairman of the meeting shall have a second or casting vote.

Restrictions affecting members

11. No member of the Board shall hold any employment or office of profit under the Board.

Officers and servants

12.—(1) The Board—

(a) shall have a chief inspector (who, unless the Board otherwise direct, shall act as secretary of the Board) and such other inspectors and other officers as the Ministry may direct, and shall appoint to any office under the Board (other than the office of water bailiff) such persons as the Board, with the approval of the Ministry, may determine; and

(b) may appoint such water bailiffs and such servants as the Board think fit.

(2) Subject to any authorisation in writing given by the Ministry to the Board, any determination of the Board with respect to the remuneration or conditions of service of any person employed by the Board shall be subject to the approval of the Ministry.

(3) A person, other than an employee of the Foyle Fisheries Commission, who is for the time being in the employment of the owner or occupier of a several fishery shall be disqualified for being appointed to or holding any office under the Board.

13. The Board shall, in accordance with any reasonable requirements communicated to them by the Ministry, make available to the Ministry the services of their officers for the protection of the fishery of any waters the fishing rights in respect of which are owned by, or which are under the control of, the Ministry, on such terms as may be agreed upon between the Board and the Ministry.

Superannuation

14.—(1) The Board, with the approval of the Ministry and the Ministry of Finance, may make arrangements to secure the provision of superannuation benefits for persons employed by the Board in a whole-time capacity and such arrangements shall provide for the payment of contributions by the Board and by the persons for whom superannuation benefits are provided.

(2) Arrangements made under sub-paragraph (1) may provide for the contributions to be paid to and the benefits to be paid by a body other than the Board.

The seal

15. The application of the seal of the Board shall be authenticated by the signature of—

(a) the Chairman of the Board or some other member of the Board authorised by them to act for that purpose, and

Sch. 2
—cont.

(b) the officer of the Board for the time being acting as secretary of the Board or some other officer of the Board authorised by them to act for that purpose.

Execution of contracts and instruments not under seal

16. Any contract or instrument which, if entered into or executed by an individual, would not require to be under seal may be entered into or executed on behalf of the Board by any person generally or specially authorised by the Board to act for that purpose.

Sections
34 (3), 209.

SCHEDULE 3

PROVISIONS CONSEQUENTIAL ON THE DISSOLUTION OF THE
DISTRICT BOARDS

Interpretation

1. In this Schedule "the commencement" means the commencement of Part II.

Transfer of property

2.—(1) All property, whether real or personal (including choses-in-action), which immediately before the commencement was vested in or belonged to or was held in trust for a district board and all rights, powers and privileges relating to or connected with any such property shall on the commencement, without any conveyance or assignment, become and be vested in or the property of or held in trust for (as the case may require) the Board for all the estate, term or interest for which the same immediately before the commencement was vested in or belonged to or was held in trust for the district board, but subject to all trusts and equities affecting the same and then subsisting and capable of being performed.

(2) All property transferred by this paragraph which, immediately before the commencement, was either standing in the books of any corporation or company or was entered in any register kept in pursuance of any enactment in the name of a district board shall, upon the request of the Board made at any time after the commencement, be transferred in such book by such corporation or company or, as the case may be, by the person having charge of such register, into the name of the Board.

(3) After the commencement, every chose-in-action transferred by this paragraph from a district board to the Board may be sued upon, recovered, or enforced by the Board in their own name and it shall not be necessary for the Board to give notice to the person bound by such chose-in-action of the transfer effected by this paragraph.

Transfer of liabilities

3.—(1) Every debt and other liability (including unliquidated liabilities arising from torts or breaches of contract) which immediately before the commencement was owing and unpaid or had been incurred and was undischarged by a district board, or which became payable by reason of the dissolution of a district board, shall, on the commencement, become and be the debt or liability of the Board and shall be paid or discharged by and may be recovered from or enforced against the Board accordingly.

(2) The dissolution of a district board shall not invalidate or affect any paying order which may have been issued by the district

board and not presented for payment before the commencement or any authority given by the district board for the payment of the amount of such paying order, and the Board shall make arrangements for the payment of the amount of every such paying order upon due presentation within a reasonable time after the commencement.

SCH. 3
—cont.

Preservation of continuing contracts

4. Every bond, guarantee, or other security of a continuing character made or given by a district board to another person or by any person to a district board and in force immediately before the commencement, and every contract or agreement in writing made between a district board and another person and not fully executed and completed before the commencement, shall, notwithstanding the dissolution of the district board, continue in force after the commencement but shall be construed and have effect as if the name of the Board were substituted therein for the name of the district board, and such security, contract or agreement shall be enforceable by or against the Board accordingly.

Continuance of fishing licences and dealers' licences

5. A fishing licence issued by a district board or a licence issued by such a board under Part II of the Fisheries Act (Northern Ireland) 1928 and in force immediately before the commencement shall continue in force in accordance with its terms and shall be deemed to be a fishing licence or, as the case may be, a dealer's licence for the purposes of this Act.

18&19 Geo.5,
c. 13.

Fishery rate

6. Every fishery rate fixed under the Fisheries Acts by any district board and not fully paid before the commencement shall be deemed to be a debt due to the Board and shall be recoverable by the Board in any court of competent jurisdiction.

Continuance of pending legal proceedings

7. In every legal or other proceeding in any court or tribunal to which immediately before the commencement a district board were a party, the Board shall on the commencement become and be a party in the place of the district board and such proceeding shall be continued between the Board and the other parties thereto accordingly, and no such proceeding shall abate or be discontinued or prejudicially affected by reason of the dissolution of the district board.

Audit of accounts

8.—(1) The accounts of all income and expenditure of each district board up to the commencement shall, as soon as conveniently may be thereafter, be audited, and any proceedings in relation to such accounts, income, and expenditure may be taken in like manner as nearly as may be as if this Act had not been passed.

(2) Every officer of a district board whose duty it is to make up any accounts of or to account for any portion of the income or expenditure of the district board and also every member of a district board shall, until the audit of the accounts of such income and expenditure up to the commencement is complete, be deemed for the purposes of such audit to continue in office and be bound to perform the same duties and render the same accounts and be subject to the same liabilities as if this Act had not been passed.

Sections 42,
43, 200, 207.

SCHEDULE 4

ANNUAL LICENCE DUTIES ON FISHING ENGINES

PART I

Licences to fish with rod and line

Fishing licence	Duty
Salmon rod licence	£ s. d. 3 0 0
Seven day salmon rod licence	10 0
Freshwater rod licence	1 0 0
Seven day freshwater rod licence	0 2 6

PART II

Fishing engines to which section 42 (5) applies

Fishing engine	Duty
Hand Line	£ s. d. 1 0 0
Draft Net —Lough Neagh	8 0 0
„ „ —Lough Erne	5 0 0
„ „ —freshwater other than Lough Neagh or Lough Erne	10 0 0
Fixed Draft Net used in tidal waters	25 0 0
Draft Net used in tidal waters	15 0 0
Drift Net —up to 750 yards	15 0 0
„ „ —over 750 yards	20 0 0
Bag Net	60 0 0
Salmon Box or Crib	60 0 0
Single wall set net or trammel net used for freshwater fish other than trout—for each 100 yards	1 0 0

PART III

Salmon rod licence, where the applicant is the holder of a licence of the Foyle Fisheries Commission to use a single salmon rod

Additional amount payable under section 43 (1) and (2) (b)	£ s. d. 0 10 0
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SCHEDULE 7

MINOR AND CONSEQUENTIAL AMENDMENTS OF VARIOUS ENACTMENTS

Act	Amendment
The Local Government (Ireland) Act 1898. 61 & 62 Vict., c. 37.	<p>The following section shall be substituted for section 37—</p> <p>“Contributions by district councils for fisheries development.</p> <p>37.—(1) Where a district council are of the opinion that, having regard to the public benefit which will be derived from the development or improvement for angling of any inland waters within their district, it is expedient for them to make a contribution towards any expenses which may be incurred—</p> <p>(a) by the Ministry of Agriculture in so developing or improving those waters under section 2 or 3 of the Fisheries Act (Northern Ireland) 1966 or of providing fish for the purposes of any such development or improvement under section 10 of that Act; or</p> <p>(b) by—</p> <p>(i) the said Ministry; or</p> <p>(ii) any other person; or</p> <p>(iii) any association of persons established for the purpose of developing or improving any waters for angling,</p> <p>in so developing or improving those waters in accordance with a programme approved by the Ministry of Agriculture under section 6 of the said Act of 1966,</p> <p>they may resolve to make such a contribution in accordance with the succeeding provisions of this section.</p> <p>(2) The amount of any contribution under subsection (1) shall not, in any local financial year, exceed a sum equal to a rate of one halfpenny in the pound on</p>

Act	Amendment
<p>The Local Government (Ireland) Act 1898. 4 & 62 Vict., c. 37. —cont.</p>	<p>the net annual value of the district at the beginning of that year.</p> <p>(3) Any contribution under subsection (1) may be a single contribution or an annual contribution for a period of two or more years, but (unless renewed) shall not be a contribution for a period of more than five years.</p> <p>(4) Where a district council resolve to make a contribution under subsection (1) (a) or (b), the contribution shall be payable to the Ministry of Agriculture, and shall be recoverable from the council by that Ministry as a simple contract debt in any court of competent jurisdiction.</p> <p>(5) Any sum received by the Ministry under subsection (4) in respect of a contribution towards the expenses incurred or to be incurred by any other person or any association in carrying out a programme such as is referred to in subsection (1) shall be applied by the Ministry in accordance with any arrangements made between the Ministry and that other person or association for the purposes of the programme.</p> <p>(6) In this section “district”, in relation to any council, means the county borough, borough, urban or rural district for which that council act.”.</p>
<p>The Local Government (Northern Ireland) Finance Act 1966. 20 G6, c. 10.</p>	<p>In section 2 (1), in paragraph (a) after the words “not being a salmon fishing or eel fishing”, and in paragraph (c), after the words “being a salmon fishing or eel fishing”, there shall be inserted the words “or a hereditament occupied and used for fish culture to which section 11 (8) of the Fisheries Act (Northern Ireland) 1966 applies”.</p>

SCH. 7
—cont.

Sch. 7
—cont.

Act	Amendment
<p>The Local Government (Rating and Finance) Act (Northern Ireland) 1929. 20 Geo. 5, c. 10. —cont.</p>	<p>In section 8 (2), there shall be added at the end— “; and Hereditaments occupied and used for fish culture in accordance with a licence granted by the Ministry of Agriculture under section 11 of the Fisheries Act (Northern Ireland) 1966.”.</p>
<p>The Water Supplies and Sewerage Act (Northern Ireland) 1945. 1945, c. 17.</p>	<p>In Schedule 2, in paragraph 3 (c), after the words “to the local and planning authority or authorities for the area to which the application relates” there shall be inserted the words “and also to the Minister of Agriculture and— (a) where the said area lies wholly or in part within the Londonderry Area, as defined by section 2 (1) of the Foyle Fisheries Act (Northern Ireland) 1952, to the Foyle Fisheries Commission; (b) where the said area does not lie wholly within the Londonderry Area, the Fisheries Conservancy Board for Northern Ireland”.</p>
<p>The Probation Act (Northern Ireland) 1950. 1950, c. 7.</p>	<p>In the First Schedule, after paragraph 3 (being the paragraph added by the section substituted by section 3 (1) of the Foyle Fisheries (Amendment) Act (Northern Ireland) 1962 for section 40 of the Foyle Fisheries Act (Northern Ireland) 1952) there shall be inserted the following additional paragraph: “4. An offence under section of the Fisheries Act (Northern Ireland) 1966.”.</p>
<p>The Foyle Fisheries Act (Northern Ireland) 1952. 1952, c. 5.</p>	<p>In section 2 (1), in the definition of “the Fisheries Acts”, for the words “the Fisheries Acts (Northern Ireland) 1842 to 1949” there shall be substituted the words “the Fisheries Act (Northern Ireland) 1966 as amended by any subsequent Act”.</p> <p>In section 74, the following subsection shall be substituted for subsection —</p>

Act	Amendment	SCH. 7 —cont.
<p>The Foyle Fisheries Act (Northern Ireland) 1952, c. 5.—<i>cont.</i></p>	<p>“(4) Where a person is convicted by a court of an offence against this Act or against the Fisheries Acts, the clerk of the court shall as soon as may be in either case forward to each of the Commission and the Fisheries Conservancy Board for Northern Ireland a duly authenticated certificate of the conviction, and, notwithstanding the provisions of any statutory instrument, such a certificate shall not be subject to any stamp.”</p>	
<p>The Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1953, c. 24.</p>	<p>In section 18 (2) (i), for all words and figures from the beginning of the paragraph to “1849”, there shall be substituted “any inspector or water bailiff appointed by the Fisheries Conservancy Board for Northern Ireland or any water bailiff appointed under section 150 or 170 of the Fisheries Act (Northern Ireland) 1966;”.</p>	
<p>The Administration of Justice Act (Northern Ireland) 1954, c. 9.</p>	<p>In section 20 (5), in the definition of “fine”, in paragraph (i), for the words “under the Fisheries Acts (Northern Ireland), 1842 to 1949” there shall be substituted “to which section 203 of the Fisheries Act (Northern Ireland) 1966 applies”.</p>	
<p>The Statutory Rules Act (Northern Ireland) 1958, c. 18.</p>	<p>In section 1 (2), after head (j), there shall be inserted the following additional head—</p> <p>“(j) the Fisheries Conservancy Board for Northern Ireland”.</p>	
<p>The Radioactive Substances Act 1960, 8 & 9 Eliz. 2, c. 34.</p>	<p>In section 21 (2) (g) for the words from the words “a board of conservators” to the end of the paragraph, there shall be substituted the words “the Fisheries Conservancy Board for Northern Ireland;”.</p> <p>In Schedule 1, Part III, paragraphs 17 and 19 shall be deleted; and after paragraph 26 there shall be inserted the following additional paragraph—</p> <p>“27. Sections 26, 47 and 124 of the Fisheries Act (Northern Ireland) 1966”.</p>	

SCHEDULE 8

ENACTMENTS REPEALED

Session or Year and Chapter	Short Title	Extent of Repeal
5 & 6 Vict., c. 106.	The Fisheries (Ireland) Act 1842.	The whole Act except sections 86, 87, 89 to 92, 96 and 103 so far as those sections are applicable for the purposes of the Steam Trawling (Ireland) Act 1889 (so far as unrepealed by this Act) and of the Whale Fisheries (Ireland) Act 1908.
7 & 8 Vict., c. 108.	The Fisheries (Ireland) Act 1844.	The whole Act.
8 & 9 Vict., c. 108.	The Fisheries (Ireland) Act 1845.	The whole Act, except sections 7 and 8.
11 & 12 Vict., c. 92.	The Fisheries (Ireland) Act 1848.	The whole Act.
13 & 14 Vict., c. 88.	The Fisheries (Ireland) Act 1850.	The whole Act.
26 & 27 Vict., c. 10.	The Salmon Acts Amendment Act 1863.	The whole Act.
26 & 27 Vict., c. 114.	The Salmon Fishery (Ireland) Act 1863.	The whole Act, except so much of section 5 as relates to navigation, and section 14.
29 & 30 Vict., c. 88.	The Oyster Beds (Ireland) Act 1866.	The whole Act.
29 & 30 Vict., c. 97.	The Oyster Fishery (Ireland) Amendment Act 1866.	The whole Act.
32 & 33 Vict., c. 9.	The Salmon Fishery (Ireland) Act 1869.	The whole Act.
32 & 33 Vict., c. 92.	The Fisheries (Ireland) Act 1869.	The whole Act.

Session or Year and Chapter	Short Title	Extent of Repeal
40 & 41 Vict., c. 42.	The Fisheries (Oyster, Crab and Lobster) Act 1877.	The whole Act.
40 & 41 Vict., c. 56.	The County Officers and Courts (Ireland) Act 1877.	Section 74.
40 & 41 Vict., c. 65.	The Fisheries (Dynamite) Act 1877.	The whole Act.
44 & 45 Vict., c. 66.	The Pollen Fishing (Ireland) Act 1881.	The whole Act.
47 & 48 Vict., c. 48.	The Oyster Cultivation (Ireland) Act 1884.	The whole Act.
51 & 52 Vict., c. 30.	The Fishery (Ireland) Act 1888.	The whole Act.
52 & 53 Vict., c. 74.	The Steam Trawling (Ireland) Act 1889.	The whole Act, except so far as it relates to by-laws prohibiting trawling within any area, not being an area lying wholly within such part of the fishery limits of the British Islands as is mentioned in section 4 (2) of the Fishery Limits Act 1964.
54 & 55 Vict., c. 20.	The Pollen Fisheries (Ireland) Act 1891.	The whole Act.
54 & 55 Vict., c. 37.	The Fisheries Act 1891.	In section 13, the words "or by any Act relating to salmon and fresh-water fisheries".
61 & 62 Vict., c. 28.	The Mussels, Periwinkles and Cockles (Ireland) Act 1898.	The whole Act.
62 & 63 Vict., c. 50.	The Agriculture and Technical Instruction (Ireland) Act 1899.	Sections 3 and 30 (2) and the First Schedule.

SCH. 8
—cont.

SCH. 8
—cont.

Session or Year and Chapter	Short Title	Extent of Repeal
1 Edw. 7, c. 38.	The Fisheries (Ireland) Act 1901.	The whole Act except so far as it applies in relation to proceedings under and the enforcement of byelaws under the Steam Trawling (Ireland) Act 1889 so far as that Act is unrepealed by this Act.
9 Edw. 7, c. 25.	The Fisheries (Ireland) Act 1909.	The whole Act.
16 & 17 Geo. 5, c. 4.	The Administrative Provisions Act (Northern Ireland) 1926.	Sections 7 and 8.
18 & 19 Geo. 5, c. 13.	The Fisheries Act (Northern Ireland) 1928.	The whole Act.
23 & 24 Geo. 5, c. 29.	The Sea - fishing Industry Act (Northern Ireland) 1933.	The whole Act.
24 & 25 Geo. 5, c. 21.	The Fisheries Act (Northern Ireland) 1934.	The whole Act.
1947, c. 12.	The Fisheries (Flax Water) Act (Northern Ireland) 1947.	The whole Act.
1949, c. 22.	The Fisheries Act (Northern Ireland) 1949.	The whole Act.
1951, c. 29.	The Fishing Licences (Londonderry District) Act (Northern Ireland) 1951.	The whole Act.
1952, c. 5.	The Foyle Fisheries Act (Northern Ireland) 1952.	Sections 4 and 35; paragraph (a) of section 41 (2); and the First Schedule.
1954, c. 12.	The Fisheries (Salmon Rod Licences) Act	The whole Act.

Session or Year and Chapter	Short Title	Extent of Repeal
1962, c. 5.	The Foyle Fisheries (Amendment) Act (Northern Ireland) 1962.	In section 3, in subsection (1), the paragraph of section 41 (2) of the Foyle Fisheries Act (Northern Ireland) 1952 repealed above; and subsection (2).
1964, c. 21.	The Magistrates' Courts Act (Northern Ireland) 1964.	In Schedule 2, in Part I, paragraph 4.
1964, c. 72.	The Fishery Limits Act 1964.	In Schedule 1, the paragraph headed "THE FISHERIES (DYNAMITE) ACT 1877".

SCH. 8
—cont.