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*Number 10 of 2010*

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**INLAND FISHERIES ACT 2010**

**REVISED**

**Updated to 1 January 2021**

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This Revised Act is an administrative consolidation of the *Inland Fisheries Act 2010*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Harassment, Harmful Communications and Related Offences Act 2020* (32/2020), enacted 28 December 2020, and all statutory instruments up to and including the *Medicinal Products (Control of Wholesale Distribution) (Amendment) Regulations 2021* (S.I. No. 1 of 2021), made 4 January 2021, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to [revisedacts@lawreform.ie](mailto:revisedacts@lawreform.ie).





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**Introduction**

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

**Related legislation**

***Inland Fisheries Acts 1959 to 2017***: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Inland Fisheries (Amendment) Act 2017* (16/2017), s. 5(3)). The Acts in this group are:

- *Fisheries (Consolidation) Act 1959* (14/1959)
- *Fisheries (Amendment) Act 1962* (31/1962)
- *Fisheries (Amendment) Act 1964* (23/1964)
- *Fisheries (Amendment) Act 1976* (23/1976)
- *Fisheries Act 1980* (1/1980)
- *Fisheries (Amendment) Act 1987* (14/1987)
- *Fisheries (Amendment) (No. 2) Act 1987* (32/1987)
- *Fisheries (Amendment) Act 1991* (26/1991)
- *Fisheries (Amendment) Act 1994* (23/1994)
- *Fisheries (Amendment) Act 1995* (27/1995)
- *Fisheries (Commissions) Act 1997* (1/1997)
- *Fisheries (Amendment) Act 1997* (23/1997) (in so far as it relates to IFI)
- *Fisheries (Amendment) Act 1999* (35/1999)
- *Water Services Act 2007* (30/2007), s. 111
- *Inland Fisheries Act 2010* (10/2010)
- *Inland Fisheries (Amendment) Act 2017* (16/2017)

**Annotations**

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at [www.lawreform.ie/annotations](http://www.lawreform.ie/annotations)

**Material not updated in this revision**

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at [www.irishstatutebook.ie](http://www.irishstatutebook.ie).

### **Acts which affect or previously affected this revision**

- *Inland Fisheries (Amendment) Act 2017* (16/2017)
- *Workplace Relations Act 2015* (16/2015)
- *Freedom of Information Act 2014* (30/2014)
- *Protected Disclosures Act 2014* (14/2014)
- *Water Services (No. 2) Act 2013* (50/2013)
- *Ministers and Secretaries (Amendment) Act 2011* (10/2011)

All Acts up to and including *Harassment, Harmful Communications and Related Offences Act 2020* (32/2020), enacted 28 December 2020, were considered in the preparation of this revision.

### **Statutory instruments which affect or previously affected this revision**

- *Wild Salmon and Sea Trout Tagging Scheme (Amendment) Regulations 2020* (S.I. No. 667 of 2020)
- *Wild Salmon and Sea Trout Tagging Scheme (Amendment) Regulations 2019* (S.I. No. 669 of 2019)
- *Wild Salmon and Sea Trout Tagging Scheme Regulations 2018* (S.I. No. 585 of 2018)
- *Inland Fisheries Ireland Superannuation Scheme 2018* (S.I. No. 112 of 2018)
- *Wild Salmon and Sea Trout Tagging Scheme (Amendment) Regulations 2017* (S.I. No. 602 of 2017)
- *Wild Salmon and Sea Trout Tagging Scheme (Amendment) Regulations 2016* (S.I. No. 636 of 2016)
- *Wild Salmon and Sea Trout Tagging Scheme (Amendment) Regulations 2015* (S.I. No. 581 of 2015)
- *Wild Salmon and Sea Trout Tagging Scheme (Amendment) (No. 2) Regulations 2014* (S.I. No. 610 of 2014)
- *Inland Fisheries (Fixed Charge Notice) Regulations 2014* (S.I. No. 363 of 2014)
- *Wild Salmon and Sea Trout Tagging Scheme (Amendment) Regulations 2014* (S.I. No. 301 of 2014)
- *Wild Salmon and Sea Trout Tagging Scheme Regulations 2013* (S.I. No. 573 of 2013)
- *Inland Fisheries (Fixed Charge Notice) Regulations 2013* (S.I. No. 76 of 2013)
- *Wild Salmon and Sea Trout Tagging Scheme Regulations 2012* (S.I. No. 556 of 2012)
- *Inland Fisheries (Fixed Charge Notice) (No. 2) Regulations 2011* (S.I. No. 706 of 2011)
- *Wild Salmon and Sea Trout Tagging Scheme (No. 2) Regulations 2011* (S.I. No. 705 of 2011)
- *Finance (Transfer of Departmental Administration and Ministerial Functions) (No. 2) Order 2011* (S.I. No. 480 of 2011)
- *Wild Salmon and Sea Trout Tagging Scheme Regulations 2011* (S.I. No. 326 of 2011)
- *Inland Fisheries (Fixed Charge Notice) Regulations 2011* (S.I. No. 81 of 2011)
- *Wild Salmon and Sea Trout Tagging Scheme (No. 2) Regulations 2010* (S.I. No. 665 of 2010)
- *Inland Fisheries (Fixed Charge Notice) Regulations 2010* (S.I. No. 324 of 2010)
- *Wild Salmon and Sea Trout Tagging Scheme Regulations 2010* (S.I. No. 323 of 2010)
- *Inland Fisheries Act 2010 (Form of Instrument of Appointment) Regulations 2010* (S.I. No. 316 of 2010)
- *Inland Fisheries Act (Establishment Day) Order 2010* (S.I. No. 262 of 2010)

- *Bass Fishing Conservation Bye-Law No. 826 of 2007* (S.I. No. 368 of 2007)

All statutory instruments up to and including *Medicinal Products (Control of Wholesale Distribution) (Amendment) Regulations 2021* (S.I. No. 1 of 2021), made 4 January 2021, were considered in the preparation of this revision.





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**INLAND FISHERIES ACT 2010**  
**REVISED**  
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|---|--------------|
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|   |              |
|---|--------------|
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| Fisheries (Amendment) (No. 2) Act 1987                            | 1987, No. 32 |
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| Fisheries (Amendment) Act 1994                                    | 1994, No. 23 |
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| Forestry Acts 1919 and 1928                                       |              |
| Forestry Acts 1946 to 1988  |              |
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| Lands Clauses Consolidation Act 1845                              | 1845, c. 18  |
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| Local Government (Water Pollution) (Amendment) Act 1990           | 1990, No. 21 |
| Local Government Act 2001   | 2001, No. 37 |
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| Maternity Protection Acts 1994 and 2004                           |              |
| Minimum Notice and Terms of Employment Acts 1973 to 2005          |              |
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|  |              |
|--|--------------|
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| Standards in Public Office Act 2001                  | 2001, No. 31 |
| Superannuation and Pensions Act 1976                 | 1976, No. 22 |
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| Terms of Employment (Information) Acts 1994 and 2001 |              |
| Unfair Dismissals Acts 1977 to 2007                  |              |
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**INLAND FISHERIES ACT 2010**

**REVISED**

**Updated to 1 January 2021**

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AN ACT TO ESTABLISH A BODY TO BE KNOWN AS, IN THE ENGLISH LANGUAGE, INLAND FISHERIES IRELAND OR, IN THE IRISH LANGUAGE, *IASCACH INTÍRE ÉIREANN* AND TO DEFINE ITS FUNCTIONS, TO DISSOLVE THE CENTRAL FISHERIES BOARD AND REGIONAL FISHERIES BOARDS, TO PROVIDE FOR OTHER MATTERS CONNECTED WITH THE FOREGOING AND TO AMEND AND EXTEND THE FISHERIES ACTS 1959 TO 2007.

[1st June, 2010]

BE IT ENACTED BY THE OIREACTHAS AS FOLLOWS:

**Annotations**

**Modifications (not altering text):**

- C1** References in Act to employer construed for certain purposes as being to Inland Fisheries Ireland (1.08.2015) by *Workplace Relations Act 2015* (16/2015), s. 3(5), S.I. No. 338 of 2015.

**Construction of references to employer and employee**

**3. ...**

(5) For the purpose of the operation of this Act, and to the extent only that this Act applies, in relation to the Inland Fisheries Act 2010 (in this subsection referred to as the “Act of 2010”), references in this Act to employer shall be construed as references to IFI within the meaning of the Act of 2010.

...

- C2** Functions transferred and references to “Department of Finance” and “Minister for Finance” construed (20.09.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) (No. 2) Order 2011* (S.I. No. 480 of 2011), arts. 2, 3(a), 4 and sch., in effect as per art. 1(2).

2. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or any instrument made thereunder and relating to any administration and business transferred by paragraph (1) shall,



from the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under—

(a) the provisions of the enactments specified in the Schedule, and

...

are transferred to the Minister for Public Expenditure and Reform.

4. References to the Minister for Finance contained in any Act or instrument made under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

#### SCHEDULE

##### Enactments

| Number and Year<br>(1) | Short Title<br>(2)        | Provision<br>(3)   |
|------------------------|---------------------------|--|
| ...                    | ...                       | ...  |
| No. 10 of 2010         | Inland Fisheries Act 2010 | Sections 7(3)(j), 18(8), 22(3), 30(2), 45, 60(1), 63(1), 64(1), 65(2), 68(1) and (2), 73(6)(a), 82(2) and Schedule 5, paragraph 9(a) |
| ...                    | ...                       | ...  |

## PART 1

### PRELIMINARY AND GENERAL

Short title, construction and collective citation.

**1.—** (1) This Act may be cited as the Inland Fisheries Act 2010.

(2) The Fisheries (Consolidation) Act 1959, Fisheries (Amendment) Act 1962, Fisheries (Amendment) Act 1964, Fisheries (Amendment) Act 1976, Fisheries Act 1980, Fisheries (Amendment) Act 1987, Fisheries (Amendment) (No. 2) Act 1987, Fisheries (Amendment) Act 1991, Fisheries (Amendment) Act 1994, Fisheries (Amendment) Act 1995, Fisheries (Commissions) Act 1997, Fisheries (Amendment) Act 1997 (insofar as it relates to IFI), Fisheries (Amendment) Act 1999, section 111 of the Water Services Act 2007 and this Act may be cited together as the Inland Fisheries Acts 1959 to 2010 and shall be construed together as one.

Definitions.

**2.—** In this Act—

F1[‘Act of 1962’ means the Fisheries (Amendment) Act 1962;]

“Act of 1980” means Fisheries Act 1980;

“Act of 1991” means Fisheries (Amendment) Act 1991;

“Act of 1987” means Fisheries (Amendment) (No. 2) Act 1987;

“Act of 1994” means Fisheries (Amendment) Act 1994;

“Act of 1999” means Fisheries (Amendment) Act 1999;

“Act of 2000” means Fisheries (Amendment) Act 2000;

“Arbitrator” has the meaning assigned to it by *section 66 (2)*;

“Commissioners” means Commissioners of Public Works in Ireland;

“Central Board” means the body established under *section 7(1)* of the Fisheries Act 1980;

“easement” includes a *profit à prendre* and any right in or over water;

“functions” includes powers and duties;

“IFI” means Inland Fisheries Ireland established under *section 6*;

“Inland Fisheries Acts” means Inland Fisheries Acts 1959 to 2010 and every other enactment which is to be read together with any of those Acts;

“Joint Oireachtas Committee” means a Joint Committee of the Houses of the Oireachtas to which the Oireachtas has assigned the role of examining matters relating to inland fisheries;

“local authority” has the meaning assigned to it by the Local Government Act 2001;

“Minister” means Minister for Communications, Energy and Natural Resources;

“Principal Act” means Fisheries (Consolidation) Act 1959;

“proposed servient tenement” means the land over which the route of a way-leave or right of way shown on a plan referred to in *section 60(3)* or *section 62(2)* passes;

“recognised trade union or staff association” means a trade union or staff association recognised by IFI for the purposes of negotiations that are concerned with the terms and conditions of employment and the working conditions of employees;

“regional board” means a body established by virtue of *section 10(3)* of the Fisheries Act 1980;

“Register of Sea Anglers” has the meaning assigned to it by *section 73*;

“required right of way” has the meaning assigned to it by *section 62(1)*;

“Trust” means the Inland Fisheries Trust Incorporated (Iontaobhas Iascaigh Intíre Ioncorportha).

#### Annotations

#### Amendments:

**F1** Inserted (11.07.2017) by *Inland Fisheries (Amendment) Act 2017 (16/2017)*, s. 2, S.I. No. 322 of 2017.

Expenses. **3.**— The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of monies provided by the Oireachtas.

Repeals. **4.**— The enactments mentioned in *Schedule* are, on the establishment day, repealed to the extent specified in the *third column* of *Schedule 1*.

Establishment day. **5.**— (1) The Minister shall by order appoint a day to be the establishment day for the purposes of this Act.

(2) *Parts 3, 4 and 5* of this Act come into operation on the establishment day.

#### Annotations

#### Editorial Notes:

**E1** Power pursuant to section exercised (1.07.2010) by *Inland Fisheries Act (Establishment Day) Order 2010* (S.I. No. 262 of 2010).

2. The day appointed to be the establishment day for the purposes of the *Inland Fisheries Act 2010* (No. 10 of 2010) is 1 July 2010.

## PART 2

### ESTABLISHMENT OF INLAND FISHERIES IRELAND

#### CHAPTER 1

#### *Inland Fisheries Ireland*

Inland Fisheries  
Ireland.

**6.—** (1) There stands established on the establishment day a body to be known as, in the English language, Inland Fisheries Ireland, or in the Irish language, *lascach Intíre Éireann*, to perform the functions conferred on it by this Act and to be referred to in this Act as “IFI”.

(2) IFI shall be a body corporate with perpetual succession and a seal and power to sue and be sued in its corporate name and to acquire, hold and dispose of land or rights in, over or under land or water and acquire, hold and dispose of any other kind of property.

(3) (a) IFI shall perform the functions conferred on it by this Act within and having regard to all waters within the State comprising of a fishery district and any other waters which are—

(i) in any area of the sea to which the internal or inland waters of the State extend under section 86 of the *Sea-Fisheries and Maritime Jurisdiction Act 2006*, and

(ii) in the portion of the sea which lies between the baseline for the purposes of this Act and the line every point of which is on the seaward side and at a distance of 12 nautical miles from the nearest point of that baseline.

(b) The Minister may by order substitute for the reference to 12 nautical miles in *subsection (3)(a)(ii)* a reference to a number of nautical miles specified in the order.

(c) In case an order under *subsection (3)(b)* is for the time being in force, *subsection (3)(a)(ii)* shall be construed and have effect as if for the reference in it to 12 nautical miles there were substituted a reference to the number of nautical miles specified in the order.

(4) (a) An order made under *subsection (3)* shall be laid before each House of the Oireachtas as soon as practicable after it is made.

(b) Either House of the Oireachtas may, within 21 sitting days after the day on which an order was laid before it in accordance with *paragraph (a)*, pass a resolution annulling the order.

- (c) The annulment under *paragraph (b)* of an order takes effect immediately on the passing of the resolution concerned, but does not affect anything that was done under the order before the passing of the resolution.

Functions of IFI. 7.— (1) The principal function of IFI is the protection, management and conservation of the inland fisheries resource.

(2) Without prejudice to *subsection (1)* the general functions of IFI are to—

- (a) promote, support, facilitate and advise the Minister on the conservation, protection, management, marketing, development and improvement of inland fisheries, including sea angling,
- (b) develop and advise the Minister on policy and national strategies relating to inland fisheries including sea angling, and
- (c) ensure implementation and delivery of policy and strategies developed under *subsection (b)* as agreed with the Minister.

(3) Subject to *subsection (1)*, IFI shall—

- (a) subject to this Act, protect the inland fisheries resource and generally enforce the Inland Fisheries Acts,
- (b) ensure that any fishery, hatchery or fish farm in the possession or occupation of IFI is managed, conserved, protected, developed and improved, or otherwise dealt with, in accordance with the corporate plan prepared in accordance with *section 41*,
- (c) in accordance with such corporate plan, promote and encourage the management, conservation, protection, development and improvement of the fisheries which are not in its possession or occupation,
- (d) ensure that any oyster or other mollusc fishery is protected in accordance with such direction of the Minister as relates to a fishery of that kind,
- (e) encourage and develop angling for salmon, trout, coarse fish and sea fish and, for the purposes of any or all of those kinds of angling, provide such facilities and amenities, if any, as may be required,
- (f) encourage, promote, organise and co-ordinate together with the inland fisheries owners, bodies and organisations, the voluntary development of inland fisheries catchment management plans and for that purpose have regard to the distinctive circumstances which pertain in each of the catchment systems and consult with and involve local authorities and other interested bodies and organisations,
- (g) in the performance of its functions have regard to the requirements of the European Communities (Natural Habitats) Regulations 1997 (S.I. No. 94 of 1997) and the need for the sustainable development of the inland fisheries resource (including the conservation of fish and other species of fauna and flora habitats and the biodiversity of inland water ecosystems),
- (h) as far as possible, ensure that its activities are carried out so as to protect the national heritage (within the meaning of the Heritage Act 1995),
- (i) ensure the effective and efficient deployment of resources, performance of functions, drawing up of estimates and the provision of services,
- (j) administer such schemes, grants and other financial facilities requiring the disbursement of European Union and such other funds as may from time to time be authorised by the Minister with the consent of the Minister for Finance, and

- (k) support angling promotion and marketing activities and co-operate with relevant State agencies and such sectoral interests as IFI considers relevant in developing international promotion and marketing strategies and activities in relation to game, coarse and sea tourism angling.
- (4) (a) IFI shall establish and manage a forum (“national inland fisheries forum”) to facilitate stakeholder input into policy formulation. This forum shall consist of broad representation across such stakeholders of the inland fisheries sector as IFI considers relevant.
- (b) The terms of reference, including membership, of the forum established under *subsection (4)(a)* will be set by IFI with the agreement of the Minister.
- (5) (a) IFI may establish a Standing Scientific Committee to advise and assist it on all technical and scientific matters relating to the management of the State’s inland fisheries resource.
- (b) The terms of reference including the composition and membership of a Committee established under *paragraph (a)* will be set by IFI with the agreement of the Minister.
- (6) IFI may provide such services (including education and training courses or facilities for training or instruction) for the management, conservation, protection, development and improvement of fisheries or such other matters relating to fisheries as it thinks fit and charge such fees in respect of the provision of those services (other than those provided by the Minister), as it thinks fit.
- (7) (a) IFI may, in relation to an inland fishery, carry out such research or experimental work as it considers necessary for the performance of its functions but this paragraph shall not be construed as enabling IFI to carry out research or experimental work on or in relation to any species of sea fish (within the meaning of the Sea-Fisheries and Maritime Jurisdiction Act 2006), other than research similar or analogous to research in relation to sea fish being carried on by the Central Board immediately before the establishment day.
- (b) In the carrying out of work under *subsection (7)(a)* IFI shall, as appropriate, co-operate and co-ordinate with the Marine Institute and other agencies or persons that IFI considers relevant.
- (c) IFI shall, unless it considers that it is not in the public interest to do so, make the results of any research carried out in accordance with *subsection (7) (a)* available, within 6 months after it has been fully completed.
- (8) IFI may, following consultation with the Minister for the Environment, Heritage and Local Government, engage in relevant activities which would protect or conserve wildlife (within the meaning of section 2(1) of the Wildlife Act 1976).
- (9) For the purpose of performing its functions under this Act, but subject to the directions, if any, of the Minister, IFI may enter into such partnership or other arrangements with such persons or bodies as it thinks fit.
- (10) The power under Part V of the Principal Act of striking rates on fisheries, in so far as before the commencement of this section it was exercisable by a regional board, and the powers under that Part to amend, collect and recover such a rate are, on the establishment day assigned to IFI.
- (11) The powers under the Principal Act to issue licences, for fishing for salmon or eels and to issue oyster fishing licences which, immediately before the establishment day, were exercisable by a regional board shall, on and from the establishment day, be exercisable by IFI. Duties payable as regards licences issued under the Principal Act shall be paid to IFI.

(12) The Minister may, if he or she thinks fit, authorise IFI to engage in activities relating to the processing and marketing of such species of fish as are specified in the authorisation.

(13) The Minister may by order assign to IFI such functions relating to fisheries (being functions additional to those assigned by this Act) as the Minister thinks fit.

Transfer of functions to IFI.

**8.—** (1) The administration and business in connection with the exercise, performance or execution of any of the functions transferred by *subsection (2)* are transferred, on the establishment day, to IFI.

(2) The functions vested in the Central Board or a regional board by or under—

(a) the provisions of the enactments mentioned in *Schedule 2*, and

(b) the regulations mentioned in *Schedule 3*,

are, on the establishment day, transferred to IFI.

(3) (a) The Acts specified in *Schedule 2* are amended on the establishment day as indicated in that Schedule.

(b) The statutory instruments specified in *Schedule 3* are amended on the establishment day as indicated in that Schedule. The fact that those instruments are so amended does not preclude their subsequent amendment by the relevant instrument making authority.

(4) If a provision of an enactment referred to in *Schedule 2*, or a provision of an instrument made under such enactment, does not come into effect until on or after the establishment day, a function that on the passing of that enactment or the making of that instrument was assigned under or in connection with that provision to the Central Board or any regional board is, by this Act, transferred to IFI on the commencement of that provision. References in any other Act or instrument made under an Act not mentioned in *subsection (3)* to the Central Board or a regional board are to be read as references to IFI.

(5) The functions transferred by this Act to IFI include the functions specified in any enactment referred to in *Schedule 2* or *Schedule 3* as a function of the following—

(a) the chief executive officer of the Central Board, and

(b) the chief executive officer of any regional board.

(6) Subject to this or any other enactment, IFI shall have all powers necessary or expedient to perform its functions.

Regional operations of IFI.

**9.—** (1) From the establishment day, for the purposes of performing the functions assigned to it under this Act, IFI shall manage and report its business on the basis of that part of the following River Basin Districts which are situated within the State—

(a) Eastern River Basin District (including the Neagh Bann River Basin District),

(b) Western River Basin District,

(c) South Eastern River Basin District,

(d) South Western River Basin District,

(e) North Western River Basin District, and

(f) Shannon River Basin District,

as defined in the Second Schedule to the European Communities (Water Policy) Regulations 2003 (S.I. No. 722 of 2003).

(2) The Minister may, following consultation with IFI, the Joint Oireachtas Committee and such other bodies as he or she deems appropriate, specify by order alternative means by which IFI shall manage and report its business and for as long as an order under this subsection is in force, *subsection (1)* does not apply.

(3) (a) An order made under *subsection (2)* shall be laid before each House of the Oireachtas as soon as practicable after it is made.

(b) Either House of the Oireachtas may, within 21 sitting days after the day on which an order was laid before it in accordance with *paragraph (a)*, pass a resolution annulling the order.

(c) The annulment under *paragraph (b)* of an order takes effect immediately on the passing of the resolution concerned, but does not affect anything that was done under the order before the passing of the resolution.

Ministerial directions.

**10.—** (1) The Minister may give IFI such general policy directions as he or she considers appropriate to be followed by IFI in the exercise of its functions.

(2) IFI shall comply with any direction given to it under *subsection (1)*.

Seal of IFI.

**11.—** (1) IFI shall, as soon as may be after its establishment, provide itself with a seal.

(2) The seal of IFI shall be authenticated by the signature of—

(a) the chairperson of IFI or another member of IFI, or

(b) a member of staff of IFI,

authorised by IFI to act in that behalf.

(3) Judicial notice shall be taken of the seal of IFI and every document purporting to be an instrument made by IFI and to be sealed with the seal of IFI (purporting to be authenticated in accordance with *subsection (2)*) shall be received in evidence and be deemed to be such instrument without further proof unless the contrary is shown.

(4) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal may be entered into or executed on behalf of IFI by any person generally or specially authorised by IFI in that behalf.

Membership of IFI.

**12.—** (1) IFI shall consist of 9 members appointed by the Minister of whom—

(a) one shall be appointed by the Minister as chairperson,

(b) in accordance with *subsection (3)*, 3 shall be appointed by the Minister,

(c) one shall be appointed on the nomination of the Minister for the Environment, Heritage and Local Government,

(d) one shall be appointed on the nomination of the Minister for Community, Rural and Gaeltacht Affairs,

(e) 2 shall be appointed on the Minister's own nomination, and

(f) one shall be a member of staff of IFI appointed following an election in accordance with *section 13*.

(2) Subject to *subsections (7) and (8) of section 23*, the chief executive shall be an *ex-officio* member of IFI.

(3) Where an appointment is to be made by the Minister under *subsection (1)(b)* or under that paragraph arising from a vacancy referred to in *section 19(2)*—

- (a) the Minister shall inform the Joint Oireachtas Committee of the proposed appointment,
- (b) the Minister in respect of an appointment under *subsection (1)(a), (c), (d) and (e)* shall provide a statement to the Joint Oireachtas Committee indicating the relevant experience and expertise of the person or persons appointed by the Minister, and such other matters as the Minister, after consultation with the Joint Oireachtas Committee, considers relevant,
- (c) the Joint Oireachtas Committee shall within the period of 90 days of being so informed, advise the Minister of the names of the persons or the person it proposes that the Minister should appoint under *subsection (1) (b)* giving reasons, such as relevant experience and expertise, in relation to the proposed named person or persons,
- (d) the Minister shall have regard to the advice and may accept the proposed named persons or some of them or the named person or decide to nominate as he or she sees fit other persons or another person, and
- (e) inform the Joint Oireachtas Committee of his or her decision.

(4) The Minister shall, insofar as is practicable, endeavour to ensure that there is an equitable balance between men and women in the composition of IFI.

(5) A person shall not be appointed by the Minister to be a member of IFI unless he or she has had experience of or shown capacity in one or more of the following areas—

- (a) agriculture or riparian land ownership,
- (b) aquaculture,
- (c) business or commercial affairs,
- (d) commercial fishing,
- (e) environmental/biodiversity matters,
- (f) fish processing,
- (g) fisheries ownership,
- (h) legal or regulatory affairs,
- (i) matters pertaining to disability,
- (j) recreational fisheries (including river and sea angling),
- (k) regional development, and
- (l) tourism,

and shall be appointed with a view to representing the public interest in respect of inland fisheries matters including sea angling.

(6) The Joint Oireachtas Committee for the purposes of providing advice to the Minister under *subsection (3)* may establish a panel, for such duration, and consisting of such number of persons as the Joint Oireachtas Committee thinks proper.

(7) Persons placed on a panel established under *subsection (6)* shall have experience of or have shown capacity in one or more of the areas stated in *subsection (5)* and shall be chosen with a view to representing the public interest in respect of inland fisheries matters including sea angling.



(8) The Joint Oireachtas Committee shall, insofar as is practicable, endeavour to ensure that among the persons placed on a panel under *subsection (6)* there is an equitable balance between men and women.

(9) The Joint Oireachtas Committee shall have sole responsibility for the drawing up and placing of candidates on a panel established under *subsection (6)*.

(10) In respect of an appointment to be made under *subsection (1)(f)*, the Minister may, following consultation with such trade union representatives as he or she considers appropriate, appoint a person to IFI on a temporary basis, until such time as the Minister is in a position to appoint a person elected in accordance with *section 13*.

Election of staff representative to IFI.

**13.—** (1) The Minister shall appoint to be a member of IFI an employee of IFI who is elected in accordance with this section.

(2) An election shall be held as soon as practicable after establishment day or such longer period as may be agreed between IFI and recognised trade unions or staff associations and in each fifth year thereafter.

(3) *Subsections (4) to (17)* apply for the purposes of an election.

(4) (a) The chief executive of IFI (or a person selected by him or her after consultation with representatives of recognised trade unions or staff associations) shall be the returning officer for each election of a staff member to IFI.

(b) The returning officer is not entitled to be nominated as, or to nominate, act as agent for or promote the interests of, a candidate at the election.

(c) The returning officer may authorise any person to exercise designated functions on his or her behalf and *paragraph (b)* applies to any such person.

(5) (a) A poll shall be conducted where there is more than one candidate.

(b) Voting shall be by secret ballot and on the basis of proportional representation by means of a single transferable vote.

(c) Presiding officers at the poll and polling clerks shall be appointed by the returning officer.

(d) An election shall be held in accordance with arrangements made by the returning officer.

(e) The returning officer shall be required to give due notice of these arrangements to the electorate and to designate premises as an election office.

(6) (a) The returning officer shall fix the nomination day and give notice of the election not later than 4 weeks before that day.

(b) The nomination day shall be not earlier than 4 weeks after the day on which eligibility of voters and candidates is determined in accordance with *subsections (13) and (14)*, respectively.

(7) The returning officer may declare a candidate elected if the number of candidates standing duly nominated does not exceed one.

(8) If the nomination of candidates or any poll is interrupted or cannot be proceeded with, the returning officer may adjourn the nomination or poll for such period as he or she considers appropriate to enable him or her, on its expiration, to proceed with or complete the nomination or poll.

(9) On receipt of a notification from the returning officer of the name of the candidate elected or declared to be elected under *subsection (7)*, the Minister shall, in accordance with this section, appoint the candidate as a member of IFI.

(10) The returning officer shall for the purposes of *subsection (11)* prepare a list of the names of the other candidates at the election placed in the order of the votes credited to each of them at the last count in which he or she was involved.

(11) In choosing a person to fill a casual vacancy under *section 19*, the Minister shall select the candidate, if any, placed highest on the voting list under *subsection (10)* who is an employee of IFI at the time the vacancy comes to be filled. Where 2 or more such candidates are credited with an equal number of votes on that list the Minister shall select one of them by lot.

(12) IFI shall bear the cost of holding an election except costs incurred by candidates expressly on their own behalf.

(13) Every employee of IFI who, on the day specified by the returning officer and on the day on which the poll is taken—

(a) is not less than 18 years of age, and

(b) has been an employee of IFI for a continuous period of not less than one year,

shall be entitled to vote at an election.

(14) (a) Every employee of IFI who, on the day specified by the returning officer under *subsection (13)*, is not less than 18 years of age and has been an employee of IFI for a continuous period of not less than 18 months, shall be eligible to be nominated as a candidate at the election.

(b) A candidate may be nominated by—

(i) a recognised trade union or staff association or jointly by 2 or more such bodies, or

(ii) a minimum of 10 eligible voters.

(c) Nominations shall be made in the manner specified by the returning officer.

(d) The returning officer shall rule on the validity of nominations and his or her decision shall be final.

(15) Prior service (for a continuous period ending on the relevant establishment day) with the Central Board or a regional board of staff transferred under *section 49* to IFI on that day shall be reckonable as service with IFI for the purposes of *subsections (13)* and *(14)*.

(16) The returning officer shall prepare and maintain a list of eligible voters and candidates.

(17) The returning officer shall prepare and maintain a list of recognised trade unions and staff associations for the purposes of this section.

(18) Without prejudice to the provisions of this Act as respects the term of office of members of IFI and their removal or disqualification from office, the term of office of a member of IFI who is appointed under *subsection (1)* and who is an employee of IFI shall terminate on his or her resigning or retiring from the employment of IFI or on his or her being dismissed from such employment.

(19) In this section “election” means an election held under this section for the appointment of an employee of IFI to be a member of IFI.

Term of office of members of IFI.

**14.—** (1) The chairperson shall hold office for such period, not exceeding 5 years from the date of appointment to the office, as the Minister may determine.

(2) Subject to *subsection (3)*, an ordinary member shall hold office for such period, not exceeding 5 years from the date of appointment to the office, as the Minister may determine.

(3) Of the ordinary members of IFI first constituted under this section—

(a) 3 of them (selected in accordance with *subsection (4)*) shall hold office for a period of 3 years from the date of appointment to the office,

(b) 2 of them (selected in accordance with *subsection (4)*) shall hold office for a period of 4 years from the date of appointment, and

(c) the others shall hold office for a period of 5 years from the date of appointment.

(4) The ordinary members who are to hold office for a period of 3 or 4 years are, at a meeting of IFI held for the purpose, to be selected by—

(a) unanimous agreement of the ordinary members present at the meeting, or

(b) if for any reason unanimous agreement cannot be reached, the drawing of lots by those members, and

this subsection has effect only when all of the first membership of IFI has been appointed.

(5) A person appointed by the Minister under *section 13 (1)* shall hold office for 5 years from the date of appointment to the office.

(6) Any member of IFI who completes a term of office is eligible for reappointment to IFI, but may not serve more than 2 consecutive terms.

(7) A period of service as a member in accordance with an appointment under *section 19(2) or (3)* is considered for the purposes of *subsection (6)* to be a term of office.

(8) In this section “ordinary member” means a person appointed in accordance with *section 12(1)(b), (c), (d) or (e)*.

Chairperson of IFI.

**15.—** (1) Where the chairperson of IFI ceases to hold such office, he or she shall also cease to be a member of IFI.

(2) Where the chairperson of IFI ceases to be a member of IFI, he or she shall also cease to be chairperson of IFI.

(3) The chairperson of IFI may at any time resign his or her office as chairperson by letter addressed to the Minister and the resignation shall, unless it is previously withdrawn in writing, take effect at the commencement of the meeting of IFI held next after IFI has been informed by the Minister of the resignation.

(4) The chairperson of IFI shall, unless he or she sooner dies or otherwise ceases to be chairperson by virtue of *subsection (2) or (3)*, hold such office until the expiration of his or her period of membership of IFI and if he or she is reappointed as a member of IFI, he or she shall be eligible to be designated as chairperson of IFI in accordance with *section 12(1)(a)*.

Role of IFI.

**16.—** (1) IFI may delegate to the chief executive any of its functions.

(2) If a function of IFI is delegated to the chief executive under *subsection (1)*, the delegation remains in force until IFI revokes the delegation.

(3) IFI shall inform the Minister of any matters that it considers require the Minister’s attention.

Conditions of office.

**17.—** (1) The Minister may at any time remove a member of IFI from office if—

- (a) in the Minister's opinion, the member has become incapable through ill-health of performing the functions of the office,
- (b) in the Minister's opinion, the member has committed stated misbehaviour,
- (c) the member's removal from office appears to the Minister to be necessary for IFI to perform its functions in an effective manner,
- (d) the member has contravened a provision (unauthorised disclosure) of this Act or an applicable provision of the Ethics in Public Office Act 1995, or
- (e) in performing functions under this Act, the member has not been guided by a code of conduct that has been drawn up under section 10(3) of the Standards in Public Office Act 2001 and that relates to the appointed member.

(2) A member of IFI shall cease to hold office and is disqualified from holding office if the member—

- (a) is adjudicated bankrupt,
- (b) makes a composition or arrangement with creditors,
- (c) is convicted on indictment by a court of competent jurisdiction and sentenced to a term of imprisonment,
- (d) is convicted of an offence involving fraud or dishonesty,
- (e) is disqualified or restricted from being a director of any company,
- (f) does not pay any fishery rate payable by him, or
- (g) is convicted of an offence under the Inland Fisheries Acts or under any instrument made under those Acts.

(3) A member who does not, for a consecutive period of 6 months, attend a meeting of IFI ceases at the end of that period to hold office unless the member demonstrates to the Minister's satisfaction that the failure to attend was due to illness.

(4) In this section "applicable provision of the Ethics in Public Office Act 1995", in relation to an appointed member, means a provision of that Act that by virtue of a regulation under section 3 of that Act applies to that member.

Removal of members from office.

**18.—** (1) The Minister may remove all the members of IFI from office if—

- (a) there is a failure to achieve a quorum for 3 consecutive meetings,
- (b) IFI does not comply with a judgment, order or decree of any court,
- (c) IFI does not comply with a direction of the Minister or any other requirement imposed on it by or under any enactment including this Act, or
- (d) the Minister is satisfied that the functions of IFI are not being performed in an effective manner.

(2) Where the Minister removes all the members of IFI from office in accordance with *subsection (1)*, he or she shall, as soon as practicable, provide to the Joint Oireachtas Committee an appropriate statement indicating the circumstances of the removal of the members.

(3) The Minister may, if of the opinion that the functions of IFI are not being performed in an effective manner, appoint a person to—

- (a) conduct an independent review of any matter giving rise to that opinion, and

(b) submit a report to the Minister on the results of the review.

(4) IFI shall co-operate with any such review and give the person conducting it all reasonable assistance, including access to such premises, equipment and records as the person may require for the purposes of the review.

(5) In a case where the Minister removes all members from IFI in accordance with *subsection (1)*, he or she shall appoint such person or persons as he or she thinks fit to perform the functions of IFI and may from time to time remove a person or persons appointed under this subsection and appoint another or others in his or her or their place.

(6) (a) An appointment under *subsection (5)* shall be in writing and shall specify the day on and from which and, subject to *subsection (5)*, the period during which the appointment is to have effect, and for so long as the appointment remains in force it shall operate to enable the person or persons appointed to perform the functions of IFI.

(b) An appointment under this section may fix the duties and the remuneration of the person or persons to whom it relates.

(7) The remuneration of all persons appointed under *subsection (5)* to perform the functions of IFI shall be paid out of the revenue of IFI as part of the expenses of performing its functions.

(8) Where a person serving in the Civil Service is appointed under *subsection (5)* to perform the duties of IFI, there shall be recouped to the Exchequer from the monies under the control of IFI, in such manner as the Minister for Finance may direct, the salary of such person and also such charges in respect of superannuation and other allowances and gratuities payable under the Superannuation and Pensions Act 1976, to or in respect of such person as the Minister for Finance shall determine to be proper.

(9) The chief executive does not cease to hold that position solely because he or she ceases to be a member of IFI when the members are removed from office under this section.

(10) The removal of the members of IFI from office does not revoke or otherwise affect any delegation of the functions of IFI to the chief executive under *section 16 (1)*.

Resignations and casual vacancies.

**19.—** (1) An appointed member may resign office by letter addressed to the Minister and the resignation shall take effect on receipt of the letter by the Minister.

(2) If an appointed member resigns, dies, ceases to hold office (other than on completing a term of office), ceases to be qualified for office or is removed from office, the Minister shall as soon as practicable appoint a person to fill the casual vacancy so occasioned.

(3) The Minister shall, if the person is willing to act in such a capacity, appoint an employee of IFI selected in accordance with *section 13(11)* to fill a casual vacancy arising in respect of a member of IFI appointed under *section 13(1)*.

(4) A person appointed under *subsections (2) or (3)* holds office for the unexpired portion of his or her predecessor's term of office and at the end of that term is, subject to *section 14*, eligible for reappointment.

Meetings and procedures.

**20.—** (1) IFI shall hold such and so many meetings as may be necessary for the performance of its functions but in each year shall hold not less than 6 meetings.

(2) The Minister, in consultation with the chairperson of IFI, shall fix the date and time of the first meeting.

- (3) The chairperson may at any reasonable time call a meeting of IFI.
- (4) Any 3 members may call a meeting of IFI if the chairperson—
- (a) refuses to call a meeting after being presented with a requisition for that purpose signed by not fewer than 3 members, or
  - (b) without refusing to call a meeting, does not call one within 7 days after being presented with such requisition.
- (5) The quorum for a meeting of IFI is 5.
- (6) The chairperson of IFI shall chair any meetings of IFI except in the case that the chairperson is not present or such office is vacant in which case the members who are present shall choose one of their number, other than the chief executive, to chair the meeting.
- (7) Each question at a meeting shall be determined by a majority of the votes of the members present and voting on the question.
- (8) In the case of an equal division of votes, the chairperson or other member presiding at the meeting has a second or casting vote.
- (9) As long as there is a quorum, IFI may act despite one or more than one vacancy among its members.
- (10) Subject to this Act, IFI shall regulate, by standing orders or otherwise, the procedures and business of IFI.
- (11) Non-compliance with a standing order of IFI does not invalidate a decision of IFI.
- (12) IFI may perform any of its functions through or by any of its officers or servants or any other person duly authorised by IFI in that behalf, but nothing in this subsection shall be construed as enabling any person to execute on behalf of IFI any document under seal.
- (13) (a) IFI may accept gifts of money, land or other property upon such terms and conditions (if any) as shall be specified by the donor.
- (b) IFI shall not accept a gift if the conditions attached by the donor to the acceptance are inconsistent with the functions of IFI.

Committees of  
IFI.

- 21.—** (1) IFI may establish committees to provide assistance and advice to it in relation to the performance of its functions and may determine the membership and terms of reference of each committee.
- (2) IFI may appoint to a committee, persons who are not members of IFI but who have special knowledge and experience related to the purposes of the committee.
- (3) The appointment of a person to a committee is subject to such terms and conditions as may be determined—
- (a) under *section 22*, to the extent that they relate to remuneration and allowances, and
  - (b) by IFI, in any other case.
- (4) IFI shall specify in writing the purpose and terms of reference of each committee.
- (5) The acts of a committee are subject to confirmation by IFI, unless IFI dispenses with the necessity for confirmation.

(6) IFI may regulate the procedure of a committee but, subject to any such regulation, a committee may regulate its own procedure.

(7) IFI may at any time dissolve a committee established under this section.

Remuneration and expenses for members of IFI and committees.

**22.—** (1) The remuneration and allowances for expenses, if any, determined in accordance with *subsection (3)* are payable by IFI out of funds at its disposal to—

(a) the members of IFI including the chairperson of IFI, and

(b) the members of a committee of IFI,

other than the chief executive.

(2) The remuneration and allowances for expenses, if any, determined in accordance with *subsection (3)* are payable by the Minister out of money provided by the Oireachtas to a person appointed under *section 18(3)* to conduct an independent review.

(3) The Minister may, with the consent of the Minister for Finance, determine the remuneration and expenses payable under this section.

(4) This section is not to be taken to limit—

(a) the power of the members of IFI to determine in accordance with *section 23* the remuneration and allowances for expenses payable to the chief executive (including allowances relating to his or her functions as a member of IFI or a committee of IFI), or

(b) the chief executive's entitlement to be paid the remuneration and allowances so determined.

Chief executive officer.

**23.—** (1) There shall be a chief executive officer of IFI who shall be known, and is referred to in this Act, as the "chief executive".

(2) Subject to *subsection (4)*, the chief executive shall be appointed by IFI with the consent of the Minister and shall be recruited in accordance with the Public Service Management (Recruitment and Appointments) Act 2004.

(3) The chief executive may be removed or suspended from office by IFI for stated reasons.

(4) (a) Where a competition to appoint a chief executive is held prior to the establishment day, the successful candidate may be appointed by the Minister to act as chief executive designate of IFI.

(b) The person, who immediately before the establishment day, holds the position of chief executive designate of IFI shall, on the establishment day, become the chief executive and shall hold such office until such time as IFI appoints a chief executive under *subsection (2)*.

(5) The chief executive shall hold office upon and subject to such terms and conditions (including terms and conditions relating to remuneration and allowances for expenses) as may be determined by IFI with the consent of the Minister and the Minister for Finance.

(6) The remuneration and allowances determined under *subsection (5)* are payable to the chief executive by IFI out of funds at its disposal.

(7) The chief executive shall for so long as he or she holds that office serve as an *ex officio* member of IFI.

(8) Where and for so long as the chief executive is suspended from office, the chief executive shall stand suspended from membership of IFI.

(9) The chief executive shall not hold any other office or position or carry on any business, trade or profession without the consent of IFI.

Functions of chief executive and their performance by deputy.

**24.—** (1) The chief executive shall—

- (a) carry on, manage and control generally the staff, administration and business of IFI,
- (b) perform such other functions as may be assigned to that officer by or under this Act or other enactment or as may be delegated to him or her by IFI, and
- (c) supply IFI with such information (including financial information) relating to the performance of his or her functions as IFI may require.

(2) The chief executive is responsible to IFI for the performance of his or her functions and the implementation of the policies of IFI.

(3) If the chief executive is absent or the position of chief executive is vacant, the functions of the chief executive under this section may be performed by such employee of IFI as may be appointed by IFI from time to time to act as deputy chief executive.

(4) For the purposes of *subsection (3)*, references in a provision of this Act, other than *sections 23(7) and 23(8)*, or another enactment that assigns functions to the chief executive or that regulates the manner in which a function assigned to the chief executive is to be performed are to be read as references to the employee appointed under this section as deputy chief executive.

Delegation of functions.

**25.—** (1) Subject to any directions that may be issued by IFI, the chief executive may in writing—

- (a) delegate any of his or her functions under *section 24* (including those relating to financial matters) to employees of IFI specified by name, position or otherwise, and
- (b) authorise the sub-delegation of any or all delegated functions to or by other such employees.

(2) Any functions delegated or sub-delegated under this section to an employee are to be performed by the employee under the general direction and control of the chief executive and in compliance with such directions, limitations and guidelines as may be specified by—

- (a) in the case of a delegated function, the chief executive, or
- (b) in the case of a sub-delegated function, the employee who sub-delegated that function.

(3) The delegation or sub-delegation of a function does not preclude the person who for the time being holds the position of chief executive from performing the function.

(4) The chief executive may—

- (a) vary any delegation of a function under this section, including by modifying the geographical area to which the delegation relates,
- (b) revoke such delegation, or
- (c) without revoking the delegation, revoke any sub-delegation of the function.



(5) On varying or revoking the delegation or sub-delegation of a function, the chief executive shall inform each employee to whom the function was delegated or sub-delegated of its variation or revocation.

(6) An employee of IFI who sub-delegates a function delegated or sub-delegated to the employee under this section—

- (a) may vary the sub-delegation, including by modifying the geographical area to which it relates,
- (b) may revoke the sub-delegation, and
- (c) is not precluded from performing the function.

(7) On varying or revoking the sub-delegation of a function, the employee who sub-delegated the function shall inform each employee to whom the function was sub-delegated of its variation or revocation.

Effects of delegation and sub-delegation of functions.

**26.—** (1) If a function of IFI is delegated by IFI to the chief executive under *section 16(1)*, references in a provision of this Act or any other enactment that assigns that function to IFI or that regulates the manner in which the function is to be performed are to be read as references to the chief executive.

(2) If a function of the chief executive under *section 24* is delegated by him or her to an employee of IFI under *section 25* or is sub-delegated by an employee authorised to do so under *section 25*, references in any provision of this Act or any other enactment that regulates the manner in which that function is to be performed are to be read as references to the employee to whom the function is delegated or sub-delegated.

(3) If a function is delegated under *section 16(1)* or *25* or sub-delegated under *section 25*, the delegation or sub-delegation is to be taken to include the delegation or sub-delegation of any duty or power incidental to or connected with that function.

(4) An act or thing done by the chief executive under a delegation by IFI under *section 16(1)* has the same force and effect as if done by IFI.

(5) An act or thing done by an employee of IFI under a delegation or sub-delegation under *section 25* has the same force and effect as if done by the chief executive.

(6) The revocation of a delegation by IFI or the chief executive does not affect a sub-delegation authorised under *section 25*, unless IFI or the chief executive, as the case may be, otherwise directs.

(7) A delegation or sub-delegation of a function does not cease to have effect solely because the person who delegated or sub-delegated the function or authorised its sub-delegation no longer holds the position that the person held when the function was delegated, sub-delegated or authorised to be sub-delegated.

Certificate evidence concerning delegation of functions.

**27.—** (1) In any legal proceedings, a certificate that—

- (a) is signed by the chairperson,
- (b) states that a specified function of IFI was on a specified date delegated to the chief executive, and
- (c) states that the delegation of the function remained in force on a specified date, is, in the absence of evidence to the contrary, proof of the matters stated in the certificate.

(2) In any legal proceedings, a certificate that—

- (a) is signed by the chief executive or by an employee who has sub-delegated a function delegated to him or her under *section 25*,
- (b) states that a specified function of the chief executive was on a specified date delegated or sub-delegated, as the case may be, in accordance with *section 25*, to a specified employee of IFI,
- (c) states that the delegation or sub-delegation of the function remained in force on a specified date, and
- (d) specifies the limitations, if any, imposed on the delegation or sub-delegation,

is, in the absence of evidence to the contrary, proof of the matters stated in the certificate.

(3) A certificate referred to in *subsection (1) or (2)* that appears to be signed by the chairperson, the chief executive or the employee concerned (as the case may be) is admissible in any proceedings as evidence of the matters stated in the certificate without proof of his or her signature.

Chief executive to be accountable person.

**28.**— The chief executive shall, whenever he or she is so required by the committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the accounts, give evidence to that committee on—

- (a) the regularity and propriety of the transactions recorded or required to be recorded in any account subject to audit by the Comptroller and Auditor General which he or she is required by *section 46* to prepare,
- (b) the economy and efficiency of IFI in the use of its resources,
- (c) the systems, procedures and practices employed by IFI for the purpose of evaluating the effectiveness of its operations, and
- (d) any matter affecting IFI referred to in a special report of the Comptroller and Auditor General under *section 11(2)* of the Comptroller and Auditor General (Amendment) Act 1993 or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in *paragraph (a), (b) or (c)*) that is laid before Dáil Éireann.

Attendance of chief executive before Oireachtas Committee.

**29.**— (1) Subject to *subsection (2)*, the chief executive shall, at the written request of an Oireachtas Committee, attend before it to give an account of the general administration of IFI.

(2) The chief executive is not required to give an account before an Oireachtas Committee of any matter relating to the general administration of IFI that is, or is likely to be, the subject of proceedings before a court or tribunal in the State.

(3) The chief executive shall, if of the opinion that *subsection (2)* applies to a matter about which that officer is requested to give an account before an Oireachtas Committee, inform the Committee of that opinion and the reasons for the opinion.

(4) The information required under *subsection (3)* to be given to the Oireachtas Committee must be given in writing unless it is given when the chief executive is before the Committee.

(5) If, on being informed of the chief executive's opinion about the matter, the Oireachtas Committee decides not to withdraw its request, the High Court may, on application under *subsection (6)*, determine whether *subsection (2)* applies to the matter.

(6) An application for a determination under *subsection (5)* may be made in a summary manner to the High Court by—

(a) the chief executive not later than 21 days after being informed by the Oireachtas Committee of its decision not to withdraw its request, or

(b) the chairperson of the Oireachtas Committee acting on its behalf.

(7) Pending the determination of an application under *subsection (6)*, the chief executive shall not attend before the Oireachtas Committee to give an account of the matter to which the application relates.

(8) If the High Court determines that *subsection (2)* applies to the matter, the Oireachtas Committee shall withdraw its request relating to the matter, but if the High Court determines that *subsection (2)* does not apply, the chief executive shall attend before the Committee to give an account of the matter.

(9) In carrying out duties under this section, the chief executive shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such policy.

(10) With the permission of the chairperson of the Oireachtas Committee making the request under *subsection (1)*, either—

(a) the chairperson of IFI, or

(b) an employee of IFI nominated by the chief executive,

may attend before the Committee in place of the chief executive to give an account of the general administration of IFI, and in that case a reference in *subsections (2)* to *(9)* to the chief executive is to be read as a reference to the person attending in his or her place.

(11) In this section “Oireachtas Committee” means—

(a) a committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (other than the Committee of Public Accounts, the Committee on Members’ Interests of Dáil Éireann or the Committee on Members’ Interests of Seanad Éireann), or

(b) a subcommittee of a committee as defined in *paragraph (a)*.

Employees.

**30.**— (1) IFI may, subject to *subsection (2)*, appoint persons to be its employees and may determine their duties.

(2) IFI shall, with the approval of the Minister given with the consent of the Minister for Finance, determine—

(a) the terms and conditions of employment (including terms and conditions relating to remuneration and allowances) of employees appointed under this section, and

(b) the grades of the employees of IFI and the numbers of employees in each grade.

(3) The remuneration and allowances of the employees of IFI are payable by IFI to them out of funds at its disposal.

Appointment of authorised persons.

**31.**— (1) The following sections are substituted for sections 292 and 293 of the Principal Act (as amended by Part I of the Fourth Schedule to the Act of 1980)—

“292.— In this Part—

‘authorised person’ means, except where the context otherwise requires, any person being—

- (a) an officer of the Minister or other person appointed in writing by the Minister to be an authorised person for the purposes of this Part,
- (b) an officer of Inland Fisheries Ireland or other person appointed in writing by Inland Fisheries Ireland to be an authorised person for the said purposes, or
- (c) a private water keeper;

‘private water keeper’ means a water keeper appointed under section 294.

293.— (1) The powers conferred by this Part on a private water keeper shall be exercisable only for the protection of the fisheries specified in his or her instrument of appointment.

- (2) (a) The powers conferred by this Part on a member of Inland Fisheries Ireland or an officer of Inland Fisheries Ireland or other person appointed under this Part by Inland Fisheries Ireland to be an authorised person for the purposes of this Part shall be exercised by him or her only for the protection of the fisheries in an area or areas as may be specified in their appointment or thereafter by Inland Fisheries Ireland and for the enforcement in such area or areas of the Inland Fisheries Acts 1959 to 2010.

- (b) A document purporting to be an appointment under this Part and to be signed by the chief executive of Inland Fisheries Ireland shall be receivable as *prima facie* evidence in any legal proceedings without proof either of any signature on it or that person whose signature on it was the chief executive of Inland Fisheries Ireland.”.

(2) Every instrument of appointment by IFI of an officer or other person to be an authorised person for the purposes of Part XVIII of the Principal Act shall be—

- (a) prepared and printed in the prescribed form, and
- (b) sealed with the seal of IFI,

and every document purporting to be such an instrument and to be sealed with the seal of IFI shall be admissible in any legal proceedings as *prima facie* evidence of such appointment.

#### Annotations

#### Editorial Notes:

- E2** Form prescribed for purposes of subs. (2) (1.07.2010) by *Inland Fisheries Act 2010 (Form of Instrument of Appointment) Regulations 2010* (S.I. No. 316 of 2010), reg. 2 and sch., in effect as per reg. 1(2).

Superannuation. **32.**— (1) As soon as may be after the establishment day, IFI shall prepare a scheme or schemes for the granting of superannuation benefits to or in respect of such employees (including the chief executive) as it may think fit.

(2) Every scheme made under this section shall be subject to the consent of the Minister and the consent of the Minister for Finance.

(3) Every scheme made under this section shall fix the time and conditions of retirement for all persons to or in respect of whom superannuation benefits are payable under the scheme, and different terms and conditions may be fixed in respect of different classes of persons.

(4) The terms and conditions governing superannuation benefits granted under schemes made under this section to persons who transferred to IFI under *section 49* shall not be less favourable than those to which they were entitled immediately before that day.

(5) Where, in the period beginning on the establishment day and ending immediately before the commencement of a scheme under this section, a superannuation benefit falls due for payment to or in respect of a person who was transferred to the staff of IFI under *section 49*, the benefit shall be calculated by IFI in accordance with such scheme, or such enactments in relation to superannuation, as applied to the person immediately before the establishment day, and for that purpose his or her pensionable service with IFI shall be aggregated with his or her previous pensionable service and the benefit, as so calculated, shall be paid by IFI.

(6) Every scheme made under this section may be amended or revoked by a subsequent scheme prepared, submitted and approved under this section.

(7) A scheme submitted by IFI under this section shall, if approved by the Minister with the consent of the Minister for Finance, be carried out by IFI in accordance with its terms.

(8) No superannuation benefit shall be granted by IFI nor shall any other arrangements be entered into by IFI for the provision of such a benefit to or in respect of a member of the staff of IFI otherwise than in accordance with a scheme under this section or with the consent of the Minister and the Minister for Finance.

(9) Every scheme made under this section shall make provision for appeals.

(10) A scheme made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the scheme is passed by either such House within the next 21 days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done under it.

#### Annotations

#### Editorial Notes:

**E3** Power pursuant to section exercised (1.03.2018) by *Inland Fisheries Ireland Superannuation Scheme 2018* (S.I. No. 112 of 2018), in effect as per art. 1(2).

Staff schemes.

**33.**— (1) As soon as may be after the establishment day, IFI shall, subject to *section 49* and following consultation with any recognised trade union or staff association concerned, prepare and submit to the Minister a staff scheme or schemes providing for the regulation, control and management of the staff of IFI.

(2) Such a scheme shall indicate in respect of the different grades of staff (either generally or severally, as may be appropriate) the remuneration, tenure of office, qualifications for appointment and conditions of service.

(3) A scheme submitted to the Minister under this section shall, if approved by the Minister with the concurrence of the Minister for Finance, be implemented by IFI in accordance with its terms.

(4) IFI may, after consultation with any recognised trade union or staff association concerned, at any time, with the approval of the Minister given with the concurrence of the Minister for Finance, amend a scheme under this section.

Consultants and advisers.

**34.**— (1) IFI may from time to time engage such consultants or advisers as it considers necessary for the performance of its functions, and any fees due to a

consultant or adviser engaged under this section shall be paid by IFI out of monies at its disposal.

(2) IFI and the chief executive shall have regard to, but shall not be bound by, the advice of any consultant or adviser under this section.

Standards of integrity.

**35.—** (1) In performing functions under this or any other enactment as—

- (a) a member of IFI or a committee of IFI,
- (b) the chief executive or any other employee of IFI,
- (c) a person engaged by IFI as a consultant or adviser, or
- (d) an employee of a person referred to in *paragraph (c)*,

a person shall maintain proper standards of integrity, conduct and concern for the public interest.

(2) *Subsection (1)* applies to an employee of a person referred to in *subsection (1)(c)* in respect only of duties of employment relating to the purposes for which IFI has engaged that person.

(3) For the purposes of *subsection (1)*, IFI shall issue codes of conduct for the guidance of persons who are—

- (a) members of a committee of IFI but are not members of IFI,
- (b) employees of IFI other than employees to whom a code of conduct under section 10(3) of the Standards in Public Office Act 2001 applies,
- (c) engaged by IFI as consultants or advisers, or
- (d) employees of persons referred to in *paragraph (c)*.

(4) A code of conduct issued under this section for the guidance of persons referred to in *subsection (3)* must indicate the standards of integrity and conduct to be maintained by them in performing their functions under this or any other enactment.

(5) A person to whom a code of conduct relates is required to have regard to and be guided by the code in performing their functions under this or any other enactment.

(6) The terms and conditions on which a person is employed by IFI or by a person referred to in *subsection (1)(c)* or on which a person is engaged by IFI as a consultant or adviser, as the case may be, are deemed to include any requirements that apply to that person under *subsection (5)*.

(7) Subject to *subsection (8)*, IFI shall as soon as practicable after issuing a code of conduct make the code available to the persons for whose guidance it was issued.

(8) A code of conduct for the guidance of employees of a person engaged by IFI as a consultant or adviser shall be issued by IFI to the employer and be made available by the employer to those employees.

(9) A document purporting to be a code of conduct issued under this section is, in the absence of evidence to the contrary, to be taken to be such code and is admissible in any proceedings before a court or other tribunal.

(10) Any provision of such code that appears to the court or other tribunal to be relevant to a question in the proceedings may be taken into account by it in determining the question.

Unauthorised disclosure of confidential information.

**36.—** (1) Except in the circumstances specified in *subsection (2)*, a person shall not disclose confidential information obtained while performing functions as—

- (a) a member of IFI or a committee of IFI,
- (b) the chief executive or any other employee of IFI,
- (c) a person engaged by IFI as a consultant or adviser, or
- (d) an employee of a person referred to in *subsection (c)*.

(2) A person does not contravene *subsection (1)* by disclosing confidential information if—

- (a) IFI authorises its disclosure,
- (b) the disclosure is made to IFI,
- (c) the disclosure is made to the Minister by or on behalf of IFI or in compliance with a requirement of this Act, or
- (d) the disclosure is otherwise required by law.

(3) In this section “confidential information” means—

- (a) information that is expressed by IFI to be confidential either as regards particular information or as regards information of a particular class or description, and
- (b) proposals of a commercial nature or tenders submitted by any person.

(4) Where a person to whom this section applies fails to comply with a requirement of this section, IFI shall decide the appropriate action (including removal from office or termination of contract) to be taken.

(5) Nothing in *subsection (1)* shall prevent the disclosure of information—

- (a) in a report made to IFI or by or on behalf of IFI to the Minister, or
- (b) by a member of IFI to the Minister.

#### Annotations

#### Modifications (not altering text):

- C3** Person holding record under section excluded from requirement to refuse an FOI request (14.10.2014) by *Freedom of Information Act 2014* (30/2014), s. 41(1)(a) and sch. 3 part 1, commenced as per s. 1(2). This section is listed in sch. 3 part 1.

#### Enactments relating to non-disclosure of records

...

**41.—** (1) A head shall refuse to grant an FOI request if—

- (a) the disclosure of the record concerned is prohibited by law of the European Union or any enactment (other than a provision specified in column (3) of Part 1 or 2 of Schedule 3 of an enactment specified in that Schedule), or

...

#### SCHEDULE 3

#### ENACTMENTS EXCLUDED FROM APPLICATION OF SECTION 41

Part 1

Statutes

| Number and Year | Short Title               | Provision   |
|-----------------|---------------------------|-------------|
| (1)             | (2)                       | (3)         |
| ...             | ...                       | ...         |
| No. 10 of 2010  | Inland Fisheries Act 2010 | Section 36. |
| ...             | ...                       | ...         |
| ...             | ...                       | ...         |

Protection from civil liability of persons who report certain misconduct.

**37.—** (1) Where a person communicates his or her opinion, whether in writing or otherwise, to a member of the Garda Síochána or a member of IFI that—

- (a) an offence under this Act or any other enactment has been or is being committed,
- (b) any provision of this Act or any other enactment or rule of law has been or is being contravened, or
- (c) there has been other serious wrongdoing in relation to IFI,

then, unless the person acts in bad faith, he or she shall not be regarded as having committed any breach of duty towards any other person, and no person shall have a cause of action against the first-mentioned person in respect of that communication.

(2) Where a person communicates his or her opinion, whether in writing or otherwise, to the Minister that a direction given by the Minister under this Act has been or is being contravened then, unless the person acts in bad faith, he or she shall not be regarded as having committed any breach of duty towards any other person, and no person shall have a cause of action against the first-mentioned person in respect of that communication.

(3) This section applies to a communication—

- (a) that would, but for this section, constitute a breach of duty by the person who made it, or
- (b) in respect of which, another person would, but for this section, have a cause of action against the person who made it.

**F2**[(4) This section does not apply to a communication that is a protected disclosure within the meaning of the Protected Disclosures Act 2014.]

#### Annotations

#### Amendments:

**F2** Inserted (15.07.2014) by *Protected Disclosures Act 2014 (14/2014)*, s. 24(1) and sch. 4 part 1 item 12, S.I. No. 327 of 2014.

Prohibition on penalisation.

**38.—** (1) IFI shall not penalise or threaten penalisation against an employee for—

- (a) making a complaint to a member of the Garda Síochána or a member of IFI that a provision of this Act, or any enactment or other rule of law, has been or is being contravened,
- (b) making a complaint to the Minister that a direction given by him or her under this Act has been or is being contravened,



- (c) making a complaint to a member of IFI that there has been serious wrongdoing in relation to IFI,
- (d) giving evidence in any proceedings under this Act or any other enactment, or
- (e) giving notice of his or her intention to do any of the things referred to in the preceding paragraphs.

F3[(1A) *Subsection (1) does not apply to the making of a complaint that is a protected disclosure within the meaning of the Protected Disclosures Act 2014.*]

(2) *Schedule 4* shall have effect for the purposes of *subsection (1)*.

(3) If the penalisation of an employee, in contravention of *subsection (1)*, constitutes a dismissal of the employee (within the meaning of the Unfair Dismissals Acts 1977 to 2007), relief may not be granted to the employee in respect of that penalisation both under *Schedule 4* of this Act and under the Unfair Dismissals Acts 1977 to 2007.

(4) In this section—

“employee” means a member of staff of IFI;

“penalisation” means any act or omission by IFI or a person acting on behalf of IFI that affects an employee to his or her detriment with respect to any term or condition of his or her employment, and, without prejudice to the generality of the foregoing, includes—

- (a) suspension, lay-off or dismissal (including a dismissal within the meaning of the Unfair Dismissals Acts 1977 to 2007), or the threat of suspension, lay-off or dismissal,
- (b) demotion or loss of opportunity for promotion,
- (c) transfer of duties, change of location of place of work, reduction in wages or change in working hours,
- (d) imposition or administration of any discipline, reprimand or other penalty (including a financial penalty), and
- (e) coercion or intimidation.

#### Annotations

#### Amendments:

- F3** Inserted (15.07.2014) by *Protected Disclosures Act 2014* (14/2014), s. 24 and sch. 4 part 1 item 12, S.I. No. 327 of 2014.

#### Editorial Notes:

- E4** Redress and appeals procedures for purposes of subs. (1) provided (1.10.2015) by *Workplace Relations Act 2015* (16/2015), ss. 41, 44 and sch. 5 part 1 item 22, sch. 6 part 1 item 28, sch. 6 part 2 item 28, S.I. No. 410 of 2015.
- E5** Section included in definitions of “employment enactment” and “relevant enactment” (1.08.2015) by *Workplace Relations Act 2015* (16/2015), s. 2 and sch. 1 part 2 item 13, S.I. No. 338 of 2015, with the following effects:
- Authorised officers or inspectors under employment enactments deemed to be appointed under *Workplace Relations Act 2015* (16/2015), s. 26(2) and subject to termination under s. 26(4).
  - Powers of inspectors for purposes of relevant enactments defined in *Workplace Relations Act 2015* (16/2015), s. 27.

- Workplace Relations Commission, an inspector or an adjudication officer authorised to disclose employer's registered number or employee's PPSN to enable Labour Court to perform functions under relevant enactments by *Workplace Relations Act 2015* (16/2015) s. 31(5).
- Power of Workplace Relations Commission and official body to disclose information to each other concerning the commission of offence under relevant enactment provided by *Workplace Relations Act 2015* (16/2015), s. 32.
- Power of Workplace Relations Commission and contracting authority to disclose information to each other concerning the commission of offence under employment enactment/ relevant enactment provided by *Workplace Relations Act 2015* (16/2015), s. 33.
- Powers of Minister to prosecute under relevant enactments transferred to Workplace Relations Commission and references construed by *Workplace Relations Act 2015* (16/2015), s. 37.
- Functions of EAT to hear claims under employment enactments transferred to Workplace Relations Commission and references to EAT construed by *Workplace Relations Act 2015* (16/2015) s. 66(1), (2), not commenced as of date of revision.

False Statements. **39.—** (1) A person who states to a member of the Garda Síochána or a member of IFI that—

- (a) an offence under this Act or any other enactment has been or is being committed,
- (b) a provision of this Act, a provision of any other enactment or any rule of law has been or is being contravened, or
- (c) there has been serious wrongdoing by any person in relation to IFI,

knowing the statement to be false commits an offence.

F4[(1A) This section does not apply to the making of a statement that is a protected disclosure within the meaning of the Protected Disclosures Act 2014.]

(2) A person convicted of an offence under this section is liable—

- (a) on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 3 months or both, or
- (b) on conviction on indictment, to a fine not exceeding €100,000 or imprisonment for a term not exceeding 3 years or both.

#### Annotations

#### Amendments:

- F4** Inserted (15.07.2014) by *Protected Disclosures Act 2014* (14/2014), s. 24 and sch. 4 part 1 item 12, S.I. No. 327 of 2014.

Exclusion resulting from membership of either House of the Oireachtas, European Parliament or local authorities.

**40.—** (1) Where a member of IFI, a member of a committee of IFI or the chief executive—

- (a) is nominated as a candidate for election to either House of the Oireachtas or the European Parliament,
- (b) is elected as a member of either House of the Oireachtas or the European Parliament,
- (c) is nominated as a member of Seanad Éireann, or
- (d) is regarded under Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to that Parliament to fill a vacancy,

he or she thereupon ceases to hold office.

(2) Where a person who is an employee of IFI (other than the Chief Executive) is—

- (a) nominated as a candidate for election to either House of the Oireachtas or the European Parliament,
- (b) elected as a member of either House of the Oireachtas or the European Parliament,
- (c) nominated as a member of Seanad Éireann, or
- (d) regarded under Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to that Parliament to fill a vacancy,

he or she thereupon stands seconded from employment by IFI and shall not be paid by, or be entitled to receive from, IFI any remuneration or allowances in respect of the period commencing on such nomination or election, or when he or she is so regarded as having been elected, as the case may be, and ending when such person is regarded as not having been elected or ceases to be a member of either such House or that Parliament, as the case may be.

(3) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament shall, while so entitled or such a member, be disqualified from becoming a member of IFI, the chief executive or an employee of IFI.

(4) A person who is a member of a local authority shall be disqualified from becoming the chief executive while he or she is a member of such local authority.

(5) Without prejudice to the generality of *subsection (2)*, that subsection shall be read as prohibiting, *inter alia*, the reckoning of a period mentioned in that subsection as service with IFI for the purposes of any superannuation benefits.

IFI to prepare and submit corporate plan for Minister's approval.

**41.**— (1) IFI shall, in accordance with this section, prepare, adopt and, at the times specified in *subsection (2)*, submit to the Minister for approval a 5 year rolling corporate plan for the 5 year period following the date of its submission.

(2) A corporate plan must be submitted at the following times—

- (a) within 6 months after the establishment day,
- (b) within 6 months after the appointment of a person as a Minister of the Government having charge of the Department of Communications, Energy and Natural Resources, if that person requests that a corporate plan be submitted, or
- (c) at the end of the 5 year period since the last corporate plan was submitted.

(3) The corporate plan must be prepared, having regard to the functions of IFI, and in a form and manner in accordance with any directions issued by the Minister and must specify—

- (a) the key objectives of IFI for the 5 year period concerned and the strategies for achieving those objectives,
- (b) the manner in which IFI proposes to measure its achievement of those objectives, and
- (c) the uses for which IFI proposes to apply its resources.

(4) In preparing the corporate plan, IFI shall have regard to the policies of the Government or a Minister of the Government to the extent that those policies may affect or relate to the functions of IFI.

(5) Within 3 months after receiving a corporate plan, the Minister shall—

(a) approve the plan, or

(b) if the plan is not amended in accordance with any directions that may be issued by the Minister to IFI, refuse to approve the plan.

(6) An approved corporate plan may be amended by the Minister at any time or may be amended by IFI, but in the latter case only after—

(a) IFI submits the proposed amendment to the Minister for approval, and

(b) the amendment is approved by the Minister.

(7) *Subsections (5) and (6)* apply with the necessary modifications in respect of an amendment by IFI to an approved corporate plan.

(8) Nothing in a corporate plan is to be taken to prevent IFI from, or to limit IFI in, performing its functions.

Publication and implementation of approved corporate plan.

**42.—** (1) The Minister shall ensure that a copy of an approved corporate plan is laid before both Houses of the Oireachtas—

(a) within 21 days after the plan is approved by the Minister, and

(b) if the plan is amended under *section 41 (6)* after being approved by the Minister, within 21 days after—

(i) in the case of an amendment made by the Minister, the making of the amendment, or

(ii) in the case of an amendment made by IFI, the amendment is approved by the Minister.

(2) IFI shall ensure that, as soon as practicable after copies of an approved corporate plan are laid before the Houses of the Oireachtas, the plan is published on the website (if any) on the internet maintained by IFI or in accordance with such other arrangements as the Minister may specify.

(3) IFI shall provide the Minister with progress reports on the implementation of an approved corporate plan—

(a) in its annual report, and

(b) in such other manner and at such intervals as the Minister may direct.

Borrowings.

**43.—** IFI may, for the purposes of the performance of its functions, borrow money but shall not do so without the consent of the Minister given with the consent of the Minister for Finance.

#### Annotations

#### Modifications (not altering text):

**C4** Functions transferred and references to “Department of Finance” and “Minister for Finance” construed (6.07.2011) by *Ministers and Secretaries (Amendment) Act 2011* (10/2011), ss. 9(2), 11, 15(1) and sch. 2 part 1, commenced as per s. 1(2).

**Department of Public Expenditure and Reform.**

7.—(1) There shall stand established on the appointed day a Department of State to be known, in the Irish language, as an Roinn Caiteachais Phoiblí agus Athchóirithe or, in the English language, as the Department of Public Expenditure and Reform.

(2) The member of the Government who is in charge of the Department of Public Expenditure and Reform—

(a) shall be known, in the Irish language, as an tAire Caiteachais Phoiblí agus Athchóirithe or, in the English language, as the Minister for Public Expenditure and Reform, and

(b) is, in this Act, referred to as the “Minister”.

...

**Transfer of certain other functions to Minister.**

9.— ...

(2) The functions conferred on the Minister for Finance by or under any of the provisions specified in *Part 1 of Schedule 2* are transferred to the Minister.

...

**Transfer of administration and business of Department of Finance.**

11.— (1) The administration and business in connection with the performance of the functions transferred by *sections 8 and 9* are hereby transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any statute or instrument under a statute in so far as they relate to the administration and business transferred by *subsection (1)* shall, from the appointed day, be construed as references to the Department of Public Expenditure and Reform.

**Construction of references.**

15.— (1) References to the Minister for Finance contained in any statute or instrument under a statute in so far as they relate to any function transferred by this Act shall, from the appointed day, be construed as references to the Minister.

...

SCHEDULE 2

FUNCTIONS TRANSFERRED TO MINISTER

*Sections 9 and 20*

PART 1

FUNCTIONS PERFORMABLE WITH CONSENT OF MINISTER FOR FINANCE

STATUTES

| Number and Year<br>(1) | Short Title<br>(2)        | Provision<br>(3) |
|------------------------|---------------------------|------------------|
| ...                    | ...                       | ...              |
| No. 10 of 2010         | Inland Fisheries Act 2010 | Section 43       |

...

Estimates.

44.— (1) IFI shall submit estimates of its income and expenditure to the Minister in such form, in respect of such periods and at such times as may be required by the Minister and shall furnish to the Minister such other information in relation to the estimates as the Minister may require.

(2) Where the Minister receives an estimate prepared for the purpose of this section, the Minister may confirm the estimate, with or without modification, or refuse to confirm the estimate.

(3) Where the Minister refuses to confirm an estimate, the Minister may require IFI to prepare and submit for the purposes of this section a fresh estimate of its expenditure and receipts for the year or other period to which the unconfirmed estimate relates.

(4) IFI shall, as soon as may be, comply with a requirement under *subsection (3)*. *Subsection (1)* applies to estimates prepared in accordance with a requirement under *subsection (3)* as it applies to estimates prepared under that subsection.

(5) IFI shall not, without the consent of the Minister, incur any expenditure other than expenditure included in an estimate as confirmed under this section by the Minister.

Grants to IFI. **45.**— The Minister may in each year, having regard to the corporate plan of IFI and national policy priorities, and after consultation with IFI about its proposed activities and expenditure for that year, make grants of such amounts to IFI as may be sanctioned by the Minister for Finance, out of monies provided by the Oireachtas, towards the expenditure incurred by it in the performance of its functions.

Accounts of IFI. **46.**— (1) IFI shall cause to be kept on a continuous basis proper books of accounts of—

- (a) all income and expenditure of IFI,
- (b) all sources of such income and the subject matter of such expenditure, and
- (c) the property, assets and liabilities of IFI.

(2) IFI shall, in respect of each financial year, prepare annual financial statements (including accounts of income and expenditure and a balance sheet) in such form as the Minister may direct.

(3) IFI shall adopt the annual financial statements prepared in accordance with *subsection (2)* as soon as practicable but not later than 3 months after the end of the financial year to which they relate.

(4) The financial year of IFI shall be the period of 12 months ending on 31 December in any year and for the purposes of this section and *sections 45* and *47*, the period commencing on the establishment day and ending on 31 December in that year shall be deemed to be a financial year.

(5) On adopting the financial statements, IFI shall submit a copy of them to—

- (a) the Comptroller and Auditor General for audit, and
- (b) the Minister,

at the same time.

(6) On completing the audit, the Comptroller and Auditor General shall send to IFI a copy of the annual financial statements with the report on the audit.

(7) IFI shall immediately transmit a copy of the audited annual financial statements together with the Comptroller and Auditor General's report to the Minister who shall ensure that a copy is laid before the Houses of the Oireachtas as soon as practicable.

(8) IFI and the officers of IFI shall, whenever so required by the Minister, permit any person appointed by the Minister to examine the books and accounts of IFI in respect of any year or other period and shall facilitate such examination.

(9) IFI shall pay such fees in respect of an examination under *subsection (8)* as may be fixed by the Minister.

Annual report of IFI.

**47.—** (1) IFI shall, as soon as may be but not later than 4 months after the end of each year, prepare and submit to the Minister a written report (“annual report”) of its activities during the year.

(2) The Minister shall, as soon as may be but not later than 6 months after the end of the year to which it relates, cause a copy of a report under *subsection (1)* to be laid before each House of the Oireachtas.

(3) A report under this section shall include information in such form and about such matters (including the financial accounts of IFI) as the Minister may direct.

(4) IFI shall, whenever so requested by the Minister, furnish to the Minister information in relation to such matters as the Minister may specify concerning or relating to its activities, or in respect of any account kept by IFI under *section 46* or any report under *subsection (1)*.

## CHAPTER 2

### *Transitional Arrangements*

Dissolution of Central Board and regional boards.

**48.—** (1) On the establishment day the Central Board and each of the regional boards are dissolved.

(2) Notwithstanding any of the conditions of their appointment, the term of office of a member of the Central Board or a regional board terminates on the establishment day.

Transfer of employees of Central Board and regional boards to IFI.

**49.—** (1) Each person who, immediately before the establishment day, was an employee of the Central Board or a regional board is, on that day, transferred to and becomes an employee of IFI.

(2) Except in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a person transferred under this section will be subject to terms and conditions of employment no less favourable than those to which the person was subject immediately before the establishment day while in the employment of the Central Fisheries Board or a regional fisheries board.

(3) The previous service of a person transferred under this section is to be counted as service for the purposes of, but subject to any exceptions or exclusions in, the following Acts—

(a) the Redundancy Payments Acts 1967 to 2007,

(b) the Minimum Notice and Terms of Employment Acts 1973 to 2005,

(c) the Unfair Dismissals Acts 1977 to 2007,

(d) the Terms of Employment (Information) Acts 1994 and 2001,

(e) the Maternity Protection Acts 1994 and 2004,

(f) the Adoptive Leave Acts 1995 and 2005,

(g) the Organisation of Working Time Act 1997,

(h) the Parental Leave Acts 1998 and 2006,

(i) the Protection of Employees (Part-Time Work) Act 2001,

(j) the Carer's Leave Act 2001, and

(k) the Protection of Employees (Fixed-Term Work) Act 2003.

(4) (a) IFI may, subject to *subsection (2)* and following consultation with any recognised trade union or staff association concerned—

(i) redistribute or rearrange the duties performed by members of the staff of IFI who are employed in a particular grade or class of employment and every such member or person shall be bound to perform the duties allotted to him or her in any distribution or rearrangement, and

(ii) require any member of the staff of IFI to transfer, in such manner as is specified by IFI, to a regional operation of IFI so specified, and every such member or person shall be bound to transfer in accordance with the requirement.

(b) A redistribution or rearrangement referred to in *paragraph (a)* shall not be taken to be a removal from or abolition of office for the purposes of any scheme or enactment relating to superannuation or compensation for loss of office.

(5) In this section—

“consultation” has the meaning assigned to it by section 1 of the Employees (Provision of Information and Consultation) Act 2006;

“previous service” means service before the applicable transfer day with or recognised for pensionable purposes by the Central Board or any regional board;

“terms and conditions of employment” includes terms and conditions in respect of tenure of office, remuneration and related matters.

Transfer of pension liabilities relating to former employees of Central Board and regional boards.

**50.**— The pension payments and other superannuation liabilities of the Central Board and each of the regional boards in respect of their former employees become on the establishment day the liabilities of IFI.

Transfer of property, assets and liabilities to IFI.

**51.**— (1) On the establishment day all land which, immediately before that day, was vested in the Central Board or a regional board and all easements, rights, powers and privileges relating to or connected with such land are, without any conveyance or assignment, transferred to and vested in IFI.

(2) On the establishment day, all equipment and property other than land including choses-in-action and non-tangible assets (such as fishing rights, leases, licences and rights of way) which immediately before that day was the property of the Central Board or a regional board is transferred to and vested in IFI without any assignment.

(3) All rights and liabilities of the Central Board or a regional board arising by virtue of any contract or commitment (express or implied) entered into by that body before the establishment day are on that day transferred to IFI.

(4) Each right and liability transferred under *subsection (3)* may on or after its transfer be sued on, recovered or enforced by or against IFI in its own name and it shall not be necessary for IFI to give notice of the transfer to the person whose right or liability is transferred.



Preservation of contracts, etc. and adaptation of references.

**52.**— Every contract, agreement or arrangement made between the Central Board or a regional board and any other person and in force immediately before the establishment day—

- (a) continues in force on and after that day,
- (b) is to be read and have effect as if the name of IFI were substituted in the contract, agreement or arrangement for that of the Central Board or regional board concerned, and
- (c) is enforceable by and against IFI.

Pending legal proceedings.

**53.**— (1) If, immediately before the establishment day, any legal proceedings to which the Central Board or any regional board is a party are pending in any court or tribunal, Inland Fisheries Ireland shall be substituted in the proceedings for the name of the board concerned and the proceedings shall not abate because of the substitution.

(2) *Subsection (1)* applies with the necessary modifications in relation to any legal proceedings to which, immediately before the establishment day, any of the following officers is, in his or her official capacity, a party—

- (a) the chief executive officer of the Central Board, or
- (b) the chief executive officer of any regional board.

(3) Any reference to the Central Board or any regional board in an order made by a court before the establishment day shall, on the establishment day, be construed as a reference to IFI.

Preservation of notices, records, etc.

**54.**— (1) Any resolution passed or notice served by the Central Board or any regional board before the establishment day, the operation, effect or term of which has not ceased or expired immediately before that day, continues in force on and after that day, and has effect as if it were a resolution passed or a notice served by IFI.

(2) Any licence or permit issued by the Central Board or any regional board that was in force immediately before the establishment day continues in force on and after that day, and has effect as if it were a licence or permit issued by IFI.

(3) Each record held by the Central Board or any regional board immediately before the establishment day is on that day transferred to IFI and is, on and from that day, deemed to be held by IFI.

Final accounts of Central Board and regional boards.

**55.**— (1) IFI shall prepare, in accordance with the accounting standards specified by the Minister for the purposes of *section 46(2)* and in respect of the period specified under *subsection (3)*, final accounts of the Central Board and each of the regional boards dissolved under *section 48*.

(2) IFI shall submit the final accounts prepared in accordance with *subsection (1)* to the Comptroller and Auditor General for audit not later than 3 months after the establishment day.

(3) For the purpose of *subsection (1)*, the Minister may specify a period that is longer or shorter than a financial year of the body concerned.

(4) *Section 46(7)* and *(8)* applies with the necessary modifications in relation to the final accounts prepared under this section.

IFI to prepare final annual report for Central Board and regional boards.

**56.—** (1) IFI shall prepare a final annual report in respect of the Central Board and the regional boards dissolved under *section 48* and submit the report to the Minister not later than 6 months after the establishment day.

(2) *Section 47(2)* applies with the necessary modifications in relation to an annual report prepared under this section.

## PART 3

### INLAND FISHERIES ADMINISTRATION

#### CHAPTER 1

##### *Fisheries Bye-laws*

Fisheries bye-laws.

**57.—** (1) In addition to the power of making bye-laws conferred on him or her by any other section of the Inland Fisheries Acts, the Minister may, at the request of IFI or on his or her own initiative, make such bye-laws as are in his or her opinion expedient for the more effectual government, management, protection and improvement of the fisheries of the State or any part of the State or in any fishery district in relation to all or any of the following matters—

- (a) the regulation of the fisheries of the State or that fishery district and the preservation of good order amongst the persons engaged in them,
- (b) the times and seasons at which the taking of the several species of fish shall commence and cease, including bye-laws varying the weekly close time in relation to any river or the weekly close time in relation to any fishing weir which is the subject of an order under *section 107(2)* of the Principal Act (being bye-laws which do not reduce the weekly close time to less than 48 hours),
- (c) the times and places or the manner at and in which any fishing engine to be employed in those fisheries or that fishery district may be used,
- (d) the description and form of nets to be used in those fisheries or that fishery district and the size of their meshes,
- (e) the prohibition of the use of nets,
- (f) the prohibition of the use at any time of any fishing engine which is in the opinion of the Minister injurious to those fisheries or that fishery district,
- (g) the prohibition of any practice whatsoever tending in the opinion of the Minister to impede the lawful capture of fish or to be in any manner detrimental to those fisheries or that fishery district,
- (h) the imposition of prohibitions or restrictions of an emergency character on the taking by any specified engine or engines of the several species of fish or of any of those species for a specified period not exceeding one year in duration where, in the opinion of the Minister, such prohibitions or restrictions are necessary, and
- (i) any other matter or thing relating in any manner to the government and protection of those fisheries or that fishery district.

(2) A person who contravenes or fails to comply with a bye-law made under this section (other than a bye-law referred to in *subsection (4)*) commits an offence and is liable on summary conviction to a fine not exceeding €1,000.

(3) Any fish illegally taken by a person or in his or her possession at the time of an offence referred to in *subsection (2)* and also any fishing engine or thing by means or in respect of which the offence is committed, as a statutory consequence of conviction, stands forfeited.

(4) A person who contravenes a bye-law made under this section which—

- (a) prohibits the use, or attempt to use either generally or in a manner specified in the bye-law in fishing for salmon or trout, any drift net, or 2 or more drift nets joined together, or any drift net, or 2 or more drift nets so joined, which is of a specified class or description,
- (b) prohibits the having on board any boat, either generally or in an area which is specified in the bye-law, any such drift net or nets,
- (c) prohibits the use, or attempt to use, in fishing for salmon or trout, any net made wholly or partly from monofilament or multistrand monofilament, or
- (d) prohibits the having on board any boat, or the possession for the capture of fish on any quay, on or near any bank of a river or estuary, or on or near any sea coast or at sea, any net mounted or otherwise prepared for use in fishing and made wholly or partly of monofilament or multistrand monofilament, or of monofilament or multistrand monofilament with a mesh greater than a size specified in the bye-law,

commits an offence and is liable—

- (i) on summary conviction to a fine not exceeding €2,000, or
- (ii) on conviction on indictment to a fine not exceeding €10,000,

and fish illegally taken by him or her or in his or her possession at the time of the offence and also any fishing engine or thing by means or in respect of which the offence is committed, as a statutory consequence of conviction, stands forfeited.

(5) A bye-law made under this section—

- (a) comes into operation on the day specified in it or, if no such day is specified, on the 28th day after the day on which it is made, and
- (b) shall be published as soon as may be after its making—
  - (i) in the *Iris Oifigiúil*, and a notice advising of the making of the bye-law and its contents shall be published in one or more newspapers circulating in the district affected by the bye-law, and
  - (ii) on the website (if any) on the internet maintained by IFI.

(6) A copy of the bye-law shall, within one month after it comes into operation, be forwarded, in such manner as the Minister decides, to—

- (a) the county registrar for every county which or part of which is affected by the bye-law,
- (b) the District Court Clerk of every Court District which or part of which is affected by the bye-law, and
- (c) every station of the Garda Síochána within the area affected.

(7) (a) Any person aggrieved by a bye-law under this section may, within 28 days after its publication in the *Iris Oifigiúil*, appeal to the High Court against the making of the bye-law. Any appeal does not effect the operation of the bye-law pending the outcome of the appeal.

- (b) The judge hearing the appeal may confirm or annul the bye-law but if the bye-law is annulled, the annulment shall be without prejudice to the validity of anything done under or in pursuance of the bye-law before its annulment.
- (c) The decision of the High Court on the appeal shall be final and conclusive.
- (d) An order made by the High Court on an appeal under *paragraph (a)* shall be published and deposited in the manner prescribed by *subsections (5) and (6)*.
- (8) Notwithstanding anything contained in the Principal Act, the Minister may, if he or she thinks fit—
- (a) make a bye-law, without previously having held an inquiry into the feasibility of making the bye-law, under any provision of the Principal Act empowering him or her to make a bye-law, and
- (b) make a bye-law, without an application having been made to the Minister to have an inquiry held into the feasibility of making the bye-law—
- (i) altering the period which is in any locality the annual close season for salmon and trout, the annual close season for angling for salmon, the annual close season for angling for trout, the annual close season for pollen, the annual close season for eels, or the close season for oysters, or
- (ii) under section 272 of the Principal Act.
- (9) Any bye-law made under section 9 (repealed by *section 4*) of the Principal Act which is in force immediately before the establishment day continues in force as if made under this section.

**Annotations:****Editorial Notes:**

- E6** *Bass Fishing Conservation Bye-Law No. 826 of 2007* (S.I. No. 368 of 2007) continued in force under subs. (9).

## CHAPTER 2

*Fishery Year*

Fishery year.

**58.**— (1) The Minister may by order specify that any reference to a fishery year in the Principal Act shall on and after such 31 December as may be specified in the order be construed and have effect as a reference to a period which is co-extensive with the calendar year.

(2) The Minister may as regards any provision contained in the Principal Act which relates to the determining, making, levying, collection or recovery of fishery rates and which is directly or indirectly related to or affected by the order described in *subsection (1)* adapt, modify or otherwise amend the provision in such manner as he or she considers appropriate having regard to the provision.

(3) Where an order under this section is for the time being in force, the Principal Act shall be construed and have effect subject to and in accordance with the provisions of the order.

## CHAPTER 3

## Fishery Improvement

Powers of IFI in relation to improvement of fisheries.

**59.—** (1) Subject to this section, for the purpose of improving any fishery (whether or not the fishery is the property of IFI) IFI may do all or any of the following, namely—

- (a) take fish from a fishery by any means whatsoever,
- (b) implement any other measure intended to alter or regulate the stock in a fishery of fish of one or more particular species,
- (c) keep under surveillance and from time to time ascertain by any means the quality of water in a fishery,
- (d) alter, repair, remove or demolish any fence, hedge, tree or wall,
- (e) dig, break or otherwise temporarily close, cross, extend, divert or otherwise interfere with or alter any navigable waterway, river, stream or other watercourse, bridge, tunnel, culvert, pipe, drain or other thing, and
- (f) notwithstanding section 327 of the Principal Act, take materials from any river, stream or other watercourse,

provided that IFI shall only exercise a power under *paragraphs (e) or (f)* after consultation with the Commissioners and provided also that in relation to a fence, hedge, tree or wall which is adjacent to a public road or any property of a public authority, IFI shall only exercise a power under this subsection with the consent of the authority concerned, and in case there is a dispute as to whether a particular fence, hedge, tree or wall is adjacent to a public road or any such property, the matter shall be referred by IFI to the Minister to determine, whose decision, after consultation with the Minister for the Environment, Heritage and Local Government or such other Minister of the Government as he or she considers appropriate, shall be final.

(2) (a) Subject to *paragraph (b)*, IFI shall not, in relation to a several fishery or other thing exercise a power under *subsection (1)* without the consent of its owner, and for the avoidance of doubt it is declared that in case the owner of the several fishery or other thing is a Minister of the Government, the Commissioners or a public authority, that Minister, the Commissioners or the public authority in giving such consent may attach to it such reasonable conditions as he or she or they think fit, and in addition to the foregoing, IFI shall not enter on or take possession of any fishery or land without giving the occupier of it one month's previous notice in writing of its intention to do so.

(b) Where, on an application made to him or her by IFI, the Minister is satisfied that the owner of a several fishery or other thing cannot by diligent inquiry be found or ascertained, he or she may issue an authorisation under this section as regards the several fishery or other thing and for so long as an authorisation under this section is in force *paragraph (a)* shall not apply as regards the several fishery or other thing to which the authorisation relates.

(c) The Minister may at any time withdraw an authorisation under this section either on his or her own motion or on the application of any other person.

(3) Subject to *section 65*, IFI, or its servants or agents or any contractor employed by IFI or any person employed by such contractor may, with or without vehicles, machinery or other apparatus (including boats or other vessels) or equipment, for the purposes of—

- (a) gaining access to the site of fishery improvement works which are completed or which are in the course of being carried out or are to be carried out by IFI, or
- (b) gaining access to a fishery (whether or not the fishery is the property of IFI) in order to inspect or maintain it,

enter on land at any reasonable time.

(4) (a) Subject to *subsections (1)(b) and (c)* and to *section 65*, IFI may for any purpose mentioned in *subsection (3)* construct on or over any land a bridge, road or pathway of any description, and when constructed by IFI, use and maintain such bridge, road or pathway.

(b) Before exercising a power to construct under this subsection, IFI shall obtain the consent of the local authority within whose functional area the proposed bridge, road or pathway, or any part thereof, is proposed to be situate.

(c) Where IFI proposes to construct under this subsection a bridge, road or pathway on any land which is in the possession or occupation of the Minister, any other Minister of the Government, the Commissioners or a public authority, before exercising any of its powers in relation to the provision of the bridge, road or pathway, IFI shall first obtain the consent of—

(i) in case the land is in the possession or occupation of a Minister of the Government, that Minister,

(ii) in case the land is in the occupation or possession of the Commissioners, the Office of Public Works, or

(iii) in case the land is in the occupation or possession of a public authority, that authority,

and the requirements of this paragraph are in addition to and not in substitution for the requirements of *paragraph (b)* of this subsection.

(5) A person entering on land under this section may do on it all things ancillary to or reasonably necessary for the purpose for which the entry is made.

(6) A person authorised under *section 20(12)* to exercise a power mentioned in *subsection (1)* shall be furnished by IFI with a certificate of such authorisation and when doing anything under the authorisation shall, if requested by the person affected, produce the certificate to that person.

(7) (a) Nothing in this section shall be construed as conferring on any person a power to enter a dwelling, nor except where there is through the garden or curtilage of a dwelling an ordinary road or passage to a fishery, shall it be construed as conferring on any person a power to enter such a garden or curtilage.

(b) Nothing in this section shall be construed as modifying or otherwise affecting the application of any requirement under the Planning and Development Acts 2000 to 2006.

#### CHAPTER 4

##### *Acquisition and Transfer of Fisheries, etc.*

Acquisition of fisheries, etc.

**60.—** (1) Where on an application made to him or her by IFI the Minister is satisfied that—

(a) for the purpose of enabling a corporate plan prepared by IFI to be carried out, it is necessary that a particular fishery be acquired under this section, or

(b) it is, for the purposes of managing, operating, protecting, conserving or developing any fishery in accordance with such a plan, expedient that the fishery should be acquired under this section,

the Minister may, with the consent of the Minister for Finance and in accordance with such guidelines and procedures, if any, as the Minister, with the approval of the Minister for Finance, specifies, authorise such acquisition by IFI.

(2) (a) A fishery to which an authorisation under *subsection (1)* relates may be acquired by IFI by agreement or, in default of agreement, by means of an order under this section made by the Minister.

(b) *Paragraph (a)* shall be construed as enabling IFI to acquire, by agreement or by an order under this section, either or both of the following—

(i) the bed and soil of waters when they form part of a fishery,

(ii) any estate or interest in land, or any way-leave, right of access or other easement or other right over, in or under land which in the opinion of IFI is required for or in connection with the preservation, conservation, operation, development or improvement of the fishery being acquired under the agreement or order.

(3) (a) Every application for an authorisation under this section to acquire a way-leave or right of way shall indicate, by reference to a plan sent with the application, the way-leave or right of way sought to be acquired.

(b) In determining an application under this section to acquire a way-leave or a right of way, the Minister or the Arbitrator may, if he or she thinks fit, substitute a way-leave on, over or under the proposed servient tenement, or a right of way over such tenement, different from that specified in the application; provided that the Minister or the Arbitrator shall not exercise the power conferred on him or her by this paragraph without first affording to the person on whom, under *paragraph 1(c)(i) of Schedule 5*, notice has been served an opportunity of stating why the power should not be exercised.

(4) Before giving an authorisation under *subsection (1)* the Minister shall (in addition to consulting the Minister for Finance) consult such other Minister of the Government, if any, as appears to him or her to be concerned.

(5) Where it is proposed that a fishery be acquired under this section by IFI and the Minister is satisfied that a public right to fish exists in relation to the fishery, the fishery shall be so acquired only if the Minister is satisfied that, notwithstanding the existence of such right, it is in the public interest that the fishery should be so acquired.

(6) (a) Any person who is aggrieved by an authorisation of the Minister under *subsection (1)* may, not later than 30 days after the day on which the authorisation is given, serve on the Minister a notice of appeal to the Arbitrator against the authorisation, and the Arbitrator may on such appeal either confirm or annul the authorisation.

(b) Any person who is aggrieved by an order made by the Minister under *subsection (2)* may, not later than 30 days after the day on which the order is made, serve on the Minister a notice of appeal to the Arbitrator against the order, and the Arbitrator may on such appeal either confirm the order as made by the Minister or confirm the order with such modifications as he or she considers appropriate.

(7) Nothing in this section shall be construed as prohibiting or restricting the acquisition from the Minister by IFI, on such terms as may be agreed and in accordance with any directions or guidelines given or issued by the Minister, of any fishery in the possession or occupation of the Minister.

(8) Nothing in this section shall authorise IFI to acquire compulsorily—

(a) any land vested in the State or any right over, in, under or in respect of such land, or

(b) any dwelling or the curtilage thereof, or any enclosed premises, yard, garden or land appurtenant to a dwelling or any right over, in, under, or in respect of such premises, yard, garden or land.

(9) Nothing in this section shall authorise IFI to acquire (either compulsorily or by agreement) save with the consent of the Minister for Agriculture, Fisheries and Food, any land which is subject to a land purchase annuity or any right over, in, under or in respect of such land.

(10) Where a fishery is acquired by IFI under this section, then, notwithstanding the existence in relation to the fishery of any public right to fish, IFI shall have power to prohibit or control the taking of fish from the fishery.

(11) The provisions contained in *Schedule 5* shall, as the context requires, apply in relation to any or all of the following, namely, an application to the Minister under *subsection (1)*, an authorisation or order under this section, an application for such an order, or a decision by the Minister or an appeal to the Arbitrator under this section.

Acquisition of portions of rivers or lakes contiguous to certain weir (freshwater) fisheries.

**61.—** (1) Where the bed and soil of any portion of a river or lake contiguous to a fishery to which this section applies, is not in the same ownership as such fishery, the Minister may, if to him or her it appears necessary or expedient for the maintenance, operation, improvement or development of such fishery, by order transfer to—

(a) in case such bed and soil is contiguous to a fishery owned by the Minister, the Minister, or

(b) in case such bed and soil is contiguous to a fishery acquired by IFI under *section 60*, IFI,

so much of such bed and soil, not exceeding 50 yards (45.72 metres) either above or below, or 50 yards (45.72 metres) above and 50 yards (45.72 metres) below, such fishery, as the Minister shall specify in the order.

(2) An order under this section shall be expressed and operate to transfer to the Minister or IFI, as the case may be, as on and from the date specified therein in that behalf the bed and soil of the portion of the river or lake to which the order relates, in fee simple, free from encumbrances and from all estates and interests therein (except such angling right, if any, as may be reserved by the order).

(3) *Section 60(6)(b)* and *paragraphs 4, 5, 8 and 9 of Schedule 5* apply, with the necessary modifications, to an order under this section.

(4) Nothing in this section shall enable IFI to acquire compulsorily any land vested in the State.

(5) Where the Minister makes an order under this section he or she shall cause a copy of such order to be served on the owner of the bed and soil of the river or lake to which such order relates.

(6) This section applies to a fishery which is either owned by the Minister or acquired by IFI under *section 60* and which, in either case, is a weir (freshwater) fishery.

(7) In this section, “weir (freshwater) fishery” means a fishery for salmon, trout or eels carried on in freshwater by means of a fishing weir, and the structure of such weir and the land on which such weir is erected and all other rights of fishing for salmon, trout and eels in or on the site of such fishery.

Right of way (acquisition).

**62.—** (1) IFI may apply to the Minister for an order under this section effecting the compulsory acquisition of a right of way (“required right of way”) by a particular route over any land.



(2) Every application for an order under this section shall indicate, by reference to a plan sent with the application, the right of way sought to be acquired.

(3) Where an application for an order under this section is made, subject to *subsection (4)*, the following provisions shall apply, namely:

(a) the Minister, after considering the application—

(i) if he or she is satisfied that the right of way sought is either required to enable IFI to perform a function assigned to it under this Act or is necessary to enable fishermen to gain access to fishing waters for the purpose of lawfully fishing and, in either case, that, in the circumstances of the case, to make an order under this section would be reasonable, may make an order creating a right of way (being, as he or she thinks fit, either the required right of way or another right of way) over the proposed servient tenement, or

(ii) refuse the application,

(b) if the Minister makes an order under this section, the occupier or the owner of the proposed servient tenement may, within the period of 2 months beginning on the day on which the order is made, serve on the Minister a notice of appeal to the Arbitrator against the order, and the Arbitrator may, on such appeal—

(i) if he or she is so satisfied, confirm the order, or confirm the order but alter the route over the proposed servient tenement of the right of way thereby created, or

(ii) if he or she is not so satisfied, revoke the order,

(c) if the Minister refuses to make an order under this section, IFI may, within the period of 2 months beginning on the date of such refusal, serve on the Minister a notice of appeal to the Arbitrator against such refusal, and the Arbitrator may, on such appeal—

(i) confirm the refusal, or

(ii) if he or she is so satisfied, make an order under this section creating a right of way (being, as he or she thinks fit, either the required right of way or another right of way) over the proposed servient tenement,

(d) if the Minister makes an order under this section creating a right of way other than the required right of way, IFI may, within the period of 2 months beginning on the day on which the order is made, serve on the Minister a notice of appeal to the Arbitrator against the order, in so far as it creates a right of way other than the required right of way, and the Arbitrator may, on such appeal—

(i) confirm the order as made by the Minister, or

(ii) vary such order by substituting a right of way over the proposed servient tenement different from that specified in the order.

(4) Where an application is made under this section, neither the Minister nor the Arbitrator shall exercise the power conferred on him or her to create or substitute a right of way different from that indicated in accordance with *subsection (2)* without first affording to the person on whom, under *paragraph 1(c)(i)* of *Schedule 5*, notice has been served an opportunity of stating why the power should not be exercised.

(5) The provisions contained in *Schedule 5* shall, as the context requires, apply in relation to either an order under this section or an application for such an order.

Transfer of fisheries to Minister or IFI by Commissioners.

**63.—** (1) The Commissioners may by order under their seal transfer to the Minister or, with the consent of the Minister, to IFI, on such terms and conditions as, with the consent of the Minister for Finance, shall be agreed between the Commissioners and the Minister, all the estate and interest of the Commissioners in any fishery or fishing right which is in the possession or occupation of the Commissioners and also any land, way-leave, water-right, right of access or other easement or other right which is in the possession or occupation of the Commissioners and is ancillary to any such fishery or fishing right so transferred.

(2) An order made under this section shall operate to vest in the Minister or IFI, as may be appropriate, without any further or other conveyance, all the estate and interest of the Commissioners in every fishery and fishing right and in all lands, way-leaves, water-rights, rights of access and other easements or other rights purported to be transferred to the Minister or IFI by the order.

Transfer of certain fisheries to IFI.

**64.—** (1) The Minister may, with the consent of the Minister for Finance, by order, transfer to IFI any fishery or fishing right—

(a) subject to the agreement of the Minister for Agriculture, Fisheries and Food, acquired by or vested in that Minister under the Forestry Acts 1919 and 1928, or the Forestry Acts 1946 to 1988, or so vested by virtue of the Forestry (Redistribution of Public Services) Order 1933 (S.R. & O., No. 158 of 1933),

(b) transferred to the Minister under *section 63*, or

(c) otherwise acquired by the Minister.

(2) An order under *subsection (1)* shall operate to vest in IFI, without any further or other conveyance, all the estate and interest of the Minister in every fishery and fishing right and in all lands, way-leaves, water-rights, rights of access or other easements or rights, purported to be transferred to IFI by such order.

Compensation.

**65.—** (1) Subject to *subsection (3)*, the exercise of any power under *sections 59, 60, 61 or 62* shall be subject to payment of compensation in respect of—

(a) any estate or interest in any fishery, or any other estate or interest in land, acquired under or by virtue of this Act,

(b) any easement or other right in, over, under or in respect of land or any estate or interest in an easement or such another right, so acquired, or

(c) any diminution, by reason of the exercise of the power, in the value of any easement or other right in, over, under or in respect of land, or any other estate or interest in any land or in any easement or such right,

and the compensation, together with any interest payable on it by virtue of *subsection (2)*, shall be paid by—

(i) in case the power is exercised under *section 60*, IFI, and

(ii) in any other case, the person in whose favour the power is exercised.

(2) (a) Subject to *paragraph (b)*, where compensation is payable to a person under this section in respect of the exercise of a power under this Act, there shall be paid in accordance with *subsection (1)* interest on the amount of the compensation payable to the person, at such rate as shall be determined from time to time for the purposes of this section by the Minister for Finance, from the date on which the power is exercised until the payment of such compensation.

(b) If—

- (i) the person by whom compensation under this section is payable makes an unconditional offer in writing of any sum as compensation to the person to whom the compensation is payable,
- (ii) the offer is not accepted by the person to whom it is made, and
- (iii) the sum awarded as compensation by the official arbitrator does not exceed the sum so offered,

no interest shall be payable on such compensation.

(3) A claim under this section for payment of compensation shall, in default of agreement, be determined by arbitration under the Acquisition of Land (Assessment of Compensation) Act 1919, in like manner in all respects as if such claim arose in relation to compulsory acquisition of land, and for this purpose IFI shall be deemed to be a planning authority and a public authority within the meaning of that Act.

(4) The following provisions shall have effect in relation to the fixing of the compensation payable under this section in respect of a fishery to which an authorisation under *section 60* relates, namely, IFI or the official arbitrator, as may be appropriate, may have regard to the following—

- (a) the current market value of the fishery,
- (b) evidence of profitability of the fishery by reference to both—
  - (i) profits for a period ending prior to such authorisation, and
  - (ii) a profit forecast regarding the fishery which is—
    - (I) related to a period equal in length to the period referred to in *subparagraph (i)* but beginning on a day which is subsequent to such authorisation, and
    - (II) estimated both on a reasonable basis and on the assumption that the fishery continued to be used by the occupier and had not been so acquired.

(5) Sections 69 to 74 and 76 to 80 of the Lands Clauses Consolidation Act 1845, shall apply to any compensation payable under this section, and for the purposes of such application IFI shall be deemed to be the promoter of the undertaking.

(6) A claim for compensation under this section shall be brought within—

- (a) in case the person entitled to the compensation is a minor or a person of unsound mind, a period of 6 years from the date when such person ceases to be under such disability or dies, whichever event first occurs, but not more than 30 years after the exercise of the relevant power under this Act, or
- (b) in any other case, a period of 6 years from the date of the exercise of such power.

(7) Subject to *subsection (6)*, compensation under this section may be paid to the personal representatives of a person entitled to it.

(8) In this section “official arbitrator” means the official arbitrator under the Acquisition of Land (Assessment of Compensation) Act 1919.

Arbitrator.

**66.—** (1) A person appointed under this section by the Minister is in this Act, other than *section 65*, referred to as the “Arbitrator”.

(2) In case the Minister receives a notice of appeal under *section 60* or *62*, or by virtue of *section 61(3)*, he or she shall as soon as may be appoint a person, who shall

be a barrister of not less than 7 years' standing, to hear the appeal (which person is hereby authorised to determine the appeal).

(3) In case the Minister proposes to amend an order made under *section 60, 61 or 62*, he or she shall as soon as may be appoint a person, who shall be a barrister described in *subsection (2)*, to perform the functions assigned to the Arbitrator by *paragraphs (a), (d), (e), (f) and (g) of section 67 (1)*.

Provisions relating to orders made under *sections 60, 61, 62 or 63*.

**67.—** (1) Where the Minister proposes to amend an order under *section 60, 61 or 62*, the following provisions apply:

- (a) the Minister shall as soon as may be give notice in writing of his or her intention to amend the order to the Arbitrator who shall cause to be published a notice of the Minister's intention in such newspapers and in such manner as the Arbitrator shall determine;
- (b) the Minister shall give notice in writing of his or her intention to any person by whom an appeal relating to the order proposed to be amended was brought or in case the order is an order which has previously been amended to any person by whom an appeal relating to the original order was brought, or if in either case such person is deceased, to his or her personal representative;
- (c) the Minister shall not make the order unless a draft of the order has been submitted to and approved by the Arbitrator;
- (d) the Arbitrator shall not determine an application by the Minister before the expiration of the period of 30 days beginning on the day on which the relevant notice is published, or in case such publication is made on different days, the day of the first such publication;
- (e) any one or more of the following may, within such period of 30 days or such longer period as the Arbitrator may determine, serve on the Minister a notice of his or her intention to make an application to the Arbitrator in relation to the proposed order, namely—
  - (i) any person by whom such an appeal was so brought, or, in case such person is deceased, his or her personal representative, or
  - (ii) the person who, immediately before the making of the order proposed to be amended, was the owner of the fishery or land acquired by that order or the successor in title of such person, or, if any right has been acquired by such order, the person who immediately prior to the making of that order was entitled to the enjoyment of such right or the successor in title of such person, or, if the order was made under *section 62*, the owner of the relevant servient tenement;
- (f) where a notice is served on the Minister the Arbitrator shall, before deciding whether or not to approve the proposed order, give the person by whom the notice was served an opportunity of being heard (either in person or through counsel or a solicitor); and
- (g) the Arbitrator may in determining the matter approve the draft of the order in the form proposed by the Minister, approve of such draft subject to such amendments as the Arbitrator shall specify or refuse to give his or her approval.

(2) The Commissioners may by order under their seal amend an order made by them under *section 63*.

(3) If in relation to an application under *subsection (1)* the Arbitrator is satisfied that after diligent inquiry a person to whom notice is required to be given by the Minister cannot be found or ascertained, the Arbitrator may determine the application, notwithstanding the fact that such person cannot be found or ascertained.

Sale by Minister of certain fisheries, fishing rights and businesses.

**68.—** (1) The Minister may, with the consent of the Minister for Finance, sell (otherwise than to IFI) any fishery or fishing right vested in him or her, whether under *section 63* or otherwise, and also the goodwill and stock in trade and other assets of any business (being a business ancillary or incidental to the operation of a fishery) carried on by him or her at such price as he or she may with the concurrence of the Minister for Finance think proper.

(2) Any monies received on a sale under this section shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.

(3) The Minister shall, as soon as practicable, notify the Joint Oireachtas Committee of the details of any sale completed in accordance with *subsection (1)*.

## CHAPTER 5

### *Wild Salmon and Sea Trout Tagging Scheme*

Management of wild salmon and sea trout.

**69.—** (1) The Minister may, after consultation with IFI, make regulations to provide for a scheme for the management, development and conservation of stocks of wild salmon and sea trout and in particular provide for the gathering of information by the tagging of such fish.

(2) Without prejudice to the generality of *subsection (1)*, regulations made under that subsection may provide for all or any of the following—

- (a) the manner, type, size and colour of tags which are to be affixed to wild salmon and sea trout,
- (b) the information to be contained on such tags,
- (c) the issue and distribution by persons of tags and log books to persons fishing for wild salmon or sea trout,
- (d) matters relating to the sale, display, import, export and transhipment of wild salmon and sea trout or farmed salmon,
- (e) log books to be kept and the manner of their keeping by persons fishing for wild salmon or sea trout,
- (f) records to be kept by persons selling or dealing in salmon,
- (g) registers to be kept by persons providing such tags or log books,
- (h) the inspection by authorised officers of such tags, log books, registers and records,
- (i) the furnishing of such information on tags, log books, registers and records as may be requested by an authorised officer,
- (j) fees to be charged in respect of the issue of any such tag or log book, and
- (k) information in relation to any scheme under this section to be provided by IFI to the Minister.

(3) The powers conferred by *subsection (1)* are in addition to and not in substitution for the powers conferred by *section 57*.

(4) For the purpose of enforcing any regulations made under this section, an authorised officer may—

- (a) stop and question any person who has or is suspected of having in his or her possession any tag or log book issued, or record kept, under regulations made

- under this section or any salmon or sea trout and request the production of and examine such tag, log book, record or salmon or sea trout and search any person whom he or she has reason to believe has contravened any regulations made under this section,
- (b) at all reasonable times, enter and search any place or premises or boat or vehicle in which the officer believes there is any tag or log book issued, or a register maintained, or record kept, under regulations made under this section or any salmon or sea trout and there examine any such tag, log book, register, record, salmon or sea trout and take copies of or extracts from any log book, register or record, found in it,
- (c) where he or she finds any wild salmon or sea trout which has not been tagged in accordance with regulations made under this section, the officer may in accordance with such regulations tag the fish or remove any tags affixed to it which do not comply with such regulations or require the person found in possession of the fish or in charge of the place, premises, boat or vehicle where it is found to tag, or cause it to be tagged, in accordance with such regulations or to remove or cause to be removed any tags affixed to it which do not comply with any such regulations,
- (d) take, remove and detain in his or her custody any tag, log book, register or record found in the course of the exercise of any of the powers conferred by this section in respect of which a contravention of any regulation made under this section is being or is suspected of having been committed, and
- (e) request and take the name and address of the person having custody of any tag, log book, register, record, salmon or sea trout which the officer is authorised under this section to examine.
- (5) A person who obstructs or interferes with, or fails to comply with a requirement of, an authorised officer in exercise of any power conferred on the officer under this section or refuses to give his or her name and address when required under this section commits an offence and is liable on summary conviction to a fine not exceeding €2,500.
- (6) (a) Subject to *paragraph (b)*, a person (other than an authorised officer or officer of IFI) who contravenes or fails to comply with any regulation made under this section and which is stated to be a penal offence commits an offence and is liable on summary conviction—
- (i) in the case of a first offence, to a fine not exceeding €1,000,
- (ii) in the case of a second or subsequent offence, other than an offence referred to in *subparagraph (iii)*, to a fine not exceeding €1,500, and
- (iii) in the case of a third or subsequent offence which is the third or subsequent offence in any period of 12 consecutive months, to a fine not exceeding €2,000.
- (b) *Paragraph (a)* does not apply to an authorised agent (within the meaning of section 70(1) of the Principal Act) in respect of any requirement under any regulation made under this section to issue tags or logbooks.
- (7) (a) A person shall not affix a tag to any wild salmon or sea trout, which he or she knows, or in the circumstances ought to know, has been unlawfully caught.
- (b) A person shall not forge or fraudulently alter, or cause to have forged or fraudulently altered, any tag, logbook or document.
- (c) A person shall not have in his or her possession any tag, logbook or document which he or she knows, or in the circumstances ought to know, has been forged or fraudulently altered.

(d) A person shall not give false information to obtain any tag, logbook or document.

(e) A person who contravenes this subsection commits an offence and is liable on summary conviction to a fine not exceeding €2,500 or to imprisonment for a term not exceeding 3 months, or both.

(8) Where the Minister proposes to make regulations under this section (other than any regulation altering the commencement of any regulations made under this section), the following provisions shall have effect—

(a) the Minister shall publish notice of his or her proposal at least once in such newspaper or newspapers published and circulating in the State as he or she may specify,

(b) the notice shall include a statement of the purposes for which the regulations are proposed to be made and an intimation that a copy of the draft regulations is open for public inspection at a place specified in the notice and that any person may submit to the Minister objections to the draft regulations at any time during the period of 30 days commencing on the day of the first publication of the notice,

(c) the Minister shall, during that period of 30 days, keep a copy of the draft regulations open for public inspection at the place aforesaid,

(d) any person who objects to the draft regulations may submit his or her objection to the Minister in writing at any time during that period of 30 days and the Minister shall consider the objections, and

(e) on the expiration of that period of 30 days, the Minister shall, as he or she may think proper, refrain from making the regulations or make the regulations either without modifications or with such modifications therein as he or she may think proper.

(9) Where the Minister considers that any regulations he or she proposes to make under this section, which amend, revoke or replace regulations which, for the time being, are in force and made under section 24 of the Act of 1999 or this section, do not substantially affect the policy contained in the regulations being amended, revoked or replaced and are necessary administrative changes required as a result of the establishment of IFI or any technical amendments or correction of errors, the Minister need not comply with any of the requirements of *subsection (8)*.

(10) In this Chapter—

“authorised officer” means a person who is an authorised officer (within the meaning of paragraphs (b) (inserted by paragraph 1(vv) of the Fourth Schedule to the Act of 1980) and (c) of section 301 of the Principal Act);

“sea trout” means a wild sea trout *Salmo trutta*;

“wild salmon” means wild Atlantic salmon *Salmo salar*.

(11) A reference in this section to a tag, logbook or document is a reference to a tag, logbook or document provided for in regulations made under this section.

#### Annotations

#### Editorial Notes:

- E7** Power pursuant to section exercised (1.01.2021) by *Wild Salmon and Sea Trout Tagging Scheme (Amendment) Regulations 2020* (S.I. No. 667 of 2020), in effect as per reg. 1(2).

- E8** Power pursuant to section exercised (1.01.2020) by *Wild Salmon and Sea Trout Tagging Scheme (Amendment) Regulations 2019* (S.I. No. 669 of 2019), in effect as per reg. 1(2).
- E9** Power pursuant to section exercised (1.01.2019) by *Wild Salmon and Sea Trout Tagging Scheme Regulations 2018* (S.I. No. 585 of 2018), in effect as per reg. 1(2).
- E10** Previous affecting provision: power pursuant to section exercised (1.01.2018) by *Wild Salmon and Sea Trout Tagging Scheme (Amendment) Regulations 2017* (S.I. No. 602 of 2017), in effect as per reg. 1(2); revoked (1.01.2019) by *Wild Salmon and Sea Trout Tagging Scheme Regulations 2018* (S.I. No. 585 of 2018), reg. 26(d), in effect as per reg. 1(2).
- E11** Previous affecting provision: power pursuant to section exercised (1.01.2017) by *Wild Salmon and Sea Trout Tagging Scheme (Amendment) Regulations 2016* (S.I. No. 636 of 2016), in effect as per reg. 1(2); revoked (1.01.2018) by *Wild Salmon and Sea Trout Tagging Scheme (Amendment) Regulations 2017* (S.I. No. 602 of 2017), reg. 3(b), in effect as per reg. 1(2), and revoked (1.01.2019) by *Wild Salmon and Sea Trout Tagging Scheme Regulations 2018* (S.I. No. 585 of 2018), reg. 26(c), in effect as per reg. 1(2).
- E12** Previous affecting provisions: power pursuant to section exercised (1.01.2016) by *Wild Salmon and Sea Trout Tagging Scheme (Amendment) Regulations 2015* (S.I. No. 581 of 2015), in effect as per reg. 1(2); revoked (1.01.2018) by *Wild Salmon and Sea Trout Tagging Scheme (Amendment) Regulations 2017* (S.I. No. 602 of 2017), reg. 3(a), in effect as per reg. 1(2).
- E13** Previous affecting provision: power pursuant to section exercised (1.01.2015) by *Wild Salmon and Sea Trout Tagging Scheme (Amendment) (No. 2) Regulations 2014* (S.I. No. 610 of 2014), in effect as per reg. 1(2); revoked (1.01.2016) by *Wild Salmon and Sea Trout Tagging Scheme (Amendment) Regulations 2015* (S.I. No. 581 of 2015), reg. 3, in effect as per reg. 1(2).
- E14** Previous affecting provision: power pursuant to section exercised (2.07.2014) by *Wild Salmon and Sea Trout Tagging Scheme (Amendment) Regulations 2014* (S.I. No. 301 of 2014); revoked (1.01.2019) by *Wild Salmon and Sea Trout Tagging Scheme Regulations 2018* (S.I. No. 585 of 2018), reg. 26(b), in effect as per reg. 1(2).
- E15** Previous affecting provision: power pursuant to section exercised (1.01.2014) by *Wild Salmon and Sea Trout Tagging Scheme Regulations 2013* (S.I. No. 573 of 2013), in effect as per reg. 1(2); revoked (1.01.2019) by *Wild Salmon and Sea Trout Tagging Scheme Regulations 2018* (S.I. No. 585 of 2018), reg. 26(a), in effect as per reg. 1(2).
- E16** Previous affecting provision: power pursuant to section exercised (1.01.2013) by *Wild Salmon and Sea Trout Tagging Scheme Regulations 2012* (S.I. No. 556 of 2012), in effect as per reg. 1(2); revoked (1.01.2014) by *Wild Salmon and Sea Trout Tagging Scheme Regulations 2013* (S.I. No. 573 of 2013), reg. 26, in effect as per reg. 1(2).
- E17** Previous affecting provision: power pursuant to section exercised (1.01.2012) by *Wild Salmon and Sea Trout Tagging Scheme (No. 2) Regulations 2011* (S.I. No. 705 of 2011), in effect as per reg. 1(2); revoked (1.01.2013) by *Wild Salmon and Sea Trout Tagging Scheme Regulations 2012* (S.I. No. 556 of 2012), reg. 25, in effect as per reg. 1(2).
- E18** Previous affecting provision: power pursuant to section exercised (28.06.2011) by *Wild Salmon and Sea Trout Tagging Scheme Regulations 2011* (S.I. No. 326 of 2011); revoked (1.01.2012) by *Wild Salmon and Sea Trout Tagging Scheme (No. 2) Regulations 2011* (S.I. No. 705 of 2011), reg. 25, in effect as per reg. 1(2).
- E19** Previous affecting provision: power pursuant to section exercised (1.01.2011) by *Wild Salmon and Sea Trout Tagging Scheme (No. 2) Regulations 2010* (S.I. No. 665 of 2010), in effect as per reg. 1(2); revoked (1.01.2012) by *Wild Salmon and Sea Trout Tagging Scheme (No. 2) Regulations 2011* (S.I. No. 705 of 2011), reg. 25, in effect as per reg. 1(2).
- E20** Previous affecting provision: application of subs. (3) extended (1.07.2010) by *Wild Salmon and Sea Trout Tagging Scheme Regulations 2010* (S.I. No. 323 of 2010), reg. 24, in effect as per reg. 1(2); revoked (1.01.2011) by *Wild Salmon and Sea Trout Tagging Scheme (No. 2) Regulations 2010* (S.I. No. 665 of 2010), reg. 25, in effect as per reg. 1(2)



Provisions relating to certain offences under regulations made under section 69.

**70.—** (1) This section applies to an offence under *section 69(6)*, in respect of such contraventions of regulations made under *section 69 (1)*, as may be declared by the Minister by regulations to be contraventions to which this section applies.

(2) Where an authorised officer has reasonable grounds for believing that a person is contravening or has contravened a regulation made under *section 69(1)*, being a contravention to which this section applies, he or she may serve the person with a fixed charge notice in the prescribed form stating that—

- (a) the person is alleged to have so contravened,
- (b) the person may, during the period of 21 days beginning on the date of the notice, make to IFI at the address specified in the notice a payment of the prescribed amount (“fixed charge”) specified in the notice accompanied by the notice, and
- (c) a prosecution in respect of the alleged contravention will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged contravention will be instituted.

(3) Where a fixed charge notice is given under *subsection (2)*—

- (a) a person to whom the notice applies may, during the period specified in the notice, make to IFI at the address specified in the notice the payment specified in the notice accompanied by the notice,
- (b) IFI may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable in any circumstances by the person who made it, and
- (c) a prosecution in respect of the alleged contravention shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged contravention shall be instituted.

(4) In a prosecution for an offence under *section 69(6)* the onus of proving that a payment pursuant to a notice under this section has been made shall lie on the defendant.

(5) The Minister may by regulations prescribe the amount of a fixed charge applicable under this section and different amounts may be prescribed in respect of different contraventions.

(6) In this section a reference to a contravention of a regulation made under *section 69(1)* includes a reference to a failure to comply with such a regulation.

#### Annotations

##### Editorial Notes:

- E21** Power pursuant to section exercised (1.01.2019) by *Inland and Fisheries (Fixed Charge Notice) Regulations 2018* (S.I. No. 643 of 2018), in effect as per reg. 2.
- E22** Previous affecting provision: amount of fixed charge applicable under section prescribed (25.07.2014) by *Inland Fisheries (Fixed Charge Notice) Regulations 2014* (S.I. No. 363 of 2014), reg. 6; revoked (1.01.2019) by *Inland and Fisheries (Fixed Charge Notice) Regulations 2018* (S.I. No. 643 of 2018), in effect as per reg. reg. 2.
- E23** Previous affecting provision: power pursuant to section exercised (28.02.2013) by *Inland Fisheries (Fixed Charge Notice) Regulations 2013* (S.I. No. 76 of 2013); revoked (25.07.2014) by *Inland Fisheries (Fixed Charge Notice) Regulations 2014* (S.I. No. 363 of 2014), reg. 7.

- E24** Previous affecting provision: application of section extended (16.12.2011) by *Inland Fisheries (Fixed Charge Notice) (No. 2) Regulations 2011* (S.I. No. 706 of 2011), reg. 3; revoked (28.02.2013) by *Inland Fisheries (Fixed Charge Notice) Regulations 2013* (S.I. No. 76 of 2013), reg. 7.
- E25** Previous affecting provision: power pursuant to section exercised (16.12.2011) by *Inland Fisheries (Fixed Charge Notice) (No. 2) Regulations 2011* (S.I. No. 706 of 2011); revoked (28.02.2013) by *Inland Fisheries (Fixed Charge Notice) Regulations 2013* (S.I. No. 76 of 2013), reg. 7.
- E26** Previous affecting provision: application of section exercised (24.02.2011) by *Inland Fisheries (Fixed Charge Notice) Regulations 2011* (S.I. No. 81 of 2011), reg. 3; revoked (16.12.2011) by *Inland Fisheries (Fixed Charge Notice) (No. 2) Regulations 2011* (S.I. No. 706 of 2011), reg. 7.
- E27** Previous affecting provision: power pursuant to section exercised (24.02.2011) by *Inland Fisheries (Fixed Charge Notice) Regulations 2011* (S.I. No. 81 of 2011); revoked (16.12.2011) by *Inland Fisheries (Fixed Charge Notice) (No. 2) Regulations 2011* (S.I. No. 706 of 2011), reg. 7.
- E28** Previous affecting provision: application of section exercised (1.07.2010) by *Inland Fisheries (Fixed Charge Notice) Regulations 2010* (S.I. No. 324 of 2010), reg. 3, in effect as per reg. 1(2); revoked (24.02.2011) by *Inland Fisheries (Fixed Charge Notice) Regulations 2011* (S.I. No. 81 of 2011), reg. 7.
- E29** Previous affecting provision: power pursuant to section exercised (1.07.2010) by *Inland Fisheries (Fixed Charge Notice) Regulations 2010* (S.I. No. 324 of 2010), in effect as per reg. 1(2); revoked (24.02.2011) by *Inland Fisheries (Fixed Charge Notice) Regulations 2011* (S.I. No. 81 of 2011), reg. 7.

## CHAPTER 6

### *Prohibitions*

Prohibition of sale of certain fish.

**71.—** (1) The Minister may by order prohibit the sale and offering for sale at any time during a prescribed period in any year (“annual period”) of any fish which—

(a) is of a species specified in the order, or

(b) is—

(i) caught by rod and line, and

(ii) of a species so specified.

(2) An order under this section may—

(a) apply throughout the State or in a particular area or in particular areas of the State and so specified, and

(b) specify a particular annual period in relation to the whole of the State or specify different such periods in relation to different such areas.

(3) An order under this section shall apply to any fish—

(a) in case the order is made under *subsection (1)(a)*, of the species specified in the order, and

(b) in case the order is made under *subsection (1)(b)*, caught by rod and line and of a species specified in the order.

(4) In case an order under this section is for the time being in force, a person shall not sell or offer for sale any fish to which the order applies—

(a) in case the order applies throughout the State or to a particular area or to particular areas of the State and specifies only one annual period, at any

place in either the State, such area or any such area, as may be appropriate, at any time during that period, and

- (b) in case the order specifies different annual periods in relation to different areas of the State, at any place in such an area at any time during the annual period so specified in relation to the area.

(5) A person who contravenes *subsection (4)* commits an offence and is liable on summary conviction to a fine (not exceeding in all €2,500) of an amount not exceeding €2,000 together with an amount not exceeding €250 for each salmon and €50 for each other fish in respect of which the offence is committed.

Prohibition of sale of certain nets or netting.

**72.—** (1) The Minister may by order prohibit the sale of nets or netting of a prescribed class or description.

(2) A person who sells a net or netting in contravention of an order under this section commits an offence and is liable on summary conviction to a fine not exceeding €2,000.

(3) Where in any proceedings for an offence under this section—

(a) the defendant proves—

- (i) that prior to the sale to which the alleged offence relates he or she had given to the Minister notice in writing of his or her intention to sell nets or netting of the relevant prescribed class or description,
- (ii) that prior to such sale he or she had made of the purchaser inquiries as to the purposes for which the relevant net or netting was to be used, and
- (iii) that he or she had kept a record in the manner directed under *subsection (4)* by the Minister of the result of his or her inquiries,

(b) the defendant produces to the court such record, and, in case the defendant was requested by or on behalf of the Minister so to do, he or she proves that within a reasonable time he or she produced to an officer of the Minister such record and allowed such officer to inspect it, and

(c) the court is satisfied—

- (i) that the inquiries were made in good faith, and
- (ii) that in the circumstances of the case it would have been reasonable for the defendant, having regard to the results of the inquiries, to have believed that such net or netting was not to be used for or in relation to fishing,

he or she shall be acquitted of the offence.

(4) In case the Minister receives a notification in writing by a person of his or her intention to sell a net or netting of a class or description specified in an order under this section, the Minister shall as soon as may be give to the person directions as to the manner in which a record of the results of inquiries made by him or her for the purposes of *subsection (3)* is to be kept.

## CHAPTER 7

### *Register of Sea Anglers*

Register of sea anglers.

**73.—** (1) IFI shall establish and maintain a register to be known as the Register of Sea Anglers (“register”).

- (2) (a) On payment of the appropriate annual subscription to IFI a person shall be registered in accordance with *paragraph (b)* in the register.
- (b) On receipt of an application for registration in the register, accompanied by the appropriate annual subscription, IFI shall register the applicant as a sea angler.
- (c) Where on 31 December in any year a person, other than a person entitled under *subsection (4)*, is registered in a register he or she shall be entitled to remain so registered for the duration of the next following year if, but only if, before the day in that next following year which is the day for the time being fixed by the Minister under *subsection (5)* he or she pays to IFI the appropriate annual subscription.
- (d) Where in any year a person who on the last preceding 31 December was registered in a register fails before the day in that year which is the day so fixed for the time being to pay the appropriate annual subscription, IFI shall immediately remove his or her name from the register.
- (3) Any person other than a sea angler who is registered in a register by virtue of *subsection (4)* (being so registered before 1 January 1988) may at any time by an application in writing to IFI apply to IFI to re-register him or her as a sea angler and, on duly receiving an application under this subsection, IFI shall re-register him or her in the register maintained by it with effect from the day the application was received by it.
- (4) (a) A person who immediately before the dissolution thereof was a life member of the Trust shall on application to IFI, and on making a declaration in a form approved of for the purposes of this subsection by the Minister, be registered by IFI in the register maintained by IFI.
- (b) A person who is registered in a register under *paragraph (a)* may apply in writing to have his or her name removed from the register and on receipt of such an application IFI shall allow the application.
- (c) *Subsections (2)(a)* and *(b)* apply to applications under this subsection as they apply to applications under that subsection but subject to the following modification, namely, the requirements of those paragraphs relating to annual subscriptions shall be disregarded.
- (5) The Minister may by order fix a day or days for the purposes of *subsection (2)* and any such day may be so fixed in relation to—
- (a) one or more particular years, or
- (b) a particular year and the subsequent year thereafter, or
- (c) any year.
- (6) (a) References in this section to the appropriate annual subscription are references to an annual subscription of such amount as shall be fixed for the time being for the purposes of this section by the Minister, with the consent of the Minister for Finance.
- (b) In this section “registered” means registered in the register.
- (c) In this section and in *section 81* “life member of the Trust” includes any person who the council of the Trust, under the Articles of Association of the Trust, distinguished as a donor member.
- (7) The information contained in a register kept by a regional board in accordance with section 58 of the Act of 1980 and section 20 of the Act of 1987 shall on the establishment day be transferred to the new register established under this section by IFI.

## CHAPTER 8

*Issue of Licences for Fishing of a Specified Class or Description*

Issue by IFI of licences for fishing of specified class or description.

**74.—** (1) The Minister may by order provide for the issue by IFI, on payment of such duty (if any) as may be specified in the order, of licences for fishing of a class or description specified in the order.

(2) In case an order under this section provides for the issue of licences for fishing with engines which are not scheduled engines, then for so long as the order is in force the following provisions shall have effect—

(a) any engine which is of a kind described in the order shall for the purposes of section 65 of the Principal Act be regarded as being a scheduled engine, and

(b) any such licence shall for the said purposes be regarded as being an ordinary fishing licence.

(3) In case an order under this section is for the time being in force, the powers conferred by the order on IFI shall be in addition to and not in substitution for the powers conferred on IFI by *section 7 (11)*.

(4) Duties payable as regards licences issued under this section shall be paid to IFI.

(5) In this Act “fishing licence”, when used without qualification, includes a licence issued under an order under this section.

## PART 4

## LEGAL PROCEEDINGS, PENALTIES, ETC.

Certain offences to be tried on indictment.

**75.—** (1) A person charged with an offence under section 65, 66, 69, 73, 94, 95, 96, 97, 127, 128, 129, 130, 132, 134, 135, 137, 140, 145, 146, 156, 176, 177 or 182 of the Principal Act may be tried on indictment.

(2) A person who commits an offence under section 29 of the Act of 1962 may be tried on indictment and shall, on conviction on indictment, be liable to a fine not exceeding €10,000 or to imprisonment for a term not exceeding 2 years or both.

(3) Any reference to summary conviction in any section of the Principal Act which is mentioned in *subsection (1)*, or in section 29 of the Act of 1962, shall be construed as including a reference to conviction on indictment.

Jurisdiction.

**76.—** (1) Proceedings for any offence under section 65, 69, 97, 127, 140, 176, 182 or 285A (inserted by section 24 of the Act of 1962) of the Principal Act or section 29 of the Act of 1962 or for any offence against a bye-law described in *section 57(4)* may be taken in any District Court District, and in case such proceedings are taken and apart from this section the judge of the District Court before whom the proceedings are brought would not have jurisdiction to hear and determine the proceedings, then for the purpose of conferring such jurisdiction the offence may be treated as having been committed within the District Court District to which such judge of the District Court is assigned.

(2) Where a person is sent forward for trial on indictment by the Circuit Court for an offence under section 65, 69, 97, 127, 140, 176, 182 or 285A (inserted by section 24 of the Act of 1962) of the Principal Act or section 29 of the Act of 1962 or for any offence against a bye-law described in *section 57(4)* and apart from this subsection a judge of that court would, as regards the proceedings, not have power to exercise the jurisdiction vested in that court by section 25(1) of the Courts (Supplemental Provisions) Act 1961 then for the purpose of enabling that judge to exercise such

jurisdiction the offence may be treated as having been committed in the circuit to which such judge is assigned.

Alteration of certain penalties under the Principal Act, the Act of 1962 or the Act of 1994.

**77.**— (1) A person convicted by the District Court of an offence for which a penalty is provided in any section of the Principal Act specified in column (2) of Part 1 of the Table to this section at any reference number shall, in lieu of so much of the penalty so provided as consists of a fine, imprisonment, a fine or imprisonment, or a fine and imprisonment, be liable to the appropriate penalty specified in column (3) of that Part at that reference number, and that section shall be read and have effect accordingly.

(2) (a) A person convicted on indictment of an offence under section 164 of the Principal Act (inserted by section 16 of the Act of 1962), in lieu of the penalty specified in subsection (4)(b) of that section, is liable to a fine not exceeding €10,000 or to imprisonment for a term not exceeding 2 years or both and that section shall be read and have effect accordingly.

(b) A person convicted on indictment of an offence under section 285A(1) of the Principal Act (inserted by section 24 of the Act of 1962), in lieu of the penalty specified in paragraph (b) of that section, is liable to a fine not exceeding €10,000, or to imprisonment for a term not exceeding 2 years or both, and that section shall be read and have effect accordingly.

(c) A person convicted on indictment of an offence under section 65, 66, 73, 94, 95, 96, 97, 127, 130, 132, 134, 135, 137, 140, 145, 146, 156, 176, 177 or 182 of the Principal Act, as amended by *section 75(1)*, is liable to a fine not exceeding €10,000, or to imprisonment for a term not exceeding 2 years or both.

(d) A person convicted on indictment of an offence under section 69, 128 or 129 of the Principal Act, as amended by *section 75(1)*, is liable to a fine not exceeding €10,000 and in the case of a continuing offence to a further fine not exceeding €500 for each day during which the offence is committed, or to imprisonment for a term not exceeding 2 years or both.

(3) A person convicted by the District Court of an offence for which a penalty is provided in any section of the Act of 1962 specified in column (2) of Part 2 of the Table to this section at any reference number, in lieu of so much of the penalty so provided as consists of a fine, imprisonment, a fine or imprisonment, or a fine and imprisonment, is liable to the appropriate penalty specified in column (3) of that Part at that reference number, and that section shall be read and have effect accordingly.

(4) A person convicted by the District Court of an offence for which a penalty is provided in any section of the Act of 1994 specified in column (2) of Part 3 of the Table to this section at any reference number, in lieu of so much of the penalty so provided as consists of a fine, imprisonment, a fine or imprisonment, or a fine and imprisonment, is liable to the appropriate penalty specified in column (3) of that Part at that reference number, and that section shall be read and have effect accordingly.

(5) Where a person is convicted of an offence under section 69 of the Principal Act, the engine in respect of which the offence was committed, as a statutory consequence of conviction, stands forfeited.

(6) Where a person is convicted of an offence under section 95 of the Principal Act, the net in respect of which the offence was committed, as a statutory consequence of conviction, stands forfeited.

(7) Where a person is convicted of an offence under section 152 of the Principal Act, the engine or other thing used to commit the offence, as a statutory consequence of conviction, stands forfeited.

(8) This section has effect in respect of offences committed after the establishment day.

## TABLE

## PART 1

| Reference Number<br>(1) | Section of Principal Act<br>(2)  | Penalty<br>(3)  |
|-------------------------|--|---|
| 1.                      | 12, 13, 289.   | A fine not exceeding €200.  |
| 2.                      | 49, 105, 106, 152, 153, 162, 255, 265, 286, 287, 288, 290, 294, 298, 303, 304, 306, 323.   | A fine not exceeding €1,000.  |
| 3.                      | 17, 65, 66, 73, 91, 92, 93, 112, 113, 119, 120, 121, 122, 125, 130, 140, 141, 143, 144, 145, 146, 167, 168, 169, 178, 179, 180, 181, 253, 273, 274, 277, 285, 291. | A fine not exceeding €2,000.  |
| 4.                      | 163.   | A fine not exceeding €2,000 or, in the case of a second or any subsequent offence under that section, a fine not exceeding €4,000.  |
| 5.                      | 69, 123, 128, 129.   | A fine not exceeding €2,000 and, in the case of a continuing offence, a further fine (not exceeding in all €2,500) not exceeding €250 for each day during which the offence is continued.   |
| 6.                      | 100(3).  | A fine not exceeding €2,000, and if after conviction the contravention is continued, that person commits a further offence on each day during which the contravention continues and is liable on summary conviction to a fine not exceeding €1,000. |
|                         | 100(5)(e).   | A fine not exceeding €2,000.  |
| 7.                      | 111.   | A fine not exceeding €2,000 and a further fine (not exceeding in all €2,500) not exceeding €50 per day until the defendant restores the bed of the river in respect of which the offence under that section is committed to its original state.     |
| 8.                      | 124.   | A fine not exceeding €2,000 and a further fine (not exceeding in all €2,500) not exceeding €250 for each day during which the neglect referred to in that section continues.  |
| 9.                      | 127, 134, 135, 136, 137, 138, 177.   | A fine (not exceeding in all €2,500) of an amount not exceeding €2,000 together with an amount not exceeding €250 for each salmon and €50 for each other fish in respect of which the offence under that section is committed.                      |
| 10.                     | 94.  | A fine (not exceeding in all €2,500) of an amount not exceeding €2,000 together with an amount not exceeding €250 for each salmon and €50 for each other fish caught by means of any net used in the commission of the offence under that section.  |
| 11.                     | 95, 96, 97, 99, 102, 103, 104, 107, 110, 114, 116, 131, 132, 164, 165, 166, 170, 173, 174, 285A, 301, 308.   | A fine not exceeding €2,000 or imprisonment for a term not exceeding 6 months or both.  |

| Reference Number<br>(1) | Section of Principal Act<br>(2) | Penalty<br>(3)  |
|-------------------------|---------------------------------|---|
| 12.                     | 183.                            | A fine not exceeding €2,000 or, in the case of a second or any subsequent offence under that section, a fine not exceeding €4,000 or imprisonment for a term not exceeding 6 months or both.  |
| 13.                     | 176.                            | A fine (not exceeding in all €2,500) of an amount not exceeding €2,000 together with an amount not exceeding €250 for each salmon and €50 for each other fish in respect of which the offence under that section is committed or imprisonment for a term not exceeding 6 months or both.  |
| 14.                     | 156(2), 157, 163A(1), 182.      | A fine not exceeding €1,000 together with an amount not exceeding €100 for each salmon, €100 for each kilogram of eels or molluscan shellfish and €20 for each other fish in respect of which the offence under that section is committed provided that the total amount of the fine shall not exceed €2,000 or imprisonment for a term not exceeding 6 months or both. |
| 15.                     | 156(3).                         | A fine not exceeding €1,000.  |
| 16.                     | 163A(3), 163A(5).               | A fine not exceeding €1,000.  |

## F5[PART 2

| Reference Number<br>(1) | Section of Act of 1962<br>(2) | Penalty<br>(3)  |
|-------------------------|-------------------------------|---|
| 1.                      | 27.                           | A fine not exceeding €500.  |
| 2.                      | 28(1).                        | A fine not exceeding €1,000 together with an amount not exceeding €250 for each salmon and €50 for each trout in respect of which the offence under that section is committed provided that the total amount of the fine shall not exceed €2,500. |
| 3.                      | 28(3), 28(5).                 | A fine not exceeding €1,000.  |
| 4.                      | 29.                           | A fine not exceeding €2,000 or imprisonment for a term not exceeding 6 months or both].   |

## PART 3

| Reference Number<br>(1) | F6[Section of Act of 1994]<br>(2) | Penalty<br>(3)  |
|-------------------------|-----------------------------------|---|
| 1.                      | 15(2)(a).                         | A fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months or both. |
| 2.                      | 15(3).                            | A fine not exceeding €2,500 or to imprisonment for a term not exceeding 3 months or both. |



**Annotations****Amendments:**

- F5** Substituted (11.07.2017) by *Inland Fisheries (Amendment) Act 2017 (16/2017)*, s. 3(a), S.I. No. 322 of 2017.
- F6** Substituted (11.07.2017) by *Inland Fisheries (Amendment) Act 2017 (16/2017)*, s. 3(b), S.I. No. 322 of 2017.

Forfeiture of licences and consequential disqualification orders.

**78.— (1) (a) Where—**

(i) a person is convicted of any offence under the Principal Act, other than an offence described in *subsection (3)*, and

(ii) such person is the holder of a fishing licence or licences or an oyster fishing licence or licences,

the court by whom such person is convicted may, in addition to any other penalty, direct such licence or licences to be forfeited.

(b) Where a licence is directed to be forfeited under this subsection, such licence shall immediately cease to be in force.

(2) (a) Where a person who is not the holder of a fishing licence or an oyster fishing licence is convicted of an offence under any provision of the Principal Act, the court by whom the person is convicted may, in addition to any other penalty, declare that the person shall be disqualified for holding a fishing licence or an oyster fishing licence during such period not exceeding one year as the court may specify.

(b) Where a declaration is made under this subsection, the declaration shall operate to disqualify the person to whom it relates for holding a licence of the kind specified in the declaration, and notwithstanding anything contained in the Principal Act a licence of that kind shall not be issued to such person in respect of the period specified in the declaration.

(3) (a) This subsection applies to the following offences, namely—

(i) an offence under section 65, 69, 73, 94, 95, 96, 97, 127, 128, 129, 130, 132, 134, 140, 145, 146, 176, 182, 285A (inserted by section 24 of the Act of 1962) or 301 of the Principal Act,

(ii) an offence under section 29 of the Act of 1962,

(iii) an offence under any bye-law described in *section 57 (4)*,

(iv) an offence under *section 69(7)(a), (b), (c) or (d)*, and

(v) an offence under *section 69(6)*, in respect of a contravention of or a failure to comply with a regulation made under that section which is a contravention of or a failure to comply with the regulation declared by the Minister by regulations to be an offence to which this subsection applies.

(b) Where a person is convicted of an offence which is both an offence to which this subsection applies and a second or any subsequent such offence which is the second or subsequent such offence in any period of 12 consecutive months, the court by whom such person is convicted shall make an order (“a consequential disqualification order”) declaring him or her to be disqualified for holding an ordinary fishing licence in respect of any scheduled engine mentioned in Part II of the Fourth Schedule to the Principal Act, and such

order shall operate so as to disqualify the person to whom it relates during the period of 3 years commencing on the date on which the order is made.

(4) Subject to *subsection (5)*, in every case in which an appeal may be brought in respect of a conviction of an offence to which *subsection (3)* applies, jurisdiction to make, confirm or annul a consequential disqualification order is hereby conferred on the appellate court.

(5) A consequential disqualification order shall not be annulled on appeal unless the conviction by reference to which it was made is reversed.

#### Annotations

##### Editorial Notes:

- E30** Power pursuant to subs. (3)(a)(v) exercised (1.01.2019) by *Wild Salmon and Sea Trout Tagging Scheme Regulations 2018* (S.I. No. 585 of 2018), in effect as per reg. 1(2).
- E31** Previous affecting provision: power pursuant to subs. (3)(a)(v) exercised (1.01.2017) by *Wild Salmon and Sea Trout Tagging Scheme (Amendment) Regulations 2016* (S.I. No. 636 of 2016), in effect as per reg. 1(2); revoked (1.01.2019) by *Wild Salmon and Sea Trout Tagging Scheme Regulations 2018* (S.I. No. 585 of 2018), reg. 26(c), in effect as per reg. 1(2).
- E32** Previous affecting provision: power pursuant to subs. (3)(a)(v) exercised (1.01.2016) by *Wild Salmon and Sea Trout Tagging Scheme (Amendment) Regulations 2015* (S.I. No. 581 of 2015), in effect as per reg. 1(2); revoked (20.12.2017) by *Wild Salmon and Sea Trout Tagging Scheme (Amendment) Regulations 2017* (S.I. No. 602 of 2017), reg. 3(a), in effect as per reg. 1(2).
- E33** Previous affecting provision: power pursuant to subs. (3)(a)(v) exercised (1.01.2015) by *Wild Salmon and Sea Trout Tagging Scheme (Amendment) (No. 2) Regulations 2014* (S.I. No. 610 of 2014), in effect as per reg. 1(2); revoked (1.01.2016) by *Wild Salmon and Sea Trout Tagging Scheme (Amendment) Regulations 2015* (S.I. No. 581 of 2015), reg. 3, in effect as per reg. 1(2).
- E34** Previous affecting provision: power pursuant to subs. (3)(a)(v) exercised (1.01.2014) by *Wild Salmon and Sea Trout Tagging Scheme Regulations 2013* (S.I. No. 573 of 2013), reg. 26, in effect as per reg. 1(2); revoked (1.01.2019) by *Wild Salmon and Sea Trout Tagging Scheme Regulations 2018* (S.I. No. 585 of 2018), reg. 26(a), in effect as per reg. 1(2).
- E35** Previous affecting provision: application of subs. (3) extended (1.01.2013) by *Wild Salmon and Sea Trout Tagging Scheme Regulations 2012* (S.I. No. 556 of 2012), reg. 24, in effect as per reg. 1(2); revoked (1.01.2014) by *Wild Salmon and Sea Trout Tagging Scheme Regulations 2013* (S.I. No. 573 of 2013), reg. 26, in effect as per reg. 1(2).
- E36** Previous affecting provision: power pursuant to subs. (3)(a)(v) exercised (1.01.2013) by *Wild Salmon and Sea Trout Tagging Scheme Regulations 2012* (S.I. No. 556 of 2012), in effect as per reg. 1(2); revoked (1.01.2014) by *Wild Salmon and Sea Trout Tagging Scheme Regulations 2013* (S.I. No. 573 of 2014), reg. 26, in effect as per reg. 1(2).
- E37** Previous affecting provision: application of subs. (3) extended (1.01.2012) by *Wild Salmon and Sea Trout Tagging Scheme (No. 2) Regulations 2011* (S.I. No. 705 of 2011), reg. 24, in effect as per reg. 1(2); revoked (1.01.2013) by *Wild Salmon and Sea Trout Tagging Scheme Regulations 2012* (S.I. No. 556 of 2012), reg. 25, in effect as per reg. 1(2).
- E38** Previous affecting provision: power pursuant to subs. (3)(a)(v) exercised (1.01.2012) by *Wild Salmon and Sea Trout Tagging Scheme (No. 2) Regulations 2011* (S.I. No. 705 of 2011), in effect as per reg. 1(2); revoked (1.01.2013) by *Wild Salmon and Sea Trout Tagging Scheme Regulations 2012* (S.I. No. 556 of 2012), reg. 25, in effect as per reg. 1(2).
- E39** Previous affecting provision: power pursuant to subs. (3)(a)(v) exercised: (28.06.2011) by *Wild Salmon and Sea Trout Tagging Scheme Regulations 2011* (S.I. No. 326 of 2011); revoked (1.01.2012) by *Wild Salmon and Sea Trout Tagging Scheme (No. 2) Regulations 2011* (S.I. No. 705 of 2011), reg. 25, in effect as per reg. 1(2).

- E40** Previous affecting provision: application of subs. (3) extended (1.01.2011) by *Wild Salmon and Sea Trout Tagging Scheme (No. 2) Regulations 2010* (S.I. No. 665 of 2010), reg. 24, in effect as per reg. 1(2); revoked (1.01.2012) by *Wild Salmon and Sea Trout Tagging Scheme (No. 2) Regulations 2011* (S.I. No. 705 of 2011), reg. 25, in effect as per reg. 1(2).
- E41** Previous affecting provision: power pursuant to subs. (3)(a)(v) exercised (1.01.2011) by *Wild Salmon and Sea Trout Tagging Scheme (No. 2) Regulations 2010* (S.I. No. 665 of 2010), in effect as per reg. 1(2); revoked (1.01.2012) by *Wild Salmon and Sea Trout Tagging Scheme (No. 2) Regulations 2011* (S.I. No. 705 of 2011), reg. 25, in effect as per reg. 1(2).
- E42** Previous affecting provision: application of subs. (3) extended (1.07.2010) by *Wild Salmon and Sea Trout Tagging Scheme Regulations 2010* (S.I. No. 323 of 2010), reg. 24, in effect as per reg. 1(2); revoked (1.01.2011) by *Wild Salmon and Sea Trout Tagging Scheme (No. 2) Regulations 2010* (S.I. No. 665 of 2010), reg. 25, in effect as per reg. 1(2).

Payment of certain fines as compensation — delivery of oysters or other fish.

**79.—** (1) (a) Where a court imposes a fine or affirms or varies a fine imposed by another court for an offence under section 253 or 265 of the Principal Act for which a person was convicted, it may, at its discretion, on the application (made before the time of such imposition, affirmation or variation) of any person who was summoned as a witness on behalf of the prosecution in the proceedings in which the fine was imposed and who suffered loss or damage resulting, wholly or partly, from the offence, provide by order for the payment of the amount of the fine or of a specified part of it as compensation in respect of the loss or damage to the person making the application.

(b) An application shall not lie under *paragraph (a)* in respect of any loss or damage if proceedings claiming damages for the loss or damage have been instituted in any court.

(2) If a person is convicted of an offence under section 253 of the Principal Act by reason of his or her having taken away oysters or other fish from an oyster bed or other place, if the oysters (or any of them) or the other fish in respect of which the offence was committed have or has not then been sold, they or it, as may be appropriate, as a statutory consequence of conviction, stand forfeited, and the court may direct their or its delivery to the owner or occupier of the oyster bed or other place from which they or it were or was taken or the person to whom the relevant licence was granted or who is entitled to the benefit of such licence.

(3) Where under this section the whole or part of a fine is paid to a person and the person is awarded damages by a court in respect of the loss or damage to which the payment relates, the payment shall be deemed to be in satisfaction of so much of the damages as is equal to the amount of the payment.

Fixed charge notice.

**80.—** (1) Where an authorised officer has reasonable grounds for believing that a person is committing or has committed an offence—

(a) under a provision of the Principal Act mentioned in *column (2) of Part 1 of Schedule 6* or such other provision of the Principal Act as may be prescribed,

(b) against such bye-laws made or deemed to have been made under *section 57* as may be prescribed, or

(c) in relation to the contravention of bye-laws made or deemed to have been made under *section 57* of a type described in *column (2) of Part 2 of Schedule 6* or of such type as may be prescribed,

he or she may serve the person with a fixed charge notice in the prescribed form stating that—

(i) the person is alleged to have committed the offence,

- (ii) the person may, during the period of 21 days beginning on the date of the notice, make to IFI at the address specified in the notice a payment of the prescribed amount (“fixed charge”) specified in the notice, and
- (iii) a prosecution in respect of an alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(2) Where a fixed charge notice is given under *subsection (1)*—

- (a) the person to whom the notice applies may, during the period specified in the notice, make to IFI at the address specified in the notice the payment specified in the notice accompanied by the notice,
- (b) IFI may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable in any circumstances by the person who made it, and
- (c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In a prosecution for an offence referred to in *subsection (1)* the onus of proving that a payment pursuant to a notice under this section has been made shall lie on the defendant.

(4) The Minister may by regulations prescribe the amount of a fixed charge and may prescribe different amounts in relation to—

- (a) different offences,
- (b) offences involving different species of fish, or the use of different fishing engines or different methods of angling, and
- (c) offences committed in different areas.

(5) In this section “authorised officer” means a person who is an authorised officer (within the meaning of paragraphs (b) (inserted by paragraph 1(vv) of the Fourth Schedule to the Act of 1980) and (c) of section 301(1) of the Principal Act).

#### Annotations

#### Editorial Notes:

- E43** Power pursuant to section exercised (1.01.2019) by *Inland and Fisheries (Fixed Charge Notice) Regulations 2018* (S.I. No. 643 of 2018), in effect as per reg. 2.
- E44** Previous affecting provision: amount of fixed charge applicable under section prescribed (25.07.2014) by *Inland Fisheries (Fixed Charge Notice) Regulations 2014* (S.I. No. 363 of 2014), reg. 6; revoked (1.01.2019) by *Inland and Fisheries (Fixed Charge Notice) Regulations 2018* (S.I. No. 643 of 2018), in effect as per reg. 2.
- E45** Previous affecting provision: power pursuant to section exercised (28.02.2013) by *Inland Fisheries (Fixed Charge Notice) Regulations 2013* (S.I. No. 76 of 2013); revoked (25.07.2014) by *Inland Fisheries (Fixed Charge Notice) Regulations 2014* (S.I. No. 363 of 2014), reg. 7.
- E46** Previous affecting provision: power pursuant to section exercised (16.12.2011) by *Inland Fisheries (Fixed Charge Notice) (No. 2) Regulations 2011* (S.I. No. 706 of 2011); revoked (28.02.2013) by *Inland Fisheries (Fixed Charge Notice) Regulations 2013* (S.I. No. 76 of 2013), reg. 7.

- E47** Previous affecting provision: power pursuant to section exercised (24.02.2011) by *Inland Fisheries (Fixed Charge Notice) Regulations 2011* (S.I. No. 81 of 2011); revoked (16.12.2011) by *Inland Fisheries (Fixed Charge Notice) (No. 2) Regulations 2011* (S.I. No. 706 of 2011), reg. 7.
- E48** Previous affecting provision: power pursuant to section exercised (1.07.2010) by *Inland Fisheries (Fixed Charge Notice) Regulations 2010* (S.I. No. 324 of 2010), in effect as per reg. 1(2); revoked (24.02.2011) by *Inland Fisheries (Fixed Charge Notice) Regulations 2011* (S.I. No. 81 of 2011), reg. 7.

**F7**[Summary proceedings .

**80A.** Summary proceedings may be brought and prosecuted by IFI for an offence under the following Acts:

- (a) the Principal Act;
- (b) the Act of 1962;
- (c) the Act of 1994;
- (d) this Act.]

#### Annotations

#### Amendments:

- F7** Inserted (11.07.2017) by *Inland Fisheries (Amendment) Act 2017* (16/2017), s. 4, S.I. No. 322 of 2017.

#### Editorial Notes:

- E49** The section heading is taken from the amending section in the absence of one included in the amendment.

## PART 5

### MISCELLANEOUS

Certain rights to fish given to former life members of Trust.

**81.—** (1) A person who immediately before the dissolution of the Trust under the Act of 1980 was a life member of the Trust shall, subject to such restrictions or other requirements, if any, as the Minister considers appropriate for the proper management of the fishery concerned and which are for the time being prescribed for the purposes of this section, be permitted to fish in accordance with law for trout or coarse fish in the waters of any fishery owned or occupied by IFI.

(2) (a) An order under *section 60, 63 or 64* may provide that *subsection (1)* shall not apply in relation to the fishery acquired or transferred by the order, or, in case 2 or more fisheries are so transferred, shall apply in relation to no such fishery, or, as may be so provided, applies only to such of those fisheries as the order specifies.

(b) The Minister may by order provide that *subsection (1)* does not apply in relation to a fishery acquired by IFI by agreement under *section 60* and specified in the order.

(3) In case a fishery is by an order, either made under this section or described in *subsection (2)(a)*, excluded from the application of *subsection (1)*, this section shall be construed and have effect subject to the terms of the order.

Powers of Minister in operating a fishery.

**82.—** (1) The Minister may, for the purpose of operating a fishery owned by him or her, do all such things as he or she may consider necessary for carrying on such fishery as a commercial undertaking and which he or she could do if he or she were a private individual and the owner of such fishery, and without prejudice to the generality of the foregoing provision may do all or any of the following—

- (a) buy and sell fish anywhere,
- (b) buy or manufacture any article required in connection with the capture, storage, transport, treatment, purchase or sale of fish,
- (c) carry on any business which is ancillary or incidental to the operation of such fishery,
- (d) enter into contracts,
- (e) employ such and so many persons as he or she thinks fit, and
- (f) purchase fishing licences.

(2) The remuneration of all persons employed in connection with the operation by the Minister of any fishery owned by him or her shall be determined with the consent of the Minister for Finance.

(3) The Public Service Management (Recruitment and Appointments) Act 2004 and the Civil Service Regulation Acts 1956 and 1958 do not apply to any person employed or appointed by the Minister under this section.

Liability of Minister or IFI for damage by flooding.

**83.—** No claim lies against the Minister or IFI for flooding or other consequential damage due to the continued existence of any structure (including a fishing weir or a fishing mill dam which, on the date of vesting in or acquisition by the Minister or IFI of a fishery, formed part of or existed in such fishery) unless the Minister or IFI, as may be appropriate, shall have increased the height of such structure or shall have closed any openings or gaps therein to an extent to which they could not have been lawfully closed on the said date.

Section 4.

## SCHEDULE 1

## REPEAL OF EXISTING ENACTMENTS

| Number and Year<br>(1) | Short Title<br>(2)                    | Extent of Repeal<br>(3)  |
|------------------------|---------------------------------------|--|
| No. 14 of 1959         | Fisheries (Consolidation) Act 1959    | Sections 9, 11(2)(a), 90 and 160(6) (inserted by section 20 of the Act of 1994).   |
| No. 31 of 1962         | Fisheries (Amendment) Act 1962        | Sections 3, 14(1), 32(2) and 33.   |
| No. 1 of 1980          | Fisheries Act 1980                    | Part I (sections 3, 4 and 5),<br>Part II (sections 7 to 36),<br>Part III (sections 37 to 45),<br>Part IV (except section 53),<br>Part V (sections 54 and 55),<br>Part VI (except sections 64, 66, 67, 70, 71, 74 and 76),<br>Second Schedule,<br>Third Schedule and<br>Fifth Schedule. |
| No. 32 of 1987         | Fisheries (Amendment)(No. 2) Act 1987 | Sections 19 to 21.   |
| No. 26 of 1991         | Fisheries (Amendment) Act 1991        | Sections 4 to 15.  |
| No. 1 of 1997          | Fisheries (Commissions) Act 1997      | The whole Act (except sections 1, 7(1) and 9).   |
| No. 35 of 1999         | Fisheries (Amendment) Act 1999        | Part 2 (sections 3 to 23),<br>Part 3 (sections 24 to 26) and<br>section 28.  |
| No. 34 of 2000         | Fisheries (Amendment) Act 2000        | The whole Act.   |

Section 8.

## SCHEDULE 2

## CONSEQUENTIAL AMENDMENTS OF CERTAIN ACTS

## PART 1

## AMENDMENT OF FISHERIES (CONSOLIDATION) ACT 1959

| Item | Provision affected                                    | Amendment  |
|------|---|--|
| 1.   | Section 20  | In subsection (4) (amended by section 64 of the Act of 1980) substitute " <i>subparagraph (i) or (ii) of section 6(3)(a) of the Inland Fisheries Act 2010</i> " for " <i>subparagraph (i) or (ii) of section 10(9)(a) of the Fisheries Act 1980</i> ".   |
| 2.   | Section 50  | (a) In subsection (1) (amended by section 65 of the Act of 1980) substitute "Inland Fisheries Ireland" for "the Central Board or any regional board".<br><br>(b) In subsection (3) (amended by section 65 of the Act of 1980) substitute "Inland Fisheries Ireland" for "the Central Board or a regional board" and "such board" where occurring.  |
| 3.   | Section 54 (amended by Part I of the Fourth Schedule) | Substitute "Inland Fisheries Ireland" for "the regional board within whose fisheries region such tidal waters are situate".  |
| 4.   | Section 55  | In subsection (1) (amended by Part I of the Fourth Schedule)—<br><br>(a) substitute "Inland Fisheries Ireland" for "Every regional board",<br><br>(b) substitute "within a fishery district" for "within its fisheries region", and<br><br>(c) substitute "Inland Fisheries Ireland's expenditure" for "the regional board's expenditure".   |
| 5.   | Section 57  | In subsection (1) (amended by Part I of the Fourth Schedule) substitute "Inland Fisheries Ireland" for "the regional board within whose fisheries region the fishery is situate".  |
| 6.   | Section 59  | In subsection (2) (amended by Part I of the Fourth Schedule) substitute "Inland Fisheries Ireland may be recovered at the suit of Inland Fisheries Ireland" for "a regional board may be recovered at the suit of the board".  |
| 7.   | Section 62  | (a) In subsection (1) (amended by Part I of the Fourth Schedule) substitute "Inland Fisheries Ireland in respect of any special tidal waters there are during that year or part thereof" for "every regional board within whose fisheries region there are during that year or part thereof any special tidal waters".<br><br>(b) In subsection (2) (amended by Part I of the Fourth Schedule) substitute "Inland Fisheries Ireland where" for "any regional board within whose fisheries region".   |
| 8.   | Section 67  | (a) In subsection (6) (amended by section 5 of the Act of 1987) substitute "Inland Fisheries Ireland" for "a regional board".<br><br>(b) In subparagraph (i) of subsection 6(b) (amended by section 5 of the Act of 1987) substitute "Inland Fisheries Ireland" for "the regional board concerned".<br><br>(c) In subsection (7) (amended by section 5 of the Act of 1987) substitute "Inland Fisheries Ireland" for "that board".<br><br>(d) In subsection (9) (amended by section 67 of the Act of 1980) substitute "Inland Fisheries Ireland" for "the regional board concerned".<br><br>(e) In subsection (11) (amended by section 5 of the Act of 1987) delete "and being a fishery district in the fisheries region of the regional board by which it was issued". |
| 9.   | Section 69  | (a) In subsection (1) (amended by Part I of the Fourth Schedule) substitute "Inland Fisheries Ireland" for "the regional board   |



| Item | Provision affected | Amendment  |
|------|--------------------|--|
|      |                    | <p>within whose fisheries region the fishery district is situate” and “such board” where occurring.</p> <p>(b) In subsection (3) (amended by Part I of the Fourth Schedule) substitute “Inland Fisheries Ireland” for “a regional board”.</p> <p>(c) In subsection (4) (amended by Part I of the Fourth Schedule) substitute “Inland Fisheries Ireland” for “a regional board” and “the said regional board” where occurring.</p> <p>(d) In subsection (5) (amended by Part I to the Fourth Schedule)—</p> <p>(i) substitute “Inland Fisheries Ireland” for “the regional board within whose fisheries region the fishery district is situate”, and</p> <p>(ii) substitute “Inland Fisheries Ireland” for “the board”.</p> |
| 10.  | Section 70         | <p>In subsection (1) (amended by Part I of the Fourth Schedule)—</p> <p>(a) substitute “Inland Fisheries Ireland” for “A regional board”, and</p> <p>(b) substitute “Inland Fisheries Ireland” for “the board”, “a regional board” and “that board” where occurring.</p>   |
| 11.  | Section 72         | <p>(a) In subsection (a) (amended by Part I of the Fourth Schedule) substitute “Inland Fisheries Ireland” for “the regional board within whose fisheries region such fishery district is situate”.</p> <p>(b) In subparagraph (i) of subsection (b) (amended by Part I of the Fourth Schedule) substitute “Inland Fisheries Ireland” for “such regional board”.</p>  |
| 12.  | Section 74         | <p>In subsection (1) (amended by Part I of the Fourth Schedule) substitute “Inland Fisheries Ireland” for “the regional board within whose fisheries region special tidal waters are situate” and for “the regional board within whose fisheries region such tidal waters are situate”.</p>  |
| 13.  | Section 75         | <p>In subsection (1)(b) (amended by Part I of the Fourth Schedule) substitute “Inland Fisheries Ireland” for “the regional board within whose fisheries region such tidal waters are situate”.</p>   |
| 14.  | Section 77         | <p>In subsection (1) (amended by Part I of the Fourth Schedule)—</p> <p>(a) substitute “Inland Fisheries Ireland” for “a regional board”,</p> <p>(b) delete “situate in the fisheries region of the board”, and</p> <p>(c) in paragraphs (b), (c) and (d) substitute “Inland Fisheries Ireland” for “such board”.</p>  |
| 15.  | Section 100        | <p>(a) In subsection (5) (amended by section 27 of the Act of 1999) substitute—</p> <p>(i) in paragraphs (a), (b), (c) and (d) “Inland Fisheries Ireland” for “A regional board”, and</p> <p>(ii) in paragraph (d) “Inland Fisheries Ireland” for “the board”.</p> <p>(b) In subsection (6) (amended by section 27 of the Act of 1999) substitute—</p> <p>(i) in paragraph (a) “Inland Fisheries Ireland” for “a regional board” and “the board” where occurring,</p>  |

| Item | Provision affected                                      | Amendment  |
|------|---|--|
|      |   | <p>(ii) in paragraphs (b)(i) and (ii) "Inland Fisheries Ireland" for "the regional board", and</p> <p>(iii) in paragraph (c) "Inland Fisheries Ireland" for "the regional board".</p> <p>(c) In subsection (6A) (inserted by section 27 of the Act of 1999) substitute—</p> <p>(i) "Inland Fisheries Ireland" for "A regional board", and</p> <p>(ii) delete "except in relation to its own fisheries region and".</p> |
| 16.  | Section 115   | <p>In subsection (4) (amended by Part I of the Fourth Schedule)—</p> <p>(a) substitute "Inland Fisheries Ireland" for "A regional board",</p> <p>(b) delete "in its fisheries region", and</p> <p>(c) substitute "Inland Fisheries Ireland" for "the said board".</p>  |
| 17.  | Section 118   | <p>In subsection (6) (amended by Part I of the Fourth Schedule)—</p> <p>(a) substitute "Inland Fisheries Ireland" for "A regional board",</p> <p>(b) delete "in its fisheries region", and</p> <p>(c) substitute "Inland Fisheries Ireland" for "the said board".</p>  |
| 18.  | Section 154 (inserted by section 20 of the Act of 1994) | <p>In paragraph (a) of the definition of "inspector" substitute "Inland Fisheries Ireland" for "a regional board".</p>   |
| 19.  | Section 158 (inserted by section 20 of the Act of 1994) | <p>In subsection (2) substitute "Inland Fisheries Ireland" for "the regional board in whose fisheries region is situate any fisheries district in which he carries on or proposes to carry on the business of selling, or exporting for sale, salmon and trout, eels or molluscan shellfish, as the case may be" and "each such board" where occurring.</p>  |
| 20.  | Section 159 (inserted by section 20 of the Act of 1994) | <p>(a) In subsection (1) substitute "Inland Fisheries Ireland" for "the board".</p> <p>(b) In subsection (1)(a)—</p> <p>(i) substitute "Inland Fisheries Ireland" for "the regional board", and</p> <p>(ii) delete "within such board's fisheries region".</p> <p>(c) In subsection (2) substitute "Inland Fisheries Ireland" for "a regional board".</p>  |
| 21.  | Section 160 (inserted by section 20 of the Act of 1994) | <p>(a) In subsection (1) substitute "Inland Fisheries Ireland" for "the relevant regional board" and "the board" where occurring.</p> <p>(b) In subsection (2) substitute "Inland Fisheries Ireland" for "a Regional Board".</p>   |
| 22.  | Section 161 (inserted by section 20 of the Act of 1994) | <p>In subsection (2)(b) substitute "Inland Fisheries Ireland" for "the relevant regional board" and "board" where occurring.</p>   |
| 23.  | Section 170   | <p>In subsection (2)(b) and (2)(c) (amended by section 12 of the Act of 1987) substitute "Inland Fisheries Ireland" for "a regional board" and "that board" where occurring.</p>   |
| 24.  | Section 294   | <p>In subsection (2A)(a) (inserted by section 17 of the Act of 1991) substitute "Inland Fisheries Ireland" for "the appropriate regional board".</p>   |

| Item | Provision affected | Amendment  |
|------|--------------------|--|
| 25.  | Section 297        | In subsection (2)(b) (amended by Section 71 of the Act of 1980) substitute "Inland Fisheries Ireland" for "a regional board" and "that board".   |
| 26.  | Section 298        | (a) In subsection (1) (amended by Part I of the Fourth Schedule) substitute "Inland Fisheries Ireland" for "a regional board".<br><br>(b) In subsection (2) (amended by Part I of the Fourth Schedule) substitute "Inland Fisheries Ireland" for "a regional board".   |
| 27.  | Section 301        | (a) In subsection (1)(b) (amended by Part I of the Fourth Schedule) substitute "Inland Fisheries Ireland" for "a regional board" where occurring.<br><br>(b) In subsection (2A) (as inserted by section 53 of the Act of 1980) substitute "paragraph (a), (b), (c) or (d) of section 57(4) of the Inland Fisheries Act 2010" for "paragraph (a), (b), (c) or (d) of section 46(4) of the Fisheries Act 1980".                    |
| 28.  | Section 315        | In subparagraph (i) of section 315(2)(a) (amended by Part I of the Fourth Schedule) substitute "Inland Fisheries Ireland" for "the regional board within whose fisheries region is situate the fishery district in which the offence was committed".   |
| 29.  | Section 318        | (a) In subparagraph (i)(i) of section 318(1)(b) (amended by Part I of the Fourth Schedule) substitute "Inland Fisheries Ireland" for "the regional board within whose fisheries region is situate the fishery district in which the offence was committed".<br><br>(b) In subparagraph (ii) of section 318(1)(b) (amended by Part I of the Fourth Schedule) substitute "Inland Fisheries Ireland" for "the said regional board". |
| 30.  | Section 319        | In subparagraph (i)(i) of section 319(1)(c) (amended by Part I of the Fourth Schedule) substitute "Inland Fisheries Ireland" for "the regional board within whose fisheries region is situate the fishery district in which the offence was committed".  |

- (1) References to regional boards (as provided for by section 2 of Part 1 of the Fourth Schedule) in the provisions of the Principal Act specified in *subparagraph (2)* shall each be construed and have effect as if they were references to Inland Fisheries Ireland.
- (2) The provisions of the Principal Act referred to in *subparagraph (1)* are the definition of "fishery rate" in section 3(1), sections 40(10) (as substituted by section 7 of the Act of 2000), 45(1), 49(5), 49(9), 55(2), 55(3), 55(4), 56, 57(2), 57(3), 59(1), 67(1), 67(8), 67(10), 70(2), 70(3), 77(4), 278, 291, 303(1) and 306(1).
- (3) References in this Part to the Fourth Schedule are to be read as references to the Fourth Schedule to the Act of 1980.

## PART 2

### AMENDMENT OF WILDLIFE ACT 1976

| Item | Provision affected | Amendment   |
|------|--------------------|---|
| 1.   | Section 40(2)      | In paragraph (cc) (inserted by the Wildlife (Amendment) Act 2000) substitute "Inland Fisheries Ireland" and " <i>Inland Fisheries Acts 1959 to 2010</i> " for "the Central Fisheries Board or a regional fisheries board" and "Fisheries Acts 1959 to 1999" respectively. |

## PART 3

## AMENDMENT OF LOCAL GOVERNMENT (WATER POLLUTION) ACT 1977

| Item | Provision affected  | Amendment   |
|------|---|---|
| 1.   | Section 1   | Delete the definitions (inserted by section 2 of the Local Government (Water Pollution) (Amendment) Act 1990) of "fisheries region" and "regional board".   |
| 2.   | Section 10 (inserted by section 7 of the Local Government (Water Pollution) (Amendment) Act 1990)     | Substitute the following subsection for subsection (4)—<br><br><p style="text-align: center;">“(4) (a) Where a person does not comply with an order under subsection (1), Inland Fisheries Ireland or the local authority in whose functional area the waters concerned are situated, may take any steps specified in the order to mitigate or remedy the effects of the entry or discharge concerned.</p> <p style="text-align: center;">(b) The amount of any expenditure incurred by a local authority or Inland Fisheries Ireland in relation to steps taken by it under paragraph (a) shall be a simple contract debt owed by the person in respect of whom the order under subsection (1) was made to the authority or Inland Fisheries Ireland, as the case may be, and may be recovered by it from the person as a simple contract debt in any court of competent jurisdiction.”.</p> |
| 3.   | Section 15(6) (inserted by section 11 of the Local Government (Water Pollution) (Amendment) Act 1990) | Substitute the following subsection for subsection (6)—<br><br><p style="text-align: center;">“(6) As soon as practicable after the making, revision or replacement of a plan under this section, a copy of the plan as so made or revised or of the replacement plan shall be given by the local authority concerned to the Minister and the Minister for Communications, Energy and Natural Resources, to Inland Fisheries Ireland and to any local authority or sanitary authority whose functional area either adjoins the waters to which the plan relates or the performance of whose functions would be affected by or would affect the implementation of the plan.”.</p>  |

**Annotations****Modifications (not altering text):**

**C5** Certain references to "sanitary authority" construed as "Irish Water" (1.01.2014) by *Water Services (No. 2) Act 2013* (50/2013), ss. 7(3), (4), S.I. No. 575 of 2013.

**Transfer of functions from water service authorities to Irish Water**

## 7.— ...

(3) All functions of sanitary authorities deemed to be functions of a water services authority under section 39 of the Act of 2007 shall, on the transfer day, be transferred to Irish Water.

(4) References to a sanitary authority in any enactment or instrument under any enactment shall, on and after the transfer day, in so far as they relate to any function transferred by subsection (3), be construed as references to Irish Water.

## PART 4

## AMENDMENT OF WORKER PARTICIPATION (STATE ENTERPRISES) ACT 1977

| Item | Provision affected   | Amendment  |
|------|--|--|
| 1.   | First Schedule (inserted by section 24 of the Worker Participation (State Enterprises) Act 1988) | In Part III to the First Schedule substitute "Inland Fisheries Ireland" for "Central Fisheries Board". |

## PART 5

## AMENDMENT OF OMBUDSMAN ACT 1980

| Item | Provision affected  | Amendment  |
|------|---|--|
| 1.   | Second Schedule (as amended by the Ombudsman Act 1980 (Second Schedule) (Amendment) Order 1985 (S.I. No. 69 of 1985)) | Substitute "Inland Fisheries Ireland" for "Central Fisheries Board". |

## PART 6

## AMENDMENT OF LOCAL GOVERNMENT (WATER POLLUTION) (AMENDMENT) ACT 1990

| Item | Provision affected | Amendment   |
|------|--------------------|---|
| 1.   | Section 26         | Substitute "Inland Fisheries Ireland" for "a regional board", "board concerned" and "board" where occurring.  |
| 2.   | Section 27         | In Part II of the Table to section 27 substitute "Inland Fisheries Ireland" for "a regional board in whose functional area any of the waters concerned are situated". |
| 3.   | Section 28         | Substitute "Inland Fisheries Ireland" for "regional board concerned" and "or board".  |

## PART 7

## AMENDMENT OF FISHERIES (AMENDMENT) ACT 1991

| Item | Provision affected | Amendment   |
|------|--------------------|---|
| 1.   | Section 16         | <p>(a) In subsection (1) substitute “within the State” for “in the fisheries region of the regional board by which it was issued”.</p> <p>(b) In subsection (3) substitute “Inland Fisheries Ireland” for “a regional board” and “the board” where occurring.</p> <p>(c) In subsection (4) substitute “Inland Fisheries Ireland” for “each regional board”.</p> |

## PART 8

## AMENDMENT OF FISHERIES (AMENDMENT) ACT 1995

| Item | Provision affected | Amendment   |
|------|--------------------|---|
| 1.   | Section 2          | <p>(a) In subsection (1) substitute “Inland Fisheries Ireland” for “a board”.</p> <p>(b) In subsection (2) substitute “Inland Fisheries Ireland” for “A board in respect of which a report is being prepared under this section” and “a report under this section” for “the report” respectively.</p> <p>(c) In subsection (3) substitute “Inland Fisheries Ireland” for “the board concerned”.</p> <p>(d) In subsection (5) substitute “Inland Fisheries Ireland” for “a board” and “the board” where occurring.</p> <p>(e) In subsection (6) substitute “Inland Fisheries Ireland” for “a board” and “the board” where occurring.</p> |
| 2.   | Section 3          | <p>(a) In subsection (1)(a), (b) and (b)(ii) substitute “Inland Fisheries Ireland” for “a board” or “the board” where occurring.</p> <p>(b) In subsection (2)(a) substitute “Inland Fisheries Ireland” for “the board concerned”.</p> <p>(c) In subsection (3) substitute “Inland Fisheries Ireland” for “a board” and “the said board” where occurring.</p> <p>(d) In subsection (5) substitute “Inland Fisheries Ireland” for “a board”.</p> <p>(e) In subsection (7) substitute “Inland Fisheries Ireland” for “a board”.</p>  |
| 3.   | Section 4          | <p>(a) In subsection (1) substitute “Inland Fisheries Ireland” for “a board” and “the board concerned” where occurring.</p> <p>(b) In subsection (2) substitute “Inland Fisheries Ireland” for “A board to which a notice aforesaid is given”.</p>  |
| 4.   | Section 5          | In subsection (10) substitute “Subsections (6) and (7) of section 18 of the <i>Inland Fisheries Act 2010</i> ” for “Subsections (4) and (5) of section 24 of the Act of 1980” and substitute “subsection (4) of that section” for “subsection (2) of that section”.   |
| 5.   | Section 6          | (a) In subsection (1) substitute “Inland Fisheries Ireland” for “a board” and “the board” where occurring.  |

| Item | Provision affected | Amendment   |
|------|--------------------|---|
|      |                    | <p>(b) In subsection (2) substitute “Inland Fisheries Ireland” for “the board concerned” and “the board” where occurring.</p> <p>(c) In subsection (4) substitute “Inland Fisheries Ireland” for “a board” and “the board concerned” where occurring.</p> <p>(d) In subsection (6) substitute “Inland Fisheries Ireland” for “the board concerned”.</p>   |
| 6.   | Section 7          | Substitute “Inland Fisheries Ireland” for “the board concerned” and “the board” where occurring.  |
| 7.   | Section 8          | <p>Substitute the following for section 8:</p> <p>“8.— (1) The Minister may remove from office a member of IFI who is responsible for a failure to comply with a requirement or request made of IFI under subsection (2) or (3) of section 2, or section 7 of this Act.</p> <p>(2) This section is without prejudice to the provisions of sections 17(1) and 18(1) of the <i>Inland Fisheries Act 2010</i>.</p> <p>(3) References to sections 17(1) and 18(1) of the <i>Inland Fisheries Act 2010</i> shall be construed as including references to this section.”.</p> |
| 8.   | Section 9          | In subsection (3) substitute “Inland Fisheries Ireland” for “a board concerned”.  |
| 9.   | Section 10         | Substitute “Inland Fisheries Ireland” for “a board” and “the board” where occurring.  |

## PART 9

### AMENDMENT OF DUMPING AT SEA ACT 1996

| Item | Provision affected | Amendment   |
|------|--------------------|---|
| 1.   | Section 6          | <p>(a) In subsection (1)(b)—</p> <p>(i) delete “, in relation to the fisheries regions created under section 10 of the Fisheries Act, 1980,” and</p> <p>(ii) substitute “Inland Fisheries Ireland” for “the Central Fisheries Board established by the said Act,”.</p> <p>(b) Delete subsection (1)(c).</p> |

## PART 10

### AMENDMENT OF FREEDOM OF INFORMATION ACT 1997

| Item | Provision affected | Amendment  |
|------|--------------------|--|
| 1.   | Third Schedule     | <p>At the end of Part I insert—</p> <p>(a) in column (2), “<i>Inland Fisheries Act 2010</i>.”, and</p> |

| Item | Provision affected | Amendment   |
|------|--------------------|---|
|      |                    | (b) in column (3), "Section 36." opposite the mention in column (2) of the <i>Inland Fisheries Act 2010</i> . |

## PART 11

### AMENDMENT OF FISHERIES (AMENDMENT) ACT 1997

| Item | Provision affected | Amendment  |
|------|--------------------|--|
| 1.   | Section 39         | In subsection (2) substitute "Inland Fisheries Ireland" for "the Central Fisheries Board or a Regional Fisheries Board, both within the meaning of the Act of 1980". |
| 2.   | Section 77         | In subsection (1) substitute "Inland Fisheries Ireland" for "the Central Fisheries Board or a Regional Fisheries Board, both within the meaning of the Act of 1980". |

## PART 12

### AMENDMENT OF PROMPT PAYMENT OF ACCOUNTS ACT 1997

| Item | Provision affected | Amendment   |
|------|--------------------|---|
| 1.   | Schedule           | (a) Insert "Inland Fisheries Ireland", and<br>(b) delete "Central Fisheries Board" and "Regional Fisheries Boards". |

## PART 13

### AMENDMENT OF TAXES CONSOLIDATION ACT 1997

| Item | Provision affected | Amendment   |
|------|--------------------|---|
| 1.   | Schedule 4         | (a) Delete—<br>(i) "18. The Central Fisheries Board.",<br>(ii) "33. Eastern Regional Fisheries Board.",<br>(iii) "80. The Northern Regional Fisheries Board.",<br>(iv) "81. The North Western Regional Fisheries Board.",<br>(v) "93. The Shannon Regional Fisheries Board.",<br>(vi) "94. The Southern Regional Fisheries Board.",<br>(vii) "95. "The South Western Regional Fisheries Board.", and<br>(b) insert the following after paragraph 53A, "53AB. Inland Fisheries Ireland." |
| 2.   | Schedule 13        | (a) Delete paragraphs 96 and 97, and<br>(b) insert after paragraph 173—   |



| Item | Provision affected | Amendment                        |
|------|--------------------|----------------------------------|
|      |                    | "174. Inland Fisheries Ireland." |

## PART 14

### AMENDMENT OF OFFICIAL LANGUAGES ACT 2003

| Item | Provision affected | Amendment  |
|------|--------------------|--|
| 1.   | Schedule 1         | <p>(a) In paragraph 1(2) of the Irish text substitute "Iascach Intíre Éireann" for "An Príomh-Bhord Iascaigh agus Boird Iascaigh Réigiúnacha".</p> <p>(b) In paragraph 1(2) of the English text substitute "Inland Fisheries Ireland" for "Central and Regional Fisheries Boards".</p> |

## PART 15

### AMENDMENT OF MARITIME SAFETY ACT 2005

| Item | Provision affected | Amendment  |
|------|--------------------|--|
| 1.   | Section 18         | In paragraph (e) substitute "Inland Fisheries Ireland" for "the Central Fisheries Board or a Regional Fisheries Board (within the meaning of the Fisheries Act 1980)". |

Section 8.

## SCHEDULE 3

### CONSEQUENTIAL AMENDMENTS OF CERTAIN STATUTORY INSTRUMENTS

## PART 1

### AMENDMENT OF SUPERANNUATION (DESIGNATION OF APPROVED ORGANISATIONS) REGULATIONS 1981 (S.I. NO. 437 OF 1981)

| Item | Provision affected | Amendment  |
|------|--------------------|--|
| 1.   | Schedule           | <p>(a) Delete "Central Fisheries Board", "The Eastern Regional Fisheries Board", "The Northern Regional Fisheries Board", "The North Western Regional Fisheries Board", "The Shannon Regional Fisheries Board", "The Southern Regional Fisheries Board", "The South Western Regional Fisheries Board", and "The Western Regional Fisheries Board", and</p> <p>(b) insert "Inland Fisheries Ireland".</p> |

## PART 2

## AMENDMENT OF LOCAL GOVERNMENT (WATER POLLUTION) REGULATIONS 1992 (S.I. NO. 271 OF 1992)

| Item | Provision affected | Amendment  |
|------|--------------------|--|
| 1.   | Article 14(3)      | (a) Delete paragraphs (d) and (e), and<br><br>(b) insert "(h) Inland Fisheries Ireland". |

## PART 3

## AMENDMENT OF LOCAL GOVERNMENT ACT 1991 (REGIONAL AUTHORITIES) (ESTABLISHMENT) ORDER 1993 (S.I. No. 394 OF 1993)

| Item | Provision affected     | Amendment  |
|------|------------------------|--|
| 1.   | Third Schedule, Part I | (a) Delete "Regional Fisheries Board", and<br><br>(b) insert "Inland Fisheries Ireland". |

## PART 4

## AMENDMENT OF ENVIRONMENTAL PROTECTION AGENCY (LICENSING) REGULATIONS 1994 (S.I. No. 85 OF 1994)

| Item | Provision affected   | Amendment  |
|------|--|--|
| 1.   | Article 20(1) (as amended by Article 4 of the Environmental Protection Agency (Licensing) (Amendment) Regulations 2004 (S.I. No. 394 of 2004)) | (a) Delete paragraph (c), and<br><br>(b) insert "(cc) Inland Fisheries Ireland". |

## PART 5

## AMENDMENT OF ENVIRONMENTAL PROTECTION AGENCY (LICENSING FEES) REGULATIONS 1994 (S.I. No. 130 OF 1994)

| Item | Provision affected | Amendment   |
|------|--------------------|---|
| 1.   | Article 8(3)       | In paragraph (e) substitute "Inland Fisheries Ireland" for "the Central Fisheries Board". |

## PART 6

## AMENDMENT OF DISTRICT COURT RULES 1997 (S.I. No. 93 OF 1997)

| Item | Provision affected   | Amendment   |
|------|--|---|
| 1.   | PART III<br>Order 65 Fisheries   | In paragraph 2(3) substitute "Inland Fisheries Ireland" for "the Regional Board in whose fisheries region he or she carries on or proposes to carry on business". |
| 2.   | Schedule C<br><br>(Forms in Civil Proceedings)<br><br>No. 65.1<br><br>(Notice of application for a Certificate of Fitness) | Substitute "Inland Fisheries Ireland" for "The Regional Fisheries Board".   |
| 3.   | Schedule C<br><br>(Forms in Civil Proceedings)<br><br>No. 65.14<br><br>(Warrant under Section 297)                         | Substitute "Inland Fisheries Ireland" for "a Regional Board" and "that Board" where occurring.  |

## PART 7

## AMENDMENT OF AQUACULTURE (LICENCE APPLICATION) REGULATIONS 1998 (S.I. No. 236 OF 1998)

| Item | Provision affected | Amendment   |
|------|--------------------|---|
| 1.   | Regulation 10(1)   | (a) Delete paragraphs (g) and (h), and<br><br>(b) insert "(gg) Inland Fisheries Ireland". |

## PART 8

## AMENDMENT OF CONTROL OF DOGS REGULATIONS 1998 (S.I. No. 442 OF 1998)

| Item | Provision affected | Amendment   |
|------|--------------------|---|
| 1.   | Article 7(1)       | In paragraph (c) substitute "Inland Fisheries Ireland" for "the Central Fisheries Board or a Regional Fisheries Board". |

## PART 9

## AMENDMENT OF LOCAL GOVERNMENT ACT 1991 (REGIONAL AUTHORITIES) (ESTABLISHMENT) ORDER 1999 (S.I. No. 226 OF 1999)

| Item | Provision affected      | Amendment  |
|------|-------------------------|--|
| 1.   | Second Schedule, Part 1 | Substitute "Inland Fisheries Ireland" for "Regional Fisheries Boards". |

## PART 10

AMENDMENT OF EUROPEAN COMMUNITIES (ENVIRONMENTAL IMPACT ASSESSMENT)  
(AMENDMENT) REGULATIONS 2001 (S.I. NO. 538 OF 2001)

| Item | Provision affected | Amendment  |
|------|--------------------|--|
| 1.   | Article 10(1)      | In paragraph (a) substitute "Inland Fisheries Ireland" for "the appropriate regional fisheries board". |

## PART 11

AMENDMENT OF PLANNING AND DEVELOPMENT REGULATIONS 2001 (S.I. NO. 600  
OF 2001)

| Item | Provision affected   | Amendment  |
|------|--|--|
| 1.   | Article 13 (inserted by Article 5 of the Planning and Development Regulations 2006 (S.I. No. 685 of 2006)) | (a) Delete paragraphs (k) and (u), and<br><br>(b) insert new paragraph "(ss) Inland Fisheries Ireland".  |
| 2.   | Article 15 (inserted by Article 7 of S.I. No. 685 of 2006)   | In paragraph (k) substitute "Inland Fisheries Ireland" for "the Central Fisheries Board and any Regional Fisheries Board whose area is within the region for which guidelines are prepared".                                     |
| 3.   | Article 28(1) (inserted by Part 4 of S.I. No. 685 of 2006)   | (a) In paragraph (g) substitute "Inland Fisheries Ireland" for "the appropriate Regional Fisheries Board", and<br><br>(b) in paragraph (q) substitute "Inland Fisheries Ireland" for "the appropriate Regional Fisheries Board". |
| 4.   | Article 82(3) (inserted by Article 18 of S.I. No. 685 of 2006)   | In paragraph (g) substitute "Inland Fisheries Ireland" for "the appropriate Regional Fisheries Board".   |
| 5.   | Article 121(1) (inserted by Article 29 of S.I. No. 685 of 2006)  | In paragraph (g) substitute "Inland Fisheries Ireland" for "the appropriate Regional Fisheries Board".   |
| 6.   | Article 179(2)   | In paragraph (k) substitute "Inland Fisheries Ireland" for "the appropriate Regional Fisheries Board".   |
| 7.   | Article 213(1) (inserted by Article 41 of S.I. No. 685 of 2006)  | In paragraph (j) substitute "Inland Fisheries Ireland" for "the appropriate Regional Fisheries Board".   |
| 8.   | Schedule 2, Part 1, Class 52   | Substitute "Inland Fisheries Ireland" for "a Regional Fisheries Board".  |

## PART 12

AMENDMENT OF FREEDOM OF INFORMATION ACT 1997 (PRESCRIBED BODIES) (NO.  
2) REGULATIONS 2002 (S.I. NO. 530 OF 2002)

| Item | Provision affected | Amendment  |
|------|--------------------|--|
| 1.   | Schedule           | <p>(a) Delete "The Central Fisheries Board", "The Northern Regional Fisheries Board", "The North Western Regional Fisheries Board", "The Eastern Regional Fisheries Board", "The Shannon Regional Fisheries Board", "The Southern Regional Fisheries Board", "The South Western Regional Fisheries Board", and "The Western Regional Fisheries Board", and</p> <p>(b) insert "Inland Fisheries Ireland".</p> |

### PART 13

#### AMENDMENT OF EUROPEAN COMMUNITIES (WATER POLICY) REGULATIONS 2003 (S.I. NO. 722 OF 2003)

| Item | Provision affected | Amendment  |
|------|--------------------|--|
| 1.   | First Schedule     | <p>(a) Delete "the regional fisheries boards in the area" and "the Central Fisheries Board", and</p> <p>(b) insert "Inland Fisheries Ireland".</p> |

### PART 14

#### AMENDMENT OF WASTE MANAGEMENT (LICENSING) REGULATIONS 2004 (S.I. NO. 395 OF 2004)

| Item | Provision affected | Amendment   |
|------|--------------------|---|
| 1.   | Article 18(1)      | In paragraph (c) substitute "Inland Fisheries Ireland" for "the Central Fisheries Board". |
| 2.   | Article 42(3)      | In paragraph (d) substitute "Inland Fisheries Ireland" for "the Central Fisheries Board". |

### PART 15

#### AMENDMENT OF EUROPEAN COMMUNITIES (QUALITY OF SHELLFISH WATERS) REGULATIONS 2006 (S.I. NO. 268 OF 2006)

| Item | Provision affected | Amendment  |
|------|--------------------|--|
| 1.   | Schedule 1         | <p>(a) Delete "the relevant regional fisheries board" and "the Central Fisheries Board", and</p> <p>(b) insert "Inland Fisheries Ireland".</p> |

### PART 16

AMENDMENT OF WASTE WATER DISCHARGE (AUTHORISATION) REGULATIONS 2007 (S.I. NO. 684 OF 2007)

| Item | Provision affected | Amendment   |
|------|--------------------|---|
| 1.   | Regulation 21(1)   | In paragraph (c) substitute "Inland Fisheries Ireland" for "the Central Fisheries Board". |

Section 38.

SCHEDULE 4

REDRESS FOR CONTRAVENTION OF SECTION 38

F8[*Decision under section 41 of Workplace Relations Act 2015*

1. A decision of an adjudication officer under section 41 of the Workplace Relations Act 2015 in relation to a complaint of a contravention by IFI of section 38(1) shall do one or more of the following, namely—

- (a) declare that the complaint was or, as the case may be, was not well founded,
- (b) require IFI to take a specified course of action, or
- (c) require IFI to pay the employee compensation of such amount (if any) as the adjudication officer considers just and equitable having regard to all the circumstances but not exceeding 2 years' remuneration in respect of the employee's employment.]

F8[*Decision of Labour Court on appeal from decision referred to in paragraph 1*

2. A decision of the Labour Court under section 44 of the Workplace Relations Act 2015, on appeal from a decision of an adjudication officer referred to in paragraph 1, shall affirm, vary or set aside the decision of the adjudication officer.]

*Paragraphs 1 and 2: supplemental provisions.*

3. F9[...]

*Enforcement of determinations of Labour Court.*

4. F9[...]

**Annotations**

**Amendments:**

- F8** Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 52(1) and sch. 7 part 1 item 28, S.I. No. 410 of 2015, subject to transitional provision in subs. (3).
- F9** Repealed (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 8(1) and sch. 2 part 1 item 26, S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

Sections 60, 61  
and 62.

## SCHEDULE 5

### PROVISIONS REFERRED TO IN SECTIONS 60, 61 AND 62

1. Where an application to which this Schedule applies is made, the applicant shall:
    - (a) deposit and keep deposited, at the place or each of the places appointed by the Minister, for such period (being a period of not less than 3 weeks) as the Minister directs, a copy of the application and of any plan which accompanied it;
    - (b) publish in such newspapers as the Minister directs notice of the making of the application stating the place or places at which the application and any accompanying plan may be inspected under Article 3 during a period specified in the notice (which period shall be the period so directed) and also stating that notice of representations or objections as regards the proposed authorisation or acquisition order, as the case may be, may be given in writing to the Minister during the said period (which notices are hereby authorised to be so given);
    - (c) not later than 2 weeks before the expiration of the period so directed, serve a notice in writing containing the particulars mentioned in and complying with the requirements of Article 2 on the owner, and if the owner is not in occupation of it, such one or more of the following as are in the circumstances appropriate, namely:
      - (i) the owner of the fishery, premises or other land proposed to be acquired if the owner can be so ascertained, and, if the owner is not in occupation of it, the occupier of such fishery, premises or other land;
      - (ii) the owner of the land comprising the proposed servient tenement if the owner can by reasonable enquiry be ascertained and, if the owner is not in occupation of it, the occupier of such land;
      - (iii) the person entitled to enjoy any right proposed to be acquired, if such person can be so ascertained;
  - and
  - (d) in case the application is an application under *section 62*, not later than the expiration of the period so directed, serve a notice in writing of the making of the application on—
    - (i) the Commissioners, and
    - (ii) any planning authority within whose functional area the servient tenement to which the application relates (or any part thereof) is situate.
2. A notice referred to in Article 1 shall indicate the situation of the servient tenement or other land to which the application, if granted, would relate and with which the person on whom the notice is served is concerned.
  3. Where an application to which this Schedule applies is made, any person may during the period specified in a notice published under Article 1 inspect at a place specified in the notice at any reasonable hour any application and any document deposited with it.
  4. A dispute or difference as to the amount of compensation payable under this Act shall not be a ground for objection to the making of an acquisition order.

5. The following shall be entitled to be heard (either in person or through counsel or a solicitor) on the hearing, whether by the Minister or on appeal, of an application to which this Schedule applies, namely:

- (a) the applicant;
- (b) the owner of the fishery or land proposed to be acquired or, where appropriate, the owner of the proposed servient tenement;
- (c) any person entitled to the enjoyment of any right proposed to be acquired;
- (d) any person by whom a notice has been duly given in relation to the application under Article 1(b);
- (e) in case the application is an application under *section 62*—
  - (i) the Commissioners, and
  - (ii) the planning authority on which notice relating to the application has been served in accordance with Article 1(d).

6. Where an application is made for an order under *section 60* or *62* the following provisions shall apply:

- (a) the Minister may, for the purpose of enabling the ownership of a proposed servient tenement to be ascertained, direct the applicant to give to any person who is the occupier of the land or who, either directly or indirectly, receives rent in respect of the land, a notice in writing requiring him or her to state in writing the nature of his or her own interest in it and the name and address of any other person known to him or her as having an interest in it, whether as owner in fee simple, mortgagee, lessee or otherwise, and
- (b) if the Minister or the Arbitrator, as the case may be, is satisfied that after diligent inquiry the owner of the fishery proposed to be acquired, or, in case the application is either for an order under *section 62* or for an order under *section 60* providing for the acquisition of a way-leave, right of access or other right over, in or under land, the owner of the proposed servient tenement, cannot be found or ascertained, the application or an appeal under *section 60* or *62* may be heard and determined, notwithstanding the fact that such owner has not been found or ascertained.

7. Every acquisition order shall—

- (a) in case the order is an order under *section 62* or an order under *section 60* which provides for the acquisition of a right of access—
  - (i) have attached to it a map showing the route of the right of way or right of access thereby created or acquired and its extent,
  - (ii) subject to such restrictions and provisions (if any) as may be specified in it, operate to grant to the applicant the right of way or access free from all claims and all other rights of any other person,
  - (iii) in case the order is made under *section 62*, be expressed and operate to confer, as may be provided for by the order, either or both of the following, namely:
    - (I) on the members, officers, servants, agents and licensees of IFI, for the purpose of enabling surveys to be made or improvement or other works connected with a fishery to be carried out, a right to pass and repass at all reasonable times with or without vehicles (whether laden or unladen) or other machinery or equipment or animals along such route over the land over which such right of way is exercisable,



(II) on any person a right to pass and repass for the purpose of gaining access to fishing waters and lawfully fishing in them (whether from their banks or otherwise), together with a right to make reasonable use for fishing of any bank or other part of the servient tenement forming part of or immediately adjacent to a fishery,

(b) in case the order is an order under *section 60*—

(i) be expressed and operate to transfer to IFI, on and from the date specified in it in that behalf, all the estate, right, title and interest in the relevant fishery of the person from whom it was acquired, free from encumbrances and from all estates and interests in it (except such angling right, if any, as may be reserved by the order) together with such of the following (if any) as the order may specify, namely, any other estate or interest in land or any estate or interest in any way-leave, right of access, or other easement or other right over, in or under land or water, and in case the order so specifies, operate to transfer the bed and soil of the waters comprising the fishery in fee simple free from encumbrances and from all such estates and interests in it,

(ii) describe the fishery thereby acquired, specify the means of access to it and so acquired (if any) and have attached to it a map showing the area and situation of such fishery and any such means of access, and

(iii) be admissible in any legal proceedings as evidence as to the kind and the area of the relevant fishery as stated in it.

8.(1) Where a decision is made by the Minister under *section 60* or an order is made under *section 60, 61* or *62*, the decision or order shall come into force—

(a) in case no appeal in respect of it is taken, upon the expiration of the period during which such an appeal may be taken, or

(b) in case such an appeal is taken and the appeal is withdrawn, on the expiration of the period mentioned in *subparagraph (a)* or on the day next following the day on which the appeal is withdrawn, whichever is the later.

(2) Where an order to which this Schedule applies is made by the Minister and is confirmed or varied by the Arbitrator on an appeal under this Act, or where a refusal by the Minister is so affirmed or any other decision is made by the Arbitrator on an appeal under this Act, then unless the Arbitrator otherwise directs, the decision on the appeal shall come into force on the day immediately following the day on which it is made, and, in case the Arbitrator gives a direction under this subparagraph, the decision to which the direction relates shall come into force on the day specified in that direction.

9. An order to which this Schedule applies may contain provisions authorising the person in whose favour it is made at any time before ascertainment of the compensation payable under this Act as regards the fishery or other land or a right over, in or under land or water, being acquired under the order to enter and take possession and to use such land or to exercise such right in exercise of the powers conferred by the order, and, in case the order contains such provisions, it shall also contain provisions—

(a) requiring such person, if the person so enters and takes possession of the land or exercises such right, to pay interest on the amount of the compensation so payable at such rate as shall be determined from time to time by the Minister for Finance, from the date on which such power was exercised until payment,

(b) requiring the person in whose favour the order is made, if the person so enters and takes possession of the land or so exercises any right over, in or under

land or water, to give to the occupier of the land at least one month's previous notice in writing of the intention so to exercise such right,

- (c) authorising such person to serve the notice aforesaid on a person by sending it by prepaid post in an envelope addressed to the person at his or her usual or last known address and deeming the notice to have been served on the person at the time at which the envelope would be delivered in the ordinary course of post and, when the address of the person cannot be ascertained by reasonable inquiry, authorising the person in whose favour the order is made to serve the notice by affixing it in a conspicuous position on or near the land to which it relates and authorising the addressing of the envelope to the person for whom it is intended, in case his or her name cannot be ascertained by reasonable inquiry, by addressing it to "the owner" or "the occupier" (as the case may require) without naming him or her.

10. Where an order under *section 60* or *61* is made, the following provisions shall apply:

- (a) the order shall operate, on and from its commencement, to transfer and attach to the relevant amount paid under this Act to a person as compensation all estates, trusts and encumbrances existing in respect of the interest of the person in the fishery or other land or water immediately before the date of the order; and
- (b) the said amount shall as respects any rights or claims existing immediately before the date of the order, to or against the said interest, represent that interest for all purposes.

11. (1) Whenever the Minister gives an authorisation under *section 60(1)*, he or she shall, as soon as may be after the authorisation is given, serve on the owner of the fishery to which the authorisation relates, and on any person (other than such owner) by whom a notice in relation to the authorisation has been duly given under Article 1(b) as regards the authorisation, a copy of the authorisation.

(2) Whenever the Minister makes an order under *section 60, 61* or *62*, he or she shall, as soon as may be after the order is made, cause notice of the making of such order to be published in the *Iris Oifigiúil*, which notice shall state the period within which an appeal may be taken under *section 60, 61* or *62*, and shall, as soon as may be, serve on the owner of the fishery to which the order relates a copy of the order.

12. (1) Where a fishery or any land is transferred to IFI by virtue of an order under this Act, the registering authority under the Registration of Title Act 1964, shall upon production of a copy of the order under the official seal of the Minister register IFI in the appropriate register maintained under that Act as owner (within the meaning of that Act) of the fishery or other land and the authority shall, in addition, cause such other alterations (if any) to be made in such register as are appropriate having regard to the terms of the order.

(2) Where land over which a right of way is created by an order under *section 62* is or is deemed to be registered under the Registration of Title Act 1964, the registering authority under that Act shall on production of a copy of the order under the official seal of the Minister register the said right of way as a burden affecting the said land.

(3) No fee shall be payable in respect of any proceedings in the Land Registry under this Article.

13. The validity or effect of an order to which this Schedule applies shall not be affected by any non-compliance with any provision contained in this Schedule relating to the service of a copy of such order on a particular person or the publication of notice of the making thereof in the *Iris Oifigiúil*.

14. In this Schedule—

“acquisition order” means an order made by the Minister under *section 60, 61 or 62*.

Section 80 .

## SCHEDULE 6

### FIXED CHARGE NOTICE

#### PART 1

#### PROVISION OF FISHERIES (CONSOLIDATION) ACT 1959

| Reference Number<br>(1) | Provision<br>(2)  | Description<br>(3)   |
|-------------------------|---|--|
| 1.                      | Section 137(2)(a)   | Angling for salmon during annual close season.   |
| 2.                      | Section 138(2)(a)   | Angling for trout during annual close season.  |
| 3.                      | Section 162(1)(b) (inserted by section 20 of the Act of 1994) | Holder of Part X licence failing to display licence.   |
| 4.                      | Section 163(4) (inserted by section 20 of the Act of 1994)    | Holder of Part X licence failing to keep or to make an entry in a register or failing to produce for inspection a register or documents. |
| 5.                      | Section 178   | Unauthorized entry on several fishery.   |
| 6.                      | Section 287   | Obstructing persons lawfully fishing.  |
| 7.                      | Section 291   | Giving warning to person unlawfully fishing.   |
| 8.                      | Section 303(2)  | Failing to produce a licence on demand.  |

#### PART 2

#### BYE-LAWS MADE OR DEEMED TO HAVE BEEN MADE UNDER SECTION 57

| Reference Number<br>(1) | Description of type of bye-laws made or deemed to have been made under <i>section 57</i><br>(2)   |
|-------------------------|---|
| 1.                      | Contravention of a bye-law prohibiting the having on board any boat a drift net, draft net, snap net or other fishing engine other than rod and line. |
| 2.                      | Contravention of a bye-law prohibiting the use of any lure other than artificial fly in angling for any kind of fish with rod and line.               |
| 3.                      | Contravention of a bye-law prohibiting the use of prawn, shrimp, any other crustacean or artificial forms thereof as bait in angling.                 |
| 4.                      | Contravention of a bye-law prohibiting the taking, killing or having in possession a fish of any kind which is less than a specified length.          |
| 5.                      | Contravention of a bye-law prohibiting the taking or having in possession more than a specified number of any kind of fish.                           |
| 6.                      | Contravention of a bye-law prohibiting the taking, having in possession or control, selling or offering for sale any sea trout.                       |

| Reference<br>Number<br>(1) | Description of type of bye-laws made or deemed to have been made under <i>section</i><br>57<br>(2) |
|----------------------------|--|
| 7.                         | Contravention of a bye-law prohibiting the fishing, or attempting to fish, for bass.               |