

Fisheries, Aquaculture and Water Environment Bill

[PRE-INTRODUCTION]

CONTENTS

PART 1

INLAND FISHERIES ETC.

CHAPTER 1

INLAND FISHERIES POLICY OBJECTIVES AND POLICY STATEMENT

1. Policy objectives
2. Policy statement
3. Statement: preparation, publication and laying
4. Duties of the Department
5. Interpretation of this Chapter

CHAPTER 2

FISHERIES AND INLAND WATERS REGULATIONS ETC.

6. Power to make regulations

PART 2

SEA FISHERIES ENFORCEMENT POWERS

7. Enforcement powers
8. Section 7: interpretation etc.

PART 3

MODE OF TRIAL AND PENALTY FOR OFFENCES

9. Mode of trial and penalty for offences

PART 4

FIXED PENALTY NOTICES

10. Meaning of fixed penalty notice
11. Certain offences under the 1966 Act
12. Offences under the 1999 Order
13. Regulations: general
14. Effect on prosecution

PART 5

AQUACULTURE LICENSING

15. Aquaculture licences under the 1966 Act
16. Amendments consequential on section 15
17. Continuation of fish culture licences as aquaculture licences

18. Transfer of aquaculture licences

PART 6

MISCELLANEOUS

19. Fitness for fish dealer's licence
20. Material removed from river bed

PART 7

FINAL PROVISIONS

21. Interpretation
22. Commencement
23. Short title

SCHEDULE:

- Schedule — Mode of Trial and Penalty for Offences
Part 1 — The 1966 Act
Part 2 — Other Enactments
Part 3 — Consequential and Transitional Provision

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Make provision about the functions of the Department of Agriculture, Environment and Rural Affairs in relation to fisheries and inland waters; about enforcement powers in relation to sea fisheries; about penalties and modes of trial for certain offences relating to fisheries, sea fish conservation and the water environment; about aquaculture licensing; about the licensing of the sale of fish and the recovery of expenses for river bed remedial works; and for connected purposes.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by His Majesty as follows:

PART 1

INLAND FISHERIES ETC.

CHAPTER 1

INLAND FISHERIES POLICY OBJECTIVES AND POLICY STATEMENT

Policy objectives

- 1.—(1) The inland fisheries policy objectives are—
 - (a) the sustainability objective,
 - (b) the precautionary objective,
 - (c) the ecosystem objective,
 - (d) the scientific evidence objective,
 - (e) the bycatch objective,
 - (f) the national benefit objective, and
 - (g) the climate change objective.
- (2) The “sustainability objective” is that—

- (a) fish and aquaculture activities in inland waters are—
 - (i) environmentally sustainable in the long term, and
 - (ii) managed so as to achieve economic, social and employment benefits and contribute to the availability of food supplies, and
- (b) the level of catching of fish in inland waters is such that stocks of fish in inland waters are not overexploited.
- (3) The “precautionary objective” is that—
 - (a) the precautionary approach to fisheries management in relation to inland waters is applied, and
 - (b) exploitation of stocks of fish in inland waters restores and maintains populations of fish at sustainable levels.
- (4) The “ecosystem objective” is that—
 - (a) fish and aquaculture activities in inland waters are managed using an ecosystem-based approach so as to ensure that their negative impacts on ecosystems are minimised and, where possible, reversed, and
 - (b) incidental catches of sensitive species in inland waters are minimised and, where possible, eliminated.
- (5) The “scientific evidence objective” is that—
 - (a) scientific data relevant to the management of fish and aquaculture activities in inland waters is collected, and
 - (b) the management of fishing and aquaculture activities in inland waters is based on the best available scientific advice.
- (6) The “bycatch objective” is that—
 - (a) in inland waters, the catching of fish below minimum conservation reference size, and other incidental catch, is avoided or reduced, and
 - (b) catches of fish in inland waters are recorded and accounted for.
- (7) The “national benefit objective” is that fish and aquaculture activities in inland waters bring social or economic benefits to Northern Ireland.
- (8) The “climate change objective” is that—
 - (a) the adverse effect on the climate of fish and aquaculture activities in inland waters is minimised, and
 - (b) fish and aquaculture activities in inland waters adapt to climate change.
- (9) In this section—
 - (a) “ecosystem-based approach” means an approach which—
 - (i) ensures that the collective pressure of human activities is kept within levels compatible with the achievement of good ecological status (within the meaning of the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017 (S.R. 2017/81)), and
 - (ii) does not compromise the capacity of aquatic ecosystems to respond to human-induced changes;
 - (b) “precautionary approach to fisheries management” means an approach in which the absence of sufficient scientific information is not used to justify

postponing or failing to take management measures to conserve target species, associated or dependent species, non-target species or their environment, and

- (c) “sustainable level”, in relation to a stock of fish in inland waters, means a level of that stock that can be taken under existing environmental conditions without significantly affecting the reproduction process.

Policy statement

2.—(1) The Department must prepare and publish a document, to be known as the Inland Fisheries Policy Statement, that sets out its policies for achieving, or contributing to the achievement of, the inland fisheries objectives.

(2) The Inland Fisheries Policy Statement must contain a statement explaining how the inland fisheries policy objectives have been interpreted and proportionately applied in formulating those policies.

(3) The Department must comply with subsection (1) as soon as reasonably practicable after this section comes into operation.

(4) The Department—

(a) must keep the Inland Fisheries Policy Statement under review, and

(b) may at any time prepare and publish a replacement or amendments of it.

(5) Section 3 applies in relation to the preparation and publication by the Department of an Inland Fisheries Policy Statement or amendments of that Statement.

(6) An Inland Fisheries Policy Statement comes into effect or an amendment of that Statement comes into effect when the statement or amendment is published in accordance with section 3(4).

(7) Where the Department publishes a replacement of an Inland Fisheries Policy Statement it may publish a document revoking a prior Inland Fisheries Policy Statement.

Statement: preparation, publication and laying

3.—(1) The Department must—

(a) prepare a draft (“the consultation draft”) of the Inland Fisheries Policy Statement and any amendment to it,

(b) publish the consultation draft in such manner as it considers appropriate, and

(c) take such steps as it considers appropriate to secure that the consultation draft is brought to the attention of—

(i) any persons appearing to the Department to be likely to be interested in, or affected by, the policies contained in the consultation draft, and

(ii) members of the general public.

(2) The Department must, in settling the final text of the Statement (or amendment), have regard to any representations made to it about the consultation draft.

- (3) Subsection (4) applies where the Department has—
- (a) complied with subsection (1) and (2), and
 - (b) decided on the final text of the Statement (or amendment).
- (4) The Department must publish the Statement (or amendment) as soon as is reasonably practicable.
- (5) The Department must lay the Statement (or amendment) before the Assembly.

Duties of the Department

4.—(1) The Department must exercise its functions relating to inland fisheries and freshwater salmon fisheries, fishing in inland waters or aquaculture in inland waters in accordance with the policies contained in the Inland Fisheries Policy Statement (as it for the time being has effect) unless a relevant change in circumstances indicates otherwise.

(2) For the purposes of this section the changes in circumstances that are capable of being “relevant” include (in particular) changes relating to—

- (a) the international obligations of the United Kingdom,
- (b) things done (or not done) by the government of a territory outside the United Kingdom that affect the aquatic environment,
- (c) available scientific evidence, or
- (d) available evidence relating to the social, economic or environmental elements of sustainable development.

(3) If, in view of a relevant change of circumstances, the Department takes a decision in the exercise of its functions mentioned in subsection (1) otherwise than in accordance with the policies contained in the Inland Fisheries Policy Statement, the Department must prepare and publish a document—

- (a) describing the decision and the relevant change of circumstances, and
- (b) explaining how the relevant change in circumstances affected the decision.

(4) In this section “international obligation of the United Kingdom” includes any obligation that arises or may arise under an international agreement or arrangement to which the United Kingdom is a party.

Interpretation of this Chapter

5. In this Chapter—

“aquaculture” has the same meaning as in section 11(9) of the 1966 Act;

“aquaculture activities” means the activities listed in the definition of “aquaculture activities” in section 11(9) of the 1966 Act, whether or not carried out in the course of a business or employment;

“aquatic environment” includes—

- (a) the natural beauty or amenity of inland waters or waterside areas,
- (b) features of archaeological or historic interest in those areas, and

- (c) flora and fauna which are dependent on, or associated with, an aquatic or waterside environment;

“bycatch” means—

- (a) fish that are caught in the course of fishing for fish of a different description, or
- (b) animals other than fish that are caught in the course of fishing;

“fish” includes shellfish;

“fish activities” means any of the following—

- (a) catching fish,
- (b) operating vessels for catching or processing fish,
- (c) transporting fish or fish products,
- (d) loading and unloading fish or fish products,
- (e) processing fish;

“fish and aquaculture activities” means fish activities and aquaculture activities;

“freshwater salmon fishery” means a salmon fishery (within the meaning of section 206 of the 1966 Act) in fresh water;

“inland fisheries policy objectives” has the meaning given by section 1;

“inland fishery” has the same meaning as in section 206 of the 1966 Act;

“inland waters” means the waters of any river above the boundary between the tidal and freshwater portions thereof, and the waters of any freshwater lake;

“minimum conservation reference size” in relation to an aquatic organism, means the size of a member of the species of which the organism is a member, at the level of maturity of that organism, below which capture or retention is prohibited or restricted;

“processing” has the same meaning as in section 11(9) of the 1966 Act;

“sensitive species” means—

- (a) any species of animal or plant listed in Annex II or IV of Directive 92/43/EEC of the Council of the European Communities on the conservation of natural habitats and of wild flora and fauna (as amended from time to time),
- (b) any other species of animal or plant, other than a species of fish, whose habitat, distribution, population size or population condition is adversely affected by pressures arising from fishing or other human activities, or
- (c) any species of bird;

“shellfish” includes molluscs and crustaceans of any kind.

CHAPTER 2

FISHERIES AND INLAND WATERS REGULATIONS ETC.

Power to make regulations

6.—(1) For section 26 of the 1966 Act substitute—

“26 Department’s power to make regulations

(1) The Department may make such regulations as appear to it to be expedient for any of the following purposes—

- (a) managing, conserving, protecting or improving salmon fisheries and inland fisheries;
- (b) conserving, improving or developing stocks of fish in inland waters;
- (c) protecting the aquatic environment from the effects of fishing or aquaculture in inland waters, or of related activities;
- (d) protecting or improving the health of fish or other aquatic animals in inland waters.

(2) Without prejudice to the generality of subsection (1), regulations may make provision with respect to the following matters—

- (a) setting and enforcing targets in relation to stocks of fish;
- (b) bycatch;
- (c) the protection of waters from any predatory animals;
- (d) prohibiting any mode of taking or destroying fish;
- (e) licensing of or requiring permits for fishing;
- (f) conditions for fishing, including the setting of times, seasons or geographical areas for fishing;
- (g) the regulation of fishing and preservation of good order among persons fishing;
- (h) methods of fishing;
- (i) the design of fishing equipment;
- (j) the use of fishing equipment;
- (k) the retrieval of lost or discarded fishing equipment;
- (l) sizes of fish that may be taken;
- (m) the attachment of such identification marks as may be specified in the regulations to any salmon captured;
- (n) the prohibition of any practice whatsoever tending to impede the lawful capture of fish or to be in any matter detrimental to the fisheries;
- (o) processing of fish;
- (p) the regulation or prohibition of the sale of any species of fish caught by rod and line;

- (q) the regulation or prohibition of the sale of any fishery products other than a species of fish caught by rod and line;
 - (r) the marketing of fishery products (including labelling and traceability);
 - (s) keeping, disclosing or publishing accounts, records or other documents or information by persons involved in—
 - (i) fish and aquaculture activities, or
 - (ii) monitoring, or enforcing, compliance with the regulation of fish and aquaculture activities;
 - (t) the functions, objectives or regulation of producer organisations or inter-branch organisations;
 - (u) the use in aquaculture, or transport, of aquatic organisms that are members of an alien species or a locally absent species;
 - (v) monitoring, or enforcing, compliance with the regulation of any of the matters mentioned in the preceding paragraphs of this subsection.
- (3) Regulations under subsection (1) may—
- (a) confer a function, including a function involving the exercise of a discretion, on any person,
 - (b) impose fees, or
 - (c) create a criminal offence, but not one punishable with imprisonment.
- (4) The power to make regulations under subsection (1) is capable of being exercised so as to amend, repeal or revoke any statutory provision (apart from this section).
- (5) If they contain provision—
- (a) adding to, replacing or omitting, any part of the text of Northern Ireland legislation or an Act of Parliament,
 - (b) imposing fees, or
 - (c) creating a criminal offence or increasing the penalty for, or widening the scope of, a criminal offence,
- regulations under subsection (1) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.
- (6) In this section—
- “fishery products” means—
- (a) fish or other aquatic organisms resulting from fishing or aquaculture, or
 - (b) products derived from aquatic organisms within paragraph (a);
- “inter-branch organisation” means an organisation established under Article 11 of Regulation (EU) No. 1379/2013 of the European Parliament and of the Council and recognised in accordance with Section 2 of Chapter 2 of that Regulation;

“producer organisation” means an organisation established under Article 6 of Regulation (EU) No. 1379/2013 of the European Parliament and of the Council and recognised in accordance with Section 2 of Chapter 2 of that Regulation.

(7) Any other expressions used in this Part and in Chapter 1 of Part 1 of the Fisheries, Aquaculture and Water Environment Act (Northern Ireland) 2027 have the same meanings as in Chapter 1 of Part 1 of that Act.”.

(2) In section 19(2) of the 1966 Act after “shall” insert “, unless otherwise specified,”.

(3) In section 37(1) of the 1966 Act—

(a) for “subsection (1) of section 26” substitute “section 26”;

(b) for the words from “paragraphs (g)” to “subsection” substitute “subsection (2)(e) of that section or any provision made under subsection (2)(e) by virtue of subsection (3)(b) of that section”;

(c) omit paragraph (d).

(4) The heading to Part 2 becomes “Fisheries and Inland Waters”.

PART 2

SEA FISHERIES ENFORCEMENT POWERS

Enforcement powers

7.—(1) For the purposes of enforcing the sea fisheries legislation, a British sea-fishery officer has—

(a) the common enforcement powers (see section 8(2)), and

(b) the fisheries enforcement powers (see section 8(4)).

(2) Those powers may (subject to subsection (3)) be exercised—

(a) in the Northern Ireland zone, and

(b) in relation to any Northern Ireland fishing boat, wherever it may be.

(3) Those powers may not be exercised in relation to any ship belonging to His Majesty and forming part of the armed forces.

(4) The powers which a British sea-fishery officer has by virtue of subsection (1) are without prejudice to any other powers exercisable by the officer for the purposes of enforcing the sea fisheries legislation.

(5) Sections 289 to 292 of the 2009 Act (which provide for the identification, liability and protection of enforcement officers under that Act) apply in relation to a British sea-fishery officer as they apply to such enforcement officers, but with the substitution—

(a) for references to any power conferred by Part 8 of the 2009 Act of references to such a power as conferred by subsection (1);

(b) for references to an enforcement officer’s functions under that Act of references to the functions of a British sea-fishery officer under Part 8 of that Act as applied by subsection (1), and

- (c) for the reference in section 292(10) to the United Kingdom of a reference to Northern Ireland.

Section 7: interpretation etc.

8.—(1) This section supplements section 7.

(2) The common enforcement powers are the powers set out in Chapter 2 of Part 8 of the 2009 Act.

(3) Accordingly, that Chapter applies (with any appropriate modifications) where those powers are conferred by section 7(1)(a) as it applies where those powers are conferred by the 2009 Act.

(4) The fisheries enforcement powers are the powers set out in Chapter 4 of Part 8 of the 2009 Act.

(5) Accordingly, that Chapter applies (with any appropriate modifications) where those powers are conferred by section 7(1)(b) as it applies where those powers are conferred by the 2009 Act.

(6) In this section and section 7—

“the 2009 Act” means the Marine and Coastal Access Act 2009;

“assimilated restriction” means a restriction that—

- (a) was created or arose by or under the EU Treaties before IP completion day, and
- (b) forms part of assimilated law;

“British sea-fishery officer” means a person who is a British sea-fishery officer by virtue of section 7(1) of the Sea Fisheries Act 1968;

“fishing boat” means any vessel for the time being employed in fishing operations or any operations ancillary thereto;

“Northern Ireland fishing boat” means a fishing boat which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995 and whose entry in the register specifies a port in Northern Ireland as the port to which the boat is to be treated as belonging;

“Northern Ireland Protocol” means the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement;

“Northern Ireland Protocol obligation” means any obligation created or arising by or under the Northern Ireland Protocol, whether or not an obligation to which section 7A(2) of the European Union (Withdrawal) Act 2018 applies;

“Northern Ireland Protocol restriction” means any restriction created or arising by or under the Northern Ireland Protocol, whether or not a restriction to which section 7A(2) of the European Union (Withdrawal) Act 2018 applies;

“Northern Ireland zone” has the same meaning as in the Northern Ireland Act 1998 (see section 98(1) and (8) of that Act);

“sea fisheries legislation” means—

- (a) any statutory provision relating to sea fishing;
 - (b) any assimilated restrictions and assimilated obligations and any Northern Ireland Protocol restrictions and Northern Ireland Protocol obligations relating to sea fishing,
- and for these purposes “sea fishing” includes fishing for shellfish, salmon or migratory trout.

PART 3

MODE OF TRIAL AND PENALTY FOR OFFENCES

Mode of trial and penalty for offences

- 9.** In the Schedule (mode of trial and penalty for offences)—
- (a) Part 1 makes amendments to the 1966 Act;
 - (b) Part 2 makes amendments to the Sea Fish (Conservation) Act 1967 and the Water (Northern Ireland) Order 1999;
 - (c) Part 3 makes consequential and transitional provision.

PART 4

FIXED PENALTY NOTICES

Meaning of fixed penalty notice

10. In this Part, “fixed penalty notice” means a notice that offers a person the opportunity to discharge any liability to be convicted of an offence by payment of a fixed penalty within a period specified in the notice.

Certain offences under the 1966 Act

11.—(1) The Department may by regulations make provision for and in connection with the giving of fixed penalty notices in respect of any offence under any provision of the 1966 Act mentioned in subsection (2) (or, in the case of the provision mentioned in subsection (2)(b), any offence under any regulations made under that provision).

- (2) The provisions of the 1966 Act are—
- (a) in Part 1 (functions of the Department)—
 - (i) section 7A(3) (use of fishing engine without permit);
 - (ii) section 11(5) (offences relating to aquaculture licensing);
 - (b) in Part 2 (inland fisheries), section 26 (contravention of inland fisheries regulations);
 - (c) in Part 3 (fishing licences)—
 - (i) section 41(3) (prohibition of unlicensed fishing);
 - (ii) section 45(1) (falsification etc. of licences), including as that section applies (by virtue of section 7A(4)) in relation to permits issued by the Department under section 7A(1);

- (d) in Part 5 (regulation of fishing for salmon, eels and freshwater fish)—
 - (i) section 62(1), (2) and (3) (penalty for using certain devices for taking fish);
 - (ii) section 87(2) (possession of unlawful fishing engines etc.);
 - (e) in Part 6 (times of fishing for salmon, trout, pollen and eels), section 96 (angling for salmon or trout during annual close season);
 - (f) in Part 7 (restrictions on dealings in salmon, trout and eels)—
 - (i) section 118(1) (failure by holder of fish dealer’s licence to display licence);
 - (ii) section 120(9) and (10) (contravention of requirements relating to register to be kept by holder of fish dealer’s licence);
 - (g) any provision of Part 8 (sea-fisheries);
 - (h) in Part 10 (miscellaneous offences)—
 - (i) section 160 (obstructing persons lawfully fishing);
 - (ii) section 163(2) (failure to paint name of owner on fishing boats);
 - (iii) section 164 (unauthorised entry on several fishery);
 - (i) in Part 11 (authorised persons)—
 - (i) section 179(1) (failure of person using a fishing engine to produce fishing licence on demand);
 - (ii) section 179A(1) (failure to produce section 7A permit on demand);
 - (iii) section 184 (giving warning to persons unlawfully fishing).
- (3) See section 13 for general provision relevant to regulations under this section.

Offences under the 1999 Order

12.—(1) The Department may by regulations make provision for and in connection with the giving of fixed penalty notices in respect of any offence under the Water (Northern Ireland) Order 1999 or under any order or regulations made under that Order.

(2) See section 13 for general provision relevant to regulations under this section.

Regulations: general

13.—(1) Regulations under section 11 or 12 may, in particular, make provision about—

- (a) the offences in respect of which fixed penalty notices may be given;
- (b) the circumstances in which fixed penalty notices may be given;
- (c) the persons who may give fixed penalty notices;
- (d) the form and content of fixed penalty notices;
- (e) the amount of a fixed penalty;
- (f) the period within which a fixed penalty is payable;
- (g) the payment of fixed penalties;

- (h) the withdrawal of fixed penalty notices;
 - (i) the giving, by the recipient of a fixed penalty notice, of a notice stating that that person does not intend to pay the fixed penalty;
 - (j) circumstances in which proceedings for an offence may be commenced after the payment of a fixed penalty in relation to that offence.
- (2) The provision that may be made by virtue of subsection (1)(e) includes provision—
- (a) specifying a maximum or minimum amount of a fixed penalty (and, accordingly, conferring on the person giving the fixed penalty notice a discretion as to the amount of the penalty);
 - (b) about how the discretion referred to in paragraph (a) is to be exercised (including provision for the Department to issue guidance about the matters to be taken into account when exercising the discretion);
 - (c) provision for a discounted amount to be payable in respect of early payment.
- (3) Regulations under section 11 or 12 may include transitional or saving provision.
- (4) Regulations under section 11 or 12 may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

Effect on prosecution

- 14.**—(1) Subsections (2) and (3) apply where a person is given a fixed penalty notice by virtue of regulations under section 11 or 12 in respect of an offence (and “given” means given in accordance with the regulations).
- (2) Proceedings against the person in respect of the offence may not be brought before the end of the period for payment of the penalty (unless the fixed penalty notice is withdrawn or a notice of the kind referred to in section 13(1)(i) is given).
- (3) If a fixed penalty is paid before the end of the period for payment of the penalty, the person in respect of whom the penalty is paid may not be convicted of the offence (unless the fixed penalty notice is withdrawn or the circumstances are of a kind specified by virtue of section 13(1)(j)).

PART 5

AQUACULTURE LICENSING

Aquaculture licences under the 1966 Act

- 15.**—(1) The heading before section 8 of the 1966 Act (general power for stocking of waters) becomes “Provision about fisheries and aquaculture licensing”.
- (2) For section 11 of the 1966 Act (fish culture licences), substitute—

“Aquaculture licences

- 11.**—(1) The Department may by licence (referred to as “an aquaculture licence”) authorise any person—

- (a) to operate an aquaculture farm at any place or within any area specified in the licence, and
 - (b) to carry on, for the purposes of the operation of that aquaculture farm, such aquaculture activities as may be specified in the licence.
- (2) An aquaculture licence may include—
- (a) conditions as to the times and seasons at, and the manner in which, any fish resulting from the aquaculture may be taken, and
 - (b) such other conditions as the Department considers appropriate.
- (3) An aquaculture licence may, in so far as is expedient for the purpose of giving effect to any conditions applied in relation to fish resulting from the aquaculture, exempt—
- (a) the holder of the licence and any person acting under the holder's directions, and
 - (b) a person who acquires fish of any kind taken in accordance with such conditions,
- from the restrictions imposed by regulations made under section 26(1)(p) or (q) or by section 111 in so far as those restrictions apply to fish of that kind.
- (4) A person to whom an aquaculture licence is granted, and any person acting under that person's directions, may do any of the things authorised by the licence—
- (a) notwithstanding anything contained in this Act or in regulations made under it, but
 - (b) subject to the conditions contained in the licence.
- (5) A person commits an offence if the person operates an aquaculture farm—
- (a) without an aquaculture licence permitting that operation, or
 - (b) otherwise than in accordance with any conditions of an aquaculture licence.
- (6) An “aquaculture farm” means an undertaking for the carrying on of aquaculture, whether or not carried on for profit.
- (7) The Department may by regulations provide that specified descriptions of undertakings are to be treated as included in, or excluded from, the definition of “aquaculture farm” in subsection (6).
- (8) Regulations under subsection (7) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.
- (9) In this Part—
- (a) “aquaculture” means the breeding, rearing, growing or cultivation of—
 - (i) any fish or other aquatic animal,
 - (ii) seaweed or any other aquatic plant, or

- (iii) any other aquatic organism;
 - (b) “aquaculture activities” means any of the following—
 - (i) aquaculture;
 - (ii) harvesting aquaculture organisms;
 - (iii) operating vessels for harvesting or processing aquaculture organisms;
 - (iv) storing or transporting aquaculture organisms;
 - (v) loading and unloading aquaculture organisms;
 - (vi) processing aquaculture organisms;
 - (c) “aquaculture organism” means an aquatic organism resulting from aquaculture;
 - (d) “processing”, in relation to fish or any other aquatic organism, includes preserving or preparing the organism, or producing any substance or article from it, by any method for human or animal consumption;
 - (e) references to the operation of an aquaculture farm include references to such operation in inland or tidal waters or within the seaward limits of the territorial sea adjacent to Northern Ireland.”.
- (3) In section 11A of the 1966 Act (applications for fish culture licences)—
- (a) in subsection (1), for “a fish culture licence” substitute “an aquaculture licence”;
 - (b) in subsection (2)—
 - (i) for “a fish culture licence” substitute “an aquaculture licence”;
 - (ii) for “two or more newspapers” substitute “manner”;
 - (c) in subsection (3)(b), for “fish culture licence” substitute “aquaculture licence”;
 - (d) in subsection (5), for “a fish farm, a fish culture licence” substitute “an aquaculture farm, an aquaculture licence”;
 - (e) in subsection (5A), for “a fish farm, a fish culture licence” substitute “an aquaculture farm, an aquaculture licence”;
 - (f) subsection (6) is omitted;
 - (g) in the heading, for “fish culture licences” substitute “aquaculture licences”.
- (4) In section 11B(1)(b) of the 1966 Act (discharge of effluent), for “a fish farm” substitute “an aquaculture farm”.
- (5) In section 11C of the 1966 Act (amendment, suspension and revocation of fish culture licences)—
- (a) in subsection (1), for “fish culture licence” substitute “aquaculture licence”;
 - (b) in subsection (2), for “fish culture licence” substitute “aquaculture licence”;
 - (c) in subsection (4)—
 - (i) for “A fish culture licence” substitute “An aquaculture licence”;

- (ii) in paragraph (a), for “a fish culture licence” substitute “an aquaculture licence”;
- (iii) in paragraph (b), for “fish” substitute “aquaculture”;
- (d) in the heading, for “fish culture licences” substitute “aquaculture licences”.

Amendments consequential on section 15

- 16.**—(1) The 1966 Act is amended in accordance with this section.
- (2) In section 20 (power to hold inquiries and investigations)—
- (a) in subsection (3), for “fish farm for which a fish culture licence” substitute “aquaculture farm for which an aquaculture licence”;
 - (b) in subsection (4)(a), for “place specified in a fish culture licence under section 11 authorising the operation of a fish farm” substitute “place or area specified in an aquaculture licence under section 11 authorising the operation of an aquaculture farm”.
- (3) In section 41 (prohibition of unlicensed fishing)—
- (a) in subsection (4)—
 - (i) in paragraph (a), for “a fish farm operated by the holder of a fish culture licence” substitute “an aquaculture farm operated by the holder of an aquaculture licence”;
 - (ii) in paragraph (b), for “a fish” substitute “an aquaculture”;
 - (b) in subsection (5)(b), for “a fish culture licence” substitute “an aquaculture licence”.
- (4) In section 48(4)(a) (taking, etc., spawn or fry of salmon, trout or eels), for “a fish farm” substitute “an aquaculture farm”.
- (5) In section 90(2)(b) (penalties for fishing otherwise than by rod and line during the annual salmon and trout close season), for “fish farm with respect to which a fish culture licence” substitute “aquaculture farm with respect to which an aquaculture licence”.
- (6) In section 111(2)(a) (prohibition of purchase, sale, etc., of salmon, trout, pollen and brown eels at certain times) for “a fish farm” substitute “an aquaculture farm”.
- (7) In section 113(3) (prohibition of sale, etc., of salmon, trout and eels without licence) for paragraph (c) substitute—
- “(c) the holder of an aquaculture licence under section 11, in relation to any fish resulting from the aquaculture with respect to which the licence is in force; or”.
- (8) In section 131 (power of Department to grant shell-fish fishery licence), for “a fish culture licence under section 11 authorising the operation of a fish farm for the culture of shell-fish of any kind at a place” substitute “an aquaculture licence under section 11 authorising the operation of an aquaculture farm which includes the breeding, rearing, growing or cultivating of shell-fish of any kind at a place or within any area”.
- (9) In section 137(2) (suspension or revocation of shell-fish fishery licence)—

(a) for “a fish culture licence” substitute “an aquaculture licence”;

(b) for “the fish culture licence” substitute “the aquaculture licence”.

(10) In section 137A(1) (marine fish fishery licences), for “a fish culture licence under section 11 authorising the operation of a fish farm for the culture of any species of marine fish at a place” substitute “an aquaculture licence under section 11 authorising the operation of an aquaculture farm which includes the breeding, rearing, growing or cultivating of any species of marine fish at a place or within any area”.

(11) In section 206(1) (interpretation), insert at the appropriate place—

““aquaculture farm” has the meaning given to it by section 11(6);

“aquaculture licence” means a licence granted under section 11;”;

(12) In Schedule 6 (provisions to which sections 182(b) and 183(b) apply), in the first row of the table, for “fish farm” substitute “aquaculture farm”.

Continuation of fish culture licences as aquaculture licences

17.—(1) A fish culture licence granted under section 11 of the 1966 Act which is in effect on the day on which section 15 of this Act comes into operation—

(a) becomes, and is to be known as, an aquaculture licence from that day,

(b) has effect as an aquaculture licence granted under section 11, subject to the same conditions as were attached to the licence immediately before that day, and

(c) must be treated from that day as if it was granted under section 11 of the 1966 Act as amended by section 15 of this Act.

(2) Accordingly, any reference in a statutory provision to a fish culture licence granted under section 11 of the 1966 Act (insofar as it is not amended by or under this Act) is to be read as if it were a reference to an aquaculture licence granted under section 11 of the 1966 Act as amended by section 15 of this Act.

(3) A relevant decision or process which has not been determined, resolved or finalised before the day on which section 15 of this Act comes into operation—

(a) is to be treated as a relevant decision or process in relation to an aquaculture licence under section 11 of the 1966 Act as amended by section 15 of this Act, but

(b) any act done or step taken in relation to the relevant decision or process before section 15 of this Act comes into operation is to be treated as having been done or taken under the 1966 Act as amended by that section.

(4) In subsection (3), a “relevant decision or process” means a decision or process in relation to any of the following—

(a) an application for a fish culture licence under section 11A of the 1966 Act;

(b) amending, suspending or revoking a fish culture licence under section 11C or Schedule 1 to the 1966 Act.

(5) The Department may by regulations make such—

- (a) transitional, transitory or saving provision that it considers appropriate for the purposes of, or in connection with, the continuation and renaming of licences which were granted under section 11 of the 1966 Act before the coming into operation of section 15 of this Act;
 - (b) incidental, supplementary, consequential provision that it considers appropriate for giving full effect to this Part.
- (6) Regulations under subsection (5) are subject to negative resolution, except where subsection (7) applies.
- (7) Regulations under this section which contain (whether alone or with other provision) provision that amends, repeals or revokes any of the text of any Northern Ireland legislation or Act of Parliament are not to be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

Transfer of aquaculture licences

18. After section 11C of the 1966 Act, insert—

“Transfer of aquaculture licences

11D.—(1) The holder of an aquaculture licence may apply to the Department for a transfer of the licence to another person (“the proposed transferee”).

(2) An application under subsection (1) must be in such manner and form as determined by the Department, accompanied by—

- (a) such information as the Department may reasonably require;
- (b) where the aquaculture licence has been granted subject to the consent of the owner or lawful occupier of the foreshore, bed of the sea, estuary or any fishery, the consent in writing of that owner or lawful occupier, as the case may be, to the proposed transfer of the licence;
- (c) copies of any other consents or approvals (or information in relation to applications for such consents or approvals) which are necessary for the operation by the proposed transferee of the aquaculture farm in accordance with the licence;
- (d) such fee as may be determined by the Department;
- (e) the licence.

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

(4) If the Department is satisfied that the licence should be transferred to the proposed transferee, it must—

- (a) give notice of its decision to the holder of the aquaculture licence and the proposed transferee, and
- (b) effect a transfer of the aquaculture licence to the proposed transferee in such manner and form as is determined by the Department.

(5) In making a transfer under subsection (4)(b), the Department may make such amendments to the licence as it considers appropriate.

(6) If the holder of the licence or the proposed transferee objects to—

(a) a refusal under subsection (3);

(b) an amendment made as part of a transfer under subsection (4)(b), the holder or, as the case may be, the proposed transferee may within 28 days from the day on which notification is given, appeal to the Appeals Commission.

(7) Nothing in this section affects the liability of the holder of an aquaculture licence for any failure by that holder, before any transfer under subsection (4)(b) takes effect, to comply with any condition of that licence.”.

PART 6

MISCELLANEOUS

Fitness for fish dealer’s licence

19.—(1) In section 114 of the 1966 Act, for subsection (1) substitute—

“(1) The Department may, if it considers it appropriate to do so, grant a person a dealer’s licence on an application made by the person in accordance with subsection (1A).

(1A) An application for a dealer’s licence must be—

(a) in writing,

(b) in the form prescribed by regulations, and

(c) accompanied by a fee of an amount prescribed by regulations.

(1B) The Department may not grant a licence under this section to a person who is for the time being disqualified under section 200 for holding a dealer’s licence.”.

(2) In section 115 of the 1966 Act (renewal of dealer’s licence), in the closing words of subsection (1), after “the Department may” insert “, if it considers it appropriate to do so,”.

(3) The amendments made by this section—

(a) do not affect the validity of a dealer’s licence granted or renewed before the day on which this section comes into operation;

(b) apply only in relation to applications for the grant or renewal of a licence that are made on or after that day.

Material removed from river bed

20.—(1) In section 48 of the 1966 Act (taking etc. spawn or fry of salmon, trout or eels), after subsection (5A) (inserted by paragraph 3(4)(b) of the Schedule)—

“(5B) Where a person is convicted of an offence under subsection (5) in relation to the bed of any river, the Department may—

- (a) carry out any remedial works that it considers necessary to the bed of that river, and
- (b) recover from that person any expenses reasonably incurred by the Department in respect of those remedial works.”.

(2) The amendment made by subsection (1) applies only in relation to an offence committed on or after the day on which this section comes into operation.

(3) Where the course of conduct constituting an offence is found to have occurred over a period of two or more days, or at some time during a period of two or more days, the offence must be taken for the purposes of subsection (2) to have been committed on the last of those days.

PART 7

FINAL PROVISIONS

Interpretation

21. In this Act—

“the 1966 Act” means the Fisheries Act (Northern Ireland) 1966;

“the Department” means the Department of Agriculture, Environment and Rural Affairs;

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

Commencement

22.—(1) All of the provisions of this Act (including this section) come into operation on the day after Royal Assent except for Part 5.

(2) Part 5 comes into operation on such day or days as the Department may by order appoint.

(3) An order under subsection (2) may include transitional, transitory or saving provision.

Short title

23. This Act may be cited as the Fisheries, Aquaculture and Water Environment Act (Northern Ireland) 2027.

SCHEDULE

Section 9.

MODE OF TRIAL AND PENALTY FOR OFFENCES

PART 1

THE 1966 ACT

Unauthorised use of fishing engine

1. In section 7A of the 1966 Act (permits for use of fishing engine where Department owns fishing rights), after subsection (3) insert—

- “(3A) A person guilty of an offence under subsection (3) is liable—
- (a) on summary conviction to a fine not exceeding £20,000;
 - (b) on conviction on indictment, to a fine.”.

Fishing licences

2.—(1) Part 3 of the 1966 Act (fishing licences) is amended as follows.

(2) In section 41 (prohibition of unlicensed fishing)—

- (a) in subsection (3), omit the words from “and shall be liable” to the end;
- (b) after subsection (3) insert—

- “(3A) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to a fine not exceeding £20,000;
 - (b) on conviction on indictment, to a fine.”.

(3) In section 45 (falsification etc. of licences), after subsection (1) insert—

- “(1A) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to a fine not exceeding £20,000;
 - (b) on conviction on indictment to a fine.”.

Protection of fisheries

3.—(1) Part 4 of the 1966 Act (protection of fisheries) is amended as follows.

(2) In section 46 (penalty for use or possession of deleterious matter), in subsection (4)(a), for “£500” substitute “£50,000”.

(3) In section 47 (penalty for pollution)—

- (a) in subsection (1)(a), for “the statutory maximum” substitute “£50,000”;
- (b) in subsection (1A), for “one-twentieth” substitute “one-tenth”.

(4) In section 48 (taking etc. spawn or fry of salmon, trout or eels)—

(a) after subsection (1) insert—

- “(1ZA) A person guilty of an offence under subsection (1) is liable—
- (a) on summary conviction, to a fine not exceeding £50,000;

(b) on conviction on indictment, to a fine.”;

(b) after subsection (5) insert—

“(5A) A person guilty of an offence under subsection (5) is liable—

(a) on summary conviction, to a fine not exceeding £50,000;

(b) on conviction on indictment, to a fine.”.

(5) In section 49 (chasing etc. spawning fish)—

(a) the existing text becomes subsection (1);

(b) after subsection (1) insert—

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

(a) on summary conviction, to a fine not exceeding £50,000;

(b) on conviction on indictment, to a fine.”.

(6) In section 50 (penalties for taking etc. unseasonable salmon or trout), in subsection (2)(a), for the words from “£500” to the end substitute “£50,000 or to imprisonment for a term not exceeding six months, or both.”.

(7) In section 51 (prohibition against sale, etc. of immature salmon or trout)—

(a) in subsection (1) omit the words from “, and shall be liable” to the end;

(b) after subsection (1) insert—

“(1A) A person guilty of an offence under this section is liable—

(a) on summary conviction, to a fine not exceeding £50,000 or to imprisonment for a term not exceeding six months, or both;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.”.

(8) In section 52 (taking undersized pollen), after subsection (1) insert—

“(1A) A person guilty of an offence under this section is liable—

(a) on summary conviction, to a fine not exceeding £50,000;

(b) on conviction on indictment, to a fine.”.

(9) In section 54 (construction of fish passes in dams in rivers), after subsection (6) insert—

“(7) A person guilty of an offence under subsection (6) is liable—

(a) on summary conviction, to a fine not exceeding £20,000;

(b) on conviction on indictment, to a fine.”.

(10) In section 55 (offence of taking fish in a fish pass etc.), after subsection (1) insert—

“(1A) A person guilty of an offence under this section is liable—

(a) on summary conviction, to a fine not exceeding £20,000;

(b) on conviction on indictment, to a fine.”.

(11) In section 56 (restrictions on the use of fishing engines and rods and line at or in the vicinity of dams), after subsection (3) insert—

- “(4) A person guilty of an offence under subsection (3) is liable—
- (a) on summary conviction, to a fine not exceeding £20,000;
 - (b) on conviction on indictment, to a fine.”.

(12) In section 57 (penalty for taking fish in works or watercourses appurtenant to mills)—

- (a) in subsection (1), omit the words from “and shall be liable” to the end;
- (b) after subsection (1) insert—

- “(1A) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to a fine not exceeding £20,000 or to imprisonment for a term not exceeding six months, or both;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.”.

(13) In section 58 (provisions in relation to sluices etc. of mills deriving water from rivers), after subsection (2) insert—

- “(2A) A person guilty of an offence under subsection (2) is liable—
- (a) on summary conviction, to a fine not exceeding £20,000;
 - (b) on conviction on indictment, to a fine.”.

(14) In section 59 (gratings to be set in watercourses diverted from rivers or lakes to prevent entry of fish), after subsection (3) insert—

- “(3A) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to a fine not exceeding £20,000;
 - (b) on conviction on indictment, to a fine.”.

Fishing for salmon, eels and freshwater fish

4.—(1) Part 5 of the 1966 Act (regulation of fishing for salmon, eels and freshwater fish) is amended as follows.

(2) In section 62 (penalty for using certain devices for taking fish), for subsection (5) substitute—

- “(5) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to a fine not exceeding £50,000 or to imprisonment for a term not exceeding six months, or both;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.”.

(3) In section 63 (fishing for salmon or trout by cross lines), after subsection (1) insert—

- “(1A) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to a fine not exceeding £50,000;

(b) on conviction on indictment, to a fine.”.

(4) In section 64 (penalty for taking salmon or trout in eel weir)—

(a) in subsection (1), omit the words from “and shall be liable” to the end;

(b) after subsection (1) insert—

“(1A) A person guilty of an offence under this section is liable—

(a) on summary conviction, to a fine not exceeding £50,000 or to imprisonment for a term not exceeding six months, or both;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.”.

(5) In section 65 (penalty for damning or teeming river or millrace for purpose of taking salmon or trout)—

(a) omit the words from “and shall be liable” to the end;

(b) the existing text becomes subsection (1);

(c) after subsection (1) insert—

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

(a) on summary conviction, to a fine not exceeding £50,000 or to imprisonment for a term not exceeding six months, or both;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.”.

(6) In section 66 (restrictions on use of nets), after subsection (1) insert—

“(1A) A person guilty of an offence under this section is liable—

(a) on summary conviction, to a fine not exceeding £50,000;

(b) on conviction on indictment, to a fine.”.

(7) In section 67 (mesh of nets made of non-rigid material for the taking of salmon in the sea or tideways), after subsection (1) insert—

“(1A) A person guilty of an offence under this section is liable—

(a) on summary conviction, to a fine not exceeding £50,000;

(b) on conviction on indictment, to a fine.”.

(8) In section 68 (meshes or openings of engines made of rigid material for the taking of salmon in the sea or tideways), after subsection (1) insert—

“(1A) A person guilty of an offence under this section is liable—

(a) on summary conviction, to a fine not exceeding £50,000;

(b) on conviction on indictment, to a fine.”.

(9) In section 69 (use of salmon nets near mouths of rivers), after subsection (2) insert—

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

(a) on summary conviction, to a fine not exceeding £50,000;

(b) on conviction on indictment, to a fine.”.

(10) In section 70 (powers with respect to drift nets for the taking of salmon in the sea)—

(a) in subsection (3), omit the words from “and shall be liable” to the end;

(b) after subsection (3) insert—

“(4) A person guilty of an offence under this section is liable—

(a) on summary conviction, to a fine not exceeding £50,000 or to imprisonment for a term not exceeding six months, or both;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.”.

(11) In section 71 (restriction on use of nets in fresh water)—

(a) in subsection (3), omit the words from “and shall be liable” to the end;

(b) after subsection (3) insert—

“(3A) A person guilty of an offence under this section is liable—

(a) on summary conviction, to a fine not exceeding £50,000 or to imprisonment for a term not exceeding six months, or both;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.”.

(12) In section 72 (mesh of nets for taking fish in fresh water), after subsection (3) insert—

“(4) A person guilty of an offence under subsection (3) is liable—

(a) on summary conviction, to a fine not exceeding £50,000;

(b) on conviction on indictment, to a fine.”.

(13) In section 73 (restriction with respect to fishing weirs or fixed engines in fresh water portion of rivers or lakes)—

(a) in subsection (2), omit the words from “and shall be liable” to the end;

(b) after subsection (2) insert—

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

(a) on summary conviction, to a fine not exceeding £50,000 or to imprisonment for a term not exceeding six months, or both;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years.”.

(14) In section 74 (restriction on use of fixed engines for the capture of salmon in the sea or tideways)—

(a) in subsection (2), omit the words from “and shall be liable” to the end;

(b) after subsection (2) insert—

“(3) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to a fine not exceeding £50,000 or to imprisonment for a term not exceeding six months, or both;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.”.

(15) In section 78 (prohibition of erecting or using fixed engines at mouths of rivers), after subsection (1) insert—

“(1A) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to a fine not exceeding £50,000;
- (b) on conviction on indictment, to a fine.”.

(16) In section 79 (prohibition of bag nets in certain places)—

- (a) in subsection (2)(b), omit the words from “and shall be liable” to the end;
- (b) after subsection (2) insert—

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

- (a) on summary conviction, to a fine not exceeding £50,000 or to imprisonment for a term not exceeding six months, or both;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.”.

(17) In section 80 (regulations as to construction and user of bag nets)—

- (a) the existing text becomes subsection (1);
- (b) after subsection (1) insert—

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

- (a) on summary conviction, to a fine not exceeding £50,000;
- (b) on conviction on indictment, to a fine.”.

(18) In section 81 (free gaps in fishing weirs), after subsection (3) insert—

“(3A) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to a fine not exceeding £50,000;
- (b) on conviction on indictment, to a fine.”.

(19) In section 82 (offence of affecting flow of water through free gap by alteration of river bed)—

- (a) the existing text becomes subsection (1);
- (b) after subsection (1) insert—

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

- (a) on summary conviction, to a fine not exceeding £50,000;
- (b) on conviction on indictment, to a fine.”.

(20) In section 83 (fishing in or near or obstructing free gaps), after subsection (1) insert—

“(1A) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to a fine not exceeding £50,000;
- (b) on conviction on indictment, to a fine.”.

(21) In section 85 (rules as to boxes in salmon weirs), after subsection (2) insert—

- “(2A) A person guilty of an offence under subsection (2) is liable—
- (a) on summary conviction, to a fine not exceeding £50,000;
 - (b) on conviction on indictment, to a fine.”.

(22) In section 86 (construction of guiding walls appurtenant to salmon weirs), after subsection (4) insert—

- “(4A) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to a fine not exceeding £50,000;
 - (b) on conviction on indictment, to a fine.”.

(23) In section 87 (restriction on possession of unlawful fishing engines etc.), after subsection (2) insert—

- “(2A) A person guilty of an offence under subsection (2) is liable—
- (a) on summary conviction, to a fine not exceeding £50,000;
 - (b) on conviction on indictment, to a fine.”.

(24) In section 88 (taking salmon or trout unlawfully killed or found dead), after subsection (1) insert—

- “(1A) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to a fine not exceeding £50,000;
 - (b) on conviction on indictment, to a fine.”.

Out of season fishing

5.—(1) Part 6 of the 1966 Act (times of fishing for salmon, trout, pollen and eels) is amended as follows.

(2) In section 90 (penalties for fishing otherwise than by rod and line during annual close season)—

- (a) in subsection (1), omit the words from “and shall be liable” to the end;
- (b) after subsection (1) insert—

- “(1A) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to a fine not exceeding £20,000 or to imprisonment for a term not exceeding six months, or both;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.”.

(3) In section 91 (provisions to be observed in relation to fixed engines during annual close season)—

- (a) in subsection (2), omit the words from “and shall be liable” to the end;

(b) after subsection (2) insert—

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

- (a) on summary conviction, to a fine not exceeding £20,000 or to imprisonment for a term not exceeding six months, or both;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.”.

(4) In section 92 (dismantlement of salmon weirs during annual close season)—

- (a) in subsection (4), omit the words from “and shall be liable” to the end;
- (b) after subsection (4) insert—

“(4A) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to a fine not exceeding £20,000 or to imprisonment for a term not exceeding six months, or both;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.”.

(5) In section 93 (removal of nets from banks etc. of waters during annual close season), after subsection (2) insert—

“(3) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to a fine not exceeding £20,000;
- (b) on conviction on indictment, to a fine.”.

(6) In section 94 (use of nets in inland waters during annual close season), after subsection (1) insert—

“(1A) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to a fine not exceeding £20,000;
- (b) on conviction on indictment, to a fine.”.

(7) In section 96 (angling for salmon or for trout during annual close season)—

- (a) the existing text becomes subsection (1);
- (b) after subsection (1) insert—

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

- (a) on summary conviction, to a fine not exceeding £20,000;
- (b) on conviction on indictment, to a fine.”.

(8) In section 98 (penalty for fishing otherwise than by rod and line during weekly close time)—

- (a) in subsection (1), omit the words from “and shall be liable” to the end;
- (b) after subsection (1) insert—

“(1A) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to a fine not exceeding £20,000 or to imprisonment for a term not exceeding six months, or both;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.”.

(9) In section 99 (provisions to be observed in relation to certain fixed engines during weekly close time)—

(a) in subsection (2), omit the words from “and shall be liable” to the end;

(b) after subsection (2) insert—

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

(a) on summary conviction, to a fine not exceeding £20,000 or to imprisonment for a term not exceeding six months, or both;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.”.

(10) In section 100 (provisions to be observed in relation to salmon weirs during weekly close time)—

(a) in subsection (2), omit the words from “and shall be liable” to the end;

(b) after subsection (2) insert—

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

(a) on summary conviction, to a fine not exceeding £20,000;

(b) on conviction on indictment, to a fine.”.

(11) In section 101 (penalty for preventing fish from passing through boxes etc. during weekly close time)—

(a) in the closing words, omit the words from “and shall be liable” to the end;

(b) the existing text becomes subsection (1);

(c) after subsection (1) insert—

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

(a) on summary conviction, to a fine not exceeding £20,000 or to imprisonment for a term not exceeding six months, or both;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.”.

(12) In section 102 (scaring or obstructing free passage of salmon or trout during weekly close time), after subsection (1) insert—

“(1A) A person guilty of an offence under this section is liable—

(a) on summary conviction, to a fine not exceeding £20,000;

(b) on conviction on indictment, to a fine.”.

(13) In section 103 (use of nets in inland waters during weekly close time), after subsection (1) insert—

“(1A) A person guilty of an offence under this section is liable—

(a) on summary conviction, to a fine not exceeding £20,000;

(b) on conviction on indictment, to a fine.”.

(14) In section 104 (restriction on use of salmon or trout nets during certain hours in freshwater portions of rivers), after subsection (2) insert—

- “(2A) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to a fine not exceeding £20,000;
 - (b) on conviction on indictment, to a fine.”.

(15) In section 108 (prohibition of taking etc. eels otherwise than by rod and line during annual close season)—

- (a) in the closing words of subsection (1), omit the words from “and shall be liable” to the end;
- (b) after subsection (1) insert—

- “(1A) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to a fine not exceeding £20,000 or to imprisonment for a term not exceeding six months, or both;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.”.

(16) In section 109 (placing fishing engines for taking eels in eyes etc. of fishing weirs during annual close season or during the daytime)—

- (a) in the closing words of subsection (1), omit the words from “and shall be liable” to the end;
- (b) after subsection (1) insert—

- “(1A) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to a fine not exceeding £20,000 or to imprisonment for a term not exceeding six months, or both;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.”.

Dealings in salmon, trout and eels

6.—(1) Part 7 of the 1966 Act (restrictions on dealings in salmon, trout and eels) is amended as follows.

(2) In section 110 (prohibition of sale etc. of salmon or trout unlawfully captured)—

- (a) in subsection (1), omit the words from “and shall be liable” to the end;
- (b) in subsection (6), omit the words from “and shall be liable” to the end;
- (c) after subsection (6) insert—

- “(7) A person guilty of an offence under subsection (6) is liable—
- (a) on summary conviction to a fine not exceeding £50,000;
 - (b) on conviction on indictment, to a fine.”.

(3) In section 123 (penalties for offences under Part)—

- (a) in paragraph (a), for “£500” substitute “£50,000”;

(b) in paragraph (b), omit “(except for an offence under section 120 or 122)”.

Sea fisheries

- 7.—(1) Part 8 of the 1966 Act (sea-fisheries) is amended as follows.
- (2) In section 124 (sea-fishing regulations)—
- (a) in subsection (3), omit “and shall be liable on summary conviction to a fine not exceeding £1,000” at both places it occurs;
- (b) after subsection (3) insert—
- “(3A) A person guilty of an offence under subsection (3) is liable—
- (a) on summary conviction, to a fine not exceeding £50,000;
- (b) on conviction on indictment, to a fine.”.
- (3) In section 126 (landing etc. fish caught in contravention of regulations)—
- (a) omit “and shall be liable on summary conviction to a fine not exceeding £1,000”;
- (b) the existing text becomes subsection (1);
- (c) after subsection (1) insert—
- “(2) A person guilty of an offence under subsection (1) is liable—
- (a) on summary conviction, to a fine not exceeding £50,000;
- (b) on conviction on indictment, to a fine.”.
- (4) In section 127 (minimum sizes of sea-fish), for subsection (9) substitute—
- “(9) Any person who is guilty of an offence under subsection (8) is liable—
- (a) on summary conviction, to a fine not exceeding £50,000;
- (b) on conviction on indictment, to a fine.”.
- (5) In section 128 (use of beaches etc. by fishermen for purposes of sea-fishing), after subsection (2) insert—
- “(2A) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding £20,000.”.
- (6) In section 129 (use by fishermen of land adjoining fishing places), after subsection (3) insert—
- “(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding £20,000.”.

Protection of authorised persons

- 8.—(1) Part 11 of the 1966 Act (authorised persons) is amended as follows.
- (2) In section 170 (acting as private water bailiff without confirmation of appointment etc.), in subsection (8), for “£200” substitute “£5,000”.
- (3) In section 174 (failure to produce certificate of registration etc.), in subsection (2), for “£1,000” substitute “£20,000”.

(4) In section 178 (refusal or failure to give authorised officer name and address), in subsection (3)—

(a) in paragraph (a), for “£1,000” substitute “£20,000”;

(b) in paragraph (b), for “£200” substitute “£5,000”.

(5) In section 179 (failure by person using etc. fishing engines to produce fishing licence), in subsection (4), for “£200” substitute “£5,000”.

(6) In section 182 (penalty for assaulting authorised person)—

(a) in the closing words, omit the words from “and shall be liable” to the end;

(b) the existing text becomes subsection (1);

(c) after subsection (1) insert—

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

(a) on summary conviction, to a fine not exceeding £50,000 or to imprisonment for a term not exceeding six months, or both;

(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years, or both.”.

(7) In section 183 (obstructing or impeding authorised person), after subsection (1) insert—

“(1A) A person guilty of an offence under this section is liable—

(a) on summary conviction, to a fine not exceeding £20,000;

(b) on conviction on indictment, to a fine.”.

Penalties for offences: general

9.—(1) In section 201 of the 1966 Act (penalty for offence where Act is otherwise silent), in subsection (1), for “£500” substitute “£10,000”.

(2) In section 202 of the 1966 Act (continuing offences)—

(a) in subsection (1)—

(i) omit the words “, subject to subsections (3) and (4),”;

(ii) for “£50” substitute “£500”;

(b) omit subsection (3).

PART 2

OTHER ENACTMENTS

Sea Fish (Conservation) Act 1967

10.—(1) The Sea Fish (Conservation) Act 1967 is amended in accordance with sub-paragraphs (2) and (3).

(2) In section 11 (penalties for offences), in subsection (1)(b), for “£5,000” substitute “£20,000”.

(3) In section 15 (powers of British sea-fishery officers for enforcement of Act)—

- (a) in subsection (2C), omit paragraph (b) and the “or” preceding it;
 (b) after subsection (2C) insert—

“(2D) Any person who assaults an officer who is exercising any of the powers conferred on the officer by subsection (2A) or (2B) is guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding £50,000;
 (b) on conviction on indictment, to a fine.

(2E) Any person who wilfully obstructs an officer who is exercising any of the powers conferred on the officer by subsection (2A) or (2B) is guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding £20,000;
 (b) on conviction on indictment, to a fine.”.

Water (Northern Ireland) Order 1999

11. Part 2 of the Water (Northern Ireland) Order 1999 (functions of the Department in relation to matters affecting water) is amended as follows—

- (a) in Article 7 (pollution of water: offences), in paragraph (7)(b), for “£20,000” substitute “£50,000”;
 (b) in Article 12 (enforcement notices), in paragraph (3)(b), for “£20,000” substitute “£50,000”;
 (c) in Article 15 (pollution emergencies), in paragraph (6)(b), for “£20,000” substitute “£50,000”;
 (d) in Article 19 (consequences of not complying with a works notice), in paragraph (2)(b), for “£20,000” substitute “£50,000”;
 (e) in Article 20 (abstraction and impounding of water), in paragraph (3)(j)(i), for “£20,000” substitute “£50,000”.

PART 3

CONSEQUENTIAL AND TRANSITIONAL PROVISION

Consequential

12.—(1) In consequence of the amendments made to the 1966 Act by Part 1 of this Schedule, the Fines and Penalties (Northern Ireland) Order 1984 is amended as follows.

- (2) In Article 5 (the standard scale of fines for summary-only offences)—
 (a) in the opening words of paragraph (7), for “paragraph (8)” substitute “paragraph (7A)”;
 (b) after paragraph (7) insert—

“(7A) A provision of the Fisheries Act (Northern Ireland) 1966 is not a relevant provision for the purposes of this Article.”.

Transitional

13.—(1) An amendment made by Part 1 or 2 of this Schedule applies only in relation to an offence committed on or after the day on which the amendment comes into operation.

(2) Where the course of conduct constituting an offence is found to have occurred over a period of two or more days, or at some time during a period of two or more days, the offence must be taken for the purposes of sub-paragraph (1) to have been committed on the last of those days.