THE LAW SOCIETY OF NORTHERN IRELAND

Committee for Agriculture, Environment and Rural Affairs

Consultation

FISHERIES, AQUACULTURE AND WATER ENVIRONMENT BILL

Response of the Law Society of Northern Ireland

September 2026

96 Victoria Street
Belfast BT1 3GN
Tel: 02890 23 1614
Fax: 02890 232606
Email: policy@lawsoc-ni.org
Website: www.lawsoc-ni.org

ABOUT THE LAW SOCIETY

The Law Society of Northern Ireland (the Society) is the professional body for solicitors, regulating and representing all solicitors in Northern Ireland.

The Society represents c.3300 solicitors working throughout Northern Ireland in approximately 430 firms in the private sector, and practitioners in the public sector, in business and in the community and voluntary sector. Members of the Society thus represent members of the public, small, medium, and large enterprises, government bodies and charities, making the Society uniquely placed to offer constructive comment on policy and law reform proposals across a broad range of topics.

SEPTEMBER 2026

CONSULTATION RESPONSE

The Society welcomes the opportunity to respond to the Committee for Agriculture, Environment and Rural Affairs' consultation on the Fisheries, Aquaculture and Water Environment Bill (the Bill).

The Society recognises the importance of the proposals contained within the Bill and the breadth of the policy issues it seeks to address. However, consistent with our previous response to the Fisheries and Water Environment Bill consultation in September 2025, this submission is confined to matters which are most consistent with the remit of the Society. In particular, the Society's Climate Justice Group has contributed to those aspects of the Bill that engage environmental governance, ecosystem restoration and climate-related considerations.

Accordingly, this response does not comment on the technical regulation of fisheries, aquaculture licensing or other operational matters that fall outside the Society's expertise and remit. Instead, we have confined our comments to those provisions of the Bill where the Society can most usefully contribute from a legal, governance and public policy perspective.

CLAUSES 1-4: INLAND FISHERIES POLICY OBJECTIVES AND INLAND FISHERIES POLICY STATEMENT

The Society welcomes the introduction of the statutory Inland Fisheries Policy Objectives and the accompanying requirement for the Department to prepare and publish an Inland Fisheries Policy Statement. In particular, the inclusion of the sustainability, ecosystem and climate change objectives represents a positive step towards embedding environmental governance principles within the statutory framework for fisheries management.

The Society also welcomes the governance framework established by the Bill. The requirement for the Department to prepare and publish an Inland Fisheries Policy Statement, explain how each of the statutory objectives has been interpreted and applied, consult publicly on a draft Statement, lay the final Statement before the Assembly, and keep it under regular review provides an

appropriate level of transparency and accountability in the development of future fisheries policy.

The Society further considers it important that implementation of the Policy Statement is undertaken in a manner that is consistent with Northern Ireland's wider environmental policy framework. In particular, consideration should be given to ensuring appropriate alignment with the Climate Change Act (Northern Ireland) 2022, River Basin Management Plans, the Lough Neagh Action Plan, the Environmental Improvement Plan and other relevant environmental and biodiversity strategies. This would ensure that the Policy Statement contributes to broader environmental objectives rather than operating as a standalone policy document.

Whilst the Bill establishes a robust framework for the preparation and governance of the Policy Statement, it provides comparatively little detail on how the achievement of the statutory objectives will be monitored or evaluated in practice. Although the Department is required to keep the Statement under review, there is no express requirement for measurable performance indicators, regular reporting against the objectives or formal assessment of whether the policies contained within the Statement are successfully delivering the intended environmental outcomes.

The Society therefore recommends that the Inland Fisheries Policy Statement should:

- Incorporate measurable outcomes and performance indicators against each of the statutory objectives, particularly those relating to sustainability, ecosystem management and climate change.
- Demonstrate clearly how fisheries policy will contribute to wider environmental priorities, including climate adaptation, biodiversity recovery and freshwater ecosystem restoration.
- Provide for ongoing stakeholder engagement throughout the lifetime of the Statement, recognising that fisheries management is an evolving area requiring continued dialogue between government, environmental organisations, industry, local communities and scientific experts.
- Adopt an adaptive management approach, ensuring that future fisheries policy is regularly informed by emerging scientific evidence, environmental monitoring and changing climatic conditions.

The Society considers that these measures would strengthen the long-term effectiveness of the Policy Statement, improve transparency and accountability, and better support the Bill's overarching objectives of sustainable fisheries management and environmental protection.

CLAUSES 10-14: FIXED PENALTY NOTICES

The Society welcomes the introduction of a framework enabling the Department to issue Fixed Penalty Notices (FPNs) for specified offences under the Fisheries Act (Northern Ireland) 1966 and the Water (Northern Ireland) Order 1999. The proposed framework has the potential to provide a more proportionate, and flexible enforcement mechanism for addressing lower-level breaches, whilst reserving criminal prosecution for the most serious cases.

The Society supports the principle of a graduated enforcement regime, whereby minor or administrative breaches may be dealt with through FPNs, while serious, repeated or deliberate offending that causes significant environmental harm continues to be addressed through the criminal courts. Such an approach has the potential to improve regulatory efficiency whilst ensuring that enforcement action remains proportionate to the nature and seriousness of the offence.

However, the effectiveness of any FPN regime will depend upon the clarity and consistency of its implementation. The Society therefore considers it important that the regulations and associated guidance clearly set out the circumstances in which an FPN should be issued, ensuring consistency in decision-making and minimising the risk of arbitrary or inconsistent enforcement.

The Society also considers that appropriate procedural safeguards should accompany the new regime. Individuals issued with a FPN should retain a clear and accessible right to challenge or contest the notice before criminal liability arises, thereby ensuring that the principles of procedural fairness and natural justice are maintained.

Furthermore, the Society considers it important that penalty levels are set at a level which provides an effective deterrent whilst remaining proportionate to the

seriousness of the offending. The successful operation of the regime will also depend upon adequate training, oversight and resourcing of enforcement officers to ensure that the powers are exercised consistently and transparently across Northern Ireland.

Finally, whilst FPNs are intended primarily as an enforcement mechanism rather than a revenue-generating measure, the Society considers that, where legally permissible, consideration should be given to directing income generated through the regime towards environmental restoration, habitat enhancement or environmental monitoring initiatives. Such an approach would reinforce the "polluter pays" principle, as reflected within the Environmental Principles Policy Statement, that has been supported by the Minister, and would further support the Bill's wider environmental objectives.

CLAUSE 9 & SCHEDULE: CRIMINAL PENALTIES AND INDICTABLE OFFENCES

The Society welcomes the proposals to modernise the existing enforcement regime by increasing the maximum penalties available for a range of fisheries and water environment offences and, in certain cases, allowing offences to proceed on indictment. These changes recognise that serious environmental offending can result in significant and lasting harm to ecosystems, biodiversity and public resources, and seek to ensure that the enforcement framework reflects the seriousness of such offending.

The Society acknowledges that increasing the maximum penalties available to the courts may improve deterrence and better align Northern Ireland's enforcement regime with those of neighbouring jurisdictions. However, the effectiveness of the proposed framework will depend not only on the availability of stronger sanctions, but also on their fair, consistent and proportionate application.

The Society therefore considers it important that custodial sentences and prosecution on indictment are reserved for the most serious cases, with clear distinctions drawn between minor regulatory breaches and offending that causes significant environmental harm, demonstrates persistent non-compliance or involves deliberate or reckless conduct.

To promote consistency and proportionality in sentencing outcomes, the Society considers that appropriate prosecutorial and sentencing guidance should accompany the new provisions. Such guidance would assist decision-makers in determining when offences should proceed summarily or on indictment and help ensure that similar cases are treated consistently across the jurisdiction.

The Society also recognises that stronger penalties alone will not necessarily improve environmental compliance. Effective enforcement will continue to depend upon adequate investigative capacity, appropriate resourcing of enforcement authorities and confidence in the legislative framework to ensure that offences are detected, investigated and prosecuted effectively.

Finally, the Society considers that, where appropriate, courts should be encouraged to make greater use of ancillary powers, including restoration or remediation orders, alongside the imposition of criminal sanctions. Ensuring that environmental damage is repaired, as well as appropriately penalised, would further reinforce the "polluter pays" principle and support the Bill's wider objectives of protecting and restoring Northern Ireland's freshwater environment.

CLAUSE 20 – ENVIRONMENTAL RESTORATION

The Society welcomes the inclusion of Clause 20, which is the only provision within the Bill that expressly links enforcement action with environmental restoration. The proposed power enables the Department, where a person has been convicted of unlawfully removing material from a river bed, to carry out any remedial works it considers necessary and recover the reasonable costs of those works from the offender. The Society considers this to be a positive and practical application of the "polluter pays" principle, ensuring that responsibility for repairing environmental damage rests with those who have caused it.

The Society considers it particularly important that environmental enforcement seeks not only to punish unlawful activity, but also to facilitate the restoration of damaged ecosystems. In this regard, Clause 20 represents a welcome recognition that remediation should form part of the overall enforcement

framework, rather than relying solely upon criminal sanctions or financial penalties.

However, the Society notes that Clause 20 is the only provision within the Bill that expressly provides for environmental restoration following an offence. Whilst the Bill contains a number of positive measures relating to environmental governance, enforcement and sustainable fisheries management, there may be merit in considering whether ecological restoration should feature more prominently throughout the legislative framework, rather than being confined to offences relating to river beds.

In particular, the Society considers that greater emphasis could be placed upon:

- Applying the "polluter pays" principle more broadly across the enforcement regime.
- Promoting the restoration of ecological function, biodiversity and freshwater habitats, rather than limiting remediation to the repair of physical damage.
- Considering whether similar restoration powers should be available in respect of other forms of environmental harm, where appropriate.
- Recognising environmental restoration as a key component of wider efforts to improve freshwater resilience, biodiversity recovery and climate adaptation.

The Society considers that strengthening the role of environmental restoration within the Bill would complement its broader objectives of sustainable fisheries management and environmental protection. As environmental law continues to place increasing emphasis on ecosystem recovery and nature restoration, ensuring that legislative frameworks support both the prevention of environmental harm and the restoration of damaged ecosystems will be essential to achieving long-term environmental resilience.

CONCLUSION

The Society welcomes the opportunity to submit a response in respect of the Consultation on **the Fisheries, Aquaculture and Water Environment Bill.**

We trust our contribution is constructive and we would like to be kept informed of any subsequent proposals formed as a result of this consultation. We would be grateful if you could send us any post-consultation responses to: policy@lawsoc-ni.org