STATUTORY RULES OF NORTHERN IRELAND

1997 No. 425

FISHERIES

Fisheries Byelaws (Northern Ireland) 1997

Made - - - - 15th September 1997

Coming into operation 1st November 1997

The Fisheries Conservancy Board for Northern Ireland in exercise of the powers conferred on it by sections 26(1)(**1**), 37(1)(**2**) to (3), 51(2), 52(2), 70(1) and (2), 71(2)(*g*), 72(1), 89, 95(1) and (2), 97, 114(1)(*b*) and 115(1)(*b*)(**3**) of the Fisheries Act (Northern Ireland) 1966(**4**) and of every other power enabling it in that behalf, with the approval of the Department of Agriculture, hereby makes the following Byelaws:

Part I

Introductory

Citation and commencement

1. These Byelaws may be cited as the Fisheries Byelaws (Northern Ireland) 1997 and shall come into operation on 1st November 1997.

Interpretation

2.—(1) In these Byelaws—

"the Act" means the Fisheries Act (Northern Ireland) 1966;

"angling" means the fishing for, taking or killing of fish by rod and line or hand line;

"bag net" means a net consisting of a single wall of netting and leader, one end fixed to the shore and running seawards to a floating fixed trap or cage of netting, enclosed on all sides, bottom and top, except at the entrance from the leader; and with one or more sets of inscales and described in a Certificate issued under the Salmon Fishery (Ireland) Act 1863(**5**) as a bag net;

(**1**) Section 26(1) was amended by S.I.1991/1466 (N.I. 3) Article 8(3)
(**2**) Section 37 was substituted by 1968 c. 31 (N.I.) Schedule 1 and amended by S.I. 1991/1466 (N.I. 3) Article 9
(**3**) Sections 114(1) and 115(1) were amended by S.I. 1991/1466 (N.I. 3) Article 35(1) and Schedule 3, paragraph 5
(**4**) 1966 c. 17 (N.I.)
(**5**) 1863 c. 114 (Ireland)

"bait net" means a net with a single wall of netting loosely hung on ground and head ropes with the outer ends or wings leading to a bag or tail into which the catch is drafted or hauled and used for the purpose of taking freshwater fish other than trout or rainbow trout for use as bait;

"bona fide fisherman" means a person engaged in either full-time or part-time commercial fishing;

"braided" in relation to a net making material means the interlocking of three or more multifilament yarns so as to form a net making material;

"coarse fish" means freshwater fish other than trout and rainbow trout;

"coarse fishing rod licence" means a licence issued by the Board for one rod and line or hand line to fish for, take and kill eels and freshwater fish other than trout and rainbow trout;

"commercial fishing" means fishing by persons who hold fishing licences issued by the Board (other than eel licences) to fish otherwise than by rod and line or hand line, or their agents previously authorised in writing by them;

"defined mouth" means the mouth of a river as defined by an order made under section 16 of the Act;

"draft net" means a net with a single wall of netting loosely hung on ground and head ropes with the outer ends or wings leading to a funnel and a bag or tail into which the catch is drafted or hauled;

"drift net" means a net consisting of a single sheet or wall of netting loosely hung on cork and sole ropes;

"drift net licence" means a licence issued by the Board authorising the use of drift nets for the taking of salmon in the sea;

"drift netting" means the use of a drift net;

"fixed tidal draft net" means a net consisting of a single sheet or wall of netting loosely hung on ground and head ropes without trap or cage and fixed at the shoreward and seaward ends and described in a Certificate issued under the Salmon Fishery (Ireland) Act 1863 as a fixed draft net;

"foul hook" means the hooking of any salmon or freshwater fish in any part of the body other than in the mouth;

"fresh water" means all waters exclusive of tidal waters;

"game fishing rod licence" means a licence issued by the Board for one rod and line or hand line to fish for, take and kill salmon, freshwater fish and eels;

"ground bait" means any material used other than on a hook for the purpose of attracting fish whilst angling;

"hand line" means a line held in the hand to which shall be attached not more than a single baited hook;

"hook" means a hook attached to a fishing line;

"licence-holder" in relation to a fishing licence means a person named on the licence as being entitled to the licence;

"maggots" means any larvae of the Order Diptera including the house fly of the Family Muscidae and the blue-bottle or blowfly of the Family Calliphoridae;

"multifilament yarn" means a yarn constructed from a group of continuous filaments each filament of which has a diameter not greater than .05 millimetres;

"rainbow trout" means trout of the species Salmo Gairdneri;

"single wall set net" means a net consisting of a single sheet or wall of netting loosely hung on cork and sole ropes and fixed into position by anchors or stakes;

"tidal draft net" means a net used in tidal waters consisting of a single sheet or wall of netting loosely hung on ground and head ropes into which the catch is drafted or hauled;

"tidal waters" means where the tide ebbs to and fro;

"trammel net" means a single sheet or loose wall of small mesh net with a sheet or wall of large mesh net hanging on either side to enable fish swimming into the net to force the fine net through the large mesh and form a pocket in which they are trapped;

"twisted and plied" in relation to a net making material means the forming of a net making material by wrapping a number of multifilament yarns round each other in such a way that there are not less than 100 turns per metre in the material.

(2) For the purposes of the annual close season for angling references to a river, lough or lake includes any tributary or branch of that river, lough or lake and includes any loughs or lakes draining into or flowing out of or forming part of any such river, tributary or branch.

(3) In these Byelaws—

(a) any reference to the size of the mesh from knot to knot in any net shall be construed as a reference to such size measured along the side of the square of the mesh taken in the clear when the net is wet; and

(b) any reference to the size of any fish shall be construed as a reference to its length when measured from the tip of its snout to the fork or cleft of its tail.

Revocations

3. The Byelaws listed in Schedule 7 are hereby revoked.

Part II

Licences, Duties and Fees

4. Subject to Part III of the Act there shall be payable to the Board in respect of—

(a) a fishing rod licence specified in column (1) of Part I of Schedule 1, a duty of the amount set out opposite thereto in column (2) of that Part;

(b) a fishing engine specified in column (1) of Part II of Schedule 1, a duty of the amount set out opposite thereto in column (2) of that Part.

5.—(1) A person who makes application in writing to the Board for a dealer's licence under section 114 of the Act shall forward with that application the fee prescribed in Part III of Schedule 1.

(2) Where the holder of a dealer's licence applies for renewal of that licence under section 115 of the Act his application shall be accompanied by the fee prescribed in Part III of Schedule 1.

6. Any person who has not attained the age of 18 years shall be exempt from the requirements to hold a fishing licence for angling but where any such person uses more than one rod and line or hand line at the same time he shall be exempt from such requirement only in respect of one rod and line or one hand line as the case may be.

7. The Board shall issue a game fishing rod licence to use a single game rod to any person holding a current game fishing rod licence issued by the Foyle Fisheries Commission on payment to the Board of a duty of the amount set out in column (2) of Part I of Schedule 1 opposite the entry "Additional amount payable by the holder of a current game fishing rod licence issued by the Foyle Fisheries Commission to use a single game rod" in column (1) of that Part.

Issue of drift net licences

8. Subject to Byelaws 9 and 10 the Board shall issue a drift net licence to any person who has held a drift net licence in any one of the 3 calendar years immediately preceding his application for such a licence.

9. Where a drift net licence holder dies or retires from drift netting the Board shall issue to the applicant for a drift net licence who is the longest serving crew member of the boat used for drift netting by that licence-holder or, failing an application from that crew member, to the crew member of that boat next in length of service who makes an application for a drift net licence and so on in descending order of length of service of crew members of that boat.

10. The Board shall maintain a register in which applications from bona fide fishermen who are not eligible to be issued with a drift net licence under Byelaw 8 or 9 shall be entered and, when on the death or retirement from drift netting of a licence-holder no application is made in accordance with Byelaw 9, persons whose names are recorded on the register shall have the opportunity, in the chronological order in which they made application, of being issued with a drift net licence.

11. A person who is eligible to be issued with a drift net licence under Byelaw 8 and who is unable to fish by means of drift netting in any calendar year shall notify the Board on or before 1st June in that year of the reason for his not making an application.

12. Where a person who is eligible under Byelaw 8 to have a drift net licence issued to him in any calendar year, fails to notify the Board in accordance with Byelaw 11 he shall cease to be eligible to have a drift net licence issued to him and the provisions of Byelaws 9 and 10 shall apply as if that person had died or retired from drift netting.

13. The number of drift net licences which may be issued in any calendar year shall not exceed one for every person to whom there may be issued such licences under or by virtue of Byelaws 8, 9 and 10.

14.—(1) A drift net licence shall be valid only when used by the licence-holder or his named agent in respect of whom the licence-holder has made written request to and has received from the Board written authorisation to have that agent act in his absence.

(2) The written authorisation referred to in paragraph (1) shall specify the period or periods during which the agent shall be authorised to act in the licence-holder's absence.

(3) The agent named in the written authorisation referred to in paragraph (1) shall be present during fishing operations and the boat and fishing gear used shall be that normally used by the licence-holder.

15. The written authorisation referred to in Byelaw 14 shall be given by the Board only where it is satisfied that the licence-holder is incapable of fishing as a result of illness or injury and the Board may require the licence-holder to provide such relevant information and documentary evidence as it may consider necessary.

Issue of tidal draft net licences

16.—(1) The maximum number of tidal draft net licences issued in any calendar year shall not exceed 6.

(2) An application for such a licence shall be received on or before 1st March in the calendar year to which the licence is to relate.

(3) Where an application for such a licence is received from a person to whom a licence was issued at any time during the period of 3 years preceding 31st December 1996, such an application shall be deemed to have been received before an application received from any other person.

(4) Where the number of applications for such licences received on or before 1st March in any calendar year exceeds 6, the licences shall, subject to paragraph (3), be issued according to the order in which applications for those licences were received.

General rules on fishing licences

17. On application made in such form as it may require and accompanied by the appropriate amount of duty the Board shall, subject to Byelaw 24, issue to the person making application or renew a fishing licence in respect of any fishing engine subject to such conditions as may be set out in the licence.

18. All fishing licences issued in pursuance to these Byelaws shall be valid only during the period stated thereon from the date and time of issue.

19. Fishing licences issued under these Byelaws in respect of any fishing engine shall not authorise the use of that fishing engine for the taking or killing of fish other than those specified on the licence.

20. All fishing licences issued under these Byelaws (other than coarse fishing rod licences, game fishing rod licences and drift net licences) shall be valid only when used by the licence-holder or his agent previously authorised in writing by him.

21. A fishing licence for angling shall be in the form and contain the conditions set out in Schedule 5.

22. A commercial fishing licence shall be in the form and contain the conditions set out in Schedule 6.

23. A licence mentioned in Byelaw 21 or 22 may be issued by a distributor approved by the Board in writing in that behalf.

24. Where a person has been convicted of any offence under the Act the Board may (subject to the provisions of these Byelaws) revoke any fishing licence held by such person or (as the case may be) refuse to issue such person a fishing licence or renew any fishing licence held by such person.

Part III

Appeal to the Department against the Refusal of the Board to issue or restore a Fishing Licence

25. Where the Board proposes to revoke a fishing licence or refuses to issue or renew a fishing licence, it shall give to the licence-holder or the person applying for issue or renewal of a fishing licence (in this Part referred to as "the applicant") at least 14 days prior notice in writing of its intention so to do, and before revoking the fishing licence or refusing to issue or renew a fishing licence as aforesaid shall consider any representations in relation thereto made by or on behalf of the applicant before the expiration of the time specified in the notice.

26. Where the Board revokes a fishing licence or refuses to issue or renew a fishing licence, it shall serve on the person whose fishing licence has been revoked or (as the case may be) the applicant notice of the revocation or refusal to issue or renew the fishing licence, and shall inform such person of his right of appeal under this Part and of the time within which the appeal may be brought.

27. Where the Board revokes a fishing licence or refuses to issue or renew a fishing licence, the person to whom notice under Byelaw 26 has been given may appeal to the Department within 14 days from the date on which such notice is served on him.