1989 No. 483

FISHERIES

Fisheries Consolidated and Amendment Byelaws (Northern Ireland) 1989

Made . . . . . *14th December 1989*

Coming into operation . . *31st January 1990*

The Fisheries Conservancy Board for Northern Ireland in exercise of the powers conferred on it under sections 26(1), 37, 70(1) and (2), 71(2)(*g*), 89, 95, 97, 114(1)(*b*) *and 115(1)(b)* of the Fisheries Act (Northern Ireland) 1966(**a**) 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 Consolidated and Amendment Byelaws (Northern Ireland) 1989 and shall come into operation on 31st January 1990.

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 the Certificate issued under the Salmon Fishery (Ireland) Act 1863(**b**) as a bag net;

"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 for use as bait other than trout or rainbow trout;

(**a**) 1966 c. 17 (N.I.) as amended by 1968 c. 31 (N.I.) s. 1 Sch. 1
(**b**) 1863 c. 114 (Ireland)

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

"coarse fish" means 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 method of fishing described in Byelaw 54;

"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 the 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;

(**a**) The Fisheries Conservancy Board for Northern Ireland: *See* 1966 c. 17 (N.I.) s. 206 and 1954 c. 33 (N.I.) s. 33

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

"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 in 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 or head ropes into which the catch is drafted or hauled;

"tidal waters" means waters 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 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 or tributary.

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 every fishing licence a licence duty and in respect of every dealers licence a fee of such amount as shall be prescribed in Schedule 1.

5. Persons who have 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.

6. Any person holding a Foyle Fisheries Commission Game Fishing Rod Licence for the time being in force may obtain a game fishing rod licence from the Board on payment of the amount prescribed in Schedule 1.

Issue of Drift Net Licences

7. A drift net licence shall be issued to any person who has held a drift net licence in any one of the 3 calendar years immediately preceding his application for a drift net licence.

8. If a person who has held a drift net licence dies or retires from drift netting a drift net licence shall be issued to the applicant for a drift net licence who is the longest serving crew member of the boat used for drift netting by the licence-holder who has died or retired 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 length of service of crew members of that boat.

9. 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 7 or 8 shall be entered and, when on the death or retirement from drift netting of a licence-holder no application is made in accordance with the terms of Byelaw 8, 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.

10. A person who is eligible to be issued with a drift net licence under Byelaw 7 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.

11. Where a person who is eligible under Byelaw 7 to have a drift net licence issued to him in any calendar year, fails to notify the Board in accordance with Byelaw 10 he shall cease to be eligible to have a drift net licence issued to him and the provisions of Byelaws 8 and 9 shall apply as if that person had died or retired from drift netting.

12. A drift net licence shall be issued only in accordance with the conditions set out in Byelaws 7 to 11.

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 7, 8 and 9.

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 issued only when the Board 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 information and documentary evidence as the Board may consider necessary.

General Rules on Fishing Licences

16. On application made in such form as the Board may require the Board may issue to the person making application or renew a fishing licence in respect of any fishing engine subject to such conditions as may apply to the licence.

17. 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.

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

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

20. Fishing licences issued in pursuance of these Byelaws shall be in the form and contain the conditions set out in Schedules 5 and 6 and such licences may be issued through agents approved by the Board.

21. Where a person has been convicted of any offence under the Act the Board may (subject to the provisions of these Byelaws) by resolution 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

22. 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 notice.

23. 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.