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STATUTORY INSTRUMENTS

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**2007 No. 915 (N.I. 9)**

**NORTHERN IRELAND**

The Foyle and Carlingford Fisheries  
(Northern Ireland) Order 2007

*Made - - - - 21st March 2007*  
*Coming into operation in accordance with Article 1(2)*  
*to (4)*

At the Court at Buckingham Palace, the 21st day of March 2007

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**PART I**

**INTRODUCTORY**

**Title and commencement**

1.—(1) This Order may be cited as the Foyle and Carlingford Fisheries (Northern Ireland) Order 2007.

(2) This Article and Article 2 come into operation on the expiration of 7 days from the day on which this Order is made.

(3) Except as provided by paragraph (2), this Order comes into operation on such day or days as the Department may by order appoint.

(4) Without prejudice to section 17(5) of the Interpretation Act (Northern Ireland) 1954 (c. 33) an order made under paragraph (3) may specify or delimit any geographical area in relation to which any provision of this Order is to come into operation.

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**Status:** This version of this Order contains provisions that are prospective.  
**Changes to legislation:** There are currently no known outstanding effects for the The Foyle and Carlingford Fisheries (Northern Ireland) Order 2007. (See end of Document for details)

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**Annotations:**

**Subordinate Legislation Made**

- P1 [Art. 1\(3\)](#) power partly exercised: 1.6.2008 appointed for specified provisions by [S.R. 2008/232](#), [art. 2](#), [Sch.](#)

**Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order—

“the Department” means the Department of Agriculture and Rural Development;

“the 1952 Act” means the Foyle Fisheries Act (Northern Ireland) 1952 (c. 5);

“statutory provision” has the same meaning as in the Interpretation Act (Northern Ireland) 1954.

## PART II

### AQUACULTURE

**Aquaculture**

3.—(1) In the 1952 Act, after Part VI, there shall be inserted—

#### “PART VIA

#### AQUACULTURE

##### *Aquaculture licences*

**Aquaculture licences**

52A.—(1) The Commission may, in accordance with the provisions of this Part, grant a licence (“an aquaculture licence”) to any person authorising that person to engage in aquaculture within any area specified in the licence (the “licensed area”).

(2) An aquaculture licence may be granted notwithstanding any public right to fish in the area which, on the granting of the licence, becomes the licensed area.

(3) Subject to subsection (4) the licensed area may include any part of the foreshore or any part of the bed of the sea or an estuary.

(4) An aquaculture licence shall not specify any area—

(a) which forms either part of the foreshore or part of the bed of the sea or an estuary owned or lawfully occupied by any person, unless the licence is granted to, or with the consent in writing of, the owner or lawful occupier of that part of the foreshore or that part of the bed of the sea or the estuary; or

(b) which is within the limits of a several fishery, unless the licence is granted to, or with the consent in writing of, the owner or lawful occupier of that fishery.

(5) A person shall not engage in aquaculture in the Foyle Area or the Carlingford Area except under, and in accordance with the conditions of, an aquaculture licence.

(6) A person who contravenes subsection (5) shall be guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding 6 months, or to both;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years, or to both.

### **Applications for aquaculture licences**

**52B.**—(1) An application for an aquaculture licence shall be made to the Commission and shall—

- (a) contain such information and be made in such form and in such manner as may be prescribed;
- (b) be advertised, at the expense of the applicant, in such form and in such manner as may be prescribed; and
- (c) be accompanied by—
  - (i) any consent required by section 52A(4); and
  - (ii) the prescribed fee.

(2) Without prejudice to any other provision of this Part, regulations under subsection (1) (a) may contain provisions similar to the provisions of Directive [85/337/EEC](#) and may, in particular, require the Commission, when considering whether to grant an aquaculture licence, to take account of any information received by, or representations made to, the Commission which relate to the impact of aquaculture on the environment.

(3) The Commission may, by giving notice to the applicant, require him to furnish such further information as may be specified in the notice, within the period so specified, as the Commission may require for the purpose of determining the application.

(4) If a person fails to furnish any information—

- (a) required under subsection (1)(a); or
- (b) specified in a notice under subsection (3) within the period specified in the notice,

the Commission may refuse to proceed with the application.

### **Determination of applications for aquaculture licences**

**52C.**—(1) The Commission shall consider an application for an aquaculture licence and either—

- (a) grant the licence; or
- (b) refuse to grant the licence.

(2) In determining an application for an aquaculture licence, the Commission shall consider any written representations relating to the application (including any representations made to the Commission which relate to the impact of aquaculture on the environment) which are received by the Commission within the period of 28 days beginning with the date on which the application was last advertised in accordance with section 52B(1)(b).

(3) As soon as practicable after determining an application for an aquaculture licence the Commission shall give—

- (a) the applicant; and

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(b) each person who made representations considered under subsection (2), notice of the determination.

(4) Where the Commission grants an aquaculture licence, the Commission shall, in such form and in such manner as may be prescribed, publish a notice stating that the licence has been granted.

(5) Where the Commission grants an aquaculture licence, the licence—

(a) shall, if no appeal is brought under section 52P, take effect on the expiration of 28 days from the date on which the Commission, in accordance with subsection (4), last published a notice stating that the licence had been granted;

(b) shall, if an appeal is brought under section 52P, take effect—

(i) if and so far as the licence is confirmed on appeal, from the date on which the appeal is determined;

(ii) if the appeal is withdrawn, on the date of the withdrawal of the appeal.

#### **Form and conditions of aquaculture licences**

**52D.**—(1) An aquaculture licence shall define the position and limits of the licensed area by reference to a map or chart, either with or without descriptive matter (which, in the case of any discrepancy with the map or chart, shall prevail except in so far as may otherwise be provided by the licence).

(2) Where any consent mentioned in section 52A(4) was given subject to any conditions or limitations, the licence shall be subject to such conditions or limitations and such fact shall be stated in the licence.

(3) An aquaculture licence may contain such other conditions as the Commission shall determine.

(4) Without prejudice to the generality of subsection (3), conditions contained in an aquaculture licence may relate to any of the following—

(a) operational practices;

(b) monitoring and protection of the health of fish, aquatic invertebrate animals or aquatic plants and the reporting of incidences of disease and the presence of parasites;

(c) monitoring and inspection of the activities carried on pursuant to the licence;

(d) the type of ropes, trestles, fish cages or other equipment or structures which may be located within the licensed area;

(e) the marking, by buoys or otherwise, of the limits of the licensed area or any part of it, or of the location of ropes, trestles, fish cages or other structures within the licensed area;

(f) the keeping of records by the holder of the licence;

(g) the making of returns and the giving of other information to the Commission in relation to activities in the licensed area;

(h) the protection of the environment (including the man-made environment of heritage value) and the control of discharges from the licensed area;

(i) appropriate environmental, water quality and biological monitoring and, in particular, the provision of samples, or of facilities for taking samples in the licensed area;

(j) in relation to the farming or culture of fish—

- (i) the amount of feed inputs;
  - (ii) annual or seasonal limits on stock inputs and outputs and the amount of stock in the licensed area or in any part of it;
  - (iii) the disposal of dead fish;
  - (iv) measures for preventing the escape of fish and arrangements for reporting any such escape;
  - (v) the movement of fish within, and in to or out of, the licensed area;
  - (k) the payment of any prescribed fee in relation to the licence.
- (5) An aquaculture licence may, in so far as is expedient for the purpose of giving effect to any conditions attached to it, exempt—
- (a) the holder of the aquaculture licence and any person acting under his directions; and
  - (b) a person who acquires fish of any kind taken in accordance with such conditions,
- from the restrictions imposed by section 34 or regulations made under section 13(gg) in so far as those restrictions apply to fish of that kind.

#### **Duration of aquaculture licences**

**52E.**—(1) Subject to subsections (2) and (3), an aquaculture licence—

- (a) shall in the first instance be limited to a period specified by the Commission in writing, being a period of not less than 10 years and not exceeding 20 years, and
- (b) on the expiration of that period shall, on the Commission being satisfied that reasonable progress has been, and is likely to continue to be, made in developing the licensed site, be renewed for a further period specified by the Commission in writing, not exceeding 20 years, and
- (c) on the expiration of that period, on the Commission being satisfied as aforesaid, may be further renewed from time to time for such period specified by the Commission in writing but not, on any occasion, for a period exceeding 20 years.

(2) Where an aquaculture licence has been granted—

- (a) to the occupier (not being the owner) of a several fishery or of any land included in the licensed area; or
- (b) to any person with the consent of such an occupier,

and the owner of the several fishery or land did not consent in writing to the grant of the licence, the licence shall remain in force only during the continuance in occupation of that occupier.

(3) Where an aquaculture licence is granted with the consent in writing of any owner or occupier and a period is specified in the consent, the licence shall remain in force only for that period.

#### **Effect of aquaculture licence**

**52F.**—(1) An aquaculture licence shall confer on the holder of the licence the exclusive right, in the licensed area, to deposit, introduce, propagate, dredge, harvest and take any fish, aquatic invertebrate animal or aquatic plant which is farmed or cultivated in accordance with the licence.

(2) An aquaculture licence shall not—