Foyle Fisheries Act (Northern Ireland) 1952 F1

1952 CHAPTER 5

An Act to authorise the making of a certain agreement with respect to fishing rights in the tidal waters of the Lough and River Foyle and its tributaries, to provide for the management, conservation, protection and improvement of the fisheries in the Foyle Area, to establish a Foyle Fisheries Commission and to define its functions, to dissolve the board of conservators for the Londonderry district, and to provide for other matters (including the charging of fees on certain fishing licences) connected with the matters aforesaid. [25th March 1952]

F1 Ext. (hovercraft), SI 1972/971

PART I

PRELIMINARY AND GENERAL

1 Short title.

This Act may be cited as the Foyle Fisheries Act (Northern Ireland), 1952.

2 Interpretation.

(1) In this Act—

Definition rep. by SI 1999/859

"authorised person" has the meaning given to it by section fifty-three;

[F2"the Commission" means the Foyle, Carlingford and Irish Lights Commission;**]**

[F3 "deleterious matter" means any substance (including an explosive) the entry or discharge of which into any waters is liable to render those or any other waters poisonous or injurious to fish, spawning grounds or the food of any fish or to

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injure fish in their value as human food or to impair the usefulness of the bed and soil of any waters as spawning grounds or their capacity to produce the food of fish;]

"establishment date" means the date appointed by order made under section ten;

F4 . . . . . .

"the Fisheries Acts" means [F5 the Fisheries Act (Northern Ireland) 1966 as amended by any subsequent enactment];

Definitions rep. by SI 1999/859

"fishing engine" means any engine, net or instrument whatsoever capable of being used for the taking of fish;

"fishing licence" means a licence issued by the Commission under regulations made by the Commission under this Act;

"the Foyle Area" has the meaning given to it by section three;

"inquiry" means an inquiry conducted under section eighty;

"the Irish Society" means the body entitled the Society of the Governor and Assistants, London, of the New Plantation of Ulster within the Realm of Ireland;

"the Londonderry Area" means the area which was constituted by the Fishery Districts (Northern Ireland) Order, 1925 , as the Londonderry District;

"the Londonderry Board" means the board of conservators for the said Londonderry District;

"the Minister" means the Minister for Agriculture[F6] of the Republic of Ireland;

"the Ministry" means the Ministry of Commerce[F7];

[[F2]"the Newry Area" means so much of the Carlingford Area as is in Northern Ireland;

"NSMC" has the same meaning as in the North/South Co-operation (Implementation Bodies) (Northern Ireland) Order 1999;**]**

"prescribed" means prescribed by regulations made by the Commission under this Act;

[[F8]"river" includes a branch of a river and any stream, lake, estuary or watercourse;**]**

"salmon" includes sea trout, all fish of the salmon species, and the spawn and fry thereof;

[[F9]"several fishery" means any fishery lawfully possessed and enjoyed as such under any title whatsoever, being a good and valid title at law, exclusively of the public by any person or persons whether in navigable waters or in waters not navigable, and whether the soil covered by such waters is vested in such person or persons or in any other person;**]**

[F3 "substance" includes any liquid or gas;]

"trout" includes all fish of the brown trout kind and their spawn and fry but does not include sea trout;

Definition rep. by 1981 NI 7

[[F10]"waters" includes any river or part of the sea;**]**

[F11(2) In this Act, except in Part VIA, "fish" (when used without any qualification) includes—

(a) freshwater fish of any kind;

(b) salmon and other fish or a kind that migrates to and from the sea;

(c) sea bass and tope;

(d) eels and elvers;

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(e) mussels;

(f) oysters;

(g) the spawn, fry, brood and spat of any kind of fish mentioned in paragraphs (a) to (f);

(h) any part of any kind of fish mentioned in paragraphs (a) to (g).

(3) In subsection (2)(a), "freshwater fish" means any fish living in fresh water, other than a kind of fish that migrates to and from the sea.

(4) In this Act any reference to a river includes a reference to the channel or bed of a river which is for the time being dry.**]**

Subs. (3)#(5) rep. by SLR 1976

F2 SI 1999/859
F3 1962 c. 5 (NI)
F4 S. 2(1): definition of "fish" repealed (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), 34(2), **Sch. 3** (with art. 32); S.R. 2008/232, **art. 2**, Sch.
F5 1966 c. 17 (NI)
F6 Ext. (other Ministers), 1962 c. 5 (NI)
F7 Functions transf. to D/Agric., SRO (NI) 1963/29
F8 S. 2(1): definition of "river" substituted (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **4(a)(i)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.
F9 S. 2(1): definition of "several fishery" inserted (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **4(a)(iii)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.
F10 S. 2(1): definition of "waters" substituted (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **4(a)(ii)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.
F11 S. 2(2)(3)(4) substituted (1.6.2008) for s. 2(2) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), **4(b)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

3 The Foyle Area.

(1) In this Act "the Foyle Area" means the area comprising the fishery district, originally created and defined as the Londonderry District by an order made on the ninth day of July, 1855, by the Commissioners of Fisheries.

[F12(1A) In this Act "the Carlingford Area" means—

(a) the whole of the sea along the coast between the low water line of the most southerly point of Cranfield Point in the County of Down and the low water line of the most easterly point of Ballaghan Point, in the County of Louth, and within a straight line between those points, and any islands or rocks within the same, with the whole of the tideway along the said coast; and

(b) the whole of all lakes, rivers and their tributaries which flow into the sea within the area defined in paragraph (a) and all of the land catchment from which water drains into those lakes and rivers.**]**

(2) Judicial notice shall be taken of the boundaries of the Foyle Area**[**F12 and the Carlingford Area**]**.

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F12 SI 1999/859

S. 4 rep. by 1966 c. 17 (NI)

S. 5 rep. by SI 1999/859

6 Deposit of copies of orders and regulations.

A copy of every order or regulation made under this Act shall be deposited—

[F13(a) with the chief clerk and clerk of petty sessions; and**]**

(c) in every Royal Ulster Constabulary Barracks situate in the Londonderry Area**[**F14 or the Newry Area**]**.

F13 S. 6(a) substituted (31.10.2016) for s. 6(a)(b) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 47(1) (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k) (with art. 3)
F14 SI 1999/859

S. 7 rep. by SLR 1976

PART II

ACQUISITION OF FOYLE FISHERY RIGHTS

8 Power to acquire fishing rights, etc.

(1) The Ministry is hereby authorised to enter into an agreement (in this Act referred to as the vesting agreement) with the Minister and the Irish Society in the terms of the draft set out in the Second Schedule to this Act.

(2) On the date of execution of the vesting agreement this sub-section shall operate to vest in the Ministry and the Minister an absolute and indefeasible title to the fee simple in possession of all rights of fishing in the tidal portions of the Lough and River Foyle and of its tributary, the River Faughan, freed and discharged from all estates, titles, interests, incumbrances, rights, liberties and privileges whatsoever by whomsoever held, used, exercised or enjoyed, except the rentcharges referred to in the vesting agreement but indemnified therefrom as therein provided.

(3) Sub-section (2) of this section shall not apply to a right vested, immediately before the date of execution of the vesting agreement, in any person, other than the Irish Society, to use a fixed engine under certificate granted under section six of the Salmon Fishery (Ireland) Act, 1863 .

(4) On the date of execution of the vesting agreement this sub-section shall operate to extinguish all the estate, right, title and interest of the Irish Society in and to the tidal portions of the Lough and River Foyle and of its tributary, the River Faughan, and the ground, soil and foreshore of those tidal portions.

(5) The vesting agreement shall operate, without further assurance, to convey, assign and transfer, on the date of the making thereof, to the Ministry and the Minister all the property thereby agreed to be sold, other than rights of fishing to which sub-section (2) of this section applies.

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(6) The Irish Society shall, notwithstanding any limitations on its powers, have power to enter into the vesting agreement without the consent of any person.

(7) It shall be the duty of the Ministry and the Irish Society, and each such party is hereby empowered, to carry out the vesting agreement so far as the provisions thereof are to be performed by such party.

Subs. (8)(9) spent

9 Exemption from stamp duties.

(1) Section twelve of the Finance Act, 1895 , shall not operate to require the delivery to the Ministry of Finance of a copy of this Act or the payment of stamp duty under that section on any copy of this Act.

(2) Stamp duty shall not be chargeable on the vesting agreement or on any instrument executed in pursuance thereof.

(3) Section nine of the Finance Act (Northern Ireland), 1936 , shall not apply to the vesting agreement or to any instrument executed in pursuance thereof.

PART III

THE FOYLE FISHERIES COMMISSION

10

Commencement

CONSTITUTION AND FUNCTIONS

11 Establishment of Foyle Fisheries Commission.

Subs. (1) rep. by SI 1999/859

(2) The functions of the Commission shall be—

(a) the management of the property vested in the Ministry and the Minister under section eight;

(b) the conservation, protection and improvement of the fisheries of the Foyle Area**[**F15 and the Carlingford Area**]** generally **[**F16and

(c) such other functions as are conferred on the Commission by or under this Act or any other statutory provision.**]**

[F17(2A) Without prejudice to the generality of subsection (2), the Commission may, for the purposes of its functions under that subsection—

(a) provide education or training courses or facilities for training or instruction;

(b) co-operate with other bodies having functions similar to those of the Commission;

(c) carry out such research as it considers necessary;