

## FISHERIES BILL 2010

---

### Explanatory Memorandum

1. This Bill promoted by the Department of Environment, Food and Agriculture is to replace with more up-to-date provisions the Sea Fisheries Act 1971 and the Inland Fisheries Act 1976.
2. Part 1 (*clauses 1 to 4*) is introductory. *Clauses 1 to 3* provide for the Bill's short title, commencement and interpretation. *Clause 4* enables the Department by order to specify the legal limits of the sea and inland waters for the purposes of the Bill.
3. Part 2 (*clauses 5 to 8*) deals with the functions of the Department. *Clause 5* gives the Department responsibility for inland and sea fisheries. *Clause 6* provides for the appointment of fishery officers and watchers. *Clause 7* enables the Department to carry out research, inquiries and investigations. *Clause 8* confers power to grant general licences etc.
4. Part 3 (*clauses 9 to 21*) deals with inland fisheries. *Clause 9* enables the Department to stock inland waters with fish. *Clause 10* enables it to enter into agreements with other persons for the improvement of fisheries. *Clause 11* gives the Department power to remove obstructions in rivers. *Clause 12* requires fish passes to be maintained in certain dams, and *clause 13* makes it an offence to fish in a fish pass. *Clause 14* makes it an offence to fish, except with a rod and line, within 200m of a dam. *Clause 15 and Schedule 1* make provision with respect to water-mills and works associated with them. *Clause 16* makes it an offence to introduce fish (except those of a prescribed species) into inland waters. *Clause 17* makes it an offence to use deleterious matter for taking fish. *Clause 18* makes it an offence to remove material from a river-bed without consent. *Clause 19* enables the Department to require gratings to be installed in any new channel. *Clause 20* enables the Department to require a minimum flow in waters below a dam. *Clause 21* enables the Department to make regulations for the protection of inland fisheries.
5. Part 4 (*clauses 22 to 35*) provides for the regulation of fishing in inland waters. *Clause 22* makes it an offence to fish in inland waters, or to be in possession of a fishing engine in or near inland

waters, without a fishing licence. *Clause 23* enables regulations to be made for the grant of fishing licences. *Clause 24* restricts the disclosure of information provided pursuant to such regulations. *Clause 25* provides that fishing licences for angling are not transferable. *Clause 26* makes it clear that a fishing licence does not confer a right to fish in private waters, affect private rights or legitimise anything prohibited by other Parts of this Bill. *Clause 27* makes misuse or falsification of a licence an offence.

**6.** *Clause 28* prohibits the use of lights and other devices for fishing. *Clause 29* makes the use of nets and fixed fishing engines an offence, with exceptions. *Clause 30* prohibits the possession near inland waters of anything prohibited by clause 28 or 29. *Clause 31* prohibits certain methods of fishing for salmon, trout, sea trout or eels. *Clause 32* makes it an offence to take, sell or possess or interfere with the spawn or fry of certain fish, and *clause 33* prohibits the chasing or disturbing of spawning fish. *Clause 34* makes it an offence to interfere with anyone lawfully fishing. *Clause 35* prohibits unauthorised fishing in private waters.

**7.** Part 5 (*clauses 36 to 47*) deals with sea fishing. *Clause 36* enables the Department to make regulations prohibiting or restricting sea fishing. *Clause 37* provides for regulations to be made to require fishing boats to be licensed. *Clause 38* deals with the grant, amendment etc. of sea fishing licences. *Clause 39* requires excess fish to be returned to the sea. *Clause 40* enables regulations to be made with respect to the trans-shipping of fish. *Clause 41* specifies the maximum penalties for contraventions of regulations. *Clause 42* deals with evidence from automatic recording equipment. *Clause 43* enables regulations to be made requiring buyers of sea-fish to be registered. *Clause 44* provides for the Department to obtain statistics about fish landings. *Clause 45* enables regulations to be made for controlling recreational sea fishing. *Clause 46* enables United Kingdom or European sea fisheries legislation to be applied to the Isle of Man by order. *Clause 47* makes it an offence to use deleterious matter for taking fish.

**8.** Part 6 (*clauses 48 to 52*) deals with miscellaneous restrictions affecting fisheries. *Clause 48* enables a close season for salmon, sea trout or specified freshwater fish to be prescribed by order, and *clause 49* prohibits the sale of fish out of season. *Clause 50* makes it an offence to take spawning salmon, trout or sea trout. *Clause 51* prohibits the sale of fish taken unlawfully or by rod and line. *Clause 52* makes it an offence to take dead salmon or trout from inland waters or the sea.

**9.** Part 7 (*clauses 53 to 57*) deals with fish-farming and other kinds of aquaculture. *Clause 53* enables the Department to engage in aquaculture. *Clause 54* prohibits unlicensed aquaculture, and *clauses 55 and 56* provide for the grant, amendment etc. of aquaculture licences. *Clause 57* contains supplemental provisions relating to aquaculture. *Clause 58* enables UK or European legislation relating to aquaculture to be applied to the Isle of Man by order.

**10.** Part 8 (*clauses 59 to 72*) deals with the enforcement powers of the police, fishery officers, watchers and water bailiffs (“authorised persons”). *Clause 59* requires an authorised person to produce his or her authority before exercising any powers. *Clause 60* enables authorised persons to stop, search and detain boats. *Clause 61* confers powers to stop and search persons, to enter on land etc. *Clause 62* gives authorised persons a power of arrest. *Clause 63* enables a justice to issue a search warrant. *Clause 64* restricts powers of entry to enforce private fishing rights. *Clause 65* enables private water bailiffs to be appointed. *Clause 66* confers additional powers of enforcement in relation to inland fisheries, and *clause 67* enables a warrant to be issued for those purposes. *Clause 68* give authorised officers power to deal with obstructions. *Clause 69* makes it an offence to refuse to produce a licence or permit to an authorised person on demand. *Clause 70* makes assault or obstruction of an authorised person an offence, and *clause 71* makes giving a warning of the approach of an authorised officer an offence. *Clause 72* indemnifies authorised persons unless acting in bad faith.

**11.** Part 9 (*clauses 73 to 84*) contains miscellaneous and supplemental provisions. *Clause 73* provides for licence fees to be set by regulations. *Clause 74* makes provision for the tagging of salmon and sea trout. *Clause 75* enables the Department to grant a permit authorising activities for stocking or improving a fishery or for scientific purposes. *Clause 76* applies Part 8 to certain byelaws for marine nature reserves. *Clause 77* deals with legal proceedings. *Clause 78* provides for the forfeiture of fish, boats, vehicles and fishing gear on conviction. *Clause 79* deals with the disposal of fish seized or detained. *Clause 80* enables a court to order a boat or fishing gear to be forfeited even without a conviction. *Clause 81* provides for the disposal of forfeitures. *Clause 82* enables a court on conviction to cancel or suspend a licence or to disqualify the person convicted. *Clause 83* provides for Tynwald control over orders and regulations. *Clause 84 and Schedules 2 and 3* make transitional provision and repeal the enactments superseded by the Bill.

**12.** The Bill will not increase expenditure nor will it reduce the income of Government.

**13.** In the view of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.

## **Arrangement of Sections**

Section

### PART 1

#### INTRODUCTORY

1. Short title
2. Commencement
3. Interpretation
4. Definitions of waters etc

### PART 2

#### GENERAL FUNCTIONS OF DEPARTMENT ETC

##### *Preliminary*

5. Responsibility of Department for inland and sea fisheries
6. Fishery officers and watchers
7. Research, inquiries and investigations
8. Grant of general licences etc

### PART 3

#### INLAND FISHERIES - GENERAL

##### *Improvement and protection of fisheries*

9. General power for stocking of waters
10. Power to improve fisheries etc

##### *Obstructions to passage of fish*

11. Removal of obstructions
12. Construction of fish passes in dams
13. Taking fish etc in a fish pass

14. Use of fishing engines at or near dams
15. Mills etc

*Protection of inland fisheries*

16. Prohibition of introduction of fish
17. Use etc of deleterious matter
18. Removal of material from river-bed
19. Gratings
20. Minimum flow below dams
21. Regulations relating to inland fisheries

PART 4

REGULATION OF FISHING IN INLAND WATERS

*Fishing licences*

22. Prohibition of unlicensed fishing
23. Fishing licences
24. Disclosure of returns and information
25. Angling licences to be non-transferable
26. Savings
27. Misuse etc of licences

*Prohibition of certain methods of fishing*

28. Use or possession of certain devices or equipment
29. Use of nets, fishing weirs and other engines
30. Possession of unlawful fishing engines etc
31. Prohibited methods of fishing for salmon, trout, sea trout or eels

*Other provisions*

32. Taking etc spawn or fry

- 33. Chasing etc spawning fish
- 34. Obstructing persons lawfully fishing
- 35. Unauthorised fishing in private waters

PART 5

REGULATION OF SEA FISHING

*General restrictions on fishing*

- 36. Power to restrict fishing in the sea

*Fishing boats*

- 37. Licensing of fishing boats
- 38. Sea fishing licences
- 39. Returning fish to the sea
- 40. Trans-shipping of fish
- 41. Offences under regulations
- 42. Evidence

*Landing of fish*

- 43. Registration of buyers of sea-fish
- 44. Power to obtain statistics of sea-fish landings etc

*Recreational fishing*

- 45. Recreational sea fishing

*Other provisions*

- 46. Application of UK and European sea fisheries legislation
- 47. Use etc of deleterious matter

## PART 6

## MISCELLANEOUS RESTRICTIONS

*Annual close season*

- 48. Fishing during close season
- 49. Sale or possession of fish out of season

*Unseasonable fish*

- 50. Unseasonable salmon and trout

*Further restrictions on sale etc of fish*

- 51. Further restrictions on sale etc of fish
- 52. Taking salmon or trout unlawfully killed or found dead

## PART 7

## AQUACULTURE

- 53. Power of Department to engage in aquaculture
- 54. Restriction on aquaculture
- 55. Aquaculture licences
- 56. Amendment etc of aquaculture licences
- 57. Aquaculture: supplementary
- 58. Application of UK and European aquaculture legislation

## PART 8

## AUTHORISED PERSONS

*General*

- 59. Production of authority
- 60. Powers in respect of boats
- 61. Other powers of authorised persons

**62.** Power of arrest

**63.** Warrant to enter and search etc

*Inland waters*

**64.** Restrictions on powers of constables etc

**65.** Private water bailiffs

**66.** Additional powers of authorised persons

**67.** Warrant to enter on land or waters

**68.** Powers in relation to fishing engines etc

**69.** Requirement to produce licence or permit

*Protection of authorised persons etc*

**70.** Assaulting or obstructing authorised person etc

**71.** Giving warning to persons unlawfully fishing

**72.** Indemnification of authorised persons

PART 9

MISCELLANEOUS AND SUPPLEMENTAL

*Licence fees*

**73.** Licence fees

*Tagging of salmon and sea trout*

**74.** Tagging of salmon and sea trout

*Exemptions for artificial propagation and scientific purposes*

**75.** Exemptions for artificial propagation and scientific purposes

*Marine nature reserves*

**76.** Marine nature reserves

*Legal proceedings***77.** Legal proceedings*Forfeitures etc*

- 78.** Forfeiture of fish, boat, vehicle, fishing engine, etc
- 79.** Disposal of fish seized or detained
- 80.** Disposal of boat or fishing gear etc seized in certain cases
- 81.** Disposal of forfeitures
- 82.** Cancellation etc of licences and disqualification

*Supplemental*

- 83.** Orders and regulations - general
- 84.** Transitional provisions and repeals

## SCHEDULES —

Schedule 1 — Mills etc

Schedule 2 — Transitional provisions

Schedule 3 — Repeals

## A BILL

to re-enact with amendments and further provisions the enactments relating to inland and sea fisheries; and for connected purposes.

**B**E IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

### PART 1

#### INTRODUCTORY

1. The short title of this Act is the Fisheries Act 2010. Short title
- 5 2. This Act (except this Part and section 83 so far as it relates to this Part) shall come into operation on such day or days as the Department may by order appoint. Commencement
3. (1) In this Act — Interpretation  
“annual close season”, in relation to a species of fish, means the season specified under section 48 in respect of that species;  
10 “aquaculture” means —
  - (a) the culture of any species of fish in inland waters; and

- (b) the culture of any species of fish or aquatic vegetable in the sea, or on the sea-bed or foreshore;

“aquaculture licence” means a licence under section 55;

“authorised person” means (subject to section 57(1) and 60(2)) — **5**

- (a) a constable;
- (b) a fishery officer;
- (c) a watcher; or
- (d) a private water bailiff;

“boat” includes any vessel, and any raft or other apparatus constructed or adapted for floating on water; **10**

[c.14]

“Community instrument” has the same meaning as in the European Communities (Isle of Man) Act 1973;

“dam” means a dam, weir, dyke, sluice, embankment or structure built or placed in, or in connection with, any inland waters or the sea for or in connection with the sustaining of water for any purpose, but does not include an embankment erected solely to prevent erosion of the banks of the river or to protect adjacent land from flooding; **15**  
**20**

“deleterious matter” means any substance (including an explosive and an anaesthetic), the entry or discharge of which into any waters is liable —

- (a) to render those or any other waters poisonous or injurious to fish, spawning grounds or the food of any fish; or **25**
- (b) to injure fish in their value as human food; or
- (c) to impair the usefulness of the bed and soil of any waters as spawning grounds or their capacity to produce the food of fish; **30**

“the Department” means the Department of Environment, Food and Agriculture;

“dwelling” means premises used exclusively as a private residence;

“eels” means freshwater eels, including elvers; **35**

- “fish” includes spawn of fish and shellfish, and references to fish or to fish of any species or description include a part of a fish or part of a fish of that species or description, as the case may be;
- 5** “fish pass” means a channel for the free run or migration of fish in, over or in connection with an obstruction in inland waters or the sea and includes a fish ladder or any other contrivance which facilitates the passage of fish;
- 10** “fishery” means any water —
- (a) holding populations of fish, or
  - (b) where fish may be caught for commercial or recreational purposes;
- “fishery legislation” means any provision of —
- 15** (a) this Act;
- (b) regulations under this Act; or
  - (c) legislation applied to the Island under section 46;
- “fishery officer” means a fishery officer appointed under section 6(1);
- 20** “fishing boat” means a boat which is for the time being employed in sea fishing;
- “fishing engine” means any engine, net, instrument or device whatsoever capable of being used for taking or killing fish;
- 25** “fishing licence” (except in the terms “recreational sea fishing licence” and “sea fishing licence”) means a licence granted pursuant to regulations under section 23;
- 30** “fishing weir” means any erection, structure or obstruction, fixed to the soil across, or partly across, a river and incorporating one or more openings wherein fish may be taken which is used for the purpose of taking, or facilitating the taking of, fish, but does not include a fixed engine;
- 35** “fixed engine” means —
- (a) any stake, bag, stop and still or fixed draft net; or

(b) any net, implement, engine or device —

(i) fixed to the soil; or

(ii) secured by anchors; or

(iii) held by hand; or

(iv) made stationary in any other way, and used **5**  
solely for the purpose of taking, or facilitating  
the taking of, fish, not being a fishing weir,  
or a rod and line (however used);

“freshwater fish” means any fish (other than salmon or sea  
trout) living in inland waters; **10**

“holder”, in relation to a licence or permit under this Act,  
means the person to whom the licence or permit is  
granted and who (except in the case of a general licence  
or permit) is named in the licence or permit,

“inland fishery” means a fishery in inland waters; **15**

“inland fishery legislation” means any fishery legislation  
except sea fishery legislation;

“inland waters”, subject to subsection (2), includes any river,  
lake, pond, pool, reservoir, watercourse or estuary, but  
does not include any part of the sea; **20**

“justice” means a justice of the peace;

“lawful fishing engine” means any fishing engine the use of  
which (except during particular times, in particular  
places or in a particular manner) is not prohibited by or  
under this Act, and “unlawful fishing engine” has a **25**  
corresponding meaning;

“mill” includes any factory, machine, building or other work  
by or for which water is taken or used for any purpose;

“net” includes all descriptions of nets, and all other engines  
or devices, of whatsoever construction or materials, or **30**  
howsoever known or styled, which are used for the  
taking of fish;

“owner”, in relation to land, has the meaning given in section  
73 of the Local Government Act 1985;

[c.24]

“package” includes any tank or other container; **35**

“private water bailiff” means a person appointed as a private water bailiff under section 65;

“recreational sea fishing licence” means a licence granted pursuant to regulations under section 45;

**5** “sale”, in relation to fish, includes —

- (a) supply in the course of a business, and
  - (b) exchange or part-exchange for goods or services,
- and references to selling and offering or exposing for sale shall be construed accordingly;

**10** “salmon” means all fish of the species *Salmo salar*;

“the sea”, subject to subsection (2), includes the coast up to the mean high water mark of ordinary spring tides;

“sea-fish” means —

- (a) fish of any description found in the sea, including shellfish, and
- (b) salmon and sea trout;

“sea fishery legislation” means —

- (a) Part 5;
- (b) regulations under Part 5; or
- (c) legislation applied to the Island under section 46;

“sea fishing” means fishing in the sea;

“sea fishing licence” (except in the term “recreational sea fishing licence”) means a licence granted under section 38;

**25** “sea trout” means migratory fish of the species *Salmo trutta*;

“stake net” includes a stake weir and any fixed engine of similar construction to a stake net;

“substance” includes any liquid or gas;

**30** “trout”, without more, includes all fish of the brown trout and rainbow trout kind, but does not include sea trout;

“undersized” and “unseasonable” have the meanings given by subsections (3) and (4);

“watcher” means a fisheries watcher appointed under section 6(2)

“the Water Authority” means the Isle of Man Water and Sewerage Authority. **5**

(2) For the purposes of this Act —

(a) waters on the seaward side of the mouth of a river defined under section 4(1) shall be treated as part of the sea and not as part of the river, and **10**

(b) waters on the landward side of a mouth so defined shall be treated as part of the river and not as part of the sea.

(3) For the purposes of this Act a fish of any species is undersized if it is of a length less than that prescribed in relation to that species by regulations made by the Department for the purpose of this subsection. **15**

(4) For the purposes of this Act a salmon, trout or sea trout is unseasonable if —

(a) it is about to spawn, or

(b) it has spawned and has not recovered from spawning. **20**

(5) In this Act —

(a) “believe” means believe on reasonable grounds, and

(b) “suspect” means suspect on reasonable grounds.

(6) Any notice, licence, permit, authorisation, consent or permission given under this Act must be in writing. **25**

Definitions  
of waters etc

**4.** (1) For the purposes of this Act the Department, with the consent of the Department of Infrastructure, may by order define, by reference to a map or otherwise —

(a) the mouth of any river at its entrance into the sea;

(b) the mouth of any tributary river at its entrance into any other river; **30**

(c) the boundary between the tidal and freshwater portions of any river;

(d) the point or points to or from which distances are to be measured under this Act; and

(e) any area of the sea;

**5** and that mouth, boundary, point, points or area shall, for all purposes of and all proceedings under this Act, be as defined by the order.

(2) The Department shall keep a copy of any map by reference to which any matter is defined by an order under subsection (1) available at the principal office of the Department for inspection by members of the public at all reasonable hours.

**10**

PART 2

GENERAL FUNCTIONS OF DEPARTMENT ETC

*Preliminary*

**5.** (1) Subject to the provisions of this Act, the Department shall be responsible for —

Responsibility of Department for inland and sea fisheries

**15**

(a) the supervision and protection of inland and sea fisheries, and

(b) fostering the establishment and development of such fisheries.

**20** (2) In the exercise of its functions under this Act, the Department shall have regard to the need —

(a) to preserve natural beauty and amenity;

(b) to conserve freshwater flora and fauna and the freshwater environment;

**25**

(c) to conserve marine flora and fauna and the marine environment;

(d) to conserve features of geological or geomorphological interest; and

(e) to protect buildings and other objects of architectural or historic interest,

**30** so far as those matters are capable of being affected by that exercise.

**6.** (1) Fishery officers shall be appointed to exercise, in accordance with the directions of the Department —

Fishery officers and watchers

- (a) the functions conferred on them by or under this Act, and
- (b) such functions of the Department under this Act as the Department may authorise them to exercise.

(2) The Department may appoint, on such terms and conditions as it thinks fit, fishery watchers to exercise, in accordance with the directions of the Department, such functions of fishery officers, and such functions of the Department, under this Act as the Department may authorise them to exercise. 5

Research,  
inquiries and  
investigations

**7.** (1) The Department, with the approval of the Treasury, may conduct or promote, or assist (by grants or otherwise) any person in conducting, research or investigations into any matter relating to fish or any inland fishery or sea fishery. 10

(2) The Department may cause inquiries to be held or investigations to be made in relation to —

- (a) any inland fisheries or sea fisheries, and 15
- (b) the best means to be adopted for the management, conservation, protection or improvement of those fisheries,

or in relation to the operation of this Act.

Grant of  
general  
licences etc

**8.** (1) Any power conferred on the Department by this Act or by regulations under this Act to grant a licence, permit or authorisation (other than a sea-fishing licence) includes power to grant, and from time to time to modify or withdraw, a general licence, permit or authorisation to all persons or to persons of a specified description. 20

(2) Where the Department grants, modifies or withdraws a general licence, permit or authorisation, it shall take such steps as appear to it to be necessary to bring the grant, modification or withdrawal to the notice of persons likely to be affected by it. 25

### PART 3

#### INLAND FISHERIES - GENERAL 30

##### *Improvement and protection of fisheries*

General  
power for  
stocking of  
waters

**9.** Where the Department is satisfied —

- (a) that, for the purpose of developing or improving the fishery of any inland waters, it is expedient to introduce into those or any other waters fish of any kind; and 35

- (b) that the introducing of fish of that kind will not interfere with the reasonable and legitimate interests of any other person,

5 the Department may acquire, and may do such things as are necessary to establish in any such waters, any fish of that kind.

10. (1) The Department may make payments of such amount and subject to such conditions as it may determine to any organisation approved by the Department and having as its object, or one of its principal objects, the development and improvement of fisheries in inland waters and the making of such fisheries available for letting or fishing by persons authorised to fish.

Power to improve fisheries etc

15 (2) The Department may enter into an agreement with the owner or occupier of any land (which may include provision for the making of payments by the Department) for allowing persons to pass and repass over that land, or to have access from that land to any inland waters, or both, for the purpose of lawful fishing with rod and line.

(3) For the purpose of improving the fishery of any inland waters the Department may, by agreement with any other person, —

20 (a) execute any works or do any thing which that person is entitled to execute or do; or

(b) defray or contribute to any expenses incurred by that person in executing any works or doing any thing.

25 (4) The execution of any works or the doing of any thing by the Department by agreement with any other person under subsection (3) shall not affect any responsibility of that person for anything done in pursuance of the agreement.

*Obstructions to passage of fish*

11. (1) Where —

Removal of obstructions

30 (a) obstructions of any kind in inland waters or the sea prevent or impede the free passage of fish in, to or from inland waters,

35 (b) the construction of works or the making of alterations in the bed of the inland waters or sea will secure the free passage of fish at all times, and

(c) the Department of Infrastructure is satisfied that such works or alterations will not interfere with navigation

or impair the effective working power of any mill or the drainage of any lands,

the Department may on the application of any person interested in a fishery in the river (“the owner”) authorise the construction of the works or the making of the alterations, as the case may be. **5**

(2) Any works constructed or alterations made under subsection (1) shall be executed in accordance with plans, sections and specifications approved by the Department and the Department of Infrastructure.

(3) The cost of any works or alterations authorised under subsection (1) shall be borne by the owner. **10**

(4) Where works or alterations are authorised under subsection (1), the Department may, by agreement with the owner, cause the works to be constructed or the alterations to be made.

(5) Where the execution of any works or alterations in pursuance of an authorisation under subsection (1) results in damage or injury to any person, that person may recover compensation from the owner. **15**

Construction  
of fish passes  
in dams

**12.** (1) Where a dam is or has been constructed in any waters, a fish pass, sufficient to permit the free passage through the dam of migratory fish of any species at all times, shall be provided and maintained by the owner of the dam. **20**

(2) Subsection (1) does not apply so as to require the provision of a fish pass in conjunction with a particular dam in any waters where the Department — **25**

(a) is satisfied that, having regard to the nature of the dam or of the waters, or of the kinds of fish frequenting or likely to frequent the waters, it is unnecessary or unreasonable to insist upon compliance with the requirements of that subsection, and **30**

(b) by notice in writing grants exemption from those requirements with respect to that dam.

(3) Every fish pass provided under this section shall be constructed in accordance with plans, sections and specifications approved by the Department. **35**

(4) The cost of providing and maintaining a fish pass shall be borne by the owner of the dam.

(5) Where, in contravention of subsection (1), the owner of a dam does not provide or maintain a fish pass in conjunction

with that dam, the Department may by notice in writing require him or her to do so.

**5** (6) If the owner of a dam fails to comply with a notice under subsection (5) within any reasonable period specified in it, the Department may, subject to subsection (3), cause a fish pass to be constructed and may recover from the owner any expenses reasonably incurred in so doing.

(7) If the owner of a dam —

**10** (a) fails to provide a fish pass as required by subsection (1), or

(b) where a fish pass has been provided (whether by the owner or not), fails to maintain it in an efficient state,

he or she is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

**15** (8) Where a fish pass is provided in a dam under this section, the Department may —

(a) from time to time inspect the fish pass and monitor its operation for the purpose of ascertaining whether it is effective, and

**20** (b) recover from the owner of the dam the reasonable expenses incurred by it in so doing.

(9) In this section “migratory fish” includes trout.

**25** (10) This section does not apply to a dam constructed by the Water Authority in pursuance of an order under section 3 of the Water Act 1991.

[c.24]

**13.** (1) Any person who —

(a) takes or kills any fish in a fish pass; or

(b) uses any fishing engine in a fish pass; or

**30** (c) places any obstacle or contrivance of any kind or does any thing in or near a fish pass in order to deter or prevent fish from freely entering or passing through the fish pass at all times; or

(d) authorises or permits any other person to do anything referred to in paragraphs (a) to (c),

Taking fish  
etc in a fish  
pass

is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

(2) Where a person is convicted of an offence under subsection (1)(c) of placing an obstacle or contrivance in a fish pass, the Department may cause the obstacle or contrivance to be removed and may recover from that person any expenses reasonably incurred in so doing. **5**

Use of fishing engines at or near dams

**14.** Any person who uses a fishing engine (other than a rod and line) at any place within 200 metres above or below a dam in inland waters is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000. **10**

Mills etc

**15.** Schedule 1 has effect in relation to mills and pools, works and watercourses appurtenant to them.

### *Protection of inland fisheries*

Prohibition of introduction of fish

**16.** (1) Any person who — **15**

(a) intentionally or recklessly introduces any live fish into inland waters, or

(b) has in his or her possession any live fish intending to introduce it into inland waters,

is guilty of an offence **20**

(2) A person committing an offence under subsection (1) is liable —

- (a) on conviction on information, to a fine;
- (b) on summary conviction, to a fine not exceeding £5,000.

(3) A person is not guilty of an offence under this section if— **25**

- (a) the inland waters concerned are used for aquaculture pursuant to a licence under section 55, or
- (b) the Department has previously consented in writing to the introduction. **30**

Use etc of deleterious matter

**17.** (1) Any person who —

- 5 (a) uses any deleterious matter in any inland waters for the capture, destruction or injury of fish, or
- (b) has in his or her possession or under his or her control any deleterious matter for the capture, destruction or injury of fish,

is guilty of an offence.

(2) A person committing an offence under subsection (1) is liable —

- 10 (a) on conviction on information, to custody for a term not exceeding 2 years or to a fine, or to both;
- (b) on summary conviction, to custody for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both.

15 (3) Any person who is on the bank of or near any inland waters and has in his or her possession or under his or her control any deleterious matter shall, until the contrary is proved, be deemed to have that matter for the capture, destruction or injury of fish.

18. (1) Any person who removes any material from the bed of any river—

Removal  
of material  
from river-bed

- 20 (a) without the consent of the Department under subsection (2); or
- (b) otherwise than in accordance with the conditions of such a consent,

25 is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

(2) The Department may, on the application of any person, grant its consent to the removal of material from the bed of a river on such conditions as it thinks fit.

30 (3) A consent under subsection (2) does not confer on any person a right to remove material from the bed of a river which (apart from this section) he or she would not otherwise have.

35 19. (1) Where any cut, leat or channel is made or opened from any inland waters by any person for any purpose by which fish are liable to be diverted from those waters, the Department may direct that person and his or her successors in title to place and maintain, at his, her or their own expense, gratings across the cut,

Gratings

leat or channel of such dimensions, at such place and in such manner and position as may be approved by the Department.

(2) Gratings required under subsection (1) shall be placed and maintained at the expense of —

(a) the person to whom directions under that subsection are given, or his or her successors in title, in the case of a cut, leat or channel made or opened after 10th March 1977; or **5**

(b) the Department, in any other case (subject to any provision contained in a aquaculture licence relating to the cut, leat or channel). **10**

(3) The obligations imposed by any directions under subsection (1) shall not be in force during such period (if any) in each year as may be specified in the directions.

(4) Any person on whom an obligation is imposed by directions under subsection (1) and who fails without lawful excuse to comply with those directions is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000. **15**

(5) Any person who without lawful excuse injures or removes, or permits to be injured or removed, any grating placed in pursuance of directions under subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000. **20**

(6) In this section “channel” includes a pipe, culvert and any other similar device. **25**

Minimum  
flow below  
dams

**20.** (1) Where a dam is or has been constructed in any inland waters, the Department may by notice in writing require the owner of the dam to take such steps as may be necessary to ensure a minimum flow specified in the notice in the waters immediately below the dam, except to the extent that the natural flow is for the time being less than that flow. **30**

(2) In specifying a minimum flow under subsection (1) the Department shall have regard to the reasonable requirements of —

(a) the owner of the dam; **35**

(b) other lawful users of the inland waters, whether for agriculture, industry, water supply or other purposes;

(c) fisheries and land drainage.

(3) Before giving a notice under subsection (1) the Department shall consult —

- 5 (a) the owner of the dam;
- (b) any other persons appearing to the Department to be affected by the flow in the inland waters;
- (c) the Department of Infrastructure; and
- (d) in the case of inland waters from which the Water Authority has the right to take water, that Authority.

10 (4) If the owner of a dam fails without reasonable excuse to comply with a notice under subsection (1), he or she is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

15 (5) The Department may by regulations prescribe the method by which the flow in any inland waters is to be measured for the purposes of this section.

(6) This section does not apply to a dam constructed by the Water Authority in pursuance of an order under section 3 of the Water Act 1991.

21. (1) The Department may make regulations providing for —

- 20 (a) the prevention of the introduction of disease into, or the spread of disease in, inland fisheries;
- (b) the regulation of the importation and removal of fish into, and the movement of fish in, the Island;
- 25 (c) subject to any enactment relating to the conservation or protection of wildlife, the protection of inland waters from predatory animals; and
- (d) the prohibition of any practice tending to impede the lawful capture of fish or to be detrimental to inland fisheries.

Regulations relating to inland fisheries

30 (2) Regulations under subsection (1) may provide that a contravention of any provision of them shall be an offence on the part of any person of a description specified in the regulations, punishable on summary conviction by a penalty not exceeding that so specified (which shall not exceed a fine of £5,000).

35 (3) In proceedings for an offence consisting of a contravention of regulations under subsection (1), it shall be a

defence for the accused to show that he or she took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or herself or by any person under his or her control.

## PART 4

5

## REGULATION OF FISHING IN INLAND WATERS

*Fishing licences*

Prohibition of  
unlicensed  
fishing

**22.** (1) Any person who, in or near any inland waters, fishes for, takes or kills any fish otherwise than —

(a) by authority of a licence under section 23 (a “fishing licence”), or **10**

(b) in accordance with the conditions of a fishing licence,

is guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.

(2) If a person, in or near any inland waters, fishes for, takes or kills any fish under the tuition or instruction of another person, that other person shall be treated for the purpose of subsection (1) as fishing for that fish. **15**

(3) Any person who, in or near any inland waters, has in his or her possession a fishing engine which is erected or in fishing order is guilty of an offence and liable on summary conviction to a fine not exceeding £2,500. **20**

(4) In proceedings for an offence under subsection (1) or (3), it is a defence for the person accused to show —

(a) that he or she took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or by any person under his or her control; and **25**

(b) that, if the offence consisted in taking a fish which he or she was not lawfully permitted to take, he or she immediately returned the fish to the water without any avoidable injury. **30**

(5) In proceedings for an offence under subsection (3), it is a defence for the person accused to show that —

(a) he or she, in the case of a rod and line, or **35**

- (b) he or she, or a person by whose direction he or she is acting, in the case of any other fishing engine,

is authorised by a fishing licence to use that fishing engine at that place.

**5 23.** (1) The Department shall make regulations providing for the grant by the Department of licences to fish in inland waters (“fishing licences”). Fishing licences

(2) A fishing licence shall authorise the holder to fish for, take and kill —

- 10** (a) fish, or fish of a specified description, or fish other than fish of a specified description,
- (b) in inland waters generally, or in specified inland waters, and
- (c) by means of a fishing engine of a specified description.

**15** (3) Subject to any provision made under subsection (4)(d), a fishing licence shall have effect subject to such conditions as may be specified in it.

(4) Regulations under subsection (1) may provide for —

- (a) the making of applications for fishing licences;
- 20** (b) the issue of fishing licences by the Department or agents for the Department;
- (c) the form of fishing licences;
- (d) the conditions subject to which fishing licences shall or may be granted;
- 25** (e) the duration of fishing licences;
- (f) the renewal, amendment, suspension and cancellation of fishing licences;
- (g) the keeping of records and the making of returns by persons issuing, and the holders of, fishing licences, and the inspection, verification and copying by **30** authorised persons of any such records;
- (h) a right of appeal to a court of summary jurisdiction against —

- (i) the refusal to grant or renew a fishing licence,
  - (ii) the amendment, suspension or cancellation of a fishing licence, or
  - (iii) the inclusion in a fishing licence of a condition (other than one required to be included by a provision made under paragraph (d)). **5**
- (5) Any person who is required by regulations under subsection (1) to keep any record or to make any return makes in any such record or return any statement which to his or her knowledge is false or misleading in any material respect is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000. **10**
- (6) Regulations under subsection (1) may include provision —
- (a) limiting the number of fishing licences of a specified description; **15**
  - (b) for preserving good order among persons fishing;
  - (c) prescribing the times and seasons for taking fish;
  - (d) prescribing the mode of taking fish and the conditions subject to which fish may be taken; **20**
  - (e) prohibiting any mode of taking or killing fish;
  - (f) without prejudice to sections 28, 29, 30 and 48, prescribing —
    - (i) the times and places at which any fishing engine may be used; and **25**
    - (ii) the description of any fishing engine which may be used;
  - (g) prescribing the size (whether determined by measurement or by weight) of fish which may be taken.
- (7) Regulations under subsection (1) may provide that a contravention of any provision of them made by virtue of subsection (6) shall be an offence on the part of any person of a description specified in the regulations, punishable on summary conviction by a penalty not exceeding that so specified (which shall not exceed a fine of £1,000). **30**
- (8) In proceedings for an offence consisting of a contravention mentioned in subsection (7), it shall be a defence **35**

for the accused to show that he or she took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or herself or by any person under his or her control.

**5** **24.** (1) Subject to subsection (2), returns, or any information contained in returns, furnished pursuant to any regulations under section 23 shall not, without the consent of the person by whom any return was made or to whose business the returns relate, be disclosed otherwise than to the Department. Disclosure of returns and information

**10** (2) Subsection (1) does not apply to —

(a) the disclosure of returns or information in the form of a summary of similar returns or information furnished by or obtained from a number of persons, if the summary is so framed as not to enable particulars relating to any individual or any individual business to be ascertained from it; or

**15**

(b) any disclosure of information made for the purposes of any legal proceedings pursuant to this Act, or for the purposes of any report of any such proceedings; or

(c) the disclosure of any such returns or information so far as the disclosure is required or authorised by or under this Act.

**20**

(3) Any person who discloses any information in contravention of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

**25**

**25.** A fishing licence to fish with rod and line shall not authorise fishing by any person other than the person to whom it is granted. Angling licences to be non-transferable

**26.** A fishing licence shall not be construed — Savings

(a) as conferring on any person any right of fishing in any place which he or she does not otherwise have; or

**30**

(b) as affecting the rights of any person other than the holder of the licence or, in the case of a licence to which section 25 does not apply, the person using the fishing engine; or

(c) as making legal any fishing engine that would otherwise be illegal, or as implying any recognition of the legality of any fishing engine; or

**35**

(d) as rendering lawful anything which is unlawful by virtue of any enactment other than this Part.

Misuse etc  
of licences

- 27.** (1) Any person who, knowingly or with intent to deceive, —
- (a) uses or presents a fishing licence for any time, date, period, place or purpose other than that for which it is granted; **5**
  - (b) uses or presents, as being a fishing licence of which he or she is the holder, —
    - (i) a fishing licence granted to any other person, or
    - (ii) a document which is not a fishing licence; or **10**
  - (c) uses or presents a fishing licence that has been in any manner altered (otherwise than by a person duly authorised by the Department),

is guilty of an offence.

- (2) A person committing an offence under subsection (1) is liable — **15**
- (a) on conviction on information, to custody for a term not exceeding 2 years or to a fine, or to both;
  - (b) on summary conviction, to custody for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both. **20**

*Prohibition of certain methods of fishing*

Use or  
possession  
of certain  
devices or  
equipment

- 28.** (1) Any person who, for the purpose of locating, disturbing, taking, killing or facilitating the taking or killing of any fish, uses, or has in his or her possession or under his or her control, on the bank of or near any inland waters — **25**
- (a) any light or fire;
  - (b) any electrical or acoustical apparatus of any kind;
  - (c) any otter, tailer or snare, spear, stroke-haul, gaff or other instrument of a similar kind; **30**
  - (d) any instrument or device calculated in the course of normal use to foul-hook any fish;
  - (e) any diving suit, or any part of a diving suit, of any kind; or

(f) any snorkel, mask or other item of diving equipment,  
is guilty of an offence.

**5** (2) Any person who, for the purpose of taking any fish contrary to any provision of this Act, uses or has in his or her possession or control in, on the bank of or near any inland waters any waders or similar clothing enabling the wearer to wade in water above waist height is guilty of an offence.

**10** (3) A person guilty of an offence under this section is liable on summary conviction to custody for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both.

(4) In proceedings for an offence under this section it shall be a defence for the person accused to show that he or she was acting in accordance with an authorisation given by the Department.

**15** **29.** (1) Any person who uses a net in any inland waters is guilty of an offence.

Use of nets,  
fishing weirs  
and other engines

(2) Any person who erects or uses in any inland waters —

(a) a fishing weir, or

(b) a fixed fishing engine of any description,

is guilty of an offence.

**20** (3) Subsection (1) does not apply to —

(a) the use of a landing net or keep net solely as auxiliary to lawful fishing with rod and line; or

**25** (b) the use of a net solely for the purpose of removing fish from traps in a fishing weir permitted under subsection (5).

(4) Subsections (1) and (2) do not apply to the use or erection of a net, fishing weir or fishing engine by authority of, and in accordance with the conditions of, —

(a) a permit under subsection (5),

**30** (b) a fishing licence, or

(c) a aquaculture licence.

(5) The Department may grant a permit in writing authorising the use or erection of a net, fishing weir or fixed fishing

engine specified in the permit in inland waters so specified, subject to such conditions as are so specified.

(6) A person guilty of an offence under this section is liable on summary conviction to custody for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both. **5**

Possession of unlawful fishing engines etc

**30.** Any person who, without reasonable excuse, has in his or her possession or control on or near the banks of any inland waters anything the use of which in those waters is prohibited by section 28 or 29 is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000. **10**

Prohibited methods of fishing for salmon, trout, sea trout or eels

**31.** (1) Any person who, for the purpose of locating, disturbing, taking, killing or facilitating the taking or killing of any salmon, trout, sea trout or eels —

(a) throws, releases or discharges any missile or other object into any inland waters, or **15**

(b) probes with any stick or other instrument in any inland waters,

is guilty of an offence.

(2) Any person who takes or fishes for salmon, trout, sea trout or eels in any inland waters by means of cross lines is guilty of an offence. **20**

(3) In subsection (2) “cross lines” means fishing lines —

(a) reaching from one position to another across water and fixed or held at one end or both ends, and

(b) having attached to them one or more baited hooks or lures, artificial or otherwise. **25**

(4) Any person who dams, teems or empties any inland waters for the purpose of taking or killing any salmon, trout, sea trout or eels is guilty of an offence.

(5) A person guilty of an offence under this section is liable on summary conviction to custody for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both. **30**

#### *Other provisions*

Taking etc spawn or fry

**32.** (1) Any person who, without reasonable excuse, takes, sells, purchases or has in his or her possession the spawn or fry of **35**

salmon, sea trout or trout is guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.

(2) Any person who, without reasonable excuse, —

(a) obstructs the passage of the fry of any fish;

**5** (b) injures or disturbs the spawn or fry of any fish;

(c) injures or disturbs any inland waters where the spawn or fry of any fish may be, or

(d) knowingly causes or permits any such obstruction, injury or disturbance,

**10** is guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.

(3) In proceedings for an offence under subsection (1) of taking or having in his or her possession any fry, it is a defence for the accused to show that he or she —

**15** (a) removed the fry from a system of waters solely for the purpose of preserving them from some immediate danger (whether actual or reasonably apprehended), and

**20** (b) returned, or intended to return, them to an adjacent safer part of the same system of waters, without any avoidable injury, as soon as reasonably practicable.

(4) In this section “fry”, in relation to salmon or sea trout, includes parr and smolts.

**33.** (1) Any person who —

Chasing etc  
spawning fish

**25** (a) chases, injures or disturbs spawning fish or fish on any spawning beds, or

(b) attempts (otherwise than by means of lawful angling) to catch fish on any spawning beds,

is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

**30** (2) Nothing done —

(a) under and in accordance with the conditions of a permit under section 29(5) or a consent under section 18(2), or

- (b) in the course of works or alterations authorised under section 11(1)

constitutes an offence under subsection (1).

(3) In proceedings for an offence under subsection (1)(a) consisting of injuring or disturbing any fish, it is a defence for the person accused to show that the injury or disturbance occurred in the course of works urgently necessary for the protection of property or public works. **5**

(4) In subsection (1)(b) “lawful angling” means fishing with rod and line by authority of and in accordance with the conditions of a fishing licence. **10**

Obstructing persons lawfully fishing

**34.** A person who unlawfully obstructs another person lawfully engaged in fishing or in proceeding to, or in returning from, lawful fishing in inland waters is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000. **15**

Unauthorised fishing in private waters

**35.** (1) A person who takes or kills or attempts to take or kill fish in any private waters without the authority of the owner or occupier of the waters is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

(2) In this section, “private waters” includes — **20**

- (a) any inland waters in private ownership, and
- (b) any reservoir, whether vested in the Water Authority or any other person.

## PART 5

### REGULATION OF SEA FISHING **25**

#### *General restrictions on fishing*

Power to restrict fishing in the sea

**36.** (1) The Department may by regulations impose prohibitions or restrictions under subsection (2) —

- (a) as respects any specified area of the sea within the territorial waters of the Island; **30**
- (b) either for a specified period or without limitation of time;
- (c) either at all times while the regulations are in force or at such times as (whether by reference to particular

months, weeks, days or hours, or to any combination of them) are specified in the regulations; and

(d) either absolutely or subject to such conditions as may be provided by the regulations.

**5** (2) Regulations under subsection (1) may —

(a) prohibit —

(i) all fishing for sea-fish;

(ii) fishing for any specified description of sea-fish;

**10** (iii) fishing for sea-fish, or for any specified description of sea-fish, by any specified method;

(b) restrict the amount of sea-fish, or sea-fish of a specified description, that may, in any specified period, be taken by —

(i) any person;

**15** (ii) any fishing boat;

(c) restrict or prohibit —

(i) any method of fishing, or

(ii) the use or possession of fishing gear;

(d) restrict or prohibit —

**20** (i) the taking or killing; or

(ii) the retention or carriage on board any vessel,

of sea-fish, or sea-fish of a specified description, below a minimum size specified in the regulations;

**25** (e) restrict or prohibit the importation, landing, possession, sale, exposure for sale or offer for sale in the Island of —

(i) sea-fish of a specified description;

(ii) sea-fish, or sea-fish of a specified description, below a minimum size specified in the regulations; or

**30** (iii) any specified parts (whether processed or unprocessed) of any sea-fish, or sea-fish of a specified description;

- (f) restrict or prohibit the return to the sea of —
- (i) sea-fish of a specified description; or
  - (ii) sea-fish, or sea-fish of a specified description, below a specified minimum size;
- which have been taken or killed; **5**
- (g) restrict the size or type of vessel or the number of vessels which may take or kill sea-fish, or sea-fish of a specified description.
- (3) Regulations under subsection (1) may include provision for determining the size of mesh, form and dimensions of any fishing gear. **10**
- (4) A person who contravenes any prohibition or restriction imposed by regulations under subsection (1) is guilty of an offence.
- (5) Where any fishing boat is used in contravention of any prohibition or restriction imposed by regulations under subsection (1), the master, the owner and the charterer (if any) are each guilty of an offence under subsection (4). **15**
- (6) Regulations under subsection (1) which prohibit in any area — **20**
- (a) fishing for sea-fish, or for any specified description of sea-fish, or
  - (b) fishing for sea-fish, or for any specified description of sea-fish, by any specified method,
- may provide that any fishing gear, or any fishing gear of a specified description, of any fishing boat in that area must be stowed in accordance with provision made by the regulations. **25**
- (7) Regulations under subsection (1) restricting the amount of sea-fish of any description that may be caught in a specified period may provide that, for the purposes of subsection (2)(b), any sea-fish of that description that, after being caught in that period, is returned to the sea as soon as that amount is exceeded is not to be treated as having been caught in contravention of the restriction imposed by the regulations. **30**
- (8) Regulations under subsection (1) may confer exemptions from a restriction or prohibition imposed by the regulations for — **35**

- (a) activities authorised by a sea fishing licence or recreational sea fishing licence and carried on in accordance with the conditions of the licence; and
- 5 (b) the taking or killing of sea-fish, in accordance with the conditions of a written authority of the Department, for scientific or stocking or breeding purposes.
- (9) The Department may by regulations make provision for —
- 10 (a) the establishment of one or more bodies for the purpose of advising the Department on the making and content of, and the exercise of any functions under, regulations under subsection (1); and
- (b) the membership and proceedings of such bodies.

*Fishing boats*

- 15 **37.** (1) The Department may by regulations provide that in any specified area of the sea within the territorial waters of the Island fishing by fishing boats is prohibited unless authorised by a licence granted by the Department (a “sea fishing licence”). Licensing of fishing boats
- (2) Regulations under subsection (1) may apply to —
- 20 (a) fishing generally in the specified area, or
- (b) fishing —
  - (i) for a specified description of sea-fish;
  - (ii) by a specified method;
  - 25 (iii) during a specified season of the year or other period; or
  - (iv) by fishing boats registered in a specified country.
- (3) Regulations under subsection (1) may provide for exceptions from the prohibition contained in it.
- (4) Regulations under subsection (1) may provide for —
- 30 (a) the making of applications for sea fishing licences;
- (b) the issue of sea fishing licences by the Department or agents for the Department;
- (c) the form of sea fishing licences;

- (d) the conditions subject to which sea fishing licences shall or may be granted;
- (e) the duration of sea fishing licences;
- (f) the renewal, cancellation, suspension and variation of sea fishing licences; **5**
- (g) the keeping of records (including by means of automatic recording equipment) and the making of returns by —
  - (i) persons issuing sea fishing licences;
  - (ii) the holders of sea fishing licences; and
  - (iii) the master, the owner and the charterer (if any) of the vessel named in a sea fishing licence; **10**

and the inspection, verification and copying by authorised persons of any such records;
- (h) a right of appeal to a court of summary jurisdiction against — **15**
  - (i) the refusal to grant or renew a sea fishing licence,
  - (ii) the amendment, suspension or cancellation of a fishing licence, or
  - (iii) the inclusion in a fishing licence of a condition (other than one required to be included by a provision made under paragraph (d)). **20**

(5) Where any fishing boat is used in contravention of a prohibition imposed by regulations under subsection (1), the master, the owner and the charterer (if any) are each guilty of an offence. **25**

(6) Any person who is required by regulations under subsection (1) to keep any record or to make any return makes in any such record or return any statement which to his or her knowledge is false or misleading in any material respect is guilty of an offence. **30**

Sea fishing  
licences

**38.** (1) A sea fishing licence shall be granted to the owner or charterer in respect of a named vessel.

(2) A sea fishing licence may —

- (a) authorise fishing generally, or

- (b) confer limited authority by reference to, in particular,—
- (i) the area within which fishing is authorised;
  - (ii) the periods, times or particular voyages during which fishing is authorised;
  - (iii) the descriptions and quantities of fish which may be taken; or
  - (iv) the method of sea fishing.
- (3) A sea fishing licence may authorise fishing either —
- (a) unconditionally, or
  - (b) subject to such conditions as appear to the Department to be necessary or expedient for the regulation of sea fishing.
- (4) A sea fishing licence may in particular contain conditions —
- (a) as to the minimum size of fish which may be taken;
  - (b) as to the gear which may be used for fishing;
  - (c) as to the time which the vessel in respect of which it is granted may spend at sea;
  - (d) as to the landing of sea-fish or parts of sea-fish taken under the authority of the licence (including specifying the ports at which the catch is to be landed); and
  - (e) as to the use to which the sea-fish taken may be put;
- and different conditions may be so imposed with respect to different vessels or vessels of different descriptions.
- (5) If a condition of a sea fishing licence is broken, the master, the owner and the charterer (if any) of the vessel named in the licence are each guilty of an offence.
- (6) A sea fishing licence containing a condition restricting the time which a vessel may spend at sea may make provision as to the circumstances in which time is, or is not, to count as time spent at sea.
- (7) The licensing powers conferred by this section may be exercised so as to limit the number of fishing boats, or of any class of

fishing boats, engaged in fishing in any area, or in fishing in any area for any description of sea-fish, to such extent as appears to the Department necessary or expedient for the regulation of sea fishing.

(8) A sea fishing licence — **5**

(a) may be varied from time to time; and

(b) may be cancelled or suspended;

if it appears to the Department to be necessary or expedient for the regulation of sea fishing.

(9) If a sea fishing licence is varied, revoked or suspended the Department may, if it considers it appropriate in all the circumstances of the case, refund the whole or part of any charge made for the licence. **10**

Returning fish  
to the sea

**39.** (1) This section applies if a restriction or prohibition imposed by regulations under section 36(1) or section 37(1) has effect in any area in relation to sea-fish of a specified description. **15**

(2) The following sea-fish caught in contravention of the restriction or prohibition must, except where the regulations otherwise provide, be returned to the sea forthwith — **20**

(a) any sea-fish of the specified description;

(b) if the restriction or prohibition applies only to fishing for sea-fish of that description by a specified method, any sea-fish of that description caught by that method.

(3) A person who contravenes subsection (2) is guilty of an offence. **25**

(4) Where subsection (2) is not complied with in the case of any fishing boat, the master, the owner and the charterer (if any) are each guilty of an offence under subsection (3).

(5) This section is subject to any provision made by regulations made by virtue of section 36(2)(f). **30**

Trans-  
shipping  
of fish

**40.** (1) The Department may by regulations provide that in any specified area of the sea within the territorial waters of the Island the receiving by any vessel of sea-fish trans-shipped from any other vessel is prohibited unless authorised by a licence granted by the Department (a “trans-shipping licence”). **35**

(2) Regulations under subsection (1) may apply to the receiving of sea-fish generally or to the receiving of —

- (a) a specified description of sea-fish; or
- (b) sea-fish caught by a specified method; or
- 5** (c) sea-fish caught in a specified area; or
- (d) sea-fish caught or trans-shipped during a specified season of the year or other period; or
- 10** (e) sea-fish caught or received by vessels of a specified description, including vessels registered in a specified country;

and may provide for exceptions from the prohibitions contained in it.

**15** (3) Where any vessel is used in contravention of a prohibition imposed by regulations under subsection (1), the master, the owner and the charterer (if any) are each guilty of an offence.

(4) A trans-shipping licence shall be granted to the owner or charterer in respect of a named vessel.

- (5) A trans-shipping licence may —
  - (a) authorise the receiving of sea-fish generally, or
  - 20** (b) confer limited authority by reference to, in particular—
    - (i) the area within which the sea-fish was caught or is trans-shipped; or
    - (ii) the periods, times or particular voyages during which the sea-fish was caught or is trans-shipped; or
    - 25** (iii) the descriptions and quantities of sea-fish that may be received; or
    - (iv) the description of vessel or method by which the trans-shipped sea-fish was caught.

**30** (6) A trans-shipping licence may authorise the receiving of sea-fish either —

- (a) unconditionally, or

- (b) subject to such conditions as appear to the Department to be necessary or expedient for the regulation of trans-shipment, including conditions as to the treatment on board the vessel of the sea-fish received by it;

and different conditions may be so imposed with respect to different vessels or vessels of different descriptions. **5**

(7) The licensing power conferred by this section may be exercised so as to limit the number of vessels, or of any description of vessel (including vessels or any description of vessel registered in a specified country) engaged in receiving sea-fish to such an extent as appears to the Department necessary or expedient for the regulation of trans-shipment. **10**

(8) Sections 37(4) and (5) and 38(5), (8) and (9) apply to trans-shipping licences as they apply to sea fishing licences.

Offences  
under  
regulations

**41.** Any person guilty of an offence under sections 36 to 40 is liable — **15**

- (a) on conviction on information to a fine;
- (b) on summary conviction to a fine not exceeding £50,000.

Evidence

**42.** (1) Where automatic recording equipment —

- (a) is used in accordance with a provision under section 37(4)(g) (including section 37(4)(g) as applied by section 40(8)), or **20**
- (b) is used to record information transmitted or derived from equipment used in accordance with such a provision,

any record produced by means of the automatic recording equipment, or partly by those and partly by other means, shall, in any proceedings for an offence under sections 36 to 40, be evidence of the matters appearing from the record. **25**

(2) In subsection (1) “records” includes, in addition to a document in writing— **30**

- (a) any map, plan, graph or drawing,
- (b) any photograph,
- (c) any disk, tape, sound track or other device in which sounds or other data (not being visual aids) are

recorded so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom, and

- 5 (d) any film (including microfilm), negative, tape, disc or other device in which one or more visual images are recorded so as to be capable (as aforesaid) of being reproduced therefrom.

*Landing of fish*

- 10 **43.** (1) The Department may by regulations provide for the keeping by the Department of a register of buyers of sea-fish. Registration of buyers of sea-fish

(2) Regulations under subsection (1) may provide for —

- (a) the form and content of the register;
- (b) registration to be subject to compliance with prescribed conditions;
- 15 (c) the making and determination of applications for registration;
- (d) the duration of any registration;
- (e) the amendment, suspension or cancellation of registration in prescribed circumstances;
- 20 (f) a right of appeal to a court of summary jurisdiction against —
- (i) the refusal to grant an application for registration;
- (ii) the amendment, suspension or cancellation of a registration;
- 25 (g) the issue, display, production, surrender, amendment and cancellation of certificates of registration.

(3) Regulations under subsection (1) may require a registered buyer of sea-fish —

- 30 (a) to keep such records and to make such returns as are prescribed; and
- (b) to produce those records for inspection when requested to do so by an authorised officer.

(4) If any sea-fish is sold for the first time to a person who is not a registered buyer of sea-fish, that person is guilty of an offence.

(5) In proceedings for an offence under subsection (4), it is a defence for the person accused to show — **5**

(a) that he or she bought the sea-fish in question for private consumption; or

(b) that he or she had no reason to believe that the sea-fish was being sold for the first time.

(6) A registered buyer of sea-fish who without reasonable excuse fails to comply with — **10**

(a) a condition prescribed under subsection (2)(b), or

(b) a requirement imposed under subsection (2)(g) or (3),

is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000. **15**

(7) Any person may inspect the register during normal business hours.

(8) In this section —

“prescribed” means prescribed by regulations under this section; **20**

“the register” means the register of buyers of sea-fish referred to in subsection (1);

“registered” means entered in the register, and “registration” has a corresponding meaning.

Power to  
obtain  
statistics of  
sea-fish  
landings etc

**44.** (1) This section applies where it appears to the Department expedient so to do for the purpose of obtaining statistical information relating to — **25**

(a) landings in the Island of fish intended for sale, and

(b) areas of the sea in which fish have been caught.

(2) The Department may from time to time serve notices on — **30**

(a) buyers of sea-fish, and

- (b) the owners of fishing boats landing sea-fish in the Island, or which have landed sea-fish in the Island during the 12 months immediately before the date when the notice is served.

**5** (3) A notice under subsection (2) may require the person to whom it is addressed to furnish information in writing —

- (a) with respect to such matters mentioned in subsection (4),
- (b) in such form and manner,

**10** (c) to such person,

(d) at such time or times, and

(e) with respect to such date or dates or period or periods, whether past or future,

as are specified in the notice.

**15** (4) Information required under subsection (3) may relate to —

(a) in the case of a buyer of sea-fish, the quantities of sea-fish, or of sea-fish of a specified description, purchased by that buyer in the Island;

**20** (b) in the case of an owner —

(i) the quantities and origin of sea-fish, or of sea-fish of a specified description, intended for sale which have been landed in the Island from the boat or boats belonging to that owner;

**25** (ii) the quantities of such sea-fish caught within the territorial waters of the Island, whether or not they have been landed in the Island;

(iii) the area or areas in which any sea-fish to which sub-paragraphs (i) and (ii) apply were caught;

**30** (iv) the method or methods of fishing used for catching any such sea-fish, and

(v) such other matters as, in the opinion of the Department, are necessary to complement information given under this paragraph.

**35** (5) No information supplied in compliance with a notice under subsection (3), being information which can be identified

relating to any particular buyer, boat or owner, shall be published or otherwise disclosed without the previous consent in writing of —

- (a) the person by whom the information was furnished, and
- (b) every other person whose interests may in the opinion of the Department be affected by the disclosure. **5**

(6) Nothing in subsection (5) restricts the disclosure of information —

- (a) to any authority or person acting under a statutory provision for regulating the sea-fisheries of the Island;
- (b) to any authority or body for the purpose of assessing whether any area is being or is likely to be over-fished; **10**
- (c) to any person for a purpose mentioned in section 56(2) of the Anti-Terrorism and Crime Act 2003; or
- (d) to any person for the purposes of any report of any criminal proceedings; **15**

[c.6]

or the use of information in any manner which the Department thinks necessary or expedient in connection with the maintenance, protection and improvement of sea-fisheries.

(7) Any person who without reasonable excuse fails to furnish information required by a notice under subsection (2) is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000. **20**

(8) Any person who —

- (a) in purported compliance with a requirement of a notice under subsection (2) knowingly or recklessly furnishes any information which is false in any material particular, or **25**
- (b) publishes or otherwise discloses any information in contravention of subsection (5),

is guilty of an offence and liable on summary conviction to custody for a term not exceeding 3 months or to a fine not exceeding £5,000, or to both. **30**

(9) In relation to a fishing boat the owner of which has his or her place of business outside the Island, references to the owner in this section shall be construed as including references to the master or other person for the time being in command or charge of that boat. **35**

(10) In this section “buyer of sea-fish” means a person entered in the register of buyers of sea-fish referred to in section 43(1).

*Recreational fishing*

**5** **45.** (1) The Department may make regulations prohibiting or restricting fishing in the sea for the purpose of recreation otherwise than in accordance with a licence (a “recreational sea fishing licence”) granted by the Department. Recreational sea fishing

(2) Regulations under subsection (1) may prohibit or restrict fishing —

- 10** (a) for fish, or fish of a specified description, or fish other than fish of a specified description,
- (b) in the sea generally, or in a specified area of the sea,
- (c) by any means specified in the regulations, or
- 15** (d) from the shore, from a boat or from a boat of a specified description.

(3) Any person who, in or near the sea, fishes for, takes or kills any fish in contravention of regulations under subsection (1), otherwise than in accordance with a sea fishing licence, is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

(4) A recreational sea fishing licence shall authorise the holder to fish for, take and kill for the purpose of recreation only —

- (a) fish, or fish of a specified description, or fish other than fish of a specified description,
- 25** (b) in the sea generally, or in a specified area of the sea, and
- (c) from the shore, from a boat or from a boat of a specified description.

(5) Subject to any provision made under subsection (6)(e), a recreational sea fishing licence shall have effect subject to such conditions as may be specified in it.

(6) The Department may make regulations providing for —

- (a) the making of applications for recreational sea fishing licences;
- 35** (b) the issue of recreational sea fishing licences by the Department or agents for the Department;

- (c) limiting the number of recreational sea fishing licences of a specified description;
  - (d) the form of recreational sea fishing licences;
  - (e) the conditions which must be included in recreational sea fishing licences under subsection (5); **5**
  - (f) the duration of recreational sea fishing licences;
  - (g) the renewal, amendment, suspension and cancellation of recreational sea fishing licences;
  - (h) the keeping of records and the making of returns by persons issuing, and the holders of, recreational sea fishing licences, and the inspection, verification and copying by authorised persons of any such records; and **10**
  - (i) a right of appeal to a court of summary jurisdiction against —
    - (i) the refusal to grant or renew a recreational sea fishing licence, **15**
    - (ii) the amendment, suspension or cancellation of a recreational sea fishing licence, and
    - (iii) the inclusion in a recreational sea fishing licence of a condition (other than one required to be included by a provision made under paragraph (e)). **20**
- (7) Without prejudice to section 8, any regulations under subsection (1) prohibiting or restricting fishing for fish of any description (other than shellfish) —
- (a) shall require the Department to grant a general recreational sea fishing licence authorising fishing for fish of that description with rod and line, subject to any condition imposed under subsection (5) and to any provision made under subsection (6)(e), (8), (11) or (12); and **25**
  - (b) shall prohibit the grant of any other recreational sea fishing licence authorising fishing for fish of that description with rod and line. **30**
- (8) Regulations under subsection (6) may provide that a contravention of any provision of them made by virtue of subsection (6)(e) or (h) shall be an offence on the part of any person of a description specified in the regulations, punishable on summary conviction by a penalty not exceeding that so specified (which shall not exceed a fine of £1,000). **35**

5 (9) In proceedings for an offence consisting of a contravention mentioned in subsection (8), it shall be a defence for the accused to show that he or she took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or herself or by any person under his or her control.

10 (10) Any person who is required by regulations under subsection (6)(h) to keep any record or to make any return makes in any such record or return any statement which to his or her knowledge is false or misleading in any material respect is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

(11) The Department may make regulations with respect to fishing in the sea for the purpose of recreation —

- (a) for preserving good order among persons fishing;
- (b) prescribing the times and seasons for taking fish;
- 15 (c) prescribing the mode of taking fish and the conditions subject to which fish may be taken;
- (d) prescribing —
  - (i) the times and places at which any fishing engine may be used; and
  - 20 (ii) the description of any fishing engine which may be used; and
- (e) prescribing the size (whether determined by measurement or by weight) of fish which may be taken.

25 (12) Regulations under subsection (11) may provide that a contravention of any provision of them shall be an offence on the part of any person of a description specified in the regulations, punishable on summary conviction by a penalty not exceeding that so specified (which shall not exceed a fine of £1,000).

30 (13) Sections 25, 26 and 27 apply with any necessary modifications to recreational sea fishing licences as they apply to sea fishing licences.

(14) For the purposes of this section —

- (a) fishing includes the taking and killing of fish; but
- 35 (b) fishing shall not be taken to be for the purpose of recreation where —
  - (i) any fish taken or killed is sold or offered or exposed for sale, or

- (ii) it is intended that any fish which may be taken or killed shall be sold or offered or exposed for sale.

*Other provisions*

Application  
of UK and  
European  
sea fisheries  
legislation

- 46.** (1) This section has effect notwithstanding any other statutory provision relating to sea fisheries. **5**
- (2) The Department may by order apply to the Island as part of the law of the Island, subject to such exceptions, adaptations and modifications as may be specified in the order, any legislation to which this section applies.
- (3) An order under subsection (2) may include provisions repealing or amending any provision of any enactment (other than this section) which is inconsistent with, or is unnecessary or requires modification in consequence of the order or any legislation applied to the Island by the order. **10**
- (4) This section applies to — **15**
- (a) the following Acts of Parliament —
- [c.83] (i) the Sea Fisheries (Shellfish) Act 1967;
- [c.84] (ii) the Sea Fish (Conservation) Act 1967;
- [c.77] (iii) the Sea Fisheries Act 1968;
- [c.86] (iv) the Fishery Limits Act 1976; **20**
- [c.29] (v) the Fisheries Act 1981;
- (b) any provision of an Act of Parliament, or of any instrument of a legislative character made under an Act of Parliament, amending or varying, directly or indirectly, any of the Acts of Parliament specified in paragraph (a);
- (c) any instrument of a legislative character made or having effect as if made under any of the Acts or instruments mentioned in paragraphs (a) and (b); **25**
- (d) any provision of an Act of Parliament, or of any instrument of a legislative character made under any Act of Parliament, which relates, directly or indirectly, to — **30**
- (i) sea fishing; or
- (ii) the implementation or enforcement of any obligation of the United Kingdom under the Common Fisheries Policy of the European Economic Community; **35**

5 (e) any Community instrument which relates directly or indirectly to sea fishing (but only to the extent that such instrument does not apply as part of the law of the Island under section 2(1) of the European Communities (Isle of Man) Act 1973). [c.14]

10 (5) An order under subsection (2) may include provision repealing or amending any provision of any enactment (other than this section) which is inconsistent with, or is unnecessary or requires modification in consequence of any Community instrument applied to the Island by the order.

15 (6) The Department shall, as soon as practicable after the coming into operation of an order under subsection (2) cause a text to be prepared of the legislation applied by the order, incorporating the exceptions, adaptations and modifications specified in the order.

(7) The Department shall supply a copy of the text prepared under subsection (6) to any person requesting it, at such reasonable charge as the Department may determine.

20 47. (1) Any person who —  
 (a) uses any deleterious matter in the sea for the capture, destruction or injury of fish, or  
 (b) has in his or her possession or under his or her control any deleterious matter for the capture, destruction or injury of fish,

Use etc of deleterious matter

25 is guilty of an offence.

(2) A person committing an offence under subsection (1) is liable —

30 (a) on conviction on information, to custody for a term not exceeding 2 years or to a fine, or to both;  
 (b) on summary conviction, to custody for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both.

## PART 6

### MISCELLANEOUS RESTRICTIONS

#### *Annual close season*

35 48. (1) The Department may by regulations specify the annual close season for — Fishing during close season

- (a) salmon or sea trout, or
- (b) any species of freshwater fish specified in the regulations.

(2) Subject to subsections (3) and (4), any person who fishes for, or takes or kills, fish of any species during the annual close season for that species of fish is guilty of an offence and liable on summary conviction to custody for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both. **5**

(3) This section does not apply to fishing for or taking or killing fish in a place with respect to which an aquaculture licence is in force, in accordance with the conditions of that licence. **10**

(4) In proceedings for an offence under subsection (2) consisting of taking a fish, it is a defence for the person accused to show that he or she immediately returned the fish to the water without any avoidable injury. **15**

Sale or possession of fish out of season

**49.** (1) Any person who buys, sells, offers or exposes for sale, or has in his or her possession for sale, fish of any species at any time during the period commencing 2 days after the beginning of the annual close season for that species and ending at the end of that season is guilty of an offence and liable on summary conviction — **20**

- (a) in the case of an offence relating to salmon, trout or sea trout, to custody for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both;

- (b) in any other case, to a fine not exceeding £1,000. **25**

(2) For the purposes of this section, if any fish is found at any place owned or occupied by any person, or on or in any vehicle owned or used by him or her, that person shall, until the contrary is proved, be deemed to have that fish in his or her possession for sale.

(3) In proceedings for an offence under subsection (1) it is a defence for the accused to show that the fish in question was — **30**

- (a) supplied by —

- (i) a person who was, or whom he or she believed to be, the holder of a aquaculture licence; or

- (ii) the Department; **35**

- (b) lawfully taken or killed outside the annual close season and dried, frozen or preserved in a container;

- (c) brought into the Island from another country or territory;  
or
- (d) taken or killed outside the Island and the territorial waters of the Island.

**5** *Unseasonable fish*

**50.** (1) Any person who takes or kills an unseasonable salmon, trout or sea trout is guilty of an offence and liable on summary conviction to custody for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both. Unseasonable salmon and trout

**10** (2) In proceedings for an offence under subsection (1) consisting of taking a fish, it is a defence for the person accused to show that he or she immediately returned the fish to the water without any avoidable injury.

*Further restrictions on sale etc of fish*

**15** **51.** (1) Any person who buys, sells, offers or exposes for sale or has in his or her possession for sale — Further restrictions on sale etc of fish

- (a) a salmon or sea trout taken unlawfully;
- (b) a freshwater fish taken unlawfully;
- (c) a fish taken by rod and line;

**20** (d) an unseasonable salmon, trout or sea trout; or  
(e) an undersized salmon, trout or sea trout;

is guilty of an offence.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction —

**25** (a) in the case of an offence relating to salmon, trout or sea trout, to custody for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both;

(b) in any other case, to a fine not exceeding £1,000.

**30** (3) In proceedings for an offence under subsection (1)(a), (b) or (c) —

(a) it is sufficient for the complaint to allege that the fish was “taken unlawfully or by rod and line” (in the case

of a freshwater fish) or “taken by rod and line” (in any other case);

(b) it is sufficient for the prosecutor to show that the accused bought, sold, offered or exposed for sale or had in his or her possession (as the case may be) the fish in question; and **5**

(c) the burden of proving that the fish was not taken as mentioned in subsection (1)(a), (b) or (c) lies on the accused.

(4) Subsection (3) does not apply where it is shown that the fish in question — **10**

(a) was at the material time dried, frozen or preserved in a container, and

(b) had been brought into the Island from another country or territory. **15**

(5) For the purposes of this section, if any fish is found at any place owned or occupied by any person, or on or in any vehicle owned or used by him or her, that person shall, until the contrary is proved, be deemed to have that fish in his or her possession for sale. **20**

(6) In proceedings for an offence under subsection (1)(a), (b), (c) or (e), it is a defence for the accused to show that —

(a) he or she had no reason to suppose the fish in question to have been taken as mentioned in subsection (1)(a), (b) or (c), or to be immature, as the case may be; and **25**

(b) he or she took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(7) In proceedings for an offence under subsection (1)(c), it is a defence for the accused to show that the fish was taken — **30**

(a) in waters where operations are carried out in pursuance of an aquaculture licence and in accordance with the conditions of the licence, or

(b) from a fishing boat licensed under section 38.

Taking  
salmon or  
trout  
unlawfully  
killed or  
found dead

**52.** (1) Subject to subsection (2), a person who by any means removes or causes to be removed from any inland waters or the sea — **35**

- (a) any salmon, trout or sea trout which has been injured or killed otherwise than by lawful means; or
  - (b) any salmon, trout or sea trout which has been found dead, from any cause whatever, by that person,
- 5** is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.
- (2) Subsection (1) does not apply to —
- (a) an officer of, or person acting under the authority of, the Department;
- 10**
- (b) the owner of a fishery in the inland waters in question;
  - (c) a person acting under the authority of such an owner;
  - (d) a constable; or
  - (e) an environmental health officer.
- (3) In proceedings for an offence under this subsection (1) in
- 15** respect of any fish, it is a defence for the accused to show that —
- (a) he or she removed the fish, or caused it to be removed, from inland waters or the sea solely for the purpose of delivering it to a person mentioned in subsection (2), and
- 20**
- (b) he or she did so deliver it as soon as possible.

## PART 7

### AQUACULTURE

- 53.** (1) The Department may engage in aquaculture for the purposes —
- 25**
- (a) of providing fish for the stocking or restocking of any waters under section 9, or of any waters the fishing rights in which are owned by, or which are under the control of —
    - (i) the Department; or
- 30**
- (ii) any other person; or
  - (iii) any association of persons interested in the fishery of any waters; and

Power of  
Department  
to engage in  
aquaculture

- (b) so far as any fish reared are not required for the purposes mentioned in paragraph (a), of providing fish for human consumption.

(2) Where under subsection (1)(a) the Department provides fish for the purposes of any other person or any association, the Department may do so on such terms as it thinks fit, and may in particular do so in consideration of the payment to the Department of a sum of money less than the market value of the fish, or without payment. **5**

(3) In deciding on the terms under which it provided fish as mentioned in subsection (2), the Department shall have regard to — **10**

- (a) any undertaking given to the Department by the person or association concerned as to the provision by him, her or it of facilities for angling by members of the public or any section of the public; or **15**

(b) any proposals of that person or association for —

- (i) the development or improvement of any waters for fishing, and

- (ii) the care and protection of the waters after such development or improvement has been carried out. **20**

Restriction on aquaculture

**54.** (1) Any person (other than the Department) who engages in aquaculture otherwise than under and in accordance with an aquaculture licence is guilty of an offence and liable on summary conviction to a fine not exceeding £2,500. **25**

(2) In any proceedings for an offence under this section, it is a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Aquaculture licences

**55.** (1) Subject to subsection (2), the Department may grant a licence authorising the holder of the licence to carry on, at such place in inland waters, in the sea or on the sea-bed or foreshore as are specified in the licence, such operations in relation to aquaculture as are so specified. **30**

(2) An aquaculture licence shall not be granted without the consent of the Department of Infrastructure. **35**

(3) Before granting an aquaculture licence, the Department shall cause notice of the application for the licence to be published

in one or more newspapers published and circulating in the Island, specifying —

- (a) the operations proposed to be carried out,
- (b) the proposed location of the operations,
- 5** (c) the species of fish or vegetable proposed to be raised there,
- (d) the address where and the period (not being less than 28 days from the date of publication) within which objections or representations in writing with respect to the granting of the licence may be sent to the Department;

**10**

and shall consider any such objections and representations duly made.

- 15** (4) An aquaculture licence shall remain in force for such period as is specified in it.

(5) An aquaculture licence shall have effect subject to such conditions as are specified in it.

- 20** (6) The holder of an aquaculture licence, and any person acting under the holder's direction, shall not be guilty of an offence under this Act by reason only of doing, in accordance with the conditions of the licence, anything authorised by the licence.

- 25** (7) Any person who, without the permission of the holder of the licence, by trespass, fishing or otherwise interferes with anything done pursuant to an aquaculture licence, is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000 or to custody for a term not exceeding 6 months, or to both.

(8) Subsection (7) has effect notwithstanding the existence of any public right to fish.

- 30** (9) The holder of an aquaculture licence, and any person acting under his or her direction, may, subject to the conditions contained in the licence, do anything authorised by the licence even though it may contravene a restriction or prohibition imposed by this Act or any regulation made under it.

- 35** **56.** (1) Subject to subsections (2) and (3), the Department may amend or revoke an aquaculture licence if —

- (a) it is requested to do so by the holder of the licence; or

(b) it considers that it is in the public interest to do so; or

(c) if it is satisfied that —

(i) there has been a breach of any condition specified in the licence; or

(ii) the aquaculture operations to which the licence relates are not being properly carried on. **5**

(2) Before amending an aquaculture licence, the Department shall cause notice of the application for the licence to be published in one or more newspapers published and circulating in the Island, specifying — **10**

(a) the amendment which it has under consideration, and

(b) the address where and the period (not being less than 28 days from the date of publication) within which objections or representations in writing with respect to the amendment may be sent to the Department; **15**

and shall consider any such objections and representations duly made.

(3) Before amending or revoking an aquaculture licence under subsection (1)(b) or (c), the Department shall give the holder of the licence at least 28 days notice in writing specifying —

(a) where appropriate, the amendment which the Department has under consideration, and **20**

(b) the grounds on which it is minded to revoke or amend the licence;

and shall consider any such objections and representations duly made.

(4) Where the Department revokes or amends an aquaculture licence under subsection (1)(b), the holder of the licence shall be entitled to be paid by the Department compensation for any loss suffered by him or her by reason of the revocation or amendment. **25**

(5) In default of agreement the amount of any compensation under subsection (4) shall be determined by arbitration. **30**

Aquaculture:  
supplementary

**57.** (1) For the purposes of this Part “authorised officer” includes a veterinary inspector appointed by the Department.

(2) An authorised person may, for the purpose of ensuring compliance with the conditions subject to which an aquaculture licence has been granted, — **35**

- (a) examine any vessel, structure, machine, device or equipment used or intended for use in aquaculture;
  - (b) examine and take samples of any foodstuffs or substances used or intended for use in aquaculture;
- 5** (c) examine any fish (at any stage of its life history) used or intended for use in aquaculture and may take such fish or parts of it for tests.
- (3) If an authorised person has reason to believe it necessary for the purpose of exercising the powers conferred by subsection
- 10** (2), the authorised person may at any reasonable time board any vessel or structure used or intended for use in aquaculture.
- (4) Section 70 applies to an authorised person exercising a power conferred by subsection (2) as it applies to an authorised person exercising a power conferred by Part 8.
- 15** (5) Nothing in this Part affects —
- (a) section 15 of the Harbours (Isle of Man) Act 1961 [XIXp.538] (works detrimental to navigation); or
  - (b) subject to section 55(8), any right on, to or over any portion of the sea, foreshore or sea-bed which is enjoyed by any person.
- 20**
- 58.** (1) This section has effect notwithstanding any other statutory provision relating to aquaculture.
- (2) The Department may by order apply to the Island as part of the law of the Island, subject to such exceptions, adaptations and modifications as may be specified in the order, any legislation to which this section applies.
- 25**
- (3) An order under subsection (2) may include provisions repealing or amending any provision of any enactment (other than this section) which is inconsistent with, or is unnecessary or requires modification in consequence of the order or any legislation applied to the Island by the order.
- 30**
- (4) This section applies to —
- (a) any provision of an Act of Parliament, or of any instrument of a legislative character made under an Act of Parliament, which relates, directly or indirectly, to aquaculture; and
  - (b) any Community instrument which relates directly or indirectly to aquaculture (but only to the extent that
- 35**

Application of UK and European aquaculture legislation

[c.14] such instrument does not apply as part of the law of the Island under section 2(1) of the European Communities (Isle of Man) Act 1973).

(5) An order under subsection (2) may include provision repealing or amending any provision of any enactment (other than this section) which is inconsistent with, or is unnecessary or requires modification in consequence of any Community instrument applied to the Island by the order. **5**

(6) The Department shall, as soon as practicable after the coming into operation of an order under subsection (2) cause a text to be prepared of the legislation applied by the order, incorporating the exceptions, adaptations and modifications specified in the order. **10**

(7) The Department shall supply a copy of the text prepared under subsection (6) to any person requesting it, at such reasonable charge as the Department may determine. **15**

## PART 8

### AUTHORISED PERSONS

#### *General*

Production of authority **59.** An authorised person exercising or intending to exercise any power conferred by this Part shall, if so required, produce evidence of his or her authority to do so. **20**

Powers in respect of boats **60.** (1) The powers conferred by this section may be exercised for the purpose of protecting any inland fishery or sea fishery or enforcing any fishery legislation. **25**

(2) For the purpose of this section “fishery officer” includes —

(a) a commissioned officer of any of Her Majesty’s ships on full pay;

(b) a coastguard; and **30**

(c) an officer authorised for the purpose by the Secretary of State for Defence;

and references in or in relation to this section to an authorised person shall be construed accordingly

(3) A fishery officer may at any time — **35**

- (a) go on board any boat, with or without persons assigned to assist the authorised person in his or her duties;
- (b) for that purpose require the boat to stop and do anything else which will facilitate the boarding of the boat;
- 5 (c) require the attendance of the master or person in command or charge of the boat and other persons on board the boat;
- 10 (d) make any examination and inquiry which appears to the authorised person to be necessary for the purpose mentioned in subsection (1), and in particular —
  - 15 (i) examine any fish on the boat, the equipment of the boat and any fishing engine or fishing gear on the boat, and require persons on board the boat to do anything which appears to the authorised person to be necessary for facilitating the examination;
  - 20 (ii) open any package or container on the boat which contains, or which the authorised person suspects of containing, any fish, fishing engine or fishing gear;
  - 25 (iii) require any person on board the boat to produce, or to allow the authorised person to inspect, any document or record relating to the boat or the persons on board which are in that person's custody, possession or control;
  - (iv) take copies of any such document or record;
  - 30 (v) have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in used in connection with the records in question;
  - 35 (vi) require the person by whom or on whose behalf the computer is or has been used, or any person having charge of or otherwise concerned with the operation of the computer, apparatus or material, to afford the authorised person such assistance as he or she may reasonably require; and
  - (vii) observe any trans-shipment of fish into the boat;
- 40 (e) seize any unlawful fishing engine or fishing gear, or any lawful fishing engine or fishing gear which is being unlawfully used;

- (f) seize any fish which have been, or which the authorised person suspects have been, unlawfully taken or killed; and
- (g) seize any other thing whatsoever by means of, or in relation to, which an offence under fishery legislation has been committed, or which the authorised person suspects has been committed. **5**

(4) Where an authorised person believes that a contravention of any provision of any fishery legislation is taking or has taken place, the authorised person may — **10**

- (a) detain any boat in relation to which he or she believes the contravention is taking or took place;
- (b) keep the boat at the place at which it was detained, or take it to a port or other place in the Island which appears to the authorised person to be convenient; and **15**
- (c) keep the boat detained until the completion of proceedings for the contravention.

(5) Where it appears to an authorised person that a boat is being so navigated or stationed as to interfere or be likely to interfere with fishing operations which are being carried on, or about to be carried on, in inland waters or in the sea within the territorial waters of the Island, the authorised person may require the boat to move away or to move in a direction or to a position specified by him or her. **20**

(6) Any person who without reasonable excuse — **25**

- (a) fails or refuses to allow an authorised person to exercise the powers conferred by this section, or
- (b) intentionally obstructs or impedes an authorised person in the exercise of those powers,

is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000. **30**

Other powers  
of authorised  
persons

**61.** (1) An authorised person (other than a private water bailiff) may, for the purpose of protecting any inland fishery or sea fishery or enforcing any fishery legislation —

- (a) stop and search any person conveying or suspected of conveying — **35**
  - (i) fish of any kind,

- (ii) any deleterious matter, or
  - (iii) any instrument, poison, explosive or thing used or adapted for taking fish unlawfully;
- 5 (b) examine any fish, instrument or substance which that person is found to be conveying;
- (c) open and search any vehicle, package or container in which any fish, instrument or substance is, or is suspected of being, conveyed;
- 10 (d) at any reasonable time, enter upon and have free access to the interior of —
  - (i) any premises (other than a dwelling) in which fish is, or is believed to be, sold, or kept or exposed for sale or stored;
  - 15 (ii) any premises (other than a dwelling) in which any instrument or substance intended for the destruction of fish is, or is believed to be, kept;
  - (iii) the premises (other than a dwelling) of any person engaged in the business of carrying goods for reward;
  - 20 (iv) any aerodrome, pier, quay, wharf, jetty or dock, or any premises thereon;
  - (v) any aircraft or vehicle of any kind used for the conveyance of goods; or
  - 25 (vi) any hotel, guest house, restaurant or other premises or place at which board and lodging or meals are provided for reward;
- 30 (e) examine all fish and all fishing engines found in any place which he or she is authorised to enter, and for that purpose open any package or container found in that place and which contains, or which the authorised person suspects of containing, any fish or fishing engine;
- (f) seize any unlawful fishing engine or any lawful fishing engine which is being, or which the authorised person suspects of being, unlawfully used;
- 35 (g) seize any fish (either together with or without any package or container in which it is contained) found in the course of the exercise of any of the powers conferred by this section —

- (i) in respect of which an offence under fishery legislation is being, or is suspected of being, committed,
  - (ii) which have been, or are suspected of having been, unlawfully taken or killed, or **5**
  - (iii) which are, or are believed to be, liable to forfeiture under this Act;
- (h) examine any tag affixed or to be affixed to salmon or sea trout pursuant to regulations under section 74, and any record relating to the tagging, capture, selling of or dealing in salmon or sea trout; **10**
- (i) examine any fishing engine;
- (j) demand and take the name and address of the person having custody of any fish or other article which the authorised person is authorised under this section to examine; **15**
- (k) demand and take from that person the name and address of the owner of the fish or other article.
- (2) Where an authorised person detains any fish or other article in his or her custody under the authority of section 60 or this section, he or she — **20**
  - (a) shall, as soon as may be, take such steps as are proper to have the person who has committed or is suspected to have committed an offence in relation to that thing dealt with according to law; and **25**
  - (b) may (subject to section 79) detain the fish or article until the completion of proceedings in respect of the alleged offence.
- (3) A person who, when lawfully demanded under subsection (1)(j) or (k), refuses or fails to give — **30**
  - (a) that person's own name and address, or
  - (b) the name and address (so far as known to him or her) of any other person,

is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000. **35**
- (4) An authorised person who exercises any power to enter on land conferred by this Act for any purpose may take with him

or her on to the land such other persons and such equipment as are necessary for the purpose in question.

**62.** (1) If any person (“the alleged offender”) is found offending against any provision of this Act — Power of arrest

**5** (a) an authorised person may require the alleged offender to desist from the offence and to give his or her name and address; and

**10** (b) if the alleged offender, after being so required, intentionally continues the offence or refuses or fails to give his or her name and address, the authorised person and any person acting under his or her direction may arrest the alleged offender.

**15** (2) Where the alleged offender is arrested under this section by an authorised person who is not a constable, that person shall forthwith deliver the alleged offender into the custody of a constable to be dealt with according to law.

(3) Where the alleged offender resides outside the Island —

**20** (a) the alleged offender may be detained by a constable until a summons charging him or her with the relevant offence has been served upon him, and,

**25** (b) after the service of the summons, the alleged offender may be further detained until he or she enters into a recognizance, with such sureties or other security as (subject to subsection (4)) the justice before whom the recognizance is entered into thinks fit, conditioned for his or her appearance at the time and place stated in the summons; and

(c) any such summons may be served on a Sunday.

**30** (4) The amount in which any party to a recognizance taken under subsection (3) is bound, or the amount of any security required to be deposited under that subsection in lieu of sureties, shall not be greater than the amount of any fine which could be imposed on the alleged offender if he or she were convicted of the relevant offence.

**35** **63.** (1) Where, on information on oath, a justice is satisfied — Warrant to enter and search etc

(a) that there are reasonable grounds for believing that an offence under any fishery legislation has been committed, and

(b) either —

- (i) evidence of the commission of the alleged offence is to be found in any place specified in the information, or
- (ii) anything connected with the alleged offence and liable to be seized or forfeited under this Part is concealed in such a place, **5**

the justice may by warrant under his or her hand empower an authorised person named in the warrant to enter that place, by force if need be, at such time in the day or night as is mentioned in the warrant. **10**

(2) Where an authorised person enters any place in pursuance of a warrant under this section, that person may —

- (a) search the place, and
- (b) exercise any power exercisable in that place by virtue of section 60 or 61. **15**

(3) A warrant under this section shall not continue in force for more than 7 days from the date on which it is issued.

(4) In this section “place” means any land, premises, inland waters, pier, quay, wharf, jetty, dock, boat, aircraft or vehicle. **20**

#### *Inland waters*

Restrictions  
on powers of  
constables etc

**64.** (1) Subject to subsection (2), no constable, fishery officer or watcher may enter upon any land or inland waters for the purpose of enforcing the fishing rights of —

- (a) any owner or occupier of the land or waters, or **25**
- (b) any person in whom fishing rights are vested.

(2) Subsection (1) does not apply where —

- (a) the fishing rights in question are vested in a Department or Statutory Board, or
- (b) the entry is made in connection with an offence or suspected offence under any statutory provision (including this Act). **30**

Private water  
bailiffs

**65.** (1) Any of the following persons —

- (a) any person who, by virtue of any fishing rights in any inland waters, has an interest in the preservation of the fish in those waters; or
- 5 (b) any persons who have united themselves into a society for the preservation of any fishery in any inland waters, may appoint any person (other than a person disqualified under subsection (9)) to be a private water bailiff for the protection of the fisheries in those waters (which shall be specified in the instrument).
- 10 (2) An appointment under subsection (1) shall —
- (a) be made by instrument in writing in a form prescribed by regulations made by the Department,
- (b) name the person appointed, and
- (c) specify the waters to which it relates.
- 15 (3) A person appointed to be a private water bailiff shall not act in that capacity until his or her appointment is confirmed by a court of summary jurisdiction (signified by an endorsement on the instrument of appointment).
- 20 (4) A person making an application for confirmation of an appointment under subsection (1) shall give notice in writing of the application to the Department and to the Chief Constable not less than 14 days before the date of the hearing of the application.
- 25 (5) The Department and the Chief Constable shall be entitled to appear, be heard and adduce evidence on the hearing of the application.
- (6) The Department may appear by an officer of the Department and the Chief Constable may appear by a constable.
- 30 (7) A court of summary jurisdiction, on complaint made to it, may revoke the appointment of a private water bailiff if it is satisfied that the person so appointed is not a fit and proper person to hold the appointment.
- (8) The Chief Registrar shall as soon as practicable notify the Department of the confirmation or revocation of an appointment under subsection (3) or (7).
- 35 (9) The following shall be disqualified for appointment as a private water bailiff —
- (a) an officer of the Department, and

(b) a person whose appointment has been revoked under subsection (7).

(10) Any person who acts as a private water bailiff —

(a) without his or her appointment being confirmed under subsection (3); **5**

(b) after the appointment has been revoked either by a court under subsection (7) or by the person's employer; or

(c) in respect of waters other than those specified in his or her instrument of appointment,

is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000. **10**

Additional powers of authorised persons

**66.** (1) An authorised person may, for the purpose of protecting inland fisheries or enforcing any inland fishery legislation, at any time —

(a) enter into and pass through or along, or remain on the banks or borders of, any inland waters; **15**

(b) for the purpose of gaining access to any inland waters, pass and repass along any road, path or way;

(c) with boats or otherwise, enter upon any inland waters;

(d) enter upon and examine all weirs, sluices, mill dams, fish passes, mill-races and watercourses communicating with any inland waters; **20**

(e) measure the flow in any inland waters; and

(f) seize any thing whatsoever by means of, or in relation to, which an offence under inland fishery legislation has been committed, or which the authorised person suspects has been committed. **25**

(2) Nothing in this section authorises any person to enter —

(a) a dwelling; or

(b) an enclosed garden or the curtilage of a dwelling, except where the ordinary road or passage to any weir, dam or dyke traverses the garden or curtilage. **30**

Warrant to enter on land or waters

**67.** (1) If it is shown to the satisfaction of a justice that there is reasonable ground for entry on any land or waters for a purpose

mentioned in section 61(1) or 66(1), the justice may by warrant authorise an authorised person named in it to enter on that land or those waters, by force if need be.

5 (2) A warrant under this section shall not continue in force for more than 7 days from the date it is issued.

68. Where an authorised person finds —

Powers in relation to fishing engines etc

(a) during the annual close season —

(i) any passage in any fishing engine or contrivance closed or obstructed; or

10 (ii) any fishing engine or any contrivance whatsoever placed or used in contravention of this Act; or

(b) at any time, any obstruction in the waste gate appurtenant to any mill or factory when it is required by law to be open,

15 the authorised person may open such passages and remove such obstructions, doing no unnecessary damage, and seize and remove all things so found or used in contravention of this Act.

69. (1) Any person who —

Requirement to produce licence or permit

20 (a) uses at any place a fishing engine for which a licence or permit is required under this Part, or

(b) has such a fishing engine erected or in fishing order in his or her possession in or near any fishing place,

25 and fails on demand to produce to an authorised person a licence or permit by, or by virtue of which, he or she is authorised to use that fishing engine at that place is guilty of an offence.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding £500.

30 (3) In proceedings for an offence under subsection (1) consisting of a failure to produce a licence or permit for a fishing engine in the accused's possession, it is a defence for the accused to show that he or she had the fishing engine in his or her possession as a manufacturer or seller of it and not for the purpose of using it or of permitting any other person to do so.

35 (4) A person shall not be charged with an offence under subsection (1) if, on demand being made by an authorised person for the production of a licence or permit, that person —

- (a) then and there gives to the authorised person his or her name and address and any evidence of his or her identity then available; and
- (b) as soon as practicable thereafter, and in accordance with any reasonable requirement then communicated to him or her by the authorised person, produces to the authorised person or to any other person designated by the authorised person —
  - (i) a licence or permit authorising the first-mentioned person to use the fishing engine at that place and time; and
  - (ii) evidence of his or her identity.

*Protection of authorised persons etc*

- 70.** (1) This section applies to —
- (a) an authorised person exercising any power conferred by this Part;
  - (b) any officer or employee of the Department while doing —
    - (i) anything authorised by section 12(6) or 13(2), or
    - (ii) anything authorised by regulations under section 21 and prescribed by those regulations for the purpose of this paragraph; or
  - (c) an authorised person acting under any provision of regulations made by virtue of section 23(4)(g).
- (2) Any person who assaults a person to whom this section applies is guilty of an offence and liable on summary conviction to custody for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both.
- (3) Any person who intentionally obstructs or impedes a person to whom this section applies is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.
- 71.** Any person who intentionally makes or causes to be made, or aids or assists in making, any signal or warning to any person engaged in fishing unlawfully of the approach of an authorised person is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

Assaulting or  
obstructing  
authorised  
person etc

Giving  
warning to  
persons  
unlawfully  
fishing

**72.** An authorised person is not liable for any loss or damage occasioned by or in the course of the exercise of any of the powers conferred on him or her by this Act unless in causing the loss or damage the authorised person acted in bad faith. Indemnification of authorised persons

5

PART 9

MISCELLANEOUS AND SUPPLEMENTAL

*Licence fees*

**73.** (1) The Department may by regulations specify the fees payable for the grant or renewal of — Licence fees

10

- (a) fishing licences,
- (b) sea fishing licences,
- (c) recreational sea fishing licences, and
- (d) permits under section 29(5).

**15** (2) Regulations under subsection (1) may specify different fees to be payable on the grant or renewal of —

- (a) licences or permits of a specified description, or
- (b) licences or permits granted to persons of a specified description;

**20** and may in specified cases provide for the grant or renewal of a licence or permit without payment.

*Tagging of salmon and sea trout*

**74.** (1) The Department may by regulations provide for the gathering of information by the tagging of salmon and sea trout. Tagging of salmon and sea trout

(2) Regulations under subsection (1) may provide for —

25

- (a) the form of tags which are to be affixed to salmon and sea trout,
- (b) the information to be contained on such tags,
- (c) the issue and distribution of tags and records to persons fishing for salmon or sea trout,

30

- (d) the affixing of tags to salmon and sea trout and the removal of such tags,

- (e) the records to be kept by persons fishing for, selling and dealing in salmon or sea trout or providing such tags and records, and
- (f) the furnishing of such information on such tags and records as may be requested by an authorised person. **5**

(3) Regulations under subsection (1) may provide that a contravention of any provision of them shall be an offence on the part of any person of a description specified in the regulations, punishable on summary conviction by a penalty not exceeding that so specified (which shall not exceed a fine of £1,000). **10**

(4) In proceedings for an offence consisting of a contravention of regulations under subsection (1), it shall be a defence for the accused to show that he or she took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or herself or by any person under his or her control. **15**

*Exemptions for artificial propagation and scientific purposes*

Exemptions  
for artificial  
propagation  
and scientific  
purposes

**75.** (1) The Department may by a permit in writing authorise a person named in the permit, at such times and subject to such conditions as may be specified in the permit, to do such things as are so specified — **20**

- (a) for the purpose of the artificial propagation or transplantation of fish,
- (b) for the stocking, restocking or improvement of any fishery, or **25**
- (c) for some scientific purpose,

in or in relation to such inland waters, or such part of the sea, as may be so specified.

(2) Without prejudice to the generality of subsection (1), a permit under that subsection may authorise the holder of it, for any of those purposes, — **30**

- (a) to catch fish of any kind specified in the permit;
- (b) to have in his or her possession fish of that kind;
- (c) for catching fish of that kind —
- (i) to have in his or her possession, erect and use any fishing engine of a kind specified in the permit, or **35**

- (ii) to have in his or her possession and use any substance of a kind so specified;
- (d) to buy or sell fish of any kind specified in the permit; and
- 5 (e) to dispose of fish taken in accordance with the permit in such manner and on such terms as may be so specified.
- (3) In proceedings for an offence under this Act, it shall be a defence for the person accused to show that —
- 10 (a) the act or omission constituting the alleged offence was authorised by a permit under subsection (1); and
- (b) he or she was, or was acting under the direction of, the holder of the permit and in accordance with the conditions of the permit.
- 15 (4) Where —
- (a) anything authorised by a permit under subsection (1) (other than a general permit) is being or has been done, and
- 20 (b) the holder of the permit fails on demand to produce the permit to an authorised person,

the holder is guilty of an offence under subsection (1) and liable on summary conviction to a fine not exceeding £1,000.

*Marine nature reserves*

- 25 **76.** In section 33 (byelaws for protection of marine nature reserves) of the Wildlife Act 1990, after subsection (6) insert —
    - “(6A) A byelaw made under this section which relates to —
      - (a) fishing for, or the taking or killing of, any fish, or
      - 30 (b) the use or possession of any fishing engine,
- shall be treated as sea fishery legislation for the purposes of Part 8 of the Fisheries Act 2010.

Marine nature reserves

[c.2]

In this subsection “fish” and ‘fishing engine’ have the same meanings as in that Act.

(6B) An offence under a byelaw referred to in subsection (6A) shall be treated as an offence under the Fisheries Act 2010 for the purposes of section 78 (forfeiture) of that Act.”.

*Legal proceedings***5**

Legal proceedings

**77.** (1) Where an offence under this Act is committed by a body corporate and it is proved that the offence —

(a) was committed with the consent or connivance of an officer of the body; or

(b) was attributable to neglect on the part of an officer of the body, **10**

the officer, as well as the body, is guilty of the offence and liable to the same penalty as the body.

(2) In subsection (1) “officer” includes —

(a) a director or secretary; **15**

(b) a person purporting to act as a director or secretary;

(c) if the affairs of the body are managed by its members, a member;

[c.19]

(d) in relation to a limited liability company constituted under the Limited Liability Companies Act 1996, a member, the company’s manager and its registered agent. **20**

(3) A complaint charging the commission of a summary offence under any provision of this Act may be heard and determined by a court of summary jurisdiction whether or not the complainant is an authorised person. **25**

*Forfeitures etc*

Forfeiture of fish, boat, vehicle, fishing engine, etc

**78.** Where a person is convicted of an offence under this Act, the court may, on an application by or on behalf of the Department, order that any of the following shall be forfeited — **30**

(a) any fish illegally taken by him or her;

(b) any fish illegally in his or her possession at the time of the offence; and

- (c) any boat, vehicle, fishing gear, fishing engine or other thing whatsoever by means or in respect of which the offence was committed.

- 79.** (1) This section applies where —
- 5** (a) in the exercise of any power under this Act an authorised person seizes or detains any fish, and
- (b) the fish is likely to become unfit for human consumption before the matter can conveniently be dealt with by a court.
- 10** (2) In this section “lawful fish” means a fish that may for the time being be lawfully taken, or bought and sold, having regard to its kind, size and condition and the season of the year.
- (3) If the fish is lawful fish, the authorised person shall, in accordance with any directions given by the Department, sell the fish, unless by virtue of an instruction given to him or her by the
- 15** Department on any occasion, or in accordance with the terms of any general authorisation in writing given to him or her by the Department, he or she is permitted or required to dispose of it in some other manner.
- (4) If the fish is not lawful fish, the authorised person shall
- 20** destroy or otherwise dispose of it in accordance with any instruction or authorisation such as is referred to in subsection (3).
- (5) Any sum of money representing the proceeds of sale of fish sold by a person under subsection (3) shall forthwith be paid by that person to the Department, and —
- 25** (a) where no person is charged with an offence under this Act in relation to the fish, the sum shall be disposed of as the Department may direct;
- (b) where a person is charged with such an offence and is
- 30** acquitted, a sum equal to the net proceeds of sale of the fish shall be paid to that person by the Department;
- (c) where a person is convicted of such an offence, a sum equal in amount to the net proceeds of sale of the fish shall be applied by the Department in accordance with section 81, as if the fish had been sold under that section.
- 35** **80.** (1) This section applies where —
- (a) an authorised person, in exercise of powers conferred by this Act, seizes any boat or any fishing gear or fishing engine, and

Disposal of fish seized or detained

Disposal of boat or fishing gear etc seized in certain cases

(b) no person is charged with an offence under this Act in relation to it.

(2) The authorised person may apply to a court of summary jurisdiction for an order for the disposal of the boat, fishing gear or fishing engine. **5**

(3) In the case of a boat, if the court finds that, at the time of its seizure, it had been, was being or was about to be used for a purpose which under this Act is unlawful, the court may order it to be forfeited.

(4) In the case of fishing gear or a fishing engine — **10**

(a) if the court finds that it is fishing gear or a fishing engine the use of which is prohibited by law, the court may order it to be forfeited and destroyed;

(b) if the court finds that it is lawful fishing gear or a lawful fishing engine which, at the time of its seizure, had been, was being or was about to be unlawfully used, the court may order it to be forfeited. **15**

(5) Where the court does not make an order of forfeiture, it shall order the boat, fishing gear or fishing engine to be returned to the person who appears to the court to be its owner. **20**

Disposal of  
forfeitures

**81.** (1) This section applies to anything forfeited under this Act, except where an order for destruction is made under section 80(4)(a).

(2) The person by whom the thing was seized or any other person in whose custody it is shall, before the expiration of a period of 14 days from the date of the order by, or the conviction in consequence of, which it was forfeited, apply to the Department for a direction as to its disposal. **25**

(3) Whether or not an application is made under subsection (2), the Department may direct that the thing be — **30**

(a) sold or otherwise disposed of in such manner as the Department thinks fit, or

(b) returned to the person who appears to the Department be the owner.

Cancellation  
etc of licences  
and  
disqualification

**82.** (1) If the holder of a licence is convicted of an offence under this Act, the court may make either or both of the following orders — **35**

- (a) an order that the licence be —
- (i) cancelled, or
  - (ii) suspended for such period as is specified in the order;
- 5** (b) an order that the convicted person be disqualified for holding a licence of the same class for a period not exceeding —
- (i) one year in the case of a first conviction, or
  - (ii) 5 years in the case of a second or subsequent conviction.
- 10**
- (2) If a person who is not the holder of a licence is convicted of an offence under this Act, the court may order that he or she be disqualified for holding a licence of a class specified in the order for a period not exceeding —
- 15** (a) one year in the case of a first conviction, or
  - (b) 5 years in the case of a second or subsequent conviction.
- (3) If any person is convicted of an offence under Part 5 or subsection (4), the court may order that that, notwithstanding any sea fishing licence, no person shall, for a period not exceeding 4
- 20** weeks specified in the order, engage in operations to take or kill fish from a boat specified in the order, being a boat by means or in respect of which the offence was committed.
- (4) Any person who contravenes an order under subsection (3) is guilty of an offence and liable —
- 25** (a) on conviction on information, to custody for a term not exceeding 3 months or to a fine, or to both;
  - (b) on summary conviction, to custody for a term not exceeding 3 months or to a fine not exceeding £10,000, or to both.
- 30** (5) Where a person is convicted of an offence under this Act, the clerk of the court shall, as soon as may be, send to the Department a certificate of the conviction and of any order under this section.
- (6) Regulations under section 23, 37 and 45 may specify
- 35** classes of licence for the purposes of subsections (1)(b) and (2).
- (7) In this section “licence” means —

- (a) a fishing licence,
- (b) a sea fishing licence, or
- (c) a recreational sea fishing licence;

but does not include a general licence.

*Supplemental*

**5**

Orders and  
regulations -  
general

**83.** (1) Subsections (2) and (3) apply to —

- (a) orders under section 4(1); and
- (b) regulations under any provision of this Act.

(2) Before making any instrument to which this subsection applies the Department shall consult —

**10**

- (a) such organisations in the Island as appear to it to be representative of interests substantially affected by the regulations; and
- (b) such scientific authorities as it thinks fit.

(3) An instrument to which this subsection applies shall be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which it is laid or at the next following sitting resolves that it shall be annulled, the instrument shall cease to have effect.

**15**

(4) An order under section 46 or 58 shall not have effect unless it is approved by Tynwald.

**20**

(5) Before making any regulations under Part 5 or an order under section 46 or 58 the Department shall —

(a) consult the Secretary of State (except in the case of regulations under section 45);

**25**

(b) satisfy itself that the regulations will not operate so as to contravene —

(i) any Community instrument which applies as part of the law of the Island (whether under section 2(1) of the European Communities (Isle of Man) Act 1973, under section 46 or otherwise);

**30**

(ii) any international agreement which extends to the Island, or

- (iii) any agreement between the Government of the Island and the sea-fisheries administration of any part of the United Kingdom.

- 84.** (1) The transitional provisions in Schedule 2 have effect.
- 5** (2) The enactments specified in Schedule 3 are repealed to the extent specified in column 3 of that Schedule.

Transitional provisions and repeals

## Section 15

## SCHEDULE 1

## MILLS ETC

*Taking fish in mill pools, leats etc*

1. (1) Subject to sub-paragraph (2), any person who at any time in any pool, work or watercourse appurtenant to a mill —

- (a) intentionally takes or kills any fish, or
- (b) uses a fishing engine for the purpose of taking or obstructing fish,

is guilty of an offence and liable on summary conviction to custody for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both.

(2) Sub-paragraph (1) does not apply to fishing with rod and line by authority of and in accordance with the conditions of a fishing licence.

*Sluices etc of mills deriving water from rivers*

2. (1) The occupier of any mill (whether or not it is for the time being used or capable of being used as such) which derives its supply of water from a river shall comply with the requirements of sub-paragraph (2) or (3), as the case may be.

(2) If there is a fish pass in the dam belonging to the mill, or if the dam is a weir and is not provided with a channel suitable for the passage of fish, the mill sluices and the waste gates or over-falls shall be kept shut during the periods specified in sub-paragraph (4).

(3) If there is no fish pass in the dam belonging to the mill and the waste gate on the upstream side of the mill sluices is erected in a channel suitable for the passage of fish, the mill sluices shall be kept shut and the waste gate kept open during the periods specified in subsection (4).

(4) The periods referred to in sub-paragraphs (2) and (3) are —

- (a) 24 consecutive hours in each week between 6.00 pm on Saturday and 6.00 am on the following Monday; and
- (b) any other period when the mill is not being worked.

(5) If the occupier of a mill fails without reasonable excuse to comply with sub-paragraph (1), he or she is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

(6) In proceedings for an offence under sub-paragraph (5), it is a defence for the accused to show that compliance with sub-paragraph (2) or (3), as the case may be, would have injuriously interfered with the machinery or water power of the mill.

*Exemptions*

3. (1) Where the Department is satisfied with respect to a mill that —

- (a) having regard to the nature of the dam or of the river or of the kinds of fish frequenting or likely to frequent the river, it is unnecessary or unreasonable to insist upon compliance with the requirements of paragraph 2(2) or (3), as the case may be; or
- (b) alternative arrangements are provided to protect and facilitate the free passage of fish,

SCH. 1

it may by notice in writing to the occupier of the mill grant exemption from those requirements with respect to that dam, subject to such conditions may be specified in the notice.

(2) The Department may at any time by notice in writing to the occupier of the mill —

- (a) withdraw a notice given under sub-paragraph (1),
- (b) amend the notice by imposing a further condition, or
- (c) amend or cancel any condition imposed under sub-paragraph (1) or this sub-paragraph (including such a condition as varied under this sub-paragraph).

(3) Where the Department proposes to withdraw or amend a notice given under sub-paragraph (1), it shall —

- (a) give to the occupier of the mill at least 28 days' notice of its proposal and the grounds for it; and
- (b) consider any representations made by the occupier in relation to the proposal before the expiration of the notice.

*Default powers*

4. Where —

- (a) it appears to the Department that a mill has fallen into disuse, and
- (b) the Department is unable, after making reasonable enquiries, to ascertain the identity of the owner or occupier of the mill,

it may take such steps as it considers necessary to ensure that the mill sluices and the waste gates or over-falls of the mill are kept shut.

*Interpretation*

5. In this Schedule “mill sluices” means the sluices which admit water to a mill.

Section 84(1)

## SCHEDULE 2

## TRANSITIONAL PROVISIONS

*Interpretation***1.** In this Schedule —

- [c.18] (a) “the 1971 Act” means the Sea-Fisheries Act 1971;
- [c.26] (b) “the 1976 Act” means the Inland Fisheries Act 1976.

*Fishery officers etc***2.** (1) The following shall be deemed to have been appointed as a fishery officer under section 6(1) —

- (a) an inspector of inland fisheries appointed under section 2 of the 1976 Act;
- (b) any sea-fishery officer appointed under section 4 of the 1971 Act.

(2) A river watcher appointed under section 3 of the 1976 Act shall be deemed to have been appointed as a watcher under section 6(2).

*Fish passes and gratings***3.** (1) Section 12 does not apply to a dam constructed before 10th March 1977.

(2) Section 12 applies to a dam constructed before the commencement of that section with the substitution —

- (a) of “river” for “waters”, and
- (b) of “salmon, sea trout and trout” for “migratory fish of any species”;

and with the omission of subsection (8).

(3) Section 19 does not apply to a cut, leat or channel opened before 10th March 1977.

*Aquaculture***4.** (1) Any fish farm established pursuant to section 7 of the 1976 Act shall be deemed to have been established under section 53.

(2) Any fish culture licence granted under section 8 of the 1976 Act shall be deemed to be an aquaculture licence granted under section 55.

*Byelaws***5.** (1) Subject to sub-paragraph (2), any provision of byelaws made under section 2 of the 1971 Act and in force immediately before the coming into operation

of Part 5 shall have effect as if contained in regulations under section 36, 37 or 40, as the case may be. SCH. 2

(2) No provision referred to in sub-paragraph (1) which is contained in byelaws made before 4th September 1991 applies to the extended territorial sea (as defined by section 5(1) of the Territorial Sea (Consequential Provisions) Act 1991). [c.7]

*Sea fishing licences*

**6.** Any licence granted under section 2AA of the 1971 Act and in force immediately before the coming into operation of section 38 shall have effect as a sea fishing licence.

Section 84(2)

## SCHEDULE 3

## REPEALS

<i>Reference</i>	<i>Short title</i>	<i>Extent of repeal</i>
1971 c.18	Sea-Fisheries Act 1971	The whole Act.
1976 c.26	Inland Fisheries Act 1976	The whole Act.
1983 c.1	Fisheries Act 1983	Section 1.  The Schedule.
1985 c.25	Treasury Act 1985.	In Schedule 2, paragraphs 217, 218 and 307.
1986 c.1	Fines Act 1986	In Schedule 2, paragraphs 103 and 104.
1986 c.6	Statute Law Revision Act 1986	In Schedule 1, paragraph 14.
1989 c.15	Summary Jurisdiction Act 1989	In Schedule 5, paragraph 14.
1991 c.7	Territorial Sea (Consequential Provisions) Act 1991.	Section 4.  In Schedule 1, paragraphs 3 and 4.
1991 c.22	Sea-Fisheries (Amendment) Act 1991	The whole Act.
1991 c.24	Water Act 1991	In Schedule 8, paragraph 3.
1998 c.7	Agriculture and Fisheries (Miscellaneous Provisions) Act 1998	Section 3.
2000 c.10	Agriculture (Miscellaneous Provisions) Act 2000	Section 5.
2003 c.6	Anti-Terrorism and Crime Act 2003	In Schedule 10, the entry relating to the Sea-Fisheries Act 1971.
2008 c.11	Agricultural (Miscellaneous Provisions) Act 2008	Section 1.  Part 1 of the Schedule.

IN THE KEYS

---

## **Fisheries**

---

### **A BILL**

*to re-enact with amendments and further provisions the enactments relating to inland and sea fisheries; and for connected purposes.*

Approved by the Council of Ministers for introduction in the House of Keys.

---

MR. GAWNE

---

APRIL 2010

---