



**AN BILLE IASCAIGH (LEASÚ) (UIMH. 2), 1987
FISHERIES (AMENDMENT) (NO. 2) BILL, 1987**

EXPLANATORY AND FINANCIAL MEMORANDUM

Introduction

1. The purpose of this Bill is to introduce a licensing system for trout and coarse fish angling. This licensing system is required in order to ensure that trout and coarse fish anglers who benefit from substantial State expenditure on the development and protection of trout and coarse fish fisheries contribute towards that expenditure.

At present the only form of angling requiring a licence is salmon angling. A voluntary system of registration (annual subscription £9.50) of trout, coarse fish and sea anglers to collect revenue for the development and protection of fisheries is in operation. However, out of a possible total of 153,000 trout and coarse fish anglers (100,000 trout anglers, 10,000 coarse fish anglers and an additional 10,000 and 33,000 tourist anglers, respectively) only about 4,000 trout and coarse fish anglers have registered.

Estimated Exchequer Costs

2. It is not anticipated that any additional Exchequer costs will be incurred in implementing this Bill when it is enacted.

Estimated Staffing Implications for the Department of the Marine and the Central and Regional Fisheries Boards

3. There will be no staffing implications for the Department of the Marine and the Central Fisheries Board. The Regional Fisheries Boards are being informed that they must implement the new licensing system from their existing resources.

Detailed Provisions of Bill

4. *Section 1* defines terms used in the Bill.

5. *Section 2* provides for certain amendments to section 3 of the Principal Act as follows:—

(a) the first provision therein is to be substituted by a new provision, as given, which differs from the existing provision in that it includes a reference to “coarse fish”,

(b) a new definition of “coarse fish”, as given, is to be substituted for the previous definition inserted by the Act of 1980. (It is necessary to do so because a reference is made in the existing definition of “coarse fish” to rainbow trout and char which are being included in a new definition of “trout” in this Bill),

(c) definitions of

- (i) coarse fish rod ordinary licence,
- (ii) coarse fish rod (annual) ordinary licence,
- (iii) coarse fish rod (twenty-one day) ordinary licence,
- (iv) composite freshwater angling ordinary licence,

are to be inserted before the definition of "consequential disqualification" which was inserted by the Act of 1980. The latter three definitions relate to three new licences which are being introduced,

- (d) the definition of "freshwater rod ordinary licence" as given (this is a new description which encompasses all the angling licences) is to be inserted after the definition of "free gap",

- (e) definitions of:—

- (i) salmon rod (annual) (district) ordinary licence
- (ii) salmon rod (late season) ordinary licence
- (iii) salmon rod (late season) (district) ordinary licence, and
- (iv) salmon rod (seven day) ordinary licence

are to be deleted as they are being abolished and a new definition of "salmon rod (twenty-one day) ordinary licence" is to be substituted for the previous definition,

- (f) the definition for a "season game fishing rod and line (Foyle Area) licence" is to be inserted after the definition for "sea fisheries protection officer". (Holders of such licences can purchase salmon rod and trout rod annual licences and composite freshwater angling licences at a reduced fee),

- (g) a new definition of "trout" as given is to be substituted for the previous definition. The new definition provides that in the relevant sections of the Principal Act (as amended) the word "trout" includes rainbow trout and char. It is necessary to make this change as otherwise persons angling for these species would not be required to hold a trout rod or a composite angling licence,

- (h) definitions of

- (i) trout rod (general) licence,
- (ii) trout rod (juvenile) licence,
- (iii) trout rod licence, and
- (iv) trout rod (riparian owner) licence

are to be deleted (these definitions relate to Chapter III of Part VI of the Principal Act which has never been brought into operation and which is being repealed in this Bill) and definitions of

- (i) trout rod ordinary licence,

(ii) trout rod (annual) ordinary licence,

(iii) trout rod (twenty-one day) ordinary licence

are to be inserted (the latter two definitions relate to two of the new licences which are being introduced) before the definition of "unlawful fishing engine".

6. Section 3 provides that in section 65 (i) (which relates to the penalty for using an unlicensed scheduled engine, other than rod and line) of the Principal Act the words "coarse fish" are to be inserted after the words "salmon, trout". This is a consequential amendment arising out of the proposal contained in the Bill to introduce a licensing system for coarse fish angling.

7. Section 4 amends the Principal Act by substituting a new section 66 instead of the existing section 66.

Subsection (1) of this new section provides that a person is guilty of an offence if that person fishes for or takes or kills any salmon, trout or coarse fish with rod and line and is not the holder of certain specified licences.

Subsection (2) provides that subsection (1) does not apply to fishing for or taking or killing trout with one rod and line or any coarse fish with one or two rods and lines if the person involved is under 18 years or over 66 years of age. The exemption from payment of a licence fee is being confined to fishing for trout with one rod and coarse fish with one or two rods (two rods are legally permitted in such fishing) so as to ensure that the exemption will not be abused.

Subsection (3) gives the fines and imprisonment sentences for which a person guilty of an offence under this section is liable.

Subsection (4) provides that if a person is convicted of an offence under this section the rod and line in respect of which the offence was committed shall stand forfeited.

8. Section 5 provides for certain amendments to section 67 (which relates to ordinary fishing licences) of the Principal Act as follows:—

(a) subsection (2) is to be deleted (this relates to salmon rod (late season) (district) ordinary licences which are being abolished),

(b) two new subsections are to be substituted for subsections (3) and (4). These new subsections relate to the periods for which ordinary fishing licences are to be issued and the titles of different ordinary fishing licences,

(c) two new subsections are to be substituted for subsections (6) and (7). These new subsections relate to the form and the information contained in ordinary fishing licences issued by regional boards and go on to state that regional boards, on receipt of an application, shall issue a freshwater rod ordinary licence,

(d) new subsections are to be substituted for subsections (11) to (15). These new subsections state:—

— an ordinary fishing licence (not being a freshwater rod ordinary licence) can be used only in the fishery district to which it relates,

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new subsection provides that

— a freshwater rod ordinary licence can be used in every fishery district and only by the person named thereon,

— an ordinary fishing licence, other than a freshwater rod ordinary licence, authorises the use for the period specified, in the fishery district specified, and of the fishing engine specified subject to the provisions of the Principal Act and any instrument made thereunder,

— a freshwater rod ordinary licence authorises the person named therein to use during the period specified in every fishery district certain classes of rod as stated (provided he is the holder of the appropriate class of a freshwater rod ordinary licence) subject to the provisions of the Principal Act and any instrument made thereunder,

(e) subsection (16) is to be deleted. This relates to salmon rod (annual) (district) ordinary licences and salmon rod (late season) (district) ordinary licences both of which are being abolished.

9. Section 6 amends section 68 (which relates to duties on ordinary fishing licences) of the Principal Act as follows:

(a) a number of subsections are to be inserted after subsection (2) as follows:

— (2A) (a) provides that this subsection applies to a trout rod ordinary licence valid for a particular year which is issued to a person who is the holder of a season game fishing rod and line (Foyle Area) licence valid for that year,

(b) provides that the ordinary licence duty for a trout rod (annual) ordinary licence issued to a person who is the holder of a season game fishing rod and line (Foyle Area) valid licence shall be £10 i.e. a reduction of £5,

(c) provides that the Minister for the Marine may alter by order the licence duty referred to in the previous paragraph,

— (2B) (a) provides that this subsection applies to a composite freshwater angling ordinary licence valid for a particular year which is issued to a person who is the holder of a season game fishing rod and line (Foyle Area) licence valid for that year,

(b) provides that the ordinary licence duty for a composite freshwater angling ordinary licence issued to a person who is the holder of a season game fishing rod and line (Foyle Area) valid licence shall be £30 i.e. a reduction of £10,

(c) provides that the Minister for the Marine may alter by order the licence duty referred to in the previous paragraph,

(b) a new subsection is to be substituted for subsection (1). This new subsection provides that

— in paragraph (a) that subject to paragraphs (b) and (c) of this subsection the duty for an ordinary licence for a freshwater rod ordinary licence of the class specified in column (2), (3), (4), (5), (6), (7) or (8) of Part I of the Fourth Schedule to this Bill is the sum set out in whichever column relates to a freshwater rod ordinary licence of that class,

— in paragraph (b) that the Minister for the Marine can by order with the consent of the Minister for Finance alter the freshwater rod ordinary licence duties referred to in the previous paragraph,

— in paragraph (c) that this subsection does not apply to the ordinary licence duty payable for trout rod ordinary licences, composite freshwater angling ordinary licences or salmon rod annual ordinary licences issued to persons who hold season game fishing rod and line (Foyle Area) licences,

(c) Reference is made in subsection (2) to a "salmon rod (Foyle Area) licence". The effect of this substitution will be to change that reference to read "season game fishing rod and line (Foyle Area) licence" which is the description applied to the licence in the relevant Foyle Area Regulations,

(d) in subsection (2) paragraph (b) "£17" is to be substituted for "£11.50". The licence duty payable on a salmon rod annual ordinary licence issued to a person who is the holder of a season game fishing rod and line (Foyle Area) licence was increased to £11.50 with effect from 1 January 1985. It is now proposed in this Bill to increase that licence duty to £17,

(e) subsection (3) is to be deleted. This subsection relates to a certain type of salmon rod (annual) (district) ordinary licence which is being abolished,

(f) subsection (6) provides that when the licence duty in respect of an ordinary fishing licence is altered by order under certain provisions of section 68 of the Principal Act the altered duty is payable on or after the 1st of January next following the making of the order. The effect of this paragraph is that a similar position will apply in relation to alterations in licence duties on trout rod ordinary licences, composite freshwater ordinary licences and salmon rod annual ordinary licences issued to persons who hold season game fishing rod and line (Foyle Area) licences,

(g) a new subsection is to be inserted for subsection (7). This new subsection provides that if an order under subsection (4) or (5) (these subsections relate to the licence duties payable for commercial fishing licences and certain other fishing licences) is to be made the Minister for the Marine shall cause a draft of the order to be laid before each House of the Oireachtas and a resolution approving the draft must be passed by each House before the order can be made. Under the existing subsection (7) a draft of an order increasing all ordinary fishing licence duties must be laid before and approved by each House of the Oireachtas before the order can be made. It is provided in the Bill

that orders increasing angling licence duties may be made by the Minister for the Marine with the approval of the Minister for Finance.

10. Section 7 amends section 69 (which relates to licence duties on engines not specified in the Fourth Schedule and restrictions on user of such engines) of the Principal Act by inserting in subsection (1) the words "coarse fish" after "salmon, trout,". This amendment is consequential on the proposed introduction of a licensing system for coarse fish angling.

11. Section 8 amends section 99 (which relates to restrictions on erection of fishing weirs, fishing mill dams or fixed engines in the freshwater portion of any river) of the Principal Act by substituting a new subsection for subsection (4). The new subsection states that the provisions of section 99 of the Principal Act do not apply to longlines used for capturing eels or engines used for capturing fish other than freshwater fish. This amendment is also consequential on the proposed introduction of a licensing system for coarse fish angling.

12. Section 9 amends section 167 of the Principal Act (as amended by the Act of 1980) by substituting the words "salmon, trout or coarse fish" for "salmon or trout". The said section sets out the penalty for taking, catching or fishing for salmon, trout or coarse fish by means of cross lines in any river.

13. Section 10 amends section 168 of the Principal Act (as amended by the Act of 1980) by substituting the words "salmon, trout or coarse fish" for "salmon or trout". The said section sets out the penalty for the taking of salmon, trout or coarse fish by the owner or occupier of an eel weir.

14. Section 11 amends section 169 of the Principal Act by substituting the words "salmon, trout or coarse fish" for "salmon or trout". The said section sets out the penalty for the damming, teeming or emptying of a river or mill race in order to take or destroy any salmon, trout or coarse fish.

15. Section 12 amends the Principal Act by substituting a new section for section 170. The new section provides firstly for penalties for removing salmon, trout or coarse fish which were either not killed by lawful means or were found dead from any cause whatever and secondly that the section does not apply to certain categories of people as specified. The only change being made in the new section 170 is that "coarse fish" is being inserted into the section. It was decided, however, that from the legal viewpoint the section, including the reference to "coarse fish", should be re-enacted.

16. Section 13 amends section 182 (2) (e) (iii) of the Principal Act by substituting a new subparagraph for subparagraph (iii). Section 182 (2) (e) of the Principal Act sets out certain instances where the charge against a person in respect of the purchasing, etc. of unlawfully captured trout may be dismissed. This amendment is consequential on the introduction of a licensing system for trout angling and the exemption of certain persons from having a licence.

17. Section 14 amends section 296 of the Principal Act by substituting in subsection (1) the words "trout (including any rainbow trout or char)" for "trout, char". This amendment is consequential on the new definition of "trout" as inserted in this Bill.

18. Section 15 amends section 303 (which relates to persons using fishing engines to produce licences therefor on demand) (as amended by the Act of 1980) of the Principal Act by inserting two new subsections after subsection (4). The first of these new subsections pro-

vides that if a person is charged with an offence under this section for failing to produce an ordinary licence for a scheduled engine it is a good defence to prove that, insofar as the charge relates to an ordinary licence for a trout rod or a coarse fish rod, that the person involved was under eighteen or over sixty-six years of age at the time when the demand to produce the licence was made. The second of the new subsections provides that this section does not apply to the use of a trout rod or a coarse fish rod where the person involved is under eighteen or over sixty-six years of age if when asked to produce an ordinary licence for a trout rod or a coarse fish rod the person produces evidence that he is in fact under eighteen or over sixty-six years of age.

19. *Section 16* amends section 315 of the Principal Act by substituting the words "salmon, trout (including rainbow trout and char), coarse fish or eels" for "salmon, trout or eels". The said section relates to payments to regional boards and, in certain cases, the Garda Síochána Reward Fund in respect of fines for certain offences.

20. *Section 17* amends section 318 of the Principal Act by substituting in subsection (1) (a) the words "salmon, trout (including rainbow trout and char), coarse fish or eels" for "salmon, trout or eels". The said section relates to payments to regional boards and, in certain cases, the Garda Síochána Reward Fund in respect of proceeds of certain forfeitures.

21. *Section 18* amends the Principal Act by substituting a new Part as per the Schedule to the Bill for Part I of the Fourth Schedule. This new Part sets out the licence duties for freshwater rod ordinary licences. The existing Part I lays down the licence duties for five classes of salmon rod ordinary licences all of which except salmon rod (annual) ordinary licences are being abolished.

22. *Section 19* amends section 11 (which relates to functions of and other provisions relating to regional boards) of the Act of 1980 by inserting a new subsection after subsection (4). This new subsection gives the regional boards the power to issue licences to which the *Fisheries (Amendment) (No. 2) Act, 1987* relates i.e. coarse fish rod ordinary licences, composite freshwater angling ordinary licences and trout rod ordinary licences.

23. *Section 20*

Subsection (1) provides for the altering of the Register of Trout, Coarse Fish and Sea Anglers established and maintained by regional boards so that it includes only sea anglers and the register will be called the Register of Sea Anglers.

Subsection (2) relates to certain provisions concerning subsection (1) as follows:—

- paragraphs (a), (b), (c) and (e) to (i) provide for the amendment of the relevant sections of the Act of 1980,
- (d) section 58 (which relates to the Register of Trout, Coarse Fish and Sea Anglers) of the Act of 1980 is to be amended by inserting a new subsection after subsection (2). This new subsection provides that any person other than a sea angler registered in a register by virtue of subsection (4) of section 58 of the Act of 1980 before the commencement of section 20 of the *Fisheries (Amendment) (No. 2) Act, 1987* (subsection (4) of section 58 of the Act of 1980 relates to life members of the former Inland Fisheries Trust) may apply at any time to be registered as a sea angler to a regional board who shall allow the application under certain circumstances as specified.

Subsection (3) of this section allows for the re-registration on the Register of Sea Anglers by the regional board concerned of those already registered as trout anglers, coarse fish anglers or as non-voting on the Register of Trout, Coarse Fish and Sea Anglers under certain specified conditions. This subsection will enable certain persons to maintain continuous membership on a Register notwithstanding the fact that the Register of Trout, Coarse Fish and Sea anglers has been replaced.

Subsection (4) allows for re-registration of people to whom subsection (3) relates and who pay the appropriate annual subscription without the person actually applying for re-registration under certain specified conditions.

24. *Section 21* amends section 59 (which relates to certain rights to fish given to life members of the former Inland Fisheries Trust and to persons on the Register of Trout, Coarse Fish and Sea Anglers) of the Act of 1980 such that it now permits life members of the former Trust, subject to certain restrictions as the Minister for the Marine considers appropriate for the proper management of the fishery concerned, to (a) fish for trout or coarse fish in fisheries transferred to the Central Board by section 35 of the Act of 1980 for as long as the interest transferred to the Central Board subsists and (b) fish for trout and coarse fish in any fishery owned or occupied by any regional board or the Central Board. Under existing law they are only entitled to fish in the fisheries referred to at (a) above and in any fishery owned or occupied by one regional board.

25. *Section 22* repeals sections 79 to 84 and 305 of the Principal Act. These sections relate to scheduled trout waters and have never been brought into operation.

26. *Section 23 subsection (1)* gives the short title of the Bill. *Subsection (2)* states that the collective citation "the Fisheries Acts, 1959 to 1987" includes this Act and that the Fisheries Acts, 1959 to 1987 should be construed as one Act. *Subsection (3)* relates to the coming into operation of this Act.

Roinn na Mara,
Nollaig, 1987.

16. *Section 13* amends section 59 (which relates to certain rights to fish given to life members of the former Inland Fisheries Trust and to persons on the Register of Trout, Coarse Fish and Sea Anglers) of the Act of 1980 such that it now permits life members of the former Trust, subject to certain restrictions as the Minister for the Marine considers appropriate for the proper management of the fishery concerned, to (a) fish for trout or coarse fish in fisheries transferred to the Central Board by section 35 of the Act of 1980 for as long as the interest transferred to the Central Board subsists and (b) fish for trout and coarse fish in any fishery owned or occupied by any regional board or the Central Board. Under existing law they are only entitled to fish in the fisheries referred to at (a) above and in any fishery owned or occupied by one regional board.

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