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**Irish Free State (Eire)
Fisheries (Amendment) Act, 1962**

The Fisheries (Amendment) Act, 1962, became law on 13th December, 1962. Members of the European Federation for the Protection of Water will be interested in sections 2, 16, 18 and 32 relating respectively to (1) definition of "deleterious matter," (2) penalty for use or possession of "deleterious matter," (3) amendment of section 172 of the Fisheries (Consolidation) Act, 1959 (Protection of water from pollution) and (4) revised penalties for certain fishery offences, including pollution and disposal of "deleterious matter" in waters (section 171 of Fisheries (Consolidation) Act, 1959:

Section 2:

"'deleterious matter' means any substance (including any explosive, liquid or gas) the entry or discharge of which into any waters is liable to render those or any other waters poisonous or injurious to fish, spawning grounds or the food of any fish or to injure fish in their value as human food or to impair the usefulness of the bed and soil of any waters as spawning grounds or their capacity to produce the food of fish;"

Section 16:

"(1) If any person uses in any waters any deleterious matter for the capture, destruction or injury of fish he shall be guilty of an offence under this section.

(2) If any person being on the bank of or near any waters has in this possession or under his control any deleterious matter he shall be guilty of an offence under this section.

(3) It shall be a good defence to a charge under subsection (2) for the defendant to prove the deleterious matter was in his possession or under his control for an innocent purpose.

(4) Every person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment;
- (b) on conviction of indictment, to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.

(5) ...

(6) Where a person is convicted of an offence under this section any deleterious matter found in his possession or control in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited."

**Section 171
of the Fisheries (Consolidation) Act,
as now amended:**

(1) Any person who—

- (a) steps in any waters any flax or hemp, or,
- (b) throws, empties, permits or causes to fall into any waters any deleterious matter,

shall unless such act is done under and in accordance with a licence granted by the Minister under this section, be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding one hundred [amended by section 32, Fisheries (Amendment) Act, 1962] pounds or at the discretion of the court to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

(2) Where a person is convicted of an offence under this section any flax or hemp found in waters in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited.

(3) The Minister, after consultation with the Minister for Industry and Commerce or (in the case of a licence to be granted to a sanitary authority in relation to a sewerage scheme) with the Minister for Local Government, may grant licences for the purposes of this section, may attach conditions to any licence, and may after like consultation revoke any licence.

**Protection of waters from pollution
Section 172**

Deleted by section 18 (a), Fisheries (Amendment) Act, 1962.

(2) Where any receptacle used for containing or conveying any deleterious matter is within thirty yards of any waters—

(a) the owner of that receptacle shall provide and maintain such means (in this subsection referred to as suitable means) as will effectively prevent the passage of any deleterious matter [amended by section 18 (b) Fisheries (Amendment) Act, 1962], from that receptacle into such waters,

(b) if the owner thereof fails to carry out the duty imposed on him by paragraph (a) of this subsection, he shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds and a further fine (not exceeding fifty pounds in all) not exceeding ten pounds for each day during which the failure referred to in the said section 172 continues,

(c) where the Minister is satisfied that suitable means have been provided in relation to that receptacle, he may, on the application of the owner thereof, issue to him a certificate (which shall remain in force for such period as may be specified therein) and such certificate shall specify the suitable means and the manner in which they are to be used,

(d) if—

a) the owner thereof is charged with an offence under this section in relation to that receptacle, and

b) he proves that a certificate in respect of that receptacle was issued under paragraph (c) of this subsection and that since the issue of the certificate the suitable means specified therein remained available and had been used in the manner specified therein, and

c) the certificate was in force on the date on which the offence is alleged to have been committed, then the charge shall be dismissed.

*

Aus der Gewässerschutzgesetzgebung des Irischen Freistaates dürfte vor allem die Tatsache hervorgehoben werden, dass Personen, welche eine den Fischen, ihren Laichgründen und ihrer Ernährungsbasis schädliche Verschmutzung eines Gewässers verursachen, mit sehr hohen Geld- und Gefängnisstrafen zu rechnen haben.