

## **CONTROL OF FISHING FOR SALMON BY DRIFT NET (KERRY FISHERY DISTRICT) ORDER 1982**

I, BRENDAN DALY, Minister for Fisheries and Forestry, in exercise of the powers conferred on me by section 29 of the Fisheries (Amendment) Act, 1962 (No. 31 of 1962), as amended by section 11(5) of the Fisheries Act, 1980 (No. 1 of 1980), and the Fisheries (Transfer of Departmental Administration and Ministerial Functions) Order, 1977 (S.I. No. 30 of 1977) (as adapted by the Fisheries (Alteration of Name of Department and Title of Minister) Order, 1978 (S.I. No. 195 of 1978)), hereby order as follows:—

### REG 1

1. This Order may be cited as the Control of Fishing for Salmon by Drift Net (Kerry Fishery District) Order, 1982.

### REG 2

2. In this Order—

"datum years" means any four of the years from and including the year 1976;

"licence" means an ordinary fishing licence under the Fisheries Acts, 1959 to 1980, in respect of a drift net for the taking of salmon in the Kerry Fishery District;

"regional board" means the South Western Regional Fisheries Board;

"registered length" in relation to a boat means the length of the boat from the forepart of the stem to the aft side of the head of the sternpost.

### REG 3

3. This Order applies to all the waters of the Kerry Fishery District.

### REG 4

4. (1) The maximum number of licences which the regional board may issue in any year shall be forty, being, in the case of the year 1983, nine issued pursuant to the Control of Fishing for Salmon Order, 1980 (S.I. No. 360 of 1980), and thirty one issued pursuant to this Order.

(2) The regional board shall not issue a licence to a person unless the person—

( a ) derived a substantial part of his livelihood in the datum years from fishing for salmon under and in accordance with a

licence;

( b ) derived a substantial part of his livelihood from fishing for salmon under and in accordance with a licence in the year preceding the year for which licences are being issued and which he held by virtue of his regular membership of a salmon fishing crew in the datum years who were fishing under and in accordance with licences or by virtue of his fishing in the datum years by means of a boat not exceeding 40 feet (12.192 metres) in registered length;

( c ) derived a substantial part of his livelihood from fishing in the datum years by means of a boat not exceeding 40 feet (12.192 metres) in registered length and is a person to whom, in the opinion of the regional board, having regard to all the circumstances, the licence should be issued;

( d ) derived a substantial part of his livelihood in the datum years from fishing for salmon as a regular member of a salmon fishing crew who were fishing for salmon under and in accordance with a licence;

( e ) derived his livelihood mainly from fishing in the two years preceding the year for which licences are being issued and is a person to whom, in the opinion of the regional board, having regard to all the circumstances, the licence should be issued, or

( f ) is a person to whom a licence may be issued under paragraph (4) or (5) of this Article.

(3) The regional board, when issuing licences—

( a ) shall firstly give priority to persons who derived a substantial part of their livelihood from fishing for salmon under and in accordance with licences issued to those persons in the year preceding the year for which licences are being issued and who fished for salmon under and in accordance with licences so issued to those persons in the datum years and derived a substantial part of their livelihood in those years from fishing for salmon under and in accordance with those licences;

( b ) shall secondly give priority to persons who derived a substantial part of their livelihood from fishing for salmon under and in accordance with licences issued to those persons in the year preceding the year for which licences are being issued and who derived a substantial part of their livelihood in the datum years from fishing for salmon as regular members of salmon fishing crews under and in accordance with licences or who derived their livelihood solely or substantially from fishing in the datum years by means of a boat not exceeding 40 feet (12.192 metres) in registered length;

( c ) shall thirdly give priority to persons who derived a substantial part of their livelihood from fishing for salmon in the datum years under and in accordance with licences but who did not hold such licences in the year preceding that for which licences are being issued because of physical or mental incapacity or any other reason considered sufficient by the regional board;

( d ) shall fourthly give priority to persons who derived a

substantial part of their livelihood in any of the years from and including the year 1976 from fishing for salmon under and in accordance with licences but who did not hold such licences in the year preceding that for which licences are being issued because of physical or mental incapacity or any other reason considered sufficient by the regional board;

( e ) shall fifthly give priority to persons who derived their livelihood solely from fishing in the datum years by means of a boat not exceeding 40 feet (12.192 metres) in registered length and are persons to whom, in the opinion of the regional board, having regard to all the circumstances, the licences should be issued;

( f ) shall sixthly give priority to persons who derived a substantial part of their livelihood from fishing in the datum years by means of a boat not exceeding 40 feet (12.192 metres) in registered length and are persons to whom, in the opinion of the regional board, having regard to all the circumstances, the licences should be issued;

( g ) shall then give priority to persons who derived a substantial part of their livelihood in the datum years from fishing for salmon as regular members of salmon fishing crews who were fishing for salmon under and in accordance with licences or derived their livelihood mainly from fishing in the two years preceding the year for which licences are being issued and are persons to whom, in the opinion of the regional board, having regard to all the circumstances, the licences should be issued.

(4) Where a person—

( a ) to whom a licence would have been issued in accordance with this Order for any year, and

( b ) who held a licence in the year preceding the year for which licences are being issued, dies or becomes permanently incapable, owing to a physical or mental incapacity, of fishing under and in accordance with the licence, the regional board may issue the licence to a member of the person's immediate family selected by such board who in the said preceding year derived a substantial part of his livelihood from fishing for salmon or derived his livelihood mainly from fishing.

(5) Where—

( a ) the regional board issues a licence to a person under paragraph (4) of this Article for any year, on the death or incapacity of a person (in this paragraph referred to as the former licensee), and

( b ) the first-mentioned person applies to that board for the issue of a licence in a subsequent year, the regional board may issue a licence to the person if the person derived a substantial part of his livelihood from fishing for salmon or derived his livelihood mainly from fishing and fished for salmon under and in accordance with that licence in the year referred to in subparagraph (a) of this paragraph and each subsequent year, and, for the purposes of the issue of the licence, the person shall be accorded the priority under this Order in relation to the issue of

licences to which the former licensee was entitled.

#### REG 5

5. A person shall not hold at the same time a licence and another fishing licence for a drift net for the taking of salmon issued under the Fisheries Acts, 1959 to 1980, or a licence and a fishing licence for a drift net for the taking of salmon in the Foyle Area (within the meaning of the Foyle Fisheries Act, 1952 (No. 5 of 1952)).

#### REG 6

6. (1) Where the number of applications to the regional board for licences from persons to whom priority is required to be given firstly under Article 4 (3) of this Order exceeds the maximum number mentioned in Article 4 (1) of this Order, that board shall determine, having regard to the number of years from and including the year 1976 in which a licence was held by any of the applicants and the proportion and amount of his livelihood in each of those years that each such applicant derived from fishing for salmon under and in accordance with the licence, which of such applicants shall be given priority firstly in the issue of the licences, and—

( a ) if the regional board determines that a number of persons equal to or less than the said maximum number shall be given priority firstly, such board shall thereupon issue licences to those persons, and

( b ) if the regional board determines that the number of persons to whom priority should be given firstly is greater than the said maximum number, the board shall then select a number of persons equal to the said maximum number, being persons to whom, in such board's opinion, having regard to all the circumstances, licences should be issued and shall thereupon issue licences to the persons so selected.

(2) Where the number of applications to the regional board for licences from persons to whom priority is required to be given firstly under Article 4 (3) of this Order is less than the maximum number mentioned in Article 4 (1) of this Order, that board shall determine, having regard to the number of years from and including the year 1976 in which the applicants held licences and having regard to the number of years from and including the year 1976 in which the applicants were members of salmon fishing crews who were fishing for salmon under and in accordance with licences or derived their livelihood solely or substantially from fishing by means of a boat not exceeding 40 feet (12.192 metres) in registered length and the proportion and amount of his livelihood which each such applicant derived from fishing for salmon which of such applicants

shall be given priority secondly in the issue of the remaining licences, and—

( a ) if the regional board determines that a number of persons equal to or less than the number of the remaining licences shall be given priority secondly, the board shall thereupon issue licences to those persons, and

( b ) if the regional board determines that the number of persons to whom priority should be given secondly is greater than the number of the remaining licences, the board shall then select a number of persons equal to the said remaining number of licences, being persons to whom, in the board's opinion, having regard to all the circumstances, licences should be issued, and shall thereupon issue licences to the persons so selected.

(3) Where the number of applications to the regional board for licences from persons to whom priority is required to be given firstly and secondly under Article 4 (3) of this Order is less than the maximum number mentioned in Article 4 (1) of this Order, that board shall determine in respect of any of the applicants, having regard to the proportion and amount of his livelihood in the datum years that each such applicant derived from fishing for salmon under and in accordance with a licence but who did not hold a licence in the year preceding that for which licences are being issued because of physical or mental incapacity or any other reason considered sufficient by the regional board, which of such applicants shall be given priority thirdly in the issue of the remaining licences, and—

( a ) if the regional board determines that a number of persons equal to or less than the number of the remaining licences shall be given priority thirdly, the board shall thereupon issue licences to those persons, and

( b ) if the regional board determines that the number of persons to whom priority should be given thirdly is greater than the number of the remaining licences, the board shall then select a number of persons equal to the said remaining number of licences, being persons to whom, in such board's opinion, having regard to all the circumstances, licences should be issued and shall thereupon issue licences to the persons so selected.

(4) Where the number of applications to the regional board for licences from persons to whom priority is required to be given firstly, secondly and thirdly under Article 4 (3) of this Order is less than the maximum number mentioned in Article 4 (1) of this Order, that board shall determine in respect of any of the applicants, having regard to the proportion and amount of his livelihood in the years from and including the year 1976 that each such applicant derived from fishing for salmon under and in accordance with a licence but who did not hold a licence in the year preceding that for which licences are being issued because of physical or mental incapacity or any other reason considered sufficient by the regional board, which of such applicants shall be given priority fourthly in the issue of the remaining licences, and—

( a ) if the regional board determines that a number of persons equal to or less than the number of remaining licences shall be given priority fourthly, the board shall thereupon issue licences to such persons, and

( b ) if the regional board determines that the number of persons to whom priority should be given fourthly is greater than the number of the remaining licences, the board shall then select a number of persons equal to the said remaining number of licences, being persons to whom, in the board's opinion, having regard to all the circumstances, licences should be issued and shall thereupon issue licences to the persons so selected.

(5) Where the number of applications to the regional board for licences from persons to whom priority is required to be given firstly, secondly, thirdly and fourthly under Article 4 (3) of this Order is less than the maximum number mentioned in Article 4 (1) of this Order, that board shall determine in respect of any of the applicants, having regard to his having derived his livelihood solely from fishing in the datum years by means of a boat not exceeding forty feet (12.192 metres) in registered length, which of such applicants shall be given priority fifthly in the issue of the remaining licences, and—

( a ) if the regional board determines that a number of persons equal to or less than the number of the remaining licences shall be given priority fifthly, the board shall thereupon issue licences to those persons, and

( b ) if the regional board determines that the number of persons to whom priority should be given fifthly is greater than the number of the remaining licences, the board shall then select a number of persons equal to the said remaining number of licences, being persons to whom, in such board's opinion, having regard to all the circumstances, licences should be issued and shall thereupon issue licences to the persons so selected.

(6) Where the number of applications to the regional board for licences from persons to whom priority is required to be given firstly, secondly, thirdly, fourthly and fifthly under Article 4 (3) of this Order is less than the maximum number mentioned in Article 4 (1) of this Order, that board shall determine, having regard to the proportion and amount of his livelihood in the datum years that each applicant derived from fishing by means of a boat not exceeding forty feet (12.192 metres) in registered length, which of such applicants shall be given priority sixthly in the issue of the remaining licences, and—

( a ) if the regional board determines that a number of persons equal to or less than the number of the remaining licences shall be given priority sixthly, the board shall thereupon issue licences to those persons, and

( b ) if the regional board determines that the number of persons to whom priority should be given sixthly is greater than the number of the remaining licences, the board shall then select a number of persons equal to the said remaining number of licences, being

persons to whom, in such board's opinion, having regard to all the circumstances, licences should be issued and shall thereupon issue licences to the persons so selected.

(7) Where the number of applications to a regional board for licences from person to whom priority is required to be given firstly, secondly, thirdly, fourthly, fifthly and sixthly under Article 4 (3) of this Order is less than the maximum number mentioned in Article 4 (1) of this Order, that board shall determine which of the applicants shall be given priority in the issue of the remaining licences, having regard either to—

( a ) the proportion and amount of his livelihood in each of the years from and including the year 1976, that each such applicant derived from fishing for salmon as a member of salmon fishing crews who were fishing for salmon under and in accordance with licences, or

( b ) the number of years in which the applicants derived their livelihood mainly from fishing, as may be appropriate, and

(i) if the regional board determines that a number of persons equal to or less than the number of the remaining licences shall be given priority, such board shall thereupon issue licences to those persons, and

(ii) if such board determines that the number of persons to whom priority should be given is greater than the number of the remaining licences, such board shall then select a number of persons equal to the said remaining number of licences, being persons to whom, in such board's opinion, having regard to all the circumstances, licences should be issued, and shall thereupon issue licences to the persons so selected.

#### REG 7

7. An application to the regional board for a licence issued pursuant to this Order shall be in the form specified in the Schedule to this Order and shall be made—

( a ) in respect of the salmon fishing season in the year 1983, not later than the 31st day of January in that year, and

( b ) in respect of the salmon fishing season in any subsequent year, not later than the 30th day of November in the year immediately preceding that year.

#### REG 8

8. So much of the Control of Fishing for Salmon Order, 1980, as relates to the issue of licences other than in respect of a several fishery is hereby revoked with effect from the 1st day of September, 1983, and a person shall not use a drift net for the taking of salmon other than under and in accordance with an

ordinary fishing licence in respect of a drift net for the taking of salmon issued in accordance with that Order or a licence issued in accordance with this Order.

**SCHEDULE**

CONTROL OF FISHING FOR SALMON BY DRIFT NET (KERRY FISHERY DISTRICT) ORDER, 1982. APPLICATION FOR A SALMON DRIFT NET FISHING LICENCE FOR KERRY FISHERY DISTRICT.

(IMPORTANT: Before completing this application form the applicant and witness should read the instructions at the foot of the form).

Full name of Applicant

Applicant

Address of

Applicant

should insert in the Table below details of his income from every source each year from and including the year 1976:—

TABLE

YEARLY INCOME FROM: SALMON FISHING OTHER FISHING OTHER

SOURCES Amount

£ Description Amount

£ Description Amount

£ Description

Details of applicant's fishing boat:

Registered number of the

boat: \_\_\_\_\_

Registered length of

the boat: \_\_\_\_\_

Colour of the

boat: \_\_\_\_\_

I hereby apply to

the South Western Regional Fisheries Board for a salmon drift net

fishing licence for Kerry Fishery District for the \_\_\_\_\_

season. I certify that the information given by me on this

application form is correct. Signature of

Applicant: \_\_\_\_\_

Date: \_\_\_\_\_

I certify that

the above named applicant is known to me, is ordinarily resident at

the address stated, and signed this form in my presence. Signature of

Witness: \_\_\_\_\_

Description of

Witness: \_\_\_\_\_

Address of

Witness: \_\_\_\_\_

**INSTRUCTIONS**

(i) An applicant who held a salmon drift net fishing licence for Kerry Fishery District in any year from and including the year 1976 should state in the Table the number of the licence so held each year.

(ii) An applicant who was a member of a salmon drift net fishing crew in any year from and including the year 1976 should give details of such crew membership in the Table for each year since 1976 and should enclose with his application certificates of his salmon drift net fishing crews membership signed by the holders of

the salmon drift net licences. An applicant who was a member of any other kind of salmon fishing crew should do likewise.

(iii) An applicant who, in the preceding salmon fishing season, held —a salmon drift net licence from any other Regional Fisheries Board or from the Foyle Fisheries Commission, or —a salmon fishing licence of any other kind, except for rod and line, from any Regional Board or from the Foyle Fisheries Commission, must give details of that licence in the Table.

(iv) Income:—The details of income from any source given in the Table should be supported as far as possible by certificates signed by fish dealers in the case of income from fishing (including salmon fishing) and by the employers concerned in the case of income from other sources. As regards income from social welfare benefits, the applicant should state in the Table his Social Insurance reference number concerned.

(v) Registered length of boat: The registered length to be given is the length of the boat from the forepart of the stem to the aft side of the head of the sternpost.

(vi) Witness: The applicant must sign the completed application form in the presence of a witness who is either a Peace Commissioner, a Clergyman, or a member of the Garda Síochána of the rank Sergeant or higher. The witness must sign the form in the place provided.

(vii) COMPLETED APPLICATION FORMS MUST BE SENT TO:

The Regional Fisheries Manager, The South Western Regional Fisheries Board,.....(address),

So as to reach the Manager not later than—

- (i) in the case of applications for licences for the salmon fishing season in the year 1983, the 31st day of January, 1983, and
- (ii) in the case of applications for licences for the salmon fishing season in any subsequent year, the 30th day of November in the year immediately preceding that year.

GIVEN under my Official Seal, this 10th day of December, 1982.  
BRENDAN DALY,  
Minister for Fisheries and Forestry.

EXPLANATORY NOTE.

This Order prescribes the revised maximum number of salmon fishing drift net licences in the Kerry Fishery District (part of the South Western Fisheries Region). The Order also authorises the issue of those licences by the South Western Regional Fisheries Board and prescribes the criteria under which those licences may be issued.