

STATUTORY INSTRUMENTS

S.I. No. 72 of 2005

CONTROL OF FISHING FOR SALMON ORDER 2005

I, Pat the Cope Gallagher, Minister for State at the Department of Communications, Marine and Natural Resources, in exercise of the powers conferred on me by section 29 (as amended by paragraph 4 of Part II of the Fourth Schedule of the Fisheries Act 1980 (No. 1 of 1980)) of the Fisheries (Amendment) Act 1962 (No. 31 of 1962), the Fisheries (Transfer of Departmental Administration and Ministerial Functions) Order 1977 (S.I. No. 30 of 1977) (as adapted by the Marine and Natural Resources (Alteration of Name of Department and Title of Minister) Order 2002 (S.I. No. 307 of 2002)) and the Marine (Delegation of Ministerial Functions) (No. 2) Order 2004 (S.I. No. 703 of 2004), hereby order as follows:

1. This Order may be cited as the Control of Fishing for Salmon Order 2005.

2. (1) In this Order -

"draft net" includes a single wall of netting attached to a floating head rope and a weighted ground rope, designed so that a bag is formed into which the catch is drafted or hauled, for the purpose of taking or fishing for, or attempting to take or to fish for, salmon;

"drift net" includes a single sheet of netting attached to a floating head rope and a weighted ground rope, designed to drift freely at the surface of waters for the purpose of taking or fishing for or attempting to take or to fish for salmon, to which net or ropes no weights or anchoring devices are attached which in any way hinder or prevent the free movement of the net in those waters;

"illness or injury" means illness or injury other than illness or injury that renders a person totally incapacitated by physical or mental infirmity from maintaining himself or herself;

"loop net" includes a net that is attached to a wooden frame that is no larger than 20 feet long and 6 feet wide at its widest end, designed so that the net forms a bag when the frame is held upright when fishing, allowing the catch to enter the net, for the purpose of taking or fishing for, or attempting to take or fish for salmon;

"Principal Act" means the Fisheries (Consolidation) Act 1959;

"snap net" includes a single wall of netting attached to a floating head rope and a weighted ground rope, designed to suspend between two boats and into which the catch is drawn, for the purpose of taking or fishing for, or attempting to take or to fish for salmon.

(2) In this Order, unless otherwise indicated -

(a) a reference to an Article or Schedule is to an Article of, or Schedule to, this Order, and

(b) a reference to a paragraph or subparagraph is a reference to a paragraph or subparagraph of the provision in which the reference occurs.

3. This Order applies to -

(a) all of the waters of the fishery districts referred to in column (1) of Schedule 1 except -

(i) a reference in this Order to the No. 8 or Limerick District does not include a reference -

(I) to the area to which the River Shannon Tidal Waters (Issue of Fishing Licences) Regulations 1935 (S.R.&O. No. 664 of 1935) applies, or

(II) to the fishing weir to which the Fishing Weir Operation (No. 2) Order 1957 (S.I. No. 1 of 1957) applies, and

(ii) a reference in this Order to the No. 13 or Ballyshannon District does not include a reference -

(I) to the area to which the Ballyshannon District Netting Bye-Law No 501, 1959, applies or

(II) to the fishing weir to which the Fishing Weir Operation (No. 4) Order 1960 (S.I. No. 164 of 1960) applies,

and,

(b) all fishing licences for any kind of fishing engine for the taking of salmon, except for fishing licences in respect of a rod and line.

4. (1) (a) Subject to subparagraph (c), the maximum number of fishing licences for any kind of fishing engine for the taking of salmon mentioned in column (2) of Schedule 1, which the regional board in whose fisheries region is situated the fishery district mentioned in column (1) of Schedule 1 opposite the mention of that kind of fishing engine, may issue in any year for the district shall not exceed the number specified in column (3) of Schedule 1 opposite the mention of that kind of fishing engine.

(b) A regional board shall not issue any fishing licences for any fishery district situated within its fisheries region for any kind of fishing engine for the taking of salmon which is not mentioned in column (2) of Schedule 1 opposite the mention of the fishery district in column (1) of the said Schedule.

(c) Notwithstanding paragraph (a), the maximum number of fishing licences for any kind of fishing engine for the taking of salmon in any year issued in respect of that year, shall not exceed the average number of such licences issued each year in the 3 years prior to that year. The average number shall be determined by dividing the total number of licences duly issued in that 3 year period by 3.

(2) A regional board shall not issue a fishing licence, for any kind of fishing engine for the taking of salmon -

(a) to the person paying the licence duty on such engine, or

(b) if the licence operates to authorise the use of the engine to which it relates by any person named in the licence, the person so named,

unless the person referred to at paragraph (a) and, if applicable, paragraph (b) -

(i) has attained the age of 18 years on the date on which the application is made, and

(ii) provides satisfactory evidence of his or her date of birth.

5. A regional board, when considering an application for fishing licences for any kind of fishing engine for the taking of salmon mentioned in column (2) of Schedule 1 opposite the mention of the fishery district in column (1) of that Schedule, shall consider the applications, and, if satisfied having regard to its functions that it is appropriate to do so, shall issue the said licences in the following order, that is to say -

(a) first, to persons who -

(i) have held a fishing licence in respect of the kind of fishing engine, and to fish the waters, in respect of which the application is made for all of the 3 years prior to the year in which the application for the fishing licence is made, and

(ii) have fished in accordance with the fishing licence themselves and did not permit fishing to take place in any of those years under the authority of their licence by any other person,

(b) second, to persons -

(i) who have held a fishing licence in respect of the kind of fishing engine, and to fish the waters, in respect of which the application is made for all of the 3 years prior to the year in which the application for the fishing licence is made,

(ii) who have failed to be present during all of the fishing operations to which the licence applies in any or in any part of the fishing seasons in those 3 years due to illness or injury, in respect of which illness or injury the licence holder has furnished satisfactory written evidence to the regional board, and

(iii) whose fishing licence operates to authorise the use of the engine to which it relates by any person named in the licence and who nominated the person so named to fish in accordance with the licence, and the person so nominated fished in accordance with the fishing licence,

(c) third, to persons who -

(i) have held a fishing licence in respect of the kind of fishing engine, and to fish the waters, in respect of which the application is made for all of the 2 years prior to the year in which the application for the fishing licence is made and,

(ii) have fished in accordance with the fishing licence themselves and did not permit fishing to take place in any of those years under the authority of their licence by any other person,

(d) fourth, to persons -

(i) who have held a fishing licence in respect of the kind of fishing engine, and to fish the waters, in respect of which the application is made for all of the 2 years prior to the year in which the application for the fishing licence is made,

(ii) who have failed to be present during all of the fishing operations to which the licence applies in any or in any part of the fishing seasons in those 2 years due to illness or injury, in respect of which illness or injury the licence holder has furnished satisfactory written evidence to the regional board, and

(iii) whose fishing licence operates to authorise the use of the engine to which it relates by any person named in the licence and who nominated the person so named to fish in accordance with the licence, and the person so nominated fished in accordance with the fishing licence,

(e) fifth, to persons who -

(i) have held a fishing licence in respect of the kind of fishing engine, and to fish the waters, in respect of which the application is made for all of the year prior to the year in which the application for the fishing licence is made and,

(ii) have fished in accordance with the fishing licence themselves and did not permit fishing to take place in that year under the authority of their licence by any other person,

(f) sixth, to persons -

(i) who have held a fishing licence in respect of the kind of fishing engine, and to fish the waters, in respect of which the application is made for the year prior to the year in which the application for the fishing licence is made,

(ii) who have failed to be present during all of the fishing operations to which the licence applies in any or in any part of the fishing seasons in that year due to illness or injury, in respect of which illness or injury the licence holder has furnished satisfactory written evidence to the regional board, and

(iii) whose fishing licence operates to authorise the use of the engine to which it relates by any person named in the licence and who nominated the person so named to fish in accordance with the licence, and the person so nominated fished in accordance with the fishing licence,

(g) seventh, to persons who -

(i) did not hold a fishing licence in respect of the kind of fishing engine, and to fish the waters, in respect of which the application is made in the year prior to the year in which he or she makes the application for a fishing licence but who did hold such a fishing licence for the 2 years prior to that year, and

(ii) have fished in accordance with the fishing licence themselves and did not permit fishing to take place in any of those years under the authority of their licence by any other person,

(h) eighth, to persons -

(i) who did not hold a fishing licence in respect of the kind of fishing engine, and to fish the waters, in respect of which the application is made in the year prior to the year in which he or she makes the application for a fishing licence but who did hold a fishing licence for the 2 years prior to that year,

(ii) who have failed to be present during all of the fishing operations to which the licence applies in any or in any part of the fishing seasons in those 2 years due to illness or injury, in respect of which illness or injury the licence holder has furnished satisfactory written evidence to the regional board, and

(iii) whose fishing licence operates to authorise the use of the engine to which it relates by any person named in the licence and who nominated the person so named to fish in accordance with the licence, and the person so nominated fished in accordance with the fishing licence,

(i) ninth, to persons who -

(i) did not hold a fishing licence in respect of the kind of fishing engine, and to fish the waters, in respect of which the application is made in the year prior to the year in which they make the application for a fishing licence but who did hold such a licence in the year prior to that year, and

(ii) have fished in accordance with the fishing licence themselves and did not permit fishing to take place in any of those years under the authority of their licence by any other person,

(j) tenth to persons -

(i) who did not hold a fishing licence in respect of the kind of fishing engine, and to fish the waters, in respect of which the application is made, in the year prior to the year in which he or she

makes the application for a fishing licence but who did hold a fishing licence for the year prior to that year,

(ii) who have failed to be present during all of the fishing operations to which the licence applies in any or in any part of the fishing seasons in that year due to illness or injury, in respect of which illness or injury the licence holder has furnished satisfactory written evidence to the regional board, and

(iii) whose fishing licence operates to authorise the use of the engine to which it relates by any person named in the licence and who nominated the person so named to fish in accordance with the licence, and the person so nominated fished in accordance with the fishing licence,

(k) eleventh, to persons who -

(i) did not hold a fishing licence in respect of that kind of fishing engine, and to fish the waters in respect of which the application is made in the 2 years prior to the year in which they make the application for a fishing licence but who did hold such a licence in the year prior to those 2 years, and

(ii) have fished in accordance with the fishing licence themselves and did not permit fishing to take place in any of those years under the authority of their licence by any other person,

(l) twelfth, to persons -

(i) who did not hold a fishing licence in respect of that kind of fishing engine, and to fish the waters in respect of which the application is made, in the 2 years prior to the year in which he or she makes the application for a fishing licence but who did hold a fishing licence for the year prior to those 2 years,

(ii) who have failed to be present during all of the fishing operations to which the licence applies in any or in any part of the fishing seasons in that year due to illness or injury, in respect of which illness or injury the licence holder has furnished satisfactory written evidence to the regional board, and

(iii) whose fishing licence operates to authorise the use of the engine to which it relates by any person named in the licence and who nominated the person so named to fish in accordance with the licence, and the person so nominated fished in accordance with the fishing licence.

(m) thirteenth, to persons authorised and named on a licence held by a person referred to in paragraph (b), in accordance with subparagraph (iii) of that paragraph, for all of the 3 years prior to the year in which the application for the fishing licence is made and who have fished in accordance with the licence,

(n) fourteenth, to persons authorised and named on a licence held by a person referred to in paragraph (d), in accordance with subparagraph (iii) of that paragraph, for all of the 2 years prior to the year in which the application for the fishing licence is made and who have fished in accordance with the licence,

(o) fifteenth, to persons authorised and named on a licence held by a person referred to in paragraph (f), in accordance with subparagraph (iii) of that paragraph, for all of the year prior to the year in which the application for the fishing licence is made and who have fished in accordance with the licence,

(p) sixteenth, to persons authorised and named on a licence held by a person referred to in paragraph (h), in accordance with subparagraph (iii) of that paragraph, for all of the 2 years prior to the year that is prior to the year in which the application for the fishing licence is made and who have fished in accordance with the licence,

(q) seventeenth, to persons authorised and named on a licence held by a person referred to in paragraph (j), in accordance with sub-paragraph (iii) of that paragraph, for all of the year prior to the year that is prior to the year in which the application for the fishing licence is made and who have fished in accordance with the licence,

(r) eighteenth, to persons authorised and named on a licence held by a person referred to in paragraph (l), in accordance with subparagraph (iii) of that paragraph, for all of the year prior to the 2 years that are prior to the year in which the application for the fishing licence is made and who have fished in accordance with the licence,

(s) nineteenth, to persons who -

(i) have attained the age of 18 years on the date on which the application is made, and

(ii) provide satisfactory evidence of their date of birth.

6. A person shall not hold, at the same time, -

(a) more than one fishing licence for a particular kind of fishing engine for the taking of salmon;

(b) a fishing licence for a particular kind of fishing engine for the taking of salmon and a fishing licence for that kind of fishing engine for the taking of salmon in the Foyle Area (within the meaning of the Foyle Fisheries Act 1952 (No. 5 of 1952)).

7. If, in respect of any kind of fishing engine for the taking of salmon mentioned in column (2) of Schedule 1, opposite the mention of the fishery district in Column (1) of that Schedule, the number of licences referred to in column (3) of that Schedule is less than the number of applicants for those licences, then, after the regional board has in each case considered the applications and duly issued licences to applicants in the order referred to in Article 5, it shall be a matter for that regional board to determine, having regard to its functions, to whom, if to any person, to issue any licences not issued in accordance with that Article.

8. (1) The number of fishing licences that a regional board may issue for any kind of fishing engine for the taking of salmon in a several fishery in a fishery district specified in column (1) of the First Schedule to this Order shall not exceed

(a) the number issued for that kind of fishing engine for the taking of salmon in the year preceding the year for which the licences are being issued,

(b) in a case where the several fishery is one in respect of which no licences for that kind of fishing engine for the taking of salmon were issued for that year, the average number of fishing licences for that kind of fishing engine for the taking of salmon issued in respect of the several fishery for the years from the year 1963 to 1972. The average shall be obtained by dividing the total number of licences duly issued in that 9 year period by 9, or

(c) in a case where the several fishery is one in respect of which no licences were issued for 1963 or since that year, one.

(2) Articles 5, 6, 7, and 9 shall not apply in respect of fishing licences for any kind of fishing engine for the taking of salmon in a several fishery.

9. (1) An application to a regional board for a fishing licence for any kind of fishing engine for the taking of salmon shall be made in the form specified in Schedule 2, not later than the 31 January immediately preceding the commencement of the salmon fishing season to which the application relates and payment of the appropriate licence fee shall be made prior to issue of the fishing licence.

(2) Notwithstanding paragraph (1), an application to a regional board for a fishing licence for any kind of fishing engine for the taking of salmon for the salmon fishing season of 2005, shall be made in the form specified in Schedule 2, not later than 18 March 2005, and payment of the appropriate licence fee shall be made prior to issue of the fishing licence.

10. A fishing licence granted and in force immediately before the commencement of this Order under the Control of Fishing For Salmon Order 1980 (S.I. No. 360 of 1980) and the Control of Fishing for Salmon by Drift Net (Kerry Fishery District) Order 1982 (S.I. No 367 of 1982) continues in force after such commencement as if granted under this Order.

11. The following are revoked:

(a) the Control of Fishing for Salmon Order 1980,

(b) the Control of Fishing for Salmon by Drift Net (Kerry Fishery District) Order 1982,

(c) the Control of Fishing for Salmon (Amendment) Order 2005 (S.I. No. 21 of 2005), and

(d) the Control of Fishing for Salmon by Drift Net (Kerry Fishery District) (Amendment) Order 2005 (S.I. No. 22 of 2005).

Article 4

Article 5

Article 7

(1)

(2)

(3)

Fishery District
Fishing Engine
Maximum number of fishing licences

No. 1 or Dublin District

Draft Net

11

Drift Net

16

No. 2 or Wexford District

Draft Net

75

No. 3 or Waterford District

Draft Net

3

Drift Net

173

Snap Net

132

No. 4 or Lismore District

Drift Net

40

No. 5 or Cork District

Draft Net

33

Drift Net

110

No. 7 or Kerry District

Draft Net

34

Drift Net

39

No. 8 or Limerick District

Draft Net

81

Drift Net

16

No. 91 or Galway District

Draft Net

5

Drift Net
37

No. 92 or Connemara District
Drift Net
29

No. 101 or Ballinakill District
Draft Net
17

Drift Net
40

No. 102 or Bangor District
Draft Net (Special tidal waters)
25

Draft Net
3

Drift Net
41

No. 11 or Ballina District
Draft Net
3

Drift Net
69

No. 12 or Sligo District
Drift Net
10

No. 13 or Ballyshannon District
Draft Net (Special tidal waters)
16

Draft Net
77

Drift Net
28

No. 141 or Letterkenny District
Draft Net (Special tidal waters)
15

Draft Net
31

Drift Net
127

Loop Net
20

No. 172 or Dundalk District
Draft Net
40

No. 171 or Drogheda District
Draft Net
50

Article 9

CONTROL OF FISHING FOR SALMON ORDER
APPLICATION FOR A SALMON FISHING LICENCE (OTHER THAN ROD AND LINE)
IN THE _____ FISHERY DISTRICT

Part I.

Name of Applicant: _____ Date of Birth: _____

Home Address: _____

Tel: _____

(a) If you held a salmon net fishing licence in all, or any, of the last three salmon fishing seasons, insert in the table below the year(s) in which you held the licence and the numbers of fish caught during those years. (Alternatively, you can tick the box for number s of fish caught and the Fisheries Board will enter these details onto the form from your logbook returns during those years).

(b) If you did not hold a salmon net fishing licence for any of the last three salmon fishing seasons but were authorised and named on a licence held by a person referred to at (1), complete the table below giving appropriate details.

returns () Please tick if you wish these details to be taken from your logbook

Year	Licence holder/authorised person (please state which)	No. of salmon caught	No. of sea trout over 40cm caught
------	---	----------------------	-----------------------------------

1

2

3

(c) I have/have not held a salmon licence issued by the Foyle Carlingford and Irish Lights Commission during the last three years (If so give particulars).

(d) I hereby apply for a salmon fishing licence to operate a _____ (state type of net etc.) during the _____ season in the _____ fishery district.

(e) I wish to have the following person authorised and named to operate the licence in my absence during the _____ season in accordance with Articles 4 and 5 of this Order.

Name: _____ Date of Birth: _____

Address: _____

Tel. No.: _____

Signature of applicant: _____ Date: _____

Part II.

The Certificate must be completed in every application

I, _____ certify that Mr/Mrs/Ms _____
who is known to me, is ordinarily resident in the address stated in Part I and signed this form in my
presence.

Signature: _____

Official Stamp

Qualification: _____

Address: _____

Note: The signature of the applicant for a fishing licence must be witnessed by either a Peace Commissioner, a Clergyman or a member of An Garda Síochána in whose district the applicant resides.

The latest date for receipt of completed applications forms is 31 January.

Completed application forms should be sent to: The Chief Executive Officer,

* _____ Regional Fisheries Board

(*Insert name of relevant fisheries region)

PARTS I AND II OF THIS APPLICATION FORM MUST BE COMPLETED BEFORE
THE FORM IS RETURNED TO THE REGIONAL FISHERIES BOARD INDICATED ABOVE.

PLEASE ATTACH BIRTH CERTIFICATE OF APPLICANT AND IF APPLICABLE, OF
PERSON AUTHORISED TO OPERATE THE LICENCE.

GIVEN under my hand,

16 February 2005.

Pat the Cope Gallagher,
Minister of State at the Department of Communications,
Marine and Natural Resources.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

This Order, which replaces the Control of Fishing for Salmon Order 1980 (as amended) and the Control of Fishing for Salmon by Drift Net (Kerry Fishery District) Order 1982 (as amended), authorises the issue of commercial salmon fishing licences by Regional Fisheries Boards and prescribes the criteria under which those licences may be issued. The Order also specifies the maximum numbers of commercial licences which may be issued by Regional Boards.