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# S.I. No. 142/2009 - Control of Fishing For Salmon Order 2009

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S.I. No. 142 of 2009

CONTROL OF FISHING FOR SALMON ORDER 2009

*Notice of the making of this Statutory Instrument was published in*

*“Iris Oifigiúil” of 21st April, 2009.*

I, SEAN POWER, Minister of State at the Department of Communications, Energy 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 to 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 Communications, Marine and Natural Resources (Alteration of Name of Department and Title of Minister) Order 2007 (S.I. No. 706 of 2007)) and the Energy and Natural Resources (Delegation of Ministerial Functions) Order 2008 ( S.I. No. 460 of 2008 ), and having complied with the requirements of Regulation 31 of the European Communities (Natural Habitats) Regulations 1997 ( S.I. No. 94 of 1997 ), hereby order as follows:

1. This Order may be cited as the Control of Fishing for Salmon Order 2009.

2. 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;

“Salmon Hardship Scheme” means the scheme established by the Government Decision of 1 November 2006 to assist salmon commercial fishermen who previously fished in areas that have now been closed for conservation reasons and commercial salmon fishermen who cease to fish for salmon;

“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;

“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.

3. This Order applies to—

(a) all of the waters of the fishery districts referred to in column (1) of Schedule 1, 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. A person who has formally accepted an offer under the Salmon Hardship Scheme is not eligible to apply for any commercial fishing licence under this Order.

5. (1) (a) 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 that Schedule.

(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.

6. A regional board, when considering applications for fishing licences for any kind of fishing engine, other than snap net fishing engines in the year 2009 in respect of snap net licences referred to in Article 7 (1), 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 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 subparagraph (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, and

(*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.

7. (1) The Southern Regional Fisheries Board, may in the year 2009, on application to it, issue available snap net fishing licences in respect of snap net fishing on the River Nore in the No. 3 or Waterford District, to persons who held snap net fishing licences to fish in that fishery district, in the year 2006, allocated under the Control of Fishing for Salmon Order 2005 ( S.I. No. 72 of 2005 ) and who did not avail of the Hardship Scheme, and, if satisfied having regard to its functions that it is appropriate to do so, shall issue the licences in the following order, that is to say—

(*a*) first, to persons who held snap net fishing licences in the year 2006, and traditionally fished the River Nore, and

(*b*) second, to persons who held snap net fishing licences in that year, and fished in any of the other rivers in that fishery district.

(2) If any snap net fishing licences are still available under paragraph (1), after the Southern Regional Fisheries Board has duly issued licences applied for in accordance with that paragraph, then, the Board may issue the remainder and shall consider any applications in respect of any available licences, and, if satisfied having regard to its functions that it is appropriate to do so, shall issue the licences in the sequence referred to in Article 6.

8. 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, or

(*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)).

9. 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 Articles 6 and 7, 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 those Articles.

10. (1) Subject to paragraph (3), 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 Schedule 1 and 1 (a) 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 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 the year 1963 or since that year, one.

(2) Articles 5, 6, 7, 8, 9 and 11 do not apply in respect of fishing licences for any kind of fishing engine for the taking of salmon in a several fishery.

(3) A regional board shall not issue a fishing licence for any kind of fishing engine for the taking of salmon in a several fishery unless to do so is consistent with the conservation and management of both the several and public fisheries in accordance with the Fisheries Acts 1959 to 2006.

11. 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 20 April 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.

12. The Control of Fishing for Salmon Order 2008 ( S.I. No. 98 of 2008 ) is revoked.

*Articles 3, 5, 6, 7 and 9.*

#### SCHEDULE 1 FISHING LICENCES

(3)Maximum number of fishing licences			(1)Fishery District	(2)Fishing Engine
No. 3 or Waterford District	Snap net	32		
No. 5 or Cork District	Draft net	17		
No. 7 or Kerry District	Draft net	3		
No. 8 or Limerick District	Draft net	49		
No. 101 or Ballinakill District	Draft net	16		
No. 102 or Bangor District	Draft net (special tidal waters)	231		



No. 13 or Ballyshannon District      Draft net      23

No. 141 or Letterkenny District      Draft net (special tidal waters) Draft net      1210

*Article 11.*

SCHEDULE 2 CONTROL OF FISHING FOR SALMON ORDER 2009

APPLICATION FOR A SALMON FISHING LICENCE (OTHER THAN ROD AND LINE)

IN THE ..... FISHERY DISTRICT

*Part 1*

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.

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

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 the Control of Fishing for Salmon Order 2009.

Name: .....Date of Birth: .....

Address:

Tel. No.: .....

Signature of applicant: .....

Date: .....

### *Part 2 CERTIFICATE*

This 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 \*Position: .....

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 the Garda Síochána in whose district the applicant resides.

The latest date for receipt of completed applications forms is 20 April.

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,

17 April 2009

SEAN POWER.

Minister of State at the Department of Communications, Energy and Natural Resources.

#### EXPLANATORY NOTE

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

This Order authorises the issue of commercial fishing licences by regional fisheries boards and sets out the criteria under which those licences may be issued and prescribes the maximum number of commercial licences which may be issued by regional boards.

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