

2010 No. 199

FISHERIES

The Foyle Area (Control of Fishing) Regulations 2010

Made - - - -

2nd June 2010

Coming into operation -

11th June 2010

The Foyle, Carlingford and Irish Lights Commission, with the approval of the North/South Ministerial Council, makes the following Regulations in exercise of the powers conferred by section 13(1) of the Foyle Fisheries Act 1952(a) and section 13(1) of the Foyle Fisheries Act (Northern Ireland) 1952(b) and now vested in it(c).

Citation, commencement and application

1.—(1) These Regulations may be cited as the Foyle Area (Control of Fishing) Regulations 2010 and shall come into operation on 11th June 2010.

(2) These Regulations apply in the Foyle Area only.

Interpretation

2.—(1) In these Regulations—

“angling” means fishing for salmon, sea trout or brown trout by rod and line;

“annual close season for angling”, in relation to any waters, means the annual close season for angling in those waters prescribed by the Foyle Area and Carlingford Area (Close Seasons for Angling) Regulations 2001(d);

“annual season for netting”, in relation to any waters, means the period outside the annual close season for fishing in those waters using a net prescribed by the Foyle Area (Close Season) Regulations 1999(e);

“brown trout” means a fish of the species *Salmo trutta*, but does not include sea trout;

“catch and release” means angling without using or attempting to use any hook, other than a single barbless hook where the gape of the hook does not exceed 7mm, or earthworm as bait and returning any salmon, sea trout or brown trout taken immediately to the waters from which it was taken without avoidable injury;

“datum” means Mean Sea Level Belfast vertical datum;

“the defined mouth”, in relation to the River Foyle, means the mouth of that river as defined by instrument dated 8th February 1864 made under section 17 of the Salmon Fishery (Ireland) Act 1863(f);

(a) Legislation of the Republic of Ireland

(b) 1952 c.5 (N.I.) as amended by S.I. 1999/859 and S.I. 2007/915 (N.I. 9)

(c) S.I. 1999/859 Article 21(1)

(d) S.R. 2001 No. 160 as amended by S.R. 2005 No. 400

(e) S.R. 1999 No. 482

(f) 26 & 27 Vict., c114

“the defined mouth”, in relation to the River Roe, means the mouth of that river as defined by the Foyle Area (Definition of the Mouth of the River Roe) Regulations 1983(a);

“earthworm” means any worm of the Family *Lumbricidae*;

“gape”, in relation to a fishing hook, means the distance when the hook is normally aligned between the point of the hook and the shank of the hook;

“hook” means a hook attached to a fishing line;

“the Loughs Agency” means the executive agency through which the Commission exercises its functions under the Foyle Fisheries Act (Northern Ireland) 1952 and the Foyle Fisheries Act 1952;

“Lough Foyle” means those waters in the Foyle Area bounded on the north or seaward side by an imaginary straight line drawn between Greencastle Fort in the County of Donegal and the Martello Tower at Magilligan Point in the County of Londonderry and bounded on the south by the defined mouth of the River Foyle;

“netting” means using any net for the purpose of taking salmon or sea trout;

“the River Faughan Fish Counter” means the automatic fish counter situated on the River Faughan at Irish Grid reference C48887, 19995 in the townland of Campsie in the County of Londonderry;;

“the River Finn Fish Counter” means the automatic fish counter situated on the River Finn at Irish Grid reference H20230, 94122 in the townland of Killygordon in the County of Donegal;

“the River Foyle” means all of the River Foyle upstream of the defined mouth of the River Foyle;

“the River Roe” means all of the river Roe upstream of the defined mouth of the River Roe;

“the River Roe Fish Counter” means the automatic fish counter situated on the River Roe at Irish Grid reference C67257, 23910 in the townland of Drumballydonaghy in the County of Londonderry;;

“the River Roe Gauging Station” means the Department of Agriculture and Rural Development Gauging Station situated on the River Roe at Irish Grid reference C67323, 24644 in the townland of Ardnargle in the County of Londonderry;

“salmon” means a fish of the species *Salmo salar* (Atlantic salmon);

“sea trout” means a fish of the species *Salmo trutta*, which migrates to and from the sea;

“seaward of Lough Foyle” means those waters in the Foyle Area which lie seawards of an imaginary straight line drawn between Greencastle Fort in the County of Donegal and the Martello Tower at Magilligan Point in the County of Londonderry;

“the Sion Mills Fish Counter” means the automatic fish counter situated on the River Mourne at Sion Mills Weir at Irish Grid reference H34772, 92826 in the townland of Drumnaboy in the County of Tyrone;

“the Sion Mills River Gauging Station” means the Department of Agriculture and Rural Development Gauging Station situated on the River Mourne at Irish Grid reference H34779, 95969 in the townland of Drumnaboy in the County of Tyrone;

“weekly close time”, in relation to any waters, means the weekly close time for fishing in those waters prescribed by the Foyle Area (Weekly Close Time) Regulations 1981(b).

(2) Any reference in these Regulations to the River Mourne, the River Faughan, the River Roe or the River Finn includes a reference to the tributaries of that river.

(a) S.R. 1983 No. 181

(b) S.R. 1981 No. 139 as amended by S.R. 1986 No. 145

Restriction on angling to catch and release in the River Mourne, River Faughan, River Roe and River Finn and suspension of netting in the River Foyle, Lough Foyle and seaward of Lough Foyle where numbers of migrating salmon do not exceed the specified target

3.—(1) The Commission shall make a declaration in accordance with paragraph (2) if it is satisfied that—

- (a) the number of salmon which have migrated upstream of the Sion Mills Fish Counter during each of any two of the previous five calendar years has not exceeded 8,000; or
- (b) the number of salmon which have migrated upstream of the River Faughan Fish Counter during each of any two of the previous five calendar years has not exceeded 800; or
- (c) the number of salmon which have migrated upstream of the River Roe Fish Counter during each of any two of the previous five calendar years has not exceeded 1,833; or
- (d) the number of salmon which have migrated upstream of the River Finn Fish Counter during each of any two of the previous five calendar years has not exceeded 5,410.

(2) A declaration under paragraph (1) shall—

- (a) in the case of sub-paragraph (a), suspend netting in the River Foyle, Lough Foyle and seaward of Lough Foyle and restrict angling in the River Mourne to angling on a catch and release basis only from the date and time specified in the declaration;
- (b) in the case of sub-paragraph (b), suspend netting in Lough Foyle and seaward of Lough Foyle and restrict angling in the River Faughan to angling on a catch and release basis only from the date and time specified in the declaration;
- (c) in the case of sub-paragraph (c), suspend netting in Lough Foyle and seaward of Lough Foyle and restrict angling in the River Roe to angling on a catch and release basis only from the date and time specified in the declaration;
- (d) in the case of sub-paragraph (d), suspend netting in the River Foyle, Lough Foyle and seaward of Lough Foyle and restrict angling in the River Finn to angling on a catch and release basis only from the date and time specified in the declaration.

(3) The Commission shall make a declaration ending the suspension of netting and restriction on angling imposed by a declaration made under paragraph (1) if it is satisfied that, in relation to the River Mourne, the River Faughan, the River Roe or, as the case may be, the River Finn, the number of salmon which have migrated upstream of the fish counter on that river referred to in paragraph (1) during each of any four of the previous five calendar years has exceeded the number of salmon for that river specified in paragraph (1).

Restriction on angling to catch and release in the River Mourne, River Faughan, River Roe and River Finn where numbers of migrating salmon do not exceed the specified target

4.—(1) This regulation does not apply in relation to any waters where a declaration made under regulation 3(1) restricting angling in those waters is in force.

(2) The Commission shall make a declaration in accordance with paragraph (3) if it is satisfied that—

- (a) the number of salmon which have migrated upstream of the Sion Mills Fish Counter during the period 1st January to 31st August (both dates inclusive) in any calendar year has not exceeded 5,600; or
- (b) the number of salmon which have migrated upstream of the River Faughan Fish Counter during the period 1st January to 31st August (both dates inclusive) in any calendar year has not exceeded 560; or
- (c) the number of salmon which have migrated upstream of the River Roe Fish Counter during the period 1st January to 31st August (both dates inclusive) in any calendar year has not exceeded 1,283; or
- (d) the number of salmon which have migrated upstream of the River Finn Fish Counter during the period 1st January to 30th June (both dates inclusive) in any calendar year has not exceeded 3,787.

(3) A declaration under paragraph (2) shall restrict angling in the River Mourne, the River Faughan, the River Roe or, as the case may be, the River Finn to angling on a catch and release basis only from the date and time specified in the declaration until the beginning of the next following annual close season for angling.

Suspension of angling in the River Mourne, River Faughan and River Roe where numbers of migrating salmon do not exceed the specified target

5.—(1) The Commission shall make a declaration in accordance with paragraph (2) if it is satisfied that—

- (a) the number of salmon which have migrated upstream of the Sion Mills Fish Counter during the period 1st May to 15th September (both dates inclusive) in any calendar year has not exceeded 7,000; or
- (b) the number of salmon which have migrated upstream of the River Faughan Fish Counter during the period 1st May to 15th September (both dates inclusive) in any calendar year has not exceeded 1,000; or
- (c) the number of salmon which have migrated upstream of the River Roe Fish Counter during the period 1st May to 15th September (both dates inclusive) in any calendar year, has not exceeded 1,000.

(2) A declaration under paragraph (1) shall—

- (a) in the case of sub-paragraph (a), suspend angling in the River Mourne from the 11th October in that year until the beginning of the next following annual close season for angling;
- (b) in the case of sub-paragraph (b), suspend angling in the River Faughan from the 11th October in that year until the beginning of the next following annual close season for angling;
- (c) in the case of sub-paragraph (c), suspend angling in the River Roe from the 11th October in that year until the beginning of the next following annual close season for angling.

Suspension of angling in the River Mourne and suspension of angling and netting in the River Foyle, Lough Foyle and seaward of Lough Foyle when River Mourne in flood

6.—(1) This regulation does not apply in relation to any waters—

- (a) where a declaration made under regulation 3(1) suspending netting or restricting angling in those waters is in force; or
- (b) where regulation 10(3) applies.

(2) The Commission shall make a declaration in accordance with paragraph (3) if it is satisfied that—

- (a) the water level in the River Mourne, as recorded by the Sion Mills River Gauging Station, has at any time during the period 1st July to 10th July (both dates inclusive) in any calendar year risen above 2.5 metres over datum and the number of salmon which have migrated upstream of the Sion Mills Fish Counter during the period 1st May to 30th June (both dates inclusive) in the same year has not exceeded 2,600; or
- (b) the water level in the River Mourne, as recorded by the Sion Mills River Gauging Station, has at any time during the period 11th July to 29th July (both dates inclusive) in any calendar year risen above 2.5 metres over datum and the number of salmon which have migrated upstream of the Sion Mills Fish Counter during the period 1st May to 10th July (both dates inclusive) in the same year has not exceeded 4,200.

(3) Subject to regulation 10, a declaration under paragraph (2) shall suspend—

- (a) angling and netting in the River Foyle, Lough Foyle and seaward of Lough Foyle for a period of 48 hours from the date and time specified in the declaration; and

- (b) angling in the River Mourne for a period of 48 hours from the date and time specified in the declaration.

7.—(1) This regulation does not apply in relation to any waters—

- (a) where a declaration made under regulation 3(1) suspending netting or restricting angling in those waters is in force; or
- (b) where regulation 10(3) applies.

(2) The Commission shall make a declaration in accordance with paragraph (3) if it is satisfied that—

- (a) the water level in the River Mourne, as recorded by the Sion Mills River Gauging Station, has at any time during the period 1st July to 10th July (both dates inclusive) in any calendar year risen above 2 metres over datum and the number of salmon which have migrated upstream of the Sion Mills Fish Counter during the period 1st May to 30th June (both dates inclusive) in the same year has not exceeded 2,600; or
- (b) the water level in the River Mourne, as recorded by the Sion Mills River Gauging Station, has at any time during the period 11th July to 29th July (both dates inclusive) in any calendar year risen above 2 metres over datum and the number of salmon which have migrated upstream of the Sion Mills Fish Counter during the period 1st May to 10th July (both dates inclusive) in the same year has not exceeded 4,200.

(3) Subject to regulation 10, a declaration under paragraph (2) shall suspend—

- (a) angling and netting in the River Foyle, Lough Foyle and seaward of Lough Foyle for a period of 24 hours from the date and time specified in the declaration; and
- (b) angling in the River Mourne for a period of 24 hours from the date and time specified in the declaration.

Suspension of netting and angling in the River Roe when River Roe in flood

8.—(1) This regulation does not apply where a declaration made under regulation 3(1) suspending netting or restricting angling in the River Roe is in force.

(2) The Commission shall make a declaration in accordance with paragraph (3) if it is satisfied that the water level in the River Roe, as recorded by the River Roe Gauging Station, has at any time during the period 1st August to 13th August (both dates inclusive) in any calendar year risen above 2 metres over datum and the number of salmon which have migrated upstream of the River Roe Fish Counter during the period 1st June to 31st July (both dates inclusive) in the same year has not exceeded 650.

(3) Subject to regulation 10, a declaration under paragraph (2) shall suspend netting and angling in the River Roe for a period of 48 hours from the date and time specified in the declaration.

Suspension of angling in the River Mourne and suspension of angling and netting in the River Foyle, Lough Foyle and seaward of Lough Foyle in drought conditions

9.—(1) This regulation does not apply in relation to any waters where a declaration made under regulation 3(1) suspending netting or restricting angling in those waters is in force.

(2) The Commission shall make a declaration in accordance with paragraph (3) if it is satisfied that the water level in the River Mourne, as recorded by the Sion Mills River Gauging Station, has at any time during the period 1st April to 20th October (both dates inclusive) in any calendar year fallen below 0.7 metres over datum for a continuous period of 72 hours or more.

(3) A declaration under paragraph (2) shall suspend—

- (a) angling and netting in the River Foyle, Lough Foyle and seaward of Lough Foyle from the date and time specified in the declaration; and
- (b) angling in the River Mourne from the date and time specified in the declaration.

(4) The Commission shall make a declaration ending the suspension of angling and netting imposed by the declaration made under paragraph (1) if it is satisfied that the water level in the River Mourne, as recorded by the Sion Mills River Gauging Station, has at any time during the period 1st April to 20th October (both dates inclusive) in any calendar year risen above 0.7 metres over datum for a continuous period of not less than 6 hours.

Supplementary provision in relation to declarations made under regulations 6, 7 and 8

10.—(1) Any period of suspension of netting imposed by a declaration made under regulation 6, 7 or 8 in relation to any waters—

- (a) shall not begin or end during the weekly close time; and
- (b) shall not take effect less than 6 hours after the time of publication of the declaration in accordance with regulation 12.

(2) Where the Commission has during any annual season for netting made a declaration under regulation 7(2) suspending netting in any waters for a period of 24 hours, any further period of suspension imposed by a declaration made under regulation 7(2) or 6(2) in relation to those waters during the same annual season shall not exceed 24 hours.

(3) Where the Commission has during any annual season for netting made a declaration under regulation 6(2) suspending netting in any waters for a period of 48 hours, no further declaration under regulation 6(2) or 7(2) shall be made in relation to those waters during the same annual season.

Prohibition of netting and angling during period of suspension

11.—(1) A person shall not, for the purpose of taking salmon or sea trout, use a net in the River Foyle, Lough Foyle and seaward of Lough Foyle or in the River Roe during any period of suspension of netting imposed in relation to those waters by a declaration made under regulation 3, 6, 7, 8 or 9.

(2) A person shall not angle in the River Mourne, the River Roe or the River Faughan during any period of suspension of angling imposed in relation to those waters by a declaration made under regulation 5, 6, 7, 8 or 9.

(3) A person shall not kill any salmon, sea trout or brown trout taken by rod and line from the River Mourne, the River Faughan, the River Roe or the River Finn during any period of restriction on angling to catch and release imposed in relation to those waters by a declaration made under regulation 3 or 4.

Declarations

12.—(1) A declaration made under these Regulations shall be made by certificate in writing signed by the Chief Executive of the Loughs Agency and shall be published in such manner as the Commission considers appropriate to bring it to the attention of the persons likely to be affected by it.

(2) A declaration shall—

- (a) state the grounds on which it is made;
- (b) specify the location of the relevant fish counter and state the number of migrating salmon recorded by that counter during the relevant period;
- (c) where applicable, specify the location of the relevant gauging station and state the water level recorded by that station during the relevant period and the time at which that water level was recorded;
- (d) specify the waters in which any suspension of angling or netting or any restriction on angling applies;
- (e) specify the nature of the suspensions or restrictions applicable in those waters;

- (f) specify, as appropriate, the date and time when the suspension or restriction takes effect or the date and time when the suspension or restriction will end or both.

Malfunction of fish counters

13.—(1) Where any fish counter referred to in regulation 5, 6, 7 or 8 ceases to operate for a total of 5 days or more during any of the periods referred to in those regulations, the Commission shall not make a declaration suspending netting or angling or restricting angling under the regulation in question based on a recording taken from that fish counter during the period referred to in that regulation.

(2) For the purposes of calculating the total number of salmon which have migrated upstream during any period referred to in regulation 5, 6, 7 or 8, where any fish counter referred to in those regulations ceases to operate for less than 5 days during the period in question, the number of salmon which have migrated upstream of that fish counter for each day the fish counter was not operating shall be the average number of salmon recorded by that fish counter for each day it was operating during the period in question.

(3) In this regulation “day” means a complete day.

Amendment of the Foyle Area (Control of Drift and Draft Net Fishing) Regulations 2004

14.—(1) The Foyle Area (Control of Drift and Draft Net Fishing) Regulations 2004(a) are amended in accordance with paragraph (2).

(2) In regulation 2 (interpretation)—

(a) for the definition of “datum years” substitute—

““datum years” means the first three calendar years immediately preceding the calendar year in respect of which the licence application is made during which there was no suspension of netting under regulation 3 of the Foyle Area (Control of Fishing) Regulations 2010;”

(b) for the definition of “first datum year” substitute—

““first datum year” means the first calendar year immediately preceding the calendar year in respect of which the licence application is made during which there was no suspension of netting under regulation 3 of the Foyle Area (Control of Fishing) Regulations 2010;”

(c) for the definition of “second datum year” substitute—

““the second datum year” means the first calendar year immediately preceding the first datum year during which there was no suspension of netting under regulation 3 of the Foyle Area (Control of Fishing) Regulations 2010;”

(d) for the definition of “third datum year” substitute—

““third datum year” means the first calendar year immediately preceding the second calendar year during which there was no suspension of netting under regulation 3 of the Foyle Area (Control of Fishing) Regulations 2010”.

Revocation

15. The Foyle Area (Control of Fishing) Regulations 1999(b) are revoked.

(a) S.R. 2004 No. 255

(b) S.R. 1999 No. 483

Given under the Seal of the Foyle, Carlingford and Irish Lights Commission on 2nd June 2010.



R.J.D Anderson
Chief Executive of the Loughs Agency

Approved by the North/South Ministerial Council on 2nd June 2010.

T Hanney
Joint Secretary of the
North/South Ministerial Council

M Bunting
Joint Secretary of the
North/South Ministerial Council

being persons authorised by the North/South Ministerial Council to signify approval on its behalf.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations revoke and remake the Foyle Area (Control of Fishing) Regulations 1999. The Regulations—

- (a) provide for the suspension of angling or the use of nets to take salmon or sea trout or the restriction of angling to catch and release in the specified waters in the Foyle Area for the purpose of conservation of Atlantic salmon if the number of migrating salmon counted going upstream in the Rivers Mourne, Faughan, Roe and Finn are below stock level targets or, in the case of the Rivers Mourne and Roe, if the rivers are in flood or, in the case of the River Mourne, in times of drought;
- (b) specify the target numbers for stock levels of migrating salmon in the Rivers Mourne, Faughan, Roe and Finn and water levels for the Rivers Mourne and Roe;
- (c) stipulate the conditions under which netting in the River Foyle, Lough Foyle and seaward of Lough Foyle shall be suspended if the number of migrating salmon counted going upstream in the Rivers Mourne, Faughan, Roe and Finn are below the specified stock level target numbers;
- (d) stipulate the conditions under which angling in the Rivers Faughan, Roe, Finn and Mourne shall be restricted to catch and release if the number of migrating salmon counted going upstream are below the specified stock level target numbers;
- (e) stipulate the conditions under which angling in the Rivers Faughan, Roe, Finn and Mourne shall be restricted to catch and release for the remainder of the angling season if the number of migrating salmon counted going upstream are below the specified stock level target numbers;
- (f) stipulate the conditions under which angling in the Rivers Faughan, Roe and Mourne shall be suspended from 11th October in any year if the number of migrating salmon counted going upstream are below the specified stock level target;
- (g) stipulate the conditions under which angling and netting in the River Foyle, Lough Foyle and seaward of Lough Foyle and angling in the River Mourne shall be suspended if the River Mourne is in flood or in times of drought;
- (h) stipulate the conditions under which netting and angling in the River Roe shall be suspended if the River Roe is in flood;
- (i) make consequential amendment of certain definitions in the Foyle Area (Control of Drift and Draft Net Fishing) Regulations 2004.

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2010 No. 199

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