STATUTORY RULES OF NORTHERN IRELAND

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(**1**) and section 13(1) of the Foyle Fisheries Act (Northern Ireland) 1952(**2**) and now vested in it(**3**).

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(**4**);

"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(**5**);

"brown trout" means a fish of the species *Salmotrutta,* 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

(**1**) Legislation of the Republic of Ireland
(**2**) 1952 c.5 (N.I.) as amended by S.I. 1999/859 and S.I 2007/915 (N.I. 9)
(**3**) S.I. 1999/859 Article 21(1)
(**4**) S.R. 2001 No. 160 as amended by S.R. 2005 No. 400
(**5**) S.R. 1999 No. 482

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(**6**);

"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(**7**);

"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 *Salmosalar* (Atlantic salmon);

"sea trout" means a fish of the species *Salmotrutta,* 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;

(**6**) 26 & 27 Vict., c114
(**7**) S.R. 1983 No. 181

"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(**8**).

(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.

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.

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

(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.

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(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.