

New fisheries laws

There have been some important changes to the laws governing angling and net fishing in England and Wales. More changes will follow later this year and in 2011. This newsletter sets out what these changes are.

Background to the changes

In 2000, following lengthy consultation, an independent review identified the need to improve fisheries' laws. Many of these improvements are now becoming law and will help to protect both fish stocks and fisheries.

The key pieces of legislation are:

- the Marine & Coastal Access Act 2009 and secondary legislation made under it;
- salmon and sea trout byelaws;
- the Eel (England and Wales) Regulations 2009.

In summary, the new laws change:

- what people can fish for;
- how different fishing methods are regulated;
- how licences for net fishing are issued;
- what byelaws can be made to protect fish and fisheries;
- the protection available for salmon, sea trout and eel;
- the regulation of live fish transfers;
- how fish passage can be improved around barriers to migration;
- the management of inshore fisheries.

Marine & Coastal Access Act 2009

The Marine & Coastal Access Act (the Marine Act) became law on 12 November 2009. It deals mainly with managing our seas and shoreline. But it is also a milestone for fisheries.



The Marine Act is a landmark for migratory and freshwater fisheries management.

Contents

	Page
Background	1
Marine and Coastal Access Act	1
Protecting more species	2
Changes to permitting	2
New byelaw powers	3
Limiting net licences	4
Moving live fish	4
Inshore fisheries reform	5
New eel regulations	6
Fish passage regulations	7
Salmon and sea trout byelaws	7

The Act contains many measures that will improve our protection and management of migratory, freshwater and inshore fisheries. Many of these measures became law on 15 January 2010.

In particular, the Marine Act:

- extends protection to more species of fish;
- changes the permitting process;
- extends the range of byelaws we can make;
- changes the process for limiting net licences;
- introduces a new system for regulating live fish movements;
- improves protection for eel stocks;
- reforms the regulation of inshore fisheries.

Protecting more species

As of January 2010, we are responsible for managing fisheries for river and sea lamprey, smelt and Chinese mitten crab. We have powers to regulate fishing for these species and to make byelaws to protect fish stocks and fisheries.

We have also been given powers to make byelaws to protect Allis and Twaite shad. For example new proposed byelaws will require all rod-caught shad to be returned. However, the licensing of shad fishing remains under the control of Natural England and the Countryside Council for Wales.

We are responsible for managing fisheries for river and sea lamprey, smelt and Chinese mitten crab.

The Marine Act also allows Ministers to change which fisheries we are responsible for, adding or removing fish species as the situation requires. And it extends many of the general protections to all species of migratory and freshwater fish.

Changes to permitting

The Marine Act improves the permitting process for different types of fishing. And it makes a clear distinction between legal and illegal fishing methods.

Methods will now fall into three categories:

- prohibited;
- licensed;
- authorised – a new category.

The new licensing framework will come into force in January 2011.

Prohibited methods

Certain fishing methods pose a significant threat to stocks. We cannot permit their use.

The list of prohibited, illegal methods remains largely unchanged, with the single addition of the tailer. The Act also prohibits the use of the gaff and tailer as accessories to angling.

Licensed methods

Anyone who is eligible can obtain a licence for a licensed method. There is a charge for licences.

Fishing by rod and line will continue to be licensed. So will certain historic salmon traps, commonly known as privileged fixed engines, which were in existence before 1861.

A range of other nets will also be licensed. The final list will be published later this year – see *Licensed or authorised?* below.

Authorised methods

The new authorised category will cover all those methods which are neither prohibited nor licensed.

Fishermen can apply to the Environment Agency to use an authorised method. We can charge for authorisations. We will decide whether or not to issue an authorisation by looking at the risk to fish stocks or the wider environment. This is radically different from the procedure for licences, which we must issue to any eligible person. We can also amend or revoke authorisations once they are issued.

Licensed or authorised?

While some methods will definitely be licensed, the decision for other nets and traps still has to be finalised.



We will have better control over eel and elver fisheries in the future.

Defra and the Welsh Assembly Government have proposed that conventional salmon and sea trout net fisheries should be licensed. This would cover: compass nets, haaf nets, draft nets, hand nets, trammel/ whammel nets, lave and dip nets, coracle nets, T&J nets, drift nets, gill nets and seine nets.

All other net fishing methods would then fall into the authorisation category. This would include all those used for eel and elver, coarse fish (generally used for fishery management purposes), lamprey, smelt, crayfish and mitten crab. Other fishing methods such as electric fishing may also require authorisation.

The consultation closed on 4 February and Defra and the Welsh Assembly Government are now considering the responses. You can still download the consultation documents at <http://www.defra.gov.uk/corporate/consult/fisheries-netandtrap/index.htm>.

Our response to the consultation can be found at <http://www.environment-agency.gov.uk/research/library/consultations/115679.aspx>.

New byelaw powers

The Act has widened our byelaw-making powers. Some of the more significant developments are described below.

Close seasons

Previous legislation set a minimum duration for close seasons. For example, the close season for brown trout angling had to be at least 153 days. This was inflexible. We weren't able to match close seasons to the precise times when fish were spawning.

The new Marine Act allows us to set close times entirely by byelaw. We can also abolish close seasons entirely if they serve no purpose. For example, we have recently got rid of the close season for brown trout in enclosed stillwaters. This is because such fisheries rely entirely on stocked, farm-reared fish, which are unlikely to breed.

Net fishing for eel is prohibited between 1 October and 31 March, and for elver between 26 May and 14 February.

Separate legislation has allowed us to immediately introduce close seasons for eel and elver fishing. Net fishing for eel is prohibited between 1 October and 31 March, and for elver between 26 May and 14 February. These seasons are in force for 2010. (Seasons for future years will be set out in byelaws, after statutory consultation.)

Taking coarse fish, eel and shad

While it's fine to take some fish home to eat, we do need to protect threatened stocks and to clamp down on



New byelaws will still allow anglers to remove some coarse fish.

anglers who remove too many coarse fish. Our new byelaws limit what coarse fish can be removed from rivers and stillwaters.

Rivers (including some large natural lakes)

Anglers can take, per day:

- up to 15 small fish (less than 20 cm);
- one pike (less than 65 cm);
- two grayling (30 to 38 cm).

Anglers can still remove non-native fish from rivers.

Note: Fishery owners may apply tighter limits.

Stillwaters (including most canals)

Anglers must have the owner's permission to take fish, including non-native fish.

All waters

All eel and shad must be returned. This is regardless of where they are caught – and includes coastal waters.

For more information, see

www.environment-agency.gov.uk/fish.

These byelaws came into force on 1 June 2010.

Dealing with emergencies

The Marine Act allows us to make short-term byelaws to tackle emergencies – for example an outbreak of fish disease, a severe drought or the collapse of a run of migratory fish.

These emergency byelaws take effect immediately and will not need prior consultation or government approval. However Ministers can amend or revoke them retrospectively.

The byelaws can last for up to twelve months. They can be renewed once only – for a maximum of six months.

Limiting net licences

We already have powers to limit the number of net licences that can be issued in individual fisheries. This is to protect vulnerable stocks of salmon and sea trout. The Marine Act has reformed these powers and removed several restrictions. These reforms will take effect as and when we review existing Net Limitation Orders.

A single objection to a Net Limitation Order will no longer automatically trigger a public inquiry. Ministers can now decide whether a local inquiry is necessary.

In the past, when Ministers made a limitation order they had to be satisfied that anyone who depended on fishing for their livelihood could still obtain a licence. To reduce the number of net licences, we had to wait for people either to retire or to voluntarily give up fishing. This is no longer the case.

Under the new rules, we can simply reduce the number of net licences issued. However, we may pay compensation to someone who is no longer eligible for a licence. This compensation is not automatic.

In addition, net limitation powers now cover net fisheries for other migratory and freshwater fish. However, in the future these fisheries will be subject to authorisation rather than licensing. We will not need to make Net Limitation Orders to manage fishing effort. Instead, we can amend, revoke or refuse authorisations where fishing poses a risk.

We can now place conditions on how historic salmon fisheries operate.

Historic salmon fisheries will continue to operate outside these net limitation controls. However, we can now put conditions on how they operate. This will enable us to protect fish stocks in these fisheries – and in other fisheries which the historic fisheries may affect.

Moving live fish

A new system will regulate what fish can be stocked in or removed from different waters – or, in the case of non-native fish, kept. These activities are controlled in order to prevent the spread of harmful species and diseases.

At present, anyone wishing to introduce fish into rivers, canals and lakes must get written permission from the Environment Agency each time they do so.

The current system is difficult to enforce. It relies on catching someone in the act of illegal stocking. It also creates a lot of paperwork for fisheries, the fish supply industry and ourselves.

The proposed new system has two permanent permits:

- A *site permit* – issued for each fishery. This will set out which fish species may be introduced, kept and removed.
- A *fish supplier permit* – issued to fish suppliers. This will allow suppliers to move fish to and from fisheries that have a site permit.

It will be illegal to:

- move fish without a fish supplier permit;
- stock – or remove fish from – a water without a site permit.

Fisheries owners will not have to apply for a site permit unless they intend to introduce or remove fish, or keep non-native fish.

Fish suppliers must carry a consignment note when they move any fish, but only notify us when they are carrying out ‘high-risk’ movements, involving non-native species or sensitive sites.

It will be illegal to move fish without a fish supplier permit and stock a water without a site permit.



The new scheme will help us to prevent the spread of topmouth gudgeon and other non-native species.

Defra and the Welsh Assembly Government have recently consulted on these proposals. You can obtain the consultation documents at <http://www.defra.gov.uk/corporate/consult/fish-movements/index.htm>. The new scheme should come into force in 2011.

Inshore fisheries reform

The Marine Act will replace the Sea Fisheries Committees in England with the Inshore Fisheries and Conservation Authorities (IFCAs). In Wales, responsibility for inshore fisheries has been transferred to the Welsh Assembly Government.

IFCAs and the Welsh Assembly Government will have statutory duties and powers to make inshore fisheries byelaws, including powers to make emergency byelaws.

We will work closely with the new organisations to protect salmon, sea trout, eel, lamprey and smelt as they migrate through estuaries to the sea.

More information on IFCAs can be found at:

<http://www.defra.gov.uk/foodfarm/fisheries/woo/ifca/index.htm>.

For more information about inshore fisheries in Wales, see <http://wales.gov.uk/topics/environmentcountryside/foodandfisheries/fisheries/?lang=en>

New marine management organisations

The Marine and Coastal Access Act is a major milestone for our coasts and estuaries. It created a new Marine Management Organisation with overall responsibility for managing the seas around England. The Welsh Assembly Government has this role in Wales.

These bodies are responsible for:

- marine planning and licensing marine activities;
- creating marine conservation zones – to protect our most important marine habitats and species;
- managing offshore fisheries under the Common Fisheries Policy.

The Act allows Natural England to create a walking route around the English coastline.

To find out more, visit

• <http://www.marinemanagement.org.uk>

• <http://wales.gov.uk/topics/environmentcountryside/consmanagement/marinefisheries/accessact/?lang=en>.



We will work with IFCAs and the Welsh Assembly Government to protect migratory fish throughout their range.

New eel regulations

European eel stocks are at an all-time low and continue to decline. The EU has put in place a recovery plan, which the UK and other member states must implement.

The UK's Eel Management Plans set out how we will improve eel habitat, reduce obstacles to migration and regulate eel fishing.

The Marine Act also improves protection for eel, by allowing the Environment Agency to choose whether or not to authorise eel net fisheries. Previously these fisheries were licensed. This meant that we had to issue licences provided that applications were correctly submitted and paid for.

Also, the Eels (England and Wales) Regulations 2009 have just been introduced. These:

- give us the power to improve passage for eel around barriers to migration, and place screens on water intakes and outfalls;

- require net fishermen and dealers to provide eel and elver catch returns and consignment records;
- ensure that up to 65 per cent of caught elvers can be made available for restocking;
- introduce interim close seasons for eel and elver net fishing.

(Although the Marine Act allows us to make close season byelaws for eel net fishing, we could not do so immediately. But the new regulations allowed us to act straightaway. Byelaws will introduce permanent close seasons in 2011 – following consultation.)

We are also reviewing our wider byelaws which regulate eel net fishing, design and operation. These will be in place in 2011, again following consultation.

We hope that these measures, combined with improving wetland habitat, will halt and reverse the decline in eel stocks.



Elver runs are at an all-time low – we are contributing to the Europe-wide recovery plan.



All net-caught fish must be tagged, and only tagged fish can be sold.

Fish passage regulations

Last year, the Government consulted on proposed regulations to improve fish passage for all migratory and freshwater fish stocks*.

Specifically, these regulations would give us powers to require fish passes on barriers to migration and fish screens on intakes and outfalls. This would help the UK to meet the objectives of the Water Framework Directive and to comply with the EU Eel Regulation. The measures have already been brought in for eels (see page 6). But the Government has postponed implementation for other species until at least May 2011.

* We already have powers for salmon and sea trout.

Salmon and sea trout byelaws

In 2009, Ministers approved new byelaws that banned the sale of rod-caught salmon and sea trout.

The byelaws also required licensed netsmen for salmon and sea trout to:

- tag their catch with an Environment Agency carcass tag;
- record their catch in an annual logbook.

Together, the byelaws close a loophole used by poachers to dispose of illegally caught fish. The only salmon and sea trout that can be legally sold in England and Wales must now possess a tag.

(Imported net-caught fish can still be sold – although they will not have an Environment Agency tag.)

The byelaws also discourage the small number of anglers who take a significant number of salmon and sea trout for sale. Anglers may of course still take such fish home to eat.

At the end of 2009, we recovered logbooks from all but three netsmen. We could account for more than 97 per cent of the tags we issued.

We have had no substantiated evidence of anyone trying to sell rod-caught fish or of anyone using tags to sell illegitimately net-caught fish.

for more information

If you want to find out more about these changes, please contact our fisheries advisor Paul Lidgett:

Email paul.lidgett@environment-agency.gov.uk

Or call 01454 205 624