

# Reforming fisheries law for the 21st century

**There will soon be major changes to the rules governing freshwater and migratory fisheries. These changes will help to conserve fish stocks, allowing people to continue to enjoy and make a living from fishing.**

Legislation to make these changes will go through Parliament over the next year or two. The changes will modernise fisheries regulation in England and Wales, and address most of the recommendations made in the 2000 Salmon and Freshwater Fisheries Review (see page 2).

At the Environment Agency, we are working with Defra and the Welsh Assembly Government to ensure new regulations will meet current and future challenges. And to make the regulations as effective as possible, we will also work closely with other organisations, including angling governing bodies and conservation agencies.

We call this programme of work *Fish for the Future*. We are producing this newsletter to keep our partners informed

about the coming changes and the opportunities to work together to make sure we get them right.

In the first edition, we introduce the legislative changes expected this year, primarily as a result of the Marine and Coastal Access Bill:

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**Protecting freshwater migration routes means that soon all fish will have the same freedom to migrate as salmon**



**New regulations will protect fish stocks, giving everyone more opportunity to enjoy fishing**

## Better protection for more species

At present, we are only responsible for regulating salmon, trout, coarse and eel fisheries. This leaves fisheries for other migratory species unregulated, including rare and threatened species.

### ‘The Marine Bill will extend our regulatory responsibilities to river and sea lamprey, and smelt’

The Marine Bill will extend our regulatory responsibilities to river and sea lamprey, and smelt. We will gain powers to license fishing, as well as making and enforcing byelaws. This will help us to meet important European targets for protecting these species.

Allis and twaite shad are also threatened and protected under wildlife legislation. Defra and the Welsh Assembly Government considered extending our remit to these species, but the conservation agencies argued for the status quo.

### ‘If we become responsible for shads in the future, we will make sure we provide *at least* the same level of protection as they have at present’

The Marine Bill will allow the English and Welsh ministers to amend the list of species in our jurisdiction. If we become responsible for shads in the future, we will make sure we provide *at least* the same level of protection as they have at present.

The Bill will also clarify what fishing methods are legal or illegal, and give us powers to authorise other fishing methods. By withholding authorisations, we can regulate methods that are potentially damaging. The maximum penalty for illegal fishing will increase from £2,500 to £50,000.

#### When will these changes happen?

We will become responsible for lamprey and smelt fisheries when the Marine Bill passes into law later this year. New licence and authorisation schemes will start in January 2010.

## Info

### Background to the legislation

Fishing in England and Wales is governed mainly by the Salmon and Freshwater Fisheries Act, as well as other legislation such as the Theft Act, and byelaws.

The independent Salmon and Freshwater Fisheries Review conducted a thorough review of fisheries legislation, and in 2000 published their recommendations for improvements. The Marine Bill and other legislation will achieve most of the Review's recommendations. We expect the principal measures to come into effect during 2009, with secondary legislation following in 2010-11.

## Info

### The Marine and Coastal Access Bill

Commonly known as the Marine Bill, this will introduce a planned approach to managing the many different uses of our coastal land and water. It will create a new planning system, improve regulation and introduce Marine Conservation Zones.

There are measures in the Bill to reform inshore and freshwater fisheries. We hope the Bill will become law in the summer or autumn.



Lampreys are one of the species gaining additional protection under new legislation



Tagging all net-caught fish will help stop poachers selling their catch  
Photo courtesy of Paddy Gargan, Central Fisheries Board

## Protecting salmon and sea-trout

Salmon stocks remain depleted, with multi-sea winter and especially spring salmon still in decline. There are similar concerns about sea-trout in many rivers.

### ‘We have introduced byelaws to protect salmon and sea-trout’

We have introduced byelaws to protect salmon and sea-trout:

- Renewed spring salmon byelaws, which extend the salmon net fishing close season to 1st June and make it mandatory to return rod-caught salmon before 16th June.
- New byelaws to ban the sale of rod-caught salmon and sea-trout. (It will still be legal to take fish for personal consumption.)
- New carcass-tagging and logbook byelaws for net-caught fish. All net fishers will have to fix a numbered carcass tag to salmon and sea-trout, and record the details in an annual logbook.

The ban on selling rod-caught fish will reduce the numbers caught and killed by the few anglers who routinely sell their catch. Combined with the carcass-tagging scheme, this will also give poachers less opportunity to dispose of illegally caught fish.

#### When will these changes happen?

We are implementing the byelaws for the 2009 fishing season.

## Managing fishing effort

‘Fishing effort’ is the total amount of time spent fishing. We need to manage net fishing effort in order to protect fish stocks and the fisheries they support, but at present we have only limited powers.

We can protect salmon and sea-trout in most net fisheries by asking the English or Welsh minister to issue a Net Limitation Order to cap the number of licences we issue. However, these measures do not apply to other species.

In the future, Ministers, on our advice, will be able to make Net Limitation Orders for any species of fish, in order to protect fish stocks or other wildlife at risk.

The process for doing so will also be made simpler, and Ministers will no longer have to call a public inquiry if they receive just one objection to capping or reducing a fishery’s licences.

Net Limitation Orders will still not apply to privileged fisheries (see Info box, below).

#### When will these changes happen?

These powers will come into effect after the Marine Bill becomes law later this year. We will investigate whether Net Limitation Orders are needed for eel and other fisheries.

### Info

#### Privileged fisheries

At present, certain licensed salmon net and trap fisheries enjoy a special status. Known as historic or privileged fisheries, they can take significant numbers of fish without restriction.

Privileged fisheries will continue to be exempt from certain regulatory measures, such as capping the number of licences. However, the Marine Bill will allow us to place conditions on their licences if necessary to conserve stocks, and will also clarify that our general byelaw-making powers do extend to privileged fisheries.

### ‘We need to manage net fishing effort in order to protect fish stocks’

## Protecting migration routes for more species

Making it easy for fish to migrate naturally along rivers and streams is essential to ensure they survive and thrive. We can currently protect and restore migration routes for salmon and sea-trout, but we do not have powers to do this for other species, including eel.

### ‘Making it easy for fish to migrate naturally along rivers and streams is essential’

The UK has legal commitments to protect and improve rivers and lakes, under the EU Water Framework Directive. To help meet these commitments, Defra and the Welsh Assembly Government are proposing new regulations for England and Wales. These will extend our powers to protect migration routes for all fish species in freshwaters. They will also increase the range of circumstances that require fish passes to be built.

Protecting and restoring migration routes means mitigating the barrier effect of man-made structures. For example, we can ask the owner of a weir to install a fish pass to ease migration. We can also make sure water intakes and outfalls are screened, to safeguard migrating adults and juveniles.

Barriers to migration could prevent us from meeting the objectives of the EU Water Framework Directive. Fish populations are critical to our assessment of ‘good ecological status’ of rivers, streams, ponds and lakes. The Directive also aims to restore rivers to a natural state, which removing obstructions can help to achieve.

Defra and the Welsh Assembly Government are consulting on their proposals for the regulations this year. Our ‘statement of intent’ accompanying the consultation explains how we intend to put the regulations into practice. The consultation closes on 10th April.

The Environment Agency owns many weirs and some abstractions and discharges. Leading by example, we will assess these structures and first address the ones where we can make the biggest gains.

#### When will these changes happen?

Defra and the Welsh Assembly Government are likely to introduce the regulations in summer 2009.



We will have more means of regulating elver fisheries, to help reverse the catastrophic decline in stocks

## Helping eel stocks recover

Once common in England and Wales, the eel is now an endangered species across Europe. Recent decades have seen a 70% decline in the numbers of elvers (juvenile eels) migrating into our rivers, with a 95% decline across Europe. As a result, the European Commission requires all EU member states to act immediately to protect stocks.

Our plans to help eel stocks recover include measures to regulate fishing, improve access and habitat, and relocate elvers into suitable upstream areas. These actions are detailed in the Eel Management Plans we have produced for each major river basin.

### ‘Our plans to help eel stocks recover include measures to regulate fishing, improve access and habitat, and relocate elvers’

#### When will these changes happen?

We are seeking the additional powers we need to recover eel stocks through the Marine Bill and other regulations. We will be given these powers during the course of 2009.



## Better and faster byelaws

Making and enforcing byelaws is an important way for us to regulate fisheries and so protect fish species. The Marine Bill will remove some of the limitations that currently prevent us from making more effective use of byelaws.

For example, in future we will have more flexibility to set close seasons (when fishing for a particular species is not allowed). We will be able to vary the length and timing of close seasons and dispense with close seasons for more species. And for the first time, we will be able to set close seasons for eel, smelt, shad and lamprey – all endangered species.

We will also be able to make emergency byelaws to respond to unforeseen events requiring a rapid response, such as a major outbreak of fish disease or a crash in migratory stocks. At the moment, it typically takes between 12 and 18 months for us to introduce new byelaws. Emergency byelaws will come into effect immediately.

The maximum penalty for byelaw offences will increase from £2,500 to £50,000.

### When will these changes happen?

We will have wider byelaw-making powers after the Marine Bill becomes law later this year. We will only make new byelaws where there is a clear need and (except for emergency byelaws) following public consultation.



Shad will benefit from our wider byelaw-making powers

**‘We will be able to set close seasons for eel, smelt, shad and lamprey’**

## Info

### Illegal fish removal

The Marine Bill will reform how we regulate coarse fish removal, including fish theft. As well as giving us greater byelaw-making powers to control fish removal, the Bill will change the Theft Act by removing the distinction between day and night fishing, and increasing the maximum penalty for fish theft from £100 to £5,000.

## A new scheme for fish movements

We regulate fish movements – the removal and stocking of fish – to prevent the spread of non-native parasites and fish species. At present, anyone stocking or removing fish must apply for our consent on each separate occasion.

Current regulations are bureaucratic and difficult to enforce, and do not make it clear who is responsible for obtaining consent.

In combination with other legislation, the Marine Bill will allow us to introduce a new scheme, with three key components:

- Anyone supplying fish for stocking must be authorised (by Cefas - the Centre for Environment, Fisheries and Aquaculture Science).
- If a fishery owner wishes to stock or remove fish from their fishery, they must first obtain a long-term permit which sets out what can be stocked or removed. These permits will typically last for 3 to 10 years.
- Authorised fish suppliers will only need to notify us that they intend moving fish to or from a water, and carry a consignment note during the operation.

Thanks to these measures, it will be much more difficult to move fish illegally without being detected, as only authorised suppliers will be allowed to move fish, and only to and from waters which have a long-term permit.

The maximum penalty for illegal fish movements will also increase from £2,500 to £50,000, creating a much greater deterrent to breaking the law.

### When will these changes happen?

Defra and the Welsh Assembly Government intend to introduce a new scheme in April 2010, following consultations in 2009.

# Improving arrangements for inshore sea fisheries

Inshore sea fisheries are those in estuaries and up to six nautical miles out to sea. Twelve Sea Fisheries Committees currently regulate these fisheries in England and Wales. Their coverage of the coastline is patchy and several government reviews have said the system is not effective enough.

## New arrangements

The Marine Bill will abolish the committees in England, replacing them with Inshore Fisheries and Conservation Authorities (IFCAs – see Info box, right). These will cover the entire English coastline and have duties and powers to manage fisheries in their districts in a sustainable way.

Sea Fisheries Committees will also be abolished in Wales. The Welsh Assembly Government will take responsibility for managing inshore sea fisheries, and is considering options for how to put this into practice.

## Our responsibilities

In both England and Wales, we will continue to be responsible for migratory fisheries in estuaries and up to six nautical miles out to sea. We will be responsible for regulating any fishing for salmon, sea-trout, eel, smelt and lamprey.

We will work closely with the new IFCAs in England to make sure there are no gaps in managing migratory fisheries through estuaries and out to sea. Together we will need to set practical working boundaries between our respective jurisdictions.

We also want to ensure that marine fish migrating into freshwaters beyond IFCA boundaries are not exposed to unregulated fishing and other pressures, which would compromise conservation targets in the Water Framework Directive. We are talking to the English and Welsh governments about retaining a role in managing estuarine fisheries, as joining this work up with our migratory fisheries work would help us achieve better ecological standards in tidal waters.

## When will these changes happen?

Defra will consult on arrangements for IFCAs this year, and they are likely to start work in 2011. In Wales, the changes are planned for 2010.

## Info

### The Marine Management Organisation

Created by the Marine Bill, the Marine Management Organisation will oversee development in English coastal and inshore waters through a marine planning system. It will combine new responsibilities with work currently carried out by other governmental bodies. The organisation will have roles in:

- marine planning
- fisheries management
- marine nature conservation
- emergencies
- marine licensing

## Info

### Inshore Fisheries and Conservation Authorities

Inshore Fisheries and Conservation Authorities (IFCAs) will be committees formed by local councils. Each IFCA will comprise representatives from local authorities, the Environment Agency, Natural England, and the new Marine Management Organisation, which will also appoint other representatives, including from fisheries. IFCAs will exist in England only.

**Inshore Fisheries and Conservation Authorities will cover the entire English coastline, and will have duties and powers to manage fisheries in their districts in a sustainable way**



## for more information

We want you to be aware of the coming changes in fisheries legislation and, where appropriate, be involved in how we implement the changes. If you would like to find out more and get involved, please contact Paul Lidgett:

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