

## **Appendix 2**

### **Byelaw Consultations – Stillwater Brown Trout Close Season**

#### **1.0 The Options**

In our consultation document we presented two options:

- Option 1: Dispense with the close season on all stillwaters except those listed in a schedule
- Option 2: Dispense with the close season for stocked stillwaters by written authorisation

#### **2.0 FERAC feedback**

FERACs were divided over the options, veering slightly towards option 2, dispensation by written authorisation. Committees in regions with naturally occurring stillwater wild brown trout stocks tended to be more precautionary and to express a preference for option 2.

#### **3.0 Wider Consultation feedback**

We received wide support in principle for removal of the close season for non-wild fish, but also concern that we protect wild stocks adequately. This prompted many to go for option 2 – by written exemption only. There was some opposition to the removal of the close season in principle, quoting the need for the environment to be rested, and potential failure to meet our duties.

#### **4.0 Meeting our fisheries duties.**

- 4.1 A minority suggested that dispensing with the close season conflicts with our fisheries duties, and we must consider this.
- 4.2 The purpose of close seasons is to protect fish during their vulnerable spawning period. We are seeking to dispense with the close season for those stillwater brown trout stocks that either cannot breed (triploids) or have no opportunity to breed (enclosed stillwaters). In these situations a close season does not benefit the conservation of fish stocks. Removing the close season from these waters will have social and economic benefits – year round brown trout fishing. The byelaw needs to protect wild stillwater stocks (to meet our over-riding fish conservation duty) but by dispensing with the close season elsewhere, we are meeting our other fisheries duties by benefiting the social and economic value of fisheries.

#### **5.0 How to ensure wild brown trout stocks are protected?**

- 5.1 This follows from the issue above. We must consider a range of situations where wild brown trout may occur. We have natural lakes that have wild stocks, though these may be supplemented by stocked fish. Some reservoirs, particularly those in upland areas, have wild stocks. These may arise from wild populations that existed before a reservoir was built and continue to breed in feeder streams. Or they may arise due to stocking of fertile farmed trout that then spawn, or merely attempt to spawn, in feeder streams. We

need to draw a line that protects wild trout without losing the potential fisheries benefits of year-round trout fishing.

- 5.2 One suggestion is that we dispense with the close season only on fully-enclosed stillwaters; in other words where there is absolutely no opportunity for spawning. This could result in the close season being retained on many reservoirs, simply because they have feeder streams, where brown trout might spawn. Wild stocks would be protected, but opportunities for year-round brown trout fishing would be limited.
- 5.3 Policy set out in our National Trout and Grayling Fisheries Strategy is slightly less constraining, stating that we will dispense with the close season on enclosed still water trout fisheries with no natural recruitment.

## **6.0 Sites of Special Scientific Interest**

- 6.1 We have wider conservation duties and must consider whether a close season should be retained on specific stillwaters as a precaution against damage to designated conservation features. This would mirror the approach taken towards the coarse fish close season on stillwaters.
- 6.2 We will take advice from the conservation agencies on this point. However, since the close season for rainbow trout was dispensed with on **all** stillwaters in 1997, meaning that year-round trout fishing can already take place, we think it unlikely that a case to retain the closed season could be made.

## **7.0 Administrative burden**

Dispensing with the close season by written permission on a case by case basis (Option 2) brings a significant additional administrative burden for both ourselves and fishery owners. We have sought to minimise this in our proposed way forward.

## **8.0 Proposed way forward**

- 8.1 There are disadvantages to both options set out in the consultation. Option 1 would require a potentially long list of waters where the close season should be retained to protect wild brown trout. Option 2 may result in a significant additional administrative burden.
- 8.2 Taking account of the need for a precautionary approach towards protecting wild stocks, and the need to minimise administrative burdens, we now propose the following modified approach. It is based on the policy set out in the National Trout and Grayling Fisheries Strategy but with added flexibility to deal with borderline cases. We propose a byelaw that:
  - (a) dispenses with the close season on all fully-enclosed stillwaters with no natural recruitment and;
  - (b) provides us with the power to dispense with the close season on other stillwaters by written authorisation.
- 8.3 The second part would give us the flexibility to assess, for waters that are not fully enclosed (as is the case for many reservoirs), presence of wild stocks and whether the close season can be removed. In the longer term we

propose to integrate written dispensations into the new Live Fish Movements scheme, minimising the additional administrative burden.

## **Byelaw Consultations – Stillwater Salmon Close Season**

### **9.0 The proposal**

We proposed to dispense with the salmon close season on enclosed stocked stillwaters.

### **10.0 FERAC feedback**

We received wide support for the proposal, although Southern FERAC questioned whether we should permit stocking of salmon into stillwaters at all.

### **11.0 Wider Consultation Feedback**

Widely supported.

### **12.0 Stocking of salmon into stillwaters**

We adopt a very precautionary approach to this. In short, we only permit salmon to be stocked into stillwaters in catchments that do not support wild salmon and from which escape is unlikely.

### **13.0 Proposed way forward**

Seek a byelaw that gives us power to dispense with the salmon close season on stillwaters by written authority. Dispensation would be given in association with a consent to stock salmon.

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