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Commercial netting of eels and elvers

National eel fisheries byelaw consultation – phase 2

Starting Date: 15 June 2009

Closing Date: 07 September 2009

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Published by:

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Don't let the eel slip away!

In 2002 we introduced national eel fishing byelaws, replacing a variety of local ones. Since then, the decline in eel stocks has become a major concern right across Europe, and the European Commission has decided that action must be taken. The European Eel Regulation, agreed by 23 separate member states within Europe, sets out what we need to do. A key change is that we need to improve the way we regulate commercial eel and elver fishing. This is not optional and each country will need to put in place actions that will improve and protect their own eel populations. Some of these changes are already in the pipeline covered in the Marine and Coastal Access Bill, which will improve our fisheries powers concerning eels. The Government has recently consulted on new Fish Passage Regulations, which, when implemented, will allow us to improve the migration of eels and elvers within our waters.

But, some of the changes need to be introduced through fisheries byelaws. It is these changes that we are consulting on in this document. Some of these changes depend on amendments to our powers that the Marine and Coastal Access Bill is expected to make, so we will not be able to make them until the Bill is in place. We aim to make these changes during the 2010 and 2011 fishing seasons.

The byelaws will bring greater constraints on commercial eel fishing, but it is important to recognise that this is part of a wider plan of action that we are taking. Improving eel habitat and improving their access to it will also be fundamental in rebuilding eel stocks.

We are also consulting on new byelaws to remove the close season for stillwater salmon and brown trout and to regulate the removal of fish by rod and line. You can access these consultations at:

<http://www.environment-agency.gov.uk/research/library/consultations>.

Together, these form part of a wider reform of fisheries legislation that we are calling '*Fish for the Future*'. This covers improvements to our licensing regimes, how we manage fishing effort, fish passage regulation, how we regulate live fish movements and specific measures to protect eel, salmon sea trout. You can find out more about Fish for the Future at www.environment-agency.gov.uk/fish.

Heidi Stone

Fisheries Policy Manager

1. Introduction

What this consultation covers

This consultation covers new byelaws that we need to comply with the EU Eel Regulation*. This consultation concerns the commercial trapping and exploitation of eel at all stages of its life.

New controls on angling for eels will be covered within the national byelaw consultation on removal of fish by rod and line.

*Council Regulation No 1100/2007 establishing measures for the recovery of the stock of the European eel (the Eel Regulation)

Why do we need new byelaws?

The European eel, *Anguilla anguilla*, is widely distributed throughout European estuarine and inland waters. Estimates of eel survival at the glass eel (juvenile) stage indicate that across Europe this has fallen to below five percent of historic levels. The International Council for Exploration of the Seas advises that the stock is outside safe biological limits and that current fisheries are not sustainable (ICES, 2006).

As a result of this, the European Commission has initiated an Eel Recovery Plan to try to return the European eel stock to more sustainable levels. Each member state must have national Eel Management Plans (EMPs) in place. These plans aim to allow 40 percent of the silver eel that would be produced under natural conditions (ie. without human disturbance through fishing, pollution or barriers to migration) to “escape” to spawn in the Atlantic – we refer to this as the “escapement target” later in this document..

The regulation specifically mentions commercial fishing for eel as well as improving habitat and eel passage. The UK does have commercial eel fisheries and we must make sure that any existing fishery is sustainable and that the eel is protected to allow stocks to recover.

The current national eel byelaws were introduced in 2002, before there was any evidence of falling numbers. For this reason, amendments to the existing byelaws and further legislation is needed to manage eel more effectively and help us comply with the regulation.

How to respond to this consultation

We would prefer you to respond on-line. This will help us to gather and summarise responses quickly and accurately. You can respond on-line at www.environment-agency.gov.uk/research/library/consultations/consultations.aspx.

However, if you would prefer to send your response by post, please send it to:

Ayesha Taylor
Eel Fishing Byelaws Consultation
Environment Agency
Richard Fairclough House
Knutsford Road
Latchford, Warrington
Cheshire
WA4 1HT

How we will use your information

We will use your information to help shape new eel fisheries byelaws.

We will publish all responses after the consultation has closed, unless you have specifically requested that we keep your response confidential. We will not publish names of individuals who respond. We will publish the name of the organisation for those responses made on behalf of organisations. Please indicate on your response if you want us to treat it as confidential.

If you respond online or provide us with an email address, we will acknowledge your response and send you a summary of responses after the consultation has closed. We will also publish the summary of responses on our website.

Confidential responses

We may publish or disclose information you provide in your response to this consultation, including personal information, in accordance with the Freedom of Information Act 2000 (FOIA). If you want us to treat your information as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with obligations of confidence.

In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request to disclose the information we will take full account of your explanation, but we cannot give an assurance that we can maintain confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, in itself, be regarded as binding on the Environment Agency.

Code of Practice on Consultation

We are running this consultation in accordance with the criteria set out in the Government's Code of Practice on Consultation.

If you have any queries or complaints about the way this consultation has been carried out, please contact:

Cath Beaver, Consultation Co-ordinator
Environment Agency, Rio House
Waterside Drive, Aztec West
Almondsbury, Bristol BS32 4UD.
Email: cath.beaver@environment-agency.gov.uk

2. Eel Management Plans, the EU Regulation and commercial exploitation

Eel Management Plans are the cornerstone of the EU Eel Regulation. These are based around the river basin districts (RBDs) as set out in the Water Framework Directive and are shown in Annex 1. There are 10 RBDs in England and Wales and another shared with Scotland (the Solway / Tweed).

The UK government submitted its Eel Management Plans to Europe in December 2008 and is currently waiting to receive confirmation that they have been approved. You can view the UK the Eel Management Plans on the Defra website:

<http://www.defra.gov.uk/marine/freshwater/fishman.htm#EELS>

Under the EU Eel Regulation, all commercial fisheries must be controlled; they must not compromise the escapement target of 40 percent; and any fish caught must be declared. There are further requirements to make sure that up to 60 percent of the eels caught that are under 12cm (elvers) are offered up for restocking. In practice, this means that we will need to take account of the following:

- location and size of any fishery;
- quantity of eel removed from a river basin district and, in the case of elver, their destination;

To do this we must regulate exploitation through the:

- equipment and methods allowed to catch eel and elver;
- duration of the fishing season;
- protection of life stages at certain locations

The UK must report on progress against the actions listed in the Eel Management Plans in 2012. We will need to show that any exploitation does not prevent us achieving the overall silver eel escapement target of 40 percent, otherwise the UK Government may be breaking the law. This could lead to some or all eel fisheries being closed.

3. Existing controls

Currently, the national eel byelaws set out the extent of any elver fishery and ban elver fishing anywhere outside these areas. They set the methods and dimensions of legal eel fishing gear that are allowed. Any person licensed to fish for eels must provide a catch return.

At present we cannot refuse a licence so are unable to limit the number of licences issued in a fishery if one is allowed to persist. We cannot set any fishing season or impose close times.

There is some confusion over what methods and equipment can be used.

There is also concern over exploitation of eel at specific productive and popular fishing locations, often below obstructions or other natural pinch points.

The Sharpness Dock elver fishery on the River Severn has required disproportionate enforcement. Confusion and confrontations arise throughout the elver season. Specific byelaws are needed to help manage this fishery.

4. New eel regulations

The full package of eel fishing regulations need to be introduced through two routes:

- We propose to revise and expand our existing eel fishing byelaws.
- Some others need to be addressed by one or more statutory instruments (SI) that can be introduced in the meantime. Defra is currently developing these.

There is likely to be some overlap between what is included in each, particularly as the SIs provide an important early opportunity to introduce some of the eel fishing measures that will ultimately be included as byelaws

Another unknown factor is the current uncertainty over any ruling made by the Convention for Trade in Endangered Species (CITES). There is pressure to ban the sale of eel outside the European Union. This would have significant effects on the existing eel and, in particular, glass eel markets and their fisheries. A decision on this is overdue. We may have to amend or include a byelaw to comply with any requirement that CITES could demand.

Proposed eel and elver byelaws

1. When you can fish

a. Close season for elver

At present there is no close time for elver fishing. We suggest that the end of the elver season is curtailed. This will protect elvers as they begin to move upstream. A specific season will also allow more effective enforcement.

We propose introducing an elver close season and that it should run from 16 April to 14 February (allowing fishing to take place between February 15 and April 15).

b. Close season for yellow and silver eel

The most vulnerable stage of the eel lifecycle is the silver eel migration downstream and back out to the spawning grounds in the Atlantic. This stock needs to be protected more than any other stage as it will be the offspring from these fish that will kick-start any future recruitment.

We propose introducing an eel close season for yellow and silver eel and that it would most likely run from 1 October to 31 March (allowing fishing to take place between April 1 to 30 September). However, we are currently gathering information to help define the most effective start and end dates.

This would reduce the exploitation of the main component of the silver eel run and allow more effective enforcement.

2. Catch returns for eel and elver

We must account for and report all catches of eel and elver as part of the requirements of the Eel Management Plan. The Fish Health Inspectorate will report elver catches from returns provided by eel stations which have been authorised under the Aquatic Animal Health Regulations (AAHR).¹ Individual elver net licence holders will still need to submit annual catch returns to the Environment Agency.

Adult eel catch returns must still be completed by net licence holders and submitted to the Environment Agency. There is an existing byelaw that covers this, but compliance is poor.

We propose a new byelaw that requires a licence holder to submit an eel or elver annual catch return before a new licence can be issued.

3. Where you can Fish

a. Location and extent of adult eel fishery

We propose new byelaws to set geographical limits on existing yellow and silver eel fisheries and ban further exploitation in areas where there is currently no commercial fishery. (There are already similar byelaws that cover this for elver).

To support this, we need to tighten existing licensing arrangements for all eel and modify the licence to reflect river basin district and not regional boundaries. Licences also need to specify more clearly where eel can and cannot be caught. Currently they can be caught anywhere within the relevant named region.

b. Preventing the expansion of the silver eel fishery

Many rivers have a legacy of eel racks.

We propose to limit the existing silver eel exploitation to those locations (and structures) that are currently licensed or authorised to catch eel.

This will prevent any additional fisheries developing, although fishing for scientific purposes may still need to take place.

c. Elver fishing near obstructions

We propose a byelaw to prevent elver at “honey pot” sites being over exploited.

This is usually caused by elver congregating below weirs, sluices and tidal flaps at certain points in the tidal cycle, as well as near fixed monitoring traps or passes.

Existing byelaws do refer to this, but the current wording confuses both fishermen and enforcement staff. The byelaw will include a schedule of structures below which elver fishing will be banned for a given distance, as well as an overall area where it would be illegal to fish.

4. How you can fish

a. Equipment and methods

The following Table 1 lists the proposed additions and clarifications to the current national byelaws.

¹ The AAHR transpose the requirements Council Directive 2006/88/EC (the Aquatic Animal Health Directive) into UK law.

Table 1 – Proposed amendments to fishing equipment/method byelaws	
Issue	Proposed byelaw requirements
Elver dip nets	
<ul style="list-style-type: none"> The current size is acceptable. There are Issues over the length of the handle and tethering the net to the river bank or bed. 	<ul style="list-style-type: none"> Limit net handles to 2.5 metres or less. Only one handle allowed. No floats, chains, anchors to be attached It must be hand operated at all times. Only the licence holder can use it.
Elver fishing at Sharpness Docks	
<ul style="list-style-type: none"> This location currently needs a lot of enforcing. This can be dealt with by varying the method of fishing in this specific location. There is no environmental reason not to allow this change. 	<ul style="list-style-type: none"> Within the Sharpness dock (specific locations given), specific sized elver drop nets can be used. Using this method at this location would need a specific licence. If a fisherman wants to fish elsewhere, he would need another licence. Close times etc. would be the same as for all other elver fishing

b. Banning trawling for eel

Currently, byelaws allow trawling for eel. No licences to trawl have been issued for over five years.

We propose banning trawling for eel and elver under new byelaws.

Other new regulations

There is a range of other new regulations to be introduced at the same time as eel byelaws. We have listed these below.

1. Limiting eel and elver fishing licences

Under the Marine and Coastal Access Bill our powers to make net limitation orders (NLOs) are to be extended. As well as applying just to salmon and sea trout fisheries, they will also apply to any net fisheries for eel. (NB. Although we make NLOs, they need to be confirmed by the Minister, following public consultation). Defra may choose to give us this power earlier through the proposed statutory instrument. This will then allow us to limit and potentially reduce, licences and exploitation.

Our preferred option is to limit the fishery at existing levels. To prevent a sudden influx of applicants for a licence, we may need to base this on those who have held a licence for the previous three years or more.

2. Tracing elver catches

To comply with the EU Eel Regulation, we must ensure that by 2013 60 percent of all elver caught are available for restocking. The destination could be another catchment or member state. To do this, we will need to be able to trace what elver have been caught where and when.

This is provided by the Aquatic Animal Health Regulations (AAHR). All elver stations must be authorised, because they deal with live fish. As a condition of this authorisation, elver stations will be required to keep and provide the records needed to be able to trace the fish.

Under the EU regulation and CITES, eel must be caught legally. The Marine and Coastal Access Bill amends the current Salmon Act 1986 section 32 offence of “handling salmon in suspicious circumstances”. The offence will be broadened to cover all fish, including eels, which will help us

allow us to meet this EU requirement. If this is needed before the Marine and Coastal Access Bill is passed, it will be included in the earlier statutory instrument.

3. Eel and elver passage

Defra has already consulted on new Fish Passage Regulations and we expect these to be introduced soon. If approved, these new regulations will provide us with powers to require eel and elver passes at obstructions that impair their passage. The new regulations will also require effective eel and elver screening at water intakes from rivers.

7. Next steps

We are issuing these proposals for consultation in June 2009 and are asking for your comments and feedback. After the Marine and Coastal Access Bill is passed in autumn 2009, we will advertise the proposed byelaws. Objections to these can be made in writing at that point. Following this, we expect to introduce the new byelaws early in 2010.

During the intervening period, we will continue to make amendments as we receive new information, such as the implication of any CITES decision and confirmation of the Eel Management Plans. We will continue to work with Government to decide the best way to introduce the different measures, whether by statutory instrument, byelaw or another route.

The extent of regulatory change proposed is significant. We value your feedback and comments against the following questions:

8. Your response

You can respond to this consultation on-line at –

www.environment-agency.gov.uk/research/library/consultations/consultations.aspx.

If you prefer to respond by post, please complete the following form and return it to –

Ayesha Taylor
 Eel Fishing Byelaws Consultation
 Environment Agency
 Richard Fairclough House
 Knutsford Road
 Latchford, Warrington
 Cheshire
 WA4 1HT

Personal details

Name –		
Organisation (if applicable) –		
Address –		
E-mail –		
Your area of interest* –		Please tick (one only)
Eel net fishing		
Elver net fishing		
Eel/elver wholesaler/retailer		
Angling		
Fisheries organisation		
Conservation organisation		
Other NGO		
General public		
Other (please specify)		

This will help us analyse the response

Questions

1	When you can fish	
1.a	Do you support the introduction of a close season for elvers	Yes/No
	Do the dates suggested for an elver close season seem reasonable?	Yes/No
	Please explain your answer -	
1.b	Do you support the introduction of a close season for yellow and silver eels ?	Yes/No
	Do the dates for a yellow and silver eel close season suggested seem reasonable?	Yes/No
	Please explain your answer -	
2.	Catch returns	
2.a	Do you agree that an eel or elver licence should be withheld from licence holders who fail to provide a catch return for the previous year?	Yes/No
	Please explain your answer -	
3	Where you can fish	
3.a	Do you agree that the yellow and silver eel fishery should be limited to its existing location and extent?	Yes/No
	Please explain your answer -	

3.b	Do you agree that the silver eel fishery should be limited to existing sites/structures?	Yes/No
Please explain your answer -		
3.c	Do you agree that elver fishing should be banned below certain weirs, sluices and other obstructions?	Yes/No
Please explain your answer -		
4 How you can fish		
4.a	Do you agree with the equipment and method limitations proposed for elver fishing (see Table 1 above)?	Yes/No
Please explain your answer -		
4.b	Do you agree with a complete ban on eel trawling?	Yes/No
Please explain your answer -		
5 Other		
5.a	Are there additional or different measures that you feel we should pursue?	Yes/No
Please describe - Please continue overleaf, if necessary.		

Cont...

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