

Spey Fishery Board Briefing:

The Scottish Government's Licence to Kill Salmon Proposals

Introduction

Scottish Ministers have recently announced it is their intention to create a licensing system and carcass tagging scheme, as well as a prohibition on the killing of salmon out-with estuary limits, through regulations. This would make it a requirement for proprietors of salmon fishing rights to obtain licences if they wish any salmon caught on their fisheries to be killed and the intention is for this to be introduced for the 2016 season. These licences will specify quotas for the number of salmon that can be killed and carcass tags will also be required for compliance purposes.

The Government made its announcement on the 23rd July, but further details regarding the implementation of the proposals have only recently become available and there is still much that needs to be clarified. This briefing to Board Members, Proprietors and Anglers is intended to provide some information regarding these proposals, as far as we understand them, and to suggest how the Board should respond to these proposals.

The main proposals

For 2016:

- 1) The killing of salmon out-with estuary limits will be prohibited. This will mean that all salmon netting in the sea out-with estuary limits will be stopped completely, for what we understand will initially be for a period of three years.
- 2) Net and coble fisheries could continue within estuary limits, but will be subject to a quota system (which should reduce over time) with carcass tags.
- 3) The killing of salmon by anglers will also be regulated by a quota system and carcass tags.
- 4) Angling baits and lures are not proposed to be affected for the time being, although restrictions might be considered in the future.
- 5) None of this applies to sea trout. The proposals relate to salmon only.

Origin of these proposals

While we have never seen any definitive documentation to this effect, we understand that the pressure to introduce these measures stems from the EU Habitats and Species Directive. The Atlantic salmon is listed in this Directive as one of many "species of Community interest" which receive protection within areas designated as "Special Areas of Conservation" (SACs). Some 17 rivers in Scotland have been designated as SACs for salmon, of which the River Spey is one. Those designated as SACs were, among other reasons, designated because they have some of the healthiest salmon populations in the EU (ironically partly due to the protection salmon have historically enjoyed in Scotland because of their importance to fisheries). Within SAC areas, member states are supposed to maintain designated species at a favourable conservation status and, for species like salmon which can still be exploited, the following applies:

"Member States shall undertake surveillance of the conservation status of the natural habitats and species referred to in Article 2 with particular regard to priority natural habitat types and priority species.... If, in the light of the surveillance... Member States deem it necessary, they shall take measures to ensure that the taking in the wild of specimens of

species.... listed in Annex V (which the salmon is) as well as their exploitation is compatible with their being maintained at a favourable conservation status.”

We are led to believe that the Scottish Government believes that it might not be wholly compliant with some of these requirements and that Scottish Ministers are apparently introducing these measures in order to prevent an “infraction” fine from the EU. It may be that complaints to the EU on this topic have, in part at least, helped precipitate scrutiny from the EU.

We presume that the reason these measures do not apply to sea trout is because sea trout are not covered by the Habitats Directive.

More Detail on the Proposed Measures

Regarding angling, there are a number of points of detail to be aware of:

1) Marine Scotland Science is currently working out an estimated annual “harvestable surplus” of salmon for each river district in Scotland. We understand that the factors which may well determine this include the five year average of catch and the five year average of kill, which in itself may have unintended consequences. Salmon catches can vary considerably around the average on a year-by-year basis. Therefore, in some years, the quota might not be achieved and, in others, the quota might be less than that which could be taken. Ironically, in poor years, it may lead to a higher percentage of the catch being killed, precisely the opposite of the intended purpose for which the quotas will be introduced.

2) In late August or early September, Scottish Ministers are likely to publish provisional quotas for every beat for each river in Scotland that qualifies for a quota (some might not) on their website. Proprietors will then be able to apply for a licence to take and keep their quotas. An up-front payment will have to be made when applying for this licence. There is no information at this time as to how much this will be, other than, in a given year, the payment will apparently be the same for all applicants. There will be a further charge to pay for the administration of the carcass tagging scheme and a separate charge per tag, likely to be on a sliding scale (the more tags applied for, the more they cost individually).

3) The scheme may operate differently on rivers that are SACs. This includes the River Spey and its tributaries. Apparently, in these cases, “even if there is a harvestable surplus, any licence will not be for more than the previous 5 year average of salmon killed in the SAC. So the licence would be for whichever is the lower – the harvestable surplus or the 5 year average”. Our interpretation of this is that the quota for SAC rivers will therefore operate on a downward spiral. Ironically, the more a river has volunteered to release fish, the less far it will need to spiral down until, effectively, complete mandatory catch and release applies. This will happen even if salmon abundance increases or if the “harvestable surplus” was to become much greater than the quota. Given that the Spey will be starting from a point where (last year) 92% of the declared catch was released voluntarily, we will not have as far to fall to 100% catch & release than any SAC rivers that do not release such a high proportion of the catch. Furthermore, since quotas in SACs will be driven by numbers of fish killed, they will not only be driven down by years of poorer runs, but also by e.g. years of poor fishing conditions, never to rise again. Similarly, if some beats do not take up and use the allocation assigned to them, they will effectively lose it.

4) In rivers which are not SACs, the harvestable surplus, if there is considered to be one, will be used to produce an overall number of salmon that may be killed on each river. This river quota will be divided up between individual beats in proportion to their five year average catches as reported to Marine Scotland. Therefore, those who have reported the highest catches will get more and those who have reported fewest will get less.

5) Carcass tagging will be dealt with by separate regulations from the licence to kill and more detail will be released soon by Scottish Ministers. However, neither licences nor tags, which will be individually numbered, will be transferable between proprietors. So if a fishery does not apply for the quota assigned to it, its quota will not be reassigned to others and, once purchased, licences and tags may not be sold on to other fisheries (which is contrary to what Andrew Thin had suggested).

6) There is not yet any clarity as to the permanence of these measures, although conversations with the civil servants involved have indicated that it will initially be for a period of three years. Indeed, Scottish Ministers have said several things that imply the measures might not be permanent and in an article in the *Herald*, Richard Lochhead said “that prohibition (on sea netting) will be until such time as our understanding of the impact of a mixed stock fishery is much clearer”.

What Happens Now?

The Scottish Government has said that representations or objections to these proposals may be made during a period of “consultation”. This ends on 19th August. Thereafter a draft Order is likely to be considered by the Rural Affairs Climate Change & Environment Committee in the Scottish Parliament. If they approve it, it then becomes law.

What Can Be Done?

i. Individual Responses

If you have opinions on how these measures will affect your beat as a proprietor, or your angling experience as an angler, whether positively or negatively, you can make these opinions known to Scottish Ministers by writing or emailing them by 19th August 2015. Representations can include, where relevant, details of any financial implications, particularly related to loss of income.

Write to: Fiona Hepburn
 Marine Scotland
 Salmon and Recreational Fisheries Team
 Area 1B North
 Victoria Quay
 Edinburgh
 EH6 6QQ

Email: salmonandrecreationalfisheries@scotland.gsi.gov.uk

ii. Spey Board Response

The Scottish Government’s proposals, insofar as they relate to Mixed Stock Net fisheries, are entirely appropriate, in line with international best practice and are to be welcomed. Scotland has been under pressure from NASCO for some years to tackle this thorny issue. However, as the Spey Board made clear in its Consultation Response in April 2015, these proposals are unnecessary, inappropriate and unworkable for the rod & line fisheries. In light of this, I recommend that the Spey Fishery Board strongly objects to many of the proposals outlined above. A draft response is attached to this Briefing.

Roger Knight
Director
Spey Fishery Board

13th August 2015