

Temporary Local Enforcement Position for the Border Esk Time Limited Rod and Line Byelaws, the River Eden Time Limited Rod and Line Byelaws, the River Leven and Crake Byelaws and the Salmon and Sea Trout Protection Byelaws.

1. Background

The declining state of wild salmon stocks, not just locally in North West England, but throughout the North Atlantic range of the Atlantic Salmon, has required fisheries regulators to implement increasingly protective salmon fisheries byelaws within their respective jurisdictions, in order to reduce the exploitation of wild stocks and provide the opportunity for those stocks to improve by allowing more fish to escape the fisheries to spawn. In 1999 the Environment Agency introduced national byelaws to prevent the killing of early running “spring” salmon because of an evident marked decline in that early running component of wild salmon stocks in all rivers. National byelaws introduced in 2019 now prevent all estuarine netting for salmon and mandatory catch and release applies to rod fisheries for the weakest salmon stocks. In addition to national legislation, a range of local byelaws were introduced in 2018 that required the mandatory catch and release of all salmon caught on rod and line in the River Eden and Border Esk, because of the declining state of salmon stocks in those two rivers.

On 20th August 2020, Storm Ellen caused damage to a fish farm in the Firth of Clyde on the Scottish west coast that resulted in the escape of almost 50,000 farmed Atlantic Salmon. Over 100 of these fish have been caught by anglers fishing rivers on the Scottish West coast in the broad proximity to the farm from where they escaped. At least 5 farmed salmon have also been caught in Cumbrian rivers and the Border Esk. It is well established that potential interbreeding between escaped farmed salmon and native wild salmon is damaging to the native stock, so it is strongly recommended that any farmed salmon caught be humanely destroyed and removed from the river.

2. Proposal

The Border Esk Time Limited Rod and Line Byelaws

The Border Esk Time Limited Rod and Line Byelaws (“**the Border Esk Byelaws**”) apply to the Upper Esk (“Upper Esk” as defined in section 1(2) of the Scotland Act (Border Rivers) Order 1999), the area more commonly known as the river Border Esk together with all its tributaries upstream of and including the River Sark.

Byelaw 2 of the Border Esk Time Limited Rod and Line Byelaws made on the 15 December 2017 provides that:

‘On the Border Esk, and on all waters which are tributaries to, or connected with, the Border Esk, during the period from, and including, the 16 June to, and including, the 31 October following, no person fishing by rod and line is permitted to remove any live or dead salmon. Any salmon caught within this fishery must be returned to the water with the least possible injury’

The River Eden Time Limited Rod and Line Byelaws

The River Eden Time Limited Rod and Line Byelaws (“**the River Eden Byelaws**”) apply to the River Eden and its tributaries.

Byelaw 2 of the River Eden Byelaws provides that:

‘On the River Eden, and on all waters which are tributaries to, or connected with, the River Eden, during the period from, and including, the 16 June to, and including, the 14 October following, no person fishing by rod and line is permitted to remove any live or dead salmon. Any salmon caught within this fishery must be returned to the water with the least possible injury’

Salmon and Sea Trout Protection Byelaws

Byelaw 11 of the national Salmon and Sea Trout Protection Byelaws (“**the Salmon and Sea Trout Byelaws**”) states:

‘No person shall remove any live or dead salmon taken by rod and line from any waters, or tributaries of such waters or estuaries of such waters, listed in Schedule 1 or Schedule 2 or banks of those waters.’

Schedule 1 of the Salmon and Sea Trout Byelaws includes the following waters:

River Calder (Cumbria)

Schedule 2 of the Salmon and Sea Trout Byelaws includes the following waters:

River Annas

River Bela

River Ellen

River Gilpin

River Keer

River Mite

River Waver

River Wampool

River Winster

The River Leven and Crake Byelaws

Byelaw 1 of the River Leven and Crake Byelaws provides that the byelaws apply to all waters inland of a line drawn across the Leven estuary on the seaward site of the Leven Viaduct near Ulverston in Cumbria and to all tidal waters and all inland waters which enter tidal waters, inland of the line described above.

Byelaw 2 of the River Leven and Crake Byelaws provides interpretation for the Byelaws.

Byelaw 3 of the River Leven and Crake Byelaws provides that:

'No person shall retain any salmon caught by rod and line in the waters described in Byelaw 1(i) unless it has affixed to it, in the appropriate manner, an appropriate carcass tag issued by the Environment Agency.'

IT IS PROPOSED that in the event that a farmed salmon is captured by a person fishing by rod and line, from the Border Esk, the River Eden, the River Calder, the Rivers Annas, Bela, Ellen, Gilpin, Keer, Mite, Waver, Wampool and Winster it may be removed and killed without risk of prosecution by the Environment Agency for the angler who captured it, provided that the conditions in section 3 below are met.

Similarly, any anglers catching a farmed salmon on the Rivers Crake and Leven will not be required to carcass tag those fish as is specified by the Crake and Leven Byelaws provided that the conditions in section 3 below are met.

Any wild salmon caught remain under the provisions of the above byelaws and must be returned to the water unharmed (unless the provisions of the River Leven and Crake Byelaws apply). The Environment Agency may still take enforcement action against anyone who removes and kills any wild Salmon in contravention of any of the above Byelaws.

3. Conditions of this Temporary Local Enforcement Position

- i. Only **farmed salmon** may be taken and killed. **Wild salmon** must be returned to the water unharmed (unless the provisions of the River Leven and Crake Byelaws apply).

The farmed salmon are relatively easy to distinguish from wild salmon. Specifically, the farmed salmon tend to have ragged dorsal, tail and pectoral fins, often have shortened or damaged gill covers, are more heavily spotted, and tend to be more silver in appearance than the wild salmon that are much more coloured at this time of year. The escaped farmed salmon are mostly of uniform size around 8 to 9 pounds in weight. A visual guide to demonstrate the difference between wild and farmed salmon is available <http://fms.scot/wp-content/uploads/2020/09/200908-Aqua-Guidance-for-Anglers.pdf>

- ii. All captured farmed salmon must be reported as quickly as possible using the Fisheries Management Scotland online reporting form <https://app.smartsheet.com/b/form/b432577f816b400cbe8902bd3b799200> This can be completed by mobile phone.
- iii. A sample of scales must be scraped from each captured fish, wrapped in paper and sent to the Ayrshire Rivers Trust Office, 1 Gibbsyard, Auchincruive Estate, Ayr, KA6 5HW.
- iv. Anglers must complete their annual catch return to the Environment Agency as normal after the end of the fishing season, including the details of any farmed salmon caught.

This Temporary Local Enforcement Position is specific only to the Byelaws listed at Section 2 and will only remain in place for the remainder of the 2020 rod fishing season (to 14th October 2020 for the River Eden Border Esk and Cumbrian Calder, and to 31st October 2020 on all other named rivers) unless the Environment Agency decides to withdraw it before those dates.

4. Consequences of failing to comply with this Temporary Local Enforcement Position

The taking and killing of **wild salmon** from the Border Esk, the River Eden, the River Calder, the Rivers Annas, Bela, Ellen, Gilpin, Keer, Mite, Waver, Wampool and Winster remains an offence under national and local byelaws and the Environment Agency will consider its enforcement response in accordance with its Enforcement and Sanctions Policy.

The taking and killing of **wild salmon** without a carcass tag on the Rivers Leven and Crake remains an offence under local byelaws and the Environment Agency will consider its enforcement response in accordance with its Enforcement and Sanctions Policy.

This Temporary Local Enforcement Position may be withdrawn by the Environment Agency at any time, particularly if instances of the killing of wild salmon are evident.

If you have any queries regarding this Temporary Local Enforcement Position, please contact brian.shields@environment-agency.gov.uk or jonathan.turner@environment-agency.gov.uk



An example of a captured farmed escapee – note ragged fins and silver appearance