



## **Kent and Essex Inshore Fisheries and Conservation Authority**

### **MARINE AND COASTAL ACCESS ACT 2009**

#### **WHELK FISHERY PERMIT BYELAW**

The Authority for the Kent and Essex Inshore Fisheries and Conservation District in exercise of its powers under sections 155 and 156 of the Marine and Coastal Access Act 2009 hereby makes the following byelaw for that District.

#### **Interpretation**

1. In this byelaw-
  - a. 'KEIFCA' means the Kent and Essex Inshore Fisheries and Conservation Authority as defined in Articles 2 and 4 of the Kent and Essex Inshore Fisheries and Conservation Order 2010 (SI 2010 No 2190);
  - b. 'District' means the Kent and Essex Inshore Fisheries and Conservation Authority District as defined in Articles 2 and 3 of the Kent and Essex Inshore Fisheries and Conservation Order 2010 (SI 2010 No 2190);
  - c. 'whelk permit' means a Category One Permit or a Category Two Permit;
  - d. 'setting' a whelk pot includes operating and hauling a whelk pot;
  - e. 'Category One Permit' means the permit described in paragraphs 4 to 9;

- f. 'Category Two Permit' means the permit described in paragraphs 10 to 14;
- g. 'Technical Permit Requirements' has the meaning given to it in paragraph 28;
- h. 'nominated representative' means a person nominated by the permit holder and whose name appears on the permit;
- i. 'whelk pot' means a pot or trap set for the purpose of catching whelks; and
- j. 'riddle' is a fixed or moving flat or cylindrical apparatus constructed of parallel bars which can effectively separate and reject whelks that pass between the bars.

### **Permits – General Provisions**

- 2. No person shall set a whelk pot unless they have been granted a whelk permit by KEIFCA and set their whelk pots in compliance with this byelaw. Contravention of a Technical Permit Requirement constitutes contravention of this byelaw.
- 3. Application for a permit to set or operate pots under this byelaw should be made using printed forms available from KEIFCA. This form will require applicant and vessel details. The applicant may nominate up to 2 persons as their representative whose details must also be entered on the application form.

### **Category One Permit details**

- 4. The maximum number of whelk pots that may be set by a permit holder with a Category One Permit is the number set in a Category One Permit.
- 5. A Category One Permit may only be used by the permit holder, or a nominated representative named on the permit, to set or operate whelk pots complying with this byelaw from the vessel named on the permit.
- 6. No more than one permit will be issued per vessel.
- 7. A fee will be charged for each permit which will be payable prior to issue. The fee for issue of a permit is £100 plus 30 pence for each tag issued.

8. The vessel named on the permit must be registered in accordance with Part II of the Merchant Shipping Act 1995, and the regulations made under that Act. The vessel must also hold a current fishing licence valid for catching whelks within the District issued by the appropriate UK fisheries department at the time the application is made.
9. The maximum number of tags that will be issued to a Category One Permit holder is set out in a Category One Permit.

### **Category Two Permit details**

10. The maximum number of whelk pots that may be set by a permit holder with a Category Two Permit is the number set in a Category Two Permit.
11. A Category Two Permit may only be used by the permit holder, or a nominated representative named on the permit, to set whelk pots complying with this byelaw from the vessel named on the permit.
12. No more than one permit will be issued per vessel.
13. A fee will be charged for each permit which will be payable prior to issue. The fee for issue of a permit is £30 plus 30 pence for each tag issued.
14. The maximum number of tags that will be issued to a Category Two Permit holder is set out in a Category Two Permit.

### **Permit Conditions**

15. Each permit holder may set no more than the maximum number of whelk pots for the whelk permit held by that person. No person shall set a whelk pot within the District that does not have a tag issued by KEIFCA to that person, or approved by KEIFCA, attached to it in a clearly visible position.
16. No person shall set a whelk pot that is fitted with a tag that has previously been notified as lost.
17. No person, other than a nominated representative, shall haul any other person's whelk pots without firstly obtaining the agreement of KEIFCA.

18. The whelk permit and tags shall not be transferable and must be surrendered to KEIFCA immediately if no longer required by the person it was issued to.
19. All tags will be reissued every year in changing colours. The reissue or replacement of tags will be at a cost of 30 pence per tag.
20. If a permit holder loses some of their pots and tags they may submit a written claim for replacement within 21 days of the loss. This claim should include the time, date and position of the loss together with the numbers of the lost tags. The cost of replacement tags will be paid by the applicant. Claims for replacement of less than 10% of tags will be considered by the Chief Officer. Claims for more than 10% of tags will be considered by an Authority Panel made up of Chairman, Vice Chairman and Chief Officer. Appeal may be made to the full Authority if an applicant feels that their claim has not been properly dealt with.
21. All whelks within a catch must be graded for size. As part of this procedure all whelks must be passed over or through a riddle constructed of parallel bars with a minimum spacing between bars which a gauge, the size of which is set in a whelk permit, will pass through .
22. Following the procedure set out in paragraph 21 all whelks that have passed between the bars of the riddle must be returned immediately to the sea. Final inspection of catch should then be undertaken to ensure that any remaining whelks below the current statutory minimum size are also returned immediately to the sea.
23. All whelk pots must include the number of escape holes set in a whelk permit that are positioned at least 150mm from the base of the pot or no more than 50mm from the top of the pot. These escape holes must be of a size that a bar, the diameter of which is set in a whelk permit, will pass freely through the hole. Escape holes must not be obstructed by any means.

### **Catch Log Book**

24. The holder of a whelk permit shall submit to KEIFCA, no later than the 5th day of the month following, such information in regard to catches and fishing effort for the previous month as KEIFCA may require. This information shall be entered onto a form provided by KEIFCA and will include accurate information regarding the weight of whelks and other species taken by the holder of the permit's whelk

pots from the District during the preceding calendar month, together with the number of pots used and area fished.

### **Marking of Pots**

25. Each string or shank of pots must be marked by a floating buoy or dahn, of at least 30cm diameter, at each end. Each of these buoys shall be clearly marked with the whelk permit number, under which authorisation the pots are set and in the case of a fishing vessel, registered in accordance with Part II of the Merchant Shipping Act 1995 and the regulations made under that Act, the PLN number of the vessel named on the permit.

### **Review of the Technical Permit Requirements of this Byelaw**

26. The KEIFA will consider whether it is necessary to review the Technical Permit Requirements no less than every 3 years.
27. The Technical Permit Requirements may be revised in accordance with the procedure set out in paragraph 29 taking account of the information referred to in paragraph 30.
28. The Technical Permit Requirements are-
  - (a) The maximum number of whelk pots that may be set by the holder of a Category One Permit referred to in paragraph 4;
  - (b) The maximum number of tags to be issued to the holder of a Category One Permit referred to in paragraph 9;
  - (c) The maximum number of whelk pots that may be set by the holder of a Category Two Permit referred to in paragraph 10;
  - (d) The maximum number of tags to be issued to the holder of a Category Two Permit referred to in paragraph 14;
  - (e) The size of the gauge referred to in paragraph 21;
  - (f) The number of escape holes referred to in paragraph 23; and
  - (g) The diameter of the bar referred to in paragraph 23.
29. The review of Technical Permit Requirements will be undertaken as follows:

(a) A consultation meeting will be held with permit holders to present available data and discuss options.

(b) Information listed in paragraph 30 and the outcome of the consultation meeting will be reported to KEIFCA who will make a decision regarding whether changes will be made to the Technical Permit Requirements and if so what they will be.

(c) Following a decision being made by KEIFCA, permit holders will be notified in writing and permits will be re-issued to include amended Technical Permit Requirements.

30. This review will consider the appropriateness of the Technical Permit Requirements and will make changes if required after taking account of the following:

- a. Data collected via byelaw log book returns;
- b. Scientific and survey data relating to whelk populations within the district;
- c. Scientific advice provided by Cefas or other persons approved by KEIFCA;
- d. The outcome of a meeting, and consultation with permit holders that has considered available information and future management options;
- e. An Impact Assessment of any proposed changes;
- f. An Appropriate Assessment (where relevant and available);
- g. Advice given by Natural England; and
- h. Information from any other relevant source

31. The Technical Permit Requirements that apply to whelk permits until they are reviewed pursuant to paragraphs 26 to 30 are those set by the KEIFCA taking into account the Impact Assessment that accompanies this byelaw.

## **Explanatory Note**

This note is not part of the byelaw

The purpose of this byelaw is to provide protection against over exploitation of whelk stocks within the Authority's district by prohibiting the setting of whelk pots without a permit and restricting the number of whelk pots that may be set. The technical requirements of this byelaw will be reviewed by Kent and Essex Inshore Fisheries and Conservation Authority at least every 3 years.

The Technical Permit Requirements that apply to whelk permits until they are reviewed pursuant to paragraphs 26 to 30 of this byelaw are as follows. The maximum number of whelk pots that may be set by a permit holder with a Category One Permit is 300. The maximum number of tags that will be issued to a Category One Permit holder is 300. The maximum number of whelk pots that may be set by a permit holder with a Category Two Permit is 10. The maximum number of tags that will be issued to a Category Two Permit holder is 10. The size of the gauge referred to in paragraph 21 is 22mm. The number of escape holes referred to in paragraph 23 is 2. The diameter of the bar referred to in paragraph 23 is 22mm.

I hereby certify that the above byelaw was made by KEIFCA at their meeting on the 18th day of January 2013.

Peter Sass  
Clerk to the Kent and Essex Inshore Fisheries and Conservation Authority

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The Secretary of State for Environment, Food and Rural Affairs in exercise of the power conferred by section 155(4) of the Marine and Coastal Access Act 2009 confirms the Whelk Fishery Permit Byelaw made by Kent and Essex Inshore Fisheries and Conservation Authority on 18 January 2013

GAVIN ROSS  
HEAD OF SUSTAINABLE FISHERIES SECTION  
A Senior Civil Servant for, and on behalf of, the Secretary of State for  
Environment, Food and Rural Affairs

Date: