



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

**MARINE AND COASTAL ACCESS ACT 2009**

**DRAFT COCKLE FISHERY FLEXIBLE 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) "the Authority" 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) "the 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) "category one permit" means a permit as described in paragraph 9;
  - (d) "category two permit" means a permit as described in paragraph 10;
  - (e) "cockle harvesting equipment" means any dredge or instrument used for the purpose of harvesting, riddling, sorting or grading cockles but does not include a hand rake;
  - (f) "harvest" in relation to cockles means the taking of cockles by any means including dredging and hand raking;
  - (g) "harvesting trip" means a fishing operation for cockles from start to finish which includes taking and landing cockles;
  - (h) "relevant fishing vessel" means a fishing boat registered in accordance with Part II of the Merchant Shipping Act 1995 and the regulations made under that Act and in respect of which a fishing licence issued by an appropriate national authority is held.

**PROHIBITIONS**

2. A person must not harvest or disturb cockles other than in accordance with a category one permit or a category two permit .
3. A person must not harvest cockles using a vessel which:
  - (a) exceeds 14 metres in overall length; or
  - (b) exceeds 5 metres in overall width.

4. A person must not carry cockles on board a vessel in the District unless:
  - (a) they are carried in accordance with a category one permit or category two permit; or
  - (b) prior notification has been given to the Authority, either directly to an appointed officer of the Authority or by leaving a message on an appointed telephone line.
  
5. Any cockles on board or landed from a vessel which:
  - (a) is authorised to be used to harvest cockles in the District under a category one permit or a category two permit; and
  - (b) during the same harvesting trip has been used for harvesting cockles within the Districtshall be deemed to have been taken from a fishery within the District.

#### **EXEMPTIONS**

6. This byelaw does not apply to a person performing an act which would otherwise constitute an offence against this byelaw, if that act was carried out in accordance with a written permission issued by the Authority permitting that act for scientific, stocking, breeding or fisheries management purposes.
7. This byelaw does not apply to the area of the regulated fishery as defined in article 1(2) of the Thames Estuary Cockle Fishery Order 1994 (SI 1994 No. 2190).
8. The provisions of this byelaw are without prejudice to any right of Several Fishery, Act of Parliament, Royal Charter or other rights that exist within the District as referred to in Section 6 of the Sea Fisheries Regulation Act 1966.

#### **PERMITS**

9. The Authority may authorise the harvesting of cockles by issuing a category one permit. A category one permit:
  - (a) permits the “maximum permitted catch” of cockles to be 13.6 cubic metres but, if the criteria outlined in the Permitted Cockle Fishery Management Plan are met, be reduced to a “maximum permitted catch” of 6.8 cubic metres;
  - (b) is issued to a named person (“the permit holder”);
  - (c) is issued in relation to a named relevant fishing vessel (“the named vessel”);
  - (d) may only undertake the number of harvesting trips within the specified times as notified to the permit holder by the Authority and
  - (e) is subject to the permit conditions in paragraphs 19 to 27 and any flexible permit conditions attached in accordance with paragraphs 28 to 32.
  
10. The Authority may authorise the harvesting of cockles by issuing a category two permit. A category two permit:
  - (a) permits the “maximum permitted catch” of cockles to be 3.4 cubic metres but, if the criteria outlined in the Permitted Cockle Fishery Management Plan are met, be reduced to a “maximum permitted catch” of 1.7 cubic metres;
  - (b) is issued to a named person (“the permit holder”);
  - (c) is issued in relation to a named vessel (“the named vessel”);
  - (d) may only undertake the number of harvesting trips within the specified times as notified to the permit holder by the Authority. This number of trips will be twice that of

a Category 1 permit to result in a weekly catch limit half of that of a Category 1 permit;  
and

- (e) is subject to the permit conditions in paragraphs 19 to 27 and any flexible permit conditions attached in accordance with paragraphs 28 to 32.
11. A person may not apply for a category one permit or a category two permit if they:
- (a) already hold either a category one permit or a category two permit for the same year;  
or
- (b) are already named on a category one permit or a category two permit as a representative of the permit holder for the same year.
12. No more than one permit will be issued per relevant fishing vessel.
13. An application for a category one permit or a category two permit must be made using the forms available from the Authority's office or its website and received by the Authority no later than the 31<sup>st</sup> March of the year in which the permit is to apply.
14. A person applying for a category one permit or a category two permit may nominate up to two persons as their representatives ("nominated representatives"), provided that a person nominated is not:
- (a) a category one permit holder;
- (b) a category two permit holder; or
- (c) already nominated as a representative on a category one permit or a category two permit.
15. The following fees will be charged for each permit which is payable prior to issue:

<b>Year</b>	<b>Category one permit fee (£)</b>	<b>Category two permit fee (£)</b>
2015	550	275
2016	633	316
2017	727	364
2018	836	418
2019	962	481
2020	1106	553
2021	1272	636
2022 and thereafter	1272	636

16. If the permitted cockle fishery is, following a meeting of the Authority, not opened in any year, then the fees paid for permits for that year shall be refunded. If the fishery is opened, no fees shall be refunded.
17. A category one permit or a category two permit is:
- (a) not transferable between the permit holder and another person or between the named vessel and another vessel; and
- (b) is valid from the date of issue until the 31<sup>st</sup> December of that year.

18. A permit will only be issued following the completion of a full Habitats Regulations Assessment, with impact information provided by the Applicant for the gear type stated on the permit application form.

#### **PERMIT CONDITIONS**

19. The permit may only be used by the permit holder or a nominated representative using the named vessel, and no other person may harvest cockles using the named vessel without the prior agreement of the Authority.
20. (1) The permit holder or nominated representative must notify the Authority of the estimated time of both the commencement of cockle harvesting and the commencement of landing, at least 2 hours prior to each commencement.
- (2) Notification must be given either directly to an appointed officer of the Authority or by leaving a message on an appointed telephone line.
21. (1) Cockles which are smaller than the cockle minimum size of 16mm must not be carried on board the named vessel or landed but must be returned immediately to the sea.
- (2) Following a meeting of the Authority, the cockle minimum size may be reduced to 14 millimetres with if the criteria outlined in the Permitted Cockle Fishery Management Plan are met.
22. Any cockles harvested in excess of a maximum permitted catch of cockles must be returned immediately to the sea.
23. When assessing the quantity of cockles taken, no allowance shall be made in respect of any shell, sand, other species or debris mixed with the catch.
24. No cockles may be carried on board the named vessel at the time of commencement of a harvesting trip.
25. Cockles must not be carried on board or landed from the named vessel unless within containers which:
- (a) are of the specified volume, which is 1.13 cubic metres in respect of a category one permit and 0.028 cubic metres in respect of a category two permit.
- (b) is clearly marked with a load line above which cockles may not be loaded;
- (c) has been checked and marked by an officer of the Authority before use; and
- (d) is clearly marked on two sides with the words 'Kent & Essex Permit Cockle Fishery'
26. (1) Cockle harvesting equipment must not be used unless prior to use a provisional certificate of approval or a full certificate of approval has been issued by the Authority in accordance with sub-paragraphs (2) to (5).
- (2) The Authority will issue the permit holder with a provisional certificate of approval for cockle harvesting equipment at the same time as the category one permit or the category two permit is issued.
- (3) A provisional certificate of approval is valid from the date of issue for a period of no longer than one month.
- (4) A full certificate will be issued to the permit holder by the Authority if, upon inspection by an officer of the Authority of the cockle harvesting equipment operating at its normal speed over the ground, no more than 10% of the total weight of a representative sample of retained and rejected cockles from the cockle harvesting equipment have visible cracks, chips or other damage to their shells.
- (5) A full certificate of approval is valid from the date of issue until the 31<sup>st</sup> December of that year.
27. The permit holder must submit to the Authority no later than the following Tuesday of each week a completed weekly form provided by the Authority containing such information in

regard to catches and fishing effort for the previous week as the Authority may require, which will include accurate information regarding the quantities of cockles taken, the area fished and the amount of time spent fishing.

28. The permit holder or nominated representative must comply with the Biosecurity Conditions as set out in the Cockle Fishery Flexible Byelaw Management Plan.

#### **FLEXIBLE PERMIT CONDITIONS**

29. The Authority may attach, remove or vary flexible permit conditions which fall within one or more of the following categories:
  - (a) Gear restriction;
  - (b) Spatial restrictions;
  - (c) Time and effort restrictions;
  - (d) Minimum size restrictions.
  - (e) Vessel Monitoring Systems
30. The Authority may attach, remove or vary a flexible permit conditions following a review conducted in accordance with the review procedure set out in paragraphs 35 and 36.
31. The flexible permit conditions that apply until the first review pursuant to paragraphs 35 and 36 are those set by the Authority taking into account the Impact Assessment that accompanies this byelaw and all other material considerations.
32. Contravention of a flexible permit condition constitutes a contravention of this byelaw.

#### **REVIEW PROCEDURE**

33. The Authority shall review flexible permit conditions not less than once every three years as follows:
  - (a) the Authority shall consult in writing with permit holders and such other stakeholders, organisations and persons as appear to the Authority to be representative of the interests likely to be substantially affected by the proposed future management options;
  - (b) the Authority will make a decision whether to attach, remove or vary a flexible permit conditions based upon that consultation and the information listed in paragraph 36;
  - (c) following a decision being made by the Authority, permit holders will be notified in writing and permits will be amended as necessary at no cost to the permit holder.
34. The information for the purposes of paragraph 35(b) includes any one or more of the following:
  - (a) Data collected from permit holders;
  - (b) Scientific and survey data gathered by the Authority or provided to the Authority by such other bodies, organisations, or persons as the Authority shall think fit;
  - (c) Scientific advice provided by CEFAS or such other bodies, organisations, or persons as the Authority shall think fit;

- (d) An Impact Assessment of any proposed changes;
- (e) Advice given by Natural England or such other bodies, organisations, or persons as the Authority shall think fit;
- (f) Material information from any other relevant source.

**REVOCAATION**

35. The byelaws with the following titles made by the Kent and Essex Sea Fisheries Committee in exercise of its power under sections 5 and 5a of the Sea Fisheries Regulation Act 1966 and in force immediately before the making of this byelaw are hereby revoked:

- (a) 'Cockle Permit Byelaw';
- (b) 'Cockle Fishery – Limitation on quantities of cockles that may be removed';
- (c) 'Cockle Fishery – Closure of beds';
- (d) 'Cockle Fishery – Construction of fishing gear and removal of small cockles';
- (e) 'Cockle Fishery – Approval of fishing instrument';
- (f) 'Cockle Fishery – Size of vessel and dredge'.

36. The byelaws with the following titles made by the Eastern Sea Fisheries Committee on the stated dates, and having effect in relation to the extended area from the 1<sup>st</sup> April 2011 as byelaws made the Authority, in accordance with Article 6 of the Marine and Coastal Access Act 2009 (Transitional and Saving Provisions) Order 2011 (SI 2011/603), are hereby revoked insofar as they apply to the extended area:

- (a) 'Molluscan shellfish methods of fishing' made on the 10<sup>th</sup> April 1997;
- (b) 'Temporary closure of shellfish fisheries' made on the 10<sup>th</sup> April 1997;
- (c) 'Towed gear restrictions for bivalve molluscs' made on the 28<sup>th</sup> May 2008.

I hereby certify that the above byelaw was made by the Kent and Essex Inshore Fisheries and Conservation Authority at their meeting on the 4<sup>th</sup> September 2014

Peter Sass  
Clerk

Kent and Essex Inshore Fisheries and Conservation Authority.  
Paragon House, Albert Street, Ramsgate, Kent, CT11 9HD

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 Cockle Fishery Flexible Permit Byelaw made by the Kent and Essex Inshore Fisheries and Conservation Authority on  
XXXXXXXXXXXXXX.

The said Byelaw shall come into force on 1st January 2015.

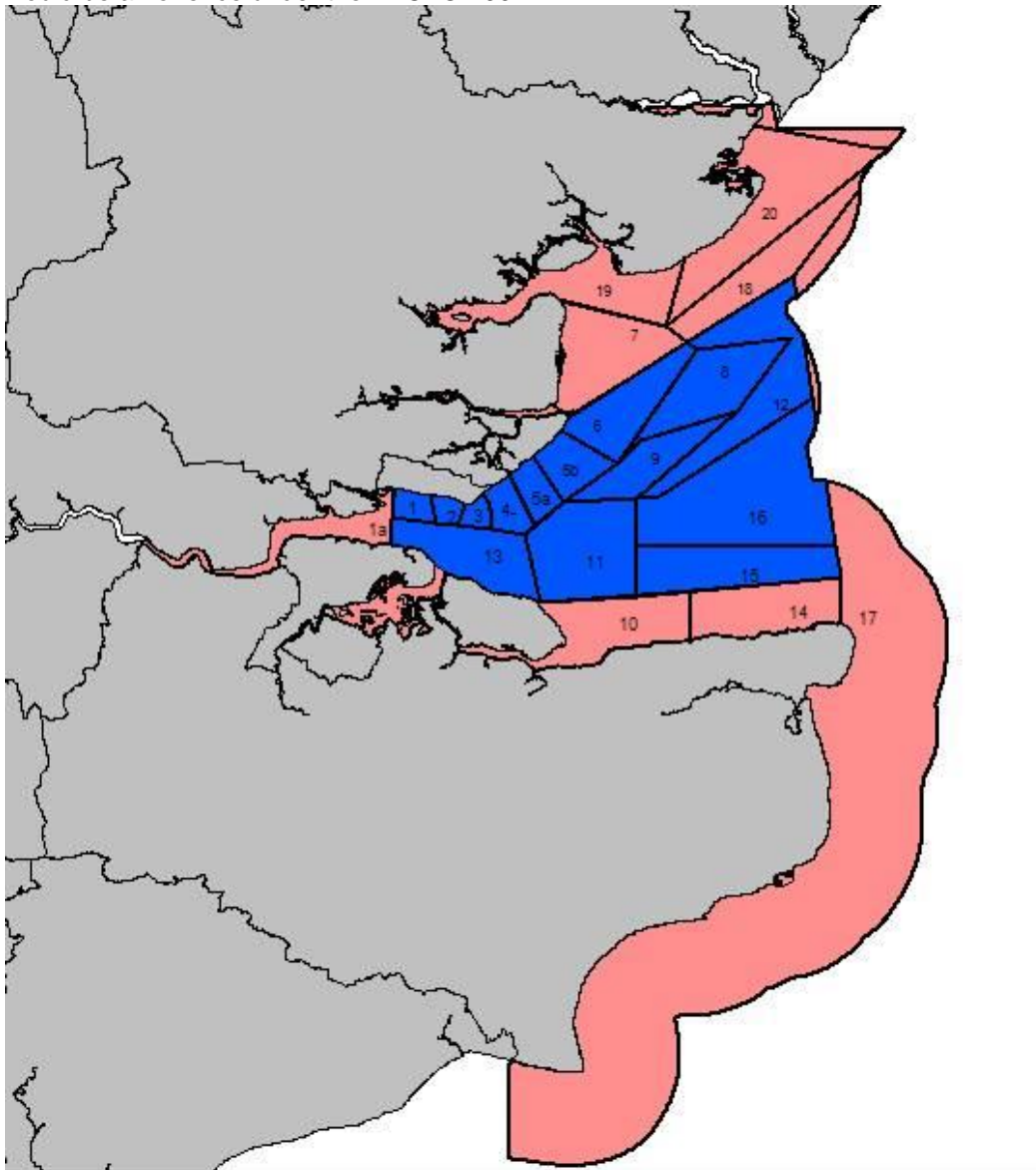
A Senior Civil Servant for, and on behalf of, the Secretary of State for Environment, Food and Rural Affairs

Date: 2014.

**Explanatory Note (not part of byelaw)**

The proposed Byelaw will provide the Authority with the ability to balance the needs of persons harvesting cockles with the requirements to secure a sustainable marine eco-system and local socio-economic environment. The Byelaw will introduce flexibility in the way that the Authority manages effort directed towards the cockle fishery and support the development of a sustainable fishery. All persons will be limited in the technical specifications of gear that can be used, the areas and times which can be worked and a daily catch limit of cockles. The flexible permit conditions will be reviewed when necessary on the basis of best available evidence and within a time period not exceeding three years.

The Cockle Fishery Flexible Permit byelaw applies to the areas shaded in red on the chart below. The areas shaded in blue show the area of the Thames Estuary Cockle Fishery Order (TECFO) 1994. A license issued under that Order is required to fish in that area. To fish in that area without said license would be an offence under the TECFO 1994.



## **FLEXIBLE PERMIT CONDITIONS**

### **SPECIFIED TIMES**

Cockle harvesting is prohibited:

- (a) between 1200hrs on Friday and 2100hrs on Sunday each week;
- (b) outside of the permitted period for cockle harvesting within a particular harvesting area as notified to the permit holder by the Authority.

### **SPECIFIED HARVESTING AREAS**

Cockle harvesting is prohibited:

- (a) outside of a permitted harvesting area notified to the permit holder by the Authority;
- (b) in a permitted harvesting area once the maximum number of permitted harvesting trips as notified to the permit holder by the Authority have been undertaken.

### **GEAR RESTRICTIONS**

(1) The cockle harvesting equipment must incorporate a riddle which is at least 1750 millimetres in length and which shall be designed and operated so that the retained cockles are in contact with the riddle for its full length.

(2) The cockle harvesting equipment which is in contact with the seabed must have an opening aperture, blade or rake measuring no more than 760 millimetres in width.

(3) No more than one piece of cockle harvesting equipment which is in contact with the seabed may be used at any time or carried on board

(3) Subject to sub-paragraph (4), all surfaces of the cockle harvesting equipment acting to retain the catch must consist of parallel bars, where the bars are spaced at least 16 millimetres apart (“the minimum bar spacing”).

(4) Sub-paragraph (3) does not apply to pipes or other means used to convey cockles from the seabed to the vessel.

(5) The Authority may by notice to the permit holder change the minimum bar spacing for the purposes of sub-paragraph (4) to 14 millimetres if the criteria outlined in the Permitted Cockle Fishery Management Plan are met.

### **VESSEL MONITORING SYSTEMS**

The named vessel may be required to have fitted at the owner’s expense a remotely accessed electronic reporting device which is in compliance with KEIFCA or MMO requirements and transmit the required information at the specified reporting intervals as set out in the Flexible Permit conditions.