



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

**MARINE AND COASTAL ACCESS ACT 2009**

**RIVER MEDWAY NURSERY AREA (PROHIBITION OF FISHING) 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 and an associated regulatory notice-
  - (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) "carry" means transport by any means;
  - (c) "the District" means the Kent and Essex Inshore Fisheries and Conservation District as defined in Articles 2 and 3 of the Kent and Essex Inshore Fisheries and Conservation Order 2010 (SI 2010 No 2190);
  - (d) "regulatory notice" means a notice issued by the Authority in accordance with this byelaw;
  - (e) "restricted area" means an area defined within a regulatory notice.
  - (f) "River Medway" means the water body known as the River Medway from a line drawn from Garrison Point at Sheerness (51 degrees 26.863 minutes North, 000 degrees 44.641 minutes East) through the Grain Tower (51 degrees 27.091 minutes North, 000 degrees 43.871 minutes East) to the point of mean high water springs on the shore of the Isle of Grain (51 degrees 27.244 minutes North, 000 degrees 43.352 minutes East) at its mouth, up to its tidal limit at Allington Lock and up to a line drawn across the River Swale from 51 degrees 25.40 minutes North, 000 degrees 43.79 minutes East to 51 degrees 25.419 minutes North, 000 degrees 44.137 minutes East;
  - (g) "Rochester Oyster and Floating Fishery" means the working guild codified by the Rochester Oyster and Floating Fishery Acts of 1729 and 1865.
  - (h) "specified" means specified in a regulatory notice.

**REGULATORY NOTICES**

2. In furtherance of its duties under Section 153 Paragraphs (1) and (2) of the Marine and Coastal Access Act 2009 within the River Medway, the Authority may issue a regulatory notice in relation to a Restricted Area within the River Medway in accordance with the procedure set out in paragraphs 7 and 8.
3. A regulatory notice may contain one or more of the following management measures within a restricted area:

- (a) Prohibition of all fishing;
  - (b) Prohibition of fishing during specified periods;
  - (c) Prohibition of fishing using fishing gear of a specified description;
  - (d) Prohibition of carrying of sea fisheries resources.
4. A regulatory notice must specify:
- (a) The co-ordinates of the restricted area;
  - (b) The date from which the regulatory notice takes effect;
  - (c) The latest date for the regulatory notice to be reviewed;
  - (d) The date on which the regulatory notice expires if there is to be an expiry date.
5. A person must not breach an obligation set out in a regulatory notice.
6. Where a Regulatory Notice contains a provision which prohibits fishing in a Restricted Area, a person must not carry any fishing gear in that Restricted Area unless it is stored inboard, lashed and stowed.
7. Where a Regulatory Notice contains a provision which restricts fishing in a Restricted Area, a person must not carry any gear during any period when that restriction is in effect unless it is stored inboard, lashed and stowed.
8. Where a Regulatory Notice contains a provision which restricts fishing gear of a specified description, a person must not carry any fishing gear which is not compliant with that restriction within the Restricted Area unless that gear is stored inboard, lashed and stowed.
9. Any exemptions to the management measures set out in a regulatory notice will be specified in that notice.

#### **PROCEDURE**

10. The procedure for issuing, varying or revoking a regulatory notice will include the Authority taking the following steps:
- (a) the Authority will consult in writing with the Rochester Oyster and Floating Fishery and all 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 regulatory notice;
  - (b) the Authority will make a decision whether to issue, remove or vary a regulatory notice based upon that consultation and the information listed in paragraph 8;
  - (c) following a decision to issue, remove or vary a regulatory notice being made, the Authority must notify in writing all such persons as were consulted in accordance with paragraph 10 (a) prior to that decision coming into effect.
11. The information for the purposes of paragraph 10(b) includes any one or more of the following:
- (a) Scientific and survey data gathered by the Authority or provided to the Authority by such other bodies, organisations, or persons as the Authority thinks fit;
  - (b) Scientific advice provided by Centre for Environment Fisheries Aquaculture Science or such other bodies, organisations, or persons as the Authority thinks fit;
  - (c) An impact assessment of any proposed changes;

(d) Advice given by Natural England or such other bodies, organisations, or persons as the Authority thinks fit;

(e) Any such information as the Authority considers relevant.

12. The Authority will review a regulatory notice as specified in the regulatory notice or sooner and in any case no less frequently than every three years from the date the regulatory notice takes effect.

#### **APPLICATION**

13. Contravention of a provision of a regulatory notice constitutes a contravention of this byelaw.

14. 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.

15. 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.

I hereby certify that the above byelaw was made by the Kent and Essex Inshore Fisheries and Conservation Authority at their meeting on the XXXXX November 2015.

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 River Medway Nursery Area (Prohibition of Fishing) Byelaw made by the Kent and Essex Inshore Fisheries and Conservation Authority on XXXXX October 2015.

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

Date: 2015.

#### **Explanatory Note (this note is not part of byelaw)**

The Byelaw provides the Authority with the ability to balance the needs of persons fishing the area with the requirements to secure a sustainable marine eco-system and local socio-economic environment. The Byelaw will protect fish populations using the River Medway as a nursery area and will in addition offer protection to the Marine Protected Area (MPA) designations of the site including Special Protected Areas (SPA) and Marine Conservation Zone (MCZ) features. The byelaw does this by means of regulatory notices which can restrict any and all fishing activities within a defined area of the River Medway including prohibition of all fishing, restrictions on gear types and carrying of fish. The areas will be reviewed when necessary on the basis of best available evidence and within a time period not exceeding three years.

“sea fisheries resources” means that as defined in section 153 (10) of the Marine and Coastal Access Act 2009;