

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

### **MARINE AND COASTAL ACCESS ACT 2009 (c.23)**

# **BLACKWATER, CROUCH, ROACH AND COLNE ESTUARIES MARINE CONSERVATION ZONE NATIVE OYSTER 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;
  - c) "harvest" in relation to native oysters means the taking of native oysters by any means including dredging and hand collection;
  - d) "harvesting area" means an area as defined in the Schedule;
  - e) "harvesting trip" means a fishing operation for native oysters from start to finish which includes taking and landing native oysters;
  - f) "the MCZ" means the Blackwater, Crouch, Roach and Colne Estuaries Marine Conservation Zone as designated in the Blackwater, Crouch, Roach and Colne Estuaries Marine Conservation Zone Designation Order 2013;

- g) "the Management Plan" means the Blackwater, Crouch, Roach and Colne Estuaries Native Oyster Fishery Management Plan held by Kent and Essex Inshore Fisheries and Conservation Authority;
- h) "native oyster" means oysters of the species *Ostrea edulis*;
- i) "the prohibited area" means the area defined in the Schedule;
- j) "relevant fishing vessel" means a fishing boat:
  - i) registered in accordance with Part II of the Merchant Shipping Act 1995 and the regulations made under that Act; and
  - ii) in respect of which there is a valid fishing licence issued under the Sea Fish (conservation) Act 1967 (c.84).

## PROHIBITIONS

- 2. A person must not harvest native oysters within the MCZ other than in accordance with a permit.
- 3. A person must not harvest native oysters using a relevant fishing vessel which exceeds 10 metres in overall length.
- 4. No person shall harvest native oysters from the prohibited area.
- 5. No person shall carry native oysters on board a relevant fishing vessel within the MCZ unless:
  - (a) they are carried in accordance with a permit; or
  - (b) details of the fishing operation have been provided to the Authority including place of fishing and time and place of landing two hours prior to the commencement of landing.
- 6. Any native oysters on board or landed from a relevant fishing vessel which:
  - (a) is authorised to be used to harvest native oysters within the MCZ under a permit; and
  - (b) during the same harvesting trip has been used for harvesting native oysters within the MCZ
 shall be deemed to have been taken from the MCZ.

## EXEMPTIONS

- 7. 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, restoration, stakeholder engagement or fisheries management purposes.
- 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 158 of the Marine and Coastal Access Act 2009 provided that such persons communicate their claimed right to the Authority along with proof of that right, within 6 months from the date of this byelaw or within 1 month of gaining that right, whichever is later.

## PERMITS

9. The Authority may authorise the harvesting of native oysters by issuing a permit. A permit:
  - (a) permits the "maximum permitted catch" of oysters to be as specified in paragraph 22;
  - (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 be used to 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 18 to 24 and any flexible permit conditions attached in accordance with paragraphs 25 to 28.

### *Applying for a Permit*

10. A person may not apply for a permit if they:
  - (a) already hold a permit for the same year; or
  - (b) are already named on a permit as a nominated representative of the permit holder for the same year.
11. No more than one permit will be issued per relevant fishing vessel.
12. An application for a 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 15<sup>th</sup> June of the financial year in which the permit is to apply.
13. A person applying for a permit may nominate up to two persons as their representatives ("nominated representatives"), provided that a person nominated is not:
  - (a) a permit holder;
  - (b) already nominated as a representative on a permit.
14. A fee of £150 will be charged for each permit which is payable upon application.
15. If the permitted native oyster fishery is, following a meeting and decision 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.
16. A permit is:
  - (a) not transferable between the permit holder and another person or between the named vessel and another vessel; and
  - (b) valid from the date of issue for a period specified on the permit but for no more than 1 year.
17. A permit will only be issued following the completion, and approval by Natural England, of a full Habitats Regulations Assessment (or equivalent assessment) with impact information provided, where requested, by the Applicant for the gear type stated on the permit application form.

## PERMIT CONDITIONS

18. A permit may only be used by the permit holder or a nominated representative using the named vessel, and no other person may harvest native oysters using the named vessel without the prior agreement of the Authority.

### *Notifications*

19. (a) The permit holder or nominated representative must notify the Authority of the estimated time of the commencement of landing, at least 2 hours prior to such commencement.
- (b) Notification must be given either directly to an appointed officer of the Authority, or by leaving a message on an appointed telephone line as specified in the management plan, or by an alternative means of communication as specified in the management plan.

### *Minimum Size*

20. Native oysters which are smaller than the Native oyster minimum conservation reference size of 70mm must not be carried on board the named vessel or landed but must be returned immediately to the sea. The Native oyster minimum conservation reference size may, if the criteria outlined in the Management Plan are met, be reduced, down to a minimum of 60mm, or increased, up to a maximum of 80mm, in 5mm increments.

### *Quantities*

21. The "maximum permitted catch" of native oysters is 250kg per harvesting trip.
22. Any native oysters harvested in excess of a maximum permitted catch must not be retained but must be returned immediately to the sea.
23. No native oysters may be carried on board the named vessel at the time of commencement of a harvesting trip.

### *Catch Returns*

24. 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. This shall contain such information in regard to catches and fishing effort for the previous week as the Authority may require. This will include accurate information regarding the quantity of oysters relayed, the quantity of oysters landed, the area fished, the amount of time at sea, the amount of time spent fishing, and towing speed.

## FLEXIBLE PERMIT CONDITIONS

25. The Authority may attach, remove or vary flexible permit conditions which fall within one or more of the following categories:
  - (a) gear restrictions;
  - (b) spatial restrictions;
  - (c) time and effort restrictions;
  - (d) Vessel Monitoring Systems;
  - (e) biosecurity.

26. The Authority may attach, remove or vary a flexible permit condition following a review conducted in accordance with the review procedure set out in paragraphs 29 and 30.
27. The flexible permit conditions that apply until the first review, pursuant to paragraphs 29 and 30, are those set by the Authority taking into account the Impact Assessment that accompanies this byelaw and all other material considerations.
28. Contravention of a flexible permit condition constitutes a contravention of this byelaw.

## **REVIEW PROCEDURE**

29. 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 30; and
  - (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.
30. The information for the purposes of paragraph 29(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 the Centre for Environment, Fisheries and Aquaculture Science (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) advice provided by the Essex Native Oyster Restoration Initiative (ENORI)
  - (g) material information from any other relevant source.

I hereby certify that the above byelaw was made by the Kent and Essex Inshore Fisheries and Conservation Authority at their meeting on the 22<sup>nd</sup> May 2018



Joel Cook  
Clerk to the 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 Blackwater, Crouch, Roach and Colne Estuaries Marine Conservation Zone Native Oyster Fishery Flexible Permit Byelaw made by Kent and Essex Inshore Fisheries and Conservation Authority on 23<sup>rd</sup> January 2018.

Date:

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

## SCHEDULE

### Definition of the harvesting areas

Co-ordinates used in this byelaw are based on WGS 84 datum, where 'WGS 84' means the World Geodetic System, revised in 1984 and further revised in 2004.

"harvesting area 1" means the area enclosed by a series of straight lines drawn sequentially from:

Point 1 (51 degrees 48.151 minutes North, 00 degrees 55.620 minutes East) to  
Point 2 (51 degrees 48.052 minutes North, 00 degrees 55.620 minutes East) and then by a line drawn along the coast at the level of mean high water spring tide to  
Point 3 (51 degrees 46.385 minutes North, 00 degrees 55.620 minutes East) to  
Point 4 (51 degrees 44.846 minutes North, 00 degrees 55.620 minutes East) and then by a line drawn along the coast at the level of mean high water spring tide back to Point 1

"harvesting area 2" means the area enclosed by a series of straight lines drawn from:

Point 1 (51 degrees 48.151 minutes North, 00 degrees 55.620 minutes East) to  
Point 2 (51 degrees 48.052 minutes North, 00 degrees 55.620 minutes East) and then by a line drawn along the coast at the level of mean high water spring tide to  
Point 3 (51 degrees 46.385 minutes North, 00 degrees 55.620 minutes East) to  
Point 4 (51 degrees 45.600 minutes North, 00 degrees 55.620 minutes East) to  
Point 5 (51 degrees 45.600 minutes North, 00 degrees 57.420 minutes East) to  
Point 6 (51 degrees 45.895 minutes North, 01 degrees 01.658 minutes East) to  
Point 7 (51 degrees 46.273 minutes North, 01 degrees 01.405 minutes East) and then by a line drawn along the coast at the level of mean high water spring tide back to Point 1

"harvesting area 3" means the area enclosed by a series of straight lines drawn from:

Point 1 (51 degrees 44.846 minutes North, 00 degrees 55.620 minutes East) to  
Point 2 (51 degrees 45.600 minutes North, 00 degrees 55.620 minutes East) to  
Point 3 (51 degrees 45.600 minutes North, 00 degrees 57.420 minutes East) to  
Point 4 (51 degrees 45.895 minutes North, 01 degrees 01.658 minutes East) to  
Point 5 (51 degrees 46.273 minutes North, 01 degrees 01.405 minutes East) to  
Point 6 (51 degrees 43.253 minutes North, 01 degrees 02.411 minutes East) to  
Point 7 (51 degrees 44.693 minutes North, 00 degrees 56.021 minutes East) and then by a line drawn along the coast at the level of mean high water spring tide back to Point 1

"harvesting area 4" means the area enclosed by a series of straight lines drawn from:

Point 1 (51 degrees 46.273 minutes North, 01 degrees 01.405 minutes East) to  
Point 2 (51 degrees 43.253 minutes North, 01 degrees 02.411 minutes East) to  
Point 3 (51 degrees 41.924 minutes North, 01 degrees 08.291 minutes East) to  
Point 4 (51 degrees 41.970 minutes North, 01 degrees 08.367 minutes East) to  
Point 5 (51 degrees 43.856 minutes North, 01 degrees 09.173 minutes East) to  
Point 6 (51 degrees 47.227 minutes North, 01 degrees 09.326 minutes East) and then by a line drawn along the coast at the level of mean high water spring tide back to Point 1

"harvesting area 5" means the area enclosed by a series of straight lines drawn sequentially from:

Point 1 (51 degrees 44.693 minutes North, 00 degrees 56.021 minutes East) to  
Point 2 (51 degrees 42.350 minutes North, 01 degrees 06.433 minutes East) to  
Point 3 (51 degrees 38.449 minutes North, 00 degrees 56.225 minutes East) and then by a line drawn along the coast at the level of mean high water spring tide back to Point 1

"harvesting area 6" means the area enclosed by a series of straight lines drawn sequentially from:

Point 1 (51 degrees 38.449 minutes North, 00 degrees 56.225 minutes East) to  
Point 2 (51 degrees 42.350 minutes North, 01 degrees 06.433 minutes East) to  
Point 3 (51 degrees 41.924 minutes North, 01 degrees 08.291 minutes East) to  
Point 4 (51 degrees 40.022 minutes North, 01 degrees 05.052 minutes East) to  
Point 5 (51 degrees 37.231 minutes North, 00 degrees 57.475 minutes East) and then by a line drawn along the coast at the level of mean high water spring tide to  
Point 6 (51 degrees 37.207 minutes North, 00 degrees 56.951 minutes East) to  
Point 7 (51 degrees 37.823 minutes North, 00 degrees 55.897 minutes East) and then by a line drawn along the coast at the level of mean high water spring tide back to Point 1

"harvesting area 7" means the area enclosed by a series of straight lines drawn sequentially from:

Point 1 (51 degrees 37.823 minutes North, 00 degrees 55.897 minutes East) to  
Point 2 (51 degrees 37.207 minutes North, 00 degrees 56.951 minutes East) and then by a line drawn along the coast at the level of mean high water spring tide to  
Point 3 (51 degrees 36.948 minutes North, 00 degrees 52.734 minutes East) to  
Point 4 (51 degrees 36.931 minutes North, 00 degrees 51.946 minutes East) and then by a line drawn along the coast at the level of mean high water spring tide back to Point 1

"harvesting area 8" means the area enclosed by a series of straight lines drawn sequentially from:

Point 1 (51 degrees 36.931 minutes North, 00 degrees 51.946 minutes East) to  
Point 2 (51 degrees 36.948 minutes North, 00 degrees 52.734 minutes East) and then by a line drawn along the coast at the level of mean high water spring tide back to Point 1

#### Definition of the prohibited area

Co-ordinates used in this byelaw are based on WGS 84 datum, where 'WGS 84' means the World Geodetic System, revised in 1984 and further revised in 2004.

"the prohibited area" means the area enclosed by a series of straight lines drawn sequentially from:

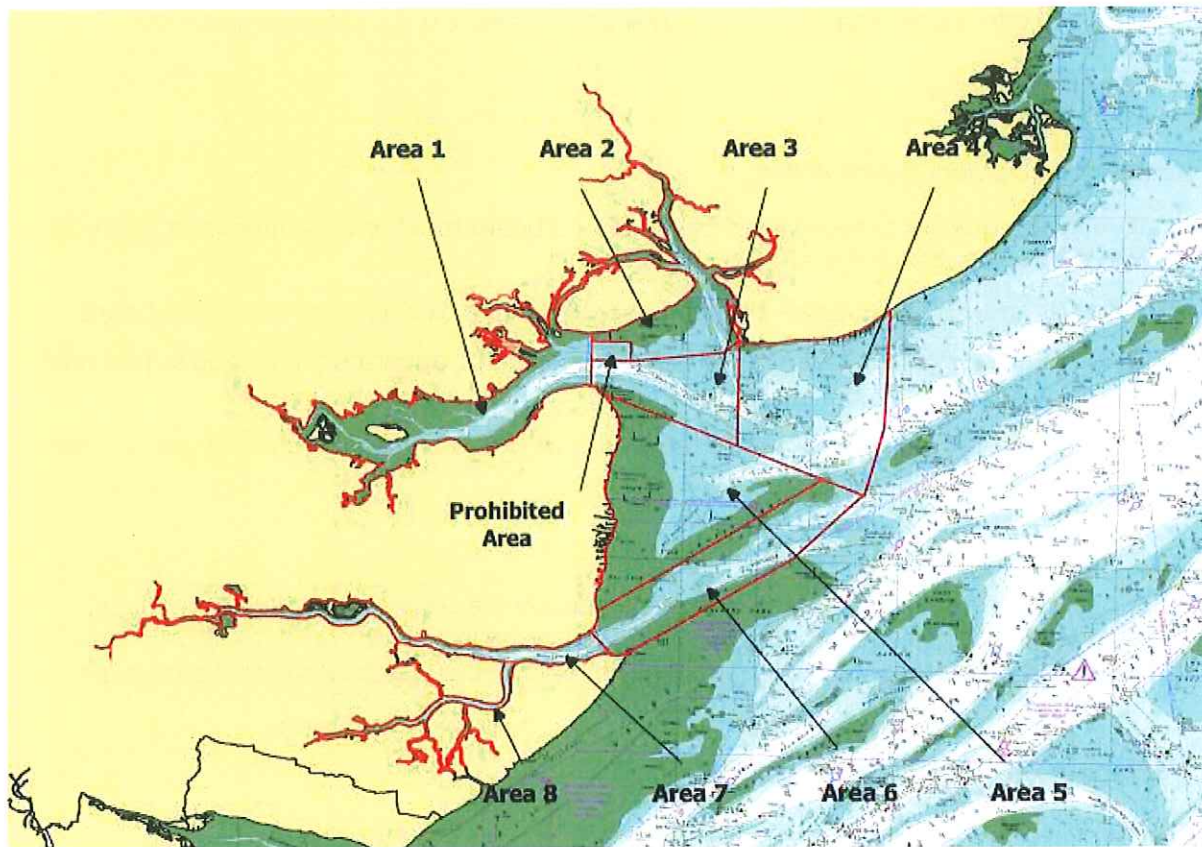
Point 1 (51 degrees 46.140 minutes North, 00 degrees 55.620 minutes East) to  
Point 2 (51 degrees 46.140 minutes North, 00 degrees 57.420 minutes East) to  
Point 3 (51 degrees 45.600 minutes North, 00 degrees 57.420 minutes East) to  
Point 4 (51 degrees 45.600 minutes North, 00 degrees 55.620 minutes East) back to Point 1



### Explanatory Note (not part of byelaw)

The proposed Byelaw will provide the Authority with the ability to balance the requirements of the designated features of the Blackwater, Crouch, Roach and Colne Estuaries Marine Conservation Zone with the needs of persons harvesting native oysters within the same area 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 native oyster fishery within the Blackwater, Crouch, Roach and Colne Estuaries Marine Conservation Zone. All persons will be limited in the technical specifications of the vessel and gear that can be used, the areas and times which can be worked and a daily catch limit of native oysters. 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 Blackwater, Crouch, Roach and Colne Estuaries Marine Conservation Zone Native Oyster Fishery Flexible Permit Byelaw applies to the areas enclosed within the red lines on the chart below.



## **FLEXIBLE PERMIT CONDITIONS**

### **TIME AND EFFORT RESTRICTIONS**

1. Native oyster harvesting is prohibited outside of the permitted period for native oyster harvesting within a particular harvesting area as notified to the permit holder by the Authority.

### **SPATIAL RESTRICTIONS**

2. Native oyster harvesting is prohibited:
  - (a) outside of a 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.
  - (c) Within the 'Restoration Box' (Area 2a) specified in the Management Plan.

### **GEAR RESTRICTIONS**

#### *Harvesting Equipment Construction*

3. Native oyster dredge(s) being used or carried on board must have a maximum aggregate width of no more than 2.4 metres
4. No more than two native oyster dredges may be used at any time or carried on board
5. Native oyster dredge(s) must not use any other blade or apparatus designed to penetrate the seabed other than a ladder blade
6. Native oyster dredge(s) must have a maximum weight of no more than 75kg per dredge.

### **VESSEL MONITORING SYSTEMS**

7. 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, MMO or Defra requirements and transmit the required information at the specified reporting intervals.

### **BIOSECURITY AND SHELLFISH HEALTH**

8. Permit holders must comply with all current disease risk mitigation plans in place including but not limited to those issued by CEFAS and local Environmental Health