



Kent and Essex Inshore Fisheries and Conservation Authority

MARINE AND COASTAL ACCESS ACT 2009 (c.23)

VESSEL LENGTH AND TOWED FISHING GEAR ENGINE POWER BYELAW

The Authority for the Kent and Essex Inshore Fisheries and Conservation District, in exercise of the powers conferred by sections 155 and 156 of the Marine and Coastal Access Act 2009 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 District as defined in Articles 2 and 3 of the Kent and Essex Inshore Fisheries and Conservation Order 2010;
- (c) "derated" in the context of engine power, means an engine which has had its power output permanently lowered and is recorded as such on the Transcript of Registry issued by the Maritime and Coastguard Agency;
- (d) "engine power" means the power output in KW specified on the Transcript of Registry issued by the Maritime and Coastguard Agency;
- (e) "fishing gear" means any equipment, instrument or other items designed to take sea fisheries resources from the sea bed or the water column;
- (f) "overall length" means the length of the vessel as specified on the Transcript of Registry issued by the Maritime and Coastguard Agency;
- (g) "ownership" means both the legal and beneficial ownership of the vessel;

- (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 is held that has been issued by an appropriate national authority such as; the Marine Management Organisation, Marine Scotland, Natural Resources Wales, the Department of Agriculture, Environment and Rural Affairs or the successor in function as applicable to any of the aforementioned authorities.
- (i) "towed fishing gear" means any beam trawl, otter trawl, multi-rig trawl, pair trawl, demersal trawl, pelagic trawl, anchor seine, Scottish seine, dredge or other similar fishing towed equipment, instrument or other items designed to take, or disturb, sea fisheries resources on the sea bed or in the water column;
- (j) "use", in relation to fishing gear, means shooting, setting, moving, towing or dragging the fishing gear on or above the seabed, on the sea surface or anchoring or leaving it on the seabed with or without the intention to take sea fisheries resources.
- (k) "VMS" means any vessel monitoring system intended to record and report the position, speed and heading of the vessel including; Blue Tracker I-VMS manufactured by AST Marine Services, SC2 manufactured by Succorfish, VMS+ manufactured by AST Marine Services or any other system required by national regulation or deemed acceptable by the Authority.

PROHIBITIONS

Vessel length for vessels operating all types of fishing gear

- (2) A person must not use any fishing gear from a relevant fishing vessel with an overall length of more than 14 metres.

Engine power for vessels operating towed fishing gear

- (3) A person must not use any towed fishing gear from a relevant fishing vessel which has;
 - (a) in the case of inboard engine(s), a total engine power of more than 221kW and where those engine(s) have been derated, did not have a total engine power of more than 243kW prior to derating.
 - (b) in the case of outboard engine(s), a total engine power of more than 221kW.

EXEMPTIONS

Scientific exemption

- (4) This byelaw does not apply to a person performing an act which would otherwise contravene paragraphs (2) or (3), if that act was carried out in accordance with a written permission issued by the Authority permitting that act for scientific, stocking or breeding purposes.

Vessel length exemption

- (5) This byelaw does not, subject to paragraphs (7) and (8), apply to a relevant fishing vessel which exceeds the specifications of paragraph (2) provided that all of the following are satisfied;
 - (a) an application is received on a biennial basis for exemption;
 - (b) the relevant fishing vessel has undertaken a minimum of 100 hours fishing activity within the District during the two years prior to the date this byelaw was made;or;
 - a legally binding commitment, such as a signed contract, had been made for the building of a relevant fishing vessel prior to the date that this byelaw was made;

- (c) the relevant vessel remains in the same ownership as on the date that this byelaw was made;
- (d) the overall length of the relevant fishing vessel does not increase after the date that this byelaw was made;
- (e) the overall length of the relevant fishing vessel prior to the date that this byelaw was made did not exceed 17 metres;
- (f) written permission, provided by the Authority, is carried on board the relevant fishing vessel at all times whilst operating within the District.

Towed fishing gear engine power exemption

- (6) This byelaw does not, subject to paragraphs (7) and (8), apply to a relevant fishing vessel which exceeds the requirements of paragraph (3) provided that all of the following are satisfied;
 - (a) an application is received on a biennial basis for exemption;
 - (b) the relevant fishing vessel has undertaken a minimum of 100 hours fishing activity with towed fishing gear within the District during the two years prior to the date that this byelaw was made, and was not prevented from doing so by any of the byelaws listed in paragraphs (10) to (13);
 - (c) the relevant fishing vessel remains in the same ownership as on the date that this byelaw was made;
 - (d) the total engine power of the relevant fishing vessel does not increase after the date that this byelaw was made;
 - (e) any replacement engine which is fitted to the relevant fishing vessel after the date that this byelaw was made is compliant with paragraph (3);
 - (f) written permission, provided by the Authority, is carried on board the relevant fishing vessel at all times whilst operating within the District.

Applying for an exemption

- (7) When applying for an exemption as specified in paragraphs (5) or (6), a person should provide the following for the relevant fishing vessel:
 - (a) VMS records which prove a minimum of 100 hours fishing in the District in the preceding two years;
 - (b) Vessel logs relating to the above VMS records;
 - (c) Any documentation, such as catch records and sales notes, which details the fish caught during the above 100 hours, the gear type used and the location where fishing took place;
 - (d) Details of the legal and beneficial ownership of the vessel;
 - (e) Any other information requested by the Authority for the purposes of clarifying the requirements of paragraphs (5) and (6), or if any of the information listed in paragraph (7)(a), (b) and (c) is not available.
- (8) The exemptions provided for in paragraphs (5) and (6) may contain spatial restrictions which reflect the area in which any record of prior fishing activity was acquired.

- (9) The exemptions provided for in paragraphs (5) and (6) will be reviewed at a date no later than fifteen years after the date upon which this byelaw is made and then no later than every five years after that.

REVOCAATION

- (10) The 'Byelaw Relating to Vessel Size and Engine Power' made on 30th April 1997 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 is hereby revoked.
- (11) The byelaws with the following titles made by the Eastern Sea Fisheries Joint Committee on the stated dates, and having effect in relation to the District from the 1st April 2011 as byelaws made by 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 District:
- (a) 'Byelaw 12:- Inshore Trawling Restriction' made on 25th July 2001
- (b) 'Byelaw 15:- Towed Gear Restriction for Bivalve Molluscs' made on the 28th May 2008;
- (12) 'Byelaw No. 3. Vessel Length' made on 18th April 1996 by the Sussex Sea Fisheries Committee, and having effect in relation to the District from the 1st April 2011 as byelaws made by the Authority, in accordance with Article 6 of the Marine and Coastal Access Act 2009 (Transitional and Saving Provisions) Order 2011 (SI 2011/603), is hereby revoked insofar as they apply to the District.
- (13) 'Byelaw No. 3. Vessel Size and Engine Power' made on 18th February 2009 by the Environment Agency, and having effect in relation to the District from the 1st April 2011 as byelaws made by the Authority, in accordance with Article 6 of the Marine and Coastal Access Act 2009 (Transitional and Saving Provisions) Order 2011 (SI 2011/603), is hereby revoked insofar as they apply to the District.

I hereby certify that the above byelaw was made by the Authority at their meeting on the XX day of XXXXXX 2018

Joel Cook
Clerk to the Kent and Essex Inshore Fisheries and Conservation Authority

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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 Vessel Length and Engine Power Byelaw 2018 made by Kent and Essex Inshore Fisheries and Conservation Authority on XXX day of XXXXXX 2018.

Date:

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

EXPLANATORY NOTE

(This note is not part of the byelaw)

This byelaw prohibits fishing with vessels over 14 metres in length within the Kent and Essex District, as well as prohibiting fishing with towed fishing gear, such as trawls and dredges, from vessels with an engine power exceeding 221 kW, and in the case of derated inboard engines, with an engine power exceeding 243 kW before being derated.

The byelaw provides exemptions for vessels which do not meet the requirements of the byelaw provided that they were in use prior to this byelaw being made.

This byelaw is intended to reduce the fishing effort capability which the use of larger vessels enables, as well as minimise the impact of bottom towed gear by limiting the weight and size of gear which can be used by fishing vessels.