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ANNEX A

MARINE AND COASTAL ACCESS ACT 2009

The Authority for the North Western Inshore Fisheries and Conservation Authority in exercise of its powers under Sections 155 and 156 of The Marine and Coastal Access Act 2009 hereby makes the following byelaw.

NWIFCA BYELAW 3 PERMIT TO FISH FOR COCKLES (*Cerastoderma edule*) AND MUSSELS (*Mytilus edulis*)

Interpretation

1. In this byelaw:
 - a. "cockles" means the species *Cerastoderma edule*;
 - b. "mussels" means the species *Mytilus edulis*;
 - c. "fishery" means an area of sea, seabed, exposed estuary, seashore, or other marine environment in any part of the District;
 - d. "the NWIFCA" means the North Western Inshore Fisheries and Conservation Authority and is defined in articles 2 and 4 of the North Western Inshore Fisheries and Conservation Order 2010 (S.I. 2010 No. 2200);
 - e. "the District" means North Western Inshore Fisheries and Conservation District and is defined in articles 3 and 4 of the North Western Inshore Fisheries and Conservation Order 2010 (S.I. 2010 No. 2200) ;
 - f. "full gathering permit" means a permit which authorises a person to gather cockles and mussels and carry out all related activities, such as moving them and transporting them;
 - g. "support worker permit" means a permit which authorises a person to carry out activities related to the gathering of cockles and mussels, such as moving them and transporting them to support a person with a full gathering permit but only after the cockles and mussels have been placed in a receptacle, after having been passed through a riddle in the case of cockles, by the person with the full gathering permit;
 - h. "gathering" includes all activities related to the gathering of cockles and mussels such as moving and transporting them;
 - i. "Commercial Shellfish Fisheries Area" means an area designated by the NWIFCA pursuant to paragraph 13;

- j. "Morecambe Bay Commercial Fisheries Area" means the area enclosed by straight lines joining the following co-ordinates in order:
 - I. 54° 08.490'N 03° 02.011'W
 - II. 54° 07.686'N 02° 53.497'W
 - III. 54° 03.204'N 02° 56.331'W
 - IV. 54° 04.062'N 03° 03.776'W
 - V. 54° 08.490'N 03° 02.011'W;
- k. "Ribble Estuary Commercial Fisheries Area" means the area enclosed by straight lines joining the following co-ordinates in order:
 - I. 53° 43.008'N 03° 05.177'W
 - II. 53° 43.572'N 02° 59.986'W
 - III. 53° 40.902'N 03° 00.341'W
 - IV. 53° 40.860'N 03° 05.122'W
 - V. 53° 43.008'N 03° 05.177'W;
- l. "Gangmaster Licensing Authority licence" means a licence issued under the Gangmasters Licencing) Act 2004; and
- m. "Foreshore Gatherers Safety Training Certificate" means a document issued by a Seafish Industry Group Training Association or a trainer approved by the NWIFCA, certifying that the person named on the certificate has completed a safety training course for intertidal shellfishing.

Permit

- 2. Subject to paragraphs 10, 11, 25 and 26 of this byelaw no person shall gather cockles or mussels within or from a fishery unless he has in his possession a full gathering permit.
- 3. Subject to paragraphs 10, 11, 25 and 26 of this byelaw, no person shall, in the area of the District below mean high water springs, move or transport cockles or mussels within or from a fishery unless he has either a full gathering permit or a support worker permit.
- 4. No person shall have in their possession any article for use in the course of or in connection with gathering cockles or mussels within or from a fishery in breach of this byelaw.
- 5. No person shall have in their possession any cockle or mussel gathered within or from a fishery in breach of this byelaw.

Minimum Sizes

- 6. No person shall gather within or from a fishery any cockle which will pass through a gauge having a square opening of 20mm measured across each side of the square or any mussel less than 45mm in length.

Fishing Methods

- 7. No person shall gather cockles or mussels except:
 - a) by hand or using hand-held rakes;
 - b) in the case of cockles by using craams, rakes, spades, tamps or jumbos; or
 - c) by using buckets, sacks, net bags, ton bags and other such containers ordinarily used for the storage of cockles and mussels.

8. No person shall place cockles that have just been fished into a container unless they have been passed through a rigid riddle with a gauge with the specification set out in paragraph 6.

Redeposit

9. Any person who removes or possesses shellfish the removal or possession of which is prohibited by or in pursuance of these byelaws or any Act of Parliament shall immediately redeposit the same without injury as nearly as possible in the fishery from which they were taken or under the written authority of the NWIFCA on another suitable fishery and shall spread them thinly and evenly through the fishery.

Written permission

10. This byelaw shall not apply to any 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 NWIFCA permitting that act for scientific, management, stocking or breeding purposes.

Exception for Personal Consumption to the Requirement for a permit

11. No person shall require a permit under this byelaw to gather less than a total of 5kg of cockles and 5kg of mussels during a calendar day intended for their own personal consumption within or from a fishery which is neither closed pursuant to paragraph 12 of this byelaw or byelaw 13A of the North Western and North Wales Sea Fisheries Committee (cockles and mussels – management of the fishery) or byelaw 18 of the Cumbria Sea Fisheries Committee (shellfishery – temporary closure) nor designated a Commercial Shellfish Fisheries Area pursuant to paragraph 13 of this byelaw.

Fisheries Closure

12. No person shall gather any cockle within or from a fishery on or between the 1st day of May and the 31th day of August in the same year or have in their possession any cockle or mussel from a fishery that has been closed pursuant to byelaw 13A of the North Western and North Wales Sea Fisheries Committee (cockles and mussels – management of the fishery) or byelaw 18 of the Cumbria Sea Fisheries Committee (shellfishery – temporary closure).

Commercial cockle or mussel fisheries

13. The NWIFCA designates the Morecambe Bay Commercial Fisheries Area and the Ribble Estuary Commercial Fisheries Area as Commercial Shellfish Fisheries Areas.

Application for Permits

14. The period of validity of permits shall be from 1st September in any given year to 31st of August the following year unless otherwise stated. Permits shall be annually renewable subject to paragraph 16 of this byelaw. A fee of £500 will be charged each year by the NWIFCA for all permits issued under this byelaw.
15. Holders of a permit to gather cockles or mussels under this byelaw in any given year shall be entitled to renew the permit for next year up to one year after the permit term has expired.
16. Applications for the renewal of permits pursuant to this byelaw shall be made using the printed forms available from the NWIFCA offices or the NWIFCA website. Renewal forms will be made available 2 calendar months before the date each permit term begins. On renewal, applicants must satisfy the NWIFCA that at some time in the previous 3 years they have derived a substantial part of their income from fishing activities by providing evidence which may include a

personal statement detailing fishing activities in the last 3 years and evidence that tax has been paid on fishing income in the last 3 years.

17. Applications for new permits pursuant to this byelaw shall be made using the printed forms available from the NWIFCA offices or the NWIFCA website. Applications for new permits to be issued pursuant to paragraphs 22 and 27 of this byelaw shall be made by first registering an interest with the NWIFCA in writing. If the number of applicants registering an interest exceeds the number of available permits a waiting list will be compiled on a 'first come, first served' basis and an applicant will be invited to complete an application for a new permit in the first year a new permit becomes available. Applications shall meet all the requirements of paragraph 22 in the case of full gathering permits and paragraph 27 in the case of support worker permits.
18. A permit issued pursuant to this byelaw is not transferable.
19. Failure to produce, on the reasonable demand of a properly warranted Officer or a Constable, a valid permit when carrying out any activity for which a permit is required constitutes a breach of this byelaw.
20. Failure to notify the NWIFCA of any change of name or address during the period of the validity of a permit constitutes a breach of this byelaw.

Filing returns

21. The holder of a permit to gather cockles or mussels under this byelaw shall be required to file with the NWIFCA, no later than the 5th day of the month following, such information in regard to catches and fishing effort for the previous month, under the terms of such permit, as the NWIFCA may require. Nil returns may be required at the discretion of the NWIFCA. Permit holders not filing returns may have their permits suspended by the NWIFCA until returns have been filed.

New Permits

22. New full gathering permits shall be issued each year to a maximum of the first 10 applicants on the waiting list who have not held a permit pursuant to this byelaw in the previous year on production of :
 - a) evidence of the applicant's identity, containing photograph and signature, such as a valid passport; or a driving licence with photo;
 - b) evidence of the applicant's address, such as a utility bill issued in the preceding 4 months of application or a current tenancy agreement;
 - c) evidence of the applicant's National Insurance Number;
 - d) 2 recent passport style photographs of the applicant signed on the back by the applicant;
 - e) the applicant's valid Foreshore Gatherers Safety Training certificate or proof of the successful completion of an equivalent safety training course. Equivalence is determined at the discretion of the NWIFCA; and
 - f) payment of the fee set in paragraph 14.

Transitional Arrangements

23. Holders of a permit for 2011/2012 issued under byelaw 5 of the NWIFCA (permit to fish for cockles (*Cerastoderma edule*) and mussels (*Mytilus edulis*)) shall be entitled to renewal of that permit under this byelaw 3 for the year 2012/2013.

24. Permits to fish for cockles and mussels for the year 2012/2013 shall be issued to 40 new applicants under the rules set out in Byelaw 5 of the NWIFCA (permit to fish for cockles (*Cerastoderma edule*) and mussels (*Mytilus edulis*)). No permits to fish for cockles and mussels shall be issued to new applicants under this byelaw 3 for the year 2012/2013.
25. Persons who provide evidence to the satisfaction of the NWIFCA that they have in the past held a permit issued under Cumbria Sea Fisheries Committee byelaw 21 (cockles – permit scheme) or 23 (mussels – permit scheme) and have in the past been engaged in commercial cockle or mussel fishing activities in a specified region or regions within the District formerly administered by the Cumbria Sea Fisheries Committee shall be eligible to apply to the NWIFCA for written authority to continue to fish in any fisheries within that region or regions. The obligations in this byelaw apply to a person fishing under a written authority but no fee is payable for the issue of that authority.
26. Persons who provide evidence to the satisfaction of the NWIFCA that they have in the past been engaged in commercial cockle or mussel fishing activities in a specified region or regions within the Dee Estuary shall be eligible to apply to the NWIFCA for written authority to continue to fish in any fisheries within that region or regions. The obligations in this byelaw apply to a person fishing under a written authority but no fee is payable for the issue of that authority.

Support worker permit

27. Commercial organisations trading in cockles and mussels may apply to the NWIFCA for permits for specified members of staff who they wish to perform ancillary trading activities within a cockle or mussel fishery which would constitute taking, removing or transporting cockles or mussels within or from a fishery including driving transport vehicles, transporting shellfish and weighing shellfish. The NWIFCA will issue up to a maximum of 6 support worker permits to each commercial organisation upon receipt of complete applications on production of:
 - a. The names, contact details, national insurance numbers and proof of right to work of the members of staff. Proof of identity of those members of staff containing photograph and signature, such as a valid passport; or a driving licence with photo and proof of address of those members of staff, such as a recent utility bill;
 - b. Proof from the annual account or annual report of the organisation's trade in cockles or mussels;
 - c. Evidence that the organisation holds a Gangmaster Licensing Authority licence for shellfish operations;
 - d. Statement of the duties members of staff will perform in the shellfish fishery;
 - e. Two recent passport style photographs of the members of staff signed and dated on the back by the members of staff;
 - f. Valid Foreshore Gatherers Safety Training certificates for each of the members of staff or proof of the successful completion of an equivalent safety training course. Equivalence is decided at the discretion of the NWIFCA; and
 - g. Payment of the fee set in paragraph 14.

Use of boats

28. No person shall use a boat to access shellfish beds in order to gather, remove or transport cockles or mussels unless they have a full gathering permit endorsed as a boat user by the NWIFCA. The NWIFCA will endorse permits as boat users on production of evidence that the holder has completed training of an equivalent standard to the courses provided by Seafish in

Sea Survival, First aid and Health and Safety at Sea. Equivalence is decided at the discretion of NWIFCA.

29. No person shall be granted an endorsement as a boat user unless they have in their possession a serviceable life jacket and the boat is equipped with a serviceable VHF radio, global positioning equipment marine distress flares and an adequate anchor with a means of effective deployment.

Revocation of Legacy Byelaws

30. Byelaw 5 (permit to fish for cockles (*Cerastoderma edule*) and mussels (*Mytilus edulis*)) made by the NWIFCA is revoked.
31. The following byelaws made by the North Western and North Wales Sea Fisheries Committee are revoked in so far as they apply within the District:
- a) byelaw 5 (permit to fish for cockles (*Cerastoderma edule*) and mussels (*Mytilus edulis*));
 - b) byelaw 13 (cockles – minimum size);
 - c) byelaw 14 (cockle fishery – seasonal closure);
 - d) byelaw 15 (mussels – minimum size); and
 - e) byelaw 17 (redeposit of shellfish).
32. The following byelaws made by the Cumbria Sea Fisheries Committee are revoked in so far as they apply within the District :
- a. byelaw 5 (minimum removal size for mussels);
 - b. byelaw 6 (minimum removal size for cockles);
 - c. byelaw 12 (redepositing of shellfish);
 - d. byelaw 16 (cockles - seasonal closure));
 - e. byelaw 21 (cockles - permit scheme);
 - f. byelaw 22 (cockles - catch restrictions);
 - g. byelaw 23 (mussels - permit scheme); and
 - h. byelaw 24 (mussels – catch restrictions).
- 33 The byelaws originally promoted by the Board of Conservators for the Dee Fishery District relating to fishing for mussels and cockles are revoked in so far as they apply within the District.'

Explanatory Notes to byelaw 3 not forming part of the byelaw

1. The purpose of this byelaw is to control the exploitation of shellfish fisheries of cockles and mussels to ensure catches remain at a sustainable level and are obtained by sustainable fishing methods. As cockle and mussel fishing can be highly lucrative depending on price variations the NWIFCA has concluded a permit scheme is necessary to limit the number of fishermen and consequently the number of cockles gathered, along with the methods they use.
2. The byelaw prohibits the gathering of cockles or mussels (other than for personal consumption) without a full gathering permit and prohibits the moving and transporting of cockles or mussels

(other than for personal consumption) below mean high water springs without a support worker permit (paragraphs 2 and 3). The full gathering permit also permits the holder to move and transport cockles or mussels below mean high water springs (definition of 'full gathering permit' in paragraph 1).

3. The byelaw prohibits the possession of articles to gather cockles or mussels in breach of the byelaw and specifies the fishing methods that may be used (paragraphs 4, 7 and 8).
4. The byelaw prohibits the possession of cockles or mussels gathered in breach of the byelaw (paragraph 5) and provides for their redeposit (paragraph 9).
5. The byelaw sets minimum sizes for cockles and mussels (paragraph 6).
6. The byelaw provides an exemption for a person who carries out an act which would otherwise constitute an offence if it is in accordance with a written permission issued by the NIFCA permitting that act for scientific, stocking or breeding purposes (paragraph 10).
7. The byelaw provides that a person does not need a permit to gather less than a 5kg of cockles or mussels for personal consumption from areas that are not closed or in Commercial Shellfish Fisheries Areas (paragraph 11).

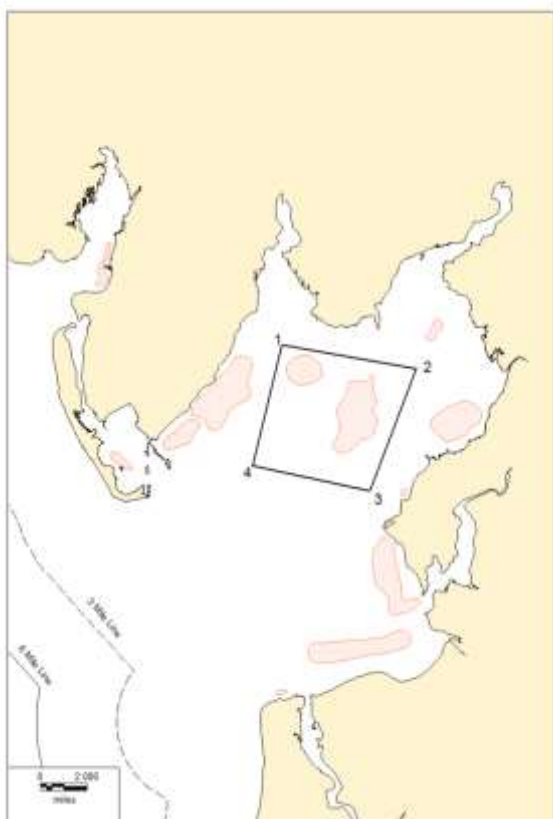


Fig 2, Morecambe Bay Commercial Fisheries Area with known historical cockle beds

8. The byelaw provides for the annual closure of cockle fisheries throughout the District for a specified period (paragraph 12).

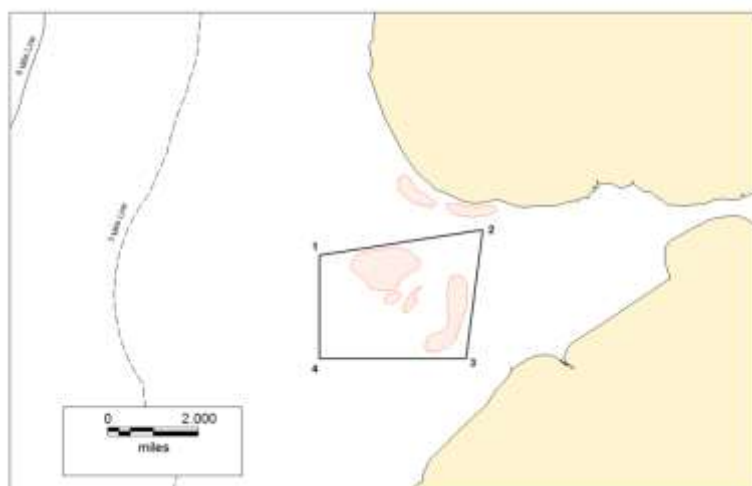


Fig 1, Ribble Commercial Fisheries Area with known historical cockle beds

9. The byelaw provides for the designation of certain cockle beds as Commercial Shellfish Fisheries Areas as shown in the at maps figs 1 and 2. These maps are provided for illustration only. See the definition of the areas in the interpretation paragraph of the byelaw for the exact co-ordinates (paragraph 13).
10. The byelaw provides an application procedure for permits (paragraphs 14 to 20).
11. The byelaw provides for permit holders to file returns (paragraph 21).

12. The byelaw provides for the renewal of permits and the issue of new permits (paragraphs 15 and 22).
13. The byelaw provides transitional arrangements for those with a right to gather shellfish under existing byelaws (paragraphs 23 to 26).
14. The byelaw provides for the issue of support worker permits (paragraph 27).
15. The byelaw provides that a full gathering permit must be endorsed if the holder uses a boat to access shellfish beds (paragraphs 28 and 29).
16. The byelaw provides for the revocation of specified byelaws that previously applied in the District (paragraphs 30, 31, 32 and 33).

I hereby certify that the above Byelaw
was made by the Authority at its meeting
on 12th June 2012

Dr. STEPHEN ATKINS
Chief Executive

The Secretary of State for Environment, Food and Rural Affairs in exercise of the powers conferred by section 155 (3) of the Marine and Coastal Access Act 2009, confirms this byelaw made by the North Western Inshore Fisheries and Conservation Authority on 12th June 2012.

IN WITNESS whereof the Official Seal of the Secretary of State for the Department of the Environment, Food and Rural Affairs is hereunto affixed on:

GAVIN ROSS
Deputy Director,
Sustainable Fisheries,
Marine and Fisheries Programme

Date: