



Devon and Severn

Inshore Fisheries and Conservation Authority

MARINE AND COASTAL ACCESS ACT 2009 (c.23)

Netting Permit Byelaw 2016

The Authority for the Devon and Severn Inshore Fisheries and Conservation District in exercise of its powers under sections 155 and 156 of the Marine and Coastal Access Act 2009 makes the following byelaw for that District.

Interpretation

1. In this byelaw and associated flexible permit conditions-
 - a) "the Authority" means the Devon and Severn Inshore Fisheries and Conservation Authority as defined in articles 2 and 4 of the Devon and Severn Inshore Fisheries and Conservation Order 2010 (S.I. 2010 No. 2212);
 - b) "the District" means the Devon and Severn Inshore Fisheries and Conservation District as defined in articles 2 and 3 of the Devon and Severn Inshore Fisheries and Conservation Order 2010;
 - c) "fishing" includes searching for sea fisheries resources, shooting, setting, towing, hauling of a fishing gear, and taking sea fisheries resources on board;
 - d) "inboard, lashed and stowed" means that the nets are stored in such a way that they cannot readily be used for fishing;
 - e) "net" means any type of net other than:
 - i) any net that forms part of a dredge, trawl, or similar device that is designed to be towed, or pushed by a vessel or mechanical device to take any sea fisheries resources;
 - ii) any net which forms part of any folding or rigid cage device or structure with one or more openings or entrances capable of capturing any sea fisheries resources;

DEVON AND SEVERN INSHORE FISHERIES AND CONSERVATION AUTHORITY

- iii) a landing net when used in conjunction with fishing by rod and line or a trolling line;
- iv) any net which when fully expanded does not exceed an area of more than four meters squared, where it is operated only manually and not in connection with any vessel or mechanical device;
- v) a brailling net;
- g) "permit" means:
 - i) a Category One Permit issued under paragraph 4 of this byelaw; or
 - ii) a Category Two Permit issued under paragraph 5 of this byelaw;
- h) "relevant fishing vessel" means a fishing vessel:
 - i) registered under Part II of The Registry of Shipping and Seamen as governed by the provisions of the Merchant Shipping Act 1995 (c.21) and the Merchant Shipping (Registration of Ships) Regulations 1993 (S.I. 1993 No. 3138), or in the Channel Islands or Isle of Man;

and in respect of which there is a valid fishing licence issued under the Sea Fish (Conservation) Act 1967 (c.84); or
 - ii) a vessel used for commercial fishing that has no mechanical propulsion of any kind on board;
- i) "vessel" means a ship, boat, raft or watercraft of any description and includes non-displacement craft, personal watercraft, seaplanes and any other thing constructed or adapted for floating on or being submersed in water (whether permanently or temporarily) and a hovercraft or any other amphibious vehicle, used or capable of being used as a means of transportation on water.

Prohibitions

- 2 A person must not use a net for fishing other than in accordance with a permit.
- 3. A person must not carry a net on board a vessel unless:
 - a) the net is inboard, lashed and stowed; or
 - b) the net is being used for fishing in accordance with a permit.

Permits

4. The Authority may authorise the use of a net for fishing from a named relevant fishing vessel by issuing a Category One permit to the owner of that vessel.
5. The Authority may authorise the use of a net for fishing by issuing a Category Two permit to:
 - a) the owner of a named vessel that is not a relevant fishing vessel; or
 - b) a named person without a vessel.
6. Only one permit may be issued to a named person without a vessel or in respect of a named vessel that is not a relevant fishing vessel.
7. An application for a permit may only be made by using the printed forms available from the Authority's office or its website.
8. A permit:
 - a) is issued to a named person or the owner of a named vessel;
 - b) in the case of shared vessel ownership the permit will be jointly issued to all vessel co-owners;
 - c) is valid for the dates specified in the permit, up to a maximum of two years;
 - d) is not transferable between:
 - i) the permit holder and another person; or
 - ii) the vessel named in the permit and another vessel;
 - e) must be surrendered to the Authority immediately if no longer required.
9. A permit holder may nominate a named representative in writing to the Authority.
10. A permit holder, when nominating a named representative at any time other than at the time of the permit application, must make the nomination in writing; and receive approval from the Authority prior to the named representative fishing under the authority of the permit issued to the permit holder.
11. A fee will be charged for each permit which will be payable on each application. The fee for a permit is £20.
12. No fee will be charged for the issue of a tag to a permit holder as required by paragraph 17. However, the Authority will charge £2 per replacement tag.

Permit Conditions

13. A named vessel in a Category One permit must be a relevant fishing vessel for the permit to remain valid.

DEVON AND SEVERN INSHORE FISHERIES AND CONSERVATION AUTHORITY

14. The permit holder or a named representative must be present when fishing is being undertaken under the authority of the permit.
15. The permit holder must provide any relevant fisheries information required by the Authority for the discharge of its functions.
16. A vessel in respect to which a permit has been issued may be required to have fitted at the owner's expense a remotely accessed electronic reporting device and transmit the required information at the specified reporting intervals as set out in the flexible permit conditions.
17. The Authority may require tags, issued by the Authority, to be fitted to a net as set out in the flexible permit conditions.
18. A Category Two Permit holder or a named representative must not remove sea fisheries resources except for personal consumption.
19. A Category Two Permit holder or named representative must not use any container or any other device to store any crab, lobster, scallop or bass in the sea or in an estuary.
20. Failure to comply with a permit condition constitutes a contravention of this byelaw.

Flexible Permit Conditions

21. The Authority may introduce flexible permit conditions which fall within one or more of the categories listed in paragraph 22.
22. The categories referred to in paragraph 21 are:
 - a) catch restrictions;
 - b) gear restriction;
 - c) spatial restrictions;
 - d) time restrictions.
23. The Authority may introduce, remove or vary flexible permit conditions following a review conducted in accordance with the review procedure set out in paragraphs 26 to 28.
24. The flexible permit conditions that apply until they are reviewed pursuant to paragraphs 26 to 28 are those set by the Authority taking into account the impact assessment that accompanies this byelaw and all other material considerations.
25. Failure to comply with a flexible permit condition constitutes a contravention of this byelaw.

Review Procedure

26. The Authority must review the flexible permit conditions no less than once every three years from their coming into force.
27. A review of the flexible permit conditions shall be undertaken as follows:
 - a) the Authority will 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 any proposed amendments to the flexible permit conditions;
 - b) the Authority will make a decision whether to introduce, remove or vary any flexible permit conditions based upon the consultation at paragraph 27(a) and any material information gathered from permit holders and the information listed in paragraph 22. Following a decision being made by the Authority, permit holders will be notified in writing and flexible permit conditions will be amended as necessary at no cost to the permit holder.
28. The information referred to in paragraph 27(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 thinks fit;
 - c) scientific advice provided by relevant statutory bodies or such other bodies, organisations, or persons as the Authority thinks fit;
 - d) an impact assessment of any proposed changes;
 - e) advice given by relevant statutory bodies or such other bodies, organisations, or persons as the Authority thinks fit;
 - f) information from any other relevant source.

Revocation

29. The byelaw with the title "Byelaw 12 – Prohibition of Netting – River Exe" made by the Devon Sea Fisheries Committee on the 13th of September 1998 is revoked.
30. The byelaw with the title "Byelaw 14 – Trawling and Netting Prohibition - part of Lundy Island Marine Conservation Zone (MCZ)" made by the Devon Sea Fisheries Committee is revoked.

DEVON AND SEVERN INSHORE FISHERIES AND CONSERVATION AUTHORITY

31. The byelaw with the title "Byelaw 29 – River Exe – Prohibition of Netting" made by the Devon Sea Fisheries Committee on the 11th of June 2009 is revoked.

Effective Date

32. The provisions of this byelaw will come into effect on 1st March 2018.

I hereby certify that the above byelaw was made by the Devon and Severn Inshore Fisheries and Conservation Authority at their meeting on the 16th June 2016.



Timothy Robbins

Chief Officer
Devon and Severn Inshore Fisheries and Conservation Authority.
Brixham Laboratory, Freshwater Quarry, Brixham, Devon, TQ5 8BA.

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 Netting Permit Byelaw 2016 made by Devon and Severn Inshore Fisheries and Conservation Authority.

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

Date:

Explanatory Note (not part of byelaw)

This byelaw will provide the Authority with the ability to balance the needs of persons netting with the requirements to secure a sustainable marine eco-system and local socio-economic environment for the benefit of all sea users. Any person who uses a net, other than of a type specified in the byelaw, to fish in the Authority's District is required to do so in accordance with a permit issued by the Authority. The byelaw introduces the ability of the Authority to restrict the number of nets that can be used, specify where and when nets can be used, and introduce a daily catch limit. The flexible permit conditions contain all the Authority's management restrictions that apply to netting activity in the District. 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.