

**NWIFCA Technical, Science and Byelaw
Committee
7th August 2018: 10:00 a.m.**

**AGENDA
ITEM NO.
11**

NWIFCA COCKLE AND MUSSEL PERMIT BYELAW 2018: NEW DRAFT

Purpose: To report progress and invite comments

Recommendation: Draft to be amended to include comments from the meeting.

Background

1. A review of this byelaw was discussed at TSB in May. The minutes record that:

Members approved a new draft of the byelaw to be prepared without provision for a trader permit but with measures to require identification on containers into which shellfish are put for transport away from the fishery.

New Draft for discussion

2. A new draft of the proposed revised byelaw is at Annex A. Changes from the previous version include:

- i. Removal of references to a trader permit;
- ii. Amendment of the prohibition in paragraph 6 in response to MMPO comment on previous version;
- iii. Requirement to label containers containing cockle or mussel with the name of the owner (paragraph 7)
- iv. A change to the timing requirement for permit renewal;
- v. Setting a lower age limit (12) for applicants to be added to the waiting list (paragraphs 14-15);
- vi. Ending transitional arrangements in the current Byelaw 3 for fishers of just the Dee or Cumbria areas to get local permits at no cost on confirmation of this byelaw (paragraph 26).
- vii. Revocation of byelaws listed in paragraphs 27, 28, 29, 30. Text comments show outstanding questions relating to potential revocation of other relevant byelaws.

Next stage

3. Subject to comments at this meeting, the draft byelaw should be completed as far as possible and returned to MMO for checking.
4. Members are asked to consider if the measures in this draft byelaw are as far as can be foreseen, sufficient and comprehensive to enhance regulation of these fisheries for the next 5 years.
5. There are developing new concerns about the risks of alien or invasive species being introduced through translocation of shellfish within or beyond the limits of the District. It may therefore be worth considering the need for byelaw provision to prohibit the relaying of

shellfish in this District of shellfish from outside the District without permission from the Authority.

6. If there is significant work needed, a further draft will be prepared for the next TSB. If possible, a near final draft byelaw will be offered to the next quarterly to be 'made' at that meeting.

CEO
27 July 2018

North Western Inshore Fisheries and Conservation Authority

Marine and Coastal Access Act 2009

Permit to gather cockles and mussels byelaw 2018

The Authority for the North Western 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:
 - a) "The Authority" means the North Western Inshore Fisheries and Conservation Authority as defined in articles 2 and 4 of the North Western Inshore Fisheries and Conservation Order 2010 (S.I. 2010/2200);
 - b) "cockle" means a shellfish of the species *Cerastoderma edule*;
 - c) "Commercial areas" means areas of the District where s10 is temporarily suspended and all gatherers must have a permit;
 - d) "Craam, tamp or jumbo" are alternative terms used in the District for tools used to cause cockles to rise to the surface of intertidal sand flats;
 - e) "The District" means the North Western Inshore Fisheries and Conservation District as defined in articles 2 and 3 of the North Western Inshore Fisheries and Conservation Order 2010;
 - f) "foreshore gatherers safety training certificate" means a document certifying that the person named has completed a safety training course approved by the Authority for inter-tidal shellfish gathering;
 - g) "gather" includes all activities related to fishing by hand of cockles or mussels within or from a fishery including harvesting, taking, moving and transporting;
 - h) "permit" means a permit issued by the Authority to hand gather cockles or mussels;
 - i) "mussel" means a shellfish of any species of the genus *Mytilus*;

Prohibitions

2. A person must not gather cockles or mussels from a fishery unless they have in their possession while gathering a valid permit issued to them by the Authority.
3. A person must not gather cockles or mussels except:
 - a. by hand using only a rake;
 - b. in the case of cockles by using a craam, tamp or jumbo;
 - c. in accordance with a permit.
4. A person must not 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. A person must not retain 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.
6. A person must not have in their possession, retain, transport or store any cockle or mussel gathered in breach of this byelaw. Any person who possesses or removes cockles or mussels the removal of which is prohibited by any NWIFCA or MMO byelaw, Statutory Instrument or any Act of Parliament must 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.

7. A container must not be used for holding or transporting cockles or mussels gathered from a fishery unless it is marked with the name of the person or company which is the owner of the contents.
8. Any cockles found in an unmarked container may be confiscated and relaid by IFCOs
9. A person must not gather any cockle within or from a fishery on or between 1st May and 31st August in the same year.

Exemptions

10. This byelaw does not apply to any person performing an act that would otherwise constitute an offence against this byelaw if that act was carried out in accordance with a written permission issued by the Authority for scientific, management, stocking or breeding purpose or in the exercise of any right of common held by that person.
11. This byelaw does not apply to a person gathering less than 5kg of cockles and 5kg of mussels during a calendar day from a fishery which is:
 - a. not closed under any NWIFCA, MMO byelaw, Statutory Instrument or any Act of Parliament
 - b. not part of the District managed under the Dee Estuary Cockle Fishery Order (2008) without a licence to fish issued under the terms of that Order.
 - c. not in a designated commercial area.

Permit conditions

12. A permit:
 - a. is issued by the Authority to a named person (“the permit holder”)
 - b. is not transferrable from the permit holder to another person
 - c. is annually renewable
 - d. is valid from 1 September to 31 August inclusive unless otherwise stated on the permit.
13. Only holders of a permit under this byelaw shall be entitled to renew the permit for the next year.
14. To renew a permit, a permit holder must:
 - a. Apply for renewal at least one month before the permit expires.
 - b. Hold a valid foreshore gatherers safety training certificate.
15. The Authority shall keep a waiting list of new permit applications in the order received. Applicants must be 12 years or over to be added to the waiting list. Permits will not be issued to applicants who do not have a National Insurance Number.
16. New permits will be issued each year for the permit year starting 1 September to persons at the top of the waiting list until a maximum of 10 permits have been issued. By declining a permit applicants lose permit entitlement but may be added to the end of the waiting list.
17. Failure to produce on the reasonable demand of a properly warranted Officer a valid permit when carrying out any activity for which a permit is required constitutes a breach of this byelaw.
18. Permits may be suspended by the Authority until returns have been filed;
19. Applications for permits must be made using the correct forms available from the Authority’s offices or website and providing all the information requested.

20. A fee of £500 shall be payable for each permit prior to issue upon application. The fee may be varied by no more than the annual percentage change in the Consumer Price Index on the 1st December each year.

Flexible permit conditions

21. On receipt of the information specified in paragraph 24. the Authority may in accordance with the review procedure in paragraph 23 and in order to promote sustainable exploitation of sea fisheries resources, attach or vary flexible conditions to a permit including some or all of the following:
- a. Dates, times or tides during which gathering cockles or mussels is permitted;
 - b. Areas where gathering cockles or mussels is permitted;
 - c. Close for a specified period not exceeding 1 year any cockle or mussel bed or part of a bed for fishery management purposes or to control the rate of exploitation of stock;
 - d. Designate 'commercial areas' of maximum size 100 square km for defined periods not exceeding six months where S10 of this byelaw does not apply;
 - e. The total catch limit permitted within a specified period or a specified area;
 - f. Methods or equipment permitted within a specified period or a specified area.
22. Failure to comply with any of the permit conditions constitutes a breach of this byelaw.

Review procedure

23. The Authority will review the permit conditions no less than once every 4 years 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 the proposed future management options;
 - b. The Authority will decide to attach, vary or remove any permit conditions based on the consultation responses obtained in accordance with sub-paragraph 25a and the information listed in paragraph 26.
 - 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.
 - d. Notifications must include co-ordinates of all designated commercial areas and be posted on the Authority website.
24. The information 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. Advice provided by Cefas, Natural England or such other bodies, organisations or persons as the Authority shall think fit;
 - d. An impact Assessment of any proposed changes;
 - e. Information from any other relevant source.

Transitional Arrangements

25. A NWIFCA Byelaw 3 (revoked by this byelaw) gathering permit holder is only entitled to apply for a gathering permit under this byelaw in the calendar year this byelaw comes into force.

26. The transitional arrangements in paragraphs 25 and 26 of Byelaw 3 permit to fish for cockles and mussels confirmed 23.08.12 will not apply from the date this byelaw is confirmed.

Revocation of Byelaws

27. The byelaw with the title “Byelaw 3 Permit to fish for Cockles (*Cerastoderma edule*) and Mussels (*Mytilus edulis*)” made by the Authority, in exercise of its powers under sections 155 and 156 of the Marine and Coastal Access Act 2009, confirmed on 23rd August 2012,
28. The byelaw with the title “Byelaw 13a Cockle and Mussels – management of the fishery” made by the North Western and North Wales Sea Fisheries Committee in exercise of its powers under section ?? of the Sea Fisheries Regulation Act 1966 , confirmed 29th of March 1996); and in force immediately before the making of this byelaw is revoked.
29. The byelaw with the title “Byelaw 16 Shellfishery – temporary closure” made by the North Western and North Wales Sea Fisheries Committee in exercise of its powers under section ?? of the Sea Fisheries Regulation Act 1966 , confirmed 14th of September 1973 and in force immediately before the making of this byelaw is revoked.
30. The byelaw with the title “Byelaw 18 Shellfishery temporary closure” made by Cumbria Sea Fisheries Committee under Section ?? of the Sea Fisheries Regulation Act 1966 confirmed on 16th of July 1973 and in force immediately before the making of this byelaw is revoked.
31. Possible revocation of EA and NRA byelaws 6,8,11, in current byelaw book

Explanatory Note (to be drafted)

(This note does not form part of the byelaw)