

North Western Inshore Fisheries and Conservation Authority

Marine and Coastal Access Act 2009 (c.23)

Byelaw 4 Potting Permit 2020

The Authority for the North Western Inshore Fisheries and Conservation District in exercise of its powers under sections 155 (1) 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 (SI 2010/2200);
- (b) “berried” means a female edible crab or lobster carrying spawn attached to its body or some other exterior part, or which is in such a condition as to show that at the time when it was taken it was carrying spawn so attached;
- (c) “dahn” means a pole with a float, weight and flag attached;
- (d) “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;
- (e) “hard eye” means an entrance or opening constructed of a solid plastic or nylon ring leading to the main body of the pot or creel;
- (f) “inboard, lashed and stowed” means that the pots are stored in such a way that they cannot readily be used for fishing;
- (g) “keep pot” means a container used to store sea fisheries resources in the sea or estuaries;
- (h) “mutilated lobster” means a lobster where any of the five flaps of the tail fan is missing or mutilated in such a manner that could hide or obliterate the V-notch on a V-notched lobster;
- (i) “named representative” means a person qualified to skipper a vessel who has been granted permission to fish from a vessel by a permit holder and is nominated by that permit holder for the purposes of paragraphs 20 and 21, who may fish using the permit holder’s permit from that vessel under the same entitlement, conditions and responsibilities as the permit holder in their absence;
- (j) “permit” means:
 - i. A Category One Permit issued under paragraph 11
 - ii. A Category Two Permit issued under paragraph 22;
- (k) “permit holder” means the owner of a named relevant fishing vessel, or in the case of shared ownership all the owners of that vessel to whom a permit is issued;
- (l) “permit sticker” means a disc issued by the Authority for attachment to a vessel and which contains details of the applicable permit;

- (m) “pot” means any folding or rigid cage device or structure with one or more openings or entrances capable of capturing any sea fisheries resources;
- (n) “relevant fishing vessel” means a fishing vessel:
 - i. registered in accordance with Part II of the Merchant Shipping Act 1995 (c.21) and the regulations made under that Act, or registered in the Channel Islands or Isle of Man; and
 - ii. in respect of which a fishing licence issued under the Sea Fish (Conservation) Act 1967 (c.84) is held at the time of the application for a permit under this byelaw;
- (o) “riddle” means a fixed or moving flat or cylindrical apparatus constructed of parallel bars which rejects any specified species that pass between the bars;
- (p) “specified species” means any of the following species:
 - i. lobster (*Homarus gammarus*);
 - ii. edible crab (*Cancer pagurus*);
 - iii. Norwegian lobster (*Nephrops norvegicus*);
 - iv. whelk (*Buccinum undatum*);
 - v. prawn and shrimp (*Palaemonidae spp. Crangonidae spp. and Pandalidae spp.*);
 - vi. cuttlefish (*Sepia officinalis*);
 - vii. spider crab (*Maia squinado*);
 - viii. velvet swimming crab (*Necora puber*);
 - ix. spiny lobster or crawfish (*Palinurus elephas*);
 - x. any teleost (bony) or cartilaginous (sharks and rays) fish species;
- (q) “tag” means a tag issued by the Authority for attachment to a pot and which contains details of the applicable permit;
- (r) “vessel” means a ship, boat, raft or watercraft of any description and includes non-displacement craft, personal watercraft, seaplanes, hovercraft, amphibious vehicles and any other thing constructed or adapted for floating on or being submerged in water (whether permanently or temporarily) which can be used as a means of transportation on water;
- (s) “V-notched lobster” means a lobster with an indentation in the shape of the letter “V” or resembling the shape of a “V” made in any one or more of the five flaps on the tail fan.
- (t) “fishery” means any area of sea, seabed, exposed estuary, seashore, or other marine environment in any part of the District

Prohibitions and Restrictions

- 2. A person must not use pots for fishing for a specified species unless in possession of a valid permit. The permit must be carried on board the vessel or by the permit holder or named representative at all times when fishing with pots.
- 3. A person must not take or land from a fishery, under any method of fishing, more than the stated amount of the species listed below in any one calendar day:
 - (a) one lobster;
 - (b) a combined total of five individuals of the following:
 - i. edible crab;

- ii. spider crab; and
 - iii. velvet swimming crab;
 - (c) 50 whelks; and
 - (d) 50 Norwegian lobster.
4. A person fishing other than under the authority of a fishing vessel licence issued by the Marine Management Organisation or other devolved UK fishery administration must not remove or retain from a fishery:
- (a) a V-notched lobster;
 - (b) a mutilated lobster; or
 - (c) a berried lobster;
- and any such lobster must be returned immediately to the fishery without further injury.
5. A person must not remove or retain from a fishery a berried edible crab. Any such edible crab must be returned immediately to the fishery without further injury.
6. A person must not use any keep pot, container or other device to store specified species in the sea or in an estuary and any specified species removed from the fishery must be landed within 24 hours of capture.
7. A person must not carry a pot on board a vessel unless the pot is inboard, lashed and stowed.

Exceptions

- 8. 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 or breeding purposes.
- 9. Paragraph 3 does not apply to a person fishing from a relevant fishing vessel.
- 10. Paragraph 7 does not apply to a person acting in accordance with a valid Category One Permit issued under paragraph 11, or a Category Two Permit issued under paragraph 22.

Category One Permits

- 11. The Authority may issue a Category One Permit authorising a person to use pots to fish for specified species from a relevant fishing vessel.
- 12. An application for a Category One Permit may only be made by the owner of a relevant fishing vessel using the form available from the Authority's office and website.
- 13. Only one Category One Permit per specified species will be issued per relevant fishing vessel. A relevant fishing vessel can be issued more than one Category One Permit, so long as each permit relates to a different specified species.
- 14. A Category One Permit for edible crab and lobster will count as one specified species permit.
- 15. A Category One Permit for edible crab and lobster will be issued under three classes:
 - (a) Class A or Class B permits may only be issued to the owner of a relevant fishing vessel which holds a current fishing licence with a shellfish entitlement issued by the appropriate UK Fisheries Department at the time the application is made;

- (b) a Class C permit may only be issued to the owner of a relevant fishing vessel which holds a current fishing licence without a shellfish entitlement issued by the appropriate UK Fisheries Department at the time the application is made.
16. Category One Permits may be subject to catch and pot number restrictions as described in the flexible permit conditions.
17. When the Authority issues a Category One Permit, the Authority will at the same time issue a permit sticker. Gear tags and a tag applicator will also be issued if tagging of pots is required under the flexible permit conditions.
18. A Category One Permit, permit sticker, tags and tag applicator:
- (a) are issued to the owner of the named relevant fishing vessel, or in the case of shared ownership, to all owners of that vessel (“the permit holder”);
 - (b) are valid for the period 1 October to 30 September the following year. Upon confirmation of the byelaw the first permit shall be valid for the remainder of the first 12 months to 30 September, and to 30 September in the subsequent year;
 - (c) cannot be resold;
 - (d) are not transferable between:
 - i. the permit holder and another person; or
 - ii. the named vessel to another named vessel; and
 - (e) shall remain the property of the Authority and must be surrendered to the Authority immediately if no longer required.
19. Paragraph 18(d)(ii) does not apply if the ownership of the recipient vessel is the same as that of the donor vessel, subject to any flexible permit conditions in force at the time of transfer. In such case the permit must be returned to the Authority for administrative changes to be made.
20. A Category One Permit holder may nominate one or more named representatives at any time in writing to the Authority to enable them to fish from the named vessel under the authority of the permit.
21. A Category One Permit holder, when nominating a named representative at any time other than at the time of the permit application, must:
- (a) make the nomination in writing; and
 - (b) receive approval from the Authority prior to any named representative fishing under the authority of the permit issued to the permit holder.

Category Two Permits

22. The Authority may issue a permit authorising the use of pots to fish for specified species (a ‘Category Two Permit’) to:
- (a) the owner of a named vessel that is not a relevant fishing vessel;
 - (b) a named person without a vessel.
23. An application for a Category Two Permit may be made by any person using the forms available from the Authority’s office and website.

24. Only one Category Two Permit will be issued per person.
25. Where the Authority issues a Category Two Permit, the Authority will at the same time issue a permit sticker and tags.
26. A Category Two Permit, permit sticker and tags:
- (a) are issued to the applicant (“the permit holder”);
 - (b) are valid for the period 1 October to 30 September the following year. Upon confirmation of the byelaw the first permit shall be valid for the remainder of the first 12 months to 30 September, and to 30 September in the subsequent year;
 - (c) cannot be resold;
 - (d) are not transferable between the permit holder and another person; and
 - (e) remain the property of the Authority and must be surrendered to the Authority immediately if no longer required.

General Permit Conditions

27. The fee for a permit, permit sticker and tags if in force, is payable prior to issue as specified below, unless varied pursuant to paragraph 28:

Type of Permit	Annual Fee per permit (£)	Includes if required under permit or flexible permit conditions
Category One except edible crab and lobster permit	200	One set of tags, one applicator, and replacement of one lost or damaged permit sticker.
Edible Crab and Lobster Category One Permit Class A	200	One set of tags, one applicator, and replacement of one lost or damaged permit sticker.
Edible Crab and Lobster Category One Permit Class B	50	One set of tags, one applicator, and replacement of one lost or damaged permit sticker.
Edible Crab and Lobster Category One Permit Class C	50	One set of tags, one applicator, and replacement of one lost or damaged permit sticker.
Category Two Permit	20	One set of tags, replacement of one lost or damaged permit sticker and one set of replacement tags.

28. The Authority may vary permit fees in accordance with the following conditions and procedures:
- (a) the Authority will consult in writing with permit holders;
 - (b) the fee will not be changed for any permit already issued;
 - (c) the Authority will make a decision whether to vary the permit fee based upon:
 - i. the responses from the consultation under paragraph 28 (a);
 - ii. expenditure arising from the fishery regulatory costs required by the Authority;

- iii. Authority expenditure to conduct any research, monitoring, and survey activities that support the implementation of permits under this byelaw;
29. Any named vessel must clearly display the permit sticker with the number issued with the permit, and must not be used to haul pots that are not marked with that number.
 30. The site of pots set in strings must be marked at each end by either a dahn or a buoy. Pots set individually must each be marked by either a dahn or a buoy:
 - (a) when using a dahn each flag must be at least one metre above the surface of the sea;
 - (b) when gear is marked with buoys only, all buoys must be red, yellow or orange with a minimum circumference of 84 centimetres.
 31. Correct marking of gear must be maintained during any period the pots are in the water as specified in paragraph 30.
 32. A permit holder must file with the Authority, no later than the 15th day of the following month, information as required by the Authority on catches and fishing effort for the previous month by fully completing the correct forms available from the Authority's offices or website. Nil returns will be required by the Authority. Permits may be suspended by the Authority until returns have been filed.
 33. A permit holder must notify the Authority of any change in the information provided to obtain a permit during the period when the permit is valid.

Category One Permit Conditions

34. The vessel named on a Category One Permit must remain a relevant fishing vessel for the duration of the permit.
35. The permit holder or a named representative of the permit holder must be present on board the vessel during the permitted activity in order to use the permit.
36. Dahns, buoys and keep pots used under a Category One Permit must be legibly marked with the permitted vessel's port letters and numbers.
37. Any vessel used in accordance with the byelaw must not display more than one permit sticker per species.

Category Two Permit Conditions

38. A permit holder must not use more than a total of five pots to fish for specified species.
39. A permit holder must not set a pot that:
 - (a) is not fitted with a tag issued by the Authority; or
 - (b) is fitted with a tag that has previously been notified to the Authority as lost.
40. To obtain a set of replacement tags in the event that a tag is lost, the permit holder must submit a written request to the Authority.
41. A fee is payable for the replacement of a full set of tags up to a maximum of £0.10 per tag for the replacement of a second or further sets of lost or destroyed tags.

42. If a lost tag is subsequently found by the permit holder it must be returned immediately to the Authority and not used to mark active fishing gear.
43. During a fishing trip in which a vessel is used by more than one person to fish, the maximum daily quantity that may be removed from the fishery or retained on board by all the persons on-board, taken together remains as specified under paragraph 3.
44. A Category Two Permit holder must not remove from the fishery any part of an edible crab or lobster or prawn or Norwegian lobster which is detached from the carapace of the crab or lobster or prawn or Norwegian lobster.
45. All dahns and buoys used under a Category Two Permit must be legibly marked with the permit number.
46. Any vessel used in accordance with the byelaw must not display more than one permit sticker.

Flexible Permit Conditions

47. The Authority may introduce, remove or vary a flexible permit condition which falls within one or more of the following categories:
 - (a) catch restrictions;
 - (b) bait restrictions;
 - (c) technical measures and gear restrictions;
 - (d) spatial restrictions;
 - (e) time restrictions; and
 - (f) number of permits issued.
48. The Authority may introduce, remove or vary a flexible permit condition in accordance with the review procedure set out in paragraphs 50 and 51.
49. The flexible permit conditions that apply to a permit until the first review pursuant to paragraphs 50 and 51 are those set by the Authority taking into account the impact assessment that accompanies this byelaw and all other material considerations.

Review Procedure

50. The Authority will review flexible permit conditions no less than once every three 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 affected by changes in permit conditions;
 - (b) the Authority will decide whether to add, vary or remove any permit condition taking account 51 (a);
 - (c) following a decision by the Authority, permit holders will be notified in writing and permits will be amended as necessary with no charge.
51. The information used in flexible permit condition reviews will include one or more of the following:

- (a) information and returns data received from permit holders;
- (b) scientific and survey information gathered by the Authority or provided to the Authority by any other organisations or persons as the Authority thinks fit;
- (c) advice provided by Centre for Environment Fisheries and Aquaculture Science or Natural England or any other organisations or persons as the Authority thinks fit;
- (d) an impact assessment of any proposed changes;
- (e) information from any other relevant source.

Breach of Permit Condition

52. A failure to comply with a:

- (a) general permit condition (within paragraphs 27 to 33);
 - (b) Category One Permit condition (within paragraphs 34 to 37);
 - (c) Category Two Permit condition (within paragraphs 38 to 46); or
 - (d) flexible permit condition attached to a permit in accordance with paragraphs 47 to 49;
- constitutes a contravention of this byelaw.

Revocations and Amendments

53. The byelaws with the following number, title or purpose made by the North West Sea Fisheries Committee and Cumbria Sea Fisheries Committee in exercise of their power under sections 5 and 5A of the Sea Fisheries Regulation Act 1966 (c.38) and in force immediately before the making of this byelaw are hereby revoked:

- (a) Cumbria Sea Fisheries Committee Byelaw 8 Berried Lobsters confirmed on 16 April 1993;
- (b) Cumbria Sea Fisheries Committee Byelaw 25 Requirement for escape Gaps in Pots, Creels and Traps confirmed on 20 October 1997;
- (c) North West Sea Fisheries Committee Byelaw 31 Protection of V-notched lobsters confirmed on 16 December 1997;
- (d) Cumbria Sea Fisheries Committee Byelaw 26 Permit to Fish for Lobster, Crab and Whelks confirmed on 20 January 2007; and
- (e) North West Sea Fisheries Committee Byelaw 30 Fishing for Lobster, Crawfish, Crab, Prawn and Whelk confirmed on 20 April 2007.

54. The following byelaws in force immediately before the making of this byelaw are amended as follows:

Amendment of the North West Sea Fisheries Committee byelaw 11 confirmed on 22 August 2003.

- (a) In the title omit "Marking of fishing gear and keep pots" and insert "Marking of nets and lines".
- (b) For the first paragraph, substitute "A person must not use in fishing for sea fish any set or stake net or line except in accordance with the following regulations;" and

- (c) For paragraph (a) substitute “The site of the stakes, nets or lines shall be marked by substantial buoys, non-metallic poles or perches visible above the surface at any state of the tide and such buoys, poles or perches shall be maintained as long as the stakes or nets are in position”.

Amendment of the Cumbria Sea Fisheries Committee byelaw 4 confirmed 16 April 1993.

- (a) In the title omit “Marking and siting of fixed nets, traps, pots and lines’ and insert “Marking and siting of fixed nets and lines”; and
- (b) For paragraph (a) substitute: “the site of the nets or lines shall be marked at each end by a flag on a pole, perch or buoy the flag to be at least one metre above the surface of the sea and to be maintained so long as the nets or lines remain in position. The pole, perch or buoy shall be legibly marked with the name and address of the owner of such net or lines or the registered number of the vessel from which the nets or lines were set”.

Amendment of the North West Sea Fisheries Committee byelaw 19 Specified Fish Sizes confirmed on 24 July 2009.

- (a) In paragraph 3 ‘SPECIES’ after ‘Velvet Crab’ omit “Whelk (*Buccinum undatum*) 45*”.

I hereby certify that the above byelaw was made by the Authority at its meeting on the 13 September 2019.



..... Date 14 February 2022

Dr Stephen Atkins; Chief Executive Officer; North Western Inshore Fisheries and Conservation Authority; 1 Preston Street, Carnforth, Lancashire, LA5 9BY

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 Potting Permit Byelaw made by North Western Inshore Fisheries and Conservation Authority on 13 September 2019.

..... Date

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

Explanatory Note

(This note does not form part of the byelaw)

The Potting Permit Byelaw introduces a permit-based system for the use of pots and traps across the NWIFC District. The byelaw brings in a consistent management scheme across the District, and removes restrictions contained in an inherited Cumbria Sea Fisheries Committee byelaw that required fishers to have escape gaps in whelk pots.

This byelaw regulates fishing for the following species: lobster, edible crab, Norwegian lobster, whelk, prawn, shrimps, cuttlefish, spider crab, velvet swimming crab, crawfish and any teleost (bony) or cartilaginous (sharks and rays) fish species.

Any person fishing from a non-relevant fishing vessel or from the shore by any method of fishing can only take the number of individual species specified in paragraph 3. Anyone wishing to obtain more than the specified amounts must apply and meet the criteria for a permit.

There are two categories of permit, Category One and Category Two.

Category One Permit:

A Category One Permit is required by the owner of a relevant fishing vessel. The owner may apply for multiple Category One Permits so long as they relate to different specified species. Only one permit is allowed per species. For edible crab and lobster, one permit will cover both species.

Category One Permits for edible crab and lobster are split into three classes. The classes relate to whether the relevant fishing vessel has shellfish entitlement or not, and include different fees and pot limitations, details of which are included in the flexible permit conditions.

Category Two Permit:

A Category Two Permit, is for anyone fishing recreationally with pots and will be granted to either the owner of a non-commercial fishing vessel, or a person without a vessel. A single Category Two Permit is required to pot for all the specified species.

The removal and retention of mutilated, V-notched or berried lobster by any person fishing other than under the authority of a fishing vessel licence issued by the Marine Management Organisation or other devolved UK fishery administration is prohibited. Fishing for mutilated, V-notched or berried lobsters by a licensed fishing vessel is prohibited by The Lobsters and Crawfish (Prohibition of Fishing and Landing) Order 2000 (SI 2000/874) and The Lobsters and Crawfish (Prohibition of Fishing and Landing) (Amendment) (England) Order 2017 (SI 2017/899). The removal and retention of berried crabs by any person is prohibited by this byelaw.

The byelaw allows the Authority to introduce, remove or vary (in accordance with the review procedure) flexible permit conditions in relation to catch, bait, technical measures and gear restrictions, spatial and time restrictions, and number of permits.