

**NWIFCA Technical, Science and Byelaw
Committee**

5th February 2019: 10:00 a.m.

**AGENDA
ITEM NO.**

6

COCKLE AND MUSSEL PERMIT BYELAW 2019 REPORT AND REVISED VERSION

Version20190124

1. **Commercial Areas:** The five new proposed areas were agreed by TSB in November. MMO have responded that the new approach is acceptable in principle. The mapping for the 5 areas will now be completed and the areas presented in a schedule to the byelaw as in the attached version.
2. Other comments from the November meeting have been incorporated. Changes were made as follows:
 - I. Para 3 methods changed in line with previous versions.
 - II. Para 2, 3 4, 'gather' 'gathered' 'gathering' changed to 'fish for' throughout,
 - III. Para 7 will be changed to may
 - IV. Paras 17 & 18 redrafted
 - V. Para 19 redrafted and extended;
3. After the explanatory note is text on suspending permits used with permission from a draft Cornwall byelaw which has not yet been confirmed. This text could be incorporated into this byelaw if the Cornwall byelaw is confirmed but our legal advice is that this is unlikely because it would give an IFCA power to impose sanctions.
4. The version attached has been sent to Andrew Oliver for legal advice.

**CEO
25th October 2018**

ANNEX A

North Western Inshore Fisheries and Conservation Authority **Marine and Coastal Access Act 2009**

Cockle and mussel fishing permit 2018 (Draft September 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 listed in Schedule A where all fishers must have a permit at all times;
 - d) “Craam, tamp or jumbo” are terms used in the District for hand tools used to harvest cockles; a craam is a 3 pronged rake for fishing large cockles;
 - 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) “fish” or “fishing” includes all activities related to fishing by hand of cockles or mussels within or from a fishery in the District including harvesting, taking, moving and transporting;
 - h) “permit” means a permit issued by the Authority to gather cockles or mussels by hand;
 - i) “mussel” means a shellfish of the genus *Mytilus*;

Prohibitions

2. A person must not fish cockles or mussels unless they have in their possession while gathering a valid permit issued to them by the Authority.
3. A person must not fish cockles or mussels except by hand or using rakes, spades, craams, tamps or jumbos.
4. A person must not have in their possession any article for use in connection with fishing cockles or mussels in breach of this byelaw.
5. A person must not retain any cockle which will pass through a gauge having a square opening of 20 millimetres measured across each side of the square or any mussel less than 45 millimetres in length.

6. A person must not have in their possession, retain, transport or store any cockle or mussel fished in breach of this byelaw. A person having in their possession any cockle or mussels fished in breach of this byelaw must immediately redeposit the same without injury as nearly as possible in the fishery from which they were taken or on another suitable fishery and must spread them thinly and evenly through the fishery.
7. A person must not use a container for holding or transporting cockles or mussels unless it is marked with the name of the person, persons or company which is the owner of the container and the contents. Any cockles found in an unmarked container may be confiscated and re-laid by an Inshore Fisheries and Conservation Officer. IFCO.
8. A person must not obstruct an Inshore Fisheries and Conservation Officer in the course of their duties.
9. A person must not fish any cockle 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.
11. A permit shall not be required for a person fishing less than 5 kilograms of cockles and 5 kilograms of mussels during a calendar day from a fishery which is:
 - a) not closed by a permit condition under paragraph 21 of this byelaw;
 - b) not part of the District managed under SI 1472 2008 the Dee Estuary Cockle Fishery Order without a licence to fish issued under the terms of that Order;
 - c) not in a commercial area in Schedule A.

Permit conditions

12. Applications for permits must be made using the correct forms available from the Authority's offices or website.
13. A fee of £500 shall be payable for each permit prior to issue.
14. 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 1st September to 31st August inclusive unless otherwise stated on the permit.
15. Permits will not be issued to applicants who do not have a National Insurance Number and a foreshore gatherers safety training certificate.
16. Only permit holders under this byelaw shall be entitled to renew the permit for the next year. To renew a permit, a permit holder must apply for renewal at least one month before the permit expires.

17. The Authority must keep a waiting list of new permit applications in the order received. A maximum of ten applicants at the top of the waiting list may receive a permit each year starting 1st September. Written offers of permits will be sent to eligible applicants in August each year. Offers must be accepted, all information required by NWIFCA supplied and payment made within 3 weeks of receiving an offer. Applicants not accepting offers will be removed from the waiting list and may re-join the end of the waiting list.
18. Applicants must be age 12 years or over to be added to the waiting list. Applicants reaching the top of the waiting list before they are old enough to receive a national insurance number will remain at the top of the waiting list until they are eligible for a national insurance number.
19. The permit holder must carry their permit at all times when engaged in fishing or any related fishing activity within the District. The permit must be available for inspection by an Inshore Fisheries and Conservation Officer if required.
20. A permit holder is required to file with the Authority, no later than the fifth 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 Authority may require. Nil returns may be required by the Authority. Permits may be suspended by the Authority until returns have been filed or for any breach of this byelaw.

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 one 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) the total catch limit permitted within a specified period or a specified area;
 - e) methods or equipment permitted within a specified period or a specified area.
 - f) the permitted minimum landing size.
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 four years and the flexible permit conditions no less than once every 2 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 23a and the information listed in paragraph 24;

- 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 deem fit;
- c) advice provided by Cefas, Natural England or such other bodies, organisations or persons as the Authority deem 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 may apply for a permit under this byelaw in the calendar year this byelaw comes into force.

Revocation of Byelaws

- 26. 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 and in force immediately before the making of this byelaw is revoked.
- 27. 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 5 of the Sea Fisheries Regulation Act 1966 confirmed 29th of March 1996; and in force immediately before the making of this byelaw is revoked.
- 28. 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 5 of the Sea Fisheries Regulation Act 1966 confirmed 14th of September 1973 and in force immediately before the making of this byelaw is revoked.
- 29. The byelaw with the title “Byelaw 18 Shellfishery temporary closure” made by Cumbria Sea Fisheries Committee under Section 5 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.

Explanatory Note

(This note does not form part of the byelaw)

- 1. The purpose of this byelaw is to regulate the exploitation of cockles and mussels to sustainable levels using a permit scheme. Only hand gathering of cockles and mussels is normally permitted.
- 2. The byelaw updates and modernises Byelaw 3 permit to fish for cockles and mussels confirmed 23rd August 2012.

3. The byelaw includes:
 - a. Provision for the Authority to set permit conditions (S21-24) thereby increasing the flexibility and effectiveness of regulations;
 - b. A requirement to label containers containing cockles or mussels with the name of the owner (S7-8);
 - c. Provision for gathering a maximum of 5kg cockles and 5kg mussels per day without a permit;
 - d. A schedule of 4 commercial cockle fishing areas (North Morecambe Bay, South Morecambe Bay, the Ribble estuary and Wirral coastline) where gathering a maximum of 5kg cockles without a permit is prohibited;
 - e. a lower limit of age 12 for applicants to be added to the waiting list (S15);

Suspension of permits. Adapted from draft Cornwall IFCA flexible permit conditions byelaw for possible inclusion in the above byelaw.

1. The Authority will suspend or refuse to issue a permit for a period not exceeding 1 year, where the Authority determines that a permit holder has not complied with a permit condition
2. Where a permit holder is the subject of a successful prosecution by the Authority, or the permit holder pays a financial administrative penalty, or accepts a caution, the permit will be suspended and for a period not exceeding 1 year from the date of the offence.

Schedule A. Commercial cockle fishing areas of the NWIFCA District where gathering without a permit is prohibited at all times.

North Morecambe Bay Commercial Area

- A- 54.08475, -2.83495
- B- 54.08475, -3.03341
- C- 54.15375, -3.03341
- D- 54.15378, -2.82702

- A- Jetty / Groyne by VVV gym
- B- East to point B
- C- North to point C
- D- West to point D (Jenny Browns point)
- A- Mean spring high water to point A

South Morecambe Bay Commercial Area

- A- 54.03125,-2.92447
- B- 53.98149,-2.88261
- C- 53.93853,-2.89378
- D- 53.93853,-2.95470
- E- 53.97500,-2.99939

- A- Heysham South Wall Power Station
- B- Plover Scar Lighthouse
- C- Pilling Amenity Carpark
- D- Mean Spring High Water to Cockers Dyke
- E- North West to point E

Ribble Commercial Area

- A- 53.67879, -3.00111
- B- 53.67879, -3.11947
- C- 53.72397, -3.11947
- D- 53.72397, -3.00111
- E- 53.70200, -2.96296

- A- End of Hauls Road
- B- West to point B
- C- North to point C
- D- East to point D
- E- South East to point E
- A- South West to point A

Wirral Commercial Area

- A- 53.41786, -3.11383
- B- 53.43971, -3.14038
- C- 53.45513, -3.10342
- D- 53.43305, -3.07556

- A- Gunsite Carpark
- B- North west 3km to point B
- C- To point C
- D- South East 3km to Sailing Club Entrance
- A- Mean spring high water to point A