

NWIFCA Potting Permit Byelaw 2019(v10)

Guidance (v3)

This document is produced as a guide to simplify understanding of the byelaw. ***It must be read in conjunction with the byelaw*** and does not contain all the measures and information within the byelaw.

Paragraphs referred to here in the text are paragraphs within the byelaw itself.

1. **Anyone** wishing to use pots or traps to fish within the NWIFCA District **must have** a permit:
2. It is an enabling byelaw in that it supports sustainable fishing practices, and improves on previous management. It enhances existing enforcement which protects the interest of legitimate fishers as well as the fishery resource.
3. It applies to both commercial pot fishing, and recreational (hobby) potting and fishing from the shore for certain species.
4. Initially permits will only be issued for lobster, edible crab, Norwegian lobster and whelks. Other species have been included to 'future proof' the byelaw and allow the permitting of potting for other species more readily should the need arise. The full list of 'specified species' is:
 - 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. crawfish (*Palinurus elephas*);
 - x. any teleost (bony) or cartilaginous (sharks and rays) fish species.

Interpretation

5. Paragraph 1 defines all the terms used within the byelaw. A pot is defined in paragraph 1j.

Prohibitions and Restrictions

6. Paragraph 2 applies to anyone using a pot to fish within the District.
7. Paragraph 3 limits the number of lobster, edible crab, spider crab, velvet swimming crab, prawns, whelks and Norwegian lobster that can be taken per day by people fishing as a hobby **by using pots or any other method**.

Specified Species	Maximum Daily Quantity	
Lobster	1 individual	and
Edible crab Spider crab Velvet crab	Combined total of 5 individuals	and
Prawn	150 individuals	and
Whelk	50 individuals	and
Norwegian lobster	50 individuals	

8. Paragraph 3 does not apply to a person fishing from a relevant fishing vessel - ie. a licensed fisher (exemption under para. 8). 'Relevant fishing vessel' is defined in para. 1k. Vessel is defined in para. 1o.
9. The limit for prawns in paragraph 3 of the Prohibitions and Restrictions does not apply to anyone fishing for shrimp in an intertidal fishery (exemption under para. 8). It is very difficult to distinguish between prawn and shrimp species and to not apply this exemption would prevent legitimate tractor and push net shrimping from being carried out.
10. Paragraph 4 applies to **all persons** regardless of whether or not they have NWIFCA permits or are fishing with pots. It is designed to protect V-notched and mutilated lobsters (defined in para. 1p and 1e), and berried hens (defined in 1b) and requires that if any are caught they must be returned immediately to the fishery without further injury.
11. Paragraph 5 requires people to land what they have caught on the same day. This ensures that the limits set under paragraph 3 can be rigorously enforced.
12. Paragraph 5 landing the same day as caught provision does not apply to a person fishing from a relevant fishing vessel - ie. a licensed fisher (exemption under para. 9).
13. Paragraph 6 requires anyone **without** a NWIFCA potting permit who has pots on board their vessel to secure them so that they cannot readily be used for fishing (see para. 1d). This aids enforcement to ensure that any vessels that have been fishing with pots outside of the District where permits are not required cannot easily set or recover pots illegally within the District.
14. Paragraph 6 clearly does not apply to anyone with a NWIFCA potting permit (exemption under para. 10).

Permit Categories

15. Two types of permit will be issued:
 - i. a **Category One** permit (para. 11) issued to a person to use pots to fish for a specified species from a **relevant fishing vessel** - ie. a licensed fisher;
 - ii. a **Category Two** permit (para. 19) issued to a person to use pots to fish for a specified species as a **hobby**, either from a boat or from the shore.

16. **Category One** permit - Paragraphs 12 - 16 describe:
 - i. who can apply for a Category One permit and how to do so (para. 12);
 - ii. that only one permit will be issued per specified species per vessel (para. 13);
 - iii. that a permit for edible crab and lobster will count as one permit, and shall only be issued to a vessel with shellfish entitlement (para. 14);
 - iv. what will be issued - the permit, a permit sticker (para. 1i) and if required under the Flexible Permit Conditions, gear tags (para. 1n) (para. 15) and applicator;
 - v. who the permit will be issued to (para. 16a);
 - vi. how long the permit will be valid for (para. 16b);
 - vii. that the permit cannot be sold (para. 16c);
 - viii. that the permit is not transferable (para. 16d) unless the owner of a vessel wishes to transfer it on to a different vessel owned by them, providing the second vessel conforms to any restrictions imposed by any Flexible Permit Conditions in force at the time of transfer (para. 16e);
 - ix. that all permits remain the property of NWIFCA and must be surrendered immediately to NWIFCA if no longer required (para. 16f).
17. Paragraph 17 explains that a permit holder may nominate a named representative at any time in writing to the Authority to act on their behalf, and if making that nomination at any time other than when applying for the permit how to apply (para.18). This is to allow the owner of a relevant fishing vessel to employ another person(s) to skipper their boat in their absence if required. This measure was included at the request of some sectors of industry.
18. Paragraph 1f defines who a 'named representative' can be.
19. **Category Two** permit - Paragraphs 20 - 23 describe:
 - i. who can apply for a Category Two permit and how to do so (para. 20);
 - ii. that only one permit will be issued per person (para. 21) enabling them to fish with pots for any of the specified species;
 - iii. what will be issued - the permit, a permit sticker and gear tags (para. 22). All 'hobby' pots have to be tagged with a NWIFCA tag, which will be sequentially numbered. This is to prevent unscrupulous persons from fishing with more than the permitted five pots;
 - iv. who the permit will be issued to (para. 23a);
 - vi. how long the permit will be valid for (para. 23b);
 - vii. that the permit cannot be sold (para. 23c);
 - viii. that the permit is not transferable (para. 23d);
 - ix. that all permits remain the property of NWIFCA and must be surrendered immediately to NWIFCA if no longer required (para. 23e).
20. All permits will be subject to the same conditions under the General Permit Conditions (paras. 24 to 36) and the Flexible Permit Conditions, explained in paragraphs 45 - 47 and defined in Annex A.
21. There are other separate conditions applying to only Category One permits (paras 37 to 40) or Category Two permits (paras 41 to 44).
22. The administration of both permits, the General Permit Conditions, the Category One and Category Two permit conditions, and the scope of the Flexible Permit Conditions are all set in the byelaw and can only be changed subject to review of the byelaw or under situations as defined in the byelaw.

23. Flexible Permit Conditions can be changed during the life of the byelaw, following the process as defined in the byelaw (paras 48 to 49) which gives the NWIFCA the flexibility required to manage fisheries sustainably, and to react to changing circumstances.
24. A Breach of Permit Conditions or contravention of this byelaw is defined in (para.50) as a failure to comply with a:
 - a) general permit condition;
 - b) Category One Permit condition;
 - c) Category Two Permit condition; or
 - d) flexible permit condition.

General Permit Conditions – apply to all permit holders

25. A fee must be paid as specified in para. 24 for each type of permit. This table shows what is included in the fee.
26. Paragraph 25 explains what the Authority needs to do to change the fees in the future.
27. Paragraph 26 states that all pots used must be marked with the permit number. This is so that enforcement officers can readily identify who owns the pot(s) and whether or not their permit is valid. Tags issued by the NWIFCA will have the permit number clearly marked on them.
28. All pots must be of a design defined in the Flexible Permit Conditions. This assists enforcement so that it is clear what species the pot is intended to fish and closes an existing loophole. The pot definitions lie within Flexible Permit Conditions so can be altered should new gear technologies and designs come online that improve fishing efficiency and sustainable practices.
29. Paragraph 27 states that all vessels used for potting must display the relevant permit sticker clearly. Each vessel can only haul pots marked with the same permit number. Only one sticker per vessel. This prevents unscrupulous persons hauling other peoples' gear and in effect fishing more pots than they are permitted.
30. Paragraph 28 states that strings of pots and/or pots set individually must be marked by a flag. The type of marking is defined in this paragraph.
31. Paragraph 29 also describes the marking of pots with the colour and size of buoys defined.
32. Paras. 28 and 29 are necessary to ensure that pots can be clearly seen from shore and patrol vessel and closes a loophole where unsuitable floats and markers have been used in the past, and in effect gear has been hidden.
33. Paras. 30 and 31 state what a permit holder should do if a tag is lost.
34. Paragraph 32 states that permit holders must comply with a reasonable request of an IFCO and not obstruct them. This is to enable enforcement officers to carry out their legal duties.
35. Paragraph 33 requires all permit holders to submit returns to the Authority whether or not they have caught anything or been fishing. It is vital for fisheries management that

regulators are provided with fishing data which can be used in a variety of ways to ensure the sustainability of the stock and fishing into the future. The Authority will provide the returns forms with the data fields that are required, which may include dates, times, locations and quantities fished.

36. Failure to provide returns within the timeframe specified may lead to suspension of a permit until such returns have been filed.
37. Paragraph 34 states under what circumstances a permit may be suspended and is mirror wording to the new cockle and mussel byelaw.
38. Paragraph 35 states how a permit holder has their permit reinstated following a permit suspension.
39. Paragraph 36 states that a permit holder must notify the NWIFCA if any information provided in obtaining the permit changes. This is mainly so that the Authority knows how to contact the permit holder for admin purposes, but also for enforcement if required. All information provided is subject to Data Protection regulation.

Category One Permit Conditions

40. Paragraph 37 ensures that only registered and licensed fishing vessels can be used for commercial potting activity in the District.
41. Paragraph 38 ensures that the permit holder or named representative remains responsible for the fishing activity permitted at all times.
42. Tagging of pots is a crucial enforcement tool to prevent permit holders from fishing more gear than has been permitted if this has been restricted under the Flexible Permit Conditions. In 2019 this will only apply to whelk pots as one of a suite of measures introduced to control whelk potting effort. All effort control measures are under the Flexible Conditions to enable the NWIFCA to adapt them if appropriate once data and understanding of the stock has been established.
43. Paragraph 39 ensures that **all pots** used under a Category One permit are fitted with a tag issued by NWIFCA and that none of those tags have been reported previously as lost. Hard-wearing tags will be issued with the initial permit and should only require replacing if lost or damaged. These measures only apply if tagging is required for Category One permits under the Flexible Permit Conditions.
44. Paragraph 40 sets out the fees for paying for lost or destroyed tags.

Category Two Permit Conditions

45. Paragraph 41 restricts the maximum number of pots used under a Category Two permit to five. This number was set after lengthy internal discussion as a reasonable amount for a person to be fishing each day as a hobby.
46. **All pots** used under a Category Two permit must be fitted with a NWIFCA issued tag, not previously reported as lost. Category Two tags will be issued annually with the permit. This is so that enforcement officers can readily identify who owns the pot(s) and whether or not their permit is valid. It also prevents unscrupulous persons fishing more pots than they are permitted as tags will be sequentially numbered.

47. Paragraph 43 states that no matter how many people / permit holders are on-board a vessel fishing with pots, the total that may be removed from the fishery or retained on board by all the persons on-board, taken together, remains as in the table in paragraph 3 ie. as if for one person. This refers back to the measures in paragraph 27 of the byelaw and prevents illegal hauling of other's pots, or of more than one permit being used on one vessel. It aids enforcement of the pot limitation and catch restrictions.
48. Paragraph 44 prevents removal of parts of animals, and activities such as the practice of de-clawing of crabs, whereby claws are removed and the injured animal thrown back.

Flexible Conditions (apply to all permit holders):

These are provided in Annex A. As flexible conditions they are designed to assist reactive and appropriate management that can be changed as environmental conditions change, and research and fishing activity data leads to improved understanding of stock dynamics. As these conditions are annexed, if they change the document in which they are published can readily be changed.

Whelks:

The following measures have been consulted on with industry to assist NWIFCA in setting appropriate management measures that provide conditions that enable current and / historical activity to continue as a viable fishery.

49. Para. A1 - a vessel length restriction of 15m is set for licensed fishing vessels in order to restrict fishing effort under Category One permits. It is unlikely that any Category Two permit holders will fish for whelks.
50. Para.A2 - a track record will be used to restrict the number of Category One permits issued. Applications for track record must be made within six months of the byelaw coming into force.
51. The period used to establish track record is covered by the calendar years of 2015 - 2018.
52. Applications for track record must be made within six months from the date the byelaw comes into force.
53. Track record is established once and is not transferable between permit holders.
54. A track record is established when all of the following have been confirmed:
 - i. Vessels which have potted for whelks in the 0-12nm in ICES rectangle 37E6 and anywhere in 38E6;
 - ii. Vessels which have potted for whelks within the NWIFCA District in ICES rectangles 35E6, 36E6 and part of 37E6.
 - iii. In the northern part of the District (ie the old CSFC District) for the smaller vessels which would not have fished beyond the 6nm and therefore have no track record, the Authority will implement a lower pot limitation of 400 pots for under 10m vessels;
 - iv. Vessels which have landed a minimum of 5 tonnes of whelks during the track record period.

Evidence required:

- i. Sale notes / proof of payments for under 10m;
 - ii. Logbooks for over 10m;
 - iii. VMS tracks for over 12m vessels, to be cross referenced with logbooks.
55. The MLS for whelks is set within the flexible conditions under para. A3. The current MLS of 45mm is universally deemed to be too low - whelks do not reach maturity by the time they reach 45mm and therefore immature stock is being / will be fished out if the MLS is not increased. Current research for NWIFCA District is lacking but has begun (2019). Research from adjacent waters (Isle of Man and North Wales) provide evidence that whelks do not reach maturity until around 75mm. Regulators in IOM and Wales have increased the MLS in their waters. Industry were consulted on how to introduce this increase and the majority of respondents said by increments.
- In the first year of the byelaw the MLS will be 55mm, increasing to 65mm in the second year and 75 mm in the third year. The MLS under NWSFC Byelaw 19 has been overridden by this byelaw.
56. Paragraph A4 defines a permitted whelk pot.
57. Paragraph A5 stipulates that all pots must be fitted with a NWIFCA issued tag. These will be issued with the first permit and are hard-wearing, only requiring replacement if lost or damaged to minimise the amount of work required in fitting them. An applicator will be issued with the set of tags. Applicants must state how many tags they require on their application forms.
58. Paragraph A6 states that all whelks must be placed on and passed over a riddle (defined in 11). The bar spacing on the riddle has not been set - that is for fishers to find for themselves depending on where they are fishing. There is no set bar spacing to get a whelk of set MLS (which is measured along its length of shell) as some are wider with thicker shells than in other areas. The enforcement of the MLS is the crucial element of protecting the stock. The riddling ensures good practice in sorting small whelks from the catch and returning them to the sea as soon as possible.
59. Paragraph A7 sets the pot limitations for Category One permits. Two limits are set depending on the track record permit applicants are able to provide for their vessels.

Crab and Lobster:

Edible crab and lobster are covered under one permit. There are no fisheries for spider crab or velvet swimming crab in the District at the present time. Additional permits for these species or any other of the specified species can be introduced should fisheries develop.

60. Paragraph B1 states the MLS for lobsters and crabs.
61. Paragraph B2 defines a permitted crab / lobster pot, that an escape gap is required, and where that escape gap must be fitted, to allow undersize animals to escape.
62. Paragraph B3 defines the dimensions of the escape gap required.

Norwegian Lobster:

63. Paragraph C1a states the MLS for Norwegian lobster.

64. Paragraph C1b states that Category One permit holders must not remove or retain any detached part of a Norwegian lobster which in effect comes from an undersize animal.
65. Paragraph C2 defines a permitted Norwegian lobster pot must include hard eye entrance and escape panel, to restrict what enters the pot and to allow undersize animals to escape.

NB. It is your responsibility to make sure you understand your obligations in the byelaw. If you have any queries about these then please contact a NWIFCA officer either in person during patrols, or via the Whitehaven or Carnforth offices.

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