

North Western Inshore Fisheries and Conservation Authority

Marine and Coastal Access Act 2009 (c.23)

Byelaw 3 Cockle and mussel hand fishing permit 2019

The Authority for the North Western Inshore Fisheries and Conservation District in exercise of its powers under sections 155 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) “cockle” means a shellfish of the species *Cerastoderma edule*;
 - c) “commercial area” means any area of the District listed in the Schedule;
 - 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) “financial administrative penalty” means a defined financial penalty issued under The Sea Fishing (Penalty Notices) (England) Order 2011 (SI 2011/758);
 - f) “fish” 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;
 - g) “foreshore gatherers safety training certificate” means a document issued by a trainer approved by the Authority certifying that the person named on the certificate has completed a safety training course for inter-tidal shellfish gathering;
 - h) “mussel” means a shellfish of the genus *Mytilus*;
 - i) “permit” means a permit issued by the Authority to a named person or permit holder, to fish for cockles or mussels by hand;
 - j) “protected feature” means species or habitats protected by national legislation;
 - k) “rake, spade, craam, tamp and jumbo” are terms used in the District for hand tools used to harvest cockles.
- 2 Co-ordinates used in this byelaw are measured from WGS 84 datum. WGS 84 means the World Geodetic System as revised in 1984 and 2004.

Commencement

- 3 This byelaw comes into force on the date on which it is confirmed by the Secretary of State.

Prohibitions

- 4 A person must not fish for cockles or mussels unless they have in their possession while fishing a valid permit.

- 5 A person must not fish for cockles or mussels except by hand or using rakes, spades, craams, tamps or jumbos. The Authority may restrict the use of rakes, spades, craams, tamps or jumbos via a flexible permit condition under paragraph 40.
- 6 A person must not fish for cockles or mussels from a bed that is subject to closure under paragraphs 15 and 16 unless authorised to do so in writing by the Authority, or by a flexible permit condition under paragraph 40.
- 7 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.
- 8 A person must not retain any cockle which will pass through a gauge that has a square opening measuring 20 millimetres across each side unless permitted by a flexible permit condition under paragraph 40.
- 9 A person must not retain any mussel less than 45 millimetres in length unless permitted by a flexible permit condition under paragraph 40.
- 10 A person must not possess, retain, transport or store any cockles or mussels that have been fished in breach of this byelaw and must immediately redeposit any such shellfish without injury, as nearly as possible in the fishery to the point from which they were taken, or under written permission of the Authority on another suitable fishery and must spread them thinly and evenly through the fishery.
- 11 A person must not leave unattended a container holding cockles or mussels unless it is marked with the name of the person or company that is the owner of the container and its contents unless permitted by a flexible permit condition under paragraph 40. Any such container will be confiscated and removed by the Authority and the owner may be prosecuted.
- 12 A person must not obstruct an Inshore Fisheries and Conservation Officer in the course of carrying out their duties and must comply with a reasonable request of an Inshore Fisheries and Conservation Officer.
- 13 A person must not fish for cockles from 1 May to 31 August inclusive unless permitted by a flexible permit condition under paragraph 40.
- 14 A person without a permit must not fish for cockles and mussels outside of a commercial area except in accordance with paragraph 21 b).

Access to cockle and mussel beds

- 15 The Authority may close any cockle or mussel bed, or part thereof for the following purposes:
 - a) to control of the rate of exploitation with regard to cockles or mussels;
 - b) for the recovery of any cockle or mussel bed from exploitation;
 - c) for the protection of immature shellfish; and
 - d) for the protection of a protected feature.
- 16 Any closure will be for a specified period not exceeding 12 months.
- 17 Before closing any cockle or mussel bed, the Authority must receive advice as to the need for such action from fishery scientists and such persons or bodies appearing to them to represent cockle or mussel fishing interests or to be suitably qualified.
- 18 Such closure shall be clearly defined in notices displayed in the vicinity of the bed and on the Authority's website.

Exemptions

- 19 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 purposes.
- 20 This byelaw does not apply to a person fishing for cockles or mussels under a permit issued pursuant to the North Western Inshore Fisheries and Conservation Authority "Restrictions on the use of a dredge byelaw 2017".
- 21 A permit is not required for a person fishing less than five kilograms of cockles and five kilograms of mussels during a calendar day from a bed which is:
 - a) not closed under paragraphs 15 and 16; and
 - b) in respect of cockles, not within a commercial area listed in the Schedule.

Permit conditions

- 22 An application for a permit must be made using the form available from the Authority office or website.
- 23 Failure to notify the Authority of any change of name or address or material change in the information provided on the application form constitutes a contravention of this byelaw.
- 24 A fee of £500 shall be payable for each permit prior to issue.
- 25 A permit:
 - a) is not transferrable between the permit holder and another person; and
 - b) is valid from 1 September to 31 August inclusive in the following year unless otherwise stated on the permit.
- 26 Permits will not be issued to applicants who:
 - a) are under the age of 16; and
 - b) do not hold a foreshore gatherers safety training certificate.
- 27 Permit holders will be entitled to renew the permit for the next year using forms available from the Authority or website. To renew a permit, an application for renewal, including payment, must be received by the Carnforth Office of the Authority by 31 December in the year the byelaw comes into force and by 31 July in the year the current permit expires in subsequent years.
- 28 The Authority shall keep a waiting list of new permit applications in the order received. A maximum of 20 new applicants at the top of the waiting list may receive a permit each year starting 1 September. Permits will be supplied by post.
- 29 A maximum of 150 permits will be issued in each year.
- 30 Written offers of permits to start on 1 September will be sent to eligible new applicants after the preceding 1 August each year. Offers must be accepted by applicants by providing the information, signed declaration and payment required by the Authority within 15 working days, beginning with the day the applicant receives an offer.
- 31 An offer not accepted by an applicant within the above stated 15 working days will be withdrawn and an offer will be made to applicants, in order, from the top of the waiting

list, until a maximum of 20 new offers have been accepted for each year or the maximum number of 150 permits for that year are issued.

- 32 Applicants whose offers are withdrawn will be removed from the waiting list and may immediately re-join the end of the waiting list.
- 33 Applicants must be 12 years old or older to be added to the waiting list. Applicants under the age of 16 can make a jointly signed application with a parent or guardian which must be confirmed by the applicant in writing to the Authority at age 16. Applicants under the age of 16 will remain at the top of the waiting list until after the birthday which they turn 16. On the 1 August after reaching age 16, applicants become eligible for the offer of a permit if they are within the first 20 applicants on the waiting list.
- 34 A permit holder must file with the Authority, no later than the fifth day of each calendar month, information on catches and fishing effort for the previous month by completing the catch return forms available from the Authority's offices or website. Nil returns are required by the Authority. Permits will be suspended by the Authority until returns have been filed.

Sanctions

- 35 Where a permit holder receives a written warning or accepts a financial administrative penalty or is convicted by a court for an offence under this byelaw, the permit holder will be issued with a penalty point by the Authority.
- 36 All penalty points remain on the permit holder's record for three years from the date of issue.
- 37 A permit will be suspended for a period of 12 months if a permit holder is issued with four penalty points within any three year period.
- 38 After the 12 month period the permit will be re-instated by the Authority subject to the payment of any annual permit fee outstanding. At their discretion the permit holder may pay the annual fee for the remainder of the year or may defer their application until the following 1 September without having to re-join the waiting list.
- 39 Where a person whose name appears on the waiting list kept in accordance with paragraph 28 above is the subject of any enforcement action by the Authority which leads to a penalty imposed by a court, or accepts a financial administrative penalty, then on the first occasion of such enforcement action their eligibility for a permit will be suspended for 12 months, and on each subsequent occasion of such enforcement action they shall be moved to the end of the waiting list.

Flexible permit conditions

- 40 Upon receipt of the information specified in paragraph 43 the Authority may in accordance with the review procedure in paragraph 42 attach or vary flexible conditions to a permit including one or more of the following:
 - a) specified dates, times or tides during which fishing cockles or mussels is or is not permitted;
 - b) specified areas where fishing cockles or mussels is or is not permitted;
 - c) closure, for a specified period not exceeding 12 months, any cockle or mussel bed or part thereof for fishery management purposes;
 - d) the total catch limit permitted within a specified period or a specified area;
 - e) specified methods or equipment permitted within a specified period or a specified area;
 - f) specified permitted minimum landing size; and

- g) specified access routes to a fishery.
- 41 Failure to comply with a flexible permit condition is a contravention of this byelaw.

Review procedure

- 42 The Authority will review the permit conditions no less than once every four years and the flexible permit conditions no less than once every two years as follows:
- a) the Authority will consult in writing with permit holders and other stakeholders, organisations and persons as appear to the Authority to be representative of the interests likely to be affected by the proposed future management options;
 - b) the Authority will decide to attach, vary or remove any permit conditions based on the responses obtained in accordance with paragraph 42 a) and the information listed in paragraph 43;
 - 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 any new or changed co-ordinates of all designated commercial areas and be posted on the Authority website.
- 43 The information includes any one or more of the following:
- a) data submitted by 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 the Centre for Environment, Fisheries and Aquaculture Science, Natural England or such other bodies, organisations or persons as the Authority deem fit;
 - d) an impact assessment of any proposed changes; and
 - e) information from any other relevant source.

Transitional Arrangements

- 44 The permit application waiting list compiled under the “North Western Inshore Fisheries and Conservation Authority Byelaw 3 Permit to fish for Cockles (*Cerastoderma edule*) and Mussels (*Mytilus edulis*)”, which is revoked by this byelaw, is fully transferred and applied to this byelaw upon the confirmation of this byelaw by the Secretary of State.
- 45 A gathering permit holder under the “North Western Inshore Fisheries and Conservation Authority Byelaw 3 Permit to fish for Cockles (*Cerastoderma edule*) and Mussels (*Mytilus edulis*)” immediately becomes a permit holder under this byelaw upon the confirmation of this byelaw by the Secretary of State and may renew their permit in accordance with paragraph 27.
- 46 Support worker permits issued under “North Western Inshore Fisheries and Conservation Authority Byelaw 3 Permit to fish for Cockles (*Cerastoderma edule*) and Mussels (*Mytilus edulis*) (2012)” will no longer be valid upon the confirmation of this byelaw by the Secretary of State.
- 47 Paragraphs 25 and 26 of “North Western Inshore Fisheries and Conservation Authority Byelaw 3 Permit to fish for Cockles (*Cerastoderma edule*) and Mussels (*Mytilus edulis*) (2012)” state:
- “Paragraph 25 - Persons who provide evidence to the satisfaction of the Authority that they have in the past held a permit issued under the Cumbria Sea Fisheries Committee byelaws 21 (cockles permit scheme) or 23 (mussels permit scheme) and have in the past engaged in commercial cockle or mussel fishing activities in a

specified region or regions within the District formally administered by the Cumbria Sea Fisheries Committee shall be eligible to apply to the Authority for written authority to continue to fish in any fisheries within that region or regions. The obligations in this byelaw apply to a person fishing under a written authority but no fee is payable for the issue of that authority.

Paragraph 26 - Persons who provide evidence to the satisfaction of the Authority that they have in the past been engaged in commercial cockle or mussel fishing activities in a specified region or regions within the Dee Estuary shall be eligible to apply to the Authority for written authority to continue to fish in any fisheries within that region or regions. The obligations in this byelaw apply to a person fishing under a written authority but no fee is payable for the issue of that authority."

- 48 The above paragraphs 25 and 26 of "North Western Inshore Fisheries and Conservation Authority Byelaw 3 Permit to fish for Cockles (*Cerastoderma edule*) and Mussels (*Mytilus edulis*) (2012)" are transferred and applied to this byelaw for a period of five years from the date of confirmation of this byelaw at which time they shall cease to have effect.

Revocation of Byelaws

- 49 The following byelaws are hereby revoked:

- a) "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 23 August 2012.
- b) "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 29 March 1996 insofar as it applies within the District.
- c) "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 14 September 1973.
- d) Byelaw 18 "Shellfishery temporary closure" made by Cumbria Sea Fisheries Committee in exercise of its powers under Section 5 of the Sea Fisheries Regulation Act 1966" on 16 July 1973.

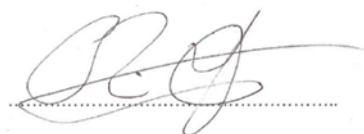
I hereby certify that the above byelaw was made by the Authority at its meeting on 20 June 2019.



Date: 19 August 2021

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 powers conferred by section 155(4) of the Marine and Coastal Access Act 2009 confirms the Byelaw 3; Cockle and Mussel Hand Fishing Permit 2019 made by the North Western Inshore Fisheries and Conservation Authority on 20 June 2019.

A handwritten signature in black ink, appearing to read 'C. Faulkner', written over a horizontal dotted line.

Colin Faulkner
Deputy Director
External Fisheries Negotiations & Trade Policy

Date 6 June 2022

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

Explanatory Note

(This note does not form part of the byelaw)

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 permitted. The application process, operation of the permit scheme and permit conditions are identified in the byelaw.

This byelaw introduces a permit scheme with flexible conditions which can be amended to meet changing circumstances for the fishing of cockles and mussels across the whole District. The Authority may issue a maximum of 150 permits each year under this byelaw and maintains a waiting list so that permits are allocated fairly. Permit holders may renew their permits annually. When permits are not renewed, new permits are issued to applicants from the waiting list to a maximum of 150 permit holders.

A penalty point system is introduced to reduce the number of minor offences against the byelaw.

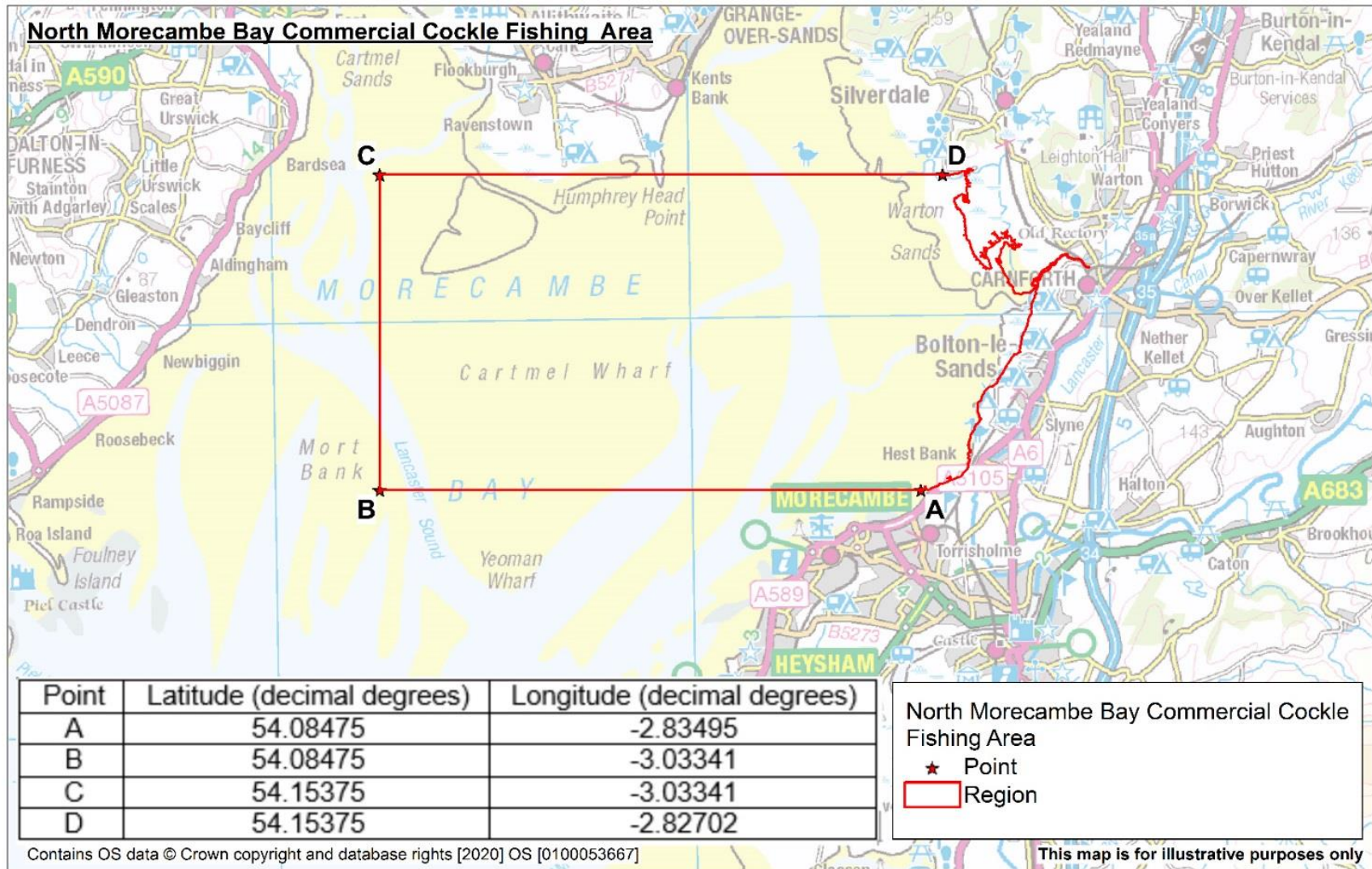
A maximum catch of five kilograms of cockles and five kilograms of mussels is permitted for non-permit holders outside defined commercial areas. In commercial areas only permit holders can fish. The byelaw defines the minimum age for applicants to be added to the waiting list as 12.

The byelaw revokes and replaces “Byelaw 3 permit to fish for cockles and mussels” confirmed 23 August 2012; “Byelaw 13a Cockle and Mussels; management of the fishery 1996” confirmed 29 March 1996 insofar as it applies within the District; “Byelaw 16 Shellfishery temporary closure” confirmed 14 September 1973; and “Byelaw 18 Shellfishery temporary closure” confirmed 16 July 1973.

Many of the key provisions regulating the qualification and number of permits issued are saved from previous byelaws.

Schedule

Commercial cockle fishing areas of the North Western Inshore Fisheries and Conservation District where gathering without a permit is prohibited at all times.



The North Morecambe Bay 'commercial cockle fishing area' means the area enclosed by a straight line connecting the points A, B, C, D in order, and returning to point A along the line of the Highest Astronomic Tide.

