



Devon and Severn

Inshore Fisheries and Conservation Authority

MARINE AND COASTAL ACCESS ACT 2009

Mobile Fishing Permit Byelaw

The Authority for the Devon and Severn 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 Devon and Severn Inshore Fisheries and Conservation Authority as defined in articles 2 and 4 of the Devon and Severn Inshore Fisheries and Conservation Order 2010 (S.I. 2010 No. 2212);
- b) ‘the District’ means the Devon and Severn Inshore Fisheries and Conservation Authority as defined in articles 2 and 3 of the Devon and Severn Inshore Fisheries and Conservation Order 2010 (S.I. 2010 No. 2212);
- c) “estuaries” means waters within the District to the landward side of the closing lines set out below;

River Axe -	a line drawn 090 ⁰ True between 50 ⁰ 42.135'N 003 ⁰ 3.354'W and 50 ⁰ 42.135'N 003 ⁰ 3.274'W,
River Otter -	a line drawn 039 ⁰ True between 50 ⁰ 37.626'N 003 ⁰ 18.399'W and 50 ⁰ 37.821'N 003 ⁰ 18.143'W and a line drawn 312 ⁰ True between 50 ⁰ 37.626'N 003 ⁰ 18.399'W and 50 ⁰ 37.791'N 003 ⁰ 18.676'W,
River Exe, -	a line drawn 068 ⁰ True between 50 ⁰ 35.518'N 003 ⁰ 26.629'W and 50 ⁰ 36.421'N 003 ⁰ 23.108'W,
River Teign –	a line drawn 000 ⁰ True between 50 ⁰ 32.272'N 003 ⁰ 29.743'W and 52 ⁰ 32.513'N 003 ⁰ 29.743'W,

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- River Dart – a line drawn 064⁰ True between 50⁰ 19.634'N 003⁰ 34.266'W and 50⁰ 20.141'N 003⁰ 32.583'W,
- Salcombe Harbour – a line drawn 090⁰ True between 50⁰ 19.634'N 003⁰ 46.836'W and 50⁰ 19.634'N 003⁰ 46.407'W,
- River Avon – a line drawn 090⁰ True between 50⁰ 16.684'N 003⁰ 54.018'W and 50⁰ 16.684'N 003⁰ 52.676'W and a line drawn 206⁰ True between 50⁰ 16.876'N 003⁰ 54.049'W and 50⁰ 17.082'N 003⁰ 53.390'W,
- River Erme - a line drawn 123⁰ True between 50⁰ 18.243'N 003⁰ 57.834'W and 50⁰ 17.750'N 003⁰ 56.657'W,
- River Yealm – a line drawn 205⁰ True between 50⁰ 18.749'N 004⁰ 04.139'W and 50⁰ 18.560'N 004⁰ 04.268'W,
- River Taw/Torridge – a line drawn 025⁰ True between 51⁰ 03.849'N 004⁰ 13.416'W and 51⁰ 04.524'N 004⁰ 12.897'W.

- d) 'fishing' for the purposes of this byelaw includes searching for sea fisheries resources, shooting, setting, towing, hauling of a fishing gear, and taking sea fisheries resources on board;
- f) 'inboard, lashed and stowed' means that the mobile fishing gear is stored in such a way that use cannot readily be made of it for any purpose;
- g) "mobile fishing gear" means a dredge, trawl or similar device, that is designed to be towed or pushed to take any sea fisheries resources;
- h) "overall length" shall have the same meaning as "length overall" as defined in Regulation 2 of the Merchant Shipping (Tonnage) Regulations 1997/1510;
- i) "owner" means the majority shareholder in the vessel as recorded on the vessel's certificate of registry issued under the Merchant Shipping (Registration of Ships) Regulations 1993;
- j) "permit" means:
- i) a Category One Permit issued under paragraph 6 of this byelaw; or
 - ii) a Category Two Permit issued under paragraph 7 of this byelaw
- k) "using" in the context of mobile fishing gear shall for the purposes of this byelaw mean moving, towing, pushing or dragging it on the seabed and or above the seabed and or on the surface of the sea and or anchoring and or leaving it on the seabed with or without the intention to take Sea Fisheries Resources and "use" and "used" shall be construed accordingly;
- l) "vessel" means a ship, boat, raft or watercraft of any description and includes non-displacement craft, personal watercraft, seaplanes and any other thing

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constructed or adapted for floating on or being submersed in water (whether permanently or temporarily) and a hovercraft or any other amphibious vehicle, used or capable of being used as a means of transportation on water.

Prohibitions

- 2 No person shall operate any vessel using mobile fishing gear except where paragraph 3 applies.
- 3 This paragraph applies where:
 - a) the use of mobile fishing gear is in accordance with a permit; or
 - b) a vessel less than 7 metres in overall length and is using a net with a mesh size of less than 31mm to fish for sand eels (*Ammodytidae sp.*).
- 4 No vessel shall carry any mobile fishing gear unless:
 - a) the mobile fishing gear is inboard, lashed and stowed;
 - b) the mobile fishing gear is being used in accordance with a permit;
 - c) the vessel is less than 7 metres in overall length and is using a net with a mesh size of less than 31mm to fish for sand eels (*Ammodytidae sp.*)

Deeming

5. Whilst fishing within the District with a Permit as set out in paragraphs 6 and 7 of this byelaw, any sea fisheries resources that are on board shall be deemed to have been taken and or removed from a fishery within the District.

Permits

6. The Authority may issue a document authorising a vessel to use mobile fishing gear in any part of the District other than in estuaries (a 'Category One Permit').
7. The Authority may issue a document authorising a vessel to use mobile fishing gear only in estuaries in any part of the District (a 'Category Two Permit').
8. Where the Authority issues a permit the Authority will at the same time issue a certificate disc.
9. An application for a permit may only be made by the owner of a vessel using the printed forms available from the Authority's office or its website

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10. Only one Category One Permit and one Category Two Permit may be issued per vessel.
11. A permit and certificate disc:
 - a) are issued to the owner of a named vessel;
 - b) in the case of shared ownership the permit and certificate disc will be jointly issued to all owners;
 - c) are valid for the dates specified in the permit, up to a maximum of two years.
 - d) are not transferable between:
 - i) the permit holder and another person; or
 - ii) the vessel named in the permit and another vessel; and
 - e) must be surrendered to the Authority immediately if no longer required.
12. A permit holder may nominate a representative at the time of the permit application or at any other time in writing.
13. A fee will be charged for each permit which will be payable on application or renewal only. The fee for a permit is £20.

Permit Conditions

14. The permit holder or the nominated representative must be present on board the vessel named in the permit while mobile fishing gear is in use.
15. The issued certificate disc must be clearly displayed at all times on the vessel named on the permit.
16. The permit holder shall provide any relevant fisheries information required by the Authority.
17. All vessels issued with a Category One Permit as set out in paragraph 6 of this byelaw may be required to have fitted at the owner's expense a remotely accessed electronic reporting device and transmit the required information at the specified reporting intervals as set out in the Category One Flexible Permit conditions.
18. All vessels issued with a Category Two Permit as set out in paragraph 7 of this byelaw may be required to have fitted at the owner's expense a remotely accessed electronic reporting device and transmit the required information at the specified reporting intervals as set out in the Category Two Flexible Permit conditions.
19. Any Category Two Permit holder or the representative shall only retain on board the named vessel those sea fisheries resources authorised for retention by that permit.

Any other sea fisheries resources taken must be immediately returned to the sea without further injury as near as possible to the place from which they were taken.

20. Failure to comply with any permit conditions constitutes a contravention of this byelaw.

Flexible Permit Conditions

21. The Authority will introduce flexible permit conditions which fall within one or more of the categories listed in paragraph 22.
22. The categories are:
- a) Catch restrictions;
 - b) Gear restriction;
 - c) Spatial restrictions;
 - d) Time restrictions.
23. The Authority may introduce, remove or vary any flexible permit conditions following a review conducted in accordance with the review procedure set out in paragraphs 25 to 27.
24. The flexible permit conditions that apply until they are reviewed pursuant to paragraphs 25 to 27 are those set by the Authority taking into account the Impact Assessment that accompanies this byelaw and all other material considerations.

Review Procedure

25. The Authority shall review the flexible permit conditions no less than once every three years.
26. A review of the flexible permit conditions shall be undertaken as follows:
- a) The Authority shall 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 make a decision whether to introduce, remove or vary any flexible permit conditions based upon the consultation at paragraph 26(a) and the information gathered from permit holders and the information listed in paragraph 27;
 - 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.

27. 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) Scientific advice provided by CEFAS or such other bodies, organisations, or persons as the Authority shall think fit;
 - d) An Impact Assessment of any proposed changes;
 - e) Advice given by Natural England or such other bodies, organisations, or persons as the Authority shall think fit;
 - f) Information from any other relevant source.

Revocation

28. The byelaws with the following titles made by the Devon Sea Fisheries Committee in exercise of its power under sections 5 and 5a of the Sea Fisheries Regulation Act 1966 and in force immediately before the making of this byelaw are hereby revoked :
- a) 'Byelaw 3 – Scallops – Closed Periods';
 - b) 'Byelaw 4 - Escallops - Method of Fishing';
 - c) 'Byelaw 5 - Prohibition of Trawling in Start Bay';
 - d) 'Byelaw 6 - Restrictions of Trawling in Estuaries';
 - e) 'Byelaw 16 – Definition of Trawling';
 - f) 'Byelaw 23 – Dredging in Salcombe Estuary';
 - g) 'Byelaw 25 – Dredging in the Dart'.

Explanatory Note (not part of byelaw)

The proposed Byelaw will provide the Authority with the ability to balance the needs of fishermen using mobile fishing gear with the requirements to secure a sustainable marine eco-system and local socio-economic considerations. The Byelaw will introduce flexibility in the way that the Authority manages mobile gear fisheries and support the protection of the marine environment including all of the Marine Protected Areas in the District. The Byelaw will control access of vessels using bottom towed gears to Marine Protected Areas. The flexible permit conditions will be reviewed when necessary and within a time period not exceeding three years.

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I hereby certify that the above byelaw was made by D&SIFCA at their meeting on the 27th June 2013.

Timothy Robbins

Chief Officer

Devon and Severn Inshore Fisheries and Conservation Authority.
Old Foundry Court, 60A Fore Street, Brixham, Devon, TQ5 8DZ.

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 Mobile Fishing Permit Byelaw made by Devon and Severn Inshore Fisheries and Conservation Authority on 27th June 2013.

The said Byelaw shall come into force on 1st January 2014

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

Date: 2013.