



Devon and Severn

Inshore Fisheries and Conservation Authority

MARINE AND COASTAL ACCESS ACT 2009

Diving 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 District as defined in articles 2 and 3 of the Devon and Severn Inshore Fisheries and Conservation Order 2010 (S.I. 2010 No. 2212).
 - c. 'crab' means any crab of the species of *Cancer pagarus* or *Maia squinado*;
 - d. 'diving' means any underwater swimming activity;
 - e. 'lobster' means any lobster of the species *Homarus gammarus*; or *Palinurus elephas*;
 - f. 'scallop' means any scallop of the species *Pecten maximus*;
 - g. "permit" means:
 - i) a Category One Permit issued under paragraph 4 of this byelaw; or
 - ii) a Category Two Permit issued under paragraph 5 of this byelaw;

- h. "relevant fishing vessel" means a fishing vessel:
- i) registered on Part II of The Registry of Shipping and Seamen Cardiff as governed by the provisions of the Merchant Shipping Act 1995 and the Merchant Shipping (Registration of Ships) Regulations 1993 (SI 3138 of 1993). and
 - ii) in respect of which there is a valid fishing licence issued under the Sea Fish (Conservation) Act 1967.
- i. "vessel" means a ship, boat, raft or watercraft of any description and includes non-displacement craft, personal watercraft, seaplanes and any other thing 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. It is prohibited for a person when diving to remove from a fishery within the District;
- a) crab;
 - b) lobster;
 - c) scallop
- otherwise in accordance with a permit.

Deeming

3. Whilst diving within the District, any crab, lobster or scallop that are on board the relevant fishing vessel or vessel shall be deemed to have been taken and or removed from a fishery within the District.

Permits

4. The Authority may authorise the removal of the species listed in paragraph 2 from a fishery within the District by diving from a named relevant fishing vessel by issuing a Category One Permit to the owner of that vessel.
5. The Authority may authorise the removal of the species listed in paragraph 2 from a fishery within the District by diving by issuing 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.
6. Where the Authority issues a permit, the Authority will at the same time issue a certificate disc.

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7. Only one permit may be issued to a named person without a vessel or in respect of a named vessel.
8. An application for a permit must be made using the printed forms available from the Authority's office and website.
9. A permit and certificate disc:
 - a) are issued to the owner of a named vessel;
 - b) in the case of shared ownership shall be jointly issued to all owners of the named vessel;
 - c) are issued to a named person without a vessel
 - d) are valid for the dates specified in the permit, up to a maximum of two years;
 - e) are not transferrable between:
 - i) the permit holder and another person; or
 - ii) the named vessel in the permit and another vessel.
10. A permit holder using a vessel may nominate named representatives at the time of the permit application or at any other time.
11. A permit holder when nominating a named representative at any other time must:
 - a) make the nomination in writing;
 - b) contact and receive approval from the Authority for the named representative prior to fishing.
12. 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

13. A named vessel in a Category One Permit must be a relevant fishing vessel for the permit to remain valid.
14. The permit holder or the nominated representative must be present when the permit is in use.
15. The issued certificate disc must be clearly displayed at all times on the vessel named in the permit or must be produced by a named person without a vessel when requested by an officer holding an enforcement warrant issued by the Authority.
16. The permit holder shall provide any relevant fisheries information required by the Authority for the discharge of its functions.
17. Failure to comply with any permit conditions constitutes a contravention of this byelaw.

Flexible Permit Conditions

18. The Authority may introduce flexible permit conditions which fall within one or more of the categories listed in paragraph 19.
19. The categories referred to in paragraph 18 are:
 - a) Catch restrictions;
 - b) Gear restriction;
 - c) Spatial restrictions;
 - d) Time restrictions.
20. 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 22 to 24.
21. The flexible permit conditions that apply until they are reviewed pursuant to paragraphs 22 to 24 are those set by the Authority taking into account the Impact Assessment that accompanies this byelaw and all other material considerations.

Review Procedure

22. The Authority shall review the flexible permit conditions no less than once every three years.
23. 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 set out in paragraph 23 (a) and the information gathered from permit holders and the processes listed in paragraph 24. Following any such decision by the Authority to change the flexible permit conditions, permit holders will be notified in writing and permits will be amended as necessary at no cost to the permit holder.
24. The information referred to in paragraph 23(b) includes any one or more of the following:
 - a) Data collected from permit holders;

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- 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.

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I hereby certify that the above byelaw was made by D&SIFCA at their meeting on the 18th September 2014.

Timothy Robbins



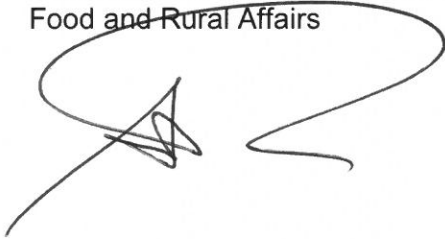
Chief Officer

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 Diving Permit Byelaw made by Devon and Severn Inshore Fisheries and Conservation Authority on 18th September 2014.

The said Byelaw shall come into force on 1st March 2015

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



Date: 17 MARCH 15.

Explanatory Note (not part of byelaw)

The proposed Byelaw will provide the Authority with the ability to balance the needs of persons diving with the requirements to secure a sustainable marine eco-system and the local socio-economic environment for the benefit of all sea users. Any person that dives with or without breathing equipment and removes crab, lobster or scallops from any fishery in the Authority's district is required to do so in accordance with a permit issued by the Authority. The byelaw introduces the ability to apply a daily catch limits for all divers. The flexible permit conditions contain all the Authority's management restrictions that apply to potting activity in the district. The flexible permit conditions will be reviewed when necessary on the basis of best available evidence and within a time period not exceeding three years.