

CORNWALL INSHORE FISHERIES AND CONSERVATION AUTHORITY

MARINE AND COASTAL ACCESS ACT 2009 (c.23)

Live Wrasse Fishing (Limited Permit) Byelaw 2018

The Authority for the Cornwall Inshore Fisheries and Conservation District in exercise of the powers conferred by 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) "Authority" means the Cornwall Inshore Fisheries and Conservation Authority as defined in Articles 2 and 4 of The Cornwall Inshore Fisheries and Conservation Order 2010 (SI 2010 No.2188);
- (b) "ballan wrasse" means a fish of the species *Labrus bergylta*;
- (c) "cleaner fish" means a live wrasse required by the aquaculture industry to remove sea lice from other species of fish held in captivity;
- (d) "contract" means a written agreement between a registered fish buyer and a person requiring a permit, specifying the following details:
 - (i) Requirement by the registered fish buyer for a supply of live wrasse from the District, with reference to the calendar year for which the contract is made;
 - (ii) Name and address of the registered fish buyer, signed and dated by the registered fish buyer;
 - (iii) Name and address of the person who requires a permit to supply the buyer with live wrasse.
- (e) "co-ordinate" means a co-ordinate on the World Geodetic System 1984 Datum (WGS84);
- (f) "corkwing wrasse" means a fish of the species *Symphodus melops*;
- (g) "cuckoo wrasse" means a fish of the species *Labrus mixus*;
- (h) "District" means the Cornwall Inshore Fisheries and Conservation District as defined in Articles 2 and 3 of The Cornwall Inshore Fisheries and Conservation Order 2010;
- (i) "goldsinny wrasse" means a fish of the species *Ctenolabrus rupestris*;
- (j) "live wrasse" means a living fish of the family *Labridae*;
- (k) "permit" means a valid annual authorisation to retain live wrasse on

board a named vessel or land live wrasse from a named vessel, issued by the Authority under paragraph 12;

- (l) "prohibited area" means a marine area defined in the Schedule;
- (m) "registered fish buyer" means a person who is registered by the Secretary of State in accordance with Regulation 7 of The Registration of Fish Buyers and Sellers and Designation of Fish Auction Sites Regulations 2005 (SI 2005 No.1605);
- (n) "rock cook wrasse" means a fish of the species *Centrolabrus exoletus*.

Prohibition

2. A person must not retain live wrasse on board a vessel or land live wrasse from a vessel unless the owner of the vessel holds a permit.
3. A person must not retain live cuckoo wrasse on board a vessel and must return any cuckoo wrasse to the sea as soon as practicable after it has been brought on board the vessel.
4. A person must not retain live ballan wrasse on board a vessel, or land live ballan wrasse from a vessel, between 1st January and 31st March, inclusive.
5. A person must not retain live goldsinney wrasse, live rock cook wrasse or live corkwing wrasse on board a vessel, or land live goldsinney wrasse, live rock cook wrasse or live corkwing wrasse from a vessel, between 1st May and 30th June, inclusive.
6. A person must not retain live wrasse on board a vessel or land live wrasse from a vessel, where the length of a wrasse is less than that prescribed in paragraph 6(a).
 - (a) The minimum lengths for live wrasse are as follows:
 - (i) 16cm for ballan wrasse;
 - (ii) 12cm for goldsinney wrasse, rock cook wrasse and corkwing wrasse.
7. A person must not fish for live wrasse and retain live wrasse using a vessel in a prohibited area.
8. A person must not place or use a pot or trap for fishing for or taking live wrasse where the pot or trap exceeds a length of 75cm, or a width of 45cm, or a depth of 35cm. Measurements include any rigid exterior attachment to the pot or trap.
9. A person must not place or use a pot or trap for fishing for or taking live wrasse unless:
 - (a) any entrance to the pot includes a hard or rigid eye which does not exceed a diameter, height or width exceeding 9cm; and
 - (b) at least two unobstructed rigid vertical escape gaps measuring a

minimum of 7cm in height and 1cm in width are fitted into one or more sides of the pot or trap. Where the pot or trap includes a parlour, two unobstructed escape gaps of the same minimum dimensions must be fitted to at least one of the exterior sides of any parlour.

Exemption

10. This byelaw does not apply to any person performing an act which would otherwise constitute an offence against this byelaw, if that act was carried out in accordance with a written permission issued by the Authority permitting that act for scientific, stocking or breeding purposes.

Permit – general provisions

11. The Authority may issue up to a total of five permits at any one time.
12. The Authority may issue a permit to the owner of a named vessel, where the owner holds a contract and submits a written application for a permit using a form provided by the Authority. Where the vessel is owned by more than one person, only a single application is required from one of its owners.
13. A person must not apply for or become the holder of more than one permit.
14. A fee of £135 per calendar year is charged by the Authority to each permit applicant. It must be paid to the Authority by electronic bank transfer or by a bank cheque, at the time of the application for a permit. The fee will be refunded where the application is unsuccessful.
15. In the first calendar year of the confirmation of this byelaw, when the Authority receives applications for a permit, it will prioritise the first issue of permits to any person who provides documented evidence to the Authority that they used a vessel to retain live wrasse from the District and sold such fish to a registered fish buyer for use as cleaner fish, before 1st August 2016.
16. For the issue of a permit in the years that are subsequent to the year in which the byelaw was confirmed, where the Authority invites and receives applications for a permit, the Authority will prioritise its permit issue to a current permit holder who provides evidence to the Authority that they:
 - (a) used a permitted vessel to retain live wrasse from the District in the current year and sold such fish to a registered fish buyer for use as cleaner fish; and
 - (b) hold a contract to supply live wrasse to a registered fish buyer for use as cleaner fish, for the relevant calendar year.
17. Where the Authority receives a completed and signed permit application form and there are five permits already issued and in use, the applicant's details will be held on a waiting list. Where there are less than five permits issued, the Authority may offer a person on the waiting list the opportunity to hold a permit, prioritised according to the earliest date of

receipt of a fully completed permit application form.

18. Where a person on the waiting list accepts an offer by the Authority for an opportunity to hold a permit, the commencement of fishing for live wrasse is conditional on the person first submitting a copy of a relevant contract to the Authority and paying a fee of £135 to the Authority by electronic bank transfer or a bank cheque and on their receipt of a permit from the Authority.
19. A person on the waiting list will have a maximum of twenty working days to accept an offer of a permit by the Authority. Where the person does not contact the Authority to accept the offer, or declines the opportunity to hold a permit, the person's name will be removed from the waiting list until such time as any new application form is completed by the person and received by the Authority.
20. The Authority may consent a permit holder to transfer their permit to another vessel owned by the permit holder, following a written request from the permit holder. Where the original vessel is owned by more than one person, all the owners must agree and sign the request. The permit will only be transferred to another vessel by written authorisation of the Authority, specifying a transfer date. No fee will be charged for a permit transfer consented under this paragraph.
21. A vessel used in accordance with a permit must be registered in accordance with Part II of the Merchant Shipping Act 1995 (c.21) and the regulations made under that Act, or registered in the Channel Islands or Isle of Man.
22. A vessel used in accordance with a permit must be licensed in accordance with section 4 of the Sea Fish (Conservation) Act 1967 (c.84) or, where the licence is suspended, under section 4(9) of that Act.
23. A permit issued by the Authority is valid from the date of issue until 23:59 hours on the 31st December of the same year.
24. Notwithstanding the circumstance described in paragraph 25, a permit is not transferable between persons and must be immediately surrendered to the Authority if it is no longer required.
25. A permit will not be valid if a permit holder no longer owns the vessel to which the permit relates, except where, in the circumstance of a vessel being owned by more than one person, another of the vessel's owners at the time of the permit application applies to have the permit transferred into their name, subject to the conditions set out in paragraphs 12, 13, 14, 21 and 22.
26. A permit will not be valid where a permit holder ceases to hold a contract and may only become valid again in the same calendar year if the period in which a contract is not held does not exceed 28 consecutive days. If no contract is held after this period, the permit must be immediately surrendered to the Authority.

27. A permit will not be issued by the Authority in respect of a vessel which does not fulfil the conditions set out in paragraphs 21 and 22.
28. A permit will not be valid where the vessel to which it relates ceases to fulfil the conditions set out in paragraphs 21 and 22.
29. The Authority has the right to suspend a permit or to not re-issue a permit, where the Authority determines that a permit holder is not complying with a permit condition.
30. The Authority has the right to suspend a permit or to not issue a permit, where the Authority determines that exploitation of live wrasse in the District is not sustainable.

For the purposes of this paragraph, the Authority will make a decision based on information using 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 thinks fit;
 - (c) scientific advice provided by the Centre for Environment, Fisheries and Aquaculture Science or such other bodies, organisations, or persons as the Authority thinks fit;
 - (d) advice provided by Natural England or such other bodies, organisations, or persons as the Authority thinks fit.
31. Where a permit holder fails to comply with paragraph 3, 4, 5, 6, 7, 8, 9 or 32, and any enforcement action leads to a successful prosecution by the Authority, or the permit holder accepts and pays a financial administrative penalty, or accepts a caution, the permit will be withdrawn for the remainder of the calendar year in which the offence was committed and no application for a permit from any owner of the vessel used in relation to the offence will be considered by the Authority for the following calendar year. For a subsequent calendar year, the Authority will accept and process a permit application in accordance with paragraphs 12 and 17.

Permit condition

32. The holder of a permit must, before the fifteenth day of every calendar month, deliver or send to the Authority a statement of the number of each species of wrasse taken from the District during the preceding calendar month, together with information on the type and quantity of fishing gear employed and area fished, as specified on a form provided by the Authority.

Flexible permit conditions

33. The Authority may introduce flexible permit conditions which fall into one or more of the following categories:
 - (a) catch quantity restriction and reporting;
 - (b) gear quantity and construction;
 - (c) spatial fishing restriction;

- (d) temporal fishing restriction.
- 34. The Authority may introduce, remove or vary any flexible permit condition following a review conducted in accordance with the review procedure set out in paragraphs 37, 38 and 39.
- 35. The flexible permit conditions that apply until they are reviewed pursuant to paragraphs 37, 38 and 39 are those set by the Authority, taking into account the impact assessment that accompanies this byelaw and all other material considerations.
- 36. Failure to comply with a flexible permit condition constitutes a contravention of this byelaw.

Flexible permit review procedure

- 37. The Authority will review any flexible permit conditions not less than once every three years.
- 38. A review of the flexible permit conditions will be undertaken 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 changes to flexible permit conditions;
 - (b) the Authority will make a decision whether to introduce, remove or vary any flexible permit conditions based upon information received from the consultation process set out in paragraph 38(a) and from information gained in accordance with paragraph 39.
- 39. The information upon which the Authority may make a decision for the purposes of paragraph 38(b) 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 thinks fit;
 - (c) scientific advice provided by the Centre for Environment, Fisheries and Aquaculture Science or such other bodies, organisations, or persons as the Authority thinks fit;
 - (d) an impact assessment of any proposed change;
 - (e) advice provided by Natural England or such other bodies, organisations, or persons as the Authority thinks fit;
 - (f) the financial cost of administering a permit;
 - (g) material information from any other relevant source.

I hereby certify that the above byelaw was made by the Authority at its meeting on the 25th day of June 2018.

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Samantha Davis
Chief Officer to Cornwall Inshore Fisheries and Conservation Authority
Chi Gallos
Hayle Marine Renewables Business Park
North Quay
Hayle
Cornwall TR27 4DD

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 Live Wrasse Fishing (Limited Permit) Byelaw 2018 made by the Cornwall Inshore Fisheries and Conservation Authority on the 25th day of June 2018.

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

SCHEDULE

Co-ordinates and boundaries of prohibited areas:

Area A: The area of sea within tidal limits between a line drawn 270° True from Marsland Mouth (50° 55.740'N 004° 32.950'W) and a line drawn 180° True from Carn-du (50°03.605'N 005°33.272'W).

Area B: The area of sea within tidal limits between a line drawn 180° True from Cudden Point (50°05.808'N 005°25.750'W) and a line drawn 090° True from Bass Point (49°57.795'N 005°11.134'W).

Area C: The area of sea within tidal limits between a line drawn 090° True from Lowland Point (50°02.148'N 005°04.097'W) and a line drawn 090° True from Porthkerris Point (50°03.963'N 005°03.965'W).

Area D: The area of sea within tidal limits between a line drawn 135° True from Pencabe (50°10.719'N 004°58.310'W) and a line drawn 135° True from Nare Head (50°11.740'N 004°55.300'W).

Area E: The area of sea within tidal limits between a line drawn 180° True from Dodman Point (50°13.116'N 004°48.191'W) and a line drawn 180° True from Pen-a-maen (50°14.261'N 004°46.839'W).

Area F: The area of sea within tidal limits between a line drawn 180° True from Gribbin Head (50°18.828'N 004°40.361'W) and a line drawn 180° True from St Catherines Point (50°19.683'N 004°38.643'W).

Area G: The area of sea within tidal limits between a line drawn 180° True from a point on the coast (50°19.991'N 004°28.614'W) near the Hore Stone and a line drawn 180° True from a point on the coast (50°21.717'N 004°25.097'W) near Colmer Rocks.

Area H: The area of sea within tidal limits between a line drawn 180° True from Rame Head (50°18.683'N 004°13.300'W) and a line drawn 180° True from Penlee Point (50°19.054'N 004°11.301'W).

Explanatory Note

(This note does not form part of the byelaw)

This byelaw requires that an annual permit is held by a vessel owner to retain or land live wrasse. The Authority will only consider permit applications from fishermen who own a registered and licenced fishing vessel, provide evidence of a relevant contract to supply live wrasse and on payment of a £135 fee.

The Authority may issue up to a maximum of five valid permits in a calendar year and in the first year will be prioritise fishermen having a proven track record of live wrasse fishing before 1st August 2016. For subsequent years, an existing permit holder will be offered the first opportunity to hold a permit for the next year. Should more than five permits be applied for, a waiting list system will be used, operated on the basis that the earliest applicant on the list for a permit will be the first to be offered any vacancy which may occur.

Permit holders must submit monthly wrasse catch and fishing effort details to the Authority.

Live ballan wrasse must not be retained or landed from January to March, inclusive.

Live goldsinney wrasse, live rock cook wrasse or live corkwing wrasse must not be retained or landed in May and June.

Live cuckoo wrasse must not be retained on board at any time.

Fishing for live wrasse is prohibited in eight areas located around the Cornwall coast.

Minimum sizes are prescribed for the retention and landing of live ballan wrasse, goldsinney wrasse, corkwing wrasse and rock cook wrasse.

Pots or traps used for fishing for live wrasse must be constructed within specified dimensions and include specified fixtures.

The Authority may apply additional permit conditions.

The Authority may suspend a permit or not issue a permit where a permit holder

does not comply with the byelaw, or where it has evidence based concerns for the sustainability of local wrasse stocks.

The Authority may give written authorisation allowing a person to use a vessel for retaining and landing live wrasse, which would otherwise be prohibited by this byelaw, for scientific, stocking or breeding purposes.