



Isles of Scilly Inshore Fisheries and Conservation Authority

MARINE AND COASTAL ACCESS ACT 2009

Fishing Gear Permit Byelaw 2021

The Authority for the Isles of Scilly Inshore Fisheries and Conservation District in exercise of its powers under Section 155 and 156 of the Marine and Coastal Access Act 2009 make the following byelaw for that District

Interpretation

1 In this byelaw:

- a) “the Authority” means the Isles of Scilly Inshore Fisheries and Conservation Authority as defined in Articles 2 and 4 of the Isles of Scilly Inshore Fisheries and Conservation Order 2010 (SI 2012/2213);
- b) “the District” means the Isles of Scilly Inshore Fisheries and Conservation District as defined in Articles 2 and 3 of the Isles of Scilly Inshore Fisheries and Conservation Order 2010 (SI 2010/2213);
- c) “fishing” includes searching for sea fisheries resources, shooting, setting, towing, hauling of a mobile fishing gear, and taking sea fisheries resources on board;
- d) “fishing log” means a log conforming to the requirements of paragraph 16 of this Byelaw
- e) “gross tonnage” means the gross tonnage of the vessel as recorded in the Register of Ships and in its Certificate of Registry;
- f) “impact assessment” means a documented account of the review process, including the rationale for potential changes, the findings of consultations and the decision making of the Authority;

- g) “inboard lashed and stowed” means that mobile fishing gear is stored in such a way that use cannot readily be made of it for any purpose
- h) “mobile fishing gear” means any dredge, trawl or similar device that is designed to be towed or pushed to take any sea fisheries resources;
- i) “a named representative” means the person nominated by the Permit Holder and named on the permit as the master;
- j) “overall length” means the overall length of the vessel as recorded in the Register of Ships and in its Certificate of Registry;
- k) “owner” means a shareholder in the vessel as recorded for the vessel’s Certificate of Registry as kept by the Maritime and Coastguard Agency;
- l) “permit” means a Permit issued under paragraph 7 of this byelaw
- m) “permit holder” means the person qualified to be issued a permit by the Authority in accordance with paragraph 8;
- n) “relevant fishing vessel” means a fishing vessel:
 - i. registered in accordance with Part II of the Merchant Shipping Act 1995 (c.21) and the Merchant Shipping (Registration of Ships) Regulations 1993 (S.I. 1993 No. 3138) as amended from time to time
 - ii. and in respect of which there is a valid fishing licence issued under the Sea Fish (Conservation) Act 1967 (c. 84);
- o) “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

1. No person shall use any vessel with any mobile fishing gear aboard within the District except where fishing with towed fishing gear is being conducted in accordance with a permit.
2. No person may use a registered fishing vessel using mobile fishing gear other than a vessel authorised by a permit issued by the Isles of Scilly IFCA in the district at a speed of less than six knots over the ground except;
 - (a) at the commencement and the end of a passage to or from a location within the district
 - (b) in the case of force majeure or adverse conditions.
3. In the case of force majeure or adverse conditions, the master must immediately inform the Authority.
4. No vessel shall carry any mobile fishing gear unless:
 - a) The mobile fishing gear is inboard, lashed and stowed
 - b) Fishing with mobile fishing gear is being conducted in accordance with a permit
5. No person may fish in the district with a vessel that exceeds:
 - a) 10 tonnes gross tonnage; or
 - b) 11 metres in overall length.

Applications

6. The Authority may authorise fishing with mobile fishing gear from a named relevant fishing vessel in any part of the District by issuing a Permit with or without conditions to the owner of that vessel.
7. An application for a Permit may only be made by an owner of a vessel using the printed forms available from the Authority's office or by using the on-line application facility on the website.
8. Only one Permit may be issued per vessel.
9. The Permit is issued to all owners of a named vessel.
10. The Permit is valid for the dates specified in the Permit, up to a maximum of two years and is not transferable.
11. The Permit may be surrendered to the Authority.
12. A permit holder may nominate a named representative in writing to the Authority.

13. Any changes to the information provided upon the application form for a permit must be notified in writing to the Authority within 10 working days and unless so notified shall render the Permit invalid.
14. A fee for the Permit will be payable on application. The fee for the permit will be determined by the authority from time to time at a general meeting of the authority.

Byelaw conditions

15. For all relevant fishing vessels when one or more persons is named as a representative of the owner, the owner shall keep and maintain for a period of three years a log:
 - a) Identifying the master of the vessel of each fishing operation and produce the log to the Authority on demand
 - b) Recording such other information as is stipulated in the Permit Conditions and produce the log to the Authority on demand
16. The permit holder or the named representative must be present when fishing is being undertaken under the authority of the Permit
17. The permit holder must provide any information required by the Authority for the purpose of discharging its functions
18. All vessels issued with a Permit as set out in paragraph 6 of this Byelaw will be required to have fitted at the owner's expense a remotely accessed electronic reporting device and transmit the required information at the specific reporting intervals as set out in the Flexible Permit conditions.

Flexible Permit Conditions

19. The Authority may introduce flexible permit conditions which fall within one or more of the categories listed in paragraph 20
20. The categories are:
 - a) Catch restrictions
 - b) Gear restriction
 - c) Spatial restriction
 - d) Time restrictions

21. 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 24
22. The flexible permit conditions that apply until they are reviewed pursuant to paragraphs 21 to 26 are those set out by the Authority taking into account the Impact Assessment that accompanies this byelaw and all other material considerations
23. Failure to comply with a flexible permit condition constitutes a contravention of this byelaw

Review Procedure

24. The Authority shall review the flexible permit conditions no less than once every three years from the date of entry into force.
25. 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 amendments to the flexible permit conditions;
 - b) The Authority will make a decision whether to introduce, remove or vary any flexible permit conditions based upon the consultation at paragraph 25 (a) and the information gathered from permit holders and the information listed in paragraph 26. 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.
26. The information referred to in paragraph 25 (b) includes any one or more of the following:
 - i data collected from permit holders;
 - ii 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;
 - iii scientific advice provided by CEFAS or such other bodies, organisations or persons as the Authority shall think fit;
 - iv an impact assessment of any proposed changes;
 - v advice given by Natural England or such other bodies, organisations, or persons as the Authority shall think fit
 - vi Information from any other relevant source;

Exemptions

27. 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 permitting that act for scientific, stocking or breeding purposes.

Revocations

28. The byelaw with the title 'Fishing Gear Permit Byelaw, made by the Isles of Scilly Inshore Fisheries and Conservation Authority on 10th December 2013 is hereby revoked

Effective date

29. The provisions of this Byelaw will come into effect on XXXX

I hereby certify that the above byelaw was made by the Authority at their meeting held on the XXXXXX

Signature

Chief Fisheries Officer to the Authority
Isles of Scilly IFCA
Town Hall
St. Mary's
Isles of Scilly
TR21 0LW

The Secretary of State for the 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 Fishing Gear Permit byelaw by the Authority on {date}

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

Explanatory Note

(Not part of the Byelaw)

The 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 ecosystem and local socio-economic considerations. The Byelaw will control access of vessels using bottom towed gears within Marine Protected Areas and habitats of high sensitivity. 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.