

SOUTHERN INSHORE FISHERIES AND CONSERVATION AUTHORITY

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MARINE AND COASTAL ACCESS ACT 2009 (2009 c23)

SOLENT DREDGE PERMIT BYELAW

The Authority for the Southern Inshore Fisheries and Conservation District, in exercise of the powers conferred by sections 155 and 156 of the Marine and Coastal Access Act 2009 hereby make the following byelaw for that District.

INTERPRETATION

- (1) For the purposes of this byelaw, the following definitions shall apply:
- a) "Bivalve" shall mean any marine molluscs of the class Bivalvia having a shell consisting of two hinged valves, typically connected by a ligament;
 - b) "Bivalve Management Areas" shall refer to the areas defined in the Schedule;
 - c) "Culch" means the shell or other material used as a settlement substrate by oysters or other bivalves;
 - d) "Conditions" includes flexible conditions attached to a permit under paragraph (25)
 - e) "District" means the area defined in Articles 2 and 3 of the Southern Inshore Fisheries and Conservation Order 2010 (SI 2010 No 2198);
 - f) "Dredge" means a scoop or similar device (to include any auxiliary hydraulic equipment) that is designed for, or capable of taking any bivalve;
 - g) "Langstone Harbour" means that part of the district as below mean high water springs to the to the North of an imaginary straight line between Radar Mast, (50° 47.348'N 001° 01.762'W) and (50° 47.348'N 001° 01.385' W);
 - h) "Oyster" shall include the species *Ostrea edulis*, *Magallana (Crassostrea) gigas* and *Magallana (Crassostrea) angulata*;
 - i) "Permit" means:
 - i. A Category A Permit issued under paragraph (10) of this byelaw; or
 - ii. A Category B Permit issued under paragraph (11) of this byelaw;
 - j) "Portsmouth Harbour" means that part of the district as lies below mean high water springs to the North of an imaginary straight line between (50° 47.380'N 001° 06.708'W); to Round Tower (50° 47.433'N 001° 06.530' W);

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- k) "Relevant Fishing Vessel" means any vessel which is:
- i. Registered in Part II of the Register of British Ships in accordance with Part II of the Merchant Shipping Act 1995 and the regulations made under that Act, or in the Channel Islands or Isle of Man;
 - ii. is licensed to fish by virtue of a licence issued by an appropriate minister under the Sea Fish (Conservation) Act 1967;
 - iii. has a "certificate of registry" issued under the Merchant Shipping (Registration of Ships) Regulations 1993;
 - iv. Is under 12metres in overall length in accordance with provisions laid out under the Southern IFCA 'Vessels Used in Fishing' Byelaw' 2012; and
 - v. Is permitted to fish in accordance with the Southern IFCA 'Vessels Used in Fishing for Sale' Byelaw;
- l) "Solent" means that part of the district as lies below mean high water springs from the East of an imaginary straight line drawn from Hurst Point at (50° 42.430'N 001° 32.935'W); to Fort Victoria at (50° 41.973'N 001° 32.045'W); to the West of an imaginary straight line drawn due south from point (50° 46.631'N 0° 56.255'W); to its point of intersection with an imaginary straight line drawn due east from Culver Cliff (50° 40.034'N 1° 5.747'W);
- m) "Southampton Water" means that part of the district as lies below mean high water springs to the North of an imaginary straight line drawn from Calshot Radar Tower (50°49.192' N 001°18.465' W); to Chilling at (50°49.192' N 001° 15.075' W);
- n) "Spat" means a larva of an oyster or similar bivalve that has settled by attaching to a surface;
- o) "The Authority" means the Southern Inshore Fisheries and Conservation Authority (IFCA) as defined in Articles 2 and 4 of the Southern Inshore Fisheries and Conservation Order 2010;
- p) "Use" in relation to a dredge, shall mean pulling or pushing it along, through or above the seabed;

PROHIBITIONS

- (2) A person must not use a dredge by means of a vessel within any Bivalve Management Area in the Solent.
- (3) Paragraph (2) does not apply when all of the following conditions are met:
- a) The vessel is a Relevant Fishing Vessel and is authorised to use a dredge within the Solent in accordance with a Category A Permit or Category B Permit, as issued under paragraph (10) or (11) of this byelaw;

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- b) Paragraphs (4), (16) and (19) of this Byelaw are being complied with;
 - c) All of the conditions attached to the relevant Category A or Category B Permit are being complied with.
- (4) A dredge must not be used by means of a Relevant Fishing Vessel within the Solent between the period commencing at 18:00 and ending at 06:00 on the following day.
- (5) A person must not remove from a Solent fishery any culch or other material which could be used for the reception of spat of any bivalve.
- (6) If any culch or other material which could be used for the reception of spat of any bivalve is lifted while undertaking fishing operations, it shall be redeposited immediately on the same fishing ground.

EXCEPTIONS

- (7) Paragraph (2) does not apply when any of the following conditions are met:
- a) When a Relevant Fishing Vessel transits through the Solent; providing that all parts of the dredge are inboard and above the sea;
 - b) When the use of a dredge by a Relevant Fishing Vessel on any occasion is authorised by written dispensation issued under paragraph (8) and the authorisation is valid in accordance with paragraph (9);
 - c) When undertaking fishing operations within a 'several fishery'; or
 - d) Under any right on, to or over any portion of the Solent that is enjoyed by a person under a local or special Act, a Royal charter, letters patent, or by prescription or immemorial usage.

Dispensations

- (8) The Authority may issue a written dispensation within the Solent for the following purposes:
- a) Authorising the use of a dredge for either scientific, educational, stocking or breeding purposes;
 - b) Authorising the removal of culch or other material for the reception of spat if removal is deemed necessary for the destruction of pests, disease, socioeconomic reasons or in accordance with established principles of cultivation;
- (9) The dispensation will only be valid if:

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- i. Fishing operations undertaken are in accordance with the purpose for which the dispensation was issued;
- ii. The dispensation is carried on board and produced for inspection when requested by an Inshore Fisheries and Conservation Officer of the Authority or any other person authorised by the Authority to make such a request.

ISSUE OF PERMIT

- (10) The Authority may issue a Category A Permit to any person authorising the use by a Relevant Fishing Vessel of a dredge to fish for or take bivalve (with the exception of oysters) within the Solent in accordance with paragraph (3) provided that all the conditions under paragraphs (12) to (15) of this byelaw are satisfied in relation to the application for the permit;
- (11) The Authority may issue a Category B Permit to any person authorising the use by a Relevant Fishing Vessel of a dredge to fish for or take oysters within the Solent in accordance with paragraph (3) provided that all the conditions under paragraphs (12) to (15) of this byelaw are satisfied in relation to the application for the permit;
- (12) The application for a permit is made:
 - a) In respect of a named Relevant Fishing Vessel;
 - b) By a person who holds the majority of shares in the named Relevant Fishing Vessel for which the application is made, as recorded on the Relevant Fishing Vessel's Certificate of Registry; or
 - c) By no more than two nominated representatives, as has been nominated in writing for that purpose by a person or persons holding the majority of shares in the named Relevant Fishing Vessel, as recorded on the named Relevant Fishing Vessel's Certificate of Registry; provided that a person nominated is not:
 - i. A Permit Holder, who already holds a permit for the category in respect of which the application is made; or
 - ii. Already nominated as a representative on a permit for the category in respect of which the application is made;
 - d) Using the printed forms available from the Authority direct or the Authority's website.
- (13) A permit issued under paragraph (10) or (11):

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- a) Shall be issued to either the majority shareholder or nominated representative(s) (“the Permit Holder”) in accordance with paragraph (12) in respect of a named Relevant Fishing Vessel;
 - b) Is not transferable between the permit holder and another person; or between the named Relevant Fishing Vessel and another vessel;
 - c) Shall consist of a paper permit, which must be carried onboard the Relevant Fishing Vessel at all times, and a permit disc which must be clearly displayed onboard the Relevant Fishing Vessel at all times;
 - d) Is valid for the period stated in the permit;
- (14) Only one Category A Permit and one Category B Permit may be issued per Relevant Fishing Vessel.
 - (15) A maximum of two Category A Permits and two Category B Permits may be issued to an individual who is in ownership of more than one Relevant Fishing Vessel.
 - (16) The Permit Holder, must be present onboard the named Relevant Fishing Vessel at all times whilst undertaking fishing activities authorised under the permit;
 - (17) At the request of the Authority the Permit Holder, must facilitate the Inshore Fisheries and Conservation Officers of the Authority, or any other person authorised by the Authority, access to the Relevant Fishing Vessel for the purpose of observing activities carried out;
 - (18) The permit must be produced for inspection when requested by an Inshore Fisheries Conservation Officer of the Authority or any other person authorised by the Authority to make such a request;
 - (19) The Permit Holder, shall complete and submit information, in the form of a Catch Return, to the Authority at such frequency, by such deadlines and containing such detail as are specified in a condition in his or her permit.

COST OF PERMIT

- (20) The Authority may charge a fee of no greater than £5000 for each permit;
- (21) The Authority will review the suitability of permit fees in accordance with paragraph (27) of this Byelaw;

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(22) A fee of £50 is payable for the replacement of lost, amended or damaged permits.

NUMBER OF PERMITS

(23) The Authority may limit the number of permits that it may grant;

(24) The Authority will review the limitations on the number of permits in accordance with paragraph (27) of this Byelaw;

FLEXIBLE PERMIT CONDITIONS

(25) The Authority (or a sub-committee thereof authorised by the Authority to do so) may, for the purposes of managing the sustainable harvesting of bivalves in the Solent, attach to a permit, remove from a permit or vary one or more flexible permit conditions, relating to the following matters:

- a) Prohibiting or restricting harvesting of sea fisheries resources;
- b) Limiting the amount of sea fisheries resources harvested by a relevant vessel;
- c) Limiting the amount of time a relevant vessel may spend harvesting;
- d) Prohibiting or restricting any method of harvesting;
- e) Setting the frequency of, deadlines for and content of catch returns.

(26) When introducing, removing or varying a flexible permit condition the Authority must operate in accordance with the review procedure set out in paragraph (27).

REVIEW PROCEDURE

(27) The Authority (or a sub-committee thereof authorised by the Authority to do so) will review the suitability of the flexible permit conditions, permit fees and limitations on the number of permits every three years or sooner in accordance with the Solent Dredge Permit Management Intentions Document, The Solent Dredge Permit Access Policy and the following procedure:

- a) A consultation will be held with permit holders to present any available evidence, as defined in paragraph (28) and discuss options;

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- b) The Authority will decide what changes, if any, are required to the permit conditions, having regard to the duties and obligations under sections 153 and 154 of the Marine and Coastal Access Act 2009 and Regulation 9(1) of the Conservation of Habitats and Species Regulations 2017 (amended);
- c) The outcome of the review will be notified by the Authority to permit holders in writing.

(28) The available evidence presented may include any one or more of the following:

- a) Any available scientific and survey data, which may include:
 - i. The density of the bivalve stock within all or each of the Bivalve Management Areas;
 - ii. The catch rate of bivalves within all or each of the Bivalve Management Areas;
 - iii. The proportion of bivalves which are immature or below minimum landing size within all or each of the Bivalve Management Areas;
 - iv. The proportion of mature bivalves intended to promote recruitment within all or each of the Bivalve Management Areas;
- b) For the purpose to aid the recovery of bivalve stocks within all or each of the Bivalve Management Areas;
- c) Any feedback received from consultation with permit holders;
- d) Any statutory advice given by Natural England or other such bodies, organisations or persons as the Authority shall deem fit;
- e) Any Habitats Regulations Assessment (HRA) relating to any proposed changes;
- f) Any Impact Assessment (IA) relating to any proposed changes;
- g) Authority expenditure arising from the:
 - i. Administration of permits and processing of permit holder data;
 - ii. Undertaking of survey activity, stock assessments and HRAs which directly inform the management of the bivalve fisheries within the Solent;
 - iii. Delivery of patrols to monitor compliance with this byelaw and the associated Category A and Category B Permits.

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REVOCATION

(29) The following byelaw made by Southern Inshore Fisheries and Conservation Authority in exercise of its power under sections 155 and 156 of the Marine and Coastal Access Act 2009 and in force immediately before the making of this byelaw is hereby revoked:

- a) The byelaw entitled 'Solent Dredge Fishing Byelaw 2016'

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I HEREBY CERTIFY THAT THE ABOVE BYELAW WAS MADE BY SOUTHERN INSHORE FISHERIES AND CONSERVATION AUTHORITY AT THEIR MEETING ON THE **INSERT DATE**.

Robert Clark
Chief Officer

Professor John Humphreys
Chairman of the Authority

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 Solent Dredge Permit Byelaw made by Southern Inshore Fisheries and Conservation Authority in **INSERT DATE**.

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Explanatory Note (not part of byelaw)

The purpose of this byelaw is to manage the harvesting via dredge for bivalves within the Solent. The byelaw will support the development of sustainable bivalve fisheries in these areas.

The byelaw prohibits the use of dredges within the Solent by any vessel, except in accordance with a permit issued by the Authority, or in accordance with a written dispensation for certain lawful activities, or exceptions as listed in this byelaw.

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SCHEDULE

Definition of Bivalve Management Areas

Area 1: “The Western Solent” means that part of the district as lies below mean high water springs and the area enclosed by a straight line drawn:

from Hurst Point, **POINT 1** (50° 42.430'N 001° 32.935'W);
to Fort Victoria, **POINT 2** (50° 41.973'N 001° 32.045'W);
following mean high water springs to **POINT 3** (50° 43.429'N 001° 24.712'W)
to **POINT 4** (50 43.436 001 24.610)
following mean high water springs to Old Castle Point, **POINT 5** (50° 45.973'N 001° 16.658'W)
to **POINT 6**: (50° 46.882'N 001° 16.631'W);
to Stansore Point, **POINT 7** (50° 47.114'N 001° 20.673'W);
following mean high water springs to **POINT 8** (50° 47.020'N 001° 21.197'W)
to **Point 9** (50° 46.253'N 001° 24.322'W)
returning to Hurst Point, **POINT 1** (50° 42.430'N 001 32.935'W) following mean high water springs.

Area 2: “Northern Solent” means that part of the district as lies below mean high water springs and the area enclosed by a series of straight lines drawn:

from Stansore Point, **POINT 7** (50° 47.114'N 001° 20.673'W);
to Gilkicker point, **POINT 10** (50° 46.413'N 001° 8.575'W);
following mean high water springs to Chilling at **POINT 11** (50° 49.192'N 001° 15.075'W);
to Calshot Radar Tower, **POINT 12** (50°49.192' N 001°18.465' W);
returning to Stansore Point, **POINT 7** (50° 47.114'N 001° 20.673'W) following mean high water Springs.

Area 3: “Eastern Solent” means that part of the district as lies below mean high water springs and the area enclosed by a series of straight lines drawn:

from Old Castle Point, **POINT 5** (50° 45.973'N 001° 16.658'W);
to **POINT 6** (50° 46.882'N 001° 16.631'W);
to Gilkicker point, **POINT 10** (50° 46.413'N 001° 8.575'W);
following mean high water springs to **POINT 13** (50° 47.380'N 001° 06.708');
to Round Tower, **POINT 14** (50° 47.433'N 001° 06.530'W);
following Mean high water springs to the Radar Mast at Eastney, **POINT 15** (50° 47.348'N 001° 01.762'W);
to **POINT 16** (50° 47.348'N 001° 01.385' W);
following mean high water springs to **POINT 17** (50° 46.631'N 0° 56.255'W);
to **POINT 18** (50° 40.065'N 0° 56.255'W);
to Culver Cliff, **POINT 19** (50° 40.034'N 1° 5.747'W);
Returning to Old Castle Point, **POINT 3** (50 45.973'N 001 16.658'W) following mean high water springs.

Area 4: “Southampton Water” means that part of the district as lies below mean high water springs:

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to the North of an imaginary straight line drawn from Calshot Radar Tower, **POINT 8** (50°49.192' N 001°18.465' W);
to Chilling, **POINT 7** (50°49.192' N 001° 15.075' W).

Area 5: “Portsmouth Harbour” means that part of the district as lies below mean high water springs:

to the North of an imaginary straight line between **POINT 9** (50° 47.380'N 001° 06.708'W);
to Round Tower, **POINT 10** (50° 47.433'N 001° 06.530' W).

Area 6: “Langstone Harbour” means that part of the district as lies below mean high water springs:

to the North of an imaginary straight line between the Radar Mast, **POINT 11** (50° 47.348'N 001° 01.762'W) and **POINT 12** (50° 47.348'N 001° 01.385' W).

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