

Sussex Inshore Fisheries and Conservation Authority

MARINE AND COASTAL ACCESS ACT 2009

Oyster Permit Byelaw

The Authority for the Sussex Inshore Fisheries and Conservation District in exercise of its powers under sections 155 and 156 of the Marine and Coastal Access Act 2009, and pursuant to an agreement between the Authority and the Southern Inshore Fisheries and Conservation Authority made under s167 of the Marine and Coastal Access Act 2009 dated the 30 July 2014 hereby makes the following byelaw for the restricted area (as defined in paragraph 1).

Interpretation

1. In this byelaw:

- (a) “the Authority” means the Sussex Inshore Fisheries and Conservation Authority as defined in articles 2 and 4 of the Sussex Inshore Fisheries and Conservation Order 2010 (S.I. 2010 No. 2199);
- (b) “commercial permit” means a permit issued by the Authority in accordance with paragraph 7;
- (c) “commercial permit holder” means the person named on a commercial permit;
- (d) “diving blade” means a metal bar or plate attached across all or part of the dredge frame for the purpose of creating a downward force on the dredge whilst being towed;
- (e) “ladder” means any vertical parallel bars at the base of the dredge mouth and spanning horizontal bars forming the dredge frame that, are intended to or capable of selecting oysters;
- (f) “oyster” means an oyster of the species *Ostrea edulis*;
- (g) “oyster cultch” means a mass of broken stones, shells and gravel that forms the basis of an oyster bed that oyster spawn may attach to;
- (h) “oyster dredge” means a dredge with a rigid framed mouth designed to take shellfish when towed along the seabed;
- (i) “relevant fishing vessel” means a fishing vessel:
 - (i) registered 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; and

- (ii) in respect of which a fishing licence issued under the Sea Fish (Conservation) Act 1967 is held at the time of the application for a commercial permit;
- (j) “the restricted area” means:
 - (i) the Sussex Inshore Fisheries and Conservation District as defined in articles 2 and 3 of the Sussex Inshore Fisheries and Conservation Order 2010 (S.I. 2010 No. 2199); and
 - (ii) that part of the sea of the Southern District north of an imaginary line drawn due west from a point at 50°46.62’ North, 0°55.92’ West, and east of an imaginary line drawn along the western side of the road-bridge leading from Langstone to Hayling Island in Hampshire;
- (k) “the Southern District” means the Southern Inshore Fisheries and Conservation District as defined in articles 2 and 3 of the Southern Inshore Fisheries and Conservation Order 2010 (S.I. 2010 No. 2198);
- (l) “teeth” means any metal bars projecting downward from the base of the dredge mouth capable of disturbing oysters;
- (m) “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. A person must not dredge for, fish for, or take any oyster from within the restricted area unless in accordance with a commercial permit and any conditions attached to that commercial permit.
3. A person must not carry an oyster dredge on board a vessel in the restricted area unless:
 - (a) in accordance with a commercial permit and any conditions attached to that commercial permit; or
 - (b) the oyster dredge is stored in such a way that it cannot be readily used.
4. A person must not take or remove from the restricted area any oyster cultch or other materials for the reception of spat or young of any shellfish; and any oyster cultch or other such materials taken or removed must be re-deposited forthwith as near as possible to the location from which it was removed.

Supplementary Provisions and Exceptions

5. An oyster on board a vessel which has during the same fishing trip been used in the exploitation of sea fisheries resources within the restricted area is deemed to have been taken and or removed from a fishery within the restricted area.

6. This byelaw does not apply to a 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.

Commercial Permits

7. The Authority may issue a document authorising a person to fish for oyster using a relevant fishing vessel in any part of the restricted area (a "commercial permit").

8. An application for a commercial permit may only be made by the owner of a relevant fishing vessel using the printed forms available from the Authority's office and website.

9. Only one commercial permit will be issued per person and per relevant fishing vessel.

10. Where the Authority issues a commercial permit the Authority will at the same time issue a certificate disc.

11. A commercial permit and certificate disc:

(a) are issued to the owner, or (in the case of shared ownership) jointly issued to all owners;

(b) are valid for the period in the permit (up to a maximum of one year);

(c) are not transferrable between:

(i) the permit holder and another person; or

(ii) the vessel named in the permit and another vessel; and

(d) must be surrendered to the Authority immediately if no longer required.

12. A commercial permit holder may nominate a representative at any time in writing to the Authority prior to engaging in fishing.

13. In respect to commercial permit fees:

(a) A fee of £200 is payable on application unless varied pursuant to paragraph 14;

(b) A fee equivalent to 10% of the permit fee is payable for the replacement of lost or destroyed commercial permits and certificate discs.

14. The Authority may vary commercial permit fees in accordance with the following conditions and procedure:

(a) The Authority will consult in writing with commercial permit holders;

(b) The fee will not be increased more than the equivalent value of 10% every year from the date the permit was introduced;

- (c) The fee will not be changed for any permit already issued;
 - (d) The Authority will make a decision whether to vary the permit fee based upon:
 - (i) the responses from the consultation under paragraph 14(a);
 - (ii) expenditure arising from the administration of permits and processing permit holder data required by the Authority;
 - (iii) any Habitats Regulations Assessment;
 - (iv) Authority expenditure to conduct any survey activity that support the implementation of oyster fishing with commercial permits;
 - (v) Authority costs associated with arranging and attending meetings with commercial permit holders;
 - (vi) Any relevant management costs incurred by implementation of the Oyster Permit Byelaw.
15. A commercial permit is issued subject to:
- (a) the permit conditions in paragraphs 16 to 19; and
 - (b) any flexible permit conditions attached to the commercial permit in accordance with paragraphs 20 to 28.

Permit Conditions

16. The vessel named on the commercial permit must remain a relevant fishing vessel for the duration of the commercial permit.
17. The commercial permit holder or representative must be present during the permitted activity to use the commercial permit.
18. The certificate disc must be clearly displayed at all times on the vessel named on the commercial permit.
19. The commercial permit holder must provide any relevant fisheries information required by the Authority.

Flexible Permit Conditions

20. The Authority may introduce, remove or vary a flexible permit condition which falls within one or more of the following categories:
- (a) catch restrictions;
 - (b) gear restrictions;

- (c) spatial restrictions;
- (d) time restrictions;
- (e) temporary closure restrictions.

21. The Authority may introduce, remove or vary a flexible permit condition:

- (a) where the flexible permit condition constitutes a temporary closure restriction, in accordance with paragraphs 23 to 26;
- (b) otherwise, in accordance with the review procedure set out in paragraphs 27 and 28.

22. The flexible permit conditions that apply until they are removed, varied or reviewed pursuant to paragraphs 23 to 26 or paragraphs 27 and 28 are those set by the Authority taking into account the impact assessment that accompanies this byelaw and all other material considerations.

Temporary closure restriction flexible permit conditions

23. The Authority (or a sub-committee thereof authorised by the Authority to do so) may, for the purpose of managing the sustainable exploitation of oysters, introduce, remove or vary a flexible permit condition prohibiting the fishing for oysters by commercial permit holders within a specified area of the restricted area for a specified time in accordance with this paragraph.

24. A decision under paragraph 23 will be made by the Authority (or sub-committee) having considered any available information listed in paragraph 28 and with regard to:

- (a) the density of the oyster stock within all or part of the restricted area;
- (b) the proportion of immature or undersized oysters within all or part of the restricted area;
- (c) any area that contains mature oysters intended to promote recruitment;
- (d) the presence of pathogens associated with the oyster stock;
- (e) the interaction between activity undertaken by commercial permit holders in fishing for oysters and the marine environment;
- (f) the socio economic benefit for commercial permit holders from fishing for oysters.

25. Following a decision to introduce, remove or vary a flexible permit condition under paragraph 23, commercial permit holders will be notified in writing and permits will be re-issued.

26. The Authority will review a flexible permit condition introduced in accordance with paragraph 23 at least once every 12 months from the date the condition is introduced, in accordance with paragraph 24.

Review Procedure

27. The Authority will review a flexible permit condition no less than once every four years as follows:

- (a) The Authority will consult in writing with commercial 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 a flexible permit conditions based upon the responses from the consultation under paragraph (a) and the information listed in paragraph 28.
- (c) Following a decision being made by the Authority, commercial permit holders will be notified in writing and permits will be re-issued.

28. 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 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 changes;
- (e) advice given by Natural England or such other bodies, organisations, or persons as the Authority thinks fit;
- (f) information from any other relevant source.

Breach of permit condition

29. Failure to comply with:

- (a) a permit condition (within paragraphs 16 to 19); or
- (b) a flexible permit condition attached to a commercial permit (in accordance with paragraphs 20 and 23) constitutes a contravention of this byelaw.

Revocation

30. The following byelaws made by the Sussex 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 to the extent stated:

- (a) the whole byelaw entitled 'Dredging for, fishing for and taking of oysters & clams and removal of cultch';
- (b) Paragraph 2(vii) of the byelaw titled 'Fishing Instruments'.

Explanatory Note (not part of byelaw)

The Oyster Permit Byelaw establishes a permit based system for the commercial exploitation of native oyster stocks by dredging. The Byelaw provides a responsive adaptive management for oyster fisheries and supports the development of sustainable fisheries through catch restrictions, gear configuration through permit conditions. The byelaw will enable stock management at sustainable levels and maximise economic benefit from the relevant fisheries for the benefit of the community. The byelaw's provisions will support the Authority in delivering its conservation duties within Chichester Harbour and the wider district. The flexible permit conditions will be reviewed when necessary and within a time period not exceeding four years.