



Sussex Inshore Fisheries and Conservation Authority

MARINE AND COASTAL ACCESS ACT 2009 (c.23)

Netting Permit Byelaw 2019

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 dated 30th July 2014 between the Authority and the Southern Inshore Fisheries and Conservation Authority made under section 167 of the Marine and Coastal Access Act 2009 hereby makes the following byelaw for the District.

Interpretation

1. In this byelaw and associated flexible permit conditions:

- (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) “display disc” means a document issued to a permit holder that shall be displayed on a vessel;
- (c) “the District” 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; and
 - (ii) that part of the sea of the Southern Inshore Fisheries and Conservation District north of a geodesic line drawn due west from a point at 50 degrees 46.62 minutes north, 0 degrees 55.92 minutes west, and east of a geodesic line drawn along the western side of the road-bridge leading from Langstone to Hayling Island in Hampshire;
- (d) “edible crab” means a crustacean of the species *Cancer pagurus*;
- (e) “European eel” means the species *Anguilla anguilla*;
- (f) “fishing” means the shooting, setting, towing, hauling of fishing gear and taking sea fisheries resources on board a vessel or from the shore;
- (g) “inboard, lashed and stowed” means that nets are stored in such a way that they cannot readily be used for fishing;
- (h) “Keddle net” means a net set at a Keddle net stand licensed by the Rother District Council under the terms of a lease dated 6th February 1986 made between Her Majesty the Queen, the Crown Estate Commissioners and the Rother District Council;

- (i) "lobster" means a crustacean of the species *Homarus gammarus*;
- (j) "net" means any type of net other than:
 - (i) any net that forms part of a dredge, trawl, or similar device that is designed to be towed or pushed by a vessel or mechanical device to take any sea fisheries resources;
 - (ii) any net which forms part of any folding or rigid cage device or structure with one or more openings or entrances capable of capturing any sea fisheries resources;
 - (iii) a landing net when used in conjunction with fishing by rod and line or a trolling line;
 - (iv) any net which when fully expanded does not exceed an area of more than four square metres, where it is operated only manually and not in connection with any vessel or mechanical device; and
 - (v) a brailling net;
- (k) "permit" means:
 - (i) a commercial permit issued under paragraph 4 of this byelaw;
 - (ii) a recreational permit issued under paragraph 5 of this byelaw; or
 - (iii) a Keddle permit issued under paragraph 6 of this byelaw;
- (l) "relevant fishing vessel" means a fishing vessel:
 - (i) registered under Part II of The Registry of Shipping and Seamen as governed by the provisions of the Merchant Shipping Act 1995 (c.21) and the Merchant Shipping (Registration of Ships) Regulations 1993 (S.I. 1993 No. 3138), or in the Channel Islands or Isle of Man and in respect of which there is a valid fishing licence issued under the Fisheries Act 2020 (c.22); or
 - (ii) used for commercial fishing that has no mechanical propulsion of any kind on board;
- (m) "the Southern Inshore Fisheries and Conservation 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);
- (n) "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:

- (a) use a net for fishing other than in accordance with a permit; or

- (b) use a net for fishing other than in accordance with the permit conditions contained herein and the flexible permit conditions introduced under paragraph 27.
3. A person must not carry a net on board a vessel unless:
- (a) the net is inboard, lashed and stowed; or
 - (b) the net is being used for fishing in accordance with a permit.

Permits

4. The Authority may authorise the use of a net for fishing from a named relevant fishing vessel by issuing a commercial permit to the owner of that vessel.
5. The Authority may authorise the use of a net for fishing by issuing a recreational permit to the owner of a named vessel that is not a relevant fishing vessel.
6. The Authority may authorise the use of a Keddle net by issuing a Keddle permit to a current holder of a Keddle net stand licensed by the Rother District Council under the terms of a lease dated 6th February 1986 made between Her Majesty the Queen, the Crown Estate Commissioners and the Rother District Council.
7. Only one permit may be issued to a named person with a Keddle net stand or in respect of a named vessel that is not a relevant fishing vessel.
8. An application for a permit may only be made by using the forms available from the Authority's office or website.
9. A permit:
- (a) is issued to a named person or the owner of a named vessel;
 - (b) in the case of shared vessel ownership will be issued to all vessel co-owners jointly;
 - (c) is valid for the dates specified on the permit;
 - (d) is not transferable between:
 - (i) the permit holder and another person;
 - (ii) the vessel named in the permit and another vessel; or
 - (iii) the Keddle net stand named in the permit and another Keddle net stand;
 - (e) must be surrendered to the Authority immediately if no longer required.
10. A permit holder may nominate a named representative in writing to the Authority.
11. When nominating a named representative at any time other than at the time of the permit application, a permit holder must make the nomination in writing and receive approval from the Authority prior to the named representative fishing under the authority of the permit issued to the permit holder.

12. Any named representative shall comply with the prohibitions contained herein and any non-compliance shall constitute a contravention of this byelaw.
13. The period for which a permit will apply from the time of issue will be:
 - (a) two years for a commercial permit;
 - (b) one year for a recreational permit; and
 - (c) to the date upon which the applicant's Keddle net stand license issued by Rother District Council expires.
14. A fee will be charged for each permit which will be payable on each application. The fee for a permit is:
 - (a) £60 for a commercial permit;
 - (b) £10 for a recreational permit; and
 - (c) £20 for a Keddle net permit.
15. The Authority may vary permit fees in accordance with the following conditions and procedures:
 - (a) the Authority will consult in writing with permit holders;
 - (b) the fee will not be changed for any permit already issued;
 - (c) the fee will not be increased more than the equivalent value of 15% every year from the date this byelaw was introduced; and
 - (d) the Authority will make a decision whether to vary the permit fee based upon:
 - (i) the responses from the consultation under paragraph 15(a);
 - (ii) expenditure arising from the administration of permits and processing permit holder data required by the Authority;
 - (iii) any regulatory impact assessments associated with this byelaw;
 - (iv) Authority expenditure to conduct any survey activities that support the implementation of permits;
 - (v) Authority costs associated with arranging and attending meetings with permit holders; and
 - (vi) any relevant Authority expenditure incurred by implementation of this byelaw.
16. A fee is payable for the replacement of lost or destroyed permits or display discs as specified:
 - (a) replacement permit £10; and
 - (b) replacement display disc £10.

17. A permit is subject to:

- (a) the permit conditions in paragraphs 18 to 26; and
- (b) any flexible permit conditions attached to the permit in accordance with paragraphs 27 to 30.

Permit Conditions

- 18. A vessel named in a commercial permit must be a relevant fishing vessel for the permit to remain valid.
- 19. The permit holder or a named representative must be present when fishing is being undertaken under the authority of the permit.
- 20. The permit holder must provide any relevant fisheries information required by the Authority for the discharge of its functions.
- 21. All individual nets or adjoining nets within a single fleet used by either a commercial or recreational permit holder must be marked by a floating dahn at both ends. Both dahns or any ancillary buoy attached to the dahn, must be clearly marked with either the port, letters and numbers of the relevant fishing vessel named on the permit or the permit number.
- 22. The display disc must be clearly displayed at all times on the vessel named on the permit.
- 23. The Authority may require tags, issued by the Authority, to be fitted to a net as set out in the flexible permit conditions.
- 24. A recreational permit holder or a named representative must not engage in fishing except for personal consumption.
- 25. Any permit holder or named representative must not use any container or any other device to store any edible crab or lobster in any tidal waters or marinas within the District, except when the individual has a valid commercial shellfish permit issued by the Authority.
- 26. Failure by a permit holder or a named representative to comply with a permit condition constitutes a contravention of this byelaw.

Flexible Permit Conditions

- 27. The Authority may introduce flexible permit conditions which fall within one or more of the categories listed:
 - (a) catch restrictions;
 - (b) gear restrictions;
 - (c) spatial restrictions;
 - (d) time restrictions.
- 28. The Authority may introduce, remove or vary flexible permit conditions following a review conducted in accordance with the review procedure set out in paragraphs 31 to 33.

29. The flexible permit conditions that apply until they are reviewed pursuant to paragraphs 31 to 33 are those set by the Authority taking into account the impact assessment that accompanies this byelaw and all other material considerations.
30. Failure by a permit holder or a named representative to comply with a flexible permit condition constitutes a contravention of this byelaw.

Review Procedure

31. The Authority must review the flexible permit conditions no less than once every four years from the date of their coming into force.
32. A review of the flexible permit conditions shall 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 any 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 32(a) and any material information gathered from permit holders and the information listed in paragraph 33. Following a decision being made by the Authority, permit holders will be notified in writing and flexible permit conditions will be amended.
33. The information referred to in paragraph 32(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 deems fit;
 - (c) scientific advice provided by relevant statutory bodies or such other bodies, organisations, or persons as the Authority deems fit;
 - (d) an impact assessment of any proposed changes; and
 - (e) material information from any other relevant source.

Revocation

34. The byelaw with the title "Fixed Engines Byelaw" made by the Sussex Sea Fisheries District Committee on 22nd July 2010 and confirmed on 22nd December 2010 in exercise of its power under sections 5 and 5A of the Sea Fisheries Regulation Act 1966 (c.38) and in force immediately before the making of this byelaw is hereby revoked.

Amendments

35. The byelaw "Fishing Instruments Byelaw" made by the Sussex Sea Fisheries District Committee on the 18th April 1996 and confirmed on 17th October 1997 in exercise of its power under the Sea

Fisheries Regulation Acts, 1888 to 1930 and the Sea Fish Industry Act 1938 and in force immediately before the making of this byelaw is hereby amended as follows:

(a) in paragraph 2. (iv) omit:

“a drift net or nets with a mesh size of not more than 65 millimetres and not less than 89 millimetres when measured in accordance with Commission Regulation (EEC) 2108/84 between directly opposite mesh knots”.

and insert:

“a drift net or nets with a mesh size of not more than 70 millimetres between directly opposite mesh knots, when measured in accordance with the retained EU law version of Commission Regulation (EEC) 517/2008

(b) in paragraph 2.(v) omit:

“a trammel net or nets, a fixed gill net or nets and all fixed enmeshing nets with a mesh of a minimum size of 90 millimetres when measured in accordance with the retained EU law version of Commission Regulation (EEC) 2108/84 between directly opposite mesh knots, except that in the case of Keddle nets, a minimum mesh size of 50 millimetres, when measured in accordance with the retained EU law version of Commission Regulation (EEC) 2108/84 between directly opposite mesh knots shall be permitted in a fishing operation directed at herring and mackerel”.

and insert:

“Fixed nets”.

(c) Remove paragraphs (vi), (vii), (viii) and (ix)

Amend with

- (vi) hooks, lines and long lines.
- (vii) an Environment Agency licenced fyke net when fishing for, removing from the fishery and retaining European eel only.
- (viii) seine nets and ring nets used in fishing for named pelagic species.
- (ix) a landing net when used in conjunction with fishing by rod and line or a trolling line.
- (x) a hand operated push net and dip net.
- (xi) a hand deployed cast net, which when fully expanded does not exceed an area of more than four square metres.
- (xii) a speargun when used by a person not using self-contained underwater breathing apparatus.
- (xiii) pots and traps.
- (xiv) brailing nets.

- (xv) oyster dredges fished in accordance with the Oyster Permit Byelaw 2014.
- (xvi) scallop dredges as defined in Section 2(1) of The Scallop Fishing (England) Order 2012 used in fishing for scallops (*Pecten maximus*) but only within that part of the District that lies between three and six nautical miles from baselines.
- (xvii) Keddle nets at Keddle net stands licensed by the Rother District Council under the terms of a lease dated 6th day of February 1986 made between Her Majesty the Queen, the Crown Estate Commissioners and the Rother District Council.

I hereby certify that the above byelaw was made by the Sussex Inshore Fisheries and Conservation Authority at their meeting on the 25th July 2019.

A handwritten signature in black ink, appearing to be 'R. G. ...', written over a faint circular stamp or watermark.

Date: 27th July 2020

Chief Fisheries & Conservation Officer to the Sussex Inshore Fisheries and Conservation Authority
Sussex IFCA
12A Riverside Business Centre,
Brighton Road,
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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 Netting Permit Byelaw 2016 made by Sussex Inshore Fisheries and Conservation Authority.

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

Date:

Explanatory Note (not part of the byelaw)

This byelaw will provide the Authority with the ability to balance the needs of persons netting with the requirements to secure a sustainable marine eco-system and local socio-economic environment for the benefit of all sea users.

Any person who uses a net, other than of a type specified in the byelaw, to fish in the Authority's District is required to do so in accordance with a permit issued by the Authority. The byelaw introduces the ability of the Authority to restrict the size of a net that can be used, specify where and when nets can be used and to require that nets should be appropriately marked. The flexible permit conditions describe the Authority's technical management restrictions that apply to netting activity within the District. These permit conditions restrict the total length of a single net that can be used, specifies mesh size ranges to improve selectivity, specifies spatial and temporal restrictions on the use of nets, and what buoyage should be attached to nets and how it should be marked. The flexible permit conditions will be reviewed when necessary according to best available evidence and within a time period not exceeding four years.

This byelaw includes revocations and amendments to relevant existing byelaws concerning the use of nets and permitted fishing instruments that may be used within the Sussex IFC District.