

**NORTH EASTERN INSHORE FISHERIES AND CONSERVATION AUTHORITY
MARINE AND COASTAL ACCESS ACT 2009 (c.23)
XXVIII SHELLFISH PERMIT BYELAW 2022**

The Authority for the North Eastern Inshore Fisheries and Conservation District in exercise of its powers under sections 155 and 156 of the Marine and Coastal Access Act 2009, makes the following byelaw for Shellfish Permits.

Interpretation

1. In this byelaw:

- (a) 'the Authority' means North Eastern Inshore Fisheries and Conservation Authority as defined in articles 2 and 4 of the North Eastern Inshore Fisheries and Conservation Order 2010 (S.I 2010, No 2193);
- (b) 'the District' means the North Eastern Inshore Fisheries and Conservation District as defined in articles 2 and 3 of the North Eastern Inshore Fisheries and Conservation Order 2010;
- (c) 'dredging' means fishing by means of any appliance with a rigid framed mouth which is towed through the water and is manufactured, adapted, used or intended for use for the purpose of fishing for scallops;
- (d) 'fishing' for the purposes of this byelaw includes searching for and taking specified shellfish species, shooting, setting, towing, hauling of a fishing gear, and taking specified shellfish species aboard;
- (e) 'fixed net' means any net being fixed to the bottom of the sea in a permanent position by any method such as weights, anchors or stakes and it must be set so as not to be able to drift or move with any current;
- (f) 'permit' means:
 - a. a Category One Permit issued under paragraph 8 of this byelaw; or
 - b. a Category Two Permit issued under paragraph 9 of this byelaw.
- (g) 'pot' means a pot, creel or trap set or used to catch specified shellfish species;
- (h) 'pot type' means a pot or trap specifically designed, rigged and set for the purpose of catching a particular species or group of species including, European lobster (*Homarus gammarus*), edible crab (*Cancer pagurus*), velvet crab (*Necora puber*), Norway lobster (*Nephrops norvegicus*), scallop (*Pecten maximus* & *Aquipecten opercularis*) and Whelk (*Buccinum undatum*);
- (i) 'recreational catch and release fisheries' means collection by hand or the use of a small hand net, baited line or drop net to catch listed species which are then returned back to the sea at the point of capture.
- (j) 'relevant fishing vessel' means any vessel registered in accordance with Part II of the Merchant Shipping Act 1995 (c.21) or in the Channel Islands or the

Isle of Man that holds a current fishing licence with the relevant national entitlement issued by the appropriate United Kingdom fisheries department;

- (k) 'trawling' means fishing by means of a trawl or similar device that is designed to be towed or pushed to take sea fisheries resources;
- (l) '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;
- (m) 'specified shellfish species' means the following species or genus: European lobster (*Homarus gammarus*), edible crab (*Cancer pagurus*), European green crab (*Carcinus maenas*), velvet crab (*Necora puber*), mussel (*Mytilus edulis*), Norway lobster (*Nephrops norvegicus*), common periwinkle (*Littorina littorea*), razor clam (*Ensis*), scallop (*Pecten maximus* & *Aequipecten opercularis*), surf clam (*Spisula*) and whelk (*Buccinum undatum*).

Prohibitions

- 2. A person must not fish for, take or retain any of the specified shellfish species from a fishery within the district otherwise in accordance with a permit.
- 3. Paragraph 2 does not apply to specified shellfish species captured by relevant fishing vessels when fishing by way of trawling, dredging or in relation to persons solely engaged in 'recreational catch and release' fisheries.

Deeming

- 4. During each singular fishing trip, vessels fishing exclusively outside the District and transiting through the District will not be subject to the provisions of this byelaw.
- 5. It is to be presumed that a vessel has taken or removed any of the specified shellfish species to which this byelaw relates from within the District if, at any time, during any singular fishing trip –
 - (a) it is proved that –
 - i. the vessel was found within the District, and
 - ii. when so found, the vessel was in possession of any of the things mentioned in paragraph 6; and
 - (b) it is reasonable to infer from those facts (either by themselves or taken together with other circumstances) that the vessel was, or had been, taking or removing specified shellfish species in contravention of this byelaw
- 6. The things are –
 - (a) such equipment, vehicle, apparatus or other gear or paraphernalia (including clothing) as may be used for the purpose of taking or removing specified shellfish species in contravention of this byelaw; and

(b) specified shellfish species, the taking and removing of which is prohibited by this byelaw.

7. The presumption in paragraph 5 does not apply where sufficient evidence is adduced to raise an issue as to whether the specified shellfish species on board the vessel were taken and or removed from within the District. Such acceptable evidence may include electronic charting information or vessel positional data.

Permits

8. The Authority may authorise fishing for specified shellfish species using fixed nets or pots within the District from a named relevant fishing vessel by issuing a Category One Permit to the owner of that vessel.
9. The Authority may authorise fishing for specified shellfish species within the District by issuing a Category Two Permit to a named person.
10. The Authority may limit the number of permits issued in any one calendar year.
11. An application for a permit must be made using the printed forms available from the Authority's office and website, or through the online application process on the Authority's website.
12. Category One Permit applications will be processed in priority order with first priority given to those vessels which previously held a valid shellfish permit, issued by the Authority on the date of the making of this byelaw on 1 December 2022.
13. Only one Category Two Permit may be issued to a named person.
14. Permits will be issued in accordance with the following process:
 - (a) if the number of applicants does not exceed the maximum number of available permits, at any one time, then each eligible applicant will be issued with a permit, subject to the provisions of this byelaw;
 - (b) once the maximum number of available permits has been met then unsuccessful applicants will be placed on a waiting list for the next available permit;
 - (c) the Authority retains the right to refuse to issue a permit until such time as the applicant makes available any outstanding information required for the issue of that permit or outstanding information from a previous year including any mandatory information required by an Authority byelaw regulation.
15. The Authority may limit the number of pots able to be used in association with a permit.
16. The Authority may limit the number of pots by pot type used in association with a permit.

- 17.** Category One Permit pot allocations will be issued in accordance with the following process:
- (a) Following the date of confirmation of this byelaw, all existing Category One Permit holders will be invited to make an application for their maximum pot allocation(s) which will be assessed and notified in writing;
 - (b) For new Category One Permits, pot allocations will be notified in writing when the permit is issued, in line with the vessel type/category;
 - (c) At any time, Category One Permit holders may apply to increase their pot allocation up to the maximum permitted;
 - (d) Applications must be submitted to the Authority in writing with supporting evidence;
 - (e) Applications will be considered by the Authority who will notify the applicant of the outcome within 7 working days;
 - (f) All applicants have the right to appeal any decision to the Authority. Any appeals must be submitted in writing with supporting evidence.
 - (g) The appeal process will only consider the content of the written evidence provided by the appellant and that the correct procedure has been applied;
 - (h) Appeals will be considered by the Authority who will notify the applicant of the outcome within 7 working days of the respective hearing.
 - (i) The Authority's decision is final.
- 18.** A permit and permit card:
- (a) are issued to the owner of a relevant fishing vessel or a named person;
 - (b) in the case of shared ownership of a relevant fishing vessel shall be jointly issued to all owners of that vessel;
 - (c) are valid for the dates specified in the permit;
 - (d) must be surrendered to the Authority if no longer required;
 - (e) are not transferable between the permit holder and another person, other than in accordance with paragraph 19.
- 19.** The transfer of a Category One Permit will only be permitted in the following circumstances:
- (a) the donor vessel is lost or replaced
 - (b) the ownership of the donor vessel has passed on within the same family or existing shareholder;
 - (c) there is no change in the major shareholding of the donor vessel
- 20.** When a Category One Permit is transferred, the associated pot allocation shall also be transferred.
- 21.** An application to transfer a Category One Permit from a donor vessel to a recipient vessel must be made within one month of the sale of the donor vessel.
- 22.** In respect of paragraph 19, it is the selling owners responsibility to inform the buyer of their intention to transfer the Category One Permit.

23. A Category One Permit shall be valid till the 31 December in the year of issue unless notified in writing by the Authority.
24. A Category Two Permit shall be valid till the 30 April for the preceding year unless notified in writing by the Authority.
25. A fee will be charged for each permit which will be payable on application or renewal only. The fee for a Category One permit is linked to the respective pot allocation as follows:-

£50 (0 - 250 pots)
£150 (251 – 500 pots)
£250 (501 – 750)
£350 (751 – 1000).

The fee for a Category Two permit is £10.

26. A fee may be charged for the issue of tags to a permit holder as required by paragraph 33.
27. A fee may be charged for the issue of replacement tags to a permit holder as required by paragraph 33.
28. Fees may be varied or increased in accordance with the review procedure set out in paragraphs 45 to 47.

Permit Conditions

29. A named vessel in a Category One Permit must be a relevant fishing vessel for the permit to remain valid.
30. A Category One Permit card must be displayed in a clear and prominent position on the vessel, available for inspection at all times.
31. Permit holders shall provide any relevant fisheries information required by the Authority for the discharge of its function.
32. All vessels issued with a Category One Permit may be required to have fitted at the owners expense a remotely accessed electronic reporting device and transmit the required information at the specified reporting intervals as set out in the flexible permit conditions.
33. The Authority may require tags issued by the Authority to be fitted to fishing gear as set out in the flexible permit conditions.
34. Failure to comply with any permit conditions constitutes a contravention of this byelaw.

Flexible Permit Conditions

- 35.** The Authority may introduce flexible permit conditions which fall within one or more of the categories listed in paragraph 36.
- 36.** The categories referred to in paragraph 35 are:
 - (a) Catch restrictions;
 - (b) Gear restrictions;
 - (c) Vessel restrictions;
 - (d) Spatial restrictions;
 - (e) Temporal restrictions;
 - (f) Fishery information.
- 37.** 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 45 to 47.
- 38.** The flexible permit conditions that apply until they are reviewed pursuant to paragraphs 45 to 47 are those set by the Authority taking into account the Impact Assessment that accompanies this byelaw and all other material considerations.
- 39.** Failure to comply with a flexible permit condition constitutes a contravention of this byelaw.

Permit suspensions

- 40.** A permit may be suspended or permanently withdrawn by the Authority for the purposes of environmental protection, fisheries conservation or non-compliance with the provisions of the byelaw or byelaw conditions subject to the considerations in paragraph 41.
- 41.** In deciding whether to suspend or withdraw a permit the Authority may consider:
 - (a) all available scientific and survey data;
 - (b) internal scientific advice from within its membership;
 - (c) advice provided by the Centre for Environment, Fisheries and Aquaculture Science;
 - (d) advice provided by the Department for the Environment, Food and Rural Affairs;
 - (e) advice provided by the Marine Management Organisation;
 - (f) advice provided by Natural England;
 - (g) advice provided by the Environment Agency;
 - (h) advice provided by other external authorities, organisations, persons or bodies as the Authority thinks fit;
 - (i) representations from fishing permit holders;
 - (j) information from any other relevant source.

42. Prior notice of permit suspension will be provided in writing to the permit holder at least ten working days prior to any suspension or withdrawal taking effect.
43. Any representations must be lodged in writing to the Authority within five working days of the date of the original notice provided to the permit holder.
44. Notification of the final decision will be made in writing to the permit holder within five working days of the final decision.

Review Procedure

45. The Authority shall review the flexible permit conditions not less than once every five years.
46. 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 future management options;
 - (b) The Authority will make a decision whether to introduce, remove or vary any flexible permit conditions based upon the consultation set out in paragraph 46 (a) and the information gathered from permit holders and the processes listed in paragraph 47.
 - (c) Following any such decision by the Authority to change the flexible permit conditions, permit holders will be notified in writing and permits will be amended as necessary at no cost to the permit holder.
47. The information referred to in paragraph 46 (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 shall think fit;
 - (c) Scientific advice provided by CEFAS or such other bodies, organisations or persons as the Authority shall think fit;
 - (d) Advice given by Natural England or such other bodies, organisations or persons as the Authority shall think fit;
 - (e) An Impact Assessment of any proposed changes;
 - (f) Information from any other relevant source.

Revocations

- 48.** The byelaw with the title 'XXII – Permit to fish for lobster, crab, velvet crab and whelk' made by the Committee for the North Eastern Sea Fisheries District on 31 October 2006 in exercise of its power under section 5 of the Sea Fisheries Regulations Act 1966 (c.38) and confirmed by the Secretary of State on 17 May 2006, in force immediately before the making of this byelaw is revoked.
- 49.** The byelaw with the title 'XXVIII Crustacea Conservation Byelaw 2018' made by the North Eastern Inshore Fisheries and Conservation Authority on 14 June 2018 in exercise of its power under section 155 and 156 of the Marine and Coastal Access Act 2009 and confirmed by the Secretary of State on 8 August 2018, in force immediately before the making of this byelaw is revoked.

I hereby certify that the above Byelaw was made by the Authority at its meeting on.....2022.

Caroline Lacey

Clerk

North Eastern Inshore Fisheries and Conservation Authority

Town Hall

Quay Road

Bridlington

East Yorkshire

The Secretary of State for Environment, Food and Rural Affairs in exercise of the powers conferred by section 155 (4) of the Marine and Coastal Access Act 2009, confirms this byelaw made by the North Eastern Inshore Fisheries and Conservation Authority on.....2022.

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

Date:

Explanatory note

(This note is not part of the byelaw)

This byelaw establishes two types of fishing permit scheme and sets a charging regime covering the commercial and leisure exploitation of key shellfish stocks within the District both from the shore and at sea. Any person fishing for, taking or retaining any of the shellfish species listed within the byelaw must do so in accordance with the permit issued and the conditions attached to it. The byelaw introduces the ability to restrict the number of permits issued, the number of pots that can be used and a daily catch limit. The flexible permit conditions contain all the Authority's management restrictions which apply to the fishing for, taking or retention of shellfish. The flexible permit conditions will be reviewed when necessary on the basis of best available evidence and within a time period not exceeding five years.