



Devon and Severn

Inshore Fisheries and Conservation Authority

MARINE AND COASTAL ACCESS ACT 2009

Potting Permit Byelaw

The Authority for the Devon and Severn 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 that District.

Interpretation

1. In this byelaw-

- a. "the Authority" means the Devon and Severn Inshore Fisheries and Conservation Authority as defined in articles 2 and 4 of the Devon and Severn Inshore Fisheries and Conservation Order 2010 (S.I. 2010 No. 2212);
- b. 'the District' means the Devon and Severn Inshore Fisheries and Conservation District as defined in articles 2 and 3 of the Devon and Severn Inshore Fisheries and Conservation Order 2010 (S.I. 2010 No. 2212);
- c. 'fishing' for the purposes of this byelaw includes searching for sea fisheries resources, shooting, setting, towing, hauling of a fishing gear, and taking sea fisheries resources on board;
- d) "inboard, lashed and stowed" means that the pots are stored in such a way that they cannot readily be used for fishing;
- e) "permit" means:
 - i) a Category One Permit issued under paragraph 4 of this byelaw; or
 - ii) a Category Two Permit issued under paragraph 5 of this byelaw;
- f) "pot" means any folding or rigid cage device or structure with one or more openings or entrances capable of capturing any sea fisheries resources;

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- g) "relevant fishing vessel" means a fishing vessel:
 - i) registered on Part II of The Registry of Shipping and Seamen as governed by the provisions of the Merchant Shipping Act 1995 and the Merchant Shipping (Registration of Ships) Regulations 1993 (SI 3138 of 1993). and
 - ii) in respect of which there is a valid fishing licence issued under the Sea Fish (Conservation) Act 1967.
- h) "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. It is prohibited for a person to use pots for fishing within the District otherwise in accordance with a permit.

Deeming

- 3. Whilst fishing within the District;
 - a) any sea fisheries resources that are on board the relevant fishing vessel or vessel shall be deemed to have been taken and or removed from a fishery within the District.
 - b) any pots not inboard, lashed and stowed on board the relevant fishing vessel or vessel shall be deemed to be in use for fishing.

Permits

- 4. The Authority may authorise the use of a pot for fishing within the District from a named relevant fishing vessel by issuing a Category One Permit to the owner of that vessel.
- 5. The Authority may, authorise the use of pots for fishing within the District by issuing a Category Two Permit to:
 - a) the owner of a named vessel that is not a relevant fishing vessel;
 - b) a named person without a vessel.
- 6. Where the Authority issues a permit, the Authority will at the same time issue a certificate disc.
- 7. Only one permit may be issued to a named person without a vessel or in respect of a named vessel.

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8. An application for a permit must be made using the printed forms available from the Authority's office and website.
9. A permit and certificate disc:
 - a) are issued to the owner of a named vessel;
 - b) in the case of shared ownership shall be jointly issued to all owners of the named vessel;
 - c) are issued to a named person without a vessel;
 - d) are valid for the dates specified in the permit, up to a maximum of two years;
 - e) are not transferrable between:
 - i) the permit holder and another person; or
 - ii) the named vessel in the permit and another vessel.
10. A permit holder using a vessel may nominate named representatives at the time of the permit application or at any other time in writing to the Authority.
11. A permit holder when nominating a named representative at any other time must:
 - a) make the nomination in writing;
 - b) contact and receive approval from the Authority for the named representative prior to fishing.
12. A fee will be charged for each permit which will be payable on application or renewal only. The fee for a permit is £20.
13. No fee will be charged for the issue of tags to a Category Two permit holder as required by paragraph 20. However, the Authority will charge £2 per replacement tag.

Permit Conditions

14. A named vessel in a Category One Permit must be a relevant fishing vessel for the permit to remain valid.
15. The permit holder or the nominated representative must be present when the permit is in use.
16. The issued certificate disc must be clearly displayed at all times on the vessel named in the permit or must be produced by a named person without a vessel when requested by an officer holding an enforcement warrant issued by the Authority.
17. The permit holder shall provide any relevant fisheries information required by the Authority for the discharge of its functions.
18. All vessels issued with a Category One Permit may be required to have fitted at the owner's expense a remotely accessed electronic reporting device and transmit the required information at the specified reporting intervals as set out in the permit conditions.

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19. All vessels issued with a Category Two Permit may be required to have fitted at the owner's expense a remotely accessed electronic reporting device and transmit the required information at the specified reporting intervals as set out in the permit conditions.
20. The Authority may require tags, issued by the Authority to be fitted to pots as set out in the permit conditions.
21. The permit holder must not use more than the maximum number of pots as set out in the flexible permit conditions.
22. Failure to comply with any permit conditions constitutes a contravention of this byelaw.

Flexible Permit Conditions

23. The Authority may introduce flexible permit conditions which fall within one or more of the categories listed in paragraph 24.
24. The categories referred to in paragraph 23 are:
 - a) Catch restrictions;
 - b) Gear restriction;
 - c) Spatial restrictions;
 - d) Time restrictions.
25. 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 27 to 29.
26. The flexible permit conditions that apply until they are reviewed pursuant to paragraphs 27 to 29 are those set by the Authority taking into account the Impact Assessment that accompanies this byelaw and all other material considerations.

Review Procedure

27. The Authority shall review the flexible permit conditions not less than once every three years.
28. 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 28 (a)

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and the information gathered from permit holders and the processes listed in paragraph 29. 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.

29. The information referred to paragraph 28(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) An Impact Assessment of any proposed changes;
 - e) Advice given by Natural England or such other bodies, organisations, or persons as the Authority shall think fit;
 - f) Information from any other relevant source.

Revocation

30. The Byelaws with the following titles made by the Devon 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:
- a) Byelaw 15 - Potting Restriction – Lundy Island Marine Conservation Zone (MCZ);
 - b) Byelaw 22 - Pots Used For Fishing For Crustacea;

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I hereby certify that the above byelaw was made by D&SIFCA at their meeting on the 18th September 2014.



Timothy Robbins

Chief Officer
Devon and Severn Inshore Fisheries and Conservation Authority.
Old Foundry Court, 60A Fore Street, Brixham, Devon, TQ5 8DZ.

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 Potting Permit Byelaw made by Devon and Severn Inshore Fisheries and Conservation Authority on 18th September 2014.

The said Byelaw shall come into force on 1st March 2015.

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



Date: 17 MAR 15

Explanatory Note (not part of byelaw)

The proposed Byelaw will provide the Authority with the ability to balance the needs of persons potting with the requirements to secure a sustainable marine eco-system and the local socio-economic environment for the benefit of all sea users. Any person that uses pots 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 to restrict the number of pots that can be used and a daily catch limit. The flexible permit conditions contain all the Authority's management restrictions that apply to potting activity in the district. The flexible permit conditions will be reviewed when necessary on the basis of best available evidence and within a time period not exceeding three years.