



# The Review of the Mobile Fishing Permit Byelaw and Permit Conditions

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A Progress & Discussion Report for the Byelaw & Permitting Sub-Committee

**Advanced drafts produced by the Byelaw Technical Working Group**

**29<sup>th</sup> October 2019**

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## Foreword

This report has been prepared to aid the discussions of the Byelaw and Permitting Sub-Committee (B&PSC). Elements of it directly link (as highlighted in blue text) to the agenda for the B&PSC meeting scheduled for 14<sup>th</sup> November 2019 and meets the reporting requirements of the Byelaw Technical Working Group (BTWG) as set out in the Terms of Reference.

### Drafting Work

The existing Mobile Fishing Permit Byelaw and the different categories of Permit Conditions has been examined closely at two separate meetings of the BTWG held on 16<sup>th</sup> July and 10<sup>th</sup> September 2019. Further amendment has been completed as a result of email correspondence.

The drafting work has incorporated the decision making of the B&PSC who discussed elements of the Mobile Fishing Permit Byelaw (and different Permit Conditions) at the meeting held on 15<sup>th</sup> August 2019.

### Reporting

The BTWG have no delegated decision-making powers but have prepared an almost complete draft Mobile Fishing Permit Byelaw and revised Permit Conditions for consideration by the B&PSC. The draft documents to date have been incorporated into this report as Annexes.

### Timetable for Work

The original plan was to present a completed Mobile Fishing Permit Byelaw, Permit Conditions (for at sea and estuary use) and a consultation version Impact Assessment to the B&PSC on the 14<sup>th</sup> November 2019. Members would then have had the opportunity to vote to “make” the Byelaw so the whole package could be subjected to a formal consultation.

The decision making of B&PSC members influences the delivery of this work and it is now apparent that the original timetable is no longer possible. A new timetable will be developed based upon further decision making of members and whether to hold additional B&PSC meetings.

Due to the need to defer decisions regarding the management of mobile fishing activity at sea (Category One Permit Conditions), it is now envisaged that the existing Category One Permit Conditions could potentially remain in place throughout this exercise with minimal alteration. The Category One Permit Conditions would then be subjected to a separate review once a replacement Mobile Fishing Permit Byelaw is in place.

Other decisions taken by the B&PSC in August 2019 relating to the management of sand eel trawling have also added to the complexity of the required work. For various reasons, the activity could not be incorporated into existing Category One and Category Two Permit Conditions. What restrictions to place into two new categories of permit conditions (Category 3 and 4) are discussion items in this report.

### Further Decision Making

Members of the B&PSC can raise any issues associated with the draft work conducted to date; however, this report does focus more on some key discussion items and BTWG recommendations for the B&PSC to consider. Decision making is needed so final drafts can be prepared that will be suitable for formal consultation in due course.

## The Mobile Fishing Byelaw

The draft Mobile Fishing Permit Byelaw has been prepared in a very similar format to the original. It is broken into different sections (with headings) and each section has been developed to reflect the decision making of B&PSC members who discussed the structure and scope of the Byelaw in depth during August 2019.

Since the B&PSC meeting in August 2019, the D&S IFCA prosecuting solicitor has suggested a further amendment to the Interpretations section of the Byelaw. This relates to representatives that can be named during the application process (or at any other time) in writing, to use the Permit on behalf of the vessel owner who is the Permit Holder but may not actively use the Permit themselves. The Named Representative would be the Master of a fishing vessel and this change would clarify the situation. This change would mean that any person who has faced court action and subsequently disqualified from benefiting from the issue of a permit, would not be able to be named as a named representative.

The suggested form of words would take the following form or something similar as follows:

**“a named representative” means any person named by the Permit Holder to operate under the authority of the Permit who will be determined as being;**

- a) the Master of a named relevant fishing vessel for a Category One Permit issued under paragraph 4 of this Byelaw**
- b) the Master of a named relevant fishing vessel for a Category Two Permit issued under paragraph 5 of this Byelaw**
- c) the Master of a named relevant fishing vessel for a Category Three Permit issued under paragraph 6 of this Byelaw**
- d) the Master of a named non-relevant fishing vessel for a Category Four Permit issued under paragraph 7 of this Byelaw**

### **BTWG Recommendation**

- 1. It is recommended that, if required in additional drafting work, the interpretation set out above relating to Named Representatives is added to the Mobile Fishing Byelaw.**

## Sand Eel Trawling

The existing Mobile Fishing Permit Byelaw allows for any vessel below seven metres in overall length to conduct this activity (with a specified mesh) in the District without a permit. The activity can be conducted at sea and fishers can cross closing lines into the estuaries if they wish and continue to fish. The current Category One and Category Two Permits are based around mobile fishing activity that is conducted either at sea or within an estuary but not both areas and are also for commercial use only.

To reflect the decision making of B&PSC members, the Byelaw has been amended so that this activity can be managed via the issue of permit conditions. Key amendments include changes to the Interpretations where the phrasing relevant fishing vessel and non-relevant fishing vessel form the basis for the separation of commercial and recreational fishing opportunity.

**“a non-relevant fishing vessel” means a vessel that is below 7 metres in overall length as stated on the registry as kept by the Maritime and Coastguard Agency or measured from the extremities of the vessel including any attachments.**

The Prohibitions Section of the Byelaw no longer provides the opportunity for any vessel below seven metres in overall length using a sand eel trawl of a prescribed mesh size to fish for sand eels without a permit. Coupled to this, the Applications Section of the Byelaw has been amended to provide new categories of permits to manage this activity.

**The Authority may authorise fishing with a sand eel trawl from a named relevant fishing vessel in any part of the District by issuing a Category Three Permit with or without conditions to the owner of that vessel.**

**The Authority may authorise fishing with a sand eel trawl from a named non-relevant fishing vessel by issuing a Category Four Permit with or without conditions to the owner of that named vessel.**

### **Permit Conditions for Category Three and Four Permits**

Permits have not yet been developed to manage this activity and although there may be relatively few conditions, they can be incorporated into the standard categories of Catch, Gear, Spatial and Time.

### **A Change in Management**

The change in management to incorporate sand eel trawling is a significant change from the existing Mobile Fishing Permit Byelaw.

The advantage of managing the activity via permits is that the Byelaw and associated permits that will be issued can be used to establish a known number of fishers conducting the activity legally. In addition, the Permit Holder would be required to submit catch data if it was felt necessary for the Authority to collect it. Although a series of permit conditions could be established in the first instant, the review mechanism could be used in the future to add restrictions if required.

The development of a Category Four Permit raises the question of different and proportionate restrictions based upon the needs of the fishers. A recreational catch and/or gear limit would be in keeping with the principles developed and used in other recreational permit conditions for other methods, namely:

- **To differentiate between commercial and recreational activities by applying appropriate management measures**

This principle is in keeping with the duties of D&S IFCA as set out in Section 153 of the Marine and Coastal Access Act 2009 – seek to balance the different needs of persons engaged in the exploitation of sea fisheries resources in the district.

### **Pre-Consultation**

In order to progress with the drafting of the Category Three and Four Permit Conditions, the BTWG need to be given a clear idea of the conditions to add in the appropriate categories of both permits.

Although members may be able to determine what restrictions should potentially apply, a period of pre-consultation may be beneficial to shape the initial permit conditions. A period of pre-consultation will impact on the timetable and increase the time needed to complete the

review and re-make of the Mobile Fishing Permit Byelaw, but it is possible that engagement would help to better inform members and assist their decision making.

The following conditions based on the existing Mobile Fishing Byelaw could be used as a starting point:

- **Maximum length of vessel to be seven metres**
- **Maximum mesh would be 16mm (reduced size to reflect new EU Regulations)**
- **Only sand eel can be retained**

In addition:

- **Hand hauling of gear may be appropriate for recreational fishers**
- **Spatial restrictions to protect areas of seagrass could apply to all fishers**

### Discussion Questions

2. Should officers conduct an open phase of pre-consultation (including fishers that conduct sand eel trawling) to help inform management?
3. What conditions of use should be incorporated into Category Three (commercial) Permit Conditions? (catch, gear, spatial & time)
4. What conditions of use should be incorporated into Category Four (recreational) Permit Conditions? (catch, gear, spatial & time)

### Other Changes to the Byelaw

The Application section of the Byelaw has been amended. Although applicants for any D&S IFCA permit must complete an application form, there has been some difficulties associated with changes to the details initially provided on the application form. Paragraph 14 of the draft Byelaw has been developed by the BTWG to clarify what is required if details do change and reads as follows:

**Any changes to the information provided upon the application form for a permit must be notified in writing to the Authority within 14 days and unless so notified shall render the Permit invalid.**

### BTWG Recommendation

5. That the above paragraph including a 14-day notification period (as already stated) is incorporated into the Mobile Fishing Permit Byelaw.

Other key changes to the Byelaw include paragraph 16. It is acceptable for multiple Named Representatives to be named on the application form; however, when more than one is named this can present some difficulties. To date there has been some difficulty during some investigations establishing who is the skipper (Named Representative) on any given fishing trip. It is the view of the BTWG that the upkeep of a fishing log and the Authority having the ability to request production of any such log strengthens the Byelaw. Paragraph 16 reads as follows:

For all relevant fishing vessels when one or more persons is named as a representative of the owner, the owner shall keep and maintain for a period of three years a log:

- a) identifying the master of the vessel of each fishing operation and produce the log to the Authority on demand
- b) recording such other information as is stipulated in the Permit Conditions and produce the log to the Authority on demand

#### **BTWG Recommendation**

At this stage of drafting, the above purple text, or something very similar could be added to the Byelaw. It may be that the objectives of this wording could result in minor alterations elsewhere in the Byelaw.

- 6. That the above paragraph including a three-year time requirement (as already stated) for the owner to upkeep and retain a log be incorporated into the Mobile Fishing Permit Byelaw.

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## Annex 1: Draft Mobile Fishing Permit Byelaw 2019



**Devon and Severn**

**Inshore Fisheries and Conservation Authority**

**MARINE AND COASTAL ACCESS ACT 2009**

**Mobile Fishing Permit Byelaw 2019**

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-

“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);

“co-ordinate” means a co-ordinate on the World Geodetic System 1984 Datum (WGS84);

“the District” means the Devon and Severn Inshore Fisheries and Conservation Authority as defined in articles 2 and 3 of the Devon and Severn Inshore Fisheries and Conservation Order 2010 (S.I. 2010 No. 2212);

“estuaries” means waters within the District to the landward side of the closing lines as set out in the schedule of to this Byelaw;

“fishing”, includes searching for sea fisheries resources, shooting, setting, towing, hauling of a mobile fishing gear, and taking sea fisheries resources on board;

“fishing log” means a log conforming to the requirements of paragraph 16 of this Byelaw;



“impact assessment” means a documented account of the review process, including the rationale for potential changes, the findings of consultations and the decision making of the Authority;

“inboard, lashed and stowed” means that the mobile fishing gear is stored in such a way that use cannot readily be made of it for any purpose;

“mobile fishing gear” means a dredge, trawl or similar device, that is designed to be towed or pushed to take any sea fisheries resources;

**“a named representative” means any person named by the Permit Holder to operate under the authority of the Permit who will be determined as being;**

- c) the Master of a named relevant fishing vessel for a Category One Permit issued under paragraph 4 of this Byelaw**
- d) the Master of a named relevant fishing vessel for a Category Two Permit issued under paragraph 5 of this Byelaw**
- e) the Master of a named relevant fishing vessel for a Category Three Permit issued under paragraph 6 of this Byelaw**
- f) the Master of a named non-relevant fishing vessel for a Category Four Permit issued under paragraph 7 of this Byelaw**

“overall length” shall be determined by reference to the Certificate of Registry of the vessel;

“owner” means a shareholder in the vessel as recorded for the vessel’s Certificate of Registry as kept by the Maritime and Coastguard Agency;

“permit” means:

- a) a Category One Permit issued under paragraph 4 of this Byelaw; or
- b) a Category Two Permit issued under paragraph 5 of this Byelaw
- c) a Category Three Permit issued under paragraph 6 of this Byelaw
- d) a Category Four Permit issued under paragraph 7 of this Byelaw

“relevant fishing vessel” means a fishing vessel:

- a) 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) as amended from time to time, or in the Channel Islands or Isle of Man;
- b) and in respect of which there is a valid fishing licence issued under the Sea Fish (Conservation) Act 1967 (c.84);

“a non-relevant fishing vessel” means a vessel that is below 7 metres in overall length as stated on the registry as kept by the Maritime and Coastguard Agency or measured from the extremities of the vessel including any attachments.

“sand eel means an eel of the species *Ammodytidae*

“sea fisheries resources” has the same meaning as set out in section 153 of the Marine and Coastal Access Act 2009;

“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. No person shall use any vessel with any mobile fishing gear aboard within the District except where fishing with mobile fishing gear is being conducted in accordance with a permit.
3. No vessel shall carry any mobile fishing gear unless:
  - a) the mobile fishing gear is inboard, lashed and stowed;
  - b) fishing with mobile fishing gear is being conducted in accordance with a permit;

## **Applications**

4. The Authority may authorise fishing with mobile fishing gear from a named relevant fishing vessel in any part of the District other than in estuaries by issuing a Category One Permit with or without conditions to the owner of that vessel.
5. The Authority may authorise fishing with mobile fishing gear from a named relevant fishing vessel in estuaries by issuing a Category Two Permit with or without conditions to the owner of that vessel.
6. The Authority may authorise fishing with a sand eel trawl from a named relevant fishing vessel in any part of the District by issuing a Category Three Permit with or without conditions to the owner of that vessel.
7. The Authority may authorise fishing with a sand eel trawl from a named non-relevant fishing vessel by issuing a Category Four Permit with or without conditions to the owner of that named vessel.
8. An application for a permit may only be made by an owner of a vessel using the printed forms available from the Authority’s office or by using the on-line application facility on the website.
9. Only one Permit in each category may be issued per vessel.
10. The Permit is issued to all owners of a named vessel.
11. The Permit is valid for the dates specified in the Permit, up to a maximum of two years and is not transferable.
12. The Permit may be surrendered to the Authority.

13. A permit holder may nominate a named representative in writing to the Authority
14. Any changes to the information provided upon the application form for a permit must be notified in writing to the Authority within 14 days and unless so notified shall render the Permit invalid.
15. A fee to recover the full administration cost of issuing a permit will be determined from time to time by the Authority and will be charged for each permit which will be payable on application.

## **Byelaw Conditions**

16. For all relevant fishing vessels when one or more persons is named as a representative of the owner, the owner shall keep and maintain for a period of three years a log:
  - a) identifying the master of the vessel of each fishing operation and produce the log to the Authority on demand
  - b) recording such other information as is stipulated in the Permit Conditions and produce the log to the Authority on demand
17. The permit holder or the named representative must be present when fishing is being undertaken under the authority of the permit.
18. The permit holder must provide any information required by the Authority for the purpose of discharging its functions.
19. All vessels issued with a Category One Permit as set out in paragraph 4 of this Byelaw 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 Category One Flexible Permit conditions.
20. All vessels issued with a Category Two Permit as set out in paragraph 5 of this Byelaw 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 Category Two Flexible Permit conditions.
21. All vessels issued with a Category Three Permit as set out in paragraph 6 of this Byelaw 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 Category Three Flexible Permit conditions.
22. Any Category Two, Category Three, or Category Four Permit holder or the Named Representative shall only retain on board the named vessel those sea fisheries resources authorised for retention by that Permit. Any other sea fisheries resources taken must be immediately returned to the water without further injury as near as possible to the place from which they were taken.
23. Failure to comply with any of the Byelaw conditions as set out in paragraphs 16 to 22 constitutes a contravention of this Byelaw.

## **Flexible Permit Conditions**

24. The Authority may introduce flexible permit conditions which fall within one or more of the categories listed in paragraph 25.
25. The categories referred to in paragraph 24 are:
- a) Catch restrictions;
  - b) Gear restrictions;
  - c) Spatial restrictions
  - d) Time restrictions.
26. The Authority may introduce, remove or vary any flexible permit conditions following a review conducted in accordance with the review procedure set out in paragraph 29 to 31.
27. The flexible permit conditions that apply until they are reviewed pursuant to paragraphs 29 to 31 are those set by the Authority taking into account the Regulatory Impact Assessment that accompanies this Byelaw and all other material considerations.
28. Failure to comply with a flexible permit condition constitutes a contravention of this Byelaw.

## **Review Procedure**

29. The Authority shall review the flexible permit conditions not less than once every three years from the date of entry into force.
30. 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 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 set out in paragraph 30 (a) and any material information gathered from permit holders and the information listed in paragraph 31. Following a decision being made by the Authority, permit holders will be notified in writing and flexible permit conditions will be amended as necessary at no cost to the permit holder.
31. The information referred to in paragraph 30 (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 relevant statutory bodies 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 relevant statutory or such other bodies, organisations, or persons as the Authority shall think fit;
- f) material information from any other relevant source.

## Schedule

32. The co-ordinates for the estuary closing lines are set out in Table 1 as follows;

Reference	Estuary	Points	Latitude	Longitude
A	River Axe	A	50° 42.135'N	003° 3.354'W
		B	50° 42.135'N	003° 3.274'W
B	River Sid	A	50° 40.726'N	003° 14.054'W
		B	50° 40.735'N	003° 14.005'W
ETC				

**Comments: Officers will complete the list based on the co-ordinates we already have for different closing lines for estuaries.**

## Revocation

33. The Byelaw with the title Mobile Fishing Permit Byelaw, made by Devon and Severn Inshore Fisheries and Conservation Authority on 27<sup>th</sup> June 2013 is hereby revoked.

## Effective Date

34. The provisions of this Byelaw will come into effect on (DATE).

I hereby certify that the above byelaw was made by the Devon and Severn Inshore Fisheries and Conservation Authority at their meeting on (DATE).

## Signature

Mathew Mander

Acting Chief Officer

Devon and Severn Inshore Fisheries and Conservation Authority.

Brixham Laboratory, Freshwater Quarry, Brixham, Devon, TQ5 8BA

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 Mobile Fishing Permit Byelaw 2019 made by Devon and Severn Inshore Fisheries and Conservation Authority.

Date:

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

## Explanatory Note (not part of byelaw)

**Comments: Officers will formulate an explanatory note for the Byelaw. The explanatory note will include information about fees to cover full costs of administration and will inform that the Byelaw will be reviewed after 5 years or sooner if required.**

## Annex 2: Draft Category Two Mobile Fishing Permit Conditions

The Category Two Permit Conditions have been subjected to a significant amount of re-drafting. Although they now appear in a different format, the restrictions of use are like the original. To reflect the decision making of B&PSC members, activity managed via the Permit Conditions is now limited to Salcombe (scallop fishery) and the Exe Estuary (mussel fishery). There are no new restrictions that apply to Category Two fishers, however the addition of interpretations adds clarity and strength from an enforcement perspective.

The draft Category Two Permit Conditions are set out in this Annex, and unless members wish to raise any issues, no further decision making is needed for them to be completed ready for formal consultation.

### **The Permit Conditions (Category 2 – Estuaries):**

#### **Interpretations**

In the following flexible Permit Conditions:

“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);

“co-ordinate” means a co-ordinate on the World Geodetic System 1984 Datum (WGS84);

“demersal” means any part of the fishing gear is in contact with the sea bed at any time;

“the District” means the Devon and Severn Inshore Fisheries and Conservation Authority as defined in articles 2 and 3 of the Devon and Severn Inshore Fisheries and Conservation Order 2010 (S.I. 2010 No. 2212);

“fishing” includes searching for sea fisheries resources, shooting, setting, towing, hauling of a mobile fishing gear, and taking sea fisheries resources on board;

“sea fisheries resources” has the same meaning as set out in section 153 of the Marine and Coastal Access Act 2009;

#### **Species:**

“mussel” means a mussel of the species *Mytilus spp.*;

“scallop” means a scallop of the species *Pecten maximus*;

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## **1. Catch Restrictions**

As provided by paragraph 25 (a) of the Devon and Severn IFCA Mobile Fishing Permit Byelaw, the following Permit Conditions apply:

- 1.1 A Permit Holder or Named Representative is only authorised to fish under this Permit if they retain on board the named relevant fishing vessel mussels or scallop.
- 1.2 Any other sea fisheries resources must be immediately returned to the water without further injury as near as possible to the place from which they were taken.
- 1.3 A Permit Holder or Named Representative is not authorised under this Permit to remove from a fishery within the District:
  - a) a scallop less than 100mm measured across the broadest part of the flat shell;
- 1.4 All such species falling within the above prohibition in paragraph 1.3 must be returned immediately to the water without further injury as near as possible to the place from which they were taken.
- 1.5 The measurement of a size of a marine organism will take place in accordance with the provisions set out in the schedule that accompanies the Category Two Permit Conditions.

## **2. Gear Restrictions**

As provided by paragraph 25 (b) of the Devon and Severn IFCA Mobile Fishing Permit Byelaw, the following Permit Conditions apply:

### **Fishing for Scallops**

- 2.1 A Permit Holder or Named Representative is not authorised to fish for scallop using any vessel exceeding 7 metres in overall length.
- 2.2 A Permit Holder or Named Representative is not authorised to fish for scallop otherwise than where;
  - a) fishing is conducted with scallop dredges that have no teeth and;
  - b) fishing is conducted with a maximum of two scallop dredges and;
  - c) each scallop dredge must not exceed a width of one metre and;
  - d) the scallop dredges are hauled by hand only with no mechanical assistance.

## Fishing for Mussel

- 2.3 A Permit Holder or Named Representative is not authorised, to fish for mussel using any vessel exceeding 10 metres in overall length.
- 2.4 A Permit Holder or Named Representative is only authorised to fish for mussel with an elevator dredge approved by the Authority.

### **3. Spatial Restrictions**

As provided by paragraph 25 (c) of the Devon and Severn IFCA Mobile Fishing Permit Byelaw, the following Permit Conditions apply:

- 3.1 Fishing with mobile fishing gear is not authorised to the landward of the estuary closing lines as defined in the schedule to the Mobile Fishing Permit Byelaw otherwise than in accordance with a Category Two Permit.
- 3.2 For the purpose of fishing for scallops, a Permit Holder or Named Representative is authorised to fish in the areas as defined by the coordinates set out in the attached Annex 1 (Salcombe Estuary) of this Permit.
- 3.3 For the purpose of fishing for mussels, a Category Two Permit Holder or Named Representative is authorised to fish in the areas as defined by the coordinates set out in the attached Annex 2 (Exe Estuary) of this Permit.

### **4. Time Restrictions**

As provided by paragraph 25 (d) of the Devon and Severn IFCA Mobile Fishing Permit Byelaw, the following Permit Conditions apply:

- 4.1 For the purpose of fishing for scallops, a Permit Holder or Named Representative is only authorised to fish for scallop within the District between 0900hrs (local time) and 1600hrs (local time).
- 4.2 For the purpose of fishing for scallops, a Permit Holder or Named Representative is only authorised to fish for scallop within the District between 15<sup>th</sup> December and 15<sup>th</sup> March inclusive.
- 4.3 For the purpose of fishing for scallops, a Permit Holder or Named Representative is only authorised to fish for scallop within the District on weekdays not including bank holidays.
- 4.4 For the purpose of fishing for scallops, a Permit Holder or Named Representative is only authorised to fish for scallop within the District providing the Authority is informed in writing prior to fishing for the first time during the fishing season.



## **Schedule – The Measurement of a Marine Organism**

Comments: Officers will create a schedule of diagrams to show how a marine organism will be measured and issue the schedule along with the Category Two Permit Conditions.

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## **Annexes**

Comments: As highlighted in the above conditions (Section 3) – officers will make new annexes (1 & 2) as required for Salcombe and the Exe that will be issued with the Cat 2 Permit Conditions).

## **Explanatory Note**

Comments: Officers will add an explanatory note to the Category Two Permit Conditions.

The note will explain that permits are only issued to manage activity in the public fisheries.

## **Annex 3: Draft Category One Mobile Fishing Permit Conditions**

The following transcript represents the most recent draft work of the Byelaw & Technical Working Group. Paragraph numbering and other reference numbering to annexes or specific paragraphs to the overarching Byelaw or sections of the Category One Permit Conditions may be subject to alteration within further quality assurance work.

### **The Permit Conditions (Category 1 – At Sea):**

#### **Interpretations**

In the following flexible Permit Conditions:

“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);

“berried edible crab” means any edible crab carrying any spawn attached to the body or some other exterior part of the crab, or which is in such a condition as to show that at the time when it was taken it was carrying spawn so attached;

“berried lobster” means any lobster or spiny lobster which is carrying any spawn attached to the tail or some other exterior part of the lobster, or which is in such a condition as to show that at the time it was taken it was carrying spawn so attached;

“co-ordinate” means a co-ordinate on the World Geodetic System 1984 Datum (WGS84);

“demersal mobile fishing gear” means any towed fishing gear designed to be in contact with the seabed or any mobile fishing gear used in contact with the seabed;

“the District” means the Devon and Severn Inshore Fisheries and Conservation Authority as defined in articles 2 and 3 of the Devon and Severn Inshore Fisheries and Conservation Order 2010 (S.I. 2010 No. 2212);

“fishing” includes searching for sea fisheries resources, shooting, setting, towing, hauling of a mobile fishing gear, and taking sea fisheries resources on board;

“mutilated lobster” means a lobster or spiny lobster where any of the five flaps of the tail fan is missing or mutilated in such a manner that could hide or obliterate a V-notch;

“remotely accessed electronic reporting device” means one of the following devices that transmits the required information;

- a) Blue Tracker I-VMS manufactured by AST Marine Services
- b) SC2 manufactured by Succorfish
- c) VMS + manufactured by AST Marine Services

“required information is”;

- a) a report flag to indicate that the report is the result of the Authority’s permit condition requirements and is not made under EU regulations;
- b) the most recent geographical position of the fishing vessel to 5 decimal places (in WGS84);
- c) date and time (in UTC) of the fixing of the most recent position;
- d) the instant speed and course of the vessel (equivalent to 0.1 knots and course expressed in degrees (true not magnetic) to 0.1 degree) at the time of the report;
- e) the unique serial number of transmitting device;
- f) a status code;
- g) a Geofence reference number

“V notched lobster” means a lobster or spiny lobster with an indentation in the shape of the letter “V” or resembling the shape of a “V” made in any one or more of the five flaps on the tail fan;

### **Species:**

“bass” means a fish of the species *Dicentrarchus labrax*

“edible crab” means a crab of the species *Cancer pagurus*;

“green crab” means a crab of the species *Carcinus maenas*;

“lobster” means a lobster of the species *Homarus gammarus*;

“scallop” means a scallop of the species *Pecten maximus*;

“spider crab” means a crab of the species *Maja spp.*;

“spiny lobster” means a lobster of the species *Palinurus elephas*;

“velvet swimming crab” means a crab of the species *Necora puber*;

“whelk” means a whelk of the species *Buccinum undatum*;

## **1. Catch Restrictions**

As provided by paragraph 25 (a) of the Devon and Severn IFCA Mobile Fishing Permit Byelaw, the following Permit Conditions apply:

- 1.1 A permit holder or named representative is not authorised to fish under this Permit if the permit holder or named representative has retained on board or has in their possession any catch that does not comply with any of the catch restrictions set out in paragraphs 1.2 to 1.3 inclusive.
- 1.2 A permit holder or named representative is not authorised under this Permit to remove from a fishery within the District:
  - a) any 'V'-notched or mutilated lobster;
  - b) any berried lobster or berried edible crab;
  - c) any part of an edible crab, lobster or spiny lobster which is detached from the carapace of the crab or lobster;
  - d) any edible crab, lobster or spiny lobster that has recently cast its shell;
- 1.3 A permit holder or named representative is not authorised under this Permit to remove from a fishery within the District:
  - a) A female edible crab less than 150mm measured across the broadest part of the carapace;
  - b) a male edible crab less than 160mm measured across the broadest part of the carapace;
  - c) a scallop less than 100mm measured across the broadest part of the flat shell;
  - d) a whelk less than 55mm measured along the length of the shell and, after the 1<sup>st</sup> November 2020, less than 65mm measured along the length of the shell;
  - e) a lobster less than 90mm measured as the length of the carapace, parallel to the midline, from the back of either eye socket to the distal edge of the carapace;
  - f) a spider crab less than 130mm measured as the length of the carapace, along the midline, from the edge of the carapace between the rostrums to the posterior edge of the carapace;
  - g) a spiny lobster less than 110mm measured as the length of the carapace from the tip of the rostrum to the midpoint of the distal edge of the carapace;
  - h) a velvet swimming crab less than 65mm measured across the broadest part of the carapace;
  - i) a bass less than 42cm measured from the tip of the snout to the end of the tail fin.
- 1.3.1 All such species falling within the above prohibitions in paragraphs 1.2 and 1.3 must be returned immediately to the sea without further injury.

- 1.3.2 The measurement of the size of a marine organism will take place in accordance with the provisions set out in the schedule that accompanies the Category One Permit Conditions.

## **2. Gear Restrictions**

As provided by paragraph 25 (b) of the Devon and Severn IFCA Mobile Fishing Permit Byelaw, the following permit conditions apply:

### Fishing for Scallops

- 2.1 A permit holder or named representative is not authorised, to fish for scallop within the District, using any dredge except;
- a) one fitted with a spring-loaded tooth bar and;
  - b) the mouth does not exceed 85cm width overall and;
  - c) where rings are used in the construction of a retaining bag these shall not be less than 75mm measured across the inside diameter and;
  - d) where net is used in the construction of a retaining bag it shall have a minimum mesh size of 100mm and;
  - e) the size of the ring or net mesh of the retaining bag shall not be obstructed or otherwise reduced.
- 2.2 A permit holder or named representative is not authorised to fish for scallop with a vessel within the District with more than two tow bars at any one time.
- 2.3 A permit holder or named representative is not authorised to fish for scallop with a vessel within the District operating more than 12 dredges at any one time and;
- a) where multiple dredges are used, the length of the tow bar, including attachments shall not exceed 5.18 metres.

### Fishing for Mussel

- 2.4 A permit holder or named representative is only authorised, to fish for mussel within the District, using a dredge where;
- a) the maximum inside opening of any dredge does not exceed two metres and;
  - b) the total number of mussel dredges used does not exceed two at any one time and;
  - c) any blade fitted to the fishing bar is solid and does not exceed 50mm in depth.

### Vessel Monitoring System

- 2.5 A permit holder or named representative is not authorised to use a vessel between 6.99 metres and 15.25 metres within the District unless a fully functioning, remotely accessed electronic reporting device is on board the vessel at all times and the required information is transmitted at least every ten minutes except when;
- a) a vessel is within a restricted access area as defined by the coordinates set out in the attached Annexes 1 to 9 (inclusive) when the required information must be transmitted at least every three minutes.
  - b) a vessel is within a restricted access area as defined by the coordinates set out in the attached Annex 10.

### Vessel Monitoring System - Failure of Device

- 2.6 If the remotely accessed electronic reporting device installed pursuant to paragraph 2.5 above, has failed to transmit the required information, for whatever reason, a permit holder or named representative must;
- a) if at sea, immediately cease fishing and return to one of the areas as defined by the coordinates set out in the attached Annex 10 or leave the District;
  - b) if already in an area as defined by the coordinates set out in the attached Annex 10, remain there.
- 2.7 If as a result of a failure to transmit the required information and in compliance with paragraph 2.6, the vessel is in one of the areas as defined by the coordinates set out in the attached Annex 10 or has left the District, the vessel is not authorised to sail in the District unless;
- a) the remotely accessed electronic reporting device has been repaired or replaced by the remotely accessed electronic device manufacturer's approved engineer to meet the requirements specified in paragraph 2.5.
  - b) an authorisation has been issued under 2.7.1.
- 2.7.1 Where a vessel has returned to one of the areas as defined by the coordinates set out in the attached Annex 10 a written permission may be issued by the Authority to proceed to another place outside of that area in order for a repair to the remotely accessed electronic reporting device to be effected.
- 2.7.2 Where a remotely accessed electronic reporting device has been repaired or replaced, the permit holder or named representative must provide a copy of the engineer's report to the Authority confirming that the equipment is fully operational before proceeding to sea or re-entering the District.

- 2.8 Within the access Area 4 as defined by the coordinates set out in the attached Annex 3a and 3b (part of the South Devon Inshore Fishing Grounds known as Inshore Potting Agreement Areas), a permit holder or named representative is not authorised under the permit to fish with demersal mobile fishing gear unless;
- a) the vessel is rated at 100KW or less and;
  - b) when using scallop dredges, the vessel fishes with no more than two tow bars, each tow bar does not exceed 2.6 metres in total length and there are no more than three dredges attached to each tow bar.

### **3. Spatial Restrictions**

As provided by paragraph 25 (c) of the Devon and Severn IFCA Mobile Fishing Permit Byelaw, the following Permit Conditions apply:

- 3.1 No Permit Holder or Named Representative shall access the areas as defined by the coordinates set out in the attached Annex 1 of this Permit (Lundy Special Area of Conservation and Lundy Marine Conservation Zone) unless the demersal mobile fishing gear is inboard lashed and stowed or where;
- a) the demersal trawl gear is used for fishing in the areas as defined by the coordinates set out in the attached Annex 1a of this Permit.
  - b) the demersal scallop gear is used for fishing in the areas as defined by the coordinates set out in the attached Annex 1b of this Permit.
- 3.2 No Permit Holder or Named Representative shall access the areas as defined by the coordinates set out in the attached Annex 2 of this Permit (the Lyme Bay and Torbay Site of Community Importance) unless the demersal mobile fishing gear is inboard lashed and stowed.
- 3.3 No Permit Holder or Named Representative shall access the areas as defined by the coordinates set out in the attached Annex 3 of this Permit (which includes the Torbay section of the Lyme Bay and Torbay Site of Community Importance, the Torbay Marine Conservation Zone and part of the South Devon Inshore Fishing Grounds known as the Inshore Potting Agreement Areas) unless the demersal mobile fishing gear is inboard lashed and stowed or where;
- a) the demersal trawl gear is used for fishing in the Areas 1, 2, 3 and 4 as defined by the coordinates set out in the attached Annex 3a of this Permit and fishing with the demersal trawl gear is in accordance with paragraph 2.8 and 4.3.
  - b) the demersal scallop gear is used for fishing in the area as defined by the coordinates set out in the attached Annex 3b of this Permit and fishing with the demersal scallop gear is in accordance with paragraph 2.8.

- 3.4 No Permit Holder or Named Representative shall access the areas as defined by the coordinates set out in the attached Annex 4 of this Permit (Plymouth Sound and Estuaries Special Area of Conservation), (including the rivers Plym, Tamar, Tavy and Yealm) unless the demersal mobile fishing gear is inboard lashed and stowed or where an encircling net is used for fishing in the area as defined by the coordinates as set out in the attached Annex 4a of this Permit.
- 3.5 No Permit Holder or Named Representative shall access the areas as defined by the coordinates set out in the attached Annex 5 of this Permit (part of Start Bay, Start Point to Plymouth Sound and Eddystone Site of Community Importance, part of the Skerries Bank and Surrounds Marine Conservation Zone and part of the South Devon Inshore Fishing Grounds known as the Inshore Potting Agreement Areas) unless the demersal mobile fishing gear is inboard lashed and stowed or where;
- a) the demersal mobile fishing gear is used for fishing in the Area A as defined by the coordinates set out in the attached Annex 5a of this Permit and fishing with the demersal mobile fishing gear is in accordance with the periods set out in paragraph 4.4, table 1.
  - b) the demersal mobile fishing gear is used for fishing in the Area B as defined by the coordinates set out in the attached Annex 5a of this Permit and fishing with the demersal mobile fishing gear is in accordance with the periods set out in paragraph 4.4, table 1.
  - c) the demersal mobile fishing gear is used for fishing in the Area C as defined by the coordinates set out in the attached Annex 5a of this Permit and fishing with the demersal mobile fishing gear is in accordance with the periods set out in paragraph 4.4, table 1.
  - d) the demersal mobile fishing gear is used for fishing in the Area D as defined by the coordinates set out in the attached Annex 5a of this Permit and fishing with the demersal mobile fishing gear is in accordance with the periods set out in paragraph 4.4, table 1.
- 3.6 No Permit Holder or Named Representative shall access the areas as defined by the coordinates set out in the attached Annex 6 of this Permit (Severn Estuary Special Area of Conservation) unless the demersal mobile fishing gear is inboard lashed and stowed.
- 3.7 In the areas as defined by the coordinates set out in the attached Annex 7 of this Permit (Lundy, Skerries Bank and Surrounds, and Bideford to Foreland Point Marine Conservation Zones), a permit holder or named representative is not authorised to remove any spiny lobster.
- 3.8 No Permit Holder or Named Representative shall access the areas as defined by the coordinates set out in the attached Annex 8 of this Permit (Hartland Point to Tintagel Marine Conservation Zone) unless the demersal mobile fishing gear is inboard lashed and stowed or where;

- a) the demersal trawl gear is used for fishing in the Areas X, Y, Z etc as defined by the coordinates set out in the attached Annex 8a of this Permit.
  - b) the demersal scallop gear is used for fishing in the Areas X, Y, Z etc as defined by the coordinates set out in the attached Annex 8b of this Permit.
- 3.9 No Permit Holder or Named Representative shall access the areas as defined by the coordinates set out in the attached Annex 9 of this Permit (Bideford to Foreland Point Marine Conservation Zone) unless the demersal mobile fishing gear is inboard lashed and stowed or where;
- a) the demersal mobile fishing gear is used for fishing in the Areas X, Y, Z etc as defined by the coordinates set out in the attached Annex 9a of this Permit.

#### 4. Time Restrictions

As provided by paragraph 25 (d) of the Devon and Severn IFCA Mobile Fishing Permit Byelaw, the following permit conditions apply:

- 4.1 For the purpose of fishing for scallops, a permit holder or named representative is only authorised to fish within the District between 0700hrs (local time) and 1900hrs (local time)
- 4.2 A permit holder or named representative is not authorised to fish for scallop within the District during the period of July, August, September.
- 4.3 A permit holder or named representative is only authorised to fish with demersal trawl gear within the Areas 1, 2 and 3 as defined by the coordinates set out in the attached Annex 3a of this Permit between 1<sup>st</sup> April and 30<sup>th</sup> June (inclusive).
- 4.4 A permit holder or named representative is only authorised to fish with demersal mobile fishing gear within the Areas A, B, C and D as defined by the coordinates set out in the attached Annex 5a of this Permit during the periods set out in table 1 below:

**Table 1**

Annex	Sub Area of annex 5a	Annual Access Periods
5a	Area A	1 <sup>st</sup> Jan to 31 <sup>st</sup> May inclusive
5a	Area B	1 <sup>st</sup> Jan to 31 <sup>st</sup> March inclusive
5a	Area C	1 <sup>st</sup> March to 31 <sup>st</sup> March inclusive
5a	Area D	1 <sup>st</sup> Feb to 31 <sup>st</sup> Aug inclusive

#### Schedule – The Measurement of a Marine Organism

Blue text = Officer notes

Comments: Officers will create a schedule of diagrams to show how a marine organism will be measured and issue the schedule along with the Category One Permit Conditions.



## **Annexes**

Comments: As highlighted in the above conditions (Section 3) – Officers will make new annexes as required that are also issued with the Cat 1 Permit Conditions.

## **Other Information/Reference Material (hyperlinks)**

[The current Mobile Fishing Byelaw \(2014\)](#)

[The current Mobile Fishing Category One Permits \(August 2018\)](#)

[Cat One Annexes 1 to 8 \(August 2018\)](#)

[The current Mobile Fishing Category Two Permits \(August 2018\)](#)

[Cat Two Annexes \(August 2018\)](#)

End of report (29/10/19)