

# The Category One (at sea) Mobile Fishing Permit Conditions

## Interpretation

In the Category One Mobile Fishing Permit Conditions:

- a) “the Act” means the Marine and Coastal Access Act 2009<sup>1</sup> as amended;
- b) “alternative dredge” means a dredge where:
  - i) any part of the dredge gear frame does not exceed 2 metres in width; and
  - ii) any blade fitted to the fishing bar of the dredge gear is solid and does not exceed 50 millimetres in depth;
- c) “the Authority” means the Devon and Severn Inshore Fisheries and Conservation Authority as defined in Article 4 of the Devon and Severn Inshore Fisheries and Conservation Order 2010<sup>2</sup>;
- d) “berried edible crab” means any edible crab carrying any spawn attached to the body or other exterior part of the crab, or that is in a condition that shows it was carrying spawn so attached at the time it was taken;
- e) “berried lobster” means any lobster or spiny lobster carrying any spawn attached to the tail or other exterior part of the lobster or spiny lobster, or that is in a condition that shows it was carrying spawn so attached at the time it was taken;
- f) “the Byelaw” means the Mobile Fishing Permit Byelaw 2022;
- g) “co-ordinate” means a co-ordinate on the WGS 84 datum;
- h) “demersal mobile fishing gear” means any mobile fishing gear that is, or is likely to be, in contact with the seabed or any mobile fishing gear designed to be in contact with the seabed;
- i) “demersal trawl gear” means any trawl gear that is, or likely to be, in contact with the seabed or any trawl gear designed to be in contact with the seabed;
- j) “the District” means the Devon and Severn Inshore Fisheries and Conservation district as defined in Article 3 of the Devon and Severn Inshore Fisheries and Conservation Order 2010;
- k) “fishing” includes searching for sea fisheries resources, deploying or towing of, pushing of, or hauling of mobile fishing gear, or taking sea fisheries resources onboard (and “fish” and “fished” shall be interpreted accordingly);

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<sup>1</sup> Marine and Coastal Access Act 2009

<sup>2</sup> S.I. 2010 No.2212

- l) “heritage assets site” means any site designated under the Protection of Wrecks Act 1973<sup>3</sup> or scheduled under the Ancient Monuments and Archaeological Areas Act 1979<sup>4</sup>;
- m) “mobile fishing gear” means a dredge, elevator harvester, trawl, ring net, or similar device, that is designed to be towed or pushed to take any sea fisheries resources;
- n) “mutilated lobster” means a lobster or spiny lobster where any of the five flaps of the tail fan is missing or mutilated in a way that could hide or obliterate a 'v-notch';
- o) “named representative” means any person named in writing by a permit holder to the Authority who may then act as the master of the relevant fishing vessel in their absence;
- p) “overall length” means the length determined by reference to the relevant fishing vessel’s Certificate of Registry;
- q) “permit holder” means the owner or owners of a relevant fishing vessel who have been issued with a Category One Permit by the Authority in accordance with paragraph 5 of the Byelaw;
- r) “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<sup>5</sup> and the Merchant Shipping (Registration of Ships) Regulations 1993<sup>6</sup>, or in the Channel Islands or Isle of Man; and
  - ii) in respect of which there is a valid fishing licence issued under the Fisheries Act 2020<sup>7</sup>;
- s) “relevant data” means:
  - i) the most recent geographical position of the fishing vessel to 5 decimal places (in WGS84);
  - ii) date and time (Coordinated Universal Time) of the fixing of the most recent position;
  - iii) 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;
  - iv) the unique serial number of transmitting device;
  - v) a status code; and
  - vi) an indicator of the strength of the positional report accuracy;

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<sup>3</sup> Section 1 of the Protection of Wrecks Act 1973

<sup>4</sup> Ancient Monuments and Archaeological Areas Act 1979

<sup>5</sup> 1995 c.21

<sup>6</sup> S.I. 1993 No.3138

<sup>7</sup> 2020 c.22

- t) “sea fisheries resources” has the same meaning as set out in the Act;
- u) “scallop dredge” means a dredge that meets the following criteria:
  - i) one fitted with a spring-loaded tooth bar;
  - ii) any part of the frame does not exceed 85 centimetres in width;
  - iii) where rings are used in the construction of a retaining bag they must be a minimum of 75 millimetres when measured across the inside diameter;
  - iv) where net is used in the construction of a retaining bag, it must be a minimum mesh size of 100 millimetres; and
  - v) the size of the ring or net mesh of the retaining bag must not be obstructed or otherwise reduced;
- v) “UK VMS Hub” means the United Kingdom’s secure interface platform which is maintained by the MMO and the fisheries policy authorities to collect, store and manage fishing boat monitoring data for use by the MMO and the fisheries policy authorities;
- w) “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;
- x) “vessel monitoring device” means a device that transmits the relevant data which must be capable of being received by the UK VMS hub;
- y) “‘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 either of the outer pairs of uropods on the tail fan (and ‘v-notch’ and ‘v-notching’ shall be interpreted accordingly);
- z) “WGS84” means the World Geodetic System as revised in 1984 and 2004;
- aa) “writing” means communication to the Authority by written document sent by recorded delivery, hand delivered to an Officer of the Authority, or sent by email to the address published on the Authority’s website<sup>8</sup>.

**Species:**

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

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

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

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

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

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

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<sup>8</sup> [www.devonandsevernifca.gov.uk/about-us-our-work/contact-us/](http://www.devonandsevernifca.gov.uk/about-us-our-work/contact-us/)

“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*.

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## **Management Measures**

### Limitation on Catches

- 1.1 A permit holder or a named representative must not fish in the District 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 a named representative must not 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 its carapace;
  - d) any edible crab, lobster or spiny lobster that has recently cast its shell.
  
- 1.3 A permit holder or a named representative must not remove from a fishery within the District:
  - a) a female edible crab less than 150 millimetres measured across the broadest part of the carapace;
  - b) a male edible crab less than 160 millimetres measured across the broadest part of the carapace;
  - c) a scallop less than 100 millimetres measured across the broadest part of the flat shell;
  - d) a whelk less than 65 millimetres measured along the length of the shell;
  - e) a lobster less than 90 millimetres 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 130 millimetres 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 110 millimetres 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 65 millimetres measured across the broadest part of the carapace;
  - i) a bass less than 42 centimetres measured from the tip of the snout to the end of the tail fin.

- 1.4 All species falling within the prohibitions in paragraphs 1.2 and 1.3 must be returned immediately to the sea without further injury.
- 1.5 The measurement of the size of a marine organism or the identification of a 'v-notched' lobster will take place in accordance with the provisions set out in Annex 14 to these permit conditions.

#### Dredging

- 2.1 A permit holder or a named representative must not fish within the District with a dredge other than a scallop dredge or an alternative dredge.
- 2.2 A permit holder or a named representative must not fish with scallop dredges within the District unless:
  - a) no more than two tow bars are used at any one time;
  - b) each tow bar, including attachments, does not exceed 5.18 metres in length;
  - c) there are no more than six scallop dredges attached to each tow bar.
- 2.3 A permit holder or a named representative must not fish with more than two alternative dredges at any one time within the District.
- 2.4 A permit holder or a named representative must not fish with alternative dredges and scallop dredges when used in combination.

#### Restriction on Engine Power and Scallop Dredges

- 3.1 Within the access Area 4 as defined by the co-ordinates set out in the attached Annex 3a and 3b to these permit conditions, a permit holder or a named representative must not fish with demersal mobile fishing gear unless:
  - a) the relevant fishing vessel's engines are rated at 100 Kilowatts or less; and
  - b) when scallop dredging;
    - i. the relevant fishing vessel operates with no more than two tow bars; and
    - ii. each tow bar does not exceed 2.6 metres in total length; and
    - iii. there are no more than three scallop dredges attached to each tow bar.

#### Specified Equipment

- 4.1 A permit holder or a named representative must not operate a relevant fishing vessel over 6.99 metres in overall length within the District unless:
  - a) a vessel monitoring device has been fitted to the relevant fishing vessel; and
  - b) the vessel monitoring device is fully functioning at all times and is capable of transmitting the relevant data to the UK VMS hub.
- 4.2 A permit holder or a named representative must not operate a relevant fishing vessel over 6.99 metres in overall length within the District unless:

- a) a permit holder has provided in writing a copy of the manufacturer's approved engineer's installation report for the vessel monitoring device containing the information specified in paragraph 6.1; and
- b) subject to paragraph 4.3, the relevant data is received by the UK VMS hub, or is received by the vessel monitoring device supplier and made available to the Authority via the supplier's platform, at least every three minutes except when a relevant fishing vessel is within an area as defined by the co-ordinates set out in the attached Annex 13 to these permit conditions.

4.3 Where network coverage is lost, and the relevant data is not transmitted, the relevant data must be stored and then forwarded when network coverage is restored.

#### Failure of a Vessel Monitoring Device

5.1 Unless paragraph 4.3 applies, if the vessel monitoring device installed in accordance with paragraph 4.1 has failed to transmit the relevant data, for whatever reason, a permit holder or a named representative must ensure that:

- a) the relevant fishing vessel, if at sea, immediately ceases fishing and returns to one of the areas as defined by the co-ordinates set out in the attached Annex 13 to these permit conditions or leaves the District; or
- b) if the relevant fishing vessel is already in an area as defined by the co-ordinates set out in the attached Annex 13 to these permit conditions, the relevant fishing vessel remains there in accordance with paragraph 5.2.

5.2 If, as a result of a failure of the vessel monitoring device to transmit the relevant data and in compliance with paragraph 5.1, a permit holder or named representative must not sail the relevant fishing vessel in the District, unless:

- a) the vessel monitoring device has been inspected, repaired, or replaced by the manufacturer's approved engineer, and an approved engineer's report has been received by the Authority in writing that contains the information specified in Paragraph 6.1; or
- b) a written authorisation has been issued in respect of the relevant fishing vessel under paragraph 4 of the Byelaw.

#### Installation, Inspection, Repairs, or Replacement of an Inshore Vessel Monitoring Device

6.1 A report by a manufacturer's approved engineer for the installation, inspection, repair, or replacement of a vessel monitoring device must contain the following information:

Installation or replacement:

- a) the name of the engineer;
- b) the engineer's employer (if applicable);
- c) name of the relevant fishing vessel;
- d) port letters and numbers of the relevant fishing vessel;
- e) date of installation;

- f) geographical location of installation;
- g) time of installation;
- h) confirmation that the required information is being transmitted at the specified intervals as set out in paragraph 4.2(b);
- i) manufacturer of the vessel monitoring device;
- j) model of the vessel monitoring device;
- k) serial number of the vessel monitoring device;
- l) photograph of the installed vessel monitoring device;
- m) image of the location of the vessel monitoring device on the relevant fishing vessel and the location of the antenna of the vessel monitoring device on the relevant fishing vessel;
- n) image of the power connection;
- o) image of the relevant fishing vessel; and
- p) signature of engineer and date of signature.

Inspection or repair of a device:

- a) name of the engineer;
- b) the engineer's employer (if applicable);
- c) summary of inspection and remedial action taken;
- d) confirmation that the required information is being transmitted at the specified intervals as set out in paragraph 4.2(b); and
- e) signature of the engineer and date of signature.

### Marine Protected Areas

7.1 A permit holder or a named representative must not access the areas as defined by the co-ordinates set out in the attached Annex 1 to these permit conditions (Lundy Special Area of Conservation and Lundy Marine Conservation Zone) with demersal mobile fishing gear unless:

- a) the demersal mobile fishing gear is stowed on deck and no fishing is taking place;
- b) the demersal trawl gear is used for fishing in the areas as defined by the co-ordinates set out in the attached Annex 1a to these permit conditions; or
- c) the scallop dredges or alternative dredges are used for fishing in the areas as defined by the co-ordinates set out in the attached Annex 1b to these permit conditions.

7.2 A permit holder or a named representative must not access the areas as defined by the co-ordinates set out in the attached Annex 2 to these permit conditions (the Lyme Bay section of the Lyme Bay and Torbay Special Area of Conservation) with demersal mobile fishing gear unless the demersal mobile fishing gear is stowed on deck and no fishing is taking place.

7.3 A permit holder or a named representative must not access the areas as defined by the co-ordinates set out in the attached Annex 3 to these permit conditions (the Tor

Bay section of the Lyme Bay and Torbay Special Area of Conservation, and the Torbay Marine Conservation Zone) with demersal mobile fishing gear unless:

- a) the demersal mobile fishing gear is stowed on deck and no fishing is taking place;
- b) the demersal trawl gear is used for fishing in the areas 1, 2, 3 and 4 as defined by the co-ordinates set out in the attached Annex 3a to these permit conditions and fishing with the trawl gear is in accordance with paragraphs 3.1 and 11.3; or
- c) the scallop dredges or alternative dredges are used for fishing in the area as defined by the co-ordinates set out in the attached Annex 3b to these permit conditions and fishing with the scallop dredges or alternative dredges is in accordance with paragraph 3.1.

7.4 A permit holder or a named representative must not access the areas as defined by the co-ordinates set out in the attached Annex 4 to these permit conditions (Plymouth Sound and Estuaries Special Area of Conservation) (including the Rivers Plym, Tamar, Tavy and Yealm) with demersal mobile fishing gear unless:

- a) the demersal mobile fishing gear is stowed on deck and no fishing is taking place; or
- b) where an encircling net is used for fishing in the area as defined by the co-ordinates as set out in the attached Annex 4a to these permit conditions.

7.5 A permit holder or a named representative must not access the areas as defined by the co-ordinates set out in the attached Annex 5 to these permit conditions (part of the Start Point to Plymouth Sound and Eddystone Special Area of Conservation and part of the Skerries Bank and Surrounds Marine Conservation Zone) with demersal mobile fishing gear unless:

- a) the demersal mobile fishing gear is stowed on deck and no fishing is taking place;
- b) the demersal mobile fishing gear is used for fishing in the Area A as defined by the co-ordinates set out in the attached Annex 5a to these permit conditions and fishing with the demersal mobile fishing gear is in accordance with the periods set out in paragraph 11.4, table 1;
- c) the demersal mobile fishing gear is used for fishing in the Area B as defined by the co-ordinates set out in the attached Annex 5a to these permit conditions and fishing with the demersal mobile fishing gear is in accordance with the periods set out in paragraph 11.4, table 1;
- d) the demersal mobile fishing gear is used for fishing in the Area D as defined by the co-ordinates set out in the attached Annex 5a to these permit conditions and fishing with the demersal mobile fishing gear is in accordance with the periods set out in paragraph 11.4, table 1.

- 7.6 A permit holder or a named representative must not access the areas as defined by the co-ordinates set out in the attached Annex 6 to these permit conditions (Severn Estuary Special Area of Conservation) with demersal mobile fishing gear unless the demersal mobile fishing gear is stowed on deck and no fishing is taking place.
- 7.7 A permit holder or a named representative must not access the areas as defined by the co-ordinates set out in the attached Annex 7 to these permit conditions (Hartland Point to Tintagel Marine Conservation Zone) with scallop dredges or alternative dredges unless:
- a) the scallop dredges or alternative dredges are stowed on deck and no fishing is taking place.
- 7.8 A permit holder or a named representative must not access the areas as defined by the co-ordinates set out in the attached Annex 8 to these permit conditions (Bideford to Foreland Point Marine Conservation Zone) with demersal mobile fishing gear unless:
- a) the demersal mobile fishing gear is stowed on deck and no fishing is taking place; or
  - b) the demersal mobile fishing gear is used for fishing in the Area defined by the co-ordinates set out in the attached Annex 8a to these permit conditions.
- 7.9 A permit holder or a named representative must not access the areas as defined by the co-ordinates set out in the attached Annex 9 to these permit conditions (Morte Platform Marine Conservation Zone) with demersal mobile fishing gear unless:
- a) the demersal mobile fishing gear is stowed on deck and no fishing is taking place; or
  - b) the demersal mobile fishing gear is used for fishing in the area as defined by the co-ordinates set out in the attached Annex 9a to these permit conditions.

### Spiny Lobster

- 8.1 A permit holder or a named representative must not remove any spiny lobster from the areas as defined by the co-ordinates set out in the attached Annex 10 to these permit conditions (Lundy, Skerries Bank and Surrounds, and Bideford to Foreland Point Marine Conservation Zones).

### Heritage Assets Sites

- 9.1 A permit holder or a named representative must not access the area as defined by the co-ordinates set out in the attached Annex 11 to these permit conditions (the South Australian Heritage Assets Site) with demersal mobile fishing gear unless the demersal mobile fishing gear is stowed on deck and no fishing is taking place.

### Coastal Mariculture Sites

- 10.1 A permit holder or a named representative must not access the areas as defined by the co-ordinates set out in the attached Annex 12 to these permit conditions (the Coastal Mariculture sites) with demersal mobile fishing gear unless the demersal mobile fishing gear is stowed on deck and no fishing is taking place.

### Fishing Time Limitations

- 11.1 A permit holder or a named representative, when fishing with scallop dredges, must not fish within the District between 1900hrs (local time) and 0700hrs (local time).
- 11.2 A permit holder or a named representative must not remove scallop from a fishery within the District between 1<sup>st</sup> July and 30<sup>th</sup> September (inclusive).
- 11.3 A permit holder or a named representative must not fish with demersal trawl gear within the Areas 1, 2 and 3 as defined by the co-ordinates set out in the attached Annex 3a to these permit conditions, other than between 1<sup>st</sup> April and 30<sup>th</sup> June (inclusive).
- 11.4 A permit holder or a named representative must not fish with demersal mobile fishing gear within the Areas A, B, and D as defined by the co-ordinates set out in the attached Annex 5a to these permit conditions, other than during the periods set out in table 1 below:

**Table 1**

<b>Annex</b>	<b>Sub Area of Annex 5a</b>	<b>Annual Access Periods</b>
5a	Area A	1 <sup>st</sup> January to 31 <sup>st</sup> May (inclusive)
5a	Area B	1 <sup>st</sup> January to 31 <sup>st</sup> March (inclusive)
5a	Area D	1 <sup>st</sup> February to 31 <sup>st</sup> August (inclusive)

End.