

North Eastern Inshore Fisheries and Conservation Authority

Marine and Coastal Access Act 2009

XXIII METHOD AND AREA OF FISHING (SCALLOP DREDGES) BYELAW 2015

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 the management of scallop dredging within that District.

1. Interpretation

In this byelaw-

- (a) 'the Authority' means the 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) 'baselines' mean the baselines for the measurement of the breadth of the territorial sea of the United Kingdom as they existed at 25th January 1983 in accordance with the Territorial Waters Order in Council 1964 (1965 IIp.6452A) as amended by the Territorial Waters (Amendment) Order in Council 1979 (1979 IIp.2866);
- (c) 'Certificate of Registry' and 'Registrar of Shipping and Seamen' have the meaning given to them in the Merchant Shipping Act 1995;
- (d) '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;
- (e) 'fully functioning Automatic Identification System' means an operational transceiver of Class A or Class B design that transmits accurate information including the ships identity, type, position, course, speed and can exchange information with shore-based facilities;
- (f) 'three nautical mile limit line' means a line drawn three nautical miles seaward of and running parallel to the baselines;
- (g) 'six nautical mile limit line' means a line drawn six nautical miles seaward of and running parallel to the baselines;
- (h) 'overall length' of a vessel means the overall length as recorded on the vessel's Certificate of Registry, issued by the Registrar of Shipping and Seamen;
- (i) 'engine power' of a vessel means the engine power as recorded on the vessel's Certificate of Registry, issued by the Registrar of Shipping and Seamen;

- (j) 'scallop' means an animal of the species *Pecten maximus* or *Aequipecten opercularis*;
- (k) 'scallop dredge' means 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;
- (l) 'scallop dredging permit' means a permit issued in accordance with paragraph 3;
- (m) 'specified scallop dredging area' means that part of the sea within the District bounded to the north by the boundary of the District, to the south by a line drawn east from Filey Brigg (Lat 54°12.91' North Long 000°15.30' West), to the west by the three nautical mile limit line and to the east by the six nautical mile limit line;
- (n) 'track record' means documentary evidence of annual catch (from within the District) and landings (at ports or harbours within the District) of scallops.

2. Prohibitions

- (a) A person must not use a scallop dredge outside the specified scallop dredging area.
- (b) A person must not use a scallop dredge within the specified scallop dredging area unless that person holds a valid scallop dredging permit.
- (c) A person must not carry or use a scallop dredge on or from a vessel unless the vessel is operating a fully functioning Automatic Identification System.

3. Scallop Dredging Permits

- (a) The Authority may issue a scallop dredging permit to a named person or persons, in respect of a named vessel, authorising the use of a scallop dredge within the specified scalloping area, subject to the provisions of this byelaw.
- (b) The owner of a vessel meeting all of the criteria specified in paragraph (c) or all of the criteria specified in paragraph (d) may make an application to the Authority for a scallop dredging permit in respect of that vessel.
- (c)
 - (i) The vessel is registered as a fishing vessel in accordance with Part II of the Merchant Shipping Act 1995 or in the Channel Islands or the Isle of Man and holds a valid current fishing licence issued by the appropriate United Kingdom Fisheries Department at the time the application is made.
 - (ii) The overall length of the vessel does not exceed 12 metres.
 - (iii) The engine power of the vessel does not exceed 221 kilowatts.

- (d) (i) The vessel is registered as a fishing vessel in accordance with Part II of the Merchant Shipping Act 1995 or in the Channel Islands or the Isle of Man and holds a valid current fishing licence issued by the appropriate United Kingdom Fisheries Department at the time the application is made.
- (ii) The overall length of the vessel does not exceed 18.3 metres.
- (iii) The engine power of the vessel does not exceed 400 kilowatts.
- (iv) The vessel possesses a track record of catching and landing a minimum of 500 kilograms of scallops within the District in any three month period prior to 31 December 2013.
- (v) The vessel owner has presented the vessel's track record to the Authority within three calendar months of the date of this byelaw coming into force. It is the vessel owner's responsibility to demonstrate the validity and accuracy of such a track record.

4. Transfer of track records

- (a) A track record may be transferred from a donor vessel to recipient vessel providing:
 - (i) the recipient vessel is of an equal or smaller overall length than the donor vessel;
 - (ii) the engine power of the recipient vessel is equal or smaller than that of the donor vessel; and
 - (iii) the ownership of the recipient vessel is the same as that of the donor vessel.
- (b) Any transfer of a track record must be notified to the Authority within one month of the transfer.
- (c) Transfer of a track record removes all of the track record from the donor vessel.
- (d) In the case of the sale of a donor vessel from which a track record has been transferred, the selling owner must inform the buyer of the vessel of the transfer of track record prior to the point of sale.

5. Application for scallop dredging permits

- (a) Scallop dredging permits will be valid from 1 November to 30 April the following year inclusive.
- (b) A fee of £500 will be charged by the Authority for each scallop dredging permit upon application and renewal only.
- (c) Each year, the Authority will determine the maximum number of scallop dredging permits (if any) to be issued, taking into account the specified scallop dredging area and the exploitable stock available. The Authority will publish on its website before or as soon

after 1st November as reasonably practicable, the maximum number of permits that will be issued.

- (d) Scallop dredging permits will be issued in accordance with the following process:
 - (i) If the number of applicants does not exceed the maximum number of available permits determined by the Authority in accordance with paragraph 5(c) then each eligible applicant will be issued a permit, subject to the provision of this byelaw.
 - (ii) If the number of applicants exceeds the maximum number of available permits determined by the Authority in accordance with paragraph 5(c) then permits will be issued to those vessels that can demonstrate the longest track record until the number of available permits has been fully allocated.
 - (iii) The outcome of each application will be confirmed in writing to the respective applicant and unsuccessful applicants will be given the opportunity to appeal the decision.
 - (iv) All appeals must be received by the Authority, in writing, with supporting evidence, within 21 days of the date the letter is sent confirming the original decision.
 - (v) Appeals will be considered by the Authority who will notify the appellant of the outcome within 7 working days of the respective hearing.
 - (vi) The appeal process will only consider the content of the written evidence provided by the appellant and that the correct procedure has been applied.
 - (vii) The Authority's decision is final.
- (e) The Authority retains the right to refuse to issue a permit until such time as any applicant makes available any outstanding information required for the issue of that permit, or outstanding information from a previous year required by paragraph 6 of this byelaw or receipt of the permit fee required by paragraph 5(b).
- (f) Scallop dredging permits are not transferable between vessels and can only be used by a person named in the scallop dredging permit and in conjunction with the vessel named in the scallop dredging permit.

6. **Monthly returns**

The holder of a scallop dredging permit must, by no later than the fifth day of each month, submit to the Authority information on catch of scallops in kilograms or tonnes (live weight) and active fishing time in hours for the previous month and any other information that the Authority deems necessary.

7. Suspension of scallop dredging permits

- (a) If the Authority considers it necessary it may suspend any scallop dredging permits issued for a specified period. In taking such a decision the Authority will consider:
 - (i) all available and current scientific and survey data;
 - (ii) internal scientific advice from within its membership;
 - (iii) any advice provided by the Centre for Environment, Fisheries and Aquaculture Sciences;
 - (iv) any advice provided by Natural England or other external authorities, organisations, persons or bodies as the Authority thinks fit;
 - (v) information from any other relevant source; and
 - (vi) representations from scallop dredging permit holders.
- (b) Prior notice of such action will be provided in writing to all permit holders and through publication on the Authority's website at least ten working days prior to any suspension taking effect.
- (c) Any representations must be lodged in writing to the Authority within five working days of the date of the original notice provided to permit holders.
- (d) Such representations will be considered by the Authority members in combination with the conditions listed in paragraph 10 and a final decision will be made.
- (e) Notification of the final decision, including suspension of permits will be made in writing to all permit holders and on the Authority's website within five working days of the final decision.
- (f) Such a suspension may apply to all or part of the specified scallop dredging area.

8. Seasonal Closure

A person must not use a scallop dredge between 1 May and 31 October of the same year inclusive.

9. Daily Closure

A person must not use a scallop dredge, on any day, before 07:00 hours, or after 19:00 hours.

10. Dredge Conditions

- (a) A person using a scallop dredge must comply with the relevant EC and national fisheries legislation.

- (b) A person must not use a scallop dredge which has its ring size, spaces between rings or netting mesh size of the retaining bag obstructed or otherwise reduced by any method.
- (c) A person must not use more than 10 scallop dredges from a single vessel at any one time.
- (d) Where multiple scallop dredges are used, a person must not use a towing bar to which scallop dredges are attached which is wider than five metres.
- (e) A person must not use a towing bar to which scallop dredges are attached which is extendable beyond five metres as measured between its extremities including all attachments.

11. Revocations

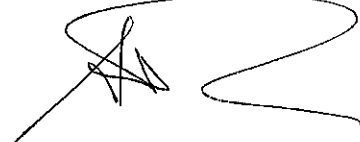
- (a) The byelaw with the title 'XXIII Method and Area of Fishing (Dredges) Byelaw' made by North Eastern Inshore Fisheries and Conservation Authority on 6 December 2012 in exercise of its power under section 155 and 156 of the Marine and Coastal Access Act 2009 in force immediately before the making of this byelaw is revoked.
- (b) The emergency byelaw with the title 'Emergency Byelaw for the Prohibition of Dredges for Fishing' made by North Eastern Inshore Fisheries and Conservation Authority on 2 February 2015 in exercise of its power under section 157 of the Marine and Coastal Access Act 2009 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 29 April 2015.



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 29 April 2015.



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

Date: 7th December 2015

Explanatory note

(This note is not part of the byelaw)

The intention of this byelaw is to protect the scallop stock within the District from over-exploitation and minimise the associated impact on the wider marine environment.

The byelaw limits scallop dredging by means of a restricted permit scheme with the following features-

- (a) a maximum vessel size (12 metres overall length) and engine power (221 kilowatts);
- (b) closed areas;
- (c) a maximum number of dredges of 10 per vessel;
- (d) a closed season (May to October inclusive);
- (e) a daily closure period (7pm to 7am); and,
- (f) a mandatory requirement for all scallop dredgers to operate an Automatic Identification System (AIS).

The permit scheme also includes a historical rights provision enabling larger vessels (up to a maximum size of 18.3m overall length and 400KW engine power) which could previously fish within the North Eastern Inshore Fisheries and Conservation District and can demonstrate a track record of doing so, to apply for permits.

Appendix 1 - Map showing the specified scallop dredging area

