

# **NORTH EASTERN INSHORE FISHERIES AND CONSERVATION AUTHORITY**

## **MARINE AND COASTAL ACCESS ACT 2009 (C.23)**

### **XVIII METHOD AND AREA OF FISHING (FIXED NETTING) BYELAW 2016**

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 fixed netting within that District.

#### **1. Interpretation**

In this byelaw;

- a) '5 metre depth contour line' means the line as specified on the most recent UKHO ADMIRALTY Standard Nautical Chart;
- b) '10 metre depth contour line' means the line as specified on the most recent UKHO ADMIRALTY Standard Nautical Chart;
- c) 'Area A (Whitby)'; 'Area B (Humber)'; 'Area C (Holderness)' and 'Area D (The Flamborough and Filey Coast pSPA)' have the meanings given to them in the Schedule;
- d) '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);
- e) 'Council Regulation 2004/812' means Council Regulation (EC) No 812/2004 laying down measures concerning incidental catches of cetaceans in fisheries (OJ L 186, 7.7.2006, p.60);
- f) '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;
- g) 'fixed net' means any net which is fixed or anchored in location to catch sea fish;
- h) 'intertidal' means landward of the Mean Low Water Spring (MLWS) mark and seaward of the mean high water spring (MHWS) mark as specified on the most recent UKHO ADMIRALTY Standard Nautical Chart;
- i) 'intertidal permit' means a permit issued by the Authority in accordance with paragraph 3(a);
- j) 'permit' means an intertidal permit or a subtidal permit;
- k) 'registered fishing vessel' means a fishing vessel registered in accordance with the Merchant Shipping Act 1995 (c.21) or in the Channel Islands or the Isle of Man, and which holds a current fishing licence issued by the appropriate UK fisheries department;

- l) 'salmonid' means a fish of the species either *Salmo salar* or *Salmo trutta*;
- m) 'sea fish' means fish of any description found in the sea including shellfish but does not include salmonids or freshwater fish;
- n) 'subtidal' means seaward of the Mean Low Water Spring (MLWS) mark as specified on the most recent UKHO ADMIRALTY stand Nautical Chart;
- o) 'subtidal permit' means a permit issued by the Authority in accordance with paragraph 3(b);
- p) 'surface marker' means a pole fitted with a flotation device and held upright in the water by a weight, with a minimum height of 1.5 metres from the water surface carrying at least one flag with the dimensions of 30 cm by 30 cm;
- q) 'UKHO' means the United Kingdom Hydrography Office;
- r) All dates shown are inclusive.

## **2. Prohibitions**

- (a) A person must not fish or place fixed nets within Area A (Whitby) or Area B (Humber).
- (b) A person must not fish or place fixed nets within Area C (Holderness), unless they hold a permit and are complying with the conditions detailed in paragraphs 4 and 5.
- (c) A person must not fish or place fixed nets within Area D (The Flamborough and Filey Coast pSPA) between 1 March and 30 September.
- (d) A person must not fish or place fixed nets within the remainder of the District unless they comply with the conditions detailed in paragraph 4.

## **3. Permits**

- (a) The Authority may issue an intertidal permit to a person to authorise fishing or placing of fixed nets in the intertidal part of Area C (Holderness).
- (b) The Authority may issue a subtidal permit to a person to authorise fishing or placing of fixed nets in the subtidal part of Area C (Holderness).

## **4. Conditions – General**

- (a) Fixed nets must be checked and cleared at least once every 24 hours.

- (b) Fixed nets must be clearly marked at each end by a surface marker, displaying the port letters and numbers of the vessel from which it was deployed.
- (c) Fixed nets must not be placed landward of the 5 metre depth contour line between 1 November and 25 March and have a minimum head rope clearance of 4 metres or deeper at any state of tide.
- (d) Fixed nets must not be placed landward of the 10 metre depth contour line between 26 March and 31 October and must have a minimum head rope clearance of 4 metres or deeper at any state of tide, except if in accordance with paragraphs 4e.
- (e) Fixed nets may be placed seaward of the 5 metre depth contour between 1 April and 31 August providing they comply with the following conditions:
  - (i) the net is only placed or used by a registered fishing vessel;
  - (ii) the net is constructed of a single sheet of unarmoured netting;
  - (iii) the net has mesh size equal or greater than 100 millimetres;
  - (iv) the net is no taller than 1 metre in height;
  - (v) the net is fixed to the sea bed and set in such a way that the foot rope is in permanent contact with the sea bed along its entire length;
  - (vi) the net is not placed within 50 metres of any other net or trap;
  - (vii) the combined length of nets is a maximum of 500 metres.
  - (viii) surface markers are used at either end of each net.
- (g) A person using a vessel other than a registered vessel must not place a fixed net within the District, unless the net is set seaward of the 10 metre depth contour and in accordance with the conditions specified in paragraph 4 of Byelaw XXII. Permit to fish for lobster, crab, velvet crab and whelk.

## **5. Area C (Holderness) – General Conditions**

- (a) Any fixed net placed in Area C (Holderness) must display a tag issued by the Authority.
- (b) Permit holders must report all salmonid, cetacean or bird mortalities, attributed to their fixed nets, to the Authority within 24 hours.
- (c) All fixed nets placed within Area C (Holderness) between 1 October and 30 April must comply with the following conditions:
  - (i) each net is constructed of a single sheet of unarmoured netting;
  - (ii) the mesh size of each net must be equal to or greater than 100 millimetres;
  - (iii) for intertidal permit holders a maximum of 3 nets may be fished, up to a combined length of 250 metres;

- (iv) for subtidal permit holders a maximum of 4 nets may be fished, up to a combined length of 400 metres.
- (d) The holder of an intertidal permit may fish or place a fixed net within Area C (Holderness) between 1 May and 30 June providing they comply with the following conditions:
  - (i) the net is constructed of a single sheet of unarmoured netting;
  - (ii) the net is no longer than 100 metres length;
  - (iii) the net has mesh size equal or greater than 100 millimetres;
  - (iv) the net is no taller than 1 metre in height;
  - (v) the net is fixed to the sea bed and set in such a way that the foot rope is in permanent contact with the sea bed along its entire length;
  - (vi) the net is not placed within 50 metres of any other net or trap.
- (e) A person must not fish or place any fixed net within Area C (Holderness) between 1 July and 30 September.

## **6. Area C (Holderness) - Permit Applications**

- (a) An applicant may only apply for one type of permit via a form on the Authority website.
- (b) A maximum of five intertidal permits and five subtidal permits will be issued per calendar year.
- (c) If the number of applicants for each permit type does not exceed the maximum number of available permits of each type then each applicant will be issued with the permit they applied for, subject to the provisions of this byelaw.
- (d) If the number of applicants for each permit type exceed the number of available permits of each type then applications will be assessed against the following criteria in order of priority as follows:
  - (i) the applicant has previously held a valid fishing permit to fish in Area C (Holderness);
  - (ii) the applicant can demonstrate a historical track record and knowledge of fishing within Area C (Holderness);
  - (iii) the applicant can demonstrate a historical track record of catching fish using fixed nets.
- (e) 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.
- (f) All appeals must be received by the Authority, in writing, with supporting evidence, within 21 days of the date of the letter confirming the original decision.

- (g) Appeals will be considered by the Authority's Executive Committee who will notify the applicant of the outcome within 7 days of the respective hearing.
- (h) The appeal process will only consider the content of the written evidence provided by the applicant and that the correct procedure has been applied to permit allocation.
- (i) The decision of the Authority's Executive Committee is final.
- (j) Permits are valid from 1 October to 30 June (both dates inclusive).
- (k) Subtidal fishing permits may only be used from a registered fishing vessel of less than 10 metres overall length.
- (l) Permits are not transferable between individuals.
- (m) A fee of £500 will be charged by the Authority for each successful permit upon application.
- (n) The Authority retains the right to refuse to issue a permit until such time as any applicant makes available any outstanding application information required for the issue of that permit, or outstanding catch return information from a previous year or receipt of the permit fee required by paragraph 5(m).

## **7. Permit Suspension**

- (a) A permit may be suspended by the Authority at any time for a specified period.
- (b) In deciding whether to suspend a permit the Authority may consider:
  - (i) all available and current scientific and survey data;
  - (ii) internal scientific advice from within its membership;
  - (iii) representation from the Environment Agency on salmonid by-catch;
  - (iv) advice provided by the Centre for Environment, Fisheries and Aquaculture Science;
  - (v) advice provided by the Department for the Environment, Food and Rural Affairs or other external authorities, organisations, persons or bodies as the Authority thinks fit;
  - (vi) information from any other relevant source;
  - (vii) representations from fishing permit holders.
- (c) Prior notice of permit suspension will be provided in writing to the permit holder and through publication on the Authority's website at least ten working days prior to any suspension taking effect.

- (d) Any representations must be lodged in writing to the Authority within five working days of the date of the original notice provided to the permit holder.
- (e) Notification of the final decision, including suspension of the permit will be made in writing to the permit holder and on the Authority's website within five working days of the final decision.

**8. Area C (Holderness) Emergency Permit Suspension**

- (a) Where the Authority considers that there is an urgent need for an immediate permit suspension, including non-compliance with the provisions contained within paragraphs 4 and 5, the Authority may suspend permits without completing the steps set out in paragraph 6.
- (b) Where an immediate permit suspension is invoked a written notice will be sent to the permit holder 24 hours prior to it taking effect. The notice will explain the reason for and duration of the suspension.

**I hereby certify that the above Byelaw was made by the Authority at its meeting on 27 April 2016.**

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 27 April 2016.**

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

**Date:**

## Schedule

### Definition of areas

1. 'Area A' (Whitby) means those tidal waters and parts of the sea bounded by the following:

Area a i) on the east by a straight line drawn  $327^{\circ}$  True direction from Old Nab (position  $54^{\circ} 33.48'$  North,  $000^{\circ} 46.30'$  West); and on the west by a straight line drawn  $036^{\circ}$  True direction from Cowbar Nab, near Staithes (position  $54^{\circ} 33.65'$  North,  $000^{\circ} 47.37'$  West);

Area a ii) on the east by a straight line drawn from Whitby Highlight (position  $54^{\circ} 28.68'$  North,  $000^{\circ} 34.00'$  West) to Whitby Bell Buoy (position  $54^{\circ} 30.32'$  North,  $000^{\circ} 36.50'$  West); and on the west by a straight line drawn  $240^{\circ}$  True direction from Whitby Bell Buoy to the land (position  $54^{\circ} 29.70'$  North,  $000^{\circ} 38.30'$  West);

2. 'Area B' (Humber) means those tidal waters and parts of the sea in the District within the River Humber upstream of a straight line drawn between Spurn Head Light House (position  $53^{\circ} 34.49'$  North,  $000^{\circ} 06.65'$  East) and Haile Sand Fort (position  $53^{\circ} 32.09'$  North,  $000^{\circ} 01.82'$  East) including an area bounded by the following unbroken lines:

(a) to the west by a line drawn between Spurn Head Light House (position  $53^{\circ} 34.49'$  North,  $000^{\circ} 06.65'$  East) and Haile Sand Fort (position  $53^{\circ} 32.09'$  North,  $000^{\circ} 01.82'$  East);

(b) to the north by a line drawn from Spurn Head Light House (position  $53^{\circ} 34.49'$  North,  $000^{\circ} 06.65'$  East) to Spurn Light Float (position  $53^{\circ} 33.50'$  North,  $000^{\circ} 14.33'$  East);

(c) to the east by a line drawn  $211^{\circ}$ T from Spurn Light Float (position  $53^{\circ} 33.50'$  North,  $000^{\circ} 14.33'$  East); and,

(d) to the south, intersected by a line drawn True East from Haile Sand Fort (position  $53^{\circ} 32.09'$  North,  $000^{\circ} 01.82'$  East).

3. 'Area C' (Holderness) means those tidal waters within the District which lie inside the 5 metre depth contour line and between:

(a) a line drawn true east from Flamborough Head Lighthouse (position  $54^{\circ} 07.09'$  North,  $000^{\circ} 05.10'$  West); and

(b) a line drawn true east from Withernsea Light (position  $53^{\circ} 43.88'$  North,  $000^{\circ} 01.70'$  East).

4. 'Area D' (The Flamborough and Filey Coast pSPA) means the areas bounded by the following points:

**Area 1 (Filey)**

54° 14.00' North, 000° 18.916' West;  
54° 14.649' North, 000° 20.7' West;  
54° 15.716' North, 000° 19.666' West;  
54° 13.633' North, 000° 13.55' West;  
54° 12.216' North, 000° 13.433' West;  
54° 11.433' North, 000° 16.55' West;  
54° 12.933' North, 000° 16.533' West.

**Area 2 (Flamborough)**

54° 13.633' North, 000° 13.55' West;  
54° 10.533' North, 000° 15.5' West;  
54° 11.15' North, 000° 13.933' West;  
54° 09.016' North, 000° 04.933' West;  
54° 09.016' North, 000° 02.45' West;  
54° 07.383' North, 000° 02'883' West;  
54° 04.95' North, 000° 05'683' West;  
54° 05.016' North, 000° 08.35' West;  
54° 06.05' North, 000° 09.033' West;  
54° 06.166' North, 000° 07.15' West.

5. All coordinates used in this byelaw are derived from WGS84 datum, where `WGS 84` means the World Geodetic System, revised 1984.

## **Explanatory Note**

*(These notes do not form part of the byelaw)*

The purpose of this byelaw is to protect both developing sea fish stocks such as sea bass and vulnerable migratory species from overexploitation through the appropriate management of intertidal and inshore fixed netting activity. The provisions contained within the byelaw will also reduce the risks of cetaceans and seabirds being caught in fixed nets set for sea fish.

These functions are supported through the designation of management areas, restrictions in the type and period of the year when fixed nets are set, the requirement that all fixed nets carry an acoustic deterrent device and the establishment of a permitting scheme for fixed netting along the Holderness coast of East Yorkshire.

## **Summary of Provisions**

### **Area A – Whitby**

All fixed netting is prohibited.

### **Area B – Humber**

All fixed netting is prohibited.

### **Area C – Holderness (within the 5 metre depth contour)**

Fixed netting is only permitted under a permit issued by the Authority and in accordance with conditions set out in paragraph 6 of the byelaw.

### **Area D – Flamborough and Filey Coast pSPA**

All fixed netting is prohibited from 1 March to 30 September (inclusive).