

Agenda Item 5e

North Western Inshore Fisheries and Conservation Authority

Marine and Coastal Access Act 2009 (c.23)

Byelaw Netting Permit Byelaw 2021

The Authority for the North Western Inshore Fisheries and Conservation District in exercise of its powers under sections 155 and 156 of the Marine and Coastal Access Act 2009 makes the following byelaw for that District.

Interpretation

1) In this Byelaw:

- a) “the Authority” means the North Western Inshore Fisheries and Conservation Authority as defined in articles 2 and 4 of the North Western Inshore Fisheries and Conservation Order 2010 (S.I. 2010 No. 2200);
- b) “fishing” includes searching for sea fisheries resources, shooting, setting, towing, hauling of fishing gear, and taking sea fisheries resources on board;
- c) “net” means any type of net other than:
 - (i) Any net that forms part of a dredge, trawl or similar device that is designed to be towed, or pushed by a vessel or mechanical device to take any sea fisheries resources;
 - (ii) Any net which forms part of any folding or rigid cage device or structure with one or more entrances capable of capturing and sea fisheries resources;
 - (iii) A landing net when used in conjunction with fishing by rod and line or by trolling a line;
- d) “permit” means:
 - i) a Category One Permit issued under paragraph 4 of this byelaw; or
 - ii) a Category Two Permit issued under paragraph 5 of this byelaw;
- e) “relevant fishing vessel” means a fishing vessel:
 - a) Registered in accordance with Part II of the Merchant Shipping Act 1995 (c.21) and the regulations made under that Act, or registered in the Channel Islands or Isle of Man; and
 - b) In respect of which a fishing licence issued under the Sea Fish (Conservation) Act 1967 (c.84) is held at the time of the application for a permit under this byelaw;
- f) “tag” means a tag issued by the Authority for attachment to a net and which contains details of the applicable permit;
- g) “vessel” means a ship, boat, raft or watercraft of any description and includes non-displacement craft, personal watercraft, seaplanes, hovercraft, amphibious vehicles and any other thing constructed or adapted for floating on or being submerged in water (whether permanently or temporarily) which can be used as a means of transportation on water;

Prohibitions and Restrictions

- 1) A person must not use a net for fishing unless in accordance with a permit;
- 2) A person must not fish in the areas listed in the schedule between 1st May and 30th November each year;
- 3) A person must not carry a net on board a vessel unless the net is inboard, lashed and stowed.

Exceptions

- 4) This byelaw does not apply to a person performing an act which would otherwise constitute an offence against this byelaw, if that act was carried out in accordance with a written permission issued by the Authority permitting that act for scientific, stocking or breeding purposes.
- 5) Paragraph 6 does not apply to a person acting in accordance with a valid Potting Permit.

Category One Permit

- 6) The Authority may issue a permit authorising a person to use nets to fish for from a relevant fishing vessel (a Category One Permit).
- 7) An application for a Category One Permit may only be made by the owner of a relevant fishing vessel using the printed forms available from the Authority's office and website.
- 8) Category One permits may be subject to restrictions as described in the flexible permit conditions.
- 9) Where the Authority issues a Category One Permit the Authority will at the same time issue a permit sticker. Gear tags and tag applicator will also be issued if tagging of nets is required under the Flexible Permit Conditions.
- 10) A Category One Permit, permit sticker, gear tags:
 - a) are issued to the owner of the named relevant fishing vessel, or in the case of shared ownership, to all owners of that vessel ("the permit holder");
 - b) are valid for the period 1st October to 30th September the following year. Upon confirmation of the byelaw the first permit shall be valid for the remainder of the first 12 months to 30th September, and to the 30th September in the subsequent year;
 - c) cannot be resold;
 - d) are not transferrable between:
 - (i) the permit holder and another person; or,
 - (ii) the named vessel to another named vessel.
 - e) shall remain the property of the Authority and must be surrendered to the Authority immediately if no longer required.

- 11) Paragraph 10(d)(ii) shall not apply if the ownership of the recipient vessel is the same as that of the donor vessel, subject to any Flexible Permit Conditions in force at the time of transfer. In such case the permit must be returned to NWIFCA for administrative changes to be made.
- 12) A Category One Permit holder may nominate a named representative(s) at any time in writing to the Authority to use the permit from the permitted vessel.
- 13) A Category One Permit holder, when nominating a named representative(s) at any time other than at the time of the permit application, must:
 - (a) make the nomination in writing; and
 - (b) receive approval from the Authority prior to the named representative(s) fishing under the authority of the permit issued to the permit holder.

Category Two Permits

- 14) The Authority may issue a permit authorising the use of nets to fish (a 'Category Two Permit') to:
 - (a) the owner of a named vessel that is not a relevant fishing vessel;
 - (b) a named person without a vessel.
- 15) An application for a Category Two Permit may be made by any person using the printed forms available from the Authority's office and website.
- 16) Only one Category Two Permit will be issued per person.
- 17) Where the Authority issues a Category Two Permit the Authority will at the same time issue a permit sticker and gear tags.
- 18) A Category Two Permit, permit sticker and gear tags:
 - a) are issued to the applicant ("the permit holder");
 - b) are valid for the period 1st October to 30th September the following year. Upon confirmation of the byelaw the first permit shall be valid for the remainder of the first 12 months to 30th September, and to the 30th September in the subsequent year;
 - c) cannot be sold;
 - d) are not transferrable between the permit holder and another person; and,
 - e) remain the property of the Authority and must be surrendered to the Authority immediately if no longer required.

General Permit Conditions

- 19) The fee for a permit and permit sticker and gear tags if in force, is payable prior to issue as specified below, unless varied pursuant to paragraph 28:

Type of Permit	Annual Fee per permit (£)	Includes if required under permit or flexible permit conditions

Category One	???	One set of gear tags, one applicator, and replacement of one lost or damaged permit sticker.
Category Two	??	One set of gear tags, one applicator, and replacement of one lost or damaged permit sticker.

- 20) The Authority may vary permit fees in accordance with the following conditions and procedures:
- (a) the Authority will consult in writing with permit holders;
 - (b) the fee will not be changed for any permit already issued;
 - (c) the Authority will make a decision whether to vary the permit fee based upon:
 - i. the responses from the consultation under paragraph 28 (a);
 - ii. expenditure arising from the fishery regulatory costs required by the Authority;
 - iii. any regulatory impact assessments associated with this byelaw;
 - iv. Authority expenditure to conduct any research, monitoring, survey and enforcement activities that support the implementation of potting permits under this byelaw;
 - v. Authority costs associated with arranging and attending meetings with permit holders;
 - vi. any relevant Authority expenditure incurred by implementation of this byelaw.
- 21) A permit holder must not use a net to fish for a specified species unless the net is of a design defined in the flexible permit condition.
- 22) Any vessel used in accordance with the byelaw shall clearly display the permit sticker with the number issued with the permit, and shall not be used to haul pots not marked with that number, and neither shall any vessel used in accordance with the byelaw display more than one permit sticker.
- 23) The site of a net set in shall be marked at each end by either a dahn or a buoy. Nets set individually shall each be marked by either a dahn or a buoy.
- 24) All dahns and buoys used under a Category One permit shall be legibly marked with the Port Letter and Number (PLN) of the permitted vessel. All dahns and buoys used under a Category Two permit shall be legibly marked with the permit number.
- 25) When using a dahn each flag must be at least one metre above the surface of the sea.
- 26) When gear is marked with buoys only, all buoys must be red, yellow or orange with a minimum circumference of 84 cm.

- 27) Correct marking of gear must be maintained during any period the pots are in the water.
- 28) A net set under a permit of this byelaw shall be set in a manner that it does not interfere with migratory fish species.
- 29) A permit holder must comply with a reasonable request of an IFCA Officer and must not obstruct an IFCA Officer in carrying out their relevant function.
- 30) A permit holder must file with the Authority, no later than the 15th day of the month following, information as required by the Authority on catches and fishing effort for the previous month by fully completing the correct forms available from the Authority's offices or website. Nil returns will be required by the Authority. Permits will be suspended by the Authority until returns have been filed.
- 31) A permit holder must notify the Authority of any change in the information provided to obtain a permit during the period when the permit is valid.

Category One Permit Conditions

- 32) The vessel named on a Category One Permit must remain a relevant fishing vessel for the duration of the permit.
- 33) The permit holder or the named representative(s) of the permit holder must be present on board the vessel during the permitted activity to use the permit.

Category Two Permit Conditions

- 34) A permit holder must not use an aggregate of more than 100m of net
- 35) A permit holder must not set a net that:
 - (a) is not fitted with a tag issued by the Authority; or
 - (b) is fitted with a tag that has previously been notified to the Authority as lost.
- 36) To obtain a set of replacement tags in the event that a tag is lost, the permit holder must submit a written request to the Authority.
- 37) If a lost tag is subsequently found by the permit holder it must be returned within 48 hours to the Authority.

Flexible Permit Conditions

- 38) The Authority may introduce, remove or vary a flexible permit condition which falls within one or more of the following categories:
 - (a) catch restrictions;
 - (b) bait restrictions;
 - (c) technical measures and gear restrictions;

- (d) spatial restrictions;
 - (e) time restrictions;
 - (f) number of permits issued.
- 39) The Authority may introduce, remove or vary a flexible permit condition in accordance with the review procedure set out in paragraphs 51 and 52.
- 40) The flexible permit conditions that apply to a permit until the first review pursuant to paragraphs 51 and 52 are those set by the Authority taking into account the impact assessment that accompanies this byelaw and all other material considerations.

Review Procedure

51. The Authority will review flexible permit conditions no less than once every three years as follows:
- (a) the Authority will 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 changes in permit conditions;
 - (c) the Authority will decide whether to add, vary or remove any permit condition taking account of the consultation responses and information received in accordance with paragraph 51(a);
 - (c) following a decision by the Authority, permit holders will be notified in writing and permits will be amended as necessary with no charge.
52. The information used in Flexible Permit Condition reviews will include one or more of the following:
- (a) information and returns data received from permit holders;
 - (b) scientific and survey information gathered by the Authority or provided to the Authority by any other organisations or persons as the Authority thinks fit;
 - (c) advice provided by Centre for Environment Fisheries and Aquaculture Science or Natural England or any other organisations or persons as the Authority thinks fit;
 - (d) an impact assessment of any proposed changes;
 - (e) information from any other relevant source.

Breach of Permit Condition

53. A failure to comply with a:
- (a) general permit condition (within paragraphs 27 to 38);
 - (b) Category One Permit condition (within paragraphs 39 to 41);

- (c) Category Two Permit condition (within paragraphs 42 to 47); or
- (d) flexible permit condition attached to a permit in accordance with paragraphs 48 to 50;

constitutes a contravention of this byelaw.

Revocation

- 54. The Byelaw with the title “NWSFC Byelaw 7 - Mesh Sizes – Nets Other than Trawl Nets” made by North Western Sea Fisheries Committee on 6 September 1989 in exercise of their power under sections 5 and 5A of the Sea Fisheries Regulation Act 1966 and confirmed on XXXX and in force immediately before making this byelaw is hereby revoked.
- 55. The Byelaw with the title “NWSFC Byelaw 10 – Set and Drift Nets” made by North Western Sea Fisheries Committee on 9 July 1985 in exercise of their power under sections 5 and 5A of the Sea Fisheries Regulation Act 1966 and confirmed on XXXX and in force immediately before making this byelaw is hereby revoked.
- 54. The Byelaw with the title “NWSFC Byelaw 11 – Marking of Fishing Gear and Keep Pots” made by North Western Sea Fisheries Committee on 22 August 2003 in exercise of their power under sections 5 and 5A of the Sea Fisheries Regulation Act 1966 and confirmed on XXXX and in force immediately before making this byelaw is hereby revoked.
- 56. The Byelaw with the title “NWSFC Byelaw 26 – Fixed Engines – Prohibitions and Authorisations (England)” made by North Western Sea Fisheries Committee on 10 March 2011 in exercise of their power under sections 5 and 5A of the Sea Fisheries Regulation Act 1966 and confirmed on XXXX and in force immediately before making this byelaw is hereby revoked.
- 57. The Byelaw with the title “NWSFC Byelaw 27 – Mobile Nets – Prohibitions and Authorisations (England)” made by North Western Sea Fisheries Committee on 12 November 1996 in exercise of their power under sections 5 and 5A of the Sea Fisheries Regulation Act 1966 and confirmed on XXXX and in force immediately before making this byelaw is hereby revoked.
- 54. The Byelaw with the title “CSFC Byelaw 4 – Marking and Siting of Fixed Nets, Traps, Pots and Lines” made by Cumbria Sea Fisheries Committee on 16 April 1983 in exercise of their power under sections 5 and 5A of the Sea Fisheries Regulation Act 1966 and confirmed on XXXX and in force immediately before making this byelaw is hereby revoked.
- 55. The Byelaw with the title “CSFC Byelaw 10 – Fixed Engine Fishery” made by Cumbria Sea Fisheries Committee on 10 March 2011 in exercise of their power under sections 5 and 5A of the Sea Fisheries Regulation Act 1966 and confirmed on XXXX and in force immediately before making this byelaw is hereby revoked.

I hereby certify that the North Western Inshore Fisheries and Conservation Authority “BYELAW ? – Netting Permit Byelaw” was made by the North Western Inshore Fisheries and Conservation Authority at their meeting on DATE.

Dr Stephen Atkins
Chief Executive Officer
North Western Inshore Fisheries and Conservation Authority
1 Preston Street, Carnforth, Lancashire LA5 9BY

The Secretary of State for Environment, Food and Rural Affairs in exercise of the powers conferred by section 155(3) and (4) of the Marine and Coastal Access Act 2009, confirms the "BYELAW ? – Netting Permit Byelaw" made by the North Western Inshore Fisheries and Conservation Authority on DATE.

Schedule

Areas of NWIFCA district prohibited for fishing between DATE & DATE

Area 1 - River Ellen, Maryport

East of line drawn from Lat/Long to Lat/Long

Area 2 - River Derwent, Workington

Area 3 - The Rivers Ehen and Calder, Sellafield

Area 4 - The Rivers Irt, Mite and Esk, Ravenglass

Area 5 – Duddon Estuary

Area 6 – Leven Estuary

Area 7 – Kent Estuary

Area 8 – Keer Estuary

Area 9 – Lune Estuary

Area 10 – Wyre Estuary

South of a line drawn from Lat/Long to Lat/Long

Area 11 – Ribble Estuary

Area 12 – River Mersey

Area 13 – River Dee