

EASTERN INSHORE FISHERIES AND CONSERVATION AUTHORITY

MARINE AND COASTAL ACCESS ACT 2009

Marine Protected Areas Byelaw 2016

The Authority for the Eastern Inshore Fisheries and Conservation District in exercise of the powers conferred by sections 155 and 156 of the Marine and Coastal Access Act 2009 makes the following byelaw for that District.

Interpretation

1. In this byelaw and associated Regulatory Notices:

- a) 'the Authority' means the Eastern Inshore Fisheries and Conservation Authority as defined in Articles 2 and 4 of the Eastern Inshore Fisheries and Conservation Order 2010 (SI 2010/2189);
- b) 'the District' means the Eastern Inshore Fisheries and Conservation District as defined in Articles 2 and 3 of the Eastern Inshore Fisheries and Conservation Order 2010;
- c) 'Regulatory Notice' means a notice issued by the Authority in accordance with this byelaw;
- d) 'fishing' includes:
 - (i) digging for bait;
 - (ii) shooting, setting, towing and hauling of fishing gear;
 - (iii) gathering sea fisheries resources by hand or by using a hand operated implement;
 - (iv) catching, taking or removing sea fisheries resources; and fish shall be construed accordingly;
- e) 'fishing gear' includes: any nets, pots, ropes, anchors, surface markers, lines, dredges, grabs, rakes or other implements used or deployed during fishing;
- f) 'management measures' means any of the measures as listed in paragraph 3.
- g) 'marine protected area' means a site of the following type insofar as they exist in the sea
 - (i) a site of special scientific interest, within the meaning of Part 2 of the Wildlife and Countryside Act 1981 (c.69);
 - (ii) a national nature reserve declared in accordance with section 35 of that Act;
 - (iii) a Ramsar site, within the meaning of section 37A of that Act;
 - (iv) a European marine site, within the meaning of paragraph 4 of regulation 8 of the Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490);

(v) A marine conservation zone designated under section 116 of the Marine and Coastal Access Act 2009 (c.23);

h) 'restricted area' means an area, within or adjacent to a marine protected area, defined within a Regulatory Notice and for which a management measure has been introduced by that Regulatory Notice.

Regulatory Notices

2. In order to further the conservation objectives of a Protected Area, the Authority may issue a Regulatory Notice in relation to fishing within a Restricted Area in accordance with the procedure outlined in paragraph 7.
3. A Regulatory Notice may impose any of the following management measures within a Restricted Area:
 - a) restriction or prohibition of all fishing;
 - b) restriction or prohibition of specified fishing gear types or methods of fishing:
 - i. towed fishing gear;
 - ii. dredges;
 - iii. pots and traps;
 - iv. all netting including fixed, drift and seine;
 - v. all fishing lines;
 - vi. commercial diving;
 - vii. bait collection;
 - viii. crab tiling;
 - ix. intertidal hand working;
 - c) restriction or prohibition of fishing during specified periods;
 - d) restriction or prohibition of fishing using fishing gear of a specified description;
 - e) limitation of fishing effort;
 - f) restriction or prohibition of fishing using vessels of a specified description.

In this paragraph and paragraphs 5 and 6 'specified' means specified in the Regulatory Notice.

4. A Regulatory Notice must specify:
 - a) the marine protected area in which the Regulatory Notice applies;
 - b) the feature for protection by the Regulatory Notice;
 - c) the co-ordinates of the Restricted Area;
 - d) the date from which the Regulatory Notice takes effect;
 - e) the latest date for the Regulatory Notice to be reviewed;
 - f) the date on which the Regulatory Notice expires if there is to be an expiry date.
5. Where a Regulatory Notice contains a provision which restricts or prohibits fishing using fishing gear of a specified description in a Restricted Area a person must not carry any such fishing gear on board a vessel in that Restricted Area unless:
 - a) it is stored in such a way that use cannot readily be made of it for any purpose; or
 - b) there is an exemption to the requirement for fishing gear to be stored in such a way that use cannot readily be made of it for any purpose specified within the Regulatory Notice.

6. Any exemptions to the management measures set out in a Regulatory Notice will be specified in that notice.

Procedure

7. The procedure for issuing, varying or revoking a Regulatory Notice includes the Authority taking the following steps:
 - a) acquisition of relevant available evidence including:
 - i. scientific and survey data, and scientific advice provided by the Authority, the Centre for Environment, Fisheries and Aquaculture Science or such other persons as the Authority thinks fit;
 - ii. advice given by Natural England or other external authorities, organisations, persons or bodies as the Authority thinks fit; and
 - iii. information from any other relevant source.
 - b) consultation by such methods as the Authority considers appropriate, with such stakeholders, organisations and persons as appear to the Authority to be representative of the interests likely to be substantially affected by any restriction or prohibition;
 - c) undertaking an impact assessment on the introduction of a Regulatory Notice; and
 - d) consideration by the Authority of all information arising from subparagraphs (a) to (c) above.
8. The Authority will review a Regulatory Notice as specified in the Regulatory Notice or sooner and in any case no less frequently than every four years from the date the Regulatory Notice takes effect.
9. The review of a Regulatory Notice will be in accordance with a formal operational procedure agreed by the Authority and includes:
 - a) The steps set out at sub-paragraphs 7 (a) and (b) above and where a variation of the Regulatory Notice is being considered the steps set out at sub-paragraph 7 (c);
 - b) Consideration by the Authority of all the information arising from sub-paragraph 9 (a).
10. The decision of the Authority to issue, maintain, vary or revoke a Regulatory Notice will be published using relevant media.

Application

11. Contravention of a provision of a Regulatory Notice constitutes a contravention of this byelaw.
12. This byelaw does not apply to any person performing an act which would otherwise constitute an offence against this byelaw, if that act was carried out in exercise of any right of common held by that person.

Revocations

13. The byelaw with the title "Protected Areas Byelaw" made by the Authority on 18 September 2013 and in force immediately before the making of this byelaw is revoked.

Explanatory Note

(This note does not form part of the byelaw)

This byelaw enables the Authority to provide protection to sensitive marine habitats and species, in a manner that seeks to balance the needs of inshore fisheries and local socio-economic considerations with the requirement to secure a sustainable marine environment.

This Byelaw introduces flexibility in the way that the Authority manages inshore fisheries and will support the achievement of conservation objectives in marine protected areas. This Byelaw enables the Authority to issue Regulatory Notices to restrict or prohibit fishing where this is necessary (paragraphs 2 to 6). The Byelaw also sets out a procedure for issuing, varying and revoking a Regulatory Notice (paragraphs 7 to 10).

The introduction and review of Regulatory Notices will be undertaken in accordance with formal operational procedures set out by the Authority. All decisions relating to Regulatory Notices will be undertaken by the Authority or a properly constituted sub-committee in meetings that are open to the public and conducted in accordance with the Authority's Constitution and Standing Orders. Regulatory Notices will be reviewed in accordance with the review date set at the time that the notice is made or upon receipt of evidence that in the opinion of the Authority warrants an earlier review.

The areas where the byelaw has effect include any area within the District which has been designated, confirmed or notified under associated legislation for reasons of conservation or environmental protection and adjacent areas.

Paragraph 12 of this Byelaw specifically preserves personal "rights of common". These are particular specialised and defined rights held by "commoners" in respect of registered "common land". "Rights of Common" relate only to registered common land and this Byelaw retains full force and effect against all other persons, including those exercising their common law right of fishery and any person exercising a private or several right of fishery. If you have any doubts about the applicability of this Byelaw to you, you should seek guidance from the Authority before fishing for or taking any sea fisheries resources.