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STATUTORY INSTRUMENTS

2024 No. 1211

SEA FISHERIES, ENGLAND

SHELLFISH

The Thames Estuary Cockle Fishery (No. 2) Order 2024

Made - - - - - *22nd November 2024*

Laid before Parliament *25th November 2024*

Coming into force in accordance with article 1(b)

The Kent and Essex Inshore Fisheries and Conservation Authority (“the Authority”) has made an application to the Secretary of State in accordance with section 1(2) of the Sea Fisheries (Shellfish) Act 1967(a) (“the Act”) for an Order conferring a right of regulating a fishery.

The Secretary of State has prepared a draft Order and served a copy of it on the Authority in accordance with paragraph 1 of Schedule 1 to the Act.

The Authority has caused printed copies of the draft Order to be published and circulated, and has given notice of the application, in accordance with paragraph 2 of Schedule 1 to the Act.

The Secretary of State has considered the objections and representations made in respect of the draft Order, in accordance with paragraphs 3 and 6 of Schedule 1 to the Act and considers that it is expedient to make this Order.

The Secretary of State, in exercise of the powers conferred by sections 1, 3(1), 4(2) and (4) of, and Schedule 1 to, the Act, makes the following Order.

Citation, commencement and extent

1. This Order—

- (a) may be cited as the Thames Estuary Cockle Fishery (No. 2) Order 2024;
- (b) comes into force—

(a) 1967 c. 83. Section 1 of the Act was amended by sections 202(1) to (3), and 203 of the Marine and Coastal Access Act 2009 (c. 23); section 15(1) and (2) of the Sea Fisheries Act 1968 (c. 77); section 1 of the Sea Fisheries (Shellfish) (Amendment) Act 1997 (c. 3); and section 9(1) of, and paragraph 15 of Schedule 2 to, the Fishery Limits Act 1976 (c. 86). The Act is to be read with section 15(3) to (5) of the Sea Fisheries Act 1968. Schedule 1 to the Act was amended by section 15(7) of the Sea Fisheries Act 1968. The functions of the appropriate Minister as defined in section 22(1) of the Act, by virtue of article 2(2) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794) the functions of the Minister were transferred to the Secretary of State.

- (i) as regards articles 1 and 14, immediately before 4th December 2024;
- (ii) otherwise, on 18th December 2024; and
- (c) extends to England and Wales.

Interpretation

2. In this Order—

“the Act” means the Sea Fisheries (Shellfish) Act 1967;

“the application window” means the period prescribed by the Authority in which an application for a licence or transitional period licence must be submitted;

“the Authority” means the Kent and Essex Inshore Fisheries and Conservation Authority established under section 149 of the Marine and Coastal Access Act 2009^(a) and as defined in articles 2 and 4 of the Kent and Essex Inshore Fisheries and Conservation Order 2010^(b);

“cockle” means any shellfish of the genus *Cerastoderma*;

“fisheries offence” means any offence under any UK fisheries legislation other than that specified by the definition of “relevant offence”;

“licence holder” means the person or company named on a licence issued by the Authority under this Order permitting that person to dredge, fish for or take cockles within the regulated fishery;

“the regulated fishery” means that part of the Thames Estuary described in Schedule 1;

“relevant fishing vessel” means a vessel—

(a) registered in accordance with Part 2 of the Merchant Shipping Act 1995^(c) and the Merchant Shipping (Registration of Ships) Regulations 1993^(d); and

(b) in respect of which there is a valid fishing licence issued under the Fisheries Act 2020^(e);

“relevant offence” means any offence under the Sea Fisheries (Shellfish) Act 1967 or section 292 of the Marine and Coastal Access Act 2009;

“transitional period licence” means a licence to dredge, fish for or take cockles within the regulated fishery issued pursuant to article 6.

Right of regulating a fishery and duration of right

3.—(1) The Secretary of State confers on the Authority the right of regulating a fishery for cockles in relation to the regulated fishery for a period of 28 years beginning on 18th December 2024.

(2) The Authority continues to be constituted as a body corporate for the purposes of this Order.

Regulations and restrictions applicable in respect of the regulated fishery

4.—(1) A person must not dredge, fish for or take cockles within the regulated fishery unless that person is permitted to do so under the terms of a licence issued by the Authority.

(2) A person must produce a copy of their licence if requested to do so by an officer of the Authority and must not dredge, fish for, or take cockles within the regulated fishery until the licence has been produced.

(3) Schedule 2 (regulations and restrictions applicable to the fishery) has effect.

(a) 2009 c. 23.
(b) S.I. 2010/2190.
(c) 1995 c. 21.
(d) S.I. 2012/2013.
(e) 2020 c. 22.

Application for a licence, licence terms and duration of licences

5.—(1) Applications to the Authority for a licence to dredge, fish for or take cockles within the regulated fishery (“a licence”) must be made within the application window and in such manner as the Authority may determine.

(2) The Authority may only issue one licence per person.

(3) A licence is valid for 12 months from the date specified on the licence and can be renewed annually for a period of 7 years in accordance with paragraph (6).

(4) A relevant fishing vessel named on a licence must be owned by the licence holder.

(5) Only one relevant fishing vessel may be named on a licence at any one time.

(6) Subject to paragraphs (7) to (10), for a period of up to 7 years beginning with the date the licence was first issued, the Authority must renew a licence annually upon an application by the licence holder made in such manner as the Authority may determine.

(7) If the licence holder fails to apply for an annual renewal of a licence within 4 weeks of the licence’s expiry, the right of renewal for the remainder of the 7-year period applicable to that licence is lost.

(8) In the event a right of renewal under paragraph (7) is lost, the Authority may reissue the licence to another applicant in accordance with the procedure prescribed by the Authority, including the right to annually renew that licence for the remainder of the 7-year period.

(9) If a person named as the nominated master of a licensed vessel is found guilty of any combination of two or more fisheries or relevant offences within any consecutive 2-year period, that person must not be named as the nominated master on a vessel operating under the authority of a licence issued under this Order for a period of 12 months, beginning with the date of the last relevant conviction.

(10) If, within any consecutive 2-year period, the licence holder is found guilty of two or more relevant offences—

- (a) that licence holder’s licence is suspended for 12 months, beginning with the date of the last relevant conviction, and
- (b) the licence holder loses the right to fish within the regulated fishery during the suspension period.

(11) The Authority may attach conditions to a licence as set out in Schedule 3.

(12) Where a transitional period licence is issued to a company under article 6, any person who was a shareholder or officer of that company on 30th January 2024, is not eligible to be granted a licence under this article or a transitional period licence under article 6, whether as an individual or as a shareholder or officer of another company.

Transitional Period Licence

6.—(1) The Authority may issue a transitional period licence within the first 7 years of the date of this Order, if the applicant—

- (a) on 30th January 2024, owned and operated a relevant fishing vessel named on a licence to dredge, fish for, or take cockles issued under the Thames Estuary Cockle Fishery Order 1994(a);
- (b) is making an application for a transitional period licence for the first time under the provisions of this Order;
- (c) is not also making an application for a licence under article 5; and
- (d) satisfies the conditions specified in paragraph (5).

(a) S.I. 1994/2329, as amended by the Marine and Coastal Access Act 2009 (Transitional and Savings Provisions) Order 2011, Schedule 2(1), paragraph 4 (S.I. 2011/603).

(2) Applications to the Authority for a transitional period licence to dredge, fish for or take cockles within the regulated fishery must be made within the application window and in such manner as the Authority may determine.

(3) The Authority may only issue one transitional period licence per person.

(4) Paragraphs (2) to (11) of article 5 apply to a transitional period licence as if it were a licence issued under that article.

(5) The conditions specified for the purposes of paragraph (1)(d) are that—

- (a) the applicant provides the Authority with a 7-year business plan; and
- (b) where the licence holder is to be a company, that company is in the same legal and beneficial ownership as it was on 30th January 2024.

(6) Subject to paragraph (7), a transitional period licence ceases to be valid if—

- (a) where the licence holder is to be a company, that company changes either legal or beneficial ownership or both at any time during the 7-year period referred to in article 5(6); or
- (b) during the 7-year period referred to in article 5(6),
 - (i) a winding up petition is filed and approved for the winding up of the company, a winding up order is made, and an effective resolution is passed for the winding up of that company in any jurisdiction,
 - (ii) an Administrator, Administrative Receiver or a Receiver is appointed over the undertaking or property of the company, or
 - (iii) the company suspends payment, ceases to carry on its business, or fails to make special arrangements or composition with its creditors.

(7) Notwithstanding paragraph (6), a transitional period licence continues to be valid if—

- (a) a licence holder or shareholder dies or suffers physical or mental incapacity during the term of the transitional period licence,
- (b) the Authority is notified in writing,
- (c) an application is made in writing to the Authority for the transitional period licence to continue, giving details of any changes to the legal or beneficial ownership of the company, and
- (d) the Authority approves the application and the continuation of the transitional period licence.

Tolls and fees payable

7.—(1) An annual toll of £10,885 must be paid to the Authority by any person licensed by the Authority to dredge, fish for or take cockles within the regulated fishery.

(2) The Authority may not issue a licence or a transitional period licence to a person until that person has paid a toll.

(3) The Authority may, with the consent of the Secretary of State, vary the toll from time to time.

Power to create reserves

8.—(1) The Authority may from time to time designate and mark out as reserves, such parts of the regulated fishery as it thinks necessary for—

- (a) experimental, management or scientific purposes, including the control of pests, control of competing species or control of diseases of cockles;
- (b) cleansing and subsequent restocking with cockles and the protection of stock introduced;
- (c) the collection of spat of cockles; or

(d) the deposit or re-laying of cockles for the purposes of cleansing before their removal from the regulated fishery.

(2) The Authority may use such reserves for their designated purposes and prohibit their use for any other purpose connected with or ancillary to the dredging, fishing for or taking of cockles.

Power to remove juvenile cockles

9. For the purposes of cultivating the regulated fishery any person authorised by the Authority may remove any spat or small cockles from the regulated fishery, or from one part of the regulated fishery to any other part, at such times and in such quantities as the Authority may direct.

Exemptions for scientific and fisheries management purposes

10. The Authority may, by authority given in writing, exempt any person who is dredging, fishing for, or taking cockles for scientific or fisheries management purposes from any provision of, or made under, this Order.

Accounts of income and expenditure and other information

11.—(1) The Authority must provide the Secretary of State with annual accounts of its income and expenditure under this Order.

(2) The Authority must comply with any request for information made by the Secretary of State relating to this Order.

(3) The Authority must allow any person authorised by the Secretary of State to inspect the fishery and all accounts and other documents in the possession of the Authority relating to this Order and to the regulated fishery and must give that person any information relating to these matters which that person may require.

Rights of landowners and lessees

12. Nothing in this Order or in any restriction imposed under it or regulation made under it prejudicially affects any right of a person who owns any part of the fishery area or of any person to whom such a person has granted a lease in respect of the fishery area.

Lawful activities of statutory undertakers

13.—(1) Nothing in this Order or in any restriction imposed under it or regulation made under it prejudicially affects the lawful activities of a statutory undertaker exercising its statutory functions or authority.

(2) “Statutory undertaker” has the meaning given by article 2(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015(a).

Revocation

14. The Thames Estuary Cockle Fishery Order 2024(b) is revoked.

Daniel Zeichner
Minister of State

22nd November 2024

Department for Environment, Food and Rural Affairs

(a) S.I. 2015/596.

(b) S.I. 2024/1150. The instrument as made contained an inadvertent error in Schedule 1. That error caused the definition of “the regulated fishery” in article 2, on which the whole instrument relied, to lack the necessary legal certainty. To reflect the resulting issues relating to the validity of S.I. 2024/1150, this instrument (which otherwise is made in substantively the same terms, with the Schedule 1 error corrected) contains a statement that S.I. 2024/1150 is revoked.

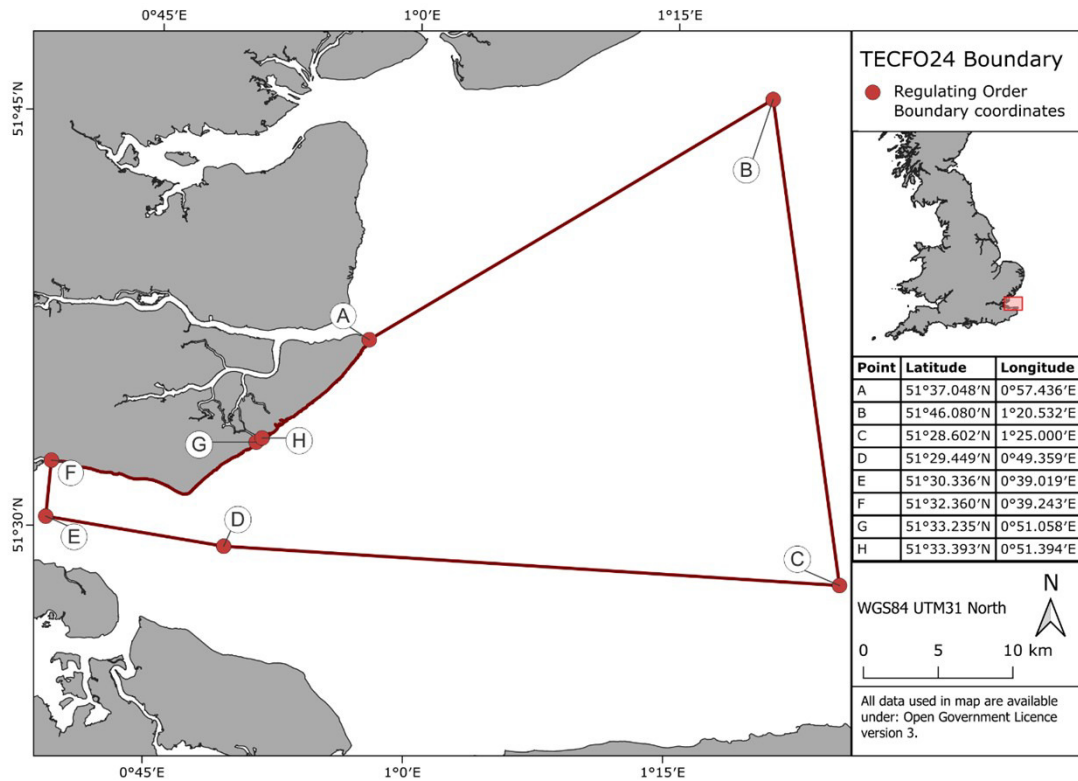
SCHEDULE 1

Article 2

THE REGULATED FISHERY

The area in respect of which the right is conferred lies within the Thames Estuary, the boundary line of which is determined by joining by loxodromic lines, unless otherwise specified, each of the sequential sets of co-ordinates set out below and shown for explanatory purposes on the map.

- A. 51° 37.048'N 00° 57.436'E to
- B. 51° 46.080'N 01° 20.532'E to
- C. 51° 28.602'N 01° 25.000'E to
- D. 51° 29.449'N 00° 49.359'E to
- E. 51° 30.336'N 00° 39.019'E to
- F. 51° 32.360'N 00° 39.243'E and then by a line drawn along the coast at the level of mean high water spring tide to
- G. 51° 33.235'N 00° 51.058'E to
- H. 51° 33.393'N 00° 51.394'E and then by a line drawn along the coast at the level of mean high water spring tide back to A.



SCHEDULE 2

Article 4(3)

REGULATIONS AND RESTRICTIONS APPLICABLE TO THE FISHERY

1. Any person in possession of cockles in breach of a provision of this Order must, if requested by an officer of the Authority, immediately redeposit them as close as possible to the location from which they were taken.
2. A person must not dredge, fish for or take cockles in or from any bed within the regulated fishery which the Authority has closed unless the Authority has given that person written consent.
3. A person must not introduce any cockles into the regulated fishery, unless they do so as a result of a request under paragraph 1 or under section 3(1)(c) of the Act.

SCHEDULE 3

Articles 5(11) & 6(4)

CONDITIONS WHICH MAY BE ATTACHED TO A LICENCE

Subject to any direction made under section 4(5) of the Act, the Authority may attach to the licence such conditions as appear to it to be necessary or expedient for the regulation of the regulated fishery including but not limited to the following—

1. The cockle beds on which a person may dredge, fish for or take cockles.
2. The size or description of dredges or fishing instruments which a person may use to dredge, fish for or take cockles.
3. The size, description, specification, and type of equipment carried aboard any vessel which a person may use to dredge, fish for or take cockles.
4. The name of any vessel a person may use to dredge, fish for or take cockles.
5. The means by which a person may dredge, fish for or take cockles.
6. When a person may dredge, fish for or take cockles.
7. The size of cockles in respect of which a person may dredge, fish for or take cockles.
8. The amount of cockles which a person may dredge, fish for or take at any one time.
9. The means by which, and locations at which, a person may access the fishery in order to dredge, fish for or take cockles.
10. The means by which, and locations at which, a person may land cockles from the fishery.
11. The biosecurity requirements which must be met prior to a vessel being used by a person to dredge, fish for or take cockles.
12. The use of remote electronic monitoring aboard a vessel being used by a person to dredge, fish for or take cockles, including their rate of reporting.
13. The reporting of fishing and landing of cockles by a person licensed or authorised to fish for cockles.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order grants the Kent and Essex Inshore Fisheries and Conservation Authority (“the Authority”) a right of regulating the cockle fishery over the estuary of the River Thames for a period of 28 years.

Article 3 gives the Authority the right to regulate a fishery for cockles within the limits of the regulated fishery. The regulated fishery is described in Schedule 1.

Article 4 provides that no one may dredge, fish for or take cockles in the regulated fishery without a licence issued by the Authority, unless an exemption applies under article 10. Schedule 2 sets out specific restrictions applicable to the regulated fishery.

Article 5 addresses licence applications, duration, renewal and suspension. Schedule 3 lists various matters which may be included in the terms of a licence.

Article 6 makes provision for the issuing of transitional period licences to the owners of fishing vessels where specified conditions are met.

Article 7 makes provision for an annual payment by licence holders to the Authority.

Article 8 enables the creation by the Authority of reserves where activities connected with fishing for cockles may be restricted or prohibited. In order to support the cultivation of the regulated fishery, article 9 provides a power for the Authority to remove juvenile cockles.

Article 10 sets out the exemption the Authority may give to a person to dredge, fish for or take cockles for scientific and fisheries management purposes.

Article 11 requires the Authority to give the Secretary of State annual accounts and comply with requests for information, inspections of premises and documents from them.

Article 12 provides that nothing in this Order prejudicially affects the rights of landowners and lessees of any part of the regulated fishery.

Article 13 makes similar provision as respects the lawful activities of a statutory undertaker exercising its statutory functions or authority.

Article 14 revokes the Thames Estuary Cockle Fishery Order 2024 (S.I. 2024/1150). That Order contained an error and this instrument replaces it.

A full impact assessment has not been produced for this instrument as no significant impact on the private, voluntary or public sectors is foreseen.

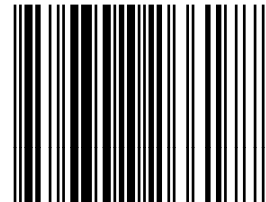
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