
STATUTORY INSTRUMENTS

1994 No. 2329

The Thames Estuary Cockle Fishery Order 1994

Licensing of fishing

4.—(1) No person shall dredge, fish for or take cockles within the regulated fishery except under the authority of a licence issued in that behalf, on application, by the Committee and, subject to paragraph (3) below, a licence shall be valid for the period not exceeding 12 months specified therein.

(2) No person shall use a vessel for dredging, fishing for or taking cockles within the regulated fishery except under the authority of a licence issued under paragraph (1) above in which the vessel is named.

(3) Subject to paragraph (9) below, a licence for dredging, fishing for or taking cockles from a vessel shall be issued jointly to the applicant, who shall be the owner of the vessel, and his representative and shall be used only by those persons or, with the written authority of the Committee and in accordance with any conditions contained in that authority, by a deputy nominated by them.

(4) No applicant who is the registered joint owner of a vessel shall be issued with a licence in accordance with paragraph (3) above to dredge, fish or take cockles from that vessel if, for the year in respect of which the application relates, the Committee has—

- (a) received from another joint owner an application for a licence, or
- (b) granted to another joint owner a licence,

to dredge, fish for or take cockles from that vessel.

(5) Subject to any directions given by the Minister and the provisions of this Order, the Committee may issue licences under paragraph (1) above in such numbers and to such persons as it may determine and in particular may, after consultation with such organisations as appear to it to be representative of interests likely to be substantially affected by a limitation on the number of licences issued, and such other persons as the Committee thinks fit, place a limitation on the number of such licences which may be issued in any one year having particular regard to scientific advice on the desirability of limiting the level of exploitation.

(6) Subject to any directions given by the Minister and the provisions of this Order, licences issued under paragraph (1) above may authorise the dredging, fishing for or taking of cockles at such times, in such manner and in such parts of the regulated fishery as the Committee may determine.

(7) Any person dredging, fishing for or taking cockles under the authority of a licence issued under paragraph (1) above shall, when so requested by any officer authorised by the Committee and after production by that officer of written evidence of his authority if so required, produce the licence and shall desist from dredging, fishing for or taking cockles within the regulated fishery until it is produced.

(8) Subject to paragraphs (3), (4) and (5) above and (9) below, an applicant for a licence for dredging, fishing for or taking cockles from a vessel shall be entitled to have a licence issued to him if—

- (a) in respect of licences for the first fishing year after the coming into force of this Order, he was engaged as a commercial activity, or as part of a commercial activity, in dredging, fishing for or taking cockles from that vessel (or another vessel of similar size, capacity and fishing power to that vessel) within the regulated fishery during the fishing year

immediately prior to the date on which a draft of the Order was published under paragraph 2 of Schedule 1 to the Sea Fisheries (Shellfish) Act 1967, or

- (b) in respect of licences for all subsequent fishing years, he held a licence issued under this Order in which that vessel (or another vessel of similar size, capacity and fishing power to that vessel) was named at any time within the period of 24 months immediately preceding the date of application for the licence.

(9) At the Committee's discretion—

- (a) no person may be named on a licence in accordance with paragraph (3) above as the representative of an applicant if on at least two separate occasions within the period specified in paragraph (8)(b) above that person has been convicted of a relevant offence, and
- (b) the entitlement described in paragraph (8) above shall not apply if on at least two separate occasions within the period specified in paragraph (8)(b) above the applicant has been convicted of a relevant offence.

(10) In this article "relevant offence" means either an offence under section 3(3) of the Sea Fisheries (Shellfish) Act 1967 or an offence under section 11(5) of the Sea Fisheries Regulation Act 1966 in so far as that offence relates to the contravention of a byelaw made under the powers contained in section 5(1)(d) of the Sea Fisheries Regulation Act 1966.