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STATUTORY INSTRUMENTS

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**1994 No. 2329**

**SEA FISHERIES**

**SHELLFISH**

**The Thames Estuary Cockle Fishery Order 1994**

*Made* - - - - *5th September 1994*  
*Laid before Parliament* *7th September 1994*  
*Coming into force* - - *28th September 1994*

Whereas an application for an Order under section 1 of the Sea Fisheries (Shellfish) Act 1967<sup>(1)</sup> was made to the Minister of Agriculture, Fisheries and Food by the local fisheries committee for the Kent and Essex Sea Fisheries District;

And whereas the said Minister prepared a draft Order and served a copy of it on the said committee in accordance with paragraph 1 of Schedule 1 to the said Act;

And whereas the said committee caused printed copies of the draft Order to be published and circulated, and gave notice of the application, in accordance with paragraph 2 of the said Schedule;

And whereas objections were received by the said Minister, under paragraph 3 of the said Schedule, which he considered to be neither frivolous nor irrelevant, and which were not withdrawn;

And whereas the said Minister appointed an inspector respecting the proposed Order in accordance with paragraph 4(2) of the said Schedule, and the inspector made an inquiry in accordance with paragraph 4(3) thereof, and made a report to the said Minister in accordance with paragraph 4(7) thereof stating that in his opinion the proposed Order should be made;

Now, therefore, the said Minister, in exercise of the powers conferred on him by the said section 1 and of all other powers enabling him in that behalf, and with the consent of the Crown Estate Commissioners, hereby makes the following Order:

**Title, commencement and interpretation**

1.—(1) This Order may be cited as the Thames Estuary Cockle Fishery Order 1994 and shall come into force on 28th September 1994.

(2) In this Order—

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(1) 1967 c. 83; section 1 was amended by section 15(2) of the Sea Fisheries Act 1968 (c. 77) and paragraph 15 of Schedule 2 to the Fishery Limits Act 1976 (c. 86) and is to be read with section 15(3) to (5) of the Sea Fisheries Act 1968 and S.I. 1987/218; Schedule 1 was amended by section 15(7) of the Sea Fisheries Act 1968; section 22(1) contains a definition of “the Minister”.

“the Committee” means the local fisheries committee for the Kent and Essex Sea Fisheries District established under section 1(1) of the Sea Fisheries Regulation Act 1966(2);

“the definitive map” means the map sealed in duplicate by the Minister and marked “Map referred to in the Thames Estuary Cockle Fishery Order 1994” one copy of which is in the possession of the Committee and the other copy of which is in the possession of the Minister;

“the regulated fishery” means that part of the Thames Estuary in the Counties of Kent and Essex which lies below the line of mean high water and is shown coloured pink on the definitive map.

### **Right of regulating a fishery**

2.—(1) There is hereby conferred on the Committee for a period of 30 years the right(3) of regulating a fishery for cockles with respect to the regulated fishery.

(2) The Committee is hereby constituted a body corporate for the purposes of this Order.

### **Power to impose restrictions and make regulations**

3.—(1) The Committee may, with the consent of the Minister, from time to time impose restrictions on, and make regulations respecting, the dredging, fishing for and taking of cockles within the whole or any specified part of the regulated fishery.

(2) Without prejudice to the generality of paragraph (1) above, regulations may be made under that paragraph for the purpose of—

- (a) determining the size below which or above which it shall be unlawful to take cockles from the regulated fishery or to remove them from one part of the regulated fishery to another; and
- (b) determining the size or description of vessels, dredges and fishing instruments to be used in dredging, fishing for or taking cockles.

(3) The production of a copy of any regulation purporting to be certified by an officer authorised by the Minister of Agriculture, Fisheries and Food shall be conclusive evidence of the existence of the regulation and of the due making of it.

### **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—

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(2) 1966 c. 38; section 1(1) was amended by section 272 of, and Schedule 30 to, the Local Government Act 1972 (c. 70) and by section 16 of, and paragraph 19 of Schedule 8 to, the Local Government Act 1985 (c. 51).

(3) This is to be read in the light of the duties conferred on local fisheries committees by the Sea Fisheries (Wildlife Conservation) Act 1992 (c. 36).

- (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.

### **Tolls and fees payable for fishing**

5.—(1) Any person to whom the Committee proposes to issue a licence under the provisions of article 4 of this Order shall pay to the Committee before or upon receipt of the licence a toll of £1,000 per annum.

(2) The Committee may from time to time with the consent of the Minister vary the toll payable under paragraph (1) above.

#### **Power to create reserves**

6. The Committee 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 or 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,

and may use such reserves for their designated purposes and prohibit their use for any other purpose connected with or ancillary to fishing for cockles.

#### **Power to remove juvenile cockles**

7. For the purpose of cultivating the regulated fishery any person authorised by the Committee 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 Committee may direct.

#### **Exemptions for scientific purposes**

8. The Committee may, by authority given in writing, exempt any person who is dredging, fishing for or taking cockles for scientific purposes from any provision of this Order or from any restriction imposed or regulation made under this Order.

#### **Accounts of income and expenditure and other information**

9. The Committee shall render to the Minister annual accounts of its income and expenditure under this Order, shall furnish to the Minister all other information required by him with reference to this Order and to the regulated fishery in such form and at such times as he may require, shall allow any person authorised by the Minister in that behalf to inspect the fishery and all books of account and other documents in the possession of the Committee relating to this Order and to the regulated fishery and shall give to such person any information relating thereto as he may require.

#### **Rights of the Crown**

10. Nothing in this Order or in any restriction imposed or regulation made by the Committee shall affect prejudicially any estate, right, power, privilege or exemption of the Crown and in particular nothing therein contained shall authorise the Committee to take, use or in any manner interfere with any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary or any land, hereditament, subject or right of whatever description belonging to Her Majesty in right of the Crown and under the management of the Crown Estate Commissioners.

#### **Rights of the Port of London Authority**

11. Nothing in this Order or in any restriction imposed or regulation made by the Committee shall affect prejudicially any estate, right, power, privilege or exemption of the Port of London Authority and in particular nothing therein contained shall authorise the Committee to take, use or in any manner interfere with any portion of the shore or bed of the sea or of any river, channel, creek, bay

or estuary or any land, hereditament, subject or right of whatever description belonging to and under the management of the Port of London Authority.

### **Rights of various persons and bodies**

**12.**—(1) Nothing in this Order shall affect prejudicially the exercise of any statutory power or authority from time to time vested in or exercisable by any person carrying on an undertaking falling within paragraph (2) below.

(2) The following are the undertakings which fall within paragraph (1) above—

- (a) the undertaking of any water undertaker or sewerage undertaker;
- (b) any undertaking consisting in the running of a telecommunications code system, within the meaning of Schedule 4 to the Telecommunications Act 1984<sup>(4)</sup>;
- (c) the undertaking of any public gas supplier within the meaning of Part I of the Gas Act 1986<sup>(5)</sup>;
- (d) the undertaking of any person authorised by a licence under Part I of the Electricity Act 1989<sup>(6)</sup> to generate, transmit or supply electricity;
- (e) the undertaking of any navigation, harbour, general lighthouse or conservancy authority.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on

L.S.

5th September 1994.

*William Waldegrave*  
Minister of Agriculture, Fisheries and Food

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<sup>(4)</sup> 1984 c. 12.  
<sup>(5)</sup> 1986 c. 44.  
<sup>(6)</sup> 1989 c. 29.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order confers on the Kent and Essex Sea Fisheries Committee (“the Committee”) the right of regulating a fishery for cockles in the Thames Estuary for a period of 30 years.

The situation and extent of the area within which the right is conferred are shown on the definitive map which is described in article 1(2) of the Order. The definitive map is available for inspection by prior appointment during office hours at the offices of the Committee at County Hall, Maidstone, Kent ME14 1XQ and at the offices of the Minister of Agriculture, Fisheries and Food at Nobel House, 17 Smith Square, London SW1P 3JR.