

Indicative and draft legal text

1. Title, commencement and interpretation

1. This Order may be cited as the Thames Estuary Cockle Fishery Order 2024 and shall come into force on 29th September 2024.
2. In this Order—
 - (a) “the Authority” means the Kent and Essex Inshore Fisheries and Conservation Authority as defined in articles 2 and 4 of the Kent and Essex Inshore Fisheries and Conservation Order 2010 (S.I. 2010 No. 2190);
 - (b) “the definitive map” means the map sealed in duplicate by the Minister and marked “Map referred to in the Thames Estuary Cockle Fishery Order 2024” one copy of which is in the possession of the Authority and the other copy of which is in the possession of the Minister;
 - (c) “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.
 - (d) “relevant offence” means any offence under the Sea Fisheries (Shellfish) Act 1967 or section 292 of the Marine and Coastal Access Act 2009
 - (e) “fisheries offence” means any offence under any UK fisheries legislation other than that specified in (d)

2. Right of regulating a fishery

1. There is hereby conferred on the Authority for a period of 28 years the right of regulating a fishery for cockles with respect to the regulated fishery.
2. The Authority is hereby constituted a body corporate for the purposes of this Order.

3. Regulations and restrictions applicable in respect of the fishery

1. No person may dredge, fish for or take cockles within the regulated fishery unless they do so under the terms of a licence issued by the Authority.
2. A person must produce a copy of the licence they are operating under if requested to do so by an authorised officer of the Authority and may not dredge, fish for or take cockles within the limits of the regulated fishery until the licence has been produced.
3. Schedule 1 (regulations and restrictions applicable to the fishery) has effect.
4. All byelaws made by the Authority under section 155 and 157 of the Marine and Coastal Access Act have effect.

4. Licensing of fishing

1. Schedule 2 (licence conditions applicable to the fishery) has effect.
2. Any vessel named on a licence must be owned by the licence holder.
3. Licences will be allocated for 7-year periods, as specified in the Thames Estuary Cockle Fishery Order 2024 Management Plan.
4. Each 7-year licence must be renewed on an annual basis as specified in the Thames Estuary Cockle Fishery Order 2024 Management Plan.
5. Where a licence is allocated to an applicant for the first year of a 7-year period, the applicant shall have the right to renew that licence each year for the remainder of the 7-year period.
6. If a licensee fails to apply for a renewal of a licence on an annual basis, the licensee will lose the right of renewal for the remainder of the 7-year period.
7. If within any two-year period, the nominated master of a licensed vessel is found guilty of two or more fisheries or relevant offences, that individual shall not be named as the nominated master on a licence for a period of 12 months following conviction.

8. If within any two-year period a licensee is found guilty of two or more relevant offences, the licensee shall not have the licence renewed to fish within the regulated fishery for the year following conviction.

5. *Transitional Period*

1. Contrary to paragraph 4(2), for the first 7-year licencing cycle only, subject to the annual renewal requirements specified in 4(3), no more than one licence may be issued to a company which owned and operated a relevant fishing vessel named on a licence to fish for cockles within the Thames Estuary Cockle Fishery Order 1994 on the specified date of 30th September 2022.
2. Paragraph 5(1) only applies provided that:
 - (a) the company remains in the same legal and beneficial ownership throughout the entire 7-year licenced period as it was on the relevant date specified in paragraph 5(1); and
 - (b) a 7-year business plan is submitted prior to a licence being issued for the first 7-year period, and
 - (c) during the first 7-year licencing cycle, no petition is filed or no Order is made or an effective resolution is passed for the winding up of that company in any jurisdiction whatsoever (otherwise than for the purpose of any reconstruction or amalgamation as shall be approved by the Auth) or an Administrator, Administrative Receiver or a Receiver is appointed over the undertaking or property of the company or the company suspends payment or ceases to carry on its business or makes special arrangements or composition with its creditors.
3. No person who was a shareholder or director of a company holding a TECFO 1994 licence on the relevant date specified in paragraph 5(1) may apply for any other licence either as an individual or as a director or shareholder of another company if a licence is issued to the TECFO 1994 licence holding company under the arrangements provided for in paragraph 5(1).
4. Paragraph 5(2)(a) will not apply in exceptional circumstances where the licence holder or a shareholder is deceased during the term of the licence, or they suffer physical or mental incapacity. An application to vary the legal and beneficial ownership of the company must be made in writing to the Authority for a decision to be made.

6. *Tolls and fees payable for fishing*

1. Any person to whom the Authority proposes to issue a licence under the provisions of article 4 of this Order shall pay to the Authority, before receipt of the licence, a toll of £10,885 per annum.
2. The Authority may from time to time, as set out in the Thames Estuary Cockle Fishery Order 2024 Management Plan, with the consent of the Minister vary the toll payable under paragraph 6(1).

7. *Power to create reserves*

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,

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

9. *Power to remove juvenile cockles*

1. For the purpose 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.

10. Exemptions for scientific and fisheries management purposes

1. 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 this Order or from any restriction imposed or regulation made under this Order.

11. Accounts of income and expenditure and other information

1. The Authority 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 them with reference to this Order and to the regulated fishery in such form and at such times as they 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 Authority relating to this Order and to the regulated fishery and shall give to such person any information relating thereto as he may require.

12. Rights of the Crown

1. Nothing in this Order or in any restriction imposed or regulation made by the Authority shall affect prejudicially any estate, right, power, privilege or exemption of the Crown and in particular nothing therein contained shall authorise the Authority 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 His Majesty in right of the Crown and under the management of the Crown Estate Commissioners.

13. Rights of the Port of London Authority

1. Nothing in this Order or in any restriction imposed or regulation made by the Authority 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 Authority 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.

14. Rights of various persons and bodies

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 14(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;
 - (c) the undertaking of any public gas supplier within the meaning of Part I of the Gas Act 1986;
 - (d) the undertaking of any person authorised by a licence under Part I of the Electricity Act 1989 to generate, transmit or supply electricity;
 - (e) the undertaking of any navigation, harbour, general lighthouse or conservancy authority.

*SCHEDULE 1 - REGULATIONS AND RESTRICTIONS APPLICABLE TO THE FISHERY –
SHELLFISH ACT 1967 SECTION 4(2)*

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. No person may dredge, fish for or take cockles in or from any bed within the fishery which the Authority has closed unless the Authority has given that person written consent.
3. No person may introduce any cockles into the fishery.

*SCHEDULE 2 - LICENCE CONDITIONS APPLICABLE TO THE FISHERY – SHELLFISH ACT 1967
SECTION 4(4)*

1. Subject to any direction made under section 4(5) of the Act, the matters about which the grantee may attach terms to a licence include the following—
 - (a) the cockle beds on which a person may dredge, fish for or take cockles;
 - (b) the size or description of dredges or fishing instruments which a person may use to dredge, fish for or take cockles;
 - (c) the size, description, equipment carried aboard or name of any vessel which a person may use to dredge, fish for or take cockles;
 - (d) the means by which a person may dredge, fish for or take cockles;
 - (e) when a person may dredge, fish for or take cockles;
 - (f) the size of cockles in respect of which a person may dredge, fish for or take cockles;
 - (g) the amount of cockles which a person may dredge, fish for or take at any one time; and
 - (h) the means by which, and locations at which, a person may access the fishery in order to dredge, fish for or take cockles.
 - (i) the means by which, and locations at which, a person may land cockles from the fishery
 - (j) the biosecurity requirements which must be met prior to a vessel being used by a person to dredge, fish for or take cockles;
 - (k) the use of Vessel Monitoring Systems aboard a vessel being used by a person to dredge, fish for or take cockles, including their rate of reporting.
 - (l) The reporting of fishing and landing of cockles by a person licensed or authorised to fish for cockles.

The following licence conditions are made by the Kent & Essex Inshore Fisheries and Conservation Authority pursuant to the provisions of article 4 of the Thames Estuary Cockle Fishery Order 2024.

TIME AND EFFORT CONDITIONS

1. The Kent & Essex Inshore Fisheries and Conservation Authority will for the period of the licence specify fishing periods when licence holders may dredge, fish for and take cockles (referred to in these terms as fishing operations) within the area of the Thames Estuary Cockle Fishery Order 2024. The Authority from time to time may vary the specified fishing periods. The details, including variations when these are made by the Authority, of specified fishing periods will be provided to each licence holder.
2. Cockle harvesting is prohibited:
 - (a) outside of a specified harvesting period notified to the licence holder by the Authority;
 - (b) within a specified harvesting period once the maximum number of specified harvesting trips as notified to the licence holder by the Authority have been undertaken.

SPATIAL CONDITIONS

3. The Kent & Essex Inshore Fisheries and Conservation Authority will for the period of the licence specify harvesting areas where licence holders may dredge, fish for and take cockles (referred to in these terms as fishing operations) within the area of the Thames Estuary Cockle Fishery Order 2024. The Authority from time to time may vary the specified harvesting areas. The details, including variations when these are made by the Authority, of specified harvesting areas will be provided to each licence holder.
4. Cockle harvesting is prohibited:
 - (c) outside of a specified harvesting area notified to the licence holder by the Authority;
 - (d) within a specified harvesting area once the maximum number of specified harvesting trips as notified to the licence holder by the Authority have been undertaken.

GEAR CONDITIONS

Harvesting Equipment Construction

5. The cockle harvesting equipment must incorporate a riddle which is at least 1750 millimetres in length and which shall be designed and operated so that the retained cockles are in contact with the riddle for its full length.
6. The cockle harvesting equipment which is in contact with the seabed must have an opening aperture, blade or rake measuring no more than 760 millimetres in width.
7. No more than one piece of cockle harvesting equipment which is in contact with the seabed may be used at any time or carried on board
8. Subject to sub-paragraph (XX), all surfaces of the cockle harvesting equipment acting to retain the catch must consist of parallel bars, where the bars are spaced at least 16 millimetres apart ("the minimum bar spacing").
9. Sub-paragraph (XX) does not apply to pipes or other means used to convey cockles from the seabed to the vessel.
10. The Authority may by notice to the licence holder change the minimum bar spacing for the purposes of sub-paragraph (XX) to 14 millimetres if the criteria outlined in the KEIFCA Cockle Fisheries Management Plan are met.
11. The Authority may give written consent for the use of instruments or fishing gear, otherwise prohibited by paragraph (10), to all licence holders for a specified area and for a specified period of time for specific purposes including the thinning of overpopulated stock, removal and thinning of cockles which have not shown good growth or for the purposes of relaying.

Consent will only be given where the Authority is satisfied that the quality of a bed would be enhanced by the removal of cockles.

12. When operating within Harvesting Areas 1, 2, 3, 4 & 5a described in Part I of the Schedule and shown for illustrative purposes only on the map in Part II of the Schedule, no person shall operate equipment used for the purpose of riddling, sorting or grading cockles unless all surfaces acting to retain the catch be constructed of parallel bars with an average space between bars of no less than 16 millimetres and no more than 16.5 millimetres.

Damage rates

13. No licence holder shall operate any instrument or fishing gear for the purpose of taking cockles from within the area of the Thames Estuary Cockle Fishery Order 2024 unless the instrument or fishing gear, when operating at a representative speed over the ground, results in less than 10% of the cockles which are being returned to the sea, measured by weight, being damaged. Damage rate will be assessed by a KEIFCA officer taking a representative sample of cockles taken by the fishing operation.
14. For the purpose of paragraph (13) cockles will be considered to be damaged when on visual examination it is seen that there are visible cracks, chips or other damage to the shell.

Cockle Containers and Bags

15. Cockles must not be carried on board or landed from the named vessel unless within containers which:
- (a) are of the specified volume, which is 1.13 cubic metres
 - or
 - where the container is larger than the specified volume, are clearly marked with a load line at the level of the specified volume in sub-paragraph (a) above which cockles may not be loaded
 - (b) have been checked and marked by an officer of the Authority before use; and
 - (c) are clearly marked on two sides with the words 'TECFO 2024' and the vessel name and PLN.
16. In addition, the full catch capacity at the bag load lines may be cross-checked by means of transferring a bagged catch of cockles into a straight-sided container in the presence of an officer of the Authority who will measure the volume of the container. The volume of cockles loaded into the container will be calculated by the Authority officer and any error in the position of the load line marking on the bags will be adjusted to arrive at an approved load line. As the cockles loaded into the straight-sided container will not have settled as they would have done in the bags of the vessel, an additional allowance of 0.4 cubic metres will be added, making a total container volume of 14.00 cubic metres.

VESSEL CONDITIONS

17. No licence holder shall harvest cockles using a vessel which exceeds 14 metres in overall length.
18. No licence holder shall harvest cockles using a vessel which is not fitted with a Vessel Monitoring System of a type approved by the Marine Management Organisation.

CATCH AND LANDING CONDITIONS

Prohibition on the removal of small cockles

19. No licence holder shall, without the written consent of the Authority, remove from the regulated fishery cockles of which more than 10% by weight, of a representative sample, will pass through a space 16 millimetres in width. A representative sample will consist of no less than 200 kilograms of cockles. Small cockles rejected as a result of the requirements of this Regulation shall be returned immediately to the sea.
20. The Authority will give written consent for a specified area and specified period of time to all licence holders to permit the removal of cockles otherwise prohibited by this licence condition, when written consent has been given by the Authority under the licence condition relating to the Construction of Instruments and Fishing Gear.

Limitation on the maximum quantity of cockles that may be removed from the fishery

21. No licence holder shall, within any fishing operation under authority of this licence carry on board or land more than 13.6 cubic metres. When calculating the quantity of cockles on board or landed no allowance shall be made in respect of the quantity of any dead shell, sand, other species or debris mixed with the catch.
22. For the purpose of this term, 13.6 cubic metres of cockles is deemed equivalent to 500 baskets, at 6 gallons of cockles per basket.
23. The quantities specified in paragraphs 20 and 21 may be varied as required for fishery management purposes and such variations shall be notified to licence holders in writing.

Regulation of fishing operations

24. Licence holders dredging, fishing for or taking cockles from within the area of the Thames Estuary Cockle Fishery Order 2024 must land their catch before commencing another fishing operation under the authority of this licence during another specified fishing period.
25. No cockles shall be carried on board a fishing vessel at the time of commencement of a fishing operation under authority of this licence within the area of the Thames Estuary Cockle Fishery Order 2024.
26. When a vessel is engaged in, or has during a specified fishing period, been engaged in a fishing operation under authority of this licence within the area of the Thames Estuary Cockle Fishery Order 2024 all cockles carried on board or landed shall be considered to have been taken from within the area of the Thames Estuary Cockle Fishery Order 2024.

Reporting of cockle landings

27. All licence holders landing cockles taken from within the area of the Thames Estuary Cockle Fishery Order 2024 must give at least 2 hours notice of landing.
28. Notice of landing shall be given either directly to an appointed officer of the Kent & Essex Inshore Fisheries and Conservation Authority or by providing notification in another manner as prescribed to licence holder.
29. Details of the appointed officer, or officers, of the Kent & Essex Inshore Fisheries and Conservation Authority and any other acceptable forms of notification will be provided to each licence holder.

30. The licence holder must submit to the Authority no later than the following Tuesday of each week a completed daily fishing activity log form for each fishing trip carried out the previous week. Such a form shall be provided by the Authority and shall contain such information in regard to fishing effort, impact of fishing operations, catches, landings and outputs from cooking and processing for the previous week as the Authority may require.

Limitation on the maximum number of landings per specified fishing period

31. No licence holder shall make more than a specified number of landings of cockles removed from the area of the Thames Estuary Cockle Fishery Order 2024, during any one specified fishing period.
32. A list specifying the maximum number of landings that licence holders may make per specified fishing period will be provided to each licence holder.

VESSEL MONITORING SYSTEM CONDITIONS

33. The named vessel may be required to have fitted at the owner's expense a remotely accessed electronic reporting device which is in compliance with KEIFCA or MMO requirements and transmit the required information at the specified reporting intervals.

BIOSECURITY CONDITIONS

34. Prior to the start of fishing during any annual period, a licence holder must undertake the following process:
- (a) The named vessel must be cleaned of cockles and all other debris by the washing and scrubbing of such equipment with fresh water, using a pressure washer, and allowed to dry. This will include the hold, deck and all spaces which may contain cockles, cockle shell and debris.
 - (b) The cockle harvesting gear must be cleaned of cockles and all other debris by the washing and scrubbing of such equipment with fresh water, using a pressure washer, and allowed to dry. This will include the dredge head and riddle and all cockles, cockle shell and debris shall be removed.
 - (c) The pipework and pumps of the vessel will be cleaned by pumping through sea water until the water runs clear and then for a period of time up to five minutes to ensure no debris remains in the pipes or solids-handling pump system.
 - (d) The vessel will be submitted for inspection at a notified location where an inspection of sub-paragraphs (a) to (c) will be carried out.
35. All cockle bags used by licence holders to transport or land cockles will be;
- (a) new, previously unused cockle bags.
- or
- (b) used bags which must be cleaned, disinfected and dried, prior their use in the permitted cockle fishery, using the following process:

- i. Bags will be turned inside out and all cockles and debris removed
- ii. The bags will be hung up and pressure washed using fresh water
- iii. The bags will be immersed in a solution of sodium hypochlorite made up to a suitable concentration.
- iv. The bags will be allowed to dry and then stored away from cockle material