

**2024 No.**

**SEA FISHERIES, ENGLAND**

**SHELLFISH**

**The Thames Estuary Cockle Fishery Order 2024**

*Made* \*\*\*

*Laid before Parliament* \*\*\*

*Coming into force* *in accordance with Article 1*

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<sup>(a)</sup> (“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 to 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 Order 2024
- (b) comes into force on 30<sup>th</sup> September 2024, and
- (c) extends to England and Wales.

**Interpretation**

2. In this Order—

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<sup>a</sup>(1) 1967 c. 83. Section 1 of the Act was amended by 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.

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

“the Authority” means the Kent and Essex Inshore Fisheries and Conservation Authority established under section 149 of the Marine and Coastal Access Act 2009<sup>(b)</sup> and as defined in Articles 2 and 4 of the Kent and Essex Inshore Fisheries and Conservation Order 2010<sup>(c)</sup>;

“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 3;

“relevant fishing vessel” means a vessel—

(a) registered in accordance with Part II of the Merchant Shipping Act 1995<sup>(d)</sup> and the Merchant Shipping (Registration of Ships) Regulations 1993<sup>(e)</sup>; and

(b) in respect of which there is a valid fishing licence issued under the Fisheries Act 2020<sup>(f)</sup>;

“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 30<sup>th</sup> September 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 1 (regulations and restrictions applicable to the fishery) has effect.

### **Application for a licence, licence terms and duration of licences**

5. —(1) Any person must make an application, within the application window determined by the Authority, to the Authority for a licence to dredge, fish for or take cockles within the regulated fishery (“a licence”).

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

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

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

(5) A licence, once issued, is subject to an annual renewal by the Authority and, upon application by the licence holder, the licence holder has the right to have the licence renewed annually for a maximum of 7 years beginning with the date the licence was issued, subject to paragraphs (7), (8), and (9).

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<sup>b)</sup> 2009 c. 23.

<sup>c)</sup> S.I. 2010/2190.

<sup>d)</sup> 1995 c.21.

<sup>e)</sup> S.I. 2012/2013

<sup>f)</sup> 2020 c.22.

(6) If the licence holder fails to apply for an annual renewal of a licence within 4 weeks of the anniversary of the date the licence was issued, the right of renewal for the remainder of the 7-year period applicable to that licence is lost.

(7) If a person named as the nominated master of a licensed vessel is found guilty 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 paragraph (5) for a period of 12 months, beginning with the date of the last relevant conviction.

(8) If within any consecutive 2-year period, the licence holder is found guilty of two or more relevant offences, that licence holder's licence is suspended for 12 months, beginning with the date of the last relevant conviction, and the licence holder does not have the right to fish within the regulated fishery during the suspension period.

(9) Schedule 2 (licence conditions applicable to the regulated fishery) has effect.

### **Transitional Period Licence**

6. —(1) The Authority may issue a transitional period licence if the applicant—

- (a) is making an application for a licence for the first time under the provisions of this Order, and;
- (b) on 30 September 2022 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<sup>(\*)</sup>, and
- (c) satisfies the conditions specified in paragraph (5).

(3) Article 5(2) to (9) applies to a transitional period licence as if it were a licence issued under article 5.

(4) If, on 30 September 2022, a person held two licences issued under the Thames Estuary Cockle Fishery Order 1994, the Authority may issue one such licence to another person who 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 on 30 January 2024.

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

- (a) the applicant provides the Authority with a 7-year business plan prior to a licence being issued for the first 7-year period; and
- (b) where the licence holder is to be a company—
  - (i) that company remains in the same legal and beneficial ownership throughout the entire 7-year licensed period as it was on 30 September 2022; and
  - (ii) for the duration of the 7-year transitional period licence, no petition is filed, no Order is made, no effective resolution is passed for the winding up of that company in any jurisdiction (otherwise than for the purpose of any reconstruction or amalgamation as may be approved by the Authority), no Administrator, Administrative Receiver or a Receiver is appointed over the undertaking or property of the company, and the company must not suspend payment, cease to carry on its business or make special arrangements or composition with its creditors.

(6) A person who was a shareholder or director of a company holding a licence issued under the Thames Estuary Cockle Fishery Order 1994 on 30 September 2022 may not apply for any other licence, whether as an individual or as a director or shareholder of another company if a transitional period licence is issued to a licence holder under this article.

(7) Subject to the Authority granting an application made in writing to vary the legal and beneficial ownership of the company, paragraph (5)(b)(i) will not apply where the licence holder or a shareholder dies, or suffers physical or mental incapacity during the term of the transitional period licence.

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<sup>(\*)</sup> 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).

### **Tolls and fees payable**

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

(2) 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 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.

### **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.

### **Offences**

10. A person who fails to comply with this Order is guilty of an offence under the Act.

### **Exemptions for scientific and fisheries management purposes**

11. 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**

12. —(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**

13. 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

14. —(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<sup>(h)</sup>.

Signatory text

XX September 2024

*Name*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural Affairs

## SCHEDULE 1

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. —(1) A person must not introduce any cockles into the regulated fishery

(2) Sub-paragraph (1) does not apply to any introduction in pursuance of provision made under section 3(1)(c) of the Act.

## SCHEDULE 2

Article 5(10)

### TERMS WHICH MAY BE ATTACHED TO A LICENCE

4. Subject to any direction made under section 4(5) of the Act, the matters about which the Authority 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, specification, and type of 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;
- (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 remote electronic monitoring aboard a vessel being used by a person to dredge, fish for or take cockles, including their rate of reporting; and

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<sup>h)</sup> S.I. 2015/596.

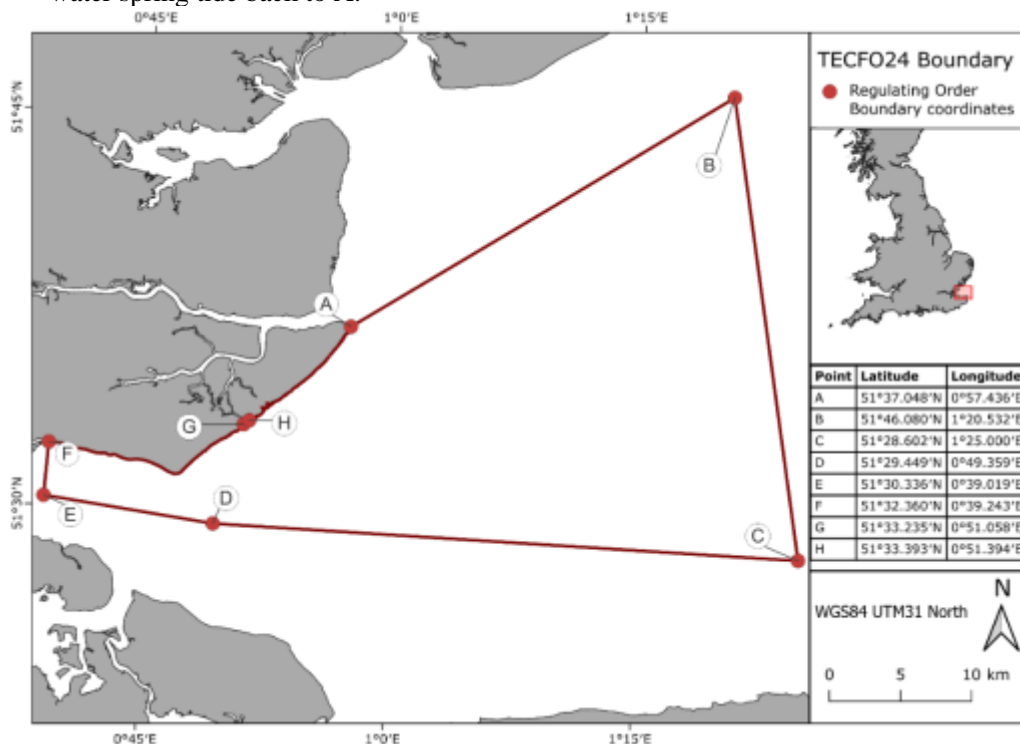
- (l) the reporting of fishing and landing of cockles by a person licensed or authorised to fish for cockles.

## SCHEDULE 3 Article 2

### THE REGULATED FISHERY

5. 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.



All data used in map are available under: [Open Government Licence](#) version 3.

## **EXPLANATORY NOTE**

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

This Order grants the Kent and Essex Inshore Fisheries Conservation Authority a right of regulating the cockle fishery over the estuary of the River Thames for a period of 28 years. This Order comes into force immediately after the expiration of the Thames Estuary Cockle Fishery Order 1994.

Article 3 gives the Kent and Essex Inshore Fisheries Conservation Authority the rights to regulate a fishery for the purposes of dredging, fishing for or taking of cockles within the limits of the fishery. The regulated fishery is described in Schedule 3.

Article 4 provides that no one may dredge, fish for or take cockles unless an exemption applies per Article 11.

Article 5 provides that any person may make an application for a licence and the terms under which one may be issued and the duration it may be issued for.

Article 6 provides that any person may make an application for a transitional period licence and the conditions which need to be met.

Article 7 makes provision for the payment of a toll for a licence.

Article 10 provides that a person who breaches Article 4 is guilty of an offence under section 3(3) of the Sea Fisheries (Shellfish) Act 1967 and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Article 12 requires the Kent and Essex Inshore Fisheries Conservation Authority to give the Secretary of State annual accounts and comply with requests for information, inspections of premises and documents from them.

Article 15 protects the rights of statutory undertakers.