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Llywodraeth Cymru
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Consultation Document

Further Review of the Management of Cockle Fisheries in Wales 2013



Date of issue: **10 July 2013**

Action required: Responses by **2 October 2013**

Overview

The vision of the Wales Fisheries Strategy published in 2008 is to support the development of viable and sustainable fisheries in Wales to safeguard fish stocks and the marine environment.

The Minister for Natural Resources and Food announced in March 2012, as Deputy Minister, his intention to review the management of intertidal fisheries in Wales.

A formal consultation on those proposals was successfully carried out in 2012. The results and analysis have prompted further consideration of some of the elements contained within the proposals, namely the methodology for allocating permits under a new cockle management regime in Wales.

Therefore, a further consultation has been launched to seek your views on the details of the allocation methodology and to clarify the protocols of the forthcoming new management scheme for cockle fisheries in Wales.

We welcome your views on the proposals in order to ensure effective management for a sustainable fishery for future generations that works with the needs of local communities.

How to respond

A response in any form is welcome, however, we have included a simple questionnaire within this document which you can complete and return to us at the email or postal address provided below.

In your response please provide your contact details and the details of any body that you are representing if appropriate.

Further information and related documents

Large print, Braille and alternate language versions of this document are available on request.

Contact Details

We would prefer to receive responses by email to:

fisheriesmailbox@wales.gsi.gov.uk

But are also happy to receive comments by post to:

Fisheries Unit
Welsh Government
Llys y Draig
Penllergaer Business Park,
Penllergaer, Swansea
SA4 9NX

Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often.

The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see

information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Introduction

A public consultation took place between July and October 2012 on Cockle Management in Wales, for the purpose of seeking views on the proposal of new management of cockle beds in Wales. The new management regime would action the need for increased regulation to ensure the future sustainability of Cockle Fisheries in Wales.

The Summary of Responses to the consultation provided a clear mandate for introducing a new regime for Cockle Fisheries across Wales, to deliver sustainability of the fisheries, and increase traceability and enforcement. Support was shown for the introduction of:

- a) a revised cockle scheme in Wales;
- b) adopting a multi agency approach;
- c) an improved traceability system;
- d) a young fishers/apprenticeship scheme;
- e) greater regulation and restrictions; and
- f) year round fishing, by way of a total allowable catch;

However, it was apparent that further consideration was required where the results of the exercise were inconclusive. A further consultation exercise is now launched outlining Welsh Ministers' detailed proposals on these and other measures.

Summary

The purpose of the new cockle management proposals is to improve management and sustainability of both the marine environment and cockle fisheries in Wales. This will be achieved through the establishment of tighter regulation of all commercial gathering within cockle fisheries. In order to achieve the proposals set out in this document, the existing regulation of cockle fisheries will need to change.

The proposals set out in this document are an All Wales Permit Scheme for commercial cockle picking (the permit) in combination with a separate specific area permit scheme for the selected major cockle fisheries (Major Permit). In the first instance, the two major fisheries identified for the purposes of this permitting scheme are at Traeth Lafan (near Bangor in North Wales) and Three Rivers Cockle Fishery (in Carmarthen Bay, South Wales).

Two major cockle fisheries already exist, one on the Dee Estuary (North Wales) and one on the Burry Inlet (South Wales), but these are both regulated by Regulating Orders and are currently managed by Natural Resources Wales (NRW) as the Grantee of the Orders. These two established schemes of management in the Dee Estuary and the Burry Inlet will remain un-amended by these proposals but it is proposed that all persons licensed to fish in these two fisheries will in the future also hold a permit to fish under the All Wales Permit Scheme.

As a part of these proposals, we intend to introduce a new system of compulsory catch returns. The purpose of these returns is to provide information which will help inform future management of the exploitation of cockle resources and the marine environment and help to reduce opportunity for poaching cockles. It is proposed that the Welsh Government will hold a database of catch return information that will enable cross-checking against other records held by processors. As part of the proposals we are exploring the possibility of sharing this database with appropriate stakeholders such as Local Authorities and the Food Standards Agency. Further information on this consideration will be in the relevant guidance included with an application for a permit, including appropriate declarations regarding the data protection implications.

Legal Framework

Historically, cockle fishery management was delivered by Sea Fisheries Committees in Wales. However, on 1 April 2010 the Committees were abolished and most of the Byelaws, including those enacted for cockle management purposes, were saved and now have effect as if made by Welsh Ministers in a Statutory Instrument.

It is proposed that the new cockle fishery management scheme will be established via the creation of a new Statutory Instrument. Utilising powers in the Marine and Coastal Access Act 2009, it is proposed that the new Statutory Instrument will introduce the new restrictive permitting scheme. It is also proposed that some additional measures will be introduced, for example, the prescription of a minimum size of cockles that can be landed in Wales.

In order to achieve the proposals set out in this document, the existing regulation of cockle fisheries in Wales will need to change. It is anticipated that some of the Byelaws referred to above and certain Statutory Instruments will be revised or revoked with a view to ensuring that the new schemes are introduced in one Statutory Instrument. This will ensure that the new regulation of cockle fisheries in Wales is as clear and accessible as possible and also that it is easier to enforce.

Currently, though this is subject to review as the policy is developed, it is anticipated that those Byelaws enacted for cockle management purposes and the Cockles and Mussels (Specified Area)(Wales) Order 2011 will require revision. Those relevant Byelaws are contained in Annex 3 for reference.

In summary, it is anticipated that the following provisions will require amendment or revocation in order to make way for the introduction of the new permitting schemes:

- i) The Cockles and Mussels (Specified Area) (Wales) Order 2011 which prohibits fishing for cockles and mussels within the specified area unless that activity is undertaken in accordance with a permit issued by the Welsh Ministers will need to be amended (in so far as it applies to cockles).

- ii) Byelaw 21 of the former South Wales Sea Fisheries Committee will need to be revoked and equivalent provision introduced within the new permitting scheme.
- iii) Byelaws 22 and 23 of the former South Wales Sea Fisheries Committee, which apply to 'shellfish' will need to be revised so that in the future they do not apply to cockles. A new, equivalent provision in relation to cockles, will be introduced within the new permitting schemes.
- iv) Byelaw 40 of the former South Wales Sea Fisheries Committee and Byelaw 12 of the former North Western and North Wales Sea Fisheries Committee both regulate fishing for bivalve molluscs by permit. Both of these Byelaws will require revision in the future to ensure that they apply to all bivalve molluscs except cockles. A new provision regulating fishing for cockles will be introduced as part of the new permitting scheme.
- v) Byelaw 48 of the former South Wales Sea Fisheries Committee will need to be revoked. A new provision directly relevant to the Three Rivers Cockle Fishery (one of the proposed 'Major Fisheries') will be introduced as part of the new permitting scheme.
- vi) Byelaw 13A of the former North Western and North Wales Sea Fisheries Committee currently applies to cockles and mussels and allows for the closure of a fishery for a specified period. It is anticipated that this will be amended so that in the future it does not apply to cockles and new provisions will be introduced as part of the new permitting scheme.
- vii) Byelaw 14 of the former North Western and North Wales Sea Fisheries Committee will need to be revoked. In future, leaving aside the proposed Major Fisheries, it is anticipated that cockle fisheries in Wales will not be subject to closed seasons.
- viii) Byelaws 16 and 17 of the former North Western and North Wales Sea Fisheries Committee currently apply to shellfish and provide for the temporary closure of shellfisheries and the re-deposit of shellfish. It is anticipated that these byelaws will be revised so that in future they will apply to all shellfish except cockles. New and equivalent provision will be introduced within the new permitting scheme.

At this stage, it is also anticipated that the following provisions will require amendment or revocation in order to make way for the introduction of a new minimum size requirement relating to the landing of cockles.

- ix) Byelaw 13 C of the former South Wales Sea Fisheries Committee and Byelaw 13 of the former North Western and North Wales Sea Fisheries Committee will be revoked. It is proposed that a new provision introducing a prescribed minimum size for the purposes of section 1(1) Sea Fish (Conservation) Act 1967 will be introduced in the new Statutory Instrument.

Proposed All Wales Permit Scheme

The Welsh Government proposes to introduce a new permit scheme which will require all applicants who wish to fish for cockles commercially anywhere in Wales, to apply for and hold an appropriate current permit identification card.

Each person wishing to gather cockles anywhere in Wales (including the currently Regulated fisheries in the Burry Inlet and the Dee Estuary) will need to be registered on the All Wales Permit Scheme. Non-commercial gatherers (the general public) will be allowed to gather up to 5kg per day without a permit subject to any additional rules applying in individual fisheries from time to time.

An administrative fee will be charged for all applications, which will be set at £20 initially (and reviewed annually). To obtain a permit, each applicant must possess a current Foreshore Gatherers Safety Training Certificate issued by the Sea Fish Industry Authority and such information as may be specified by the Welsh Ministers as necessary to consider an application, must be provided.

Upon issue, all permit holders will be reminded of the need to comply with all relevant legislation concerning the harvesting and gathering of shellfish (including cockles) in Wales. This will include guidance on the relevant rules, regulations and requirements for completing Welsh Government compulsory shellfish catch returns as identified in these proposals.

Permits will be issued in the form of a plastic identity card and there will be no restriction on the numbers of permits issued in the first instance. They will be hard-wearing and must be carried at all times by all active cockle gatherers. They will be non-transferrable and must be applied for in person at a Welsh Government office. The permit will include the relevant details of the gatherer, along with an up-to-date photograph, and a hologram will be printed over the whole card as a security feature.

We are exploring the possibility of considering relevant previous convictions when permits are applied for and establishing a disciplinary policy whereby a permit may be withdrawn from a permit holder where they have breached the relevant legislation.

Proposed Major Fisheries Permit Scheme

As indicated, under these proposals certain fisheries will be classed as 'Major Fisheries' and will be subject to restrictions whereby the numbers allowed to fish will be restricted. In the first instance this definition will apply to both the fisheries at Traeth Lafan (near Bangor, North Wales) and the Three Rivers Estuaries (in Carmarthen Bay, South Wales).

Each major fishery will be managed individually, with permit conditions tailored to local circumstances. To this end Local Management Committees will be established, consisting of fishermen, local community bodies, NRW, Welsh Government Science Team, Welsh Government representative and other relevant stakeholders. The Committee will provide advice to Welsh Ministers on the establishment of a Fishery Management Plan covering the matters of relevance to the particular fishery.

No person shall fish in a major cockle fishery in Wales for any cockle unless that person holds a valid permit for that major cockle fishery. A permit under the All Wales Permit Scheme will also be required in all major fisheries. This includes the Regulating Order fisheries, but for existing Regulating Order licence holders issue will be undertaken in co-ordination with the NRW upon receipt of the licence fee, for no further charge.

The major permit fee would need to cover a substantial part of the management cost of each fishery, and for the initial year it is suggested this will be set at £1,500 per major permit (both Three Rivers and Traeth Lafan). This figure was calculated based on actual costs of running the fisheries in previous years. This amount will be revised annually depending on the local management plan, and will be kept under review.

A ranked list of applicants for each major fishery will be created following receipt of applications, with a limited number of major permits allocated annually determined by the Total Allowable Catch set each season and the respective environmental assessments. The major permits issued per fishery will be valid for one year and will encompass all the opportunities to fish which are made available in that major fishery.

The numbers of major permits issued in a fishery each year will be guided by the Total Allowable Catch which will be set based on the stock analysis and environmental assessments undertaken by the Welsh Government Fisheries Science Team. Subject to the stock and environmental assessments, it is intended that there will be allocated a nominal quota per major permit of 25 tonnes per year in the first instance. If the stock assessments indicate that there is less or no fishing opportunity available then less or no permits will be issued.

To apply for a major permit in any major fishery, there will be a strict application window requesting the evidence set out in Annex 1 of previous fishing activity. Any applicant will be required to hold a valid Foreshore Gatherers Safety Training Certificate and to comply with the conditions of the permit.

It is intended that from the establishment of the revised scheme the number of permits available to any one individual should be restricted. It has been suggested that applicants should be restricted to a maximum of two major permits or licenses (in Regulated Order areas) to fish in Wales. This would mean limiting opportunity to fish to two of the four Major Fisheries in Wales. The purpose of this proposal is to ensure fairness of opportunity. We would be interested to hear your views on this proposal.

The Welsh Government is aware that there are around one hundred gatherers who hold a licence to fish pursuant to one of the existing Regulating Order fisheries in the Dee Estuary or the Burry Inlet. These fisheries are established by Regulated Orders and are currently managed by NRW. There is a small number of existing gatherers who currently hold a license to fish in both the Dee Estuary and the Burry Inlet. As indicated, it has been suggested that under the proposals future applicants would be restricted to fishing in two major fisheries in Wales. It is anticipated that a transitional measure may be required on introduction of the new Scheme where a gatherer already holds two licenses pursuant to the

Regulating Orders. That license holder would be able to apply for a permit to fish in one of the other two major fisheries for that year but they would still be limited to fishing in two of the Major Fisheries, they would be able to decide which two of the Major Fisheries.

We are also proposing that permit holders must do the gathering themselves personally and be in possession of a valid permit identity card. Permits will not be able to be assigned or sold to another person.

A detailed local management plan will be established in consultation with the Local Management Committee, which will inform any proposals for the management of each Major Fishery and determine the full list of conditions for major permits in each fishery, and failure to comply with any condition could result in the removal of that particular permit.

It is proposed that one of the conditions of holding a permit will be a requirement on permit holders to also carry the Welsh Government permit card whenever participating in cockle gathering, and ensure that all relevant documents are at hand.

Gatherers must also comply with the conditions of the Welsh Government compulsory catch return. This system will be in addition to that operated by the FSA and Local Authorities for movement documents.

The permit holder will be required to fish at least 75% of their total allowable catch per year unless they are unable to do so under management grounds. The new proposed Welsh Government Catch Return will be used to quantify fishing activity.

Allocation of Permits for Major Fisheries

There will be a limit to the number of permits available for each major fishery, to secure the sustainability of stock levels and to encourage stakeholder ownership of fishing opportunities.

We propose to allocate permits using a point system ranked list, as set out at Annex 1. In this way we will establish a fixed waiting list from which a number of permits will be offered each year for the major fisheries in which there are sufficient stocks. If the ranking system has applicants with equal points then there will be a random selection to determine their ranking order. Future applicants will join the waiting list in date order of application.

Apprenticeship

In due course Welsh Ministers propose to introduce an apprenticeship scheme following the establishment of the new cockle scheme. In this way a route for new entrants into cockle gathering will be available. It is expected that the apprenticeship scheme will work on the basis of a permit holder accepting an apprentice and training them up over several years and sharing their allocation of fishing opportunity. It is suggested that the apprentice will also take part in appropriate certified training to ensure they meet the standards expected. A short consultation will be undertaken at a later date prior to the introduction of such a scheme.

Other regulation that applies to cockle gatherers

Annex 3 of EU Regulation 853/2004 provides that gatherers can only harvest live bivalve molluscs from production areas that have been classified by the competent authority. As a result, live bivalve molluscs can only be harvested from areas that have been classified.

Harvesting areas are classified as:

- Class A – where bivalve molluscs can be harvested for direct human consumption.
- Class B – where bivalve molluscs must be purified (cleansed of bacteria through an approved depuration unit); relayed in an approved Class A relaying area; or heat treated by an approved method before they can be sold for human consumption.
- Class C – where bivalve molluscs must be relayed (for a minimum of 2 months) to meet Class A or B, or be heat treated.
- Prohibited area – area from which live bivalve molluscs cannot be harvested for human consumption.

The above EU Regulation applies now and gatherers can only harvest live bivalve molluscs from production areas that have been classified for cockle gathering. There are also Food Hygiene regulations and Local Authority rules applicable to all Food Business Operators which apply and require compliance by gatherers.

It follows that despite the issue of an all Wales permit by the Welsh Government that enables a gatherer to commercially harvest cockles, in order to comply with Food Hygiene legislation, permit holders will only be able to fish from shellfish beds that are appropriately classified. The Food Hygiene Regulations are to protect public health and the Food Standards Agency (FSA) administer and enforce those regulations in co-ordination with the relevant Local Authorities. A link to the classified area maps is provided here:

<http://www.cefas.defra.gov.uk/our-science/animal-health-and-food-safety/food-safety/classification-and-microbiological-monitoring/england-and-wales-classification-and-monitoring/classification-zone-maps.aspx>

All gatherers will need to make sure that they comply with all relevant legislation covering areas such as environmental, health and safety, and gang-master licensing regulations.

Landing size

We propose to introduce an all Wales Minimum Landing Size (MLS) for cockles of 20mm. The current landing size in the Dee regulated fishery, and the former North Western and North Wales Sea Fisheries Committee area is currently 20mm. The current MLS in the former South Wales Sea Fisheries Committee area is currently 19mm. Under the proposals we are considering introducing exceptions to this MLS, from time to time, which would be informed by appropriate scientific evidence.

Compulsory Catch Return

It is proposed that there will be a compulsory catch return system for cockles for the purposes of managing the exploitation of this resource. We propose to introduce a system of compulsory catch returns that would need to be completed by the gatherer prior to movement of any consignment of cockles. These catch returns will need to include the date of gathering, the location of the activity, quantity gathered and any other relevant information that might be deemed necessary to manage the exploitation of those resources.

In considering these proposals, the Welsh Government is also exploring with the Food Standards Agency and Local Authorities any requirements necessary to ensure traceability of shellfish. This includes either the sharing of data collected on a Multi-Agency approach and possibly revisions to Food Hygiene reporting requirements.

Annex 1

Fixed Ranking system

A ranked list will determine the order in which permits for each major fishery will be allocated. The list will be established using the criteria set out below with points for required evidence attributed to each. Positions on the list will be determined according to the number of points acquired by an applicant.

Criteria	Required evidence	Reference year	Points attributed
Permit & Catch Returns	Permit issued for the specific Cockle Fishery applied for, in addition to Catch returns received by Welsh Government or Sea Fisheries Committee <i>(where permits were issued in that particular year)</i>	2006	6
Permit & Catch Returns	Permit issued for the specific Cockle Fishery applied for, in addition to Catch returns received by Welsh Government or Sea Fisheries Committee <i>(where permits were issued in that particular year)</i>	2007	6
Permit & Catch Returns	Permit issued for the specific Cockle Fishery applied for, in addition to Catch returns received by Welsh Government or Sea Fisheries Committee <i>(where permits were issued in that particular year)</i>	2008	6
Permit & Catch Returns	Permit issued for the specific Cockle Fishery applied for, in addition to Catch returns received by Welsh Government or Sea Fisheries Committee <i>(where permits were issued in that particular year)</i>	2009	6
Permit & Catch Returns	Permit issued for the specific Cockle Fishery applied for, in addition to Catch returns received by Welsh Government or Sea Fisheries Committee <i>(where permits were issued in that particular year)</i>	2010	6
Other Permit & Catch Returns	Permit issued for any other Cockle Fishery , in addition to Catch returns received by Welsh Government or Sea Fisheries Committee	2006	5
Other Permit & Catch Returns	Permit issued for any other Cockle Fishery , in addition to Catch returns received by Welsh Government or Sea Fisheries Committee	2007	5
Other Permit & Catch Returns	Permit issued for any other Cockle Fishery , in addition to Catch returns received by Welsh Government or Sea Fisheries Committee	2008	5
Other Permit & Catch Returns	Permit issued for any other Cockle Fishery , in addition to Catch returns received by Welsh Government or Sea Fisheries Committee	2009	5
Other Permit & Catch Returns	Permit issued for any other Cockle Fishery , in addition to Catch returns received by Welsh Government or Sea Fisheries Committee	2010	5
Tax returns	Tax returns (to be certified by HMRC) for the reference tax year demonstrating evidence of material participation as a commercial cockle gatherer.	2006-2007	4

Tax returns	Tax returns (to be certified by HMRC) for the reference tax year demonstrating evidence of material participation as a commercial cockle gatherer.	2007-2008	4
Tax returns	Tax returns (to be certified by HMRC) for the reference tax year demonstrating evidence of material participation as a commercial cockle gatherer.	2008-2009	4
Tax returns	Tax returns (to be certified by HMRC) for the reference tax year demonstrating evidence of material participation as a commercial cockle gatherer.	2009-2010	4
Tax returns	Tax returns (to be certified by HMRC) for the reference tax year demonstrating evidence of material participation as a commercial cockle gatherer.	2010-2011	4
Permit held	Permit issued in the reference year for the specific cockle fishery applied for but no catch returns submitted. <i>(where permits were issued in that particular year)</i>	2006	3
Permit held	Permit issued for the reference year for the specific cockle fishery applied for but no catch returns submitted. <i>(where permits were issued in that particular year)</i>	2007	3
Permit held	Permit issued for the reference year for the specific cockle fishery applied for but no catch returns submitted. <i>(where permits were issued in that particular year)</i>	2008	3
Permit held	Permit issued for the reference year for the specific cockle fishery applied for but no catch returns submitted. <i>(where permits were issued in that particular year)</i>	2009	3
Permit held	Permit issued for the reference year for the specific cockle fishery applied for but no catch returns submitted. <i>(where permits were issued in that particular year)</i>	2010	3
Other Permit held	Permit issued for the reference year for any other Welsh cockle fishery , but no catch returns submitted.	2006	2
Other Permit held	Permit issued for the reference year for any other Welsh cockle fishery , but no catch returns submitted.	2007	2
Other Permit held	Permit issued for the reference year for any other Welsh cockle fishery , but no catch returns submitted.	2008	2
Other Permit held	Permit issued for the reference year for any other Welsh cockle fishery , but no catch returns submitted.	2009	2
Other Permit held	Permit issued for the reference year for any other Welsh cockle fishery , but no catch returns submitted.	2010	2
Presence on a waiting list	Presence on a waiting list for any cockle fishery in Wales for the reference year.	2006	1
Presence on a waiting list	Presence on a waiting list for any cockle fishery in Wales for the reference year.	2007	1
Presence on a waiting list	Presence on a waiting list for any cockle fishery in Wales for the reference year.	2008	1
Presence on a waiting list	Presence on a waiting list for any cockle fishery in Wales for the reference year.	2009	1
Presence on a waiting list	Presence on a waiting list for any cockle fishery in Wales for the reference year.	2010	1

Annex 2

Glossary, Definitions and Links

Catch Return – The document that gatherers must complete and send to the Welsh Government.

Central Database – The database that will be created to record all catch returns and all movements of cockle in Wales. It will be possible to cross reference this database with FSA movement documents.

Classified cockle bed – The shellfish beds (cockles) which have been classified by the Food Standards Agency. Maps can be found at:

<http://www.cefas.defra.gov.uk/our-science/animal-health-and-food-safety/food-safety/classification-and-microbiological-monitoring/england-and-wales-classification-and-monitoring/classification-zone-maps.aspx>

Commercial cockle gathering – Gathering of cockles for the purpose of sale and commerce.

Food Hygiene Regulations – Please see the following link:

<http://www.food.gov.uk/business-industry/guidancenotes/hygguid/>

Major Cockle fishery – Under the proposals there will be four major cockle fisheries in Wales:

Three Rivers Estuary Cockle Fishery;
Traeth Lafan Cockle Fishery;
Dee Estuary Cockle Fishery; and
Burry Inlet Cockle Fishery.

The Dee and the Burry Inlet are major cockle fisheries established by a Regulating Order and currently managed by NRW.

Major Permit – A document/card giving authority and the opportunity to fish in a particular major cockle fishery

Movement Document – The FSA/LA document to record the movement of cockles for the purposes of public health

Permit – An identification card with an individual number allowing a person to operate as a cockle gatherer in Wales

Regulated Cockle Fishery – Cockle Fisheries regulated under regulating orders. The Dee Estuary and the Burry Inlet Cockle fisheries are managed by Natural Resources Wales through a Regulating Order.

Specific Cockle Fishery – The fishery that is being applied for.

Annex 3

Relevant Byelaws of the former Sea Fishery Committees in Wales

Byelaws saved by the Marine and Coastal Access Act 2009 (Commencement No. 1, Consequential, Transitional and Savings Provisions) (England and Wales) Order 2010 (S.I. 2010/630) (C.42)

Text of Order (as originally made) is available here –

http://www.opsi.gov.uk/si/si2010/pdf/uksi_20100630_en.pdf

Article 13 of the 2010 Order saved the following byelaws of the South Wales Sea Fisheries Committee, the North Western and North Wales Sea Fisheries Committee and the Environment Agency, whilst exercising the powers of a local fisheries committee, to the extent that they could have been made in a statutory instrument by the Welsh Ministers. Those saved byelaws continue to have effect in relation to the same area of Wales as the area to which that provision originally applied.

Byelaws of the South Wales Sea Fisheries Committee

These byelaws apply to the South Wales Sea Fisheries District. That district is set out by the Order of the Board of Agriculture and Fisheries dated 8 July 1890 as amended by SI 1980/823 and SI 1993/2532.

<p>Byelaw 13 Shellfish – Minimum Sizes</p>	<p>13. SHELLFISH – MINIMUM SIZES</p> <p>No person shall take or otherwise remove from any part of a fishery within the South Wales Sea Fisheries Committee District:-</p> <p>a) Any oyster of the species <i>Ostrea edulis</i> known as the European flat oyster that will pass through a gauge having a circular opening of 70 mm in diameter.</p> <p>b) Any mussel (<i>Mytilus edulis</i>) of less than 51 mm in length provided that it shall not be an offence under this Byelaw to remove mussels from a fishery of less than 51 mm in length in accordance with the prior written authority of the Director to the Committee or as permitted by his appointee at the time of removal.</p> <p>c) Any cockle (<i>Cerastoderma edule</i>) that will pass through the gauge of a riddle or like instrument used for the purpose of riddling, sorting or sifting cockles which has an aperture 19 mm square, provided that it shall not be an offence under this Byelaw to remove cockles from a fishery in accordance with the prior written authority of the Director to the Committee or as permitted by his appointee at the time of removal.</p>
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	Shellfish, the taking or removal of which is prohibited by this byelaw, shall be returned immediately to the sea at a position as nearby as is possible from where they were taken.
Byelaw 21 Prohibition of night gathering of Cockles	<p>21. PROHIBITION OF NIGHT GATHERING OF COCKLES</p> <p>No person shall fish for or take cockles (<i>Cerastoderma edule</i>) from any part of a fishery within the South Wales Sea Fisheries Committee District between half an hour after sunset on any day and half an hour before sunrise on the following day.</p>
Byelaw 22 Allowances for Weighing	<p>22. ALLOWANCES FOR WEIGHING</p> <p>For the purposes of enforcing Byelaws the weight of shellfish gathered from any fishery shall be determined by weighing the same in sacks and no allowance shall be made in respect of the weight of the sacks (whether wet or dry) nor of any sand or other materials present.</p>
Byelaw 23 Shellfish – Re-Deposit of	<p>23. SHELLFISH – RE-DEPOSIT OF</p> <p>Any person who takes any shellfish, the fishing for or taking, gathering or removal of which from any part of a fishery within the South Wales Sea Fisheries Committee District is prohibited by any of the Committee's Byelaws, or the possession or sale of which is prohibited by or in pursuance of any Act of Parliament, or any Order or Regulations made there under, shall forthwith re-deposit the same as nearly as possible in the place from which they were taken or under the prior written authority of the Director on other suitable ground, and in re-depositing cockles (<i>Cerastoderma edule</i>), in accordance with this Byelaw shall spread them thinly and evenly over the beds.</p>
Byelaw 40 Bivalve Molluscan Shellfish – Methods of Fishing	<p>40. BIVALVE MOLLUSCAN SHELLFISH – METHODS OF FISHING</p> <p>No person shall fish for or take or remove from any part of a fishery within the South Wales Sea Fisheries Committee District any species of bivalve mollusc except:-</p> <p>a) by hand or with a hand held instrument; or</p> <p>b) with a hand riddle or like instrument having a rigid aperture or grid (not netting of any description); or</p>

	<p>c) with the prior written authority of the Director of the Committee, and in accordance with any conditions such as may be imposed by that authority, a fishing instrument of an approved pattern.</p> <p>A fishing instrument shall not be of an approved pattern if its use results in unacceptable damage to any molluscan fishery and/or other biota (marine or otherwise), and/or more than 10% by weight of the target species are damaged.</p> <p>Conditions which may be imposed are:-</p> <p>Definitions of the fishing instrument and ancillary equipment including design, size and number.</p> <p>The requirement to provide daily returns on molluscan shellfish so taken, or discarded, the quantity and duration of use of any instrument. Prohibition in the use of any instrument in any particular area or times.</p> <p>In deriving such conditions and approval of pattern, the Committee will be advised by scientists who appear to them to be suitably qualified.</p>
<p>Byelaw 47 Permit to Take Cockles within the Three Rivers Estuary</p>	<p>Subject always to the provisions and requirements of other South Wales Sea Fisheries Committee Byelaws, no person shall fish for, take (or attempt to fish for or take) or remove cockles from the area of the South Wales Sea Fisheries Committee District, north of a line drawn eastwards from Ginst Point (NG Ref. SN 332079) to Tywyn Point (NG Ref. SN 357064), otherwise known as the Three Rivers Estuary, without a written permit issued by the Committee and in accordance with the conditions set out in such a permit.</p> <p>Permits will be provided to any person upon demand provided that:-</p> <p>The prescribed application form has been accurately completed and received (the proof of which shall be upon the applicant).</p>

The applicant has, at the time of application, not been convicted on more than one occasion within the preceding five year period of an offence contrary to Section 3(3) of the Sea Fisheries (Shellfish) Act 1967, or an offence contrary to the Sea Fisheries Regulation Act 1966, or for aiding and abetting offences contrary to the said Acts provided that offences committed before the date of confirmation of the byelaw shall not be considered.

Catch returns required by paragraph (e) below have been received by the Committee.

Any such permit will only be available for the periods specified therein and for use by the person named therein and whose photograph is attached to the permit.

Any person who fishes for, takes (or attempts to fish for or take) or remove cockles under a permit referred to in para (a) above, shall when required by a fishery officer and after the production, if so required, of written evidence of the authority of that officer, produce such permit and shall desist from the activity until such permit is produced.

Any person fishing for cockles and being the holder of a permit, shall by the specified dates in each year, make a full and true return in a form so specified by the Committee, of the location from, and of the date on which any cockles were taken together with quantities (in kilogrammes) of all such cockles taken, or if appropriate a Statement that the person had taken no such cockles.

For the purposes of this byelaw the following definitions shall apply unless the context otherwise requires

'Committee' shall mean the South Wales Sea Fisheries Committee.

'Fishery Officer' shall mean any duly appointed officer of the Committee.

'Remove' in relation to cockles shall mean the placing of any such cockles into a container, trailer, vehicle or vessel.

	<p>Provided that this byelaw shall not apply to any person who on one occasion only in any one day takes or removes less than 8 kilogrammes of cockles, and that these are not offered or processed for sale and are for personal consumption".</p>
<p>Byelaw 48 Vehicle Usage within the Three Rivers Estuary</p>	<p>48. VEHICLE USAGE WITHIN THE THREE RIVERS ESTUARY</p> <p>No person shall cause or permit any mechanically propelled vehicle to stand on or pass over any part of the South Wales Sea Fisheries Committee District that lies to the north of a line drawn eastwards from Ginst Point (NG Ref. SN332079) to Tywyn Point (NG Ref. SN357064), otherwise known as the Three Rivers Estuary, without the prior written authority of the Committee, and in accordance with conditions set out in that authority.</p> <p>Any such authorisation shall be withdrawn where in the opinion of the Committee any vehicle so authorised is operated in a manner which has caused or is likely to cause, significant damage to cockles.</p> <p>Provided that nothing in this byelaw shall apply to the carrying out of any operation by any Organisation in the exercise of any statutory functions or to any leasee or owner of any land within the specified area.</p>

Byelaws of the North Western and North Wales Sea Fisheries Committee

For our purposes, these byelaws apply to the part of the North Western and North Wales Sea Fisheries District which lies in Wales (unless otherwise stated).

That district is set out by the North Western and North Wales Sea Fisheries District Order 1999 (S.I. 1999/1043) :

<p>Byelaw 5 Permit to fish for Cockles (Cerastoderma edule) and Mussels (Mytilis edulis)</p> <p>NB NWNWSFC Byelaw 5 has been revoked and replaced by SI 2011/1988</p>	<p>BYELAW 5 PERMIT TO FISH FOR COCKLES (Cerastoderma edule) AND MUSSELS (Mytilis edulis).</p> <p>1. Subject to paragraph 3, no person shall fish for, attempt to fish for, take, attempt to take, remove or attempt to remove, any cockle or mussel from a fishery without having in his possession at the time, a valid permit issued pursuant to this byelaw.</p> <p>2. No person shall have in their possession any article for the use in the course of or in connection with fishing in contravention of this byelaw or any cockle or mussel taken or removed from a fishery in breach of this byelaw.</p>
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3. This byelaw shall not apply to any person who fishes for, takes, or removes less than 5kg of cockles and 5kg of mussels during any calendar day, or in respect of cockles or mussels caught from a licensed fishing vessel registered in the United Kingdom.

4. Application for a permit shall be made using the printed forms available from the Committee, or from the Committee website. Forms will be made available 2 calendar months before the date each permit term begins.

5. The holder of a permit under this Byelaw shall be required to submit to the Committee, no later than the 5th day of the month following, such information in regard to catches and fishing effort for the previous month, under the terms of such permit, as the Committee may require.

6. A 2009/2010 permit will be valid during the period 1st September 2009 to 31st August 2010 and will be granted to an applicant on production of a 2008/2009 permit.

7. An application for a 2009/2010 permit will be considered after 1st July 2009.

8. A 2010/2011 permit will be valid during the period 1st September 2010 to 31st August 2011 and will be granted to an applicant on production of a 2009/2010 permit.

9. An application for a 2010/2011 permit will be considered after 1st July 2010.

10. A maximum of 40 2009/2010 permits and 40 2010/2011 permits will be issued to applicants who have not previously held a North Western and North Wales Sea Fisheries Committee District Wide Cockle and Mussel Permit, on production of:

a) evidence of the applicant's identity, containing photograph and signature, such as a valid passport; or a driving licence with photo, and

b) evidence of the applicant's address, such as a utility bill issued in the preceding 4 months of application, or a current tenancy agreement, and

c) evidence of the applicant's National Insurance Number, and

d) 2 recent passport style photographs of the applicant signed on the back by the applicant, and

e) a Foreshore Gatherers Safety Training Certificate.

11. Applications for permits under paragraph 10 will be considered in order of receipt and permits will be issued to the first 40 applicants where eligibility in accordance with this byelaw is established.

12. A permit issued pursuant to this Byelaw is not transferable and does not permit fishing in breach of any other Byelaw or restriction.

13. Failure to produce, on the reasonable demand of a Fisheries Officer, a valid permit during any period of fishing for cockles and mussels constitutes a breach of this byelaw.

14. Failure to notify the Committee of any change of name or address during the life of a permit constitutes a breach of this byelaw.

15. This Byelaw shall come into force on 1st September 2009 and expire on the 31st August 2011.

In this byelaw:

"Foreshore Gatherers Safety Training Certificate" means a document issued by the Sea Fish Industry Authority Group Training Associations, certifying the applicant's completion of a safety training course for intertidal shellfishing.

Explanatory note not forming part of the Byelaw: Up to 5kg of cockles and 5kg of mussels per person per day may be taken without a requirement for a permit. It is a breach of this byelaw to fish for more than 5 kg of cockles or 5kg mussels per day, anywhere within the District, without a valid permit. The Byelaw does not apply to persons using a registered commercial fishing vessel. Permits are only valid for a specified period of time, and issued on proof of identity, residency and evidence of having completed the SEAFISH GTA intertidal safety training course for shellfishing. Provision is made for 40 new entrants to the industry each year. Permits must be carried during all periods of fishing.

<p>Byelaw 12 Restrictions on Fishing for Bivalve Molluscan Shellfish</p>	<p>BYELAW 12 RESTRICTIONS ON FISHING FOR BIVALVE MOLLUSCAN SHELLFISH</p> <p>This byelaw applies to that part of the District within a line drawn on the seaward side of the baselines 6 nautical miles from the baselines from which the breadth of the territorial sea adjacent to the United Kingdom is measured. For the purposes of this paragraph "the baselines" means the baselines as they existed at 25th January, 1983 in accordance with the Territorial Waters Order in Council 1964 (1965 III p.6452A) as amended by the Territorial Waters (Amendment) Order in Council 1979 (1979 II p.2866).</p> <p>1. No person shall fish for bivalve molluscan shellfish, except</p> <p>a) by hand; or</p> <p>b) in the case of cockles with a craam, rake, spade or jumbo; or</p> <p>c) in the case of mussels with a rake or in that part of the District which is inshore of a line drawn North true from Penmaen-Bach Point (Latitude 53o 17.3' North, Longitude 03o 52.8' West) to the high water mark at Gt. Ormes Head with a rake, provided that the rake is no more than 1 metre in width and that it is only used from a boat when the mussel bed has at least 1 metre of water over it; or</p> <p>d) when using a dredge or other appliance where:</p> <p>(i) such dredge or appliance is of a pattern approved in writing by the Committee, the Committee having been advised by scientists who in the opinion of the Committee appear to be suitably qualified to comment on the conservation and environmental implications;</p> <p>(ii) such use is in accordance with a written authorisation issued by the Committee and with any conditions subject to which that authorisation was issued, including prohibitions on use at particular times, or in particular areas and definitions of the fishing instrument. The Committee may also require as a condition that returns be made on the species and quantities of bivalve molluscan shellfish taken.</p>
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	<p>2. no person shall take or use on any mussel bed, any sledge or other contrivance which in the opinion of the Committee is likely to crush or loosen the mussels or loosen the foundations of the bed, without a written authorisation issued by the Committee.</p> <p>3. no person shall dig in any mussel bed for any purpose without a written authorisation issued by the Committee.</p>
<p>Byelaw 13 Cockles – Minimum Size</p>	<p>BYELAW 13 COCKLES – MINIMUM SIZE</p> <p>No person shall remove from a fishery any cockle which will pass through a gauge having a square opening of 20 millimetres measured across each side of the square.</p> <p>Provided that it shall not be an offence under this byelaw to remove cockles from a fishery in accordance with the written authority of the Committee.</p>
<p>Byelaw 13A Cockles and Mussels – Management of the Fishery</p>	<p>BYELAW 13A COCKLES AND MUSSELS – MANAGEMENT OF THE FISHERY</p> <p>1. The Committee, may close any cockle (<i>Cerastoderma edule</i>) or mussel (<i>Mytilis edulis</i>) bed or part of a bed for the purposes of fishery management or for controlling the rate of exploitation with regard to cockles and mussels.</p> <p>2. Such closure shall be for a specified period and be undertaken only after the Joint Committee has consulted such persons or bodies appearing to them to represent local cockle or mussel fishermen, and provided the Committee has been advised by fishery scientists who appear to them to be suitably qualified, as to the need for such action.</p> <p>3. No person shall, without the consent of the Committee, under the written authority in that behalf signed by the Clerk, remove, take or disturb any cockle or mussel from a bed or part of a bed of cockles or mussels which has been closed pursuant to this byelaw.</p>

<p>Byelaw 14 Cockle Fishery – Seasonal Closure</p>	<p>BYELAW 14 COCKLE FISHERY – SEASONAL CLOSURE</p> <p>No person shall fish for, remove, take or disturb any cockles (<i>Cerastoderma edule</i>) in any part of the District between the 1st day of May and the 31st day of August in the same year, both dates inclusive. Provided that the Committee may close any cockle bed, or part thereof, outside of this period under the provisions of Byelaw 13A.</p> <p>Provided also that it shall not be an offence under this byelaw to remove cockles (<i>Cerastoderma edule</i>) from a fishery:</p> <p>(a) for scientific purposes, (b) for stock management purposes</p> <p>in accordance with the written authority of the Committee.</p>
<p>Byelaw 16 Shell Fishery – Temporary Closure</p>	<p>BYELAW 16 SHELL FISHERY – TEMPORARY CLOSURE</p> <p>Where, in the opinion of the Committee, in any fishery, any bed or part of a bed of shellfish is so severely depleted as to require temporary closure in order to ensure recovery, or any bed or part of a bed contains mainly immature shellfish which in the interests of the protection and development of the fishery ought not to be disturbed for the time being, or any bed of transplanted shellfish ought not to be fished until it has become established, and where the bed, or part thereof, has been clearly defined in notices displayed in the vicinity prohibiting the removal or disturbance of the shellfish, no person shall, while the bed or part thereof is so defined, take away or otherwise disturb any shellfish therein.</p> <p>Provided that no bed or part of a bed may remain closed under this byelaw at any one time for a longer period than one year, without review by the Committee.</p>

<p>Byelaw 17 Re-Deposit of Shellfish</p>	<p>BYELAW 17 RE-DEPOSIT OF SHELLFISH</p> <p>Any person who takes any shellfish, the removal of which from a fishery is prohibited by any of these byelaws, or the possession or sale of which is prohibited by or in pursuance of any Act of Parliament, shall forthwith re-deposit the same as nearly as possible in the place from which they were taken, or, under the written authority of the Committee, on other suitable ground, and in re-depositing cockles, in accordance with this byelaw, shall spread them thinly and evenly over the beds.</p>
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Annex 4

Response Form

Further Review of Cockle Management in Wales 2013

Name: _____

Address: _____

Email: _____

Telephone: _____

Interest in Cockle Fisheries:

Please tick one of the boxes below that best describes your interest in Cockle Fisheries in Wales.

Cockle Gatherer	<input type="checkbox"/>
Industry	<input type="checkbox"/>
Community	<input type="checkbox"/>
Other organisation	<input type="checkbox"/>

Questions

- 1) Do you agree with the detail of the proposed All Wales Permit Scheme *and* the separate specific permit scheme for the selected major cockle fisheries in Wales as set out within this consultation document?

Yes

No

Reason (if any):

- 2) Do you agree that there should be a maximum number of Major Permits to fish any major Welsh fishery per person? (including fisheries subject to a Regulating Order)

Yes

No

If Yes, how many Major Permits do you think should be the maximum per person?

One permit

Two

Three

Four

Reason (if any):

3) Do you agree with the proposed method of allocating permits to applicants for the major fisheries?

Yes

No

Reason (if any):

4) Do you agree with standardising the minimum landing size at 20mm across Wales? (Subject to scientific advice in major fisheries with a Local Management Plan).

Yes

No

Reason (if any):

5) Do you agree with the proposals for compulsory catch returns for all cockles gathered in Wales?

Yes

No

Reason (if any):

6) We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Responses to consultations may be made public – on the internet or in a report. If you would prefer your response to be kept confidential, please tick here: