

1980 No. 1373

SEA FISHERIES

SHELLFISH

**The Solent Oyster Fishery Order 1980**

*Made* - - - - - 10th September 1980

*Laid before Parliament* 18th September 1980

*Coming into Operation* 9th October 1980

The Minister of Agriculture, Fisheries and Food, having received objections to a draft order published in accordance with Schedule 1 to the Sea Fisheries (Shellfish) Act 1967(a) and having appointed a person to act as inspector respecting the proposed order, after considering the said objections and the report of the inspector, in exercise of the powers conferred on him by section 1 of the said Act and of all other powers enabling him in that behalf, with the consent of the Crown Estate Commissioners, hereby makes the following order:—

*Citation and commencement*

1. This order may be cited as the Solent Oyster Fishery Order 1980 and shall come into operation on 9th October 1980.

*Interpretation*

2. In this order “the Minister” means the Minister of Agriculture, Fisheries and Food.

*Right of regulating fishery*

3.—(1) There is hereby conferred upon the local fisheries committee for the Southern Sea Fisheries District, of Park House, Park Road, Poole, Dorset, BH15 2SH (hereinafter called “the Committee”), the right of regulating a fishery for oysters with respect to the area described in article 4 of this order.

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

*Limits of fishery*

4. The area to which this order relates (hereinafter called “the fishery”) comprises so much of the bed of the Solent as lies below the line of low water mark of ordinary tides as the same is shown stippled and edged black on the definitive map prepared in duplicate, sealed with the official seal of the Minister and marked “Solent Oyster Fishery Order 1980—Definitive map showing the situation and extent of the area concerned”, one copy of which has been deposited and is available for inspection at the offices of the Committee at Park House, Park Road, Poole, Dorset, BH15 2SH, and the other at the offices

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(a) 1967 c. 83; section 1 was amended by the Sea Fisheries Act 1968 (c. 77), section 15, and the Fishery Limits Act 1976 (c. 86), section 9(1) and Schedule 2, paragraph 15.

of the Minister at Fisheries Department, Great Westminster House, Horseferry Road, London, SW1.

*Power to make regulations*

5.—(1) The Committee may, with the consent of the Minister, from time to time impose restrictions on and make regulations respecting the dredging, fishing for and taking of oysters within the whole or any specified part of the fishery and, without prejudice to the generality of the foregoing, for the purpose of—

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

(2) The production of a copy of any regulation purporting to be certified by an Assistant Secretary of the Ministry of Agriculture, Fisheries and Food as a true copy shall be conclusive evidence of the existence of the regulation and of the due making and confirmation thereof.

*Licensing of fishing*

6.—(1) No person shall dredge, fish for or take oysters within the limits of the fishery except under the authority and in accordance with the conditions of a licence issued in that behalf by the Committee.

(2) Subject to the directions of the Minister and the provisions of paragraph (7) of this article, licences may be issued by the Committee in such numbers and to such persons, and may authorise the dredging, fishing for or taking of oysters at such times, in such manner and to such extent as the Committee may determine.

(3) A licence shall be used only by the person named therein or by a person nominated by him therein as his deputy.

(4) A licence shall be valid for the period not exceeding twelve months specified therein.

(5) No vessel may be used for dredging, fishing for or taking oysters within the fishery except under the authority of a licence in which it is so named.

(6) Any person dredging, fishing for or taking oysters under the authority of a licence issued under this order shall, when required by any officer authorised by the Committee and after production by that officer of written evidence of his authority if so required, produce such licence and shall desist from dredging, fishing for or taking oysters until the same is produced.

(7) Any fisherman engaged in dredging, fishing for or taking oysters within the fishery as a commercial activity or as part of a commercial activity in the fishing season immediately prior to the coming into effect of this order shall be entitled to a licence in respect of the first fishing season after the coming into operation of this order, and thereafter any such fisherman who has held a licence at any time within the period of 24 months immediately preceding the date of his application to the Committee for a new licence shall be entitled to have a new licence issued to him unless either:—

- (i) a licence held by him has within the said period of 24 months been cancelled by the Committee under section 4(7) of the Sea Fisheries (Shellfish) Act 1967, or

- (ii) he has on at least two separate occasions since the coming into operation of this order been convicted of a relevant offence, that is to say an offence under either section 3(3) of the Sea Fisheries (Shellfish) Act 1967 or under a byelaw made for the regulation, protection or development of fishing for shellfish under the powers contained in section 5(1)(d) of the Sea Fisheries Regulation Act 1966(a),

in which case the Committee shall have absolute discretion to refuse to grant him a new licence.

*Tolls and fees payable for fishing*

7.—(1) Any person licensed under the provisions of article 6 of this order to dredge, fish for or take oysters within the limits of the fishery shall pay to the Committee before or upon receipt of his licence a toll of £250.

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

*Restriction on removal of culch from the fishery*

8.—(1) Except with the previous consent in writing of the Committee no person shall remove any culch or other material for the reception of spat from the fishery or from one part of the fishery to another and anyone lifting any culch or other such material whilst fishing or dredging or at any other time within the fishery shall forthwith replace the same without injury below low water mark of spring tides within the fishery and as nearly as possible in the place from which it was lifted.

(2) Paragraph (1) of this article shall not apply to a removal or lifting effected by the raising of an anchor or any other mooring device for the purpose of navigation.

*Power reserved to remove brood of oysters*

9. For the purpose only of better cultivating the fishery the Committee or any person or persons duly authorised by them may remove any spat or small-sized oysters from any part of the fishery to any other part at such times as the Committee may direct.

*Power to create reserves*

10.—(1) Subject to paragraph (2) of this article, the Committee may from time to time designate and mark out as reserves such parts of the fishery as they think necessary for—

- (a) experimental or scientific purposes, including measures for the eradication or control of pests or diseases of oysters,
- (b) cleansing and subsequent re-stocking with oysters, and the protection of stock so introduced, or
- (c) the collection of spat of oysters;

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

(2) The Committee shall not mark out any part of the fishery which lies within the Dockyard Port of Portsmouth, the Port of Southampton or the Harbour of Cowes without the consent of the Queen's Harbour Master of Portsmouth, the Dock and Harbour Master of Southampton or the Harbour Master of Cowes as the case may require.

*Accounts of expenditure and income and other information*

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

*Duration of order*

12. Subject to the provisions of section 5 of the Sea Fisheries (Shellfish) Act 1967 this order shall continue in operation for 30 years.

*Saving rights of the Crown*

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

*Saving rights of authorised dredging operators*

14. Nothing in this order or in any restriction imposed or regulation made by the Committee shall prejudice, affect or limit the right of any person to dredge for sand and gravel within the fishery where such person or anyone acting on his behalf or on his authority is exercising that right by virtue of a licence granted for the purpose by the Crown Estate Commissioners.

*Saving rights of Queen's Harbour Master and restrictions on works in Portsmouth Dockyard*

15.—(1) Nothing in this order or in any restriction imposed or regulation made by the Committee shall prejudice, limit or affect the powers conferred on the Queen's Harbour Master of the Dockyard Port of Portsmouth by or under the Dockyard Port Regulation Act 1865(a) or any other powers or rights conferred on him or exercisable by him or on his behalf in that capacity.

(2) No works shall be executed on, over or under tidal lands below the level of mean high water springs within the Dockyard of Portsmouth except after consultation with the Queen's Harbour Master of the said port.

*Protection of historic wreck*

16. Nothing in this order or in any restriction imposed or regulation made by the Committee shall prejudice, limit or otherwise affect the operation of the Protection of Wrecks (Designation No. 1) Order 1974(b) (whereby an area in Spithead Anchorage round the site of the wreck of the "Mary Rose" is designated as a restricted area).

*Saving powers of Post Office*

17. Nothing in this order shall affect the powers of the Post Office under the Telegraph Acts 1863 to 1916(c).

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(a) 1865 c. 125.

(b) S.I. 1974/55.

(c) The relevant statutes are 1863 c. 112, 1878 c. 76, 1892 c. 59 and 1916 c. 40.

*Restrictions for the Central Electricity Generating Board, the Southern Electricity Board and the Southern Water Authority*

18. Nothing in this order or in any restriction imposed or regulation made by the Committee shall affect prejudicially the Central Electricity Generating Board, the Southern Electricity Board or the Southern Water Authority in respect of any operation carried out by any of these bodies in exercise of their statutory functions.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 10th September 1980.

(L.S.)

*Peter Walker,*  
Minister of Agriculture, Fisheries and Food.

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EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This order confers on the local fisheries Committee for the Southern Sea Fisheries District the right of regulating a fishery for oysters in the Solent.

The area of the fishery is specified in the order and shown on the definitive map sealed by the Minister of Agriculture, Fisheries and Food, which may be inspected during office hours at the Fisheries Department, Ministry of Agriculture, Fisheries and Food, Great Westminster House, Horseferry Road, London SW1P 2AE or at the offices of the Southern Sea Fisheries District Committee at Park House, Park Road, Poole, Dorset, BH15 2SH.

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STATUTORY INSTRUMENTS

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