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## EXPLANATORY NOTE

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

This Order, which applies in relation to Wales, revokes and replaces Byelaw 5 (Permit to Fish for Cockles (*Cerastoderma edule*) and Mussels (*Mytilus edulis*)) of the former North Western and North Wales Sea Fisheries Committee (“the Sea Fisheries Committee”).

The Sea Fisheries Committee was abolished, in relation to Wales, on 1 April 2010 when the Sea Fisheries Regulation Act 1966 was repealed by section 187 of the Marine and Coastal Access Act 2009 (“the 2009 Act”).

Byelaw 5 of the Sea Fisheries Committee has had effect since 1 April 2010 as if made by the Welsh Ministers in a statutory instrument by virtue of article 13(3) of and Schedule 4 to the Marine and Coastal Access Act 2009 (Commencement No. 1, Consequential, Transitional and Savings Provisions) (England and Wales) Order 2010 (“the 2010 Order”).

Byelaw 5 of the Sea Fisheries Committee expires on 31 August 2011 and this Order revokes and replaces the provisions of that Byelaw.

Article 3 of this Order prohibits, subject to the stated exceptions, fishing for cockles and mussels within the specified area unless that activity is undertaken in accordance with a permit issued by the Welsh Ministers. It also requires that permit holders must be able to produce a permit, when asked, whilst fishing within the specified area.

The specified area is that part of Wales which previously formed part of the Sea Fisheries Committee’s district.

The exceptions to the prohibition set out in article 3 relate to individuals who take by hand not more than 5kg of cockles and 5kg of mussels during any one day, those who take cockles and mussels whilst onboard a registered British fishing boat and those who take cockles and mussels pursuant to an Order made under section 1 of the Sea Fisheries (Shellfish) Act 1967.

Article 4 provides that a permit will be valid between 1 September in one year and 31 August in the following year.

Article 5 provides that an application for a permit must be made to the Welsh Ministers in such form and accompanied by such proof of identity and address as the Welsh Ministers may require. It also provides that such applications may be made on or after 1 July in the year during which the permit being applied for is due to commence.

Article 6 enables the Welsh Ministers to issue a permit to any person who held a similar permit to fish for cockles and mussels in the specified area during the season immediately preceding the season of the permit being applied for. It also enables the Welsh Ministers to issue forty new permits each year to applicants who did not hold a similar permit to fish for cockles and mussels in the specified area during the season immediately preceding the season of the permit being applied for, provided that those applicants must hold a current Foreshore Gatherers Safety Training Certificate issued by the Sea Fish Industry Authority.

Article 7 enables the Welsh Ministers to attach conditions to the permit. It also provides that each permit authorises only the named person to fish and is not transferable to any other person.

Article 8 requires each permit holder to submit a catch return on or before the fifth day of the month following the month during which the cockles and mussels were taken from the specified area.

Article 9 revokes Byelaw 5 of the Sea Fisheries Committee and makes the necessary consequential amendment to the 2010 Order.

**Changes to legislation:** *There are currently no known outstanding effects for the The Cockles and Mussels (Specified Area) (Wales) Order 2011. (See end of Document for details)*

A Regulatory Impact Assessment has not been produced for this Order as no impact on the costs of business or the voluntary sector is foreseen.

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