Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Poole Harbour Fishery Order 2015. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

STATUTORY INSTRUMENTS

2015 No. 1346

SEA FISHERIES, ENGLAND

SHELLFISH

The Poole Harbour Fishery Order 2015

Made - - - -	*28th May 2015*
Laid before Parliament	*2nd June 2015*
Coming into force - -	*1st July 2015*

The Southern Inshore Fisheries and Conservation Authority has made an application to the Secretary of State(**1**) in accordance with section 1(2) of the Sea Fisheries (Shellfish) Act 1967(**2**) ("the Act") for an order conferring a right of several fishery under section 1 of the Act(**3**).

The Secretary of State has prepared a draft Order and served a copy of it on the applicant in accordance with paragraph 1 of Schedule 1 to the Act(**4**).

The applicant 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 that Schedule.

The Secretary of State has considered representations received, in accordance with paragraphs 3 to 6 of that Schedule, and considers that it is expedient to make this Order.

The Secretary of State has had regard to the powers and duties of the Crown Estate Commissioners under the Crown Estate Act 1961(**5**), in accordance with paragraph 6(2) of that Schedule.

The Secretary of State makes this Order, in exercise of the powers conferred by section 1 of, and paragraph 6(1) of Schedule 1 to, the Act.

Citation, extent, commencement and interpretation

1.—(1) This Order—

(**1**) The functions of the Minister of Agriculture, Fisheries and Food were transferred to the Secretary of State by virtue of article 2 of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794).

(**2**) 1967 c.83.

(**3**) Section 1(1) was amended by the Fishery Limits Act 1976 (c.86), Schedule 2, paragraph 15; the Marine and Coastal Access Act 2009 (c.23) ("the 2009 Act"), section 202(2); and S.I. 1999/1820. Section 1(4) was repealed by the 2009 Act, section 202(3) and Schedule 22, Part 5(A). Section 1(6) was substituted, by subsequent subsections (6) to (14), by the 2009 Act, section 203. See section 22(1) of the Sea Fisheries (Shellfish) Act 1967 for the definition of "the appropriate Minister" for the purposes of section 1.

(**4**) Schedule 1 was amended by the Sea Fisheries Act 1968 (c.77), section 15(7); the Criminal Law Act 1977 (c.45), section 31(6); the Criminal Justice Act 1982 (c.48), sections 37 and 46; and the 2009 Act, sections 202(4) and 214 and Schedule 22, Part 5(A).

(**5**) 1961 c.55.

(a) may be cited as the Poole Harbour Fishery Order 2015;

(b) extends to England and Wales; and

(c) comes into force on 1st July 2015.

(2) In this Order—

"the Authority" means the Southern Inshore Fisheries and Conservation Authority established under section 149(1) of the Marine and Coastal Access Act 2009(**6**);

"the fishery area" means that area of Poole Harbour in the County of Dorset described in the Schedule which lies below the line of mean high water springs;

"the management plan" means the management plan marked 'Poole Harbour Several Order 2015 Management Plan' submitted to the Secretary of State by the Authority on 20th March 2015 and deposited at the offices of the Secretary of State for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR;

"laying" means a part of the fishery area with respect to which a lease has been or is to be granted;

"lease" means a lease of the right of several fishery for shellfish conferred by article 2.

Right of several fishery

2. There is conferred on the Authority for a period of 20 years commencing on 1st July 2015 the right of several fishery for shellfish in the fishery area.

Management plan

3. The Authority must manage the fishery area in accordance with the management plan.

Review of management plan

4.—(1) In 2016 and in each year thereafter of the period referred to in article 2, the Authority must, before 1st July, review the management plan and publish an updated version of the plan on its website.

(2) At least 4 weeks before the date of such publication, the Authority must notify the interested parties in writing of any proposed changes to the management plan.

(3) The Authority must, before publishing the updated management plan, take account of any representations it receives in writing from any interested party on the plan or any proposed changes to it.

(4) In paragraph (3), "interested party" means—

(a) the Secretary of State;

(b) Natural England;

(c) any person likely to be affected by the management plan or changes to it; or

(d) any person whom the Authority considers may be the owner, lessee or occupier of the fishery area.

(**6**) 2009 c.23. S.I. 2010/2198 established the Southern Inshore Fisheries and Conservation District. The Southern Inshore Fisheries Conservation Authority is the inshore fisheries and conservation authority for the district by virtue of section 150 of the 2009 Act.

Provisions relating to leases

5.—(1) The following provisions of this article apply in relation to any lease granted or to be granted with respect to any part of the fishery area.

(2) The Authority must, in consultation with the local harbour authority, mark, or require all layings in the fishery area to be marked, in such manner as the Secretary of State may from time to time approve.

(3) The marks defining the limits of each laying to which paragraph (2) applies must be maintained in position and in good repair by the Authority or, if so stipulated in the lease, by the lessee.

(4) A lease has effect as if the right which it confers on the lessee were conferred by an order under section 1 of the Sea Fisheries (Shellfish) Act 1967, and as if any terms and conditions contained in the lease were contained in such an order.

(5) A lease must provide that it may be terminated by the Authority in the event that the lessee is in breach of any provisions of this article, or of any provision of the lease, and the Authority must take all reasonable steps to monitor compliance with such provisions.

Account of income and expenditure and other information

6.—(1) The Authority must provide to the Secretary of State annual accounts of income and expenditure under this Order and such other information relating to this Order and to the fishery area in such form and at such times the Secretary of State may reasonably require.

(2) The Authority must allow a person authorised by the Secretary of State to inspect the fishery area and all accounting records and other documents in the possession of the Authority relating to this Order and to the fishery area.

(3) The Authority must give any person authorised for the purposes of paragraph (2) such information in its possession relating to the Order and to the fishery area as that person may reasonably require.

Statutory undertakers

7.—(1) Nothing in this Order prejudicially affects the lawful activities of a statutory undertaker in exercising that undertaker's statutory functions or authority.

(2) In paragraph 1 "statutory undertaker" has the meaning given in section 262(1) of the Town and Country Planning Act 1990(**7**) and article 1(2) of the Town and Country Planning (General Permitted Development) Order 1995(**8**) and includes—

(a) a person running a telecommunications code system, as defined in paragraph 1(1) of Schedule 4 to the Telecommunications Act 1984(**9**); and

(b) any person or body carrying out coast protection work within the meaning of the Coast Protection Act 1949(**10**) in accordance with any consent or approval under that Act.

Revocation

8. The Poole Fishery Order 1985(**11**) is revoked.

(**7**) 1990 c.8.
(**8**) S.I.1995/418. The definition of "statutory undertaker" was amended by S.I. 2001/1149 and 2011/2085.
(**9**) 1984 c.12.
(**10**) 1949 c.74. For references to "coast protection work" see sections 5, 6, 15 to 17, 19 to 22, and 27 to 28.
(**11**) S.I. 1985/847.

George Eustice
Minister of State
Department for Food, Environment and Rural Affairs

28th May 2015