

## **Explanatory Memorandum to the Specified Crustaceans (Prohibition on Fishing, Landing, Sale and Carriage) (Wales) Order 2015**

This Explanatory Memorandum has been prepared by the Marine and Fisheries Division and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

### **Minister's Declaration**

In my view this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Specified Crustaceans (Prohibition of Fishing, Landing, Sale and Carriage) (Wales) Order 2015. I am satisfied that the benefits justify the likely costs.

**Carl Sargeant AM**  
**Minister for Natural Resources**

**23 December 2015**

## **Description**

1. This Order puts in place standardised measures for crustaceans to ensure that restrictions apply equally throughout the Welsh Territorial Seas. Measures include minimum sizes for lobster, crawfish and specific species of crab including brown, spider and velvet crab; v-notching of lobsters; the removal of parts of crustaceans and the carriage of crustaceans by UK vessels. The Order revokes, and where necessary, replaces and remakes, with amendments, the following legislation:
  - Byelaw 3, 5, 6, 7 and 46 of the former South Wales Sea Fisheries Committee (“SWSFC”);
  - Byelaw 29 and 31 of the former North Western and North Wales Sea Fisheries Committee (“NWNWSFC”);
  - The Undersized Crabs Order 1986, The Undersized Crabs (Variation) Order 1989, The Undersized Lobster Order 1993, The Lobster and Crawfish (Prohibition of Fishing and Landing)(Wales) Order 2002, The Undersized Spider Crabs (Wales) Order 2002. - The Order also revokes the Undersized Velvet Crabs Order 1989 so far as it applies to Wales and the Welsh Zone and the Lobsters and Crawfish (Prohibition of Fishing and Landing) Order 2000 so far as it applies to the area of the Welsh zone beyond Wales;
  - The Order also makes the necessary consequential amendment to Byelaw 19 of the former NWNWSFC.

## **Matters of special interest to the Constitutional and Legislative Affairs Committee**

2. None.

## **Legislative Background**

3. The Order is made in exercise of the powers conferred by sections 1(1), (2), (3), (4) and (6), 5(1) and (2), 6(1) and (3) and 20(1) of the Sea Fish (Conservation) Act 1967 (“the 1967 Act”) and sections 189(1) and 316(1) of the Marine and Coastal Access Act 2009 (“the 2009 Act”).
4. Functions under sections 1 and 5 of the 1967 Act were transferred to the National Assembly of Wales (as it was formerly constituted under the Government of Wales Act 1999), in so far as they were exercisable in relation to Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). Those functions were then further transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).
5. For the avoidance of any doubt, section 22(1) of the 1967 Act expressly provides that “sea fish” (for the purposes of that Act) includes shellfish.
6. The Order follows the negative resolution procedure (pursuant to section 20(5) of the 1967 Act and section 316(8) of the 2009 Act).
7. The Order provides for a number of exceptions which apply to foreign vessels. Access to British fisheries by foreign boats is restricted by section 2 of the Fishery Limits Act

1976. Subsection 2(2) of that 1976 Act provides that foreign fishing boats may not fish within British fishery limits unless they are from a country designated by Order under subsection 2(1) of the 1976 Act. Under that power the Fishing Boats (European Economic Community) Designation Order 1983 (S.I. 1983/253) and the Fishing Boats (Specified Countries) Designation Order 1996 (S.I. 1996/1035) which specify the foreign boats that may fish within British fishery limits and which species of fish they can catch. For our purposes, access to the Welsh zone by foreign vessels fishing for the species covered by this Order is extremely limited and does not lead to significant catches of the species protected by this Order.

8. In addition, Articles 19 and 20 (under the Title “National Measures”) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC impose a number of restraints upon the ability of Member States to impose restrictions on fishing in territorial waters. For example, a Member State can only adopt measures for the conservation of fish stocks in Union waters if they apply solely to fishing vessels of that Member State (see Article 19(1)(a)).
9. Similarly Article 46 of Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms enables Member States to make provision for the conservation and management of stocks in various specified areas but only to the extent that “such measures apply solely to the fishermen of the Member State concerned, are compatible with Community law, and are in conformity with the common fisheries policy”.

### **Purpose and Intended Effect of the Measure**

10. The SWSFC and NWNWSFC were abolished, in relation to Wales, on 1 April 2010 when the Sea Fisheries Regulation Act 1966 (c.38) was repealed by section 187 of the Marine and Coastal Access Act 2009 (c.23).
11. The majority of the Byelaws of the SWSFC and the NWNWSFC that were in effect as at 1 April 2010 were saved (by Article 13 of and Schedules 3 and 4 to 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)) and now have effect as if made by the Welsh Ministers in a statutory instrument.
12. The Welsh Government is in the process of reviewing and revising, where appropriate, the various layers of legislation that now have effect throughout Wales and the Welsh Zone (including the various saved Byelaws of the former Sea Fisheries Committees). One of the preliminary steps in that process was a consideration of management of the inshore crustacean fishery, primarily minimum sizes for lobster, crawfish and specific species of crab including brown, spider and velvet crab; v-notching of lobsters and the removal of parts of crustaceans; ensuring all measures include the carriage of crustaceans by UK vessels.

13. Byelaw 3, 6 and 7 of the former SWSFC and Byelaw 19 and 29 of the former NWNWSFC set minimum sizes for the specified species of crustaceans, with SWSFC having more restrictive limits than in the North. The Undersized Spider Crabs (Wales) Order 2002 (S.I. 2002/1897 (W.198)); The Undersized Velvet Crabs Order 1989 (S.I. 1989/919); The Undersized Crabs Order 1986 (S.I. 1986/497); The Undersized Crabs (Variation) Order 1989 (S.I. 1989/2443) and the Undersized Lobsters Order 1993 (S.I. 1993/1178) also relate to minimum sizes for specific crustaceans.
14. Byelaw 5 of the former SWSFC, Byelaw 31 of the former NWNWSFC and the Lobsters and Crawfish (Prohibition of Fishing and Landing)(Wales) Order 2002 (S.I. 2002/676 (W.73) prohibit the taking of V-notched or mutilated lobsters and crawfish.
15. Byelaw 46 of the former SWSFC prohibits the removing from the fishery of parts of specific species of crustacean. No equivalent legislation exists in the North.
16. The Lobsters and Crawfish (Prohibition of Fishing and Landing) Order 2000 (S.I. 2000/874) currently apply in relation to the area of the Welsh Zone which lies outside of Wales.
17. The purpose of the new legislation is to:
  - 17.1. Consolidate and amend the existing Byelaws and Statutory Instruments to ensure clarity and equality in the fishing sector and to ensure that the rules apply consistently to the industry across Wales.

The principle of equality is a general principle of EU law which requires that similar situations should not be treated differently unless that differentiation is objectively justified. Essentially, the principle of equality requires the Welsh Ministers to treat similar cases consistently, unless a difference in treatment can be objectively justified.

The current legislative provision in relation to these species is more restrictive out to six nautical miles in the South Wales area, resulting in the inshore industry having to return smaller crustaceans to the fishery, whilst fishers in the North are able to retain animals of that size. The initial impact of the new restrictions will be an overall reduction of catch and therefore income for commercial fishers in North Wales in the first year (as they will, in future, have to return fish that are now defined as undersized by this Order. However this impact will be temporary, with status quo being achieved after one season's fishing. The long term impact of improved protection of juvenile animals will be increased fish stocks which will result in a greater return in future years.

- 17.2. Ensure that the management measures are standardised to apply throughout the Welsh Territorial Seas (i.e. within 12 nautical miles), where Welsh Ministers assume full responsibility for fisheries management. This will eliminate existing confusion for the fishing industry and recreational fishers, and ensure more effective enforcement.
- 17.3. To ensure shellfish stocks are exploited at a sustainable level by implementing effective management measures within the Welsh zone. These measures will

assist compliance with statutory duties outlined by the EU Marine Strategy Framework Directive (MSFD), to ensure the achievement, or maintenance of Good Environmental Status (GES) within Welsh Waters by 2020. Descriptor 3 of MSFD seeks to ensure that populations of all commercially exploited fish and shellfish are within safe biological limits, exhibiting a population age and size distribution that is indicative of a healthy stock. The measures additionally ensure compliance with duties outlined within the EU Habitats Directive.

Welsh territorial waters (i.e. within 12 nautical miles) contain several large areas which are designated as Special Areas of Conservation (SAC) or Special Protection Areas (SPA) and consequently are afforded protection under the Habitats Directive (Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora ('the Habitats Directive')). SACs and SPAs (collectively referred to as 'European marine sites') cover approximately 70% of the 0-3nm zone of the Welsh inshore area. The Welsh Ministers are, consequently, under a number of obligations in relation to these sites, which contain many sensitive habitats and species.

Under Article 6(2) of the Habitats Directive, the Welsh Ministers are under a general protective obligation to avoid significant deterioration and/or disturbance of the features for which each site has been designated. Obligations under Article 6(3) of the Habitats Directive also apply and must be dealt with before the Welsh Ministers can authorise any activities which could have a significant effect on a designated site (either alone or in combination with other plans or projects in the area). Failure by the Welsh Ministers to comply with their obligations under the Habitats Directive could result in infraction proceedings being launched by the EU.

## **Consultation**

18. The details of consultation undertaken are included in the RIA below.

## REGULATORY IMPACT ASSESSMENT

### Options

#### 1. Comparison Table – Options

Proposal	Option 2	Option 3a	Option 3b*
Lobster - minimum size	90 mm	90 mm – phased in	90 mm
V-Notch lobster prohibition	Included	Included	Included
Berried lobster prohibition	Included	Not included	Not included
Edible Crab - minimum size	140 mm	140 mm	140 mm
Spider Crab - minimum size	130 mm	130 mm	120 mm female 130 mm male
Crawfish - minimum size	110 mm	110 mm	110 mm
Velvet Crab - minimum size	65 mm	65 mm	65 mm
Part of Crustacean prohibition	Included	Included	Included
Carriage Restriction	Included	Included	Included
Extend out to 12 nautical miles	Included	Included	Included

\*Option 3b is the preferred option

#### 2. **Option 1 - Do Nothing**

Under this option the current legislation (as identified above) will remain in place. This is not considered a viable option given the Welsh Government's commitment to rationalisation of the fisheries legislation which applies throughout Wales and the Welsh zone but is retained here to act as a baseline against which to compare the impact of the other options.

#### 3. **Option 2 – Introduce legislation to incorporate all proposals contained in part 1 of the consultation, as listed below:**

##### Lobster (*Homarus gammarus*)

To introduce legislation to prohibit the fishing for, landing, selling, exposing or offering for sale or having possession of any lobster that are smaller than 90mm (carapace length) all around the coast of Wales out to 12 nautical miles.

The practical effect of this legislation is to increase the size from 87 to 90mm north of Cardigan and outside 6nm throughout Wales.

### V-Notched Lobsters

To introduce legislation to prohibit the fishing for, landing, selling, exposing or offering for sale or having possession of any V-notched or mutilated lobster and crawfish.

The practical effect of this legislation is to reduce the size of a v-notch from at least 5mm to any notch, outside of 6nm throughout Wales. There is no practical effect within 6 miles

### Berried Hens

To introduce legislation to prohibit the fishing for, landing, selling, exposing or offering for sale, or having possession of any 'berried' lobster (i.e. a lobster with attached eggs).

The practical effect of this legislation is a new prohibition throughout Wales.

### Brown / Edible Crab (*Cancer pagurus*)

To introduce legislation to prohibit the fishing for landing, selling, exposing or offering for sale or having possession of any edible/brown crab that are smaller than 140mm (measured across the widest part of the shell) all around the coast of Wales out to 12 nautical miles.

The practical effect of this legislation is to increase the size from 130 to 140mm north of Cardigan and outside 6nm throughout Wales (except for ICES area VIII where the size is already 140mm).

### Spider Crab (*Maia spp*)

To introduce legislation to prohibit the fishing for landing, selling, exposing or offering for sale or having possession of any spider crab that are smaller than 130mm (measured along the midline, from the front to the back of the shell) all around the coast of Wales out to 12 nautical miles.

The practical effect of this legislation is to increase the size of females from 120 to 130mm throughout Wales. The minimum size for males is already 130mm. Also, to extend the restriction to cover all species of spider crab which may be found off the Welsh coast. Current legislation specifies one species only (*Maia squinado*)

### Crawfish / Spiny Lobster (*Palinurus elephas*)

To introduce legislation to prohibit the fishing for landing, selling, exposing or offering for sale or having possession of any Crawfish that are smaller than 110mm (measured along the centre line of the carapace) all around the coast of Wales out to 12 nautical miles.

The practical effect of this legislation is to increase the size from 95 to 110mm north of Cardigan and outside 6nm throughout Wales.

### Velvet Crab (*Necora puber*)

To introduce legislation to retain the minimum size of 65mm in relation to velvet crab.

There is no practical effect of this legislation

#### Removal of Parts of Crustaceans

To introduce legislation to extend the prohibition on retaining parts of Edible Crab, Spider Crab, Velvet Crab and Green Crab all around the coast of Wales out to 12 nautical miles.

The practical effect of this legislation is a new prohibition north of Cardigan and outside 6nm throughout Wales.

#### Carriage Offence

To introduce legislation to create a carriage offence that will apply to all UK fishing vessels which means that it will be an offence to carry any of the crustaceans covered by the restrictions above within the Welsh Territorial Sea, wherever those crustaceans were caught.

The practical effect of this legislation is a new prohibition throughout Wales.

Option 2 is not recommended as officials advise that there is insufficient support and evidence to introduce a prohibition on the landing of berried hens.

#### 4. **Option 3a – As Option 2 but with amendments: Phased in minimum lobster size and Remove berried hen prohibition:**

##### Lobster (*Homarus gammarus*)

To introduce legislation to prohibit the fishing for, landing, selling, exposing or offering for sale or having possession of any lobster that are smaller than 90mm (carapace length) all around the coast of Wales out to 12 nautical miles; but with a phased in approach over a 2 year period in North Wales in order to alleviate the impact on the industry.

The practical effect of this legislation will be an initial increase of 1mm; with further 1mm annual increments (i.e. an initial increase to 88mm; with a subsequent increase to 89mm after 1 year and 90mm after 2 years).

##### Berried Hens

To delay the proposal to prohibit the taking of berried hens until the second phase of the crustacean review. This will allow time to further investigate the impact on the industry and the sustainability of the species.

There is no practical effect as there is currently no ban on berried hens.

#### 5. **Option 3b - as Option 2 but with amendments: Remove berried hen prohibition and Remove increase in minimum size for female spider crab:**

##### Berried Hens

To delay the proposal to prohibit the taking of berried hens until the second phase of the crustacean review. This will allow time to further investigate the impact on the industry and the sustainability of the species.

There is no practical effect as there is currently no ban on berried hens.



### Spider Crab (*Maia spp*)

To introduce legislation to retain the prohibition of fishing for, landing, selling, exposing or offering for sale or having possession of any female spider crab that are smaller than 120mm and any male spider crab that are smaller than 130mm (measured along the midline, from the front to the back of the shell) all around the coast of Wales out to 12 nautical miles.

The practical effect of this legislation is to extend the restriction to cover all species of spider crab which may be found off the Welsh coast. Current legislation specifies one species only (*Maia squinado*). There is no change to the current minimum size restriction.

### **Costs and benefits**

6. The Welsh Government is committed to the development of viable and sustainable fisheries through an ecosystem based approach to fisheries management. The inshore fisheries have the potential, should they be managed objectively on a long term basis, to become more successful, productive and provide a viable future for the coastal communities where they are based.
7. The crustacean fishery (which includes Lobsters, Edible or Brown Crab, Crawfish, Spider Crab, Velvet Crab and Green Crab) is one of the largest commercial fisheries sectors in Wales. Marine Management Organisation statistics from 2012 (Radford, 2013) recorded the following landings into Welsh ports, totalling 1,300 tonnes at a value of £3.8 million:
  - 1,000 tonnes of crustaceans into South Wales ports at a value of £2.5 million.
  - 300 tonnes of crustaceans into North Wales ports at a value of £1.3 million.
8. Minimum size restrictions are the mainstay of conserving crustacean stocks as they offer protection from exploitation until the shellfish are sexually mature. They work well for lobsters and other crustaceans because the method of capture allows all undersized individuals to be returned to the sea alive and in pristine condition, avoiding wasteful discards that can happen in other less selective fisheries (e.g. fin fish trawling) where discards are often returned in a poor condition with high resultant mortality. It is also a clean fishery in that there is very little by-catch, other than crab, which can also be returned alive.
9. The increase of minimum sizes in the North and outside of 6 miles in the South, should be viewed as a long term measure to benefit the inshore fleet, as opposed to a decision to deliver results in the short term. This should be seen as the long term benefit to communities in Wales.
10. The costs to be incurred by the fishing industry were considered by the Welsh Ministers throughout when deciding on this Order.

### **Option 1**

11. This is the 'Do Nothing' option and maintains the current policy position. There are therefore no additional costs or benefits associated with this option.

## Option 2

### Welsh Government and other UK Administrations

12. Cost - Transitional costs will comprise of publicising the new regulations (typically via information leaflets, posters and Welsh Government web site). Design of the publications and web page will be carried out internally. To use external suppliers to print 1000 A4 x 2 page flyers would cost a maximum of £500 (inclusive of VAT). The regulations are expected to come into force in October 2015 and this cost will therefore be incurred in 2015-16. Training for existing Enforcement officers will be carried out internally and therefore the cost will be insignificant. There will be no costs incurred equipping officers to carry out enforcement of the new legislation as existing Vernier measuring gauges are sufficient for taking account of the new minimum sizes.
13. There will be no additional ongoing administrative, legal, enforcement or compliance costs to Welsh Government or other UK Administrations as a result of this Order. Welsh Government Marine Enforcement Officers enforce the existing Regulations and will continue to fulfil this role.
14. Benefit - Training for new officers will be reduced when the new simplified subordinate legislation is in place. The risk of infraction should also be reduced by this action, as the new legislation will be simpler to understand for both industry and enforcement officers.
15. Benefit – By improving the sustainability of shellfish stocks the new regulation will help Welsh Ministers meet their statutory obligations to achieve Good Environmental Status under Descriptor 3 of the Marine Strategy Framework Directive. These requirements are transposed into UK law via the Marine Strategy Regulations 2010.

### Industry

#### Key measures where certain fishers will be affected.

##### Increase in Minimum Sizes

16. Cost - The increase in minimum sizes will have an initial short term impact on the industry due to a reduction in the numbers of crustaceans which may be removed from the fishery in the year following implementation. The majority of increased restrictions apply to and affect fishermen in North Wales. Currently 99 vessels in North Wales are licensed and hold an entitlement to fish for shellfish (94 under 10m and 5 over 10m). The following data from Marine Management Organisation shows landing quantities and value of catches by UK vessels into ports in North Wales:

	Lobster		Edible crab		Crawfish		Spider crab	
	Wt <sup>(1)</sup>	Value	Wt <sup>(1)</sup>	Value	Wt <sup>(1)</sup>	Value	Wt <sup>(1)</sup>	Value
2013	51.0	£501,752	97.3	£108,903	0.0	£44	49.3	£57,072
2014 <sup>(2)</sup>	88.3	£826,137	85.1	£96,105	0.4	£7,734	40.8	£45,704

<sup>(1)</sup> Weight in tonnes

<sup>(2)</sup> 2014 data is provisional

The figures above have been averaged, and are used to offer the below illustration of the potential impact on the industry in the initial year following implementation of the new regulations. The table shows a 10% and 25% reduction in value of catches, (worst and best case scenario, based on the evidence in the RIA suggesting that 25% of the lobster landed catch would be between 87 – 89 mm, but that in other species, specifically edible crab, smaller crabs have a significantly lower value). This illustration is for lobsters and edible crab, the main species which will impact on the Welsh industry. While the regulations are expected to come into force in February 2016, the main fishing season for lobster and crab starts in April and May respectively, the impact on the value of the lobster and edible crab catch will therefore predominantly be felt in 2016-17.

**Indicative estimates of the impact on the value of Lobster and Edible Crab catches in the year following introduction of new regulations**

	Lobster	Edible Crab
10%	£66,000	£10,000
25%	£166,000	£26,000

*Note: A reduction in catch would only relate to the initial year after the legislation is introduced*

Specifically:

- A. Lobsters - A study which took place in South Wales in 1999 found that initial losses of landed weight (and therefore value) due to a minimum size increase from 87 to 90mm would be 13% inshore, 4.4% midshore and 9.2% offshore. (Davies, CG (1999)). Data from an unpublished report in 2007 (Bell, M, *et al* (2007)) illustrates approximately 25% of the catch sampled in North Wales in 2004-2005 fell between 87 and 89mm. No further or more recent data is available; however the size profiles are unlikely to have changed significantly.

Recent information received from buyers of Welsh catches is varied and therefore does not offer substantive evidence of the financial impact on fishermen. A north Wales buyer suggests that 85% of their suppliers will be affected in the short term. However, they state that they currently do not buy any lobster below 90mm and that many fishers involved in the industry are already complying with a voluntary 90mm minimum size.

A buyer based in the South, but with suppliers from North Wales, suggests that 20% of their suppliers will be affected in the short term.

- B. Edible crab – No data is currently available to assess the financial impact on fishers.

A North Wales buyer suggests that their suppliers will not be affected as they currently do not buy any edible crab below 140mm. However, they state that these suppliers may be selling smaller fish caught to a different buyer.

A buyer based in the South, but with suppliers from North Wales, suggests that 20% of their suppliers will be affected in the short term.

An industry representative from West Wales Shellfishermen's Association advised that shells from 130mm crabs are currently used in the preparation of dressed crabs by processors. Non availability of this size shell would result in the processor having to produce a larger dressed crab at an increased cost to the public, or alternatively there will be a requirement to purchase artificial crab shells, at an additional cost to the industry.

- C. Spider crab – No data is currently available to assess the financial impact on fishers.

However, a buyer based in the South, but with suppliers from North Wales, suggests that 100% of their suppliers will be affected and there will be a detrimental effect on foreign markets, which prefer the 120-130 size.

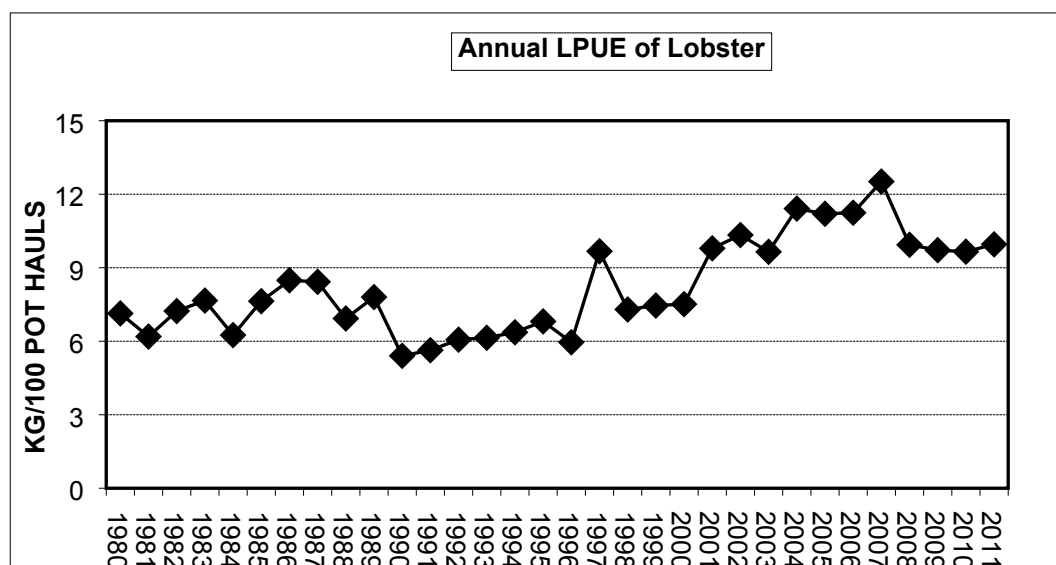
- D. Crawfish – No data is currently available to assess the financial impact on fishers.

However, officials are aware that very few crawfish are taken in Welsh waters, mainly by a few fishermen in the south who use nets. The measure will therefore have minimal impact, particularly on fishermen in the north. Also, buyers suggest that the availability of this species in Welsh waters is insignificant and therefore will have a minimal impact on the industry.

17. Benefit – A standardised size restriction for all species will ensure that fishers in the south no longer have to adhere to a larger minimum size. Currently 153 vessels in South Wales are licensed and hold an entitlement to fish for shellfish (141 under 10m and 12 over 10m).
18. Benefit – Establishing a standard minimum size throughout Wales Territorial Seas will simplify the regulations for the industry, with the intention of reducing the number of accidental infringements.
19. Benefit – An increase in minimum landing sizes for edible crab will lead to increased income for the fishermen in the longer term as larger fish command a higher price per kilo. As an example, Operations Officers advise that in January 2015, the price paid for edible crabs varies from £2.40-£2.60 for large crabs, £2.30-£2.40 for medium crabs, down to 65-70p for smaller crabs (around 130mm).
20. Benefit – An increase in minimum sizes for specific crustaceans will ensure the sustainability of the stock due to increased recruitment into the fishery. Specifically:
- A. Lobsters - There is a known relationship between size and fecundity (quantity of eggs), with larger lobsters yielding more eggs (Woolmer *et al* (2013); Tully (2001)). Studies around the UK and Ireland show that the minimum size that 50% of females become functional (shown to produce and carry eggs) is 90mm. (Woolmer *et al* (2013); Laurans *et al* (2009)). This will result in long term benefits to fishers whose future catches will be more abundant and consist of larger individuals. In the initial year of implementation of the size increase, all individuals between 87 and 89mm, inclusive, would be protected. In the

following year the majority of the protected lobster would have moulted once, possibly twice, resulting in a size increase of 11.8% and weight increase of 38.8% (Davies 1999; Simpson, 1961; Bannister *et al.*, 1983). Similar increases in weight (and therefore value) following an increase in minimum size will occur in other crustaceans.

An increase to 90mm was introduced in South Wales in 1998. Statistical data on landings per pot (a standardised measure of lobster landings) from South Wales Sea Fisheries Committee (see graph below) indicates that, following an initial drop in catches in 1998, the subsequent trend shows an increase in catch per unit effort in the following 10 years. The reduction in catch in 1998 is exaggerated due to a ban on shellfishing following an oil spill in 1996, which led to unusually high catches in 1997.



- B. Edible crab – A Study based from southwest England, the Celtic Sea and southern Irish Sea show that the minimum size that 50% of females become functional is in the range 108-139mm. Whilst there is no data available for Wales, these figures suggest that a minimum size of 140mm is likely to be appropriate for Welsh crab fisheries to ensure the female spawning stock is protected (Woolmer *et al* (2013)).
- C. Spider crab – Unlike other crustacean species, the spider crab stops growing once they attain sexual maturity. Therefore the final ‘moult’ is an indication that the female has become functional. A study in Brittany shows that the final moult for females is between 80-165mm, therefore the current size of 120mm would include both immature and mature adults (Woolmer *et al* (2013)). An increase to 130mm would allow a greater number of females to reach sexual maturity and spawn prior to capture.
- D. Crawfish – Fecundity of this species is related to size, increasing until a maximum fecundity is reached, which has been estimated to occur at 100-110 carapace length in the Western Mediterranean (but is not documented elsewhere). The high value of the species means that it is economically viable

as a fishery, even at low yields and is at risk from overfishing (Woolmer *et al* (2013)). A precautionary approach is therefore recommended.

#### Ban on Berried Hens

21. Cost – Consultation responses suggest a high impact on the income of fishers throughout Wales where a large proportion of their catch often consists of berried hens. A study suggests that berried lobsters may account for a significant proportion of the catch at certain times of the year, but further research is required to quantify this suggestion. There may also be concerns that once returned, a berried hen may then be lost to the individual fishermen (Woolmer *et al* (2013)).
22. Benefit – Management plans such as a berried ban work on the premise that they provide temporary protection to reproductive individuals from the fishery and thus improve recruitment to that stock by increasing egg production (Woolmer *et al* (2013)).
23. Following the consultation process, policy officials now recommend that this measure should be delayed until Phase 2 of the crustacean review, where it will be considered along with other broodstock conservation measures, such as setting a maximum size limit.

#### 24. Carriage Offences

Cost - There is no significant impact on fishermen whilst carrying out legitimate fishing activities.

#### 25. Extension of Restrictions from 6 to 12 nautical miles

Cost – A small number of Welsh vessels which have the capability to fish further offshore will lose the ability to take smaller size crustaceans under current EU regulations which apply outside of six miles.

Benefit - A standardised set of restrictions throughout the Welsh territorial seas will ensure that inshore vessels are no longer discriminated against, having to adhere to stricter restrictions than the vessels which are capable of fishing further offshore.

#### 26. Ban on parts of crustaceans

Cost – There is no data available in Wales to quantify how many fishers retain crab claws for sale. Information received from 2 main buyers in Wales suggests that they refuse to buy parts of crustaceans from the industry.

Benefit – A ban on removing parts of crustaceans throughout Wales will ensure that no parts of undersized shellfish are removed as a way to infringe on the minimum size restriction allowed.

## **Secondary considerations of impacts to the fishing industry.**

27. There is a possibility that the increased minimum size will have a minimal impact on the supply of shellfish to Welsh processors and shellfish merchants in the short term. Whilst this may be true to some extent, most of the shellfish landed in Wales are exported live to Europe and therefore the effect on Welsh businesses will be minimal.

### **Option 3a**

#### **Welsh Government and other UK Administrations**

28. The administrative, enforcement and compliance costs are expected to be the same as under Option 2.

#### **Industry**

29. In this option, the incremental nature of the increase in the MLS for lobsters means that the initial reduction in the value of the lobster catch will be spread over 3 years (2016-17 to 2018-19) rather than a single year (2016-17, as is the case in Option 2).
30. In the longer-term, the benefits would be the same as those identified under Option 2. However, due to the staged increase in the MLS for lobsters it will take longer for these benefits to be realised.
31. The removal of the ban on berried hen lobsters until phase 2 of the review will ensure that fishers are not affected by a significant loss of income until more substantial data is available to justify the measure. In the meantime, the increase in minimum size for lobsters will ensure that females are protected for at least a further season, allowing them to recruit to the fishery before they are captured, some of which will have spawned for the first time.

### **Option 3b**

#### **Welsh Government and other UK Administrations**

32. The administrative, enforcement and compliance costs are expected to be the same as Option 2 and 3A.

#### **Industry**

33. In this option, the change in minimum lobster sizes would not be phased in. The impact on the value of lobster catch would therefore be the same as in Option 2 with the impact predominantly felt in 2016-17.
34. The removal of the ban on berried hen lobsters until phase 2 of the review will have the same effect as in Option 3a.

35. The retention of the size restriction currently in place throughout Wales on female spider crab will ensure that we stay in line with current legislation until we are able to investigate fully the effect on the markets of increasing the size as proposed in Option 2 and 3a.

### **Summary of the Preferred Option**

36. As noted above, Option 1 fails to address the inconsistencies in the current fisheries legislation in Wales and is therefore not a viable option.
37. In the longer term, the impact of Options 2 & 3a and 3b is expected to be similar. However, Option 3a will lessen the impact of the increased size for lobsters by enabling the initial financial loss to be spread over a number of years and will also allow further research to be undertaken on a ban on Berried Hens.
38. Option 3b has been included in this report following feedback from the industry and buyers, received after the consultation closure date. This feedback suggests that:
- the phasing in of the Lobster minimum size complicates the issue and will lead to confusion within the industry. Also, that this measure will result in an additional cost to industry of manufacturing 3 different measuring gauges for each stage of the size increase. They advise that information gained on the growth rates of lobster in Wales lead them to believe that the economic impact of a phased in approach as opposed to a one off increase of 3mm is negligible.
  - the introduction of an increased size restriction on female spider crab may have a substantial detrimental effect on the market.
39. Overall, we are content that the proposed increased restrictions in the north and outside of 6 miles in the south, whilst potentially having a short term impact, will not result in any of the affected fishers becoming commercially unviable. Further, in the long term the catches will be made up of larger shellfish, resulting in both an increased value at first sale and an increased recruitment to the stocks thereby increasing stock size.
40. For these reasons, together with information received from the industry, Option 3b has been selected as the preferred option.

### **Consultation**

41. The Welsh Government undertook a 12 week consultation in the winter of 2014 which included proposals to revoke, replace and remake, with amendments, Byelaw 3, 5, 6, 7 and 46 of the former South Wales Sea Fisheries Committee (“SWSFC”); Byelaw 29 and 31 of the former North Western and North Wales Sea Fisheries Committee (“NWNWSFC”); The Undersized Spider Crabs (Wales) Order 2002 and The Lobster and Crawfish (Prohibition of Fishing and Landing)(Wales) Order 2002. The Order also amends Byelaw 19 of the former NWNWSFC and the Undersized Crabs (Variation) Order 1989). The consultation closed in April 2014. Particular importance was placed on the standardisation and simplification of existing



management measures, but also the inclusion of a new management measure to prohibit the taking of berried lobsters. 44 responses were received (the list of respondents is incorporated as an annex within **Appendix II**). There was an overwhelming response in support of the majority of proposals – 83-95% in favour. However the berried hen proposal was received less favourably with only 55% in support. Additionally, although 83% were in favour of an increase in minimum size of lobsters, many of these supporters were concerned about the short term impact on their livelihoods. The Welsh Government undertook a thorough review of all the consultation responses and other correspondence received from stakeholders and recommended to Ministers that the proposal for berried lobsters be delayed until a further phase of the crustacean review when further management measures would be looked at. This would allow time to further investigate the economic impact on the industry and the sustainability of the species. Also that the increase in minimum size for lobsters be phased in over a 2 year period in North Wales in order to alleviate the impact on the industry (an initial increase to 88mm, with a subsequent increase to 89mm after 1 year and 90mm after 2 years).

42. A detailed analysis of the Consultation Responses is included at **Appendix II**.
43. Based on the consultation responses, together with further feedback received from industry, the Minister for Natural Resources decided that Option 3b be taken and the proposed revocation, replacement and remaking, with amendments of the following should be brought forward as soon as practicable in 2015:
  - Byelaw 3, 5, 6, 7 and 46 of the former South Wales Sea Fisheries Committee (“SWSFC”);
  - Byelaw 29 and 31 of the former North Western and North Wales Sea Fisheries Committee (“NWNWSFC”);
  - The Undersized Crabs Order 1986, The Undersized Crabs (Variation) Order 1989, The Undersized Lobster Order 1993, The Lobster and Crawfish (Prohibition of Fishing and Landing)(Wales) Order 2002, The Undersized Spider Crabs (Wales) Order 2002. The Order also revokes the Undersized Velvet Crabs Order 1989 so far as it applies to Wales and the Welsh Zone and the Lobsters and Crawfish (Prohibition of Fishing and Landing) Order 2000 so far as it applies apply to the area of the Welsh zone beyond Wales;
  - The Order also makes the necessary consequential amendment to Byelaw 19 of the former NWNWSFC.

## **Competition Assessment**

44. The Welsh Government has considered the relevant impacts on Small Businesses that will arise from this Order. The conclusions are that the Order will ensure equal treatment to all involved (a situation which does not currently exist, with fishers in the north adhering to less stringent restrictions and therefore potential short term economic advantage) and will apply to all fishers across the industry. The Order will not restrict or hinder the ability of businesses to choose a price, quality, range or location of their products, nor will it lead to a differentiation in costs between new and existing fishermen. The Order is unlikely to affect the Welsh market structure and no single company has more than a 10% share of the Welsh market.

45. See **Appendix I** for completed Competition Filter.

**Post implementation monitoring and review**

46. The effects of the Order will be reviewed by the Marine and Fisheries Division of the Welsh Government three years after commencement of the new legislation.

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### Competition Filter Assessment

The competition filter test	
Question	Answer yes or no
<b>Q1:</b> In the market(s) affected by the new regulation, does any firm have more than 10% market share?	No
<b>Q2:</b> In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
<b>Q3:</b> In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No
<b>Q4:</b> Would the costs of the regulation affect some firms substantially more than others?	No
<b>Q5:</b> Is the regulation likely to affect the market structure, changing the number or size of businesses/organisation?	No
<b>Q6:</b> Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
<b>Q7:</b> Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
<b>Q8:</b> Is the sector characterised by rapid technological change?	No
<b>Q9:</b> Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

**Welsh Government**

**Consultation – Summary of Responses**



**To the Proposals for the Inshore Crustacean Fishery  
Phase 1**

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## Overview

The Vision of the Wales Marine and Fisheries Strategic Action Plan (M&FSAP),<sup>1</sup> which was published on 26 November 2013, is for clean, healthy, safe, productive and biologically diverse seas. The M&FSAP aims to introduce an ecosystems approach to the management of our seas protecting and preserving natural resources, using healthy populations as the basis to drive sustainable economic growth.

The challenge for fisheries managers is finding the balance between the need to avoid activity that harms our environment and the desire to maximise the value of activities that we can undertake sustainably. Shellfish have significant sustainable economic potential and the Welsh Government has a responsibility to manage these assets sustainably to ensure appropriate economic growth and the protection of livelihoods around our coast. The crustacean fishery (which includes Lobsters, Edible or Brown Crab, Crawfish, Spider Crab, Velvet Crab and Green Crab) is one of the largest commercial fisheries sectors in Wales.

The Welsh Government would like to see a viable and sustainable inshore crustacean fishery with simple and effective legislation to manage that fishery. The current rules and regulations used are complex and can cause confusion. There are multiple provisions and layers of secondary legislation which have been developed over time by the different bodies which previously managed the fisheries, often covering different geographical parts of Wales. Inevitably there are some overlaps, duplication and contradictions between the different sets of legislation. This is confusing for users and managers alike and is not a tenable position.

This consultation document sets out the proposals for Phase 1 of the review of all the relevant legislation that applies to crustaceans throughout Welsh waters. The wider review of legislation relating to crustaceans in Welsh waters will seek to achieve a clear and easy to understand “all Wales” framework for the management of the Welsh crustacean fishery. This work forms part of a wider review of all fisheries legislation which applies in relation to Wales (and the Welsh zone).

We believe we need new rules that are fair, evidence based, easy to understand and accessible. There will be more standardisation and fewer boundaries. They should be practical to enforce, fit in with current fishing practices and, where possible, reduce burden on both the industry and Government. The changes will enable better use and targeting of our natural resources.

<sup>1</sup> <http://wales.gov.uk/topics/environmentcountryside/fisheries/walesfisheriesstrategy/?lang=en>

## **Introduction**

In April 2010 Welsh Ministers assumed full responsibility for fisheries management within the Welsh Zone, including the inshore fisheries out to 12 nautical miles, which is referred to as the Welsh Territorial Sea.

The former Minister for Natural Resources and Food agreed to launch a 12 week consultation on Proposals for the Inshore Crustacean Fishery (Phase 1).

## **Consultation Period and Distribution**

The consultation commenced on 27<sup>th</sup> January 2014 and concluded on 20<sup>th</sup> April 2014.

The aim of the consultation was to seek views on the proposals for Phase 1 of the review of current legislation that applies to the Inshore Crustacean Fishery.

A letter advising Stakeholders of the consultation was sent to approximately 1500 stakeholders either by post or email and also provided details of the web address where the documents could be found. Whilst the consultation was available on line, Stakeholders were also given the option of contacting Welsh Government Officials to request a hard copy of the document.

Alongside the consultation a Response Form was distributed, which consisted of 11 specific questions and also gave respondents the opportunity to include comments on both Phase I and Phase II of the Legislation Review. In total there were 44 responses received to the consultation. A list of respondents is at Annex 1. Two further supplementary questions were put to all 44 respondents on 25 June with a deadline for responses on 4 July. These respondents were informed that if we did not receive a reply by the deadline, we would presume their response to be 'No comment' for the purposes of this consultation. This explains the increased number of 'No comments' when compared to the overall consultation response.

## **Responses**

The Welsh Government would like to thank all those who responded to the consultation. All responses together with discussions held with small stakeholder groups and the Inshore Fisheries Groups (IFGs) will be considered and will feed into the decision regarding these proposals.

A broad range of stakeholders covering a wide range of interests responded. The majority of the respondents used the questionnaire provided; however a small number used a free text format.



## Summary of key issues

Respondents are in support of the majority of the proposals and feel that there should be clear and consistent legislation across Wales. The majority of the responses received to the proposals were from the commercial sector (20) and the recreational sector (17). A further 7 responses were received, including representations from sectors such as, Fishermen's Associations (1) Merchants (1), Environmental Groups (2) and other non specified representatives (3).

A breakdown of Respondents by sector can be seen at Question 1 together with a further breakdown by area represented.

Although Respondents were invited to provide a 'Yes' or 'No' response to each question, they were also invited to provide additional comment against a specific question if they felt it was relevant. All comments quoted below are from separate consultation responses.

To show a true reflection of those in support, the % figure is based upon the number of respondents who provided a 'Yes' or 'No' response. Those who offered 'no comment' are not included in the calculation.

### Q.2 Do you agree with the establishment of a Wales wide minimum size for lobster (*Homarus gammarus*) at 90mm

	For	Against	No comment	total	% Support
Q2	34	7	3	44	<b>83%</b>

### Q.3 Do you agree with the establishment of a Wales wide Minimum size for brown crab (*Cancer pagurus*) (both genders) at 140mm ?

	For	Against	no comment	total	% Support
Q3	36	6	2	44	<b>86%</b>

### Q.4 Do you agree with the establishment of a Wales wide Minimum size for spider crab (*Maia squinado*) both genders at 130mm ?

	For	Against	no comment	total	% Support
Q4	40	2	2	44	<b>95%</b>

### Q.5 Do you agree with the establishment of a Wales wide Minimum size for Crawfish (*Pallinurus elehas*) at 110mm?

	For	Against	no comment	total	% Support
Q5	39	3	2	44	<b>93%</b>

**Q.6 Do you agree with amending the legislation identified in this document that relate to velvet crab (*Liocarcinus puber*)?**

	For	Against	no comment	total	% Support
Q6	37	4	3	44	<b>90%</b>

**Q.7 Do you agree with extending the jurisdiction of the above minimum sizes out to twelve nautical miles in line with Welsh Territorial waters?**

	For	Against	no comment	total	% Support
Q7	38	3	3	44	<b>93%</b>

**Q.8 Do you agree with creating a carriage offence, whereby it is an offence to be in possession of the above species, below the minimum sizes stated above, even if caught outside Welsh territorial waters (12nm)?**

	For	Against	no comment	total	% Support
Q8	36	5	3	44	<b>88%</b>

**Q.9 Do you agree with the prohibition on fishing for, landing, selling, exposing or offering for sale or having in possession of berried (egg bearing) lobsters? This would mean that berried lobsters must be returned to the sea immediately?**

	For	Against	no comment	total	% Support
Q9	23	19	2	44	<b>55%</b>

**Supplementary questions asked were:**

**SQ.1. Do you agree with a prohibition on fishing for, landing, selling, exposing or offering for sale or having possession of any V-notched or mutilated lobsters? This would mean that V-notched or mutilated lobsters must be returned to the sea immediately?**

	For	Against	no comment	total	% Support
SQ1	11	2	31	44	<b>85%</b>

**SQ.2. Do you agree with the prohibition of retaining parts of Edible Crab, Spider Crab, Velvet Crab and Green Crab throughout the coast of Wales, out to a distance of 12 nautical miles from baselines?**

	For	Against	no comment	total	% Support
SQ.2	11	2	31	44	<b>85%</b>

## Questions

**Q.1 What is your interest in the crustacean fishery? Please tick one of the boxes below that best describes your interest in the Crustacean fishery in Wales**

The majority of responses received were from commercial fishermen, and were from the North Wales area.

**Table 1: Responses received split by sector:**

<b>Category</b>	<b>Number of respondents</b>	<b>% Total number of respondents</b>
Commercial fisherman	20	45
Hobby fisherman	17	39
Representative of a fishermen's group	1	2
Merchants	1	2
Environmental Interests	2	5
Other	1	2
Not specified	2	5
<b>Total</b>	<b>44</b>	<b>100</b>

**Table 2: A breakdown of responses split by area:**

<b>Sector Represented</b>	<b>Total Responses</b>	<b>North</b>	<b>South</b>
Commercial fisherman	20	16	4
Hobby fisherman	17	17	-
Representative of a fishermen's group	1	1	-
Merchants	1	1	-
Environmental Interests	2	2	
Other	1	1	-
Not specified	2	2	-

## **Q.2 Do you agree with the establishment of a Wales wide minimum size for lobster (*Homarus gammarus*) at 90mm?**

The majority of respondents agreed with the proposal to increase the minimum size of lobster and felt this would benefit the Welsh fishing industry (34). However, whilst agreeing with the proposal, a number of respondents felt this change should be phased in over a 2/3 year period in order to reduce effect on fishers, particularly in North Wales. 7 disagreed with the proposals completely and 3 did not provide a response.

### **Comments received from those in favour of the proposals included:**

- In terms of marketing and sustainability I think it is very important to increase sizes. By increasing landing size all female lobsters will get extra year or two releasing eggs.
- I believe that 87mm is too small anyway and don't keep lobsters under 90.
- I totally agree that the size should go up to 90mm but what does worry me is the amount at present of smaller fish on the ground. I believe this does cause fatalities in pots which are left for a long soak. I think if this 90 is brought in at the same time would be the ideal time to bring in compulsory escape hatches.
- I support the introduction of a minimum size of 90mm carapace length for all Welsh waters out to the 12nm.
- Raising the minimum size to 90mm will give better resilience to the lobster stock. It will also provide a better lobster value wise to the markets.
- I do believe in a size limit set across the board to avoid confusion, but only if it can be policed.
- As lobsters are cannibalistic the large ones will do more harm than good and don't reproduce as well as younger ones. I agree with raising the size. Will mean a big drop in catch in the short term.
- I agree with the size going up to 90mm but maybe move it up 1mm per year over the next 3 years so the effect is not so great in one season.
- Lobster and brown crab minimum size - I have ticked for the 90mm minimum size for lobster and 140mm for brown crab.
- Agree with raising size but will mean a big hit in the short term for North Wales and Cardigan Bay (old NW, NWSFC area)
- The proposals should cover land as well as at sea so any buyer purchasing undersize shellfish or any fisherman caught with undersize shellfish on land or

at sea should be prosecuted and the fines need to be large enough to deter any future offences.

- I have been a full time commercial lobster and crab fisherman for 31 years. The minimum size increases are long overdue and are very welcome.
- In my area there's problems with landing under 87mm lobster and under 130mm brown crab; the 90mm and 140mm will have to be enforced or all honest fishermen will be out of business.

**Comments received from those against the proposals included:**

- The raising the lobster size up to 90mm would have a devastating effect on the local fishery here in Trefor. Would mean going out of business within a year with catches being more than halved.
- Limiting the maximum size of lobster would take the fun out of catching them, increase fighting with claw loss or worse. One area where I fish I only catch small lobsters [87mm to 90mm] and on diving in this area, a large amount of the holding ground will only support this size of lobster. So raising the size limit will affect my catch quite substantially.
- The MLS is the only measure in the North Wales fishery that protects the resource, at present, apart from v-notching. It obviously works very well and without it the fishery would not exist as it does today. However in increasing the MLS significantly from 87mm to 90mm there are two problems. Firstly there would be a significant loss of 'select' lobsters from the catch. There is also another problem with an MLS increase. For some fishermen this increase in select discards will result in the retention of undersized lobsters.
- The 3m jump from 87mm to 90mm was too much too soon as this would be too much hardship on the smaller vessels in the industry and was agreed that 1mm a year should be implemented until 90mm was reached as it was deemed that the size would inevitably go up to 90mm to unify north and south.
- I don't feel sufficiently qualified to answer the questions, so I'm just making general comment. As a recreational fisherman like many others who come on holiday to Wales each summer & perhaps catches 3 or 4 lobsters a year during August - please do not make any new system or reporting system too onerous for us amateurs. Without the opportunity to potter about in a boat with 2 or 3 lobster pots for 3 weeks a year then I and my family, like others, might not come on holiday to Wales each summer.
- There has been a gradual increase in all crustaceans in the last 10 years. There is no need to increase the minimum size if the protection area is to be increased because this will help stock to increase even more due to more protection.

### **Q.3 Do you agree with the establishment of a Wales wide minimum size for brown crab (*Cancer pagurus*) (both genders) at 140mm?**

There was support for this (36), 6 objected and 2 did not provide a response. However, comments received from Inshore Fisheries Groups seem to favour an Economic Impact Assessment being carried out before changes are implemented.

#### **Comments received from those in favour of the proposals included:**

- Lobster and brown crab minimum size - I have ticked for the 90mm minimum size for lobster and 140mm for brown crab. In my area there's problems with landing under 87mm lobster and under 130mm brown crab; the 90mm and 140mm will have to be enforced or all honest fishermen will be out of business.
- In terms of marketing and sustainability I think it is very important to increase sizes.

I support the introduction of a Brown/Edible Crab minimum size of 140mm for all Welsh waters out to the 12nm.

- It was agreed that should WG implement these new measures they should provide the measures with the appropriate sizes on it. Also it was strongly felt that a much stronger presence from Fisheries was necessary to keep check on the industry and deter any would be flouting of the law as the present level of patrol is no deterrent at all. It has been suggested that when the laws are blatantly broke that permits should be revoked and this would act as a much stronger deterrent.

#### **Comments received from those against the proposals included:**

- I don't agree with an increase in minimum size for Brown Crab. This is again mainly due to market and the fact that the population in North Wales appears very healthy. The local merchants dress crab for the restaurants, hotels and tourists in the summer. It is a fact that in our area the smaller crabs give the best meat yield. Many of the desirable crabs for dressing are in the 130mm-140mm bracket. I would lose a very significant part of my marketable catch which could not be supplemented with larger crab due to the sometimes watery nature of their meat. An increase in MLS would significantly impact on my earnings and to me Brown Crab population is very healthy so why give it further protection?
- Why have you all of a sudden wanted to change the legislation when there is an increase in crustaceans in our seas.

**Q.4 Do you agree with the establishment of a Wales wide minimum size for spider crab (*Maia squinado*) both genders at 130mm?**

There was overwhelming support for this proposal, with 40 responses agreeing to the change. Only 2 respondents objected and 2 did not provide a response.

**Comments received from those in favour of the proposals included:**

- It was agreed that should WG implement these new measures they should provide the measures with the appropriate sizes on it. Also it was strongly felt that a much stronger presence from Fisheries was necessary to keep check on the industry and deter any would be flouting of the law as the present level of patrol is no deterrent at all. It has been suggested that when the laws are blatantly broke that permits should be revoked and this would act as a much stronger deterrent.
- I support the proposals for the Spider Crab minimum size, but this must also include buyers in Wales.
- In terms of marketing and sustainability I think it is very important to increase sizes. Customers rarely want to purchase smaller sizes and often I have force them to at lower price. By increasing size we will have a much better quality product that is more sustainable and easier to sell at a premium price this is for both crab and lobster.

Respondents who did not support the proposals did not supply comment.

**Q.5 Do you agree with the establishment of a Wales wide minimum size for Crawfish (*Pallinurus elehas*) at 110mm?**

The majority of responses supported the proposal (39), with some respondents providing additional proposals. There were 3 objections and 2 who did not provide a response.

**Comments received from those in favour of the proposals included:**

- It was agreed that should WG implement these new measures they should provide the measures with the appropriate sizes on it. Also it was strongly felt that a much stronger presence from Fisheries was necessary to keep check on the industry and deter any would be flouting of the law as the present level of patrol is no deterrent at all. It has been suggested that when the laws are blatantly broke that permits should be revoked and this would act as a much stronger deterrent
- Can we include prohibition on landing berried crawfish?
- I support the proposals for the spider Crawfish/Spiny Lobster, but this must also include buyers in Wales.

- The proposals should cover land as well as at sea so any buyer purchasing undersize shellfish or any fisherman caught with undersize shellfish on land or at sea should be prosecuted and the fines need to be large enough to deter any future offences.

**Comments received from those against the proposals included:**

- Why change?
- Why have you all of a sudden wanted to change the legislation when there is an increase in crustaceans in our seas.

**Q.6 Do you agree with amending the legislation identified in this document that relate to velvet crab?**

Respondents were in support of this proposal with 38 supporting the proposal, 3 objecting and 3 not providing a response.

**One comment received in favour of the proposal was:**

- I support the proposals for the velvet crab, but this must also include buyers in Wales.

**Q.7 Do you agree with extending the jurisdiction of the above minimum sizes out to twelve nautical miles in line with Welsh Territorial waters?**

Once again there was support for this proposal with 36 respondents being favour of the proposal, 5 against and 3 not providing a response. Although there was support for this proposal no relevant comments were provided.

**Comments received from those against the proposals included:**

- Why change? Clearer phrasing of questions.
- Why have you all of a sudden wanted to change the legislation when there is an increase in crustaceans in our seas.

**Q.8 Do you agree with creating a carriage offence, whereby it is an offence to be in possession of the above species, below the minimum sizes stated above, even if caught outside Welsh territorial waters (12nm)?**

**Comments received from those in favour of the proposals included:**

- I also support the introduction of a carriage offense out to the 12nm, but the carriage offense must extend to cover the land, to insure that crabs/lobster below the Welsh minimum size can not be purchased over land by buyers.

The proposals should cover land as well as at sea so any buyer purchasing undersize shellfish or any fisherman caught with undersize shellfish on land or



at sea should be prosecuted and the fines need to be large enough to deter any future offences.

**Comments received from those against the proposals included:**

- I don't believe the fisheries has enough resources to police inside the 6nm let alone spreading themselves even thinner and further out to 12nm at the cost of reduced policing inshore.
- Why change? Clearer phrasing of questions.
- Why have you all of a sudden wanted to change the legislation when there is an increase in crustaceans in our seas.

**Q.9 Do you agree with the prohibition on fishing for, landing, selling, exposing or offering for sale or having in possession of berried (egg bearing) lobsters? This would mean that berried lobsters must be returned to the sea immediately?**

Whilst there was support for this proposal (23), 19 respondents objected with 2 did not provide a response.

Comments were varied, however, respondents felt this proposal would be difficult to enforce.

**Comments received from those in favour of the proposals included:**

- I totally agree with the prohibition of fishing for, landing, selling, exposing, offering for sale or possessing berried lobsters.
- All berried hens should be returned unharmed immediately to help towards a sustainable population. It should be an offence to land a berried hen.
- A year round ban on berried hens was chosen because it was felt that protecting all hens in June and July was a fruitless exercise, what's the point protecting all females for a few lobsters that remain with eyed eggs when for the previous nine months most of them have been harvested anyway.

**Comments received from those against the proposals included:**

- The reason I have said no is because some fishermen would resort to the washing off of the lobster eggs which might result in the death or damage to the lobsters. I strongly believe in protecting our species.
- The only negative comment I have to make is regarding the banning of the landing of berried hens. This proposal is unenforceable and will only result in *bonafide* fishermen losing.

- A berried lobster is very aggressive and have a large territory. A ban on berried lobsters will cause more fighting with claw loss or worse and also reduce the holding capacity of good lobster ground.
- Again I'll be happy to go out of my way to bring them in and take them back out and return them if there is some sort of scheme rather than just being held to ransom with legislation.
- Pretty pointless as some fishermen will scrub berried lobsters and as these can make up at half to three quarters of a day's catch
- Have agreed with all proposals except the berried lobster one. Already at 87mm minimum size a considerable number of berried lobsters are released, at the proposed increase to 90mm there will be another and probably greater additional number of mature (berried) released as being undersized. Practical terms, it is much more difficult to police than a minimum size.
- I do not agree with the berried hens being put back in continuously but I do think that there should be certain months of the year when berried should be put back in
- Do not agree because A) 90mm size will give all stock more time to breed B) Not enforceable C) Combined with size increase would reduce catches in North by 75% and more, putting people out of business. Lobster stock is healthy and good now. Not under threat, problem is poor markets not lack of fish.
- Berried lobster over a certain size should not be landed say 1 kg or equivalent average length if this can be policed
- Berried lobster - I do not agree with a prohibition on landing berried lobster because I don't believe that we can enforce this
- At this stage I do not support the banning of landing berried hen lobsters, as there is insufficient underpinning scientific evidence to prove that returning berried hens to Welsh waters will benefit Welsh fishermen directly.
- I am not against the landing of berried hens, I feel to return all of them would have a big impact on already declining earnings.

Following receipt of the above responses, the 44 respondents were also asked to consider two further supplementary questions:

**SQ.1. Do you agree with a prohibition on fishing for, landing, selling, exposing or offering for sale or having possession of any V-notched or mutilated lobsters? This would mean that V-notched or mutilated lobsters must be returned to the sea immediately**

Of those who responded (12) 10 were in favour of this proposal.

**Comments received from those in favour of the proposals included:**

- I support the proposal for V-notched lobsters but this must also include buyers within Wales.
- With work already done regarding V notching for stock enhancement to take out V notch protection would be counterproductive as soft and buried hens which are currently notched would become unprotected. All the measures you are introducing are good for stock enhancement but without effort control the effort would only increase making all these new regulations futile.

**Comments received from those against the proposals included:**

- V notching females would unbalance the male/female ration which is a bad thing and would be extra work and expense to enforce. The lobster stock is very healthy but a nationwide 90mm mls wouldn't be a bad thing.
- Don't like V-notching, lot of room for error, accidental damage, plus large aggressive hens killing other lobsters in pots.

**SQ. 2. Do you agree with the prohibition of retaining parts of Edible Crab, Spider Crab, Velvet Crab and Green Crab throughout the coast of Wales, out to a distance of 12 nautical miles from baselines?**

Of those who responded (12) 10 were in favour of this proposal.

**Comments received from those in favour of the proposals included:**

- I support the proposals for the removal of parts of crustaceans, but this must also include buyers in Wales.
- 100% agree
- The proposals appear to be a sensible approach to the issues and a proactive method to close existing loopholes. Furthermore it provides a clear mechanism to eliminate unsustainable practices and strengthen enforcement.

**Comments received from those against the proposals included:**

- Current Practice among static net fishermen is to remove one or both claws from edible crabs to facilitate removal from the net. The remainder of the crab

is then returned to the sea. Although the survival rate of return crabs is not known, it would appear that some do, as some are caught with claws in the process of regeneration. If the ban on landing removed claws is brought in, it is likely that the fishermen would resort to smashing the whole crab rather than removing its claws. Thus it is likely that the stock of crabs will be reduced, albeit by an unknown amount. Further research on the survival rates of crabs without claws may clarify this issue.

- What does parts mean, do you mean pots, where I don't think it matters from what I can see there are plenty, and a sustainable quantity of these crustacean, if anything in the last 3 years the numbers have been increasing, so I don't think it is necessary to stop people retaining parts/pots of any of these crustacean.

#### **Q.10 Do you have any comment to make regarding the proposals outlined in Part II?**

In Part II of the consultation, stakeholders were asked to provide comment on proposals which are being considered for inclusion in phase 2 of the Crustacean Review. Proposals put forward in Part II provoked mixed reactions from stakeholders.

#### **Lobster/Crab Pot Escape Gaps**

There was very little support for the use of escape gaps in lobster/crab pots with fishers believing they were unnecessary.

#### **Comments received were varied and included:**

- I also think that the introduction of an escape hatch for smaller crustaceans is an excellent idea and thought of incorporating it myself last year but wasn't sure how or what size.
- I think they are sensible protection. I agree with undersized escape hatches. Commercial fishermen will have increased workload with biodegradable elements of the traps.
- It also noted that "A ban on the landing of berried females, effort reduction and an increase in the MLS would produce the greatest increases in eggs per recruit. Of these measures, only an increase in MLS would result in a greater yield per recruit. Therefore, in addition to the current ban on landing berried females an increase in the minimum landing size would be the most effective means of ensuring recruitment to the fishery."
- Escape hatches do concern me as I use the same creels for lobster fishing and for winter velvet fishing so this would pretty much ruin a vital fishery.
- Unnecessary.

- As I don't land velvet crab now I use escape gaps on the majority of my pots, the size used in the Channel Islands I think. As a result I catch very few undersized lobster and crab which reduces clearing time significantly.
- Extra expense and not needed.
- Only being recreational fisherman if pots must have escape gaps does this mean we will have to use different pots for each type we might find in a pot
- We welcome the commitment by Welsh Government to investigate the scientific value of using escape gaps to release undersize crustaceans. We support the gathering of scientific data by the Bangor School of Ocean Sciences to underpin this initiative.
- Whilst we would welcome further consideration of escape gaps, it should be utilised in conjunction with other measures, and effort should be made to monitor the effects on landing sizes should this measure be introduced. With this in mind, it would seem prudent that Welsh Government look to utilising the EMFF to fund any such measures to gain the best understanding of this approach.
- I have seen the black plastic escape gaps 80 x 45mm, although I have never tried one myself i would be interested to hear any research on this. I think I would be concerned that small crabs would have easier access to the pot and therefore deplete the bait more quickly?

### **Ghost Fishing**

#### **Comments received were limited and included:**

- Not a problem in my experience.
- Mandatory incorporation of low cost effective biodegradable materials into fishing pots would be a welcome measure to alleviate ghost fishing in Wales.

### **Maximum Landing Size for Lobsters**

#### **Comments received were varied and included:**

- I do think the proposed MaxLS of 12-130mm is a bit small and could affect fishermen working offshore. I would suggest one of 140mm+.
- The introduction of maximum landing sizes (MLS) for lobster could be beneficial as it would potentially increase the reproductive capacity by allowing larger more fecund individuals to remain in the fishery, contributing towards a healthier population.

- Waste of time, not possible to fix a size that suits both North and South Wales
- The supporting scientific evidence which accompanied the consultation showed that there is very few large lobsters within the fishery. This is not the case and landing for select lobster and large lobsters are roughly equal by weight. An introduction of a maximum size would have catastrophic effects on the economic viability of the fishery, it would also reduce the amount of select lobsters available to catch as larger lobsters remained on the ground dominating the fishery
- The maximum size of 140mm for lobster was rejected.
- We understand that a maximum landing size is already used in a number of fisheries in Scotland, in part due to issues with being able to market lobsters over a certain size. However it would be prudent to ensure that this measure has had a tangible improvement on fisheries in Scotland, either alone or in conjunction with other measures before applying this to the Welsh lobster fishery. It should also be noted that any such restriction should also apply to non-commercial fishing to ensure it is not undermined by un-regulated fishing.

### **Diving & Netting for Crawfish**

#### **Comments received were varied and included:**

- I would never support a ban on netting for crawfish.
- All members agreed that crawfish should only be caught with pots and that netting and diving for them should be prohibited. It was also agreed that they should receive full protection for a five year period to see if stocks could recover or attempt a restocking programme if funding could be sought, with the programme being assessed by an independent body every five years.
- Before consideration is given to controlling the proposed fishery mechanisms for crawfish it would be advisable to return the stock to MSY levels. Only when the stock is in a self-sustaining condition should consideration be given to how much of the stock can be removed and by what method.
- Natural Resources Wales appreciates that this is only the first part of the crustacean management proposals for Wales and we support the Welsh Government's proposal to establish an increased Wales wide MLS for crawfish of 110mm, even though it is not supported by clear scientific evidence.

### **Non-Commercial Potting**

#### **Comments received were varied and included:**

- Also you need to look at the five pot policy per person.
- Recreational lobster fishermen should be stopped from selling lobsters. More policing required by either boarding or landing inspections.
- I believe that the right for recreational fishermen to catch a limited number of crustacean for personal consumption should be maintained
- Unlicensed fishermen are on the increase throughout Pembrokeshire, many of whom sell their catches through the black market, this affects licensed fishermen, I support some type of restriction
- believe that the right for recreational fishermen to catch a limited number of crustacean for personal consumption should be maintained
- Recreational lobster fishermen should be stopped from selling lobsters.
- It is our view that it is important to manage all fisheries to deliver the ecosystem based approach and so resource is shared more equitably and sustainably.
- Consideration should also be given to pot marking of non-commercial pots.

### **Permit Scheme for Commercial Fishermen**

#### **Comments received were varied and included:**

- I do not support a permit scheme, I feel that to own a licensed and registered boat is all that should be required.
- We welcome Welsh governments view that crustacean fisheries may require effort limitation to ensure both a sustainable fishery and a sustainable industry.
- The introduction of a restricted permit scheme for certain fisheries would be welcome provided it contributed towards the achievement of MSY.

### **Minimum Size for Green Crab (*Carcinus maenas*)**

#### **Comments received were varied and included:**

- I wouldn't support such a measure.
- Establishing a minimum landing size for green crab would be welcomed and must be underpinned by robust science.

**Q. 11 We have asked a number of specific questions. If you have any comments relating to these questions please use this space to report them. Please keep each comment separate.**

**Comments received were varied and included:**

- They are all realistic and reasonable. It's not right to have different regulations across the county and minimum catch sizes are fair.
- I believe that the proposals in question are a fantastic idea and realistic with regards to being able to maintain a healthy stock of lobster and supporting the need of both commercial and recreational fishermen.
- On the whole I believe any steps taken to protect future stocks within reason can only be a good thing.
- We support the Welsh Government's intention to consider additional management measures for Welsh crustacean fisheries in a further consultation process. However, before these additional measures are adopted, the evidence base for doing so must be clearly presented and examined.
- We welcome a number of the outlined proposals, and hopes that Welsh Government will take the necessary steps to ensure their delivery. However we note that a number of the proposals will be difficult to enforce without co-operation of the industry and therefore hope that sufficient discussion has been had to ensure implementation of these proposals in a co-operative fashion.

**Next Steps**

The responses to the consultation will be considered by the Deputy Minister for Agriculture & Fisheries for a decision to be made on the way forward.



## List of Respondents\*

David Nicholson  
Richard Boyce  
Andrew Wilson  
Dr Chris Hawksley  
Norman Scott  
Denver Beer  
Martin Esseen  
Bob J Wright  
Carl Davies  
David Barker  
John James Gorman  
Steven James  
Idwal Moor  
Ryan Horton  
Stephen DeWaine  
Robert James Gorman  
Martyn Bowen  
Tristan Woods  
Clive Campbell  
Chris Jones  
Llyn Fishermens Association  
Paul Mansel  
Richard Andrew Stothert  
Sion Williams  
Wales Environment Link  
Natural Resources Wales  
Dan Angel  
Dene Wright  
Alastair Bresford

\* The above do not include those who wish to be kept anonymous or confidential.