

Number: **WG20494**



Llywodraeth Cymru
Welsh Government

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Consultation Document

Proposals for the Inshore Crustacean Fishery

Phase 1



Date of issue: **27 January 2014**
Action required: Responses by **20 April 2014**

Overview

The Vision of the Wales Marine and Fisheries Strategic Action Plan (M&FSAP)¹, 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. Marine Management Organisation statistics from 2012 recorded 1.3 million tonnes of crustaceans landed into Welsh ports at a value of £3.8 million².

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.

The Welsh Government seeks your response to help address the issues around delivering a sustainable inshore crustacean fishery in Wales. The proposed Phase 1 of the review of crustacean legislation will cover the species of Lobster, Crawfish, Brown Crab, Spider Crab, Velvet Crab and Green Crab and focus (primarily) on the various provisions currently in force which relate to minimum sizes, the V-notching of lobsters and the removal of parts of crustaceans. The detailed proposals upon which we seek your views are contained in this document and the attached annexes.

How to respond

Responses can be submitted via an online form on the Welsh Government website:

<http://wales.gov.uk/consultations/environmentalndcountryside/?lang=en>

These responses can be returned electronically or by post but we would prefer to receive your response by email.

By e-mail: fisheriesmailbox@Wales.gsi.gov.uk

By Post:

Crustacean Consultation
Fisheries Unit
Welsh Government
Llys y Draig
Penllergaer Business Park
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¹ <http://wales.gov.uk/topics/environmentcountryside/foodandfisheries/fisheries/walesfisheriesstrategy/?lang=en>

² <http://www.marinemanagement.org.uk/fisheries/statistics/annual.htm#chapter2>

Further information and related documents

Large print and braille and alternative language versions are available on request.

Data protection

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

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

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Summary of current legal position

Welsh fisheries are governed by a number of levels of domestic and European legislation. These include, at a domestic level, Primary Acts of the UK Parliament (including the Sea Fish (Conservation) Act 1967 and the Marine and Coastal Access Act 2009), various layers of subordinate legislation (Statutory Instruments) and the various saved Byelaws of the former Sea Fisheries Committees in Wales (see further below). At a European level there are the various instruments that set out the requirements of the Common Fisheries Policy, including (for the purposes of this consultation) 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. Annex XII of Regulation (EC) 850/98 sets Minimum Sizes for some of the species covered by this consultation. Domestic legislation can (in certain circumstances) be stricter but cannot introduce measures less conservative than established by EU legislation.

Prior to 1 April 2010, the inshore fisheries area (i.e. the area within 6 nautical miles of baselines) around Wales was regulated by Byelaws made by the South Wales Sea Fisheries Committee and the North Western and North Wales Sea Fisheries Committee. Those Sea Fisheries Committees (SFCs) were established under the Sea Fisheries Regulation Act 1966 (the “1966 Act”).

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.

On 1 April 2010, the 1966 Act was repealed in relation to Wales with the effect of abolishing those two SFCs (so far as they related to Wales). The Byelaws of those SFCs were saved and (since 1 April 2010) now have effect in Wales as if made by the Welsh Ministers in a statutory instrument, by virtue of the Marine and Coastal Access Act 2009 (Commencement No.1, Consequential, Transitional and Savings provisions) (England and Wales) Order 2010 (S.I. 2010/630). The provisions of the Byelaws of the former SFCs, therefore, remain applicable within the area of the relevant District of the former SFCs (which includes an area that extends to a distance of six nautical miles measured from the baselines).

These various layers of legislation (each layer created by a different body) have led, inevitably, to a patchwork of legislation that applies to different geographical areas and which, when compiled together, sometimes prove inconsistent. This has led to a confusing situation for users and managers alike and the Welsh Government is determined to move forward by seeking to eliminate confusion, duplication and contradiction by setting out a clear, consistent and easy to understand all Wales framework for the management of the inshore crustacean fishery on a sustainable basis.

Challenges with current fishery management

There are many challenges facing fishery management under the current legislative provisions which affects the effective management of the crustacean fishery in Wales. For example, there are different minimum size requirements which apply to the same species at different locations across Wales.

Minimum size requirements work well for lobsters and other crustaceans because the method of capture allows all undersized individuals to be returned to the sea alive, avoiding wasteful discards. It is also a clean fishery in that there is very little by-catch, other than crab, which can also be returned alive.

The former SFC Byelaws, however, only apply to the area within six nautical miles of the coast with other legislation governing minimum size requirements in the seas beyond that boundary.

We intend to revoke all domestic legislation governing minimum size requirements for the specified crustaceans and to replace those provisions with a single consistent minimum size per species which will apply throughout Welsh Territorial Seas (which extend to twelve nautical miles). Most Welsh crustacean landings are taken from within twelve miles (indeed most are from within six miles) and therefore it is believed that it is unnecessary to go beyond this limit.

We want to see a fair system whereby all fishermen in Wales have the same set of standard rules which will be clear, concise and easy to use. In order for these rules to be easily enforceable, we are also proposing to include the carriage of undersized crustaceans as part of the new legislative provision. This will prevent individuals from claiming that any crustaceans carried on board were captured outside the relevant area.

To complete this simplification process, we also intend to standardise the current provisions regarding V-notched lobsters and the removal of parts of crustaceans.

As well as addressing current challenges, there are also future opportunities, such as the scientific advances that will now allow for the detection of lobsters that have been 'scrubbed' of their eggs. These tests are now at a level to enable real enforcement of our proposal to prohibit the landing of "berried" lobsters (i.e. lobsters with eggs attached).

Where are we now?

The development of the new regulatory proposals has so far been undertaken through a pre-consultation stage of engagement with stakeholders at the three Welsh Inshore Fishery Groups and with the Welsh Marine Fisheries Advisory Group. This has helped the Welsh Government to formulate policies that meet both the needs of stakeholders and also the environment.

Developing these proposals in partnership with stakeholders and users, and engaging in a transparent way at all stages has helped us to formulate relevant and practical policies that we hope will be supported by the industry. We believe these

proposals are accessible, enforceable and as simple as possible and will deliver a sustainable industry.

The Welsh Government will assess the potential environmental impact of the proposals outlined in this consultation by undertaking a Test of Likely Significant Effect (as required by Article 6(3) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (“the Habitats Directive”)) and have already begun consultation in this regard with the Natural Resources Body for Wales.

Part I: Our proposals

1. Lobster (*Homarus gammarus*)

The European Lobster (*Homarus gammarus*) is the main target species for most pot fishermen. This species has a wide distribution and can be found within the continental shelf from the Arctic Circle to the Mediterranean, favouring hard rocky inshore ground and reefs. Lobsters are long lived and are thought to be capable of living for over 50 years, with females sexually mature at age 4-7 when they reach about 83mm carapace size (Lovewell *et al.*, 1991). Lobsters are aggressive, territorial and cannibalistic. Adults will kill or injure smaller lobsters which are captured and left in the same pot together. Lobsters gain size and weight by moulting (shedding their hard outer skin), leaving a larger soft shelled lobster that is vulnerable for approximately eight weeks, until the new shell hardens. Mating normally occurs between a soft shelled female and a hard shelled male, soon after the female has moulted. Mature lobsters moult annually or less often. The female produces up to 30,000 fertile eggs which she cements under her tail. The eggs develop for between 9-12 months before they are released into the water column where they float free, undergoing growth and successive moults.

The European lobster fishery has to date been managed mainly with the implementation of minimum landing sizes, together with V-notching programmes (explained further below) and the prohibition of landing egg-carrying females (known as “berried hens”) (Woolmer *et al.*, 2013).

Minimum Size

The legislation that applies in Wales currently imposes 3 different minimum sizes for Lobster:

- Council Regulation (EC) 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms, imposes a minimum size of **87mm** (which applies within all EU waters except Skagerrak/Kattegat);
- Undersized Lobsters Order 1993 (S.I. 1993/1178) imposes a minimum size of **85mm** (which applies within the Welsh Zone and is *not compliant with Regulation (EC) 850/98*);
- Byelaw 3 of the former South Wales Sea Fisheries Committee (Lobster – Minimum Size) imposes a minimum size of **90mm** (which applies within the former South Wales Sea Fisheries Committee district, i.e. out to 6nm from baselines in the relevant area);
- Byelaw 19 of the former North Western and North Wales Sea Fisheries Committee (Specified Fish Sizes) imposes a minimum size of **87mm** (which applies within the former North Western and North Wales Sea Fisheries Committee district, i.e. out to 6nm from baselines in the relevant area); and

- Byelaw 29 of the former North Western and North Wales Sea Fisheries Committee (Minimum Size of Lobsters) which imposes a minimum size of **87mm** (which applies within the area of the district west and south of the coastguard/lifeboat station at Rhyl in latitude 53° 19.4' North, longitude 03° 29.5' West).

We propose 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.

We also propose a carriage offence that will apply to all UK fishing vessels which means that it will be an offence to possess a lobster below **90mm** within the Welsh Territorial Sea, wherever it was caught.

Raising the minimum size of lobster should offer additional protection to the species and remove doubt regarding the size of lobster which may be caught in Welsh waters, aiding sustainability and future viability of the local stock.

V-notched Lobsters

To help protect the future viability of the species, V-notching programmes have been run in the past where fishermen were encouraged to return females to the sea after removing a 'V' shaped notch from their tail. Legislative provision (described below) was introduced which prevented the fishing for and landing of these lobsters, allowing them to breed and therefore protecting the spawning stock (Tully, 2004).

The relevant provisions that apply in Wales which restrict the taking of V-notched lobsters are:

- The Lobsters and Crawfish (Prohibition of Fishing and Landing) (Wales) Order 2002 (S.I. 2002/676 (W.73))
 - The 2002 Order prohibits the fishing for and landing of any lobster (for our purposes) which has a V-notch with a depth of at least 5mm. It also applies to any lobster which has been mutilated in such a way as to obscure a V-notch.
- Byelaw 5 of the former South Wales Sea Fisheries Committee (Protection of V-notched Lobsters)
 - prohibits the fishing for or taking of any V-Notched lobster. It also applies to any lobster which has been mutilated in such a way as to obscure a V-notch.

- Byelaw 31 of the former North Western and North Wales Sea Fisheries Committee (Protection of V-Notched Lobsters)
 - prohibits the fishing for or taking of any V-Notched lobster. It also applies to any lobster which has been mutilated in such a way as to obscure a V-notch.

We propose to prohibit the fishing for, landing, selling, exposing or offering for sale or having possession of any V-notched or mutilated lobster, where:

- (i) V-notch means any indentation in the shape of the letter 'v' made in any one or more of the five flaps of the tail fan of the lobster.
- (ii) 'Mutilated' means any lobster which has any of the five flaps of the tail fan missing or mutilated in such a way as to obscure a V-notch.

We also propose a carriage offence that will apply to all UK fishing vessels which means that it will be an offence to possess a V-notched lobster within the Welsh Territorial Sea, wherever it was caught.

“Berried Hens”

Many fishery authorities, including the majority of the English Inshore Fisheries and Conservation Authorities (the successor bodies to SFCs in England), have byelaws prohibiting the landing of berried hens (i.e. female lobster with eggs attached). The landing of berried hens was previously banned in the UK under the Sea-Fishing Industry (Crabs and Lobsters) Order, 1951 (S.I. 1951/638), however, that legislative provision was repealed in 1996 due to enforcement difficulties. It was impossible to prove if eggs had been removed by “scrubbing” (i.e. deliberate removal by the fisherman) or had simply been lost naturally. A scientific test has since been developed which can detect whether a lobster is a berried hen (even if their eggs have been removed). The result is that enforcing a restriction of that nature is now a practical option (Woolmer *et al.*, 2013).

A prohibition on the landing (etc) of berried hens will help increase the health, abundance and sustainability of lobster stocks.

We propose 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).

We also propose a carriage offence that will apply to all UK fishing vessels which means that it will be an offence to possess a berried lobster within the Welsh Territorial Sea, wherever it was caught.

2. Brown/Edible Crab (*Cancer pagurus*)

The Brown or Edible crab (*Cancer pagurus*) is commonly found around all British and Irish coasts. This species has a wide habitat preference and is frequently found on rocky ground, under boulders and cobbles, on coarse mixed grounds and even in open areas of sandy and muddy seabed.

Crabs take several years to reach maturity and size at maturity varies geographically, depending on environmental conditions, including sea temperature. Moulting occurs through the summer months, with females shedding earlier than males. This timing allows for mating between soft shelled females and hard shelled males. Females bury themselves into the sediment to fertilise and carry their eggs through the winter months. They rarely feed when carrying eggs and therefore are not often caught in fishing pots whilst berried (i.e. carrying eggs). The majority of all the crustaceans are exported to mainland Europe (Woolmer *et al.*, 2013).

Again the regulations regarding minimum size which apply are different for fishermen in different locations around Wales.

The relevant provisions for Brown or Edible Crab are:

- Council Regulation (EC) 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms imposes the following minimum sizes :
 - **140mm** within International Council for the Exploration of the Sea (ICES) area VII_f (west of a line drawn from Linney Head in South Pembrokeshire)³
 - **130mm** within ICES area VII_a, & g (north of line drawn from Linney Head in South Pembrokeshire)³
- Undersized Crabs Order 1986 (S.I. 1986/497) (as amended by the Undersized Crabs (Variation) Order 1989 (S.I. 1989/2443)) imposes various minimum sizes for landing (130mm in south Wales and 125mm in north Wales), sale (115mm) and carriage (125mm) of edible crabs around the Welsh coast.
- Byelaw 6 of the former South Wales Sea Fisheries Committee (Crabs Minimum Size) imposes a minimum size of **140mm** (which applies within the former South Wales Sea Fisheries Committee district, i.e. out to 6nm from baselines in the relevant area).
- Byelaw 19 of the former North Western and North Wales Sea Fisheries Committee (Specified Fish Sizes) imposes a minimum size of **130mm** (which applies within the former North Western and North Wales Sea

³ Exact co-ordinates can be found at: http://geo.ices.dk/viewer.php?add_layers=ices_ref:ices_areas

Fisheries Committee district, i.e. out to 6nm from baselines in the relevant area).

We propose to prohibit the fishing for, landing, selling, exposing or offering for sale or having possession of any edible/brown crab that is smaller than **140mm (measured across the widest part of the shell)** all around the coast of Wales out to a distance of 12 nautical miles from baselines.

We also propose a carriage offence that will apply to all UK fishing vessels which means that it will be an offence to possess edible/brown crab below **140mm** within the Welsh Territorial Sea, wherever it was caught.

Raising the minimum size of Brown or Edible Crab should offer additional protection to the species and remove doubt regarding the size of Brown or Edible Crab which may be caught in Welsh waters, aiding sustainability and future viability of the local stock.

3. Spider Crab (*Maia squinado*)

The Spider crab (*Maia squinado*) is found mainly along the Southern and Western coasts of the UK, although in recent years it appears their range is increasing Northwards along with rising water temperatures. The Spider crab is now of importance in mid Wales where it was previously scarce. The Spider crab is the largest British species and can reach a carapace size of 20cm and a leg span of 50cm or more. They are commonly found on flat seabed and soft substrate in coastal waters, moving further offshore in winter months. Migration to deep water takes place in the autumn with a return to shallows in the spring for breeding purposes. Spider crab is usually caught by pot or tangle net. (See reviews by CSFC, 2008, Gonzales-Gurriaran *et al.*, 1995). Spider crab stocks in Wales are thought to be abundant as they are very widespread and not historically so heavily fished in this region. This suggests there is may be a sustainable fishery for the stock in Wales if appropriate management is in place. Spider crab was previously seen as a by-catch but it is now considered to be of increasing economic importance, as it is recognised for its fine flavour by discerning buyers.

Unlike other species mentioned in this Consultation, Spider crabs stop growing once they attain sexual maturity and cease to moult. This species are therefore able to reproduce whilst hard shelled and generally breed only once per year (Woolmer *et al.*, 2013).

Again the regulations regarding minimum size which apply to Spider crabs are different for fishermen in different locations around Wales.

The relevant provisions for Spider crab are:

- Council Regulation (EC) 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms imposes a minimum size of **120mm**;
- Undersized Spider Crabs (Wales) Order 2002 (S.I. 2002/1897 (W.198)) imposes a minimum landing size of **130mm** for male Spider Crabs.
- Byelaw 19 of the former North Western and North Wales Sea Fisheries Committee (Specified Fish Sizes) imposes a minimum size of **130mm** for male Spider crabs and a minimum size of **120mm** for female crabs (within the former North Western and North Wales Sea Fisheries Committee district, i.e. out to 6nm from baselines in the relevant area).
- For the sake of clarity, there is no minimum size currently in force under the former South Wales Sea Fisheries Committee byelaws. Therefore Council Regulation (EC) 850/98 and SI 2002/1897 (W.198)) apply within the former district.

We propose to prohibit the fishing for, landing, selling, exposing or offering for sale or having possession of any Spider crab that is smaller than **130mm** (measured across the widest part of the shell) all around the coast of Wales out to 12 nautical miles from baselines.

We also propose a carriage offence that will apply to all UK fishing vessels which means that it will be an offence to possess Spider crab below **130mm** within the Welsh Territorial Sea, wherever it was caught.

Raising the minimum size of Spider crabs should offer additional protection to the species and remove doubt regarding the size of Spider crab which may be caught in Welsh waters, aiding sustainability and future viability of the local stock.

4. Crawfish/Spiny Lobster (*Palinurus elephas*)

Crawfish (*Palinurus elephas*) are large long lived marine crustaceans similar or larger in size to lobsters. Crawfish are brown-red in colour (unlike lobsters which are blue) and have very small claws and long antennae. They are found on rocky reefs throughout Europe's Western seaboard. In Wales they are now found in small numbers mainly off Pembrokeshire and the Llyn Peninsula, but in the past were more widespread. Since the 1970's there has been a dramatic decline in the numbers caught - Landing data for the crawfish fishery fell from 55,000kg in 1979 to 500kg landed in 1995 (Hunter *et al.*, 1996).

The current population in the Celtic sea could be said to be residual (ICES, 2006). Similar declines have also been seen all along the Atlantic coast. (See reviews by Hunter, 1999).

Crawfish are a priority biodiversity species. In 2010 the Joint Nature Conservancy Council recommended that the species be included as a candidate for Schedule 5 of the Wildlife and Countryside Act, meaning that Crawfish would be a protected animal for the purposes of that Act (Jones, 2011). Whilst that proposal was not accepted at that time, this highlights the need for sound management measures to ensure the sustainability of this stock.

The regulations regarding minimum size which apply to Crawfish are also different for fishermen in different locations around Wales.

The relevant provisions which apply to Crawfish within Welsh waters are:

- Council Regulation (EC) 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms imposes a minimum size of **95mm**;
- Byelaw 19 of the former North Western and North Wales Sea Fisheries Committee (Specified Fish Sizes) imposes a minimum size of **95mm** (which applies within the former North Western and North Wales Sea Fisheries Committee district, i.e. out to 6nm from baselines in the relevant area).
- Byelaw 7 of the former South Wales Sea Fisheries Committee (Crawfish – Minimum Size) imposes a minimum size of **110mm** (which applies within the former South Wales Sea Fisheries Committee district, i.e. out to 6nm from baselines in the relevant area).

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

We also propose a carriage offence that will apply to all UK fishing vessels which means that it will be an offence to possess Crawfish below **110mm** within the Welsh Territorial Sea, wherever it was caught.

Raising the minimum size of Crawfish should offer additional protection to the species and remove doubt regarding the size of Crawfish which may be caught in Welsh waters, aiding sustainability and future viability of the local stock.

5. Velvet Crab (*Necora puber*)

Velvet crab (*Necora puber*) is found throughout the north-eastern Atlantic and North Sea, from Norway to the north-west coast of Africa and parts of the Mediterranean and is typically found on hard substratum where rocky reef and boulders provide crevices for shelter. Velvet crabs do not feed immediately before or after moulting, probably due to their vulnerability. They mate when the female is soft shelled following a moult. Spawning takes place several months later and the female carries the eggs on her abdomen for approximately 9 months. Studies imply that females

are found inshore in the summer, but migrate offshore for the winter period. Males however show little migratory behaviour from inshore waters. Velvet crabs are often caught as a by-catch of the pot industry. (Woolmer *et al.*, 2013).

There are two layers of legislation which apply to Velvet Crabs in Wales:

- The Undersized Velvet Crabs Order 1989 (S.I.1989/919) prohibits the landing in Great Britain of Velvet crab below a size of 65mm. It also prohibits the sale, exposure or offering for sale or possession for the purpose of sale of any Velvet crab smaller than **65mm**. The 1989 Order includes an exemption for Velvet crab landed from foreign fishing boats. Further, this Order prohibits the carriage on a British fishing boat of Velvet crab which are less than 65mm;
- Byelaw 19 of the former North Western and North Wales Sea Fisheries Committee (Specified Fish Sizes) imposes a minimum size of **65mm** (which applies within the former North Western and North Wales Sea Fisheries Committee district, i.e. out to 6nm from baselines in the relevant area).

The Welsh Government intends to remove the duplication inherent in the current layers of existing legislation without any change of minimum size for Velvet Crab.

We propose to retain the minimum size of **65mm** in relation to Velvet crab but apply that minimum size all around the coast of Wales (out to 12 nautical miles).

We also propose a carriage offence that will apply to all UK fishing vessels which means that it will be an offence to possess Velvet crab below **65mm** within the Welsh Territorial Sea, wherever it was caught.

6. Removal of Parts of Crustaceans

Minimum size requirements are one of the main types of regulation used to protect crustaceans and ensure a sustainable fishery. The measurement used to determine the size of the relevant crustacean is the full carapace length. It follows that, in order to enforce the regulations, there must be a requirement that the entirety of the carapace or the shell of the crustacean is available for measuring purposes.

The removal of parts of a crustacean (including claws and tails) prevents enforcement officers from measuring the size of an animal and could result in the contravention of this regulation. The purpose of restricting the removal of parts of crustacean is to prevent the fishing of undersized crustaceans by discarding the part of the animal that allows size to be determined.

The practice of 'harvesting' crab claws (that is removing either one or both claws then returning the live animal to the sea) is currently legal in the UK following the revocation of the Crab Claws (Prohibition of Landing) Order (S.I. 1986/496) in

relation to Wales (pursuant to the Crab Claws (Prohibition of Landing) (Revocation) (Wales) Order 2001 (S.I. 2001/2018), England and Scotland.

When crabs are caught as by-catch in static gear (such as gill nets) it is difficult to remove the crabs whole and consequently, they are often de-clawed. The de-clawed animals are returned to the sea and only the claws retained on board. In some areas 'crab-smashers' are used by net fishermen to crush the crabs out of the nets, killing the animals and thereby easing their removal from the net.

The relevant provisions which relate to the landing of crustacean parts in Wales are as follows:

- Article 18 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) provides that :
 - Paragraph 3 - lobsters, crawfish and bivalve and gastropod molluscs belonging to any such species for which a minimum size is set in Annex XII to that Regulation may only be retained on board whole and may only be landed whole.
 - Paragraph 4(a) - for catches of Edible crab made by pots or creels, a maximum of 1% by weight of the total catch of edible crabs or parts retained on board or landed may consist of detached crab claws; and
 - Paragraph 4(b) - for catches of Edible crab made by any fishing gear other than pots or creels, a maximum of 75kg of detached crab claws may be retained on board or landed.
- Byelaw 46 of the former South Wales Sea Fisheries Committee (Parts of Crustacean Shellfish) prohibits the removal from the District of that former Sea Fishery Committee of the tail, claw or any other detached part of the species Lobster (*Homarus gammarus*), Edible Crab (*Cancer pagurus*), Spider crab (*Maia squinado*), Crawfish (*Palinurus elephas*), Velvet Crab (*Necora puber*) and Green Crab (*Carcinus maenas*).

We propose to extend the prohibition on 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.

We also propose a carriage offence that will apply to all UK fishing vessels which means that it will be an offence to carry any parts of the crustaceans mentioned above within the Welsh Territorial Sea, wherever those crustaceans were caught.

Part II - Other measures we are considering

As previously stated, the proposals we are putting forward in this Consultation are only the first phase of a wider review of the way in which we manage our crustacean fisheries in Wales. For information, we have set out below details of other issues we are currently considering. Please feel free to make comments on these if you wish. If any of the proposals mentioned below develop to a position where the Welsh Government is considering adoption of the same and if those changes will involve a substantive change in Welsh Government policy, a further formal consultation (or consultations) will be undertaken.

Lobster/Crab Pot Escape Gaps

The Welsh Government believes that there are definite sustainability and conservation benefits to be gained from the use of “Escape Gaps” in Lobster/Crab pots. A pot escape gap is a simple device which allows undersized, juvenile and immature animals to escape from the pot before being brought to the surface. It is a plastic insert that is sewn into the side of each pot with a hole that allows access in or out. Parlour pots should have two gaps, one in each separate chamber. The size of the hole is set such that larger sized crustaceans are retained.

A system like this would mean less sorting of catch for the fishermen concerned as well as inflicting less stress on the undersized animals (resulting in potentially healthier stocks). There would also be a time saving on clearing and re-baiting the pots.

In addition, it is noted that lobsters are cannibalistic and it is likely that this system would reduce opportunity for trapped lobsters to harm each other. Lobsters are highly territorial and fighting is common amongst captured lobsters, leading to damage including loss of limbs. This damage affects the marketable value of lobsters removed from the fishery. Damage to juveniles which are returned to the fishery also causes further problems as the individuals are not returned to the same place on the fishing grounds and this relocation could result in loss of territory. That in turn is likely to increase predation on these displaced lobsters. Further, limb loss or other damage to lobsters can attract disease leading to unhealthy populations.

The Welsh Government appreciates that, for some fishermen, Velvet crab is an important by-catch of the crustacean pot industry and the escape gaps mentioned above may allow this by-catch to escape. The Welsh Government has, consequently, agreed to undertake some targeted research with Bangor School of Ocean Sciences to facilitate information as to the best design and placement of these gaps to try to achieve the desired goals whilst allowing the retention of Velvet crab. We expect to get the results from this study by April 2014. This period of research will also help us to demonstrate the benefits of this “Escape Gap” device as a sustainably responsible fishing method. We will use the data gathered to inform the detail of any future proposals (see reviews by Brown, 1979, Brown, 1982, CEFAS, 2005, CEFAS, 2006, Clark, 2010, Fogarty *et al.*, 1980, Murray *et al.*, (2009).

Ghost Fishing

When a lobster/crab pot is lost at sea and therefore cannot be hauled, it still continues to fish, trapping fish and crustaceans which have no opportunity to escape and which die trapped in the pot. These fish then act as bait, encouraging other fish and crustaceans to enter the pot, and so the cycle continues. This process is commonly known as Ghost Fishing.

This situation could be alleviated by including a biodegradable element in the pot, such as a retaining hook on a side panel, or by using biodegradable twine to sew on the panel. If the pot is then lost at sea, the hook or twine will degrade and the panel will fall off. This would allow the trapped animals to escape.

This would appear to lead to a tangible conservation gain when compared to the current situation. The Welsh Government is considering, with the assistance of the Bangor School of Ocean Sciences, the extent of this problem in Wales. We will use the data gathered to inform whether specific provision is required. In the meantime, the Welsh Government would encourage the industry to use voluntary measures in this regard to reduce Ghost Fishing.

Maximum Landing Size for Lobsters

The objective of a maximum landing size (MaxLS) for lobsters is to offer protection to large individuals, allowing them to remain in the fishery as spawning stock. Larger specimens have a low natural mortality and females have a larger reproductive potential, therefore yields are likely to benefit from allowing lobsters to grow to a larger size. Larger females select the most dominant larger males as mates and therefore the implementation of a MaxLS for both females and males could provide benefits to reproductive success for the species (Woolmer *et al.*, 2013).

It is often the case that large lobsters are returned to the fishery by the industry as they are less commercially valuable than the smaller individuals.

The Scottish Government is currently the only UK administration to impose a MaxLS for lobster. (Woolmer *et al.*, 2013).

The Marine Strategy Framework Directive and the work that is being undertaken pursuant to the same, will increase the data available and allow scientists to carry out studies to identify any benefits of introducing a similar maximum size restriction for female lobsters in Wales.

Diving and Netting for Crawfish

There is no formal assessment or management of the Crawfish fishery in the UK beyond the EU minimum size (discussed above) and therefore only very limited data is currently available. It is understood, however, that the UK Crawfish stock suffered a dramatic decline in the 1970's and, relying on a circumstantial cause and effect relationship, it is noted that that is the period in which fishing effort increased dramatically as pots were replaced by diving and nets. (Goni *et al.*, 2005).

Scuba diving is identified as a main cause of decline in the UK Crawfish population. Some localised dive operations have targetted the species to such an extent that it was soon not considered to be economically viable to pursue Crawfish as a pot fishery (see review by Lock, 2010).

In addition, Crawfish typically migrate in groups and are particularly vulnerable to becoming entangled in netting in large numbers when this occurs (see review by Lock, 2010).

However, notwithstanding the above, the high market value of this species means that overall it remains an economically viable fishery, even at low yields, which consequently places the Crawfish fishery at risk from overfishing.

Due to the ease with which populations can be depleted by diving and netting, the Welsh Government intends to investigate whether those methods of fishing are unsustainable, with a view to the possibility of prohibiting (or restricting) the catching of Crawfish by those methods.

Non-commercial potting

For information, the Welsh Government intends to bring forward separate proposals in relation to hobby and recreational pot fishing. These proposals will, for example, replace the Byelaw 30 (Fishing for lobster, crawfish, crab prawn and whelk) of the former North Western and North Wales Sea Fisheries Committee. It should be noted that the proposed minimum sizes referred to in Part I of this document will apply to non-commercial leisure fishermen as well as commercial fishermen.

These proposals could include whether there is a need for a (restrictive) permit scheme for recreational fishermen and may also include proposals to restrict the permissible daily catch on certain species such as lobster, crab and crawfish.

Permit scheme for commercial fishermen

Welsh Government shares concerns regarding both current effort levels and potential for increases in effort from vessels already entitled to engage in the crustacean fisheries. In future we are minded to return to the possibility of some kind of restricted permit scheme in a future consultation that might possibly incorporate effort limitations.

Minimum Size for Green Crab (*Carcinus maenas*)

The referral to Green Crab is restricted in Part 1 of this consultation to the removal of Parts of Crustaceans. Welsh Government would also like to seek opinion on the establishment of a minimum size for green crab to offer protection to the species, aiding sustainability and future viability of the local stock.

Crustacean Fishery Consultation - Summarised Proposals

Lobster

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. We also propose a carriage offence that will apply to all UK fishing vessels which means that it will be an offence to possess a lobster below **90mm** within the Welsh Territorial Sea, regardless of where it was caught.

Prohibit the fishing for, landing, selling, exposing or offering for sale or having possession of any **berried, scrubbed, v-notched or mutilated lobsters**, all around the coast of Wales out to 12 nautical miles. We also propose a carriage offence that will apply to all UK fishing vessels which means that it will be an offence to possess a berried, scrubbed, v-notched or mutilated lobster within the Welsh Territorial Sea, regardless of where it was caught.

Edible/Brown Crab

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. We also propose a carriage offence that will apply to all UK fishing vessels which means that it will be an offence to possess a edible/brown crab below **140mm** within the Welsh Territorial Sea, regardless of where it was caught.

Spider Crab

Prohibit the fishing for, landing, selling, exposing or offering for sale or having possession of any spider crab that is smaller than **130mm (measured across the widest part of the shell)**, all around the coast of Wales out to 12 nautical miles. We also propose a carriage offence that will apply to all UK fishing vessels which means that it will be an offence to possess a spider crab below **130mm** within the Welsh Territorial Sea, regardless of where it was caught.

Crawfish

Prohibit the fishing for, landing, selling, exposing or offering for sale or having in possession for the purposes of sale, crawfish that are smaller than **110mm (carapace length)**, all around the coast of Wales out to 12 nautical miles. We also propose a carriage offence that will apply to all UK fishing vessels which means that it will be an offence to possess a crawfish below **110mm** within the Welsh Territorial Sea, regardless of where it was caught.

Velvet Crab

Remove duplication from current legislation, keeping the minimum landing size of velvet crab at **65mm**, all around the coast of Wales out to 12 nautical miles. We also propose a carriage offence that will apply to all UK fishing vessels which means that it will be an offence to possess a velvet crab below **65mm** within the Welsh Territorial Sea, regardless of where it was caught.

Removal of Parts of Crustaceans

Prohibit the retention of parts of edible/brown crab, spider crab, velvet crab and green crab all around the coast of Wales out to 12 nautical miles. We also propose a carriage offence that will apply to all UK fishing vessels which means that it will be offence to possess any parts of the above species within the Welsh Territorial Sea, regardless of where the animal was caught.

Annex 1 – Reference List

The following reports and peer reviewed papers were considered during the formation of these proposals;

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Murray, L.G. Hinz, H. & Kaiser, M.J. (2009). Lobster escape gap trials. Fisheries & Conservation report No. 9, Bangor University. pp.11.

Tully, O (2004)(Editor) The biology and Management of Clawed Lobster in Europe, Chapter 5, Fisheries Resource Series 2 (2004), BIM/Irish Sea Fisheries Board

Woolmer, A, Woo, J, Bayes, J (2013) Review of Evidence for Best Practice in Crustacean Fisheries Management in Wales.

Annex 2 – Consultation Stakeholder List

Individual owners of Welsh registered fishery boats
Owners of UK registered fishing boats with a Welsh permit to fish
Holders of permits for 'hobby potting' fishermen in Wales
Inshore Fisheries Groups – North/Mid/South
Wales Marines Fisheries Advisory Group

Cardigan Bay Fishermen's Associations
Crown Estates
Llyn Pot Fishermen's Association
New Under Ten Fishermen's Association Ltd
National Federation of Fishermen's Organisations
North Wales Co-Operative
Sea Fish Industry Authority
Shellfish Association of Great Britain
South & West Wales Fishing Communities
Wales Environmental Link
Welsh Federation of Sea Anglers
Welsh Fishermen's Association
West Wales Shellfisherman's Association Ltd

DARDNI
DEFRA
Devon and Severn IFCA
Government of the Republic of Ireland
Isle of Man Government
Natural Resources Wales
North Western IFCA
Scottish Government