



Department  
for Environment  
Food & Rural Affairs

# Consultation on the Prohibition on Landing Egg- Bearing ('Berried') Lobsters and Crawfish in England

21 March 2017



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**Note - Exit from the European Union:** On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, which begin once Article 50 has been triggered, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.

## Summary Table

Topic of this consultation:	This consultation sets out proposals prohibiting the landing of egg-bearing ('berried') lobsters and crawfish in England.
Scope of this consultation	<p>The purpose of the consultation is to seek your views on proposals to prohibit the landing of 'berried' lobsters and crawfish in England.</p> <p>We intend to introduce any national ban through national legislation to come into force in 2018.</p>
Geographical scope:	These proposals apply to landings of berried lobsters and crawfish in England.
Impact Assessment:	As part of this consultation we have prepared an Impact Assessment (IA) setting out the estimated direct costs to business resulting from any national ban.
To:	This is a public consultation and anyone with an interest in the proposals is welcome to respond.
Body / bodies responsible for the consultation:	This consultation is being run by the Department for Environment, Food and Rural Affairs (Defra).
Duration:	<p>Consultation starts: 21 March 2017</p> <p>Consultation ends: 15 May 2017</p>
Enquiries:	<p>During the consultation: <a href="mailto:lobsterscrawfish@defra.gsi.gov.uk">lobsterscrawfish@defra.gsi.gov.uk</a>.</p> <p>After the consultation, a summary of responses will be placed on our website at:</p> <p><a href="http://www.gov.uk/defra">www.gov.uk/defra</a></p> <p>If you have any comments or complaints about the consultation process, please address them to Defra Consultation Co-ordinator, Area 8A, 9 Millbank, c/o Nobel House, 17 Smith Square, London, SW1P 3JR; or e-mail <a href="mailto:consultation.coordinator@defra.gsi.gov.uk">consultation.coordinator@defra.gsi.gov.uk</a></p> <p>Further information can be found at: <a href="https://consult.defra.gov.uk/marine/lobsters-crawfish">https://consult.defra.gov.uk/marine/lobsters-crawfish</a></p>
How to respond:	<p>Responses must be submitted by <b>15 May 2017</b>.</p> <p>You can respond to the consultation by e-mail to:</p>

	<p><a href="mailto:lobsterscrawfish@defra.gsi.gov.uk">lobsterscrawfish@defra.gsi.gov.uk</a></p> <p>We would prefer to receive responses online via:  <a href="https://consult.defra.gov.uk/marine/lobsters-crawfish">https://consult.defra.gov.uk/marine/lobsters-crawfish</a></p> <p>Written responses can be submitted to:</p> <p>Helen Hunter  Freshwater Fisheries, Shellfish and Aquaculture Team  Area 8A, 9 Millbank  c/o Nobel House  17 Smith Square  London  SW1P 3JR</p> <p>When you reply please confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:</p> <ul style="list-style-type: none"> <li>- your name</li> <li>- your position (if applicable)</li> <li>- the name of organisation (if applicable)</li> <li>- an address (including post code)</li> <li>- an email address</li> <li>- a contact telephone number</li> </ul>
<p>After the consultation:</p>	<p>At the end of the consultation period we will summarise the responses and place this summary on our website at:  <a href="http://www.gov.uk/defra">www.gov.uk/defra</a></p> <p>Copies of responses will be made available to the public on request. If you do not want your response – including your name, contact details and any other personal information – to be available publicly, please say so clearly in writing when you send your response to the consultation. Please note, if your computer automatically includes a confidentiality disclaimer, this will <u>not</u> count as a confidentiality request.</p> <p>Please explain why you need to keep details confidential. We will take your reasons into account if someone asks for this information under freedom of information legislation. Because of these laws, we cannot promise that we will always be able to keep these details confidential.</p>
<p>Compliance with consultation:</p>	<p>This consultation is in line with the Government’s Consultation Principles. This can be found at:  <a href="http://www.gov.uk/government/publications/consultation-principles-guidance">www.gov.uk/government/publications/consultation-principles-guidance</a></p>
<p>Previous engagement:</p>	<p>Engagement with main stakeholder organisations.</p>

# Part 1: Explanation of the consultation – what is this about

## Introduction

The nature of fishing means that without government intervention, most fish and shellfish stocks would be over-fished. Although there are management measures (e.g. Minimum Conservation Reference Sizes) in place which aim to ensure the continuation of some spawning activity, current stock assessments on European lobster and landing trends on crawfish in English waters indicate that these stocks are being overfished. If this over-fishing is not addressed, the future of these stocks is at risk.

## Abbreviations

The following abbreviations are used in this consultation:

Berried	Egg-bearing
CFP	Common Fisheries Policy
Defra	Department of Environment, Food & Rural Affairs
IA	Impact Assessment
IFCAs	Inshore Fisheries and Conservation Authorities
MMO	Marine Management Organisation
MSFD	Marine Strategy Framework Directive
MSY	Maximum Sustainable Yield
SI	Statutory Instrument

## What is the purpose of this consultation?

Currently female lobsters and crawfish that are carrying fertilised eggs (also known as ‘berried’) are allowed to be landed into England, although there are some regional inshore bans in place by Inshore Fisheries and Conservation Authorities (IFCAs). The purpose of this consultation is to invite views on a proposal to introduce a national ban across England on the landing of all berried lobsters and crawfish.

By introducing a national ban across all the IFCAs, we will reduce some enforcement issues. There can be difficulties with determining whether a berried lobster or crawfish has been caught within or outside an IFCA district. A national ban should also increase stock biomass, and in the long term increase the amount available to be caught by fishers. It will also be seen as a positive step by those who already support the current local bans and help simplify adherence to the ban when vessels fish both within and beyond the 6 nautical mile area.

## Who will be interested in responding?

We welcome views and evidence from anyone. We think that this consultation will be of particular interest to: English fishing vessel owners; individual fishing licence and shellfish entitlement holders; Non-English vessel owners/licence/entitlement holders fishing in

English waters; English and other UK fishing organisations and associations; IFCAs; English fishing and coastal communities; local authorities covering coastal areas; environmental bodies; and all those with fishing and marine environment interests.

## Having your say

Please see the *How to respond* section on page 2.

## Part 2: Background

The English shellfish sector is one of our most important, and lucrative, fisheries consistently producing a very high value of landings into English ports. Landings of European Lobster<sup>1</sup> into English ports in 2015<sup>2</sup> totalled 17,000 tonnes worth £17.8 million, which made it the third most valuable species landed. The crawfish<sup>3</sup> fishery is significantly smaller and more localised compared to lobster, with 10 tonnes landed into England in 2015<sup>4</sup>. However it is also a very lucrative fishery, fetching the highest price per kilogram amongst all shellfish species with landings worth £218,000 in 2015<sup>5</sup>.

Management of shellfish fisheries in the UK is largely devolved. Management and enforcement in English waters is carried out by the Marine Management Organisation (MMO), 0-200 nautical miles (nm), and the 10 IFCAs which cover coastal waters inside 6nm. The IFCAs are responsible for ensuring that sea fisheries resources are exploited in a sustainable manner, and can implement management measures through introducing byelaws for their district.

Even though shellfish management is devolved, the UK administrations share the same EU obligations and requirements under the reformed Common Fisheries Policy (CFP) and Marine Strategy Framework Directive (MSFD) to ensure that all commercially exploited shellfish are fished at maximum sustainable yield (MSY) levels. Stocks must be exploited at MSY levels to attain Good Environmental Status by 2020. Crawfish has also been identified as a species that is in most need of priority conservation action under the current Biodiversity 2020 strategy.

Apart from Minimum Conservation Reference Sizes, there is no lobster or crawfish fishery management through quota (i.e. Total Allowable Catch) and measures relating to fishing activity (effort) are generally non-restrictive. There is national legislation<sup>6</sup> in place which supports voluntary action by fishers to return berried lobsters and crawfish, which prohibits the landing of lobsters and crawfish with a notch shaped like a 'V' in their tail fan; commonly known as a v-notch. This is done voluntarily by fishers to identify breeding lobsters and crawfish which are then returned to the sea and prohibited from being landed

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<sup>1</sup> *Homarus gammarus*.

<sup>2</sup> Marine Management Organisation, UK Sea Fisheries Annual Statistics 2015.

<https://www.gov.uk/government/statistical-data-sets/uk-sea-fisheries-annual-statistics-report-2015>

<sup>3</sup> *Palinurus elephas*.

<sup>4</sup> Marine Management Organisation, UK Sea Fisheries Annual Statistics 2015.

<https://www.gov.uk/government/statistical-data-sets/uk-sea-fisheries-annual-statistics-report-2015>

<sup>5</sup> Defra analysis of the MMO's dataset on 2011 to 2015 UK fleet landings and foreign fleet landings into the UK by port

<https://www.gov.uk/government/statistical-data-sets/uk-sea-fisheries-annual-statistics-report-2015>

<sup>6</sup> SI 2000 No 874 The Lobsters and Crawfish (Prohibition of Fishing and Landing) Order 2000.



by anyone who catches them thereafter. The one technical measure that has been put in place by six of the ten IFCAs, so not throughout England, is a prohibition on landing egg-bearing lobsters (with two of the IFCAs extending this to include crawfish).

These local bans already in place are supported by many, including some fishermen, as the short-term financial gain of landing a berried lobster or crawfish could affect the future sustainability of the fishery as it prevents eggs from hatching and increasing the stock. There have not been any assessments of the effectiveness of these local bans and it would be difficult to attribute any improvements in stock numbers to this specific management measure. However IFCAs have received several reports from local fishermen of increases in lobster populations, and it is recognised as good practice to protect spawning stock.

## Part 3: Proposals under consideration

The overall objective is to ensure lobster and crawfish stocks in English waters are exploited sustainably.

### Option 0 – Do Nothing

This would allow the landing of berried lobsters and crawfish into England to continue, although those IFCA byelaws currently in place would remain. By pursuing this option and therefore not implementing additional management measures, this will affect the future sustainability of lobster and crawfish stocks and forego the opportunity of higher landings of lobster and crawfish in the future.

In addition, if measures are not implemented to conserve lobster and crawfish stocks, it is likely to lead to lower populations and availability of stocks, and therefore reduced landings of both species. It will also mean that we will be less likely to meet our Biodiversity 2020 objectives for crawfish.

### Option 1 – Introduce a National Ban through a Statutory Instrument (Preferred Option)

It is proposed that a Statutory Instrument (SI) is made to ban the fishing for, and landing<sup>7</sup> of, a berried lobster or crawfish in England using the power under Sections 5 and 6 of the Sea Fish (Conservation) Act 1967. The proposed ban would apply to all relevant British fishing vessels registered in the UK, any other relevant British fishing vessels (including those exempt from licensing requirements), and Scottish fishing vessels<sup>8</sup>, fishing in English waters (0-200nm) and/or landing into English ports.

The ban would apply within British fishery limits, excluding:

- Scottish and Northern Irish waters;
- Territorial waters adjacent to Wales, the Isle of Man, and the Bailiwicks of Jersey and Guernsey.

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<sup>7</sup> As specified under Sections 5 and 6 of the Sea Fish (Conservation) Act 1967.

<sup>8</sup> The term 'relevant British fishing vessel' is defined in the 1967 Act to exclude Scottish vessels.

We plan to implement this national ban through amending the current SI<sup>9</sup> that prohibits the landing of v-notched lobsters and crawfish rather than make a new, separate order. The provisions of the existing SI will remain the same, banning the fishing and landing of v-notched or mutilated lobsters and crawfish. The new provisions on berried lobsters and crawfish will be added to the existing SI and will apply to the same vessels currently regulated by the existing Order. This will help with the familiarisation of the new regulation and additionally support the Government's agenda on simplifying the legislative landscape by avoiding the creation of two separate Orders that apply prohibitions to the same species, lobsters and crawfish.

The existing Order, and subsequently the berried lobster and crawfish ban, will continue to apply to relevant British and Scottish fishing boats within British fishery limits, so foreign vessels would be exempt from the ban. However, only a small amount of lobster and crawfish is landed by foreign vessels into England (only 206kg in 2014<sup>10</sup>) and so not applying the ban to foreign vessels would not significantly impact the conservational benefits.

## Part 4: Benefits of the proposals

Introducing a national ban of the landing of berried lobsters and crawfish should provide conservational benefits as it would increase the spatial coverage from areas where local bans are already in place. Restricting the removal of berried lobsters and crawfish is expected to lead to healthier stock levels as a greater number of the eggs the animals are carrying would have the opportunity to develop to maturity. This in turn should provide long-term benefits to fishers from increased landings of both lobster and crawfish due to stock recovery.

A national ban would also address enforcement issues faced by the IFCA's when vessels fish both within the 6nm boundary (where local bans may be in place) and beyond, as it can be difficult for the enforcement authority to determine whether a berried lobster or crawfish has been caught within or outside the 6nm area.

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<sup>9</sup> SI 2000 No 874 The Lobsters and Crawfish (Prohibition of Fishing and Landing) Order 2000.

<sup>10</sup> Marine Management Organisation, Fishery Activity Database (FAD).

## Part 5: Questions

**Question 1. Do you agree that the issue of berried lobsters and crawfish needs to be addressed to ensure the long-term sustainability of both species?**

**Question 2. Do you agree that both species are over-exploited; or at risk of being so?**

**Question 3. Do you agree that imposing a national ban on the landing of berried lobsters and crawfish is the best way to tackle over-exploitation of the species?**

**Question 4. If you do not agree with a national ban, what other measures do you believe could be taken?**

**Question 5. Do you have any additional evidence on the impacts of a ban on landing berried lobsters and crawfish beyond that presented in the Impact Assessment?**

**Question 6. How long a time period should be allowed in order for affected parties to prepare and make any necessary adjustments to their business before a national ban comes into force? Please explain the reasons for your answer.**

**Question 7. Do you think there are any issues that we have not identified in this consultation document?**

## Impact assessment

Defra's economists have undertaken an Impact Assessment of cost to business and Government of the proposals, and this has shown average annual recurring costs of £2.38m in lost revenue from landings of berried lobsters and crawfish to business; and £0.01m to Government relating specifically to implementation. These estimates do not include the benefits of increased future landings of lobsters or crawfish due to stock recovery as these could not be monetised. However, modelling to support the Impact Assessment suggests that landings of lobster would be between 3-43% higher fifteen years after implementing a ban on landing egg bearing lobsters, depending on fishing rates.

We welcome views and any evidence on the direct costs to business of the proposals, and these will be used in making a further assessment following this consultation.

## Equalities

As a Government department, Defra shares the public sector equality duty under the Equality Act 2010 which came into force across Great Britain on 5 April 2011.

Based on our initial assessment of the proposals, we think there is likely to be no impact on vulnerable groups, but will keep this under review.

## Part 6: What happens next?

The closing date for this consultation is **15 May**. Responses received by that date will be analysed and taken into account by Defra Ministers in their consideration of the proposals for implementing a national ban on berried lobsters and crawfish. The consultation responses will be published. If you wish your response not to be published, please make that clear in your reply.

# Annex A: List of Individuals/Organisations consulted

Government Departments

Government Agencies

UK Fisheries Administrations

EFRA Committee

Coastal MPs

Coastal local authorities

Inshore Fisheries and Conservation Authorities

Marine Conservation bodies

Ports and harbour authorities and estuaries

Marine Recreation bodies

Marine Science bodies

Commercial fishermen's Organisations

Fish processors and retailing

Producer Organisations