

# WMFAG PAPER

## Berried Crustaceans (Lobster and Crawfish)

### 1. Background Note

The European Commission has proposed a new Technical Conservation Regulation which includes in Annex 1 the prohibition of:

- fishing for, retention and landing of berried female crawfish (*Palinuridae spp.*) and berried female lobster (*Homarus gammarus*) in all Union waters except when used for direct restocking or transplanted purposes;

“Berried” in relation to a lobster or crawfish, means a lobster or crawfish which is carrying eggs attached to its tail or some other exterior part, or which is in such a condition as to show that, at the time when it was taken, it was carrying eggs so attached.

Related EU requirements:

Lobsters/crawfish can only be retained on board whole and can only be landed whole.

### 2. Current English legislation

Defra introduced The Lobsters and Crawfish (Prohibition of Fishing and Landing) (Amendment) (England) Order 2017. This makes it an offence to:

- Fish for a berried lobster or crawfish in English waters
- Land any berried lobster or crawfish (or which were carrying eggs at the time they were caught) into an English port no matter where the animal was caught, even in Welsh waters.
- Retain onboard a berried lobster or crawfish within English waters

This Order came into force from October 1st 2017.

### 3. Situation in English IFCAs

IFCA berried lobster bylaws.

IFCA	Summary	Commenced
Cornwall	No removal of any berried lobster.	2001
Devon and Severn	No removal of any berried lobster	1998
North West (Cumbria)	No removal of any berried lobster	1993
Northumberland	No berried lobsters can be fished for, removed, retained, landed (or stored, carried or transported before first point of sale) in the district	2017
Southern	No removal of any berried lobster	2009
Sussex	No removal from the fishery or retention on board of berried lobster.	2015
Kent and Essex	No removal of any berried lobster	Pre 2011

This is not a comprehensive list of bylaws and full details can be found on the various Inshore Fisheries Conservation Authority websites.

### 4. Current controls in Scotland and Northern Ireland.

There is no current specific legislation regarding berried hens in **Scotland and Northern Ireland, however**, these two Devolved Administrations have voiced no opposition to the Commission proposal.

## **5. The current situation in Wales**

The Welsh Government consulted on the issue of catching, retaining and landing berried lobster as part of the wider package of the review of Welsh Crustacean measures in 2014.

As a result of responses received the berried shellfish element of the package was not taken forward to form part of what eventually became the 2015 No. 2076 (W. 312) SEA FISHERIES, WALES CONSERVATION OF SEA FISH The Specified Crustaceans (Prohibition on Fishing, Landing, Sale and Carriage) (Wales) Order 2015.

This means that currently there are no restrictions on the catching, retaining onboard or landing of berried crawfish and lobsters in Wales. Other former-SFC by-laws still apply in regard to hobby potting, V notching and minimum conservation landing sizes.

Alan Davies AM in his Plenary Statement on the Marine and Fisheries Strategic Action Plan for Wales in November 2013 outlined the Welsh Government's ambitions in relation to the management of its fisheries in the longer term. Those ambitions included the intention to further review the management of crustacean fisheries around Wales under a second Phase.

This Phase II review would explore the possibility of additional conservation measures (probably including a prohibition on catching, retaining and landing berries lobster).

## **6. Current position of the European Commission proposal**

The European Commission proposals have now overtaken the Welsh Governments intentions as regards this aspect of Phase II. As part of a wider reform of the Common Fisheries Policy Technical Conservation Regulation they have proposed a European wide prohibition on the fishing for, the retention and the landing of berried female crawfish and berried female lobster. The only exception being considered is when the fish are being used for direct restocking or transplantation purposes.

At present, the text of the proposed Technical Conservation Regulation remains in dialogue between the European Parliament, the Council and the Commission ('Trilogue'). It looks like the Presidency will come back to Council sometime over the next few weeks to explain where they have got to and to identify remaining issues where negotiation is needed to resolve differences. However, there is no evidence emerging of any common opposition to the proposal on prohibiting the fishing for, retention and landing of berried lobster and crawfish.

There is no timetable for the adoption of the new Regulation. But given the urgency to resolve other issues around the Landing Obligation it is likely to move towards adoption by the end of the current year. Lobsters and crawfish will not be included in the landing obligation so the requirement to discard berried and undersized fish will continue.

Should this proposal be carried forward by the European Commission (and there is clear support for this by other European Member States, the European Parliament and in the other UK Devolved Administrations) the Welsh Government would have no alternative but to implement the new rules.

## **7. Present position in England and Wales**

Since the initial proposal some two years ago we have stressed the concerns of our industry and the economic impacts on Welsh fishermen to Defra. Additionally we have explained the background to the berried fish rejection as part of our consultation on new Crustacean legislation in Wales in 2015.

However, in England they have taken an entirely different policy approach and introduced the English prohibition to reinforce the IFCA byelaws. In the meantime the differences between Wales and Defra/IFCAs continued along these two separate paths.

Officials have discussed the possibility of the option to seek some sort of amendment on the European ruling on a regional basis through the Western Waters Groups in the future. However, this is likely to be some years off and would receive little support from the other UK Administrations the other Member States in the Group and would lack scientific endorsement. The likelihood of success would be low.

## **8. Exemptions from the new measures**

Exemptions from the new measures may be available for scientific purposes in respect of direct restocking or transplantation purposes. Lobster 'hatcheries' have received such dispensations in the past.