

POLICY NOTE

THE SPECIFIED CRUSTACEANS (PROHIBITION ON LANDING, SALE AND CARRIAGE) (SCOTLAND) ORDER 2017

SSI 2017/455

The above instrument was made in exercise of the powers conferred by sections 1(1), (2), (3), (4) and (6), 6(1) and (3), 15(3), 20(1), 22(2) and 22A of the Sea Fish (Conservation) Act 1967, and section 1 of the Inshore Fishing (Scotland) Act 1984. The instrument is subject to negative procedure.

Policy Objectives

The main purpose of the instrument is to introduce new management measures for Scotland's crab and lobster fisheries, specifically edible crab (*Cancer pagurus*), velvet crab (*Necora puber*) and lobster (*Homarus gammarus*).

The aim of these measures is to protect juvenile and/or fertile individuals of these species by regulating the size or condition in which they can be landed, sold, or carried on board a fishing boat, in order to improve the long-term management and sustainability of the respective fish stocks.

The new management measures being introduced are:

- A minimum size for landing edible crabs in Scotland of 150 mm carapace width (except the Shetland Islands)
- A minimum size for landing velvet crabs in Scotland of 70 mm carapace width
- A prohibition in Scotland on the selling or offering for sale of velvet crabs measuring less than 70 mm carapace width
- A prohibition on fishing boats within the Scottish zone carrying velvet crabs measuring less than 70 mm carapace width
- A prohibition on the landing in Scotland of berried velvet crabs (i.e. females which are bearing eggs) caught in Scottish territorial waters
- A minimum size for landing lobster on the west coast of mainland Scotland, from Cape Wrath to 55 degrees north latitude, of 88 mm carapace length (increasing to 90 mm carapace length from 25 February 2019)
- A maximum size for landing female lobster in Scotland of 145 mm carapace length (except the Orkney Islands and Shetland Islands)

The instrument will also revoke and remake several existing pieces of fisheries legislation relating to crab and lobster, in order to consolidate several of the existing measures pertaining to the landing, sale or carriage of specified crustacean species in Scotland.

These existing management measures are:

- A minimum size for landing male spider crabs (*Maja squinado*) in Scotland of 130 mm carapace width
- A minimum size for landing green crabs (*Carcinus maenas*) in the Orkney Islands of 70 mm carapace width
- A minimum size for landing lobster in the Outer Hebrides and the Orkney Islands of 90 mm carapace length
- A minimum size for landing lobster in Scotland of 87 mm carapace length (except the Shetland Islands and those areas where a different minimum size has been prescribed)
- A prohibition in Scotland on the selling or offering for sale of lobster measuring less than 87 mm carapace length
- A prohibition on fishing boats within the Scottish zone to carry lobster measuring less than 87 mm carapace length
- A maximum size for landing female lobster in the Orkney Islands and Shetland Islands of 155 mm carapace length
- A prohibition on the landing of crippled female lobster (i.e. missing part or all of the crusher claw, or part or all of the cutter claw) in Scotland caught in the inshore waters surrounding the Outer Hebrides

Consultation

Marine Scotland issued a public consultation on management proposals for the Scottish crab and lobster fisheries which took place from 26 February 2016 to 20 May 2016.

A total of 119 responses were received, consisting of 93 private individuals and 26 organisations. Respondents were primarily those with a direct interest in the crab and lobster fisheries, with the majority of private individuals and organisations being either fishermen or fishing associations respectively.

The management proposals that the consultation sought views on were:

- Increasing the minimum landing size for edible crab to 150 mm carapace width
- Increasing the minimum landing size for velvet crab to 70 mm carapace width
- Prohibiting the landing of berried (egg bearing) velvet crab
- Increasing the minimum landing size for lobster to 90 mm carapace length
- Decreasing the maximum landing size for female lobster to 145 mm carapace length
- Introducing a maximum landing size for male lobster of 145 mm carapace length
- Prohibiting the landing of 'crippled' lobsters (those missing one or both claws)
- Introducing prohibitions on sale and carriage to match any landing prohibitions that are implemented on a uniform basis across the entire Scottish coast

Most of the proposals were supported by a majority of respondents and are being introduced as originally proposed. The following changes were made following stakeholder feedback:

- The minimum size for landing edible crab will not be increased to 150 mm carapace width in the Shetland Islands. The Shetland Shellfish Management Organisation (SSMO) stated in its response that it wished to retain a 140 mm minimum size.

The SSMO already has a number of measures in place to manage Shetland's edible crab fishery using powers granted by a Regulating Order, and has achieved Marine Stewardship Council (MSC) certification for the fishery.

- A majority of respondents from the east coast, and the Solway Firth on the west coast, were opposed to the minimum size for landing lobster being increased to 90 mm carapace length. However, a majority of respondents from the rest of the west coast supported the proposal.

Taking account of the differing nature of the fishery around the Scottish coast, the possible economic impacts, and the views received during the consultation, the minimum size is being increased on the west coast from Cape Wrath to as far south as latitude 55°N.

- The maximum size for landing female lobster will not be decreased to 145 mm carapace length in the Shetland Islands or Orkney Islands. The SSMO stated in its response that it wished to retain a maximum size of 155 mm, while respondents from Orkney were generally opposed to the proposal.

Shetland and Orkney already have in place a more restrictive landing control for their respective lobster fisheries, with a minimum size of 90 mm carapace length.

- A maximum size for landing male lobster and a prohibition on the landing of 'crippled' lobster will not be introduced. These proposals were opposed by a majority of respondents, due to the possible economic impact and enforcement challenges.

A full analysis of the responses to the consultation is available in the outcome report: www.gov.scot/Publications/2017/01/1817.

EU Considerations

Technical conservation measures

These are technical conservation measures, therefore Article 46 of Council Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms applies. The European Commission has been informed timeously in accordance with this article and no objections have been raised.

Article 46 of EC 850/98 states that national measures for the conservation and management of stocks can be applied solely to the fishermen of the Member State concerned, therefore these measures will apply only to Scottish or other British fishing boats.

The most recent Scottish sea fisheries statistics report that there have been a total of 8.7 tonnes of edible crab landed into Scotland by foreign boats during the five year period 2012-16. There have been no landings of lobster or velvet crab into Scotland by foreign boats during this period.

Impact Assessments

This instrument has no effect on any equality issues.

Financial Effects

A Final Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. In summary, the impacts of this policy on businesses are:

- Increasing the minimum sizes for landing edible crab, velvet crab and lobster is expected to cause a short term reduction in landings of these species. The potential financial impacts on landings into Scotland are estimated to be:
 - Edible crab: between 787 to 1,423 tonnes (£1.1 million to £2 million)
 - Velvet crab: between 131 to 305 tonnes (£331,000 to £774,000)
 - Lobster: between 8 to 23 tonnes (£100,500 to £277,300)

This is a short term reduction, as it is expected that the majority of surviving newly-undersized animals will grow to a harvestable size within one year of the new minimum sizes coming into force.

Additionally, the minimum size for landing lobster is being increased on a staggered basis in order to mitigate any financial impact. This involves an immediate increase to 88 mm carapace length, then to 90 mm from 25 February 2019.

- Prohibiting the landing of berried velvet crab will remove females that are bearing eggs from the commercial fishery. The potential financial impact on landings into Scotland is estimated to be between 2.5 to 24 tonnes (£6,500 to £59,700).
- Decreasing the maximum size for landing female lobster to 145 mm carapace length will remove females above this size from the commercial fishery. The potential financial impact on landings into Scotland is estimated to be up to 5 tonnes (£62,700).

**Scottish Government
Marine Scotland
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