

<b>Title:</b> Byelaw XXVIII: Crustacea Conservation Byelaw 2018  <b>IA No:</b> NEIFCA_18_1  <b>Lead department or agency:</b> North Eastern Inshore Fisheries & Conservation Authority (NEIFCA)  <b>Other departments or agencies:</b> N/A	<b>Impact Assessment (IA)</b>
	<b>Date:</b> 09/10/2018
	<b>Stage:</b> Development/Options
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Secondary legislation
	<b>Contact for enquiries:</b> David McCandless Chief Officer, North Eastern IFCA 01482 393515, david.mccandless@eastriding.gov.uk
<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> N/A

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2018 prices)	In scope of One-In, Three-Out?	Measure qualifies as
£0	£0	£0	Not in scope	Non-qualifying regulatory provision

**What is the problem under consideration?**

On 1 October 2017, 'The Lobsters and Crawfish (Prohibition of Fishing and Landing) (Amendment) (England) Order 2017' (SI 2017 No 899) prohibited the fishing for and landing of all egg bearing lobsters and crawfish caught in English waters and landed at English ports. The legislation does not apply to unregistered vessels, individuals or carriage and storage at sea of berried lobsters. NEIFCA considers the application of the SI to this sector critical to ensuring the full protection of egg bearing lobsters within local stocks.

**Why is government intervention necessary?**

Without intervention NEIFCA could not apply the national legislation protecting egg bearing lobsters to individuals or unlicensed operators working within its district. Intervention also provides an opportunity to amend existing vessel size restrictions within three nautical miles, introduce a maximum pot size, prohibit the taking of lobsters which have recently cast their shells and rationalise the existing number of NEIFCA byelaws by consolidating 'v' notched lobster provisions within a new regulation.

**What are the policy objectives and the intended effects?**

- To ensure that the catching, retention and landing of all egg bearing lobsters by unlicensed and unregistered vessels and operators is prohibited throughout the NEIFCA District and that the Authority's Officers have a comprehensive suite of powers in place to enforce the supporting regulations.
2. To take pro-active steps in the management of the lobster and crab fishery by reducing the vessel size limit within three nautical miles, introducing a maximum pot size to minimise risk to stocks from technology creep and prohibiting the taking of soft shelled lobster.
  3. To rationalise the number of NEIFCA byelaws by consolidating 'v' notched lobster provisions within a new regulation.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

The following policy options have been considered:-

**Option 0** - Do nothing - would result in the continued removal of berried lobsters by unlicensed operators under a weaker regulatory framework.

**Option 1** - Regulatory management – would support the application of the SI to all sectors targeting lobsters.

**Option 2** - Use of non-regulatory measures –voluntary measures to achieve the stated objectives are not considered to be feasible as compliance with such measures is anticipated to be low.

**Option 1 is preferred. Regulatory management would allow for the full protection of egg bearing lobsters and the application of the SI to all sectors targeting lobsters. In combination with the other measures proposed this byelaw will help to ensure the long term sustainability of crustacean stocks exploited within the NEIFCA District.**

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date** 12/2023

Does implementation go beyond minimum EU requirements?			Yes		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> Yes	<b>&lt; 20</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> N/A	<b>Non-traded:</b> N/A	

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible Chief Officer:



Date: 09/10/2018

## Description:

## FULL ECONOMIC ASSESSMENT

Price Base Year 2018	PV Base Year 2018	Time Period Years 10	Net Benefit (Present Value (PV))		
			Low: Optional	High: Optional	Best Estimate: £0

COSTS	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	£0	£0	£0

**Description and scale of key monetised costs by 'main affected groups'**

The prohibition on taking lobsters which have recently cast their shells would reduce some direct selling to the public at some ports and locations via secondary markets. This is limited to a short four week period during the summer months and cannot be quantified. All shellfish merchants tend to reject any soft shelled lobsters at the point of landing. No other monetised costs have been identified.

**Other key non-monetised costs by 'main affected groups'**

The prohibition on retaining and landing egg bearing lobsters would potentially reduce the catching capacity of recreational fishers.

BENEFITS	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	£0	£0	£0

**Description and scale of key monetised benefits by 'main affected groups'**

None identified.

**Other key non-monetised benefits by 'main affected groups'**

The proposed byelaw will increase the spawning stock biomass of lobsters within the District with benefit to areas outside of NEIFCA jurisdiction.

<b>Key assumptions/sensitivities/risks</b>	<b>Discount rate</b>	3.5%
Assumes 100% compliance.		

**BUSINESS ASSESSMENT (Option 1)**

<b>Direct impact on business (Equivalent Annual):</b>			<b>In scope of OI30?</b>	<b>Score for business impact target:</b>
<b>Costs: £0</b>	<b>Benefits: £0</b>	<b>Net: £0</b>	Not in scope	N/A

# Evidence Base (for summary sheets)

## 1. Introduction

- 1.1. NEIFCA is charged with the sustainable management of fisheries within its jurisdiction, authorised through section 153 of the Marine and Coastal Access Act (2009). The provisions in this byelaw related to egg bearing lobsters are intended to complement the provisions of SI 2017 No 899 by ensuring that egg bearing lobsters captured by all fishing sectors are returned to the sea to preserve spawning stock biomass.
- 1.2. Reduction of the vessel size limit within three nautical miles, the introduction of a maximum pot size and a prohibition on taking lobsters which have recently cast their shells are seen as proactive, forward thinking measures to ensure the continued sustainability of lobster and crab stocks within the NEIFCA District.
- 1.3. In order to rationalise and consolidate the number of IFCA byelaws, an opportunity was also identified to transfer existing 'v' notched lobster provisions contained in 'Byelaw XXI Protection of 'v' Notched Lobsters' into the new proposed byelaw.

## 2. Rationale for intervention

- 2.1. Inshore Fisheries and Conservation Authorities have duties to ensure that fish stocks are exploited in a sustainable manner by implementing appropriate management measures. Implementing this byelaw will ensure that fishing activities are conducted in a sustainable manner and that the marine environment is suitably protected.
- 2.2. Fishing activities can potentially cause negative outcomes as a result of 'market failures'. The failures in this case relate to public goods and services, negative externalities and common goods.
  - Public goods and services - A number of goods and services provided by the marine environment such as biological diversity are 'public goods' (no-one can be excluded from benefiting from them, but use of the goods does not diminish the goods being available to others). The characteristics of public goods, being available to all but belonging to no-one, means that individuals do not necessarily have an incentive to voluntarily ensure the continued existence of these goods which can lead to under-protection/provision.
  - Negative externalities – Negative externalities occur when the cost of damage to the marine environment is not fully borne by the users causing the damage. In many cases no monetary value is attached to the goods and services provided by the marine environment and this can lead to more damage occurring than would occur if the users had to pay the price of damage. Even for those marine harvestable goods that are traded (such as wild fish), market prices often do not reflect the full economic cost of the exploitation or of any damage caused to the environment by that exploitation.
  - Common goods - A number of goods and services provided by the marine environment, such as populations of wild fish, are 'common goods' (no-one can be excluded from benefiting from those goods however consumption of the goods does diminish that available to others). The characteristics of common goods (being available but belonging to no-one, and of a diminishing quantity), mean that individuals do not necessarily have an individual economic incentive to ensure the long term existence of these goods which can lead, in fisheries terms, to potential overfishing. Furthermore, it is in the interest of each individual to catch as much as possible, as quickly as possible so that competitors do not take all the benefits. This can lead to an inefficient amount of effort and unsustainable exploitation.
- 2.3. IFCA byelaws aim to redress these sources of market failure in the marine environment through the following ways:
  - Measures will support continued existence of public goods in the marine environment, for example conserving the spawning stock biomass of lobsters in the sea of the IFCA District.

- Measures will ensure that negative externalities are either reduced or suitably mitigated.
- Measures will support continued existence of common goods in the marine environment, for example ensuring the long term sustainability of lobster stocks in the IFCA District.

### 3. *Policy objectives and intended effects*

3.1. The key objectives of the proposed management are;

- To introduce restrictions on taking egg bearing lobsters by recreational fishers.
- To reduce the length of vessels targeting lobster and crab stocks within the three nautical mile fisheries limit of the NEIFCA District.
- To introduce a maximum pot size to address technology creep; observed as an increase in the size of pots being utilised by the commercial potting sector.
- To introduce a prohibition on the taking of lobsters which have recently cast their shells which tend to impact on local markets in terms of price and quality of product.
- To rationalise the number of NEIFCA byelaws by incorporating provisions for 'v' notched lobsters within this byelaw.

3.2. The intended effect of these management measures is to ensure the long term sustainability of lobster and crab stocks within the NEIFCA District.

### 4. *Background*

4.1. Egg bearing lobsters

4.1.1. On 1<sup>st</sup> October 2017, 'The Lobsters and Crawfish (Prohibition of Fishing and Landing) (Amendment) (England) Order 2017' (SI 2017 No 899) prohibited the fishing for and landing of all egg bearing lobsters and crawfish caught in English waters and landed at English ports. The legislation only applies to 'relevant British fishing boats' or 'Scottish fishing boats' and has no application for unregistered vessels, individuals, or carriage and storage at sea of berried lobsters.

4.1.2. The capture and removal of lobsters by recreational fishers within the NEIFCA District is regulated by 'Byelaw XXII Permit to fish for lobster, crab, velvet crab and whelk'. Under provisions in this byelaw recreational fishers are issued with Limited Shellfish Permits (LSP) which permits fishers to take no more than two lobsters per day. In 2016/2017 NEIFCA issued over 2000 LSPs. It is considered critical to support the application of the new SI that enforcement provisions are made to apply to both the licensed and unlicensed sectors to ensure the full protection of egg bearing lobsters within local stocks.

4.1.3. While the SI legislates for the landing of berried lobsters, it failed to legislate for the retention of berried lobsters. There is significant concern that berried lobsters may be retained in keep pots at sea until they have shed their eggs, which would not be consistent with the overall aim of the SI in preserving those animals in the wild.

4.1.4. There are no monetary costs associated with these provisions as recreational fishers do not generate income from the capture of lobsters.

4.2. 'V' notched lobsters

4.2.1. In review of the proposed byelaw, an opportunity was identified to rationalise the number of NEIFCA byelaws by including the provisions contained within 'Byelaw XXI Protection of 'v' Notched Lobsters' into this byelaw. No costs are associated with this measure as regulations already exist prohibiting the landing of 'v' notched lobsters.

### 4.3. Vessel length restrictions

4.3.1. The current regulations regarding maximum overall length of vessels using pots within 3 nautical miles within the NEIFCA District are 14 meters overall length between the north of the District and the River Tees, and 12.5 meters overall length between the River Tees and the south of the District. The proposed byelaw aims to reduce and standardise the maximum length of vessel that may use pots within three nautical miles within the District to 10 meters overall length.

4.3.2. Of the 220 commercial permit holders active in 2017, 22 have an overall length above 10 meters. Many of these vessels operate beyond the three nautical mile fisheries limit and often beyond the 6 nautical mile limit. There is no anticipated cost to current permit holders as it is proposed that vessels that have reported landings to the Authority in the past two years will be placed on a 'sunset list' and retain access under current provisions.

### 4.4. Maximum pot size

4.4.1. Observations from the Authority's Officers have noted a trend of increasing pot size as more operators move from smaller, traditional, hand-made pots to larger, commercially produced steel framed pots. The size of pot proposed has been set at the largest size currently observed in use and available from commercial pot manufacturers. It is not believed that any vessels are currently using pots above this size, therefore there will be no monetary cost associated with this measure. This is considered to be a pro-active measure to halt the observed trend of increasing pot size.

### 4.5. Lobsters which have recently cast their shells

4.5.1 During a short period of four weeks, typically during June following mating quantities of lobsters will be caught which have recently cast their shells and are in a soft state. The shells of such lobsters will move when light pressure is exerted on them. Whilst commercial merchants will reject these lobsters when presented for sale, at some ports there is a secondary market supported by direct selling to the public or cafes and restaurants. This impacts on market prices and catch quality and a general prohibition on taking such lobsters is deemed as a positive pro-active conservation measure.

## 5. Policy Options

5.1. Option 0: Do nothing - This option would see the continued retention and landing of berried lobsters by recreational fishers with associated impacts on spawning stock biomass and the continuation of current vessel size restrictions within three nautical miles.

5.2. Option 1: Regulatory management – The proposed byelaw would provide comprehensive protection for berried lobsters within the NEIFC District and support the application of the SI. It will also limit the size of vessel capable of operating pots within three nautical miles to 10 meters in length, arrest the increasing trend in pot size and limit the sale of lobsters which have recently cast their shells.

5.3. Option 2: Use of non-regulatory measures – It is thought that voluntary measures to preserve egg bearing lobsters would not achieve the desired objective as compliance would be low. Voluntary measures relating to vessel size, pot size and soft lobsters are similarly not expected to achieve the desired outcome.

**5.4. Option 1 is preferred. Regulatory management would allow for the full protection of egg bearing lobsters and the application of the SI to all sectors targeting lobsters. In combination with the other measures proposed this byelaw will help to ensure the long term sustainability of crustacean stocks within the NEIFCA District.**

## *6. Summary of Option 1 impacts on fishery*

6.1. The only identified impacts of the proposed measure would be reduced lobster catching capacity by recreational fishers and a loss of the secondary market for soft shelled lobsters. No reduction in current daily catch limits is being proposed and impacts are not considered to be significant.

## *7. Conclusion*

7.1. The proposed measures will make a positive contribution to the existing suite of management to protect crustacean stocks within the NEIFCA District and ensure their long term sustainability

## ***Annex A: Policy and Planning***

### **One in Three Out (OI3O)**

OI3O is not applicable for byelaws implemented for the management of sea fisheries resources within IFC Districts as they are local government byelaws introducing local regulation and therefore not subject to central government processes.

### **Small firms impact test and competition assessment**

No firms are exempt from this byelaw. It applies to all firms who use the area. This measure does not have a disproportionate impact on small firms. It also has no impact on competition as it applies equally to all businesses that utilise the area.

### **Which marine plan area is the MPA and management measure in?**

The proposed byelaw will include management areas in the East inshore plan area and the North East inshore plan area.

### **Have you assessed whether the decision on this MPA management measure is in accordance with the Marine Policy Statement and any relevant marine plan?**

- Yes

### **If so, please give details of the assessments completed:**

- In the East inshore plan area the byelaw is in accordance with the following objectives and policies from the East Marine Plans:
  - Objective 6: To have a healthy, resilient and adaptable marine ecosystem in the East marine plan areas.
  - Objective 7: To protect, conserve and, where appropriate, recover biodiversity that is in or dependent upon the East marine plan areas.
  - Policy BIO1: Appropriate weight should be attached to biodiversity, reflecting the need to protect biodiversity as a whole, taking account of the best available evidence including on habitats and species that are protected or of conservation concern in the East marine plans and adjacent areas (marine, terrestrial).
  - Policy MPA1: Any impacts on the overall marine protected area network must be taken account of in strategic level measures and assessments, with due regard given to any current agreed advice on an ecologically coherent network.
- In the North East inshore plan area no marine plan is currently in place. Therefore for management areas in this plan area consideration has been given to the Marine Policy Statement. 3.8.3 Decision makers must therefore have regard to the provisions of the CFP in developing any plans or proposals affecting fisheries. The CFP is currently being reviewed. The view of the UK Administrations is that the overall aim of the reformed CFP should be to attain ecological sustainability whilst optimising the wealth generation of marine fish resources and their long term prospects