



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **The Invasive Non-Native Species (Amendment etc.) (EU Exit) Regulations 2019**

DATE **11 December 2018**

BY **Julie James AM, Leader of the House and Chief Whip**

The Invasive Non-Native Species (Amendment etc.) (EU Exit) Regulations 2019

The law which is being amended

European legislation

- Regulation (EU) No 1143/2014
- Commission Implementing Regulation (EU) 2016/1141

The following implementing regulations are being revoked:

- Implementing Regulation (EU) 2017/1454 which specified the technical format for reporting by Member States.
- Implementing Regulation (EU) 2016/145 which adopted the format of the document serving as evidence for the permit issued by the competent authorities of Member States.
- Commission Delegated Regulation (EU) 2018/968 which specified the methodology for risk assessments for invasive alien species.

Domestic legislation

- Destructive Imported Animals Act 1932

Any impact the SI may have on the Assembly's legislative competence and/or the Welsh Ministers' executive competence

The National Assembly for Wales and Welsh Ministers have some legislative and executive competence in relation to invasive non-native species.

Functions under Regulation (EU) No 1143/2014 have been transferred to the "appropriate authority, meaning the Secretary of State in relation to England, the offshore marine area,

and the regulation of imports into, and exports from, the United Kingdom; the Welsh Ministers in relation to Wales and the Department of Agriculture, Environment and Rural Affairs in relation to Northern Ireland.

Permits for derogation and power to issue authorisation will be transferred from the Commission to the appropriate authority. However, due to the exceptional nature of applications for authorisations, there will be an obligation on the appropriate authority to consult and have regard to the opinions of the other responsible authorities as well as the UK replacement expert forum and committee.

In addition a range of measures in the EU Regulation will become the responsibility of the appropriate authority or the responsible authorities. These include the obligations to:

- establish a surveillance system;
- undertake official controls;
- establish action plans for priority pathways;
- undertake management or emergency measures;
- undertake rapid eradication measures; and
- make and publish a report every six years, including on the distribution of species, action plans and permits.

These regulations retain the criteria and principles currently set out in EU Regulation 1143/2014 for the species listing process and substitute the Commission's function to make implementing acts amending this list with a power for the Secretary of State to make regulations to change that list. This power can only be exercised with the consent of the relevant authorities, defined in relation to Wales as the Welsh Ministers.

The function of the Commission in specifying the type of evidence that is acceptable to support risk assessments will be transferred to the appropriate authority (Ministers) acting jointly. Similarly, a small number of other functions currently exercised by the Commission, such as specifying the technical format for reporting, will be undertaken jointly by the responsible authorities.

It is expected that Ministers acting jointly in this sense relates to an administrative function of agreeing the advice provided by the UK scientific committee. This will ensure consistency across the UK.

The functions of the EU's Invasive Alien Species Committee (a committee of Member States' representatives) and the Invasive Alien Species Scientific Forum (representatives of the scientific community appointed by Member States) will be transferred to expert UK/GB bodies.

Functions transferred to the Secretary of State constitute functions of a Minister of the Crown for the purposes of Schedule 7B to GoWA 2006. A future Assembly Bill seeking to remove or modify these functions could trigger a requirement to consult the UK Government.

The purpose of the amendments

The purpose of the Invasive Non-native Species (Amendment etc.) (EU Exit) Regulations 2019 is to ensure that legislation relating to the prevention and management of the introduction and spread of invasive non-native species remains operable after we leave the EU and that the strict protections that are in place for these species are maintained. This instrument makes corrections to one piece of directly applicable EU legislation and the implementing and delegated legislation under it, and also corrects an operability issue in the Destructive Imported Animals Act 1932. There is no change to policy.

The SIs and accompanying Explanatory Memorandums, setting out the effect of each amendment is available here: <https://beta.parliament.uk/work-packages>

Why consent was given

Consent has been given for the UK Government to make these corrections in relation to, and on behalf of, Wales for reasons of efficiency, expediency and due to the technical nature of the amendments. The amendments have been considered fully; and there is no divergence in policy. These amendments are to ensure that the statute book remains functional following the UK's exit from the EU. This is in line with the principles for correcting agreed by the Cabinet Sub-Committee on European Transition in May.