

STATUTORY INSTRUMENT CONSENT MEMORANDUM

THE ANIMAL HEALTH, INVASIVE ALIEN SPECIES, PLANT BREEDERS' RIGHTS AND SEEDS (AMENDMENT ETC.) (EU EXIT) REGULATIONS 2019

1. This Statutory Instrument Consent Memorandum is laid under Standing Order ("SO") 30A.2. SO 30A prescribes that a Statutory Instrument Consent Memorandum must be laid and a Statutory Instrument Consent Motion may be tabled before the National Assembly for Wales ("Assembly") if a UK Statutory Instrument (SI) makes provision in relation to Wales amending primary legislation within the legislative competence of the Assembly.
2. The Animal Health, Invasive Alien Species, Plant Breeders' Rights and Seeds (Amendment Etc.) (EU Exit) Regulations 2019 ("the 2019 Regulations"); were laid before the Houses of Parliament on 1 July 2019. The Regulations can be found at:

<https://beta.parliament.uk/work-packages/BhGFI9yi>

Summary of the Statutory Instrument and its objective

3. The changes made by the Regulations are necessary to ensure Invasive Non-native Species functions operate correctly after the UK has left the EU.
4. The provisions for invasive non-native species in the Regulations will make a number of amendments to the Invasive Alien Species (Enforcement and Permitting) Order 2019 ("the 2019 Order") and the Wildlife and Countryside Act 1981 ("the 1981 Act"). These corrections will ensure that the permitting and enforcement provisions required under Regulation (EU) No 1143/2014 operate as intended after exit. This instrument also amends article 20 of the 2019 Order in order to rectify a small error which has been identified in the provisions setting the level of penalties which may be imposed upon criminal conviction for an offence under the 2019 Order.
5. These Regulations correct cross-references to the "list of species Union concern" and the "Union list" within the 1981 Act to ensure consistency with Regulation (EU) No 1143/2014 (as amended) and to the 2019 Order.

Relevant provision to be made by the SI

6. The amendments made to The 1981 Act by the Regulations, are as follows:

The Wildlife and Countryside Act 1981

Regulations 6—

(1) The Wildlife and Countryside Act 1981(a) is amended as follows.

(2) In section 14(4ZA)(b), for the words from "the list" to "spread of invasive alien species" substitute "the list of species in the Annex to Commission

^a 1981 c.69

^b Section 14 of the Act was amended by section 102 of, and Part 4 f Schedule 16 to, the Countryside and Rights f Way Act 2000 (c.16), section 23 and 25 of the Infrastructure Act 2015 9c.7) and S! 2019/527

Implementing Regulation (EU) 2016/1141 adopting a list of invasive alien species of Union concern pursuant to Regulation (EU) No. 1143/2014 of the European Parliament and of the Council”.

(3) In Schedule 9A(c)—

(a) in paragraph 1(2)(a)(d) for “Union list” substitute “list of species of special concern”;

(b) for paragraph 2(6) substitute—

(6) “The list of species of special concern” means the list of species in the Annex to Commission Implementing Regulation (EU) 2016/1141 adopting a list of invasive alien species of Union concern pursuant to Regulation (EU) No 1143/2014 of the European Parliament and of the Council, as amended from time to time.

7. The changes identified in paragraphs 4 and 5 relate to a subject matter that is within the legislative competence of the National Assembly for Wales, and which could be the subject of a National Assembly Bill.
8. Section 108A of the Government of Wales Act 2006 enables the Assembly to legislate on any subject except those specifically reserved to the UK Parliament in Schedule 7A to the Act. The Assembly has legislative competence in relation to the environment.

Why it is appropriate for the SI to make this provision

9. There is no divergence between the Welsh Government and the UK Government on the policy of the correction. Therefore, making separate SIs in Wales and England to correct the reference in question would lead to duplication, and unnecessary complication of the statute book. Consenting to this SI ensures that there is a single legislative framework across England and Wales, which promotes clarity and accessibility during this period of change. In these exceptional circumstances, the Welsh Government considers it appropriate that the UK Government legislates on our behalf in this instance.

Lesley Griffiths AM,
Minister for Environment, Energy and Rural Affairs
4 July 2019

c Schedule (A was inserted by section 23(30) of the Infrastructure Act 2015 (c.7) and amended by SI 2019/527

d Schedule (A was inserted by section 23(30) of the Infrastructure Act 2015 (c.7) and amended by SI 2019/527