

FINAL BUSINESS AND REGULATORY IMPACT ASSESSMENT

1. Title of Proposal

The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2019

2. Purpose and intended effect

Background

While beavers have an overall positive effect on biodiversity, their ability to modify their environment can have a detrimental impact on some types of farming systems affecting livestock and machinery, and the undermining of flood defences that can pose a risk to landowners and householders.

At present, beavers are not protected in Scotland. There are currently two known populations of beavers in Scotland; a small population in Knapdale, Argyll which was the subject of a trial which has now finished; and an unofficial population in the Tay and Earn catchment area which is the result of illegal releases or escapes.

Scottish Ministers announced on 24 November 2016 that the beaver populations in Knapdale in Argyll and in the Tay and Earn catchments can remain in Scotland, subject to satisfactory completion of a Strategic Environmental Assessment (SEA) and a Habitats Regulations Assessment (HRA). The intention was that beavers in Scotland would be given protection under the law as a European Protected Species (EPS) as soon as is practicable after completion of the Assessment processes. The SEA and HRA have now been carried out. The HRA assessed the impact on protected sites that could be affected by beavers. It concluded that the impacts were acceptable provided appropriate mitigation was put in place. Similarly the SEA also concluded beaver impacts were manageable.

Objective

Article 12 of the EU Habitats Directive requires that Member States establish a system of strict protection for all animals on Annex IV to that Directive within their natural range. Annex IV of the Directive includes beaver. The Scottish Government assesses that beavers would be considered to be within their natural range and therefore we are obliged to provide strict protection in line with the requirements of the Directive. The Conservation (Natural Habitats, &c.) Regulations 1994 which implement the Habitats Directive, will remain on the statute book if and when Scotland leaves the EU.

Rationale for Government intervention

This Order, The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2019, will add the Eurasian or European beaver (*Castor fiber*), to Schedule 2 of the Conservation (Natural Habitats, &c.) Regulations 1994. Schedule 2 lists those species that have European Protected Species status.

By giving protection to beavers, this supports the environment National Outcome in that we are protecting and enhancing our environment.

Beavers are widely considered 'ecosystem engineers', a term used for species that have a large impact on habitats and species through the alterations they make to the physical environment. Beavers can fundamentally change ecosystems and create new and unusual habitats.

Beaver activity provides habitat for otters, great crested newts and water voles, all species of conservation importance. Other species will often benefit e.g. animals that live and feed on standing dead wood such as woodpeckers and bats, pond and wetland species such as herons, wildfowl, frogs and toads, and a range of invertebrates.

On flooding, beaver dams can slow flood water from rushing down catchments, and also act to filter sediment leading to clearer burns and rivers.

3. Consultation

Within Government

The following government agencies and departments have been consulted:

Scottish Natural Heritage has provided advice on policy proposals;
Scottish Environment Protection Agency has provided advice on management of beaver dams and watercourses;
Scottish Government Legal Directorate provided advice on the legal issues;
Scottish Government Planning and Architecture Division have provided advice on the SEA process.

Public Consultation

As required by Section 16(2) of the Environmental Assessment (Scotland) Act 2005, the Scottish Government consulted on the documents relating to the Environmental Report. The Consultation closed on 6 March 2018. The Analysis of Consultation Responses Report was published on 17 October 2018 which highlighted that the Strategic Environmental Assessment Environmental Report had correctly identified potential

impacts and appropriate mitigation measures regarding the reintroduction of beavers to Scotland.

4. Options

There were no other options. Beavers are currently not afforded any protection in Scotland. Scottish Ministers intention was that beavers would be given protection in Scotland as a European Protected Species.

Sectors and groups affected

The main sector that may be adversely affected is agriculture. Other land uses and activities such as forestry, management of fisheries, in particular for migratory salmonids; and, management of transport infrastructure could all be affected by beavers' damming, burrowing and tree-felling activities. Providing protection for beavers through the proposed SSI does not alter the type or scale of the potential impacts, but it does change the legal context within which preventative and mitigation measures are carried out. Scottish Natural Heritage will operate a flexible and responsive licensing system that will allow action to be taken, including shooting, trapping and re-locating, and dam removal to be carried out to prevent damage before it occurs. Many actions will however continue to not require any licensing before they can be carried out. Full guidance on beaver mitigation and management will be available from SNH.

5. Implementation and delivery plan

Post-implementation review

Protection for beavers is required by the EU Habitats Directive. If this is no longer applicable to Scotland in the future, protection for beavers will be reviewed within ten years of this SSI coming into force.

6. Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed: Roseanna Cunningham

Date: 20th February 2019

Cabinet Secretary for Environment, Climate Change and Land Reform

Any queries about this BRIA should be addressed to

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