
DRAFT STATUTORY INSTRUMENTS

2019 No.

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

PART 3

Amendment of retained direct EU legislation

Amendment of Chapter 1 (general provisions)

5.—(1) Chapter 1 is amended as follows.

(2) In Article 2(2), in point (d)—

- (a) for the words “Annex I or Annex II to [Directive 2000/29/EC](#)” substitute “retained EU law relating to plant health”;
- (b) for the words “Article 16(3) of that Directive” substitute “retained EU law relating to plant health”.

(3) In Article 3—

- (a) omit point (4);
- (b) after point (17), insert—

“(18) ‘the responsible authorities’ means each person who, in relation to any part of the United Kingdom, is the appropriate authority;

(19) ‘the other responsible authorities’ means, so far as any given part of the United Kingdom is concerned, the responsible authorities other than the appropriate authority for that part;

(20) ‘the appropriate authority’ means—

- (a) the Secretary of State in relation to—
 - (i) England;
 - (ii) the offshore marine area; or
 - (iii) the regulation of imports into, and exports from, the United Kingdom;
- (b) in relation to Wales, the Welsh Ministers;
- (c) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;

(21) ‘the list of species of special concern’ means the list of species in Annex 1 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;

- (22) ‘the UK marine area’ has the meaning given by section 42(1) of the Marine and Coastal Access Act 2009⁽¹⁾;
- (23) ‘England’, ‘Scotland’, ‘Wales’ and ‘Northern Ireland’ include that part of the territorial sea which is respectively adjacent to them;
- (24) ‘the offshore marine area’ means—
- (a) any part of the seabed and subsoil situated in any area designated under section 1(7) of the Continental Shelf Act 1964 (exploration and exploitation of the continental shelf)⁽²⁾;
 - (b) any part of the waters within British fishery limits⁽³⁾ (except the internal waters of, and the territorial sea adjacent to, the United Kingdom, the Channel Islands and the Isle of Man);
- (25) ‘the Committee’ has the meaning given by Article 27;
- (26) ‘the Scientific Forum’ means the forum referred to in Article 28.”.
- (4) In Article 4—
- (a) in paragraph 1—
 - (i) for the words from “The Commission” to “(‘the Union list’),” substitute “The Secretary of State may by regulations amend the list of species of special concern so as to add or remove species from that list”;
 - (ii) omit the words from “Those implementing acts” to the end;
 - (b) in paragraph 2—
 - (i) for “The Commission” substitute “The Secretary of State”;
 - (ii) for “at least every six years” substitute “before 2nd August 2022, and before the last anniversary of that date in each subsequent period of six years”;
 - (c) in paragraph 3—
 - (i) in point (a), omit “excluding the outermost regions”;
 - (ii) in point (b), for the words from “one biographical region” to “their outermost regions” substitute “the territory of the United Kingdom”;
 - (d) in paragraph 4, for “Member States may submit to the Commission” substitute “The Committee may submit to the Secretary of State”;
 - (e) in paragraph 6—
 - (i) for “adopting or updating” substitute “amending”;
 - (ii) for “Commission” substitute “Secretary of State”;
 - (iii) omit “for Member States”;
 - (f) omit paragraph 7.
- (5) After paragraph 7 insert—
- “**8.** For the purposes of this Article, references to “the United Kingdom” are to be read as references to the United Kingdom and the UK marine area.”.
- (6) In Article 5—
- (a) in paragraph 2, for the first subparagraph, substitute—

(1) 2009 c. 23.

(2) 1964 c. 29. Section 1(7) was amended by section 37 and paragraph 1 of Schedule 3 to the Oil and Gas (Enterprise) Act 1982 (c. 23). Areas have been designated under section 1(7) by S.I. 1987/1265, 2000/3062, 2001/3670 and 2013/3162.

(3) As defined by section 1 of the Fishery Limits Act 1976 (c. 86).

“When the Secretary of State proposes to amend the list of species of special concern under Article 4(1), the Scientific Forum must carry out the risk assessment referred to in paragraph 1.”

(b) in paragraph 2, in the second subparagraph—

- (i) for “a Member State” substitute “the Committee”;
- (ii) for “it shall be” substitute “the Scientific Forum is”;
- (iii) omit the last sentence;

(c) in paragraph 3—

- (i) for the words from “The Commission shall” to “to further” substitute “The responsible authorities, acting jointly, may”;
- (ii) for the last sentence substitute—

“Before taking any action under this paragraph, the responsible authorities, acting jointly, must consult the Scientific Forum and such other experts as they consider appropriate.”.

(7) Omit Article 6.