

Changes to legislation: Wildlife and Countryside Act 1981, SCHEDULE9B is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

[^{F1}SCHEDULE 9B (introduced by sections 14AA(5) and 16(4B))

INVASIVE ALIEN SPECIES: DEFENCES AND LICENCES

Textual Amendments

- F1** Sch. 9B inserted (1.11.2019) (S.) by [The Conservation \(Natural Habitats, c.\) \(Miscellaneous Amendments\) \(Scotland\) Regulations 2019 \(S.S.I. 2019/364\)](#), regs. 1(2), **2(8)**

PART 1

INTERPRETATION

Interpretation

1. In this schedule—

“Invasive Alien Species Regulation” means Regulation (EU) No 1143/2014 of the European Parliament and of the Council on the prevention and management of the introduction and spread of invasive alien species,

“contained holding” means closed facilities from which escape or spread is not possible,

“ex-situ conservation” means the conservation of components of biological diversity outside their natural habitat,

“invasive alien species” means a species, sub-species or lower taxon of animal, plant, fungus or micro-organism included on the [^{F2}Scottish list of species of special concern,]

“research” means descriptive or experimental work, undertaken under regulated conditions to obtain new scientific findings or to develop new products, including the initial phases of identification, characterisation and isolation of genetic features, other than those features which make a species invasive, of invasive alien species only insofar as essential to enable the breeding of those features into non-invasive species,

[^{F3}Scottish 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.]

“specimen” means a live specimen and includes any part, gamete, seed, egg or propagule of a species, as well as any hybrids, varieties or breeds that might grow, hatch or reproduce, as the case may be,

^{F4}
...

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Textual Amendments

- F2** Words in Sch. 9B para. 1 substituted (31.12.2020) by [The Invasive Non-native Species \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/473\)](#), regs. 1(1), **10(5)(a)**
- F3** Words in Sch. 9B para. 1 inserted (31.12.2020) by [The Invasive Non-native Species \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/473\)](#), regs. 1(1), **10(5)(b)**
- F4** Words in Sch. 9B para. 1 omitted (31.12.2020) by virtue of [The Invasive Non-native Species \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/473\)](#), regs. 1(1), **10(5)(c)**

PART 2

DEFENCES

Companion animals

2. (1) This paragraph applies where—
- (a) a person is charged with an offence under section 14ZC or 14AA,
 - (b) the charge relates to an animal, and
 - (c) the activity to which the charge relates contravenes one of the following paragraphs of Article 7(1) of the Invasive Alien Species Regulation—
 - (i) paragraph (b) (keeping, including in contained holding),
 - (ii) paragraph (d) (transporting to, from or within [^{F5}Scotland], except for the transportation of species to facilities in the context of eradication).
- (2) It is a defence to the charge to show that—
- (a) immediately before the inclusion on the [^{F6}Scottish list of species of special concern] of the species to which the animal belongs, the animal was kept as a companion animal,
 - (b) at all material times the animal was kept—
 - (i) as a companion animal, or
 - (ii) for the purpose of transporting the animal to a place mentioned in sub-paragraph (3), and
 - (c) at all material times—
 - (i) the animal was kept in contained holding, and
 - (ii) appropriate measures were in place to ensure that it could not reproduce or escape.
- (3) The places referred to in sub-paragraph (2)(b)(ii) are—
- (a) an establishment to which a relevant licence or permit has been granted,
 - (b) a facility to which a relevant licence has been granted,
 - (c) a place where the animal was to be humanely killed.
- (4) In sub-paragraph (3)—
- (a) “relevant licence or permit” means, in relation to an establishment—
 - (i) a licence granted under section 16(4)(c) by virtue of paragraph 6,
 - (ii) a permit granted under article 35 of the Invasive Alien Species (Enforcement and Permitting) Order 2019 ([S.I. 2019/527](#)),

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- (iii) a permit granted under any provision in legislation which applies in relation to Northern Ireland and which enables a permit to be issued in accordance with Article 8 or 9 of the Invasive Alien Species Regulation,
- (b) “relevant licence” means, in relation to a facility—
 - (i) a licence granted under section 16(4)(c) by virtue of paragraph 7,
 - (ii) a licence granted under article 36(1) of the Invasive Alien Species (Enforcement and Permitting) Order 2019 (S.I. 2019/527), for the purpose mentioned in article 36(2)(d) of that Order,
 - (iii) a licence granted under any provision in legislation which applies in relation to Northern Ireland and enables a licence to be issued for the keeping of an animal by a facility until the end of its natural life in accordance with Article 31(4) of the Invasive Alien Species Regulation.

Textual Amendments

- F5** Word in Sch. 9B para. 2(1)(c)(ii) substituted (31.12.2020) by [The Invasive Non-native Species \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/473\)](#), regs. 1(1), **10(6)(a)(i)**
- F6** Words in Sch. 9B para. 2(2)(a) substituted (31.12.2020) by [The Invasive Non-native Species \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/473\)](#), regs. 1(1), **10(6)(a)(ii)**

Commercial stocks

- 3 (1) This paragraph applies where—
- (a) a person who keeps a commercial stock of specimens of invasive alien species is charged with an offence under section 14ZC, 14A or 14AA,
 - (b) the charge relates to such a specimen, and
 - (c) the activity to which the charge relates contravenes one of the following paragraphs of Article 7(1) of the Invasive Alien Species Regulation—
 - (i) paragraph (b) (keeping, including in contained holding),
 - (ii) paragraph (d) (transporting to, from or within [^{F7}Scotland], except for transportation of species to facilities in the context of eradication),
 - (iii) paragraph (e) (placing on the market),
 - (iv) paragraph (f) (using or exchanging).
- (2) It is a defence to the charge to show that—
- (a) the specimen was acquired by the person before the inclusion on the [^{F8}Scottish list of species of special concern] of the species to which the specimen belongs,
 - (b) the activity to which the charge relates was not carried out after the end of the relevant period following the inclusion on [^{F9}the Scottish list of species of special concern] to which the specimen belongs, and
 - (c) that activity is mentioned in sub-paragraph (3).
- (3) The activities referred to in sub-paragraph (2)(c) are—
- (a) sale or transfer to an establishment which holds a relevant licence or permit, provided that the conditions in paragraph (4) are met,

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- (b) a scientific or medicinal activity pursuant to a relevant licence or permit, provided that the conditions in paragraph (4) are met,
 - (c) destruction (in the case of a plant, fungus or micro-organism) or humane killing (in the case of an animal) of the specimen to exhaust the keeper's stock, or
 - (d) sale or transfer to a non-commercial user, provided that the conditions in paragraph (4) are met.
- (4) The conditions referred to in sub-paragraph (3) are that, at all material times—
- (a) the specimen was kept and transported in contained holding, and
 - (b) appropriate measures were in place to ensure that it could not reproduce or escape.
- (5) For the purposes of sub-paragraph (2)(b), the relevant period is—
- (a) in relation to an activity mentioned in sub-paragraph (3)(a) to (c), 2 years,
 - (b) in relation to an activity mentioned in sub-paragraph (3)(d), 1 year.
- (6) In sub-paragraph (3), “relevant licence or permit” means—
- (a) for the purposes of sub-paragraph (3)(a)—
 - (i) a licence granted under section 16(4)(c) by virtue of paragraph 6(b)(i) or (ii),
 - (ii) a permit granted under section 35(1)(a) of the Invasive Alien Species (Enforcement and Permitting) Order 2019 ([S.I. 2019/527](#)),
 - (iii) a permit granted under any provision in legislation which applies in relation to Northern Ireland and enables permits to be issued for research or ex-situ conservation in accordance with Article 8 of the Invasive Alien Species Regulation,
 - (b) for the purposes of sub-paragraph (3)(b)—
 - (i) a licence granted under section 16(4)(c) by virtue of paragraph 6(b)(iii),
 - (ii) a permit granted under article 35(1)(b) of the Invasive Alien Species (Enforcement and Permitting) Order 2019 ([S.I. 2019/527](#)),
 - (iii) a permit granted under any provision in legislation which applies in relation to Northern Ireland and enables permits to be issued for scientific production and subsequent medicinal use in accordance with Article 8 of the Invasive Alien Species Regulation.

Textual Amendments

- F7** Word in Sch. 9B para. 3(1)(c)(ii) substituted (31.12.2020) by [The Invasive Non-native Species \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/473\)](#), regs. 1(1), **10(6)(b)(i)**
- F8** Words in Sch. 9B para. 3(2)(a) substituted (31.12.2020) by [The Invasive Non-native Species \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/473\)](#), regs. 1(1), **10(6)(b)(ii)**
- F9** Words in Sch. 9B para. 3(2)(b) substituted (31.12.2020) by [The Invasive Non-native Species \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/473\)](#), regs. 1(1), **10(6)(b)(iii)**

Non-commercial owners: receipt of commercial stocks

- 4 (1) This paragraph applies where—
- (a) a person is charged with an offence under section 14ZC or 14AA, and

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- (b) the activity to which the charge relates contravenes one of the following paragraphs of Article 7(1) of the Invasive Alien Species Regulation—
 - (i) paragraph (b) (keeping, including in contained holding),
 - (ii) paragraph (d) (transporting to, from or within [^{F10}Scotland], except for the transportation of species to facilities in the context of eradication).
- (2) It is a defence to the charge to show that—
 - (a) the specimen to which the charge relates was received by the person—
 - (i) from a keeper of commercial stocks of specimens of the species to which the specimen belongs, and
 - (ii) before the end of the period of one year beginning with the date on which that species was included on the [^{F11}Scottish list of species of special concern], and
 - (b) at all material times—
 - (i) the specimen was kept and transported in contained holding, and
 - (ii) appropriate measures were in place to ensure that it could not reproduce or escape.

Textual Amendments

- F10** Word in Sch. 9B para. 4(1)(b)(ii) substituted (31.12.2020) by [The Invasive Non-native Species \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/473\)](#), regs. 1(1), **10(6)(c)(i)**
- F11** Words in Sch. 9B para. 4(2)(a)(ii) substituted (31.12.2020) by [The Invasive Non-native Species \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/473\)](#), regs. 1(1), **10(6)(c)(ii)**

PART 3

LICENCES

Restrictions

- 5. (1) The appropriate authority must not grant a licence under section 16(4)(c) permitting an activity which contravenes one of the following paragraphs of Article 7(1) of the Invasive Alien Species Regulation unless any of paragraphs 6 to 9 apply—
 - (a) paragraph (b) (keeping, including in contained holding),
 - (b) paragraph (c) (breeding, including in contained holding),
 - (c) paragraph (d) (transporting to, from or within [^{F12}Scotland], except for the transportation of species to facilities in the context of eradication),
 - (d) paragraph (f) (using or exchanging),
 - (e) paragraph (g) (permitting to reproduce, growing or cultivating, including in contained holding).
- (2) The appropriate authority must not grant a licence under section 16(4)(c) permitting an activity which contravenes one of the following paragraphs of that Article unless paragraph 8 or 9 applies—
 - (a) paragraph (e) (placing on the market),
 - (b) paragraph (h) (releasing into the environment).

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Textual Amendments

F12 Word in Sch. 9B para. 5(1)(c) substituted (31.12.2020) by [The Invasive Non-native Species \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/473\)](#), regs. 1(1), **10(7)**

Research etc.

- 6 This paragraph applies if the licence—
- (a) is granted to an establishment,
 - (b) permits an activity to be done in the course of—
 - (i) research on an invasive alien species,
 - (ii) ex-situ conservation of an invasive alien species,
 - (iii) scientific production, and subsequent medicinal use of, a product derived from an invasive alien species where its use is necessary for the advancement of human health, or
 - (iv) in exceptional circumstances, such other activities as are justified for reasons of compelling public interest, including those of a social or economic nature, in accordance with Article 9 of the Invasive Alien Species Regulation, and
 - (c) is subject to the conditions specified in Article 8(2) and (3) of that Regulation.

Keeping animals until the end of their natural lives

- 7 This paragraph applies if—
- (a) the licence is granted for the purpose of the keeping of an animal by a facility (including any necessary ancillary activities such as transportation) until the end of its natural life in accordance with Article 31(4) of the Invasive Alien Species Regulation, and
 - (b) the appropriate authority is satisfied that all appropriate controls are in place to ensure that reproduction or escape of the animal is not possible.

Eradication measures

- 8 This paragraph applies if the licence is—
- (a) granted for the purpose of implementation of an eradication measure pursuant to Article 17 of the Invasive Alien Species Regulation, and
 - (b) subject to such conditions as are, in the opinion of the appropriate authority, necessary to meet the aim of ensuring that the eradication measure to which the licence relates will be effective in achieving the complete and permanent removal of the population of the invasive alien species concerned.

Management measures

- 9 (1) This paragraph applies if the licence is granted for the purpose of implementation of a management measure pursuant to Article 19 of the Invasive Alien Species Regulation.

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- (2) But, where the licence is granted for the purpose of the commercial use, on a temporary basis, of an invasive alien species as part of such a management measure pursuant to Article 19(2) of that Regulation, this paragraph applies only if the appropriate authority is satisfied that—
- (a) there is strict justification for that use, and
 - (b) all appropriate controls are in place to avoid any further spread of the species concerned.]

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 53(3)(c)(ia) inserted by [2015 c. 20 Sch. 7 para. 2\(b\)](#)
- s. 53B(4A)(4B) inserted by [2015 c. 20 Sch. 7 para. 4](#)
- s. 53ZA inserted by [2015 c. 20 Sch. 7 para. 3](#)
- s. 54B54C inserted by [2015 c. 20 Sch. 7 para. 5](#)
- Sch. 13A inserted by [2015 c. 20 Sch. 7 para. 6](#)
- Sch. 14A inserted by [2015 c. 20 Sch. 7 para. 7](#)