

NATURAL ENVIRONMENT AND RURAL COMMUNITIES ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Wildlife etc.

Invasive non-native species

Section 50: Sale etc. of invasive non-native species

133. This section introduces a new section 14ZA into the 1981 Act.
134. Under section 14ZA(1), it is an offence to sell, offer or expose for sale, or to have in one's possession or transport for the purpose of sale, any animal or plant to which the section applies or anything from which such an animal or plant can be propagated, such as an egg or a seed. Under section 14ZA(2) it is also an offence to publish or cause to be published any advertisement for the purchase or sale of these animals and plants.
135. Section 14ZA(3) sets out the animals and plants to which the offences in section 14ZA(1) and (2) apply. These are live animals and plants which are included in section 14(1) or (2) of the 1981 Act (animals and plants which must not be released etc. into the wild) **and** which have been prescribed by an order made by the Secretary of State.
136. Under section 14ZA(5) there is a defence available to these new offences where the accused took all reasonable steps and exercised all due diligence to avoid committing the offence.

Section 51: Codes of practice in connection with invasive non-native species

137. This section introduces a new section 14ZB into the 1981 Act 1981 which gives the Secretary of State the power to issue codes of practice, or approve a code of practice issued by others, relating to non-native animal and plant species. It is intended that the codes will be used to provide recommendations, advice and information on how to stop the damage caused by non-native animals and plants.
138. Failure to comply with such a code is not in itself an offence; however it may be used as admissible evidence in any criminal or civil proceedings and a court must take account of a failure to comply with the code where it considers this to be relevant. For example, in proceedings for the release of a non-native species prohibited under section 14(1) of the 1981 Act, compliance with the code could be used to decide whether the accused may rely on the due diligence defence contained in section 14(3).