
SCOTTISH STATUTORY INSTRUMENTS

2020 No. 473

**The Invasive Non-native Species (EU Exit)
(Scotland) (Amendment etc.) Regulations 2020**

PART 2

Amendment of the Wildlife and Countryside Act 1981

Amendment of the Wildlife and Countryside Act 1981

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

(2) In section 14AA(2)—

(a) in subsection (6)—

(i) after “section” insert “and section 14AB”,

(ii) in the definition of “invasive alien species”, for the words from “list of” to the end substitute “Scottish list of species of special concern”,

(b) after the definition of “invasive alien species”, insert—

““the 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.”.

(3) After section 14AA insert—

“14AB. Contravention of emergency measures

(1) Section (2) applies where regulations made under Article 10 of the Invasive Alien Species Regulation (emergency measures) provide that a restriction set out in one of the following paragraphs of Article 7(1) of that Regulation applies to a species specified in those regulations as it applies to an invasive alien species—

(a) paragraph (b) (keeping, including in contained holding),

(b) paragraph (c) (breeding, including in contained holding),

(c) paragraph (d) (transporting to, from or within Scotland, except for the transportation of species to facilities in the context of eradication),

(d) paragraph (e) (placing on the market),

(e) paragraph (f) (using or exchanging),

(f) paragraph (g) (permitting to reproduce, growing or cultivating, including in contained holding),

(g) paragraph (h) (releasing into the environment).

(1) 1981 c.69.

(2) Section 14AA was inserted by S.S.I. 2019/364.

- (2) A person commits an offence under this section if—
- (a) the person contravenes a paragraph of Article 7(1) of the Invasive Alien Species Regulation in relation to a species specified in regulations made under Article 10 of the Invasive Alien Species Regulation (emergency measures), and
 - (b) the activity which constitutes that contravention does not constitute an offence under section 14, 14ZC or 14A.
- (3) Subsections (3) to (5) of section 14AA apply in relation to any contravention of the restriction in relation to a species mentioned in subsection (2)(a) as they apply in relation to a contravention of the corresponding restriction in relation to an invasive alien species.”
- (4) Section 21 is amended as follows—
- (a) after subsection (4C) insert—

“(4CA) A person guilty of an offence under section 14AB is liable—

 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both),
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).”
 - (b) in subsection (6)(b) after “14AA,” insert “14AB,”.
- (5) Part 1 (interpretation) of schedule 9B(3) (invasive alien species: defences and licences) is amended as follows—
- (a) in the definition of “invasive alien species”, for “Union list” substitute “Scottish list of species of special concern,”.
 - (b) after the definition of “research”, insert—

“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.”.
 - (c) omit the definition of “Union list”.
- (6) Part 2 (defences) of schedule 9B is amended as follows—
- (a) in paragraph 2—
 - (i) in sub-paragraph (1)(c)(ii), for “the Union” substitute “Scotland”,
 - (ii) in sub-paragraph (2)(a), for “Union list” substitute “Scottish list of species of special concern”.
 - (b) in paragraph 3—
 - (i) in sub-paragraph (1)(c)(ii) for “the Union” substitute “Scotland”,
 - (ii) in sub-paragraph (2)(a) for “Union list” substitute “Scottish list of species of special concern”,
 - (iii) in sub-paragraph (2)(b) for “the Union list of species” substitute “the Scottish list of species of special concern”,
 - (c) in paragraph 4—
 - (i) in sub-paragraph (1)(b)(ii) for “the Union” substitute “Scotland”,
 - (ii) in sub-paragraph (2)(a)(ii) for “Union list” substitute “Scottish list of species of special concern”.

(7) In Part 3 (licences) of schedule 9B in paragraph 5(1)(c), for “the Union” substitute “Scotland”.