

EXPLANATORY MEMORANDUM TO
THE HUMANE TRAPPING STANDARDS (ENGLAND AND WALES)
REGULATIONS 2019

2019 No. 1288

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 The purpose of this instrument is to make a technical correction to ensure the proper functioning of earlier amendments to the Wildlife and Countryside Act 1981 (“the 1981 Act”) made by the Humane Trapping Standards 2019 (S.I. 2019/22).
- 2.2 This instrument will amend section 16 of the 1981 Act to provide that the licensing ground in section 16(3)(c) relating to the conservation of wild animals, insofar as it relates to the killing and taking of stoat prohibited under section 11(2), includes the conservation of wild birds.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments.

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent and application of this instrument is England and Wales.

5. European Convention on Human Rights

- 5.1 Rebecca Pow MP, Parliamentary Under Secretary of State for the Environment, Food and Rural Affairs, has made the following statement regarding Human Rights:

“In my view the provisions of the Humane Trapping Standards (England and Wales) Regulations 2019 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 The Humane Trapping Standards Regulations 2019 amended the 1981 Act in order to implement, in Great Britain, requirements contained in the Agreement on International Humane Trapping Standards between the European Community, the Government of Canada and the Government of the Russian Federation (“the Agreement”). In doing so, the Regulations also implemented the equivalent standards contained in the bilateral Agreed Minute between the European Community and the United States of America.

- 6.2 The EU is a Party to the Agreement. There is no implementing legislation at the EU level. The UK, as a Member State, is obliged to implement the trapping standards through domestic legislation.
- 6.3 The amendments in the Humane Trapping Standards Regulations 2019 replaced section 11(2) of the 1981 Act and, among other changes, from 1 April 2020 prohibited the killing and taking of stoat unless under the authority of a licence. Section 16(3) of the 1981 Act contains the relevant licensing grounds, and under section 16(3)(c) it is possible to issue a licence for the purpose of conserving wild animals. However, in this provision, “wild animals” does not include wild birds (see section 27 of the 1981 Act).
- 6.4 The primary purpose for killing and taking stoat in the UK / England and Wales is the conservation of ground nesting birds. This instrument inserts a new provision into section 16 of the 1981 Act, which provides that the licensing ground in section 16(3)(c) is to be read, insofar as it relates to the killing and taking of stoat prohibited under section 11(2), as including the conservation of wild birds.
- 6.5 The amendments made by this instrument will ensure that stoat control activities can continue under licence, as intended, once the Humane Trapping Standards Regulations 2019 take effect in relation to stoat. No policy changes are being introduced by this corrective instrument, which is technical in nature.

7. Policy background

What is being done and why?

- 7.1 The Humane Trapping Standards Regulations 2019 satisfy the UK’s obligation as a Member State to implement the Agreement to raise welfare standards for certain commonly-trapped species. Those Regulations prohibit the use of traps for these species that do not meet humaneness standards. Of the 19 species covered by the Agreement, five occur in the wild in parts of the UK (badger, beaver, otter, pine marten and stoat), of which stoat is the only species commonly trapped.
- 7.2 Following the amendments introduced by the Humane Trapping Standards Regulations 2019, from 1 April 2020 it will only be possible to lawfully kill or take stoat in England and Wales under the authority of a licence issued under section 16(3) of the 1981 Act. However, it is not possible under that section to issue a licence for the purpose of conserving wild birds, which is the primary purpose for which stoat are controlled. Not controlling stoat for this purpose would have adverse conservation and economic impacts.
- 7.3 This instrument uses the power under section 2(2) of the European Communities Act 1972 to make a further amendment to the 1981 Act to ensure that it is possible to issue licences under section 16(3) permitting the killing and taking of stoat for the purpose of conserving wild birds. This amendment will come into force on 1st April 2020 (the same day as the amendments under the Humane Trapping Standards Regulations 2019 take effect for stoat), ensuring that there is no impact on current stoat control activities.

8. European Union (Withdrawal) Act 2018/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to the withdrawal from the European Union.

9. Consolidation

9.1 This instrument is not a consolidation.

10. Consultation outcome

10.1 No change in policy will occur as a result of this instrument. The changes being made are technical in nature in order to ensure that the Humane Trapping Standards Regulations 2019 function as intended and do not impact on current stoat control activities. Stakeholders' views on the Humane Trapping Standards Regulations were captured as part of a six-week, UK-wide consultation and have been taken into account in the development of this instrument.

11. Guidance

11.1 This instrument does not introduce any procedural changes requiring guidance.

11.2 Guidance on how the Humane Trapping Standards Regulations 2019 will affect trappers is published on the GOV.UK website on the Natural England wildlife licensing pages.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because it only makes a minor amendment to the 1981 Act to implement the Agreement and ensure that amendments introduced by the Humane Trapping Standards Regulations 2019 operate as intended.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by a small number of small businesses.

13.2 An approach to minimise the impact of the requirements on small businesses (employing up to 50 people), is not appropriate as the aim is to make no substantive policy changes, just a minor amendment to ensure that the changes introduced by the Humane Trapping Standards Regulations 2019 operate as intended.

14. Monitoring & review

14.1 This instrument further implements the Agreement. The approach to monitoring of our implementation of the Agreement was set out in the Explanatory Memorandum (http://www.legislation.gov.uk/ukdsi/2019/9780111174722/pdfs/ukdsiem_9780111174722_en.pdf) for the Humane Trapping Standards Regulations 2019.

15. Contact

15.1 Tom Fuller at the Department for Environment, Food and Rural Affairs email: tom.fuller@defra.gov.uk can be contacted with any queries regarding the instrument.

15.2 Richard Pullen, Deputy Director for Wildlife, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

15.3 Rebecca Pow MP, Under Secretary of State for Environment and Rural Opportunities at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.