
STATUTORY INSTRUMENTS

2019 No. 223

**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—

[^{F1}“(18) ‘the responsible authorities’ means—

- (a) for the purposes of Articles 5(3), 18 and 19(6) as they apply in relation to any matter affecting the offshore marine area—
 - (i) each person mentioned in sub-paragraph (c);
 - (ii) the Scottish Ministers; and
 - (iii) in Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;
- (b) for the purposes of Articles 9, 16, 17 and 19(5)—
 - (i) each person mentioned in sub-paragraph (c);
 - (ii) the Scottish Ministers; and
 - (iii) in Northern Ireland, the Department of Agriculture, Environment and Rural Affairs; and
- (c) otherwise, each person who, in relation to any particular area or matter, is the appropriate authority;

(19) ‘the other responsible authorities’ means, in relation to the appropriate authority, the responsible authorities other than itself;

(20) ‘the appropriate authority’ means—

- (a) the Secretary of State in relation to—
 - (i) England;

- (ii) the offshore marine area; and
- (iii) the regulation of imports into, and exports from, the United Kingdom;
- (b) in relation to Wales, the Welsh Ministers;]
- (21) ‘the 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;
- (22) ‘the UK marine area’ has the meaning given by section 42(1) of the Marine and Coastal Access Act 2009 ^{M1};
- [^{F2}(23) ‘England’, ‘Scotland’ and ‘Wales’ include that part of the territorial sea which is respectively adjacent to them, and ‘Northern Ireland’ includes the Northern Ireland inshore region (except in the definition of that term);]
- (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) ^{M2};
 - (b) any part of the waters within British fishery limits ^{M3} (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^[F3];
- [^{F4}(27) ‘the GB marine area’ consists of that part of the UK marine area which is not the Northern Ireland inshore region;
- (28) ‘the Northern Ireland inshore region’ has the meaning given to it in section 2 of the Marine Act (Northern Ireland) 2013;
- (29) ‘qualifying Northern Ireland goods’ has the meaning given to it from time to time in regulations made under section 8C(6) of the European Union (Withdrawal) Act 2018.”].
- (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 ”;
 - [^{F5}(iii) omit the words “the procedure referred to in”];
 - (c) in paragraph 3—
 - (i) in point (a), omit “excluding the outermost regions”;
 - (ii) in point (b), for the words from “one [^{F6}biogeographical] region” to “their outermost regions” substitute “ the territory of [^{F7}Great Britain] ”;

- (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;
- (g) after paragraph 7 insert—

[^{F8}“8. For the purposes of this Article, references to “Great Britain” are to be read as references to Great Britain and the GB marine area.”].

- (5) In Article 5—
 - (a) in paragraph 2, for the first subparagraph, substitute—

“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.”.
- (6) Omit Article 6.

Textual Amendments

- F1** Words in reg. 5(3)(b) substituted (31.12.2020 immediately before IP completion day) by [The Animal Welfare and Invasive Non-native Species \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1590\)](#), regs. 1(1)(b)(i), **6(4)(a)(i)**
- F2** Words in reg. 5(3)(b) substituted (31.12.2020 immediately before IP completion day) by [The Animal Welfare and Invasive Non-native Species \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1590\)](#), regs. 1(1)(b)(i), **6(4)(a)(ii)**
- F3** Reg. 5(3)(b): semicolon substituted for full stop (31.12.2020 immediately before IP completion day) by [The Animal Welfare and Invasive Non-native Species \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1590\)](#), regs. 1(1)(b)(i), **6(4)(a)(iii)**
- F4** Words in reg. 5(3)(b) inserted (31.12.2020 immediately before IP completion day) by [The Animal Welfare and Invasive Non-native Species \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1590\)](#), regs. 1(1)(b)(i), **6(4)(a)(iv)**
- F5** Reg. 5(4)(b)(iii) inserted (31.12.2020 immediately before IP completion day) by [The Animal Health, Alien Species in Aquaculture and Invasive Non-native Species \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/813\)](#), regs. 1, **2(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation: There are currently no known outstanding effects for the The Invasive Non-native Species (Amendment etc.) (EU Exit) Regulations 2019, Section 5. (See end of Document for details)

- F6** Word in reg. 5(4)(c)(ii) substituted (31.12.2020 immediately before IP completion day) by [The Animal Health, Alien Species in Aquaculture and Invasive Non-native Species \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/813\)](#), regs. 1, **2(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in reg. 5(4)(c)(ii) substituted (31.12.2020 immediately before IP completion day) by [The Animal Welfare and Invasive Non-native Species \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1590\)](#), regs. 1(1)(b)(i), **6(4)(b)**
- F8** Words in reg. 5(4)(g) substituted (31.12.2020 immediately before IP completion day) by [The Animal Welfare and Invasive Non-native Species \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1590\)](#), regs. 1(1)(b)(i), **6(4)(c)**

Commencement Information

- I1** Reg. 5 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see reg. 1(1)(b)

Marginal Citations

- M1** [2009 c. 23](#).
- M2** [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](#).
- M3** As defined by section 1 of the [Fishery Limits Act 1976 \(c. 86\)](#).

Changes to legislation:

There are currently no known outstanding effects for the The Invasive Non-native Species (Amendment etc.) (EU Exit) Regulations 2019, Section 5.