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STATUTORY INSTRUMENTS

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**2020 No. 1590**

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

**PART 3**

Amendments concerning invasive non-native species

**CHAPTER 1**

EU-exit related amendments

**The Invasive Non-native Species (Amendment etc.) (EU Exit) Regulations 2019**

**6.—**(1) The Invasive Non-native Species (Amendment etc.) (EU Exit) Regulations 2019<sup>(1)</sup> are amended as follows.

(2) In regulation 2(1)(a), for “regulations 4 to 10” substitute “regulations 4 to 9, 10(1) to (4) and 10(7) to (11)”.

(3) In regulation 4(2)—

(a) in paragraph (a), for “the United Kingdom” substitute “Great Britain”;

(b) for paragraph (c) substitute—

“(c) for “at Union level” substitute “across Great Britain”;

(4) In regulation 5—

(a) in paragraph (3)(b)—

(i) for points (18) to (20) which are to be inserted substitute—

“(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

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<sup>(1)</sup> [S.I. 2019/223](#), amended by [S.I. 2019/813](#). [SI 2019/223](#) comes into force on IP completion day by virtue of paragraph 1 of Schedule 5 to the European Union (Withdrawal Agreement) Act 2020 (c. 1).

- (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;”;
- (ii) for point (23) which is to be inserted substitute—
  - “(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);”;
- (iii) in point (26) which is to be inserted, for the full stop at the end substitute a semi-colon; and
- (iv) after point (26), insert—
  - “(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(2);
  - (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.”;
- (b) in paragraph (4)(c)(ii), for “the United Kingdom” substitute “Great Britain”;
- (c) in paragraph (4)(g), for the paragraph to be inserted substitute—
  - “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 regulation 6—
  - (a) in paragraph (4)(c), in paragraph 3 to be substituted by that paragraph—
    - (i) at the end of sub-paragraph (c), for “; and” substitute a full stop;
    - (ii) omit sub-paragraph (d).
  - (b) in paragraph (5)—
    - (i) in sub-paragraph (a)(ii), for “the United Kingdom” substitute “Great Britain”;
    - (ii) in sub-paragraph (a)(iv), after the words “appropriate authority may” insert “by regulations”;
    - (iii) in sub-paragraph (c), for paragraph (ii) substitute—
      - “(ii) for the words from “of the adoption” to “Union list” substitute “on which the emergency measures come into force”.”;
    - (iv) after sub-paragraph (c), insert—

- “(ca) after paragraph 3, insert—
  - “**3A.** Emergency measures may not apply for a period exceeding 2 years.”;”;
- (v) for sub-paragraph (e) substitute—
  - “(e) for paragraph 6 substitute—
    - “**6.** Where the Secretary of State includes the invasive alien species on the list of species of special concern before the end of the period referred to in paragraph 3A, the appropriate authority must repeal or amend the emergency measures.”;”;
- (c) in paragraph (7)—
  - (i) for sub-paragraph (a)(ii) substitute—
    - “(ii) for the words from “their territory” to “[Directive 2008/56/EC](#)” substitute “Great Britain and the GB marine area”;”;
    - (ii) in sub-paragraph (d)(ii), for “the United Kingdom’s” substitute “Great Britain’s”.
- (6) In regulation 7—
  - (a) in paragraph (2)(b), for “England, Wales and Northern Ireland”, in both places where it occurs, substitute “England and Wales”;
  - (b) in paragraph (3)(c)(i), after the words “paragraph 3” insert “of this Article”;
  - (c) in paragraph (4)(b)(ii), before the words “other responsible” insert “the”;
  - (d) in paragraph (6)(c)(ii), for “the United Kingdom” substitute “Great Britain”.
- (7) In regulation 8(2)—
  - (a) in sub-paragraph (a)—
    - (i) in paragraph (i), at the end insert—
      - “(cc) for “their territory” substitute “the territory for which it is responsible”;”;
    - (ii) in paragraph (ii), for “the appropriate authority” substitute “the constituent part of Great Britain”;
  - (b) omit sub-paragraph (c)(iv);
  - (c) in sub-paragraph (c)(v)—
    - (i) for the word “sentence” substitute “two sentences”;
    - (ii) for the full stop at the end substitute a semi-colon;
  - (d) after sub-paragraph (c), insert—
    - “(d) after paragraph 5, insert—
      - “**6.** Following a notification under paragraph 5 which relates to the offshore marine area, where appropriate the responsible authorities shall establish jointly agreed management measures.”;”.
- (8) In regulation 9(3)(a)(vi), for the text to be substituted substitute—

“The Secretary of State must also endeavour to ensure co-ordination with the Department of Agriculture, Environment and Rural Affairs in Northern Ireland and with the Republic of Ireland.”.
- (9) In regulation 10—
  - (a) in paragraph (2)(a)(iii), for “England, Wales and Northern Ireland” substitute “England and Wales”;

- (b) in paragraph (4)(c), in the text to be inserted, for “the United Kingdom” substitute “Great Britain”;
- (c) in paragraph (5)—
  - (i) in sub-paragraph (a)(i), after the words “responsible authorities” insert “and the Scottish Ministers”;
  - (ii) in sub-paragraph (b), in the text to be inserted, after the words “responsible authorities” insert “and the Scottish Ministers”;
- (d) in paragraph (6)(a), after the words “responsible authorities” insert “and the Scottish Ministers”;
- (e) in paragraph (8)—
  - (i) before sub-paragraph (a), insert—
    - “(za) in paragraph 1, after the words “Article 7(1),” insert “and, in relation to introduction into Great Britain from Northern Ireland, point (a) of Article 7(1),”;
  - (ii) in sub-paragraph (c), for the full stop at the end substitute a semi-colon and, after that sub-paragraph, insert—
    - “(d) after paragraph 4, insert—
      - “**5.** The references to “establishments” and “facilities” in paragraph 4 of this Article include establishments and facilities permitted or established (as the case may be) in Scotland by the Scottish Ministers for that purpose.”;
- (f) for paragraph (9) substitute—
  - “(9) In Article 32—
    - (a) in paragraph 1, for the words “keep and transport” substitute “keep, transport and, in relation to qualifying Northern Ireland goods, introduce into Great Britain”;
    - (b) after paragraph 1, insert—
      - “**1A.** The reference in paragraph 1 to “research or ex-situ conservation establishments and for the purposes of medicinal activities referred to in Article 8” includes establishments or activities referred to in Article 8 for which a permit has been issued by the Scottish Ministers in relation to Scotland, or by the Department of Agriculture, Environment and Rural Affairs in relation to Northern Ireland.
      - 1B.** So far as paragraph 1A relates to permits issued in relation to Northern Ireland, the reference in that sub-paragraph to Article 8 is to Article 8 of [Regulation \(EU\) No 1143/2014](#)(3) on the prevention and management of the introduction and spread of invasive alien species, as it has effect in Northern Ireland by virtue of section 7A of the European Union (Withdrawal) Act 2018.”;
    - (c) in paragraph 2, after the words “non-commercial users”, insert “and, in relation to live specimens that are qualifying Northern Ireland goods, introduction into Great Britain for any such purposes”;
    - (d) in paragraph 3, for “Member State” substitute “appropriate authority”.
- (g) in paragraph (10), in Article 32A which is inserted by that paragraph—
  - (i) in paragraph 4, for the words “paragraph 1” substitute “Article 4(1)”;

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(3) OJ No. L317, 4.11.2014, p. 35.

- (ii) in paragraph 5, omit sub-paragraph (c);
- (iii) after paragraph 5, insert—

“6. The Secretary of State may not—

- (a) without the consent of the Scottish Ministers and the Welsh Ministers, make regulations under Article 10(1) which introduce controls on the introduction of species into Great Britain or their transportation from Great Britain;
- (b) without the consent of the Scottish Ministers, the Welsh Ministers and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, make any such regulations which apply in the offshore marine area.”.

### **The Animal Health, Invasive Alien Species, Plant Breeders’ Rights and Seeds (Amendment etc.) (EU Exit) Regulations 2019**

7.—(1) The Animal Health, Invasive Alien Species, Plant Breeders’ Rights and Seeds (Amendment etc.) (EU Exit) Regulations 2019(4) are amended as follows.

- (2) After regulation 1(3), insert—

“(4) Regulation 7 does not extend to Northern Ireland.”.

- (3) In regulation 7—

- (a) for paragraph (4) substitute—

“(4) In article 12—

- (a) after paragraph (1), insert—

“(1A) For the purposes of their application by virtue of paragraph (1), the offences in this Part apply as if the references to “Great Britain” in Article 7(1) (a) and (d) of the Principal Regulation included the offshore marine area, and the references to those offences in Table 1 of Schedule 1 are to be construed accordingly.”;

- (b) in paragraph (3), in the definition of “third country ship”—

- (i) in sub-paragraph (a), for “(other than Gibraltar) which is not a member State” substitute “other than the United Kingdom”;

- (ii) in sub-paragraph (b), for “a member State” substitute “the United Kingdom”.”;

- (b) after paragraph (4), insert—

“(4A) In article 16—

- (a) in paragraph (1), for the words “Article 7(1)(b) (keeping) or (d) (transportation)” substitute “Article 7(1)(b) (keeping), 7(1)(d) (transportation) or, in relation to introduction into Great Britain from Northern Ireland, 7(1)(a) (introduction into Great Britain)”;

- (b) in paragraph (4), in the definitions of “relevant licence” and “relevant permit”—

- (ii) at the end of sub-paragraph (a), insert “or”;

- (iii) at the end of sub-paragraph (b), for “; or” substitute a full stop;

- (iv) omit sub-paragraph (c).

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(4) [S.I. 2019/1220](#), to which there are amendments not relevant to these Regulations.

(4B) In article 18—

(a) for paragraph (2) substitute—

“(2) This article applies to—

(a) an offence under article 3(1) in relation to a breach of the restrictions in—

(i) Article 7(1)(b) (keeping), (d) (transportation), (e) (placing on the market) or (f) (use or exchange) of the Principal Regulation;

(ii) where the specimens are qualifying Northern Ireland goods, Article 7(1)(a) (introduction into the territory of Great Britain) of the Principal Regulation; and

(b) an offence under article 3(4).”;

(b) for paragraph (6), substitute—

“(6) In this article—

“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;

“relevant permit” means—

(a) for the purposes of paragraph (3)(a), a permit under—

(i) article 35(1)(a) (permits for research or ex situ conservation);

(ii) any provision in legislation which applies in relation to Scotland and which enables permits to be issued for research or ex situ conservation in accordance with Article 8 of the Principal Regulation; or

(iii) any provision in legislation which applies in relation to Northern Ireland and which enables permits to be issued for research or ex situ conservation in accordance with Article 8 of [Regulation \(EU\) No 1143/2014](#) on the prevention and management of the introduction and spread of invasive alien species as it has effect in Northern Ireland by virtue of section 7A of the European Union (Withdrawal) Act 2018;

(b) for the purposes of paragraph (3)(b), a permit under—

(i) article 35(1)(b) (permits for medicinal activities);

(ii) any provision in legislation which applies in relation to Scotland and which enables permits to be issued for scientific production and subsequent medicinal use in accordance with Article 8 of the Principal Regulation; or

(iii) any provision in legislation which applies in relation to Northern Ireland and which enables permits to be issued for scientific production and subsequent medicinal use in accordance with Article 8 of [Regulation \(EU\) No 1143/2014](#) on the prevention and management of the introduction and spread of invasive alien species as it has effect in Northern Ireland by virtue of section 7A of the European Union (Withdrawal) Act 2018.”;

(c) for paragraph (5) substitute—

“(5) In article 21—

- (a) in paragraph (2)—
  - (i) for “the Union” substitute “Great Britain”;
  - (ii) at the end of sub-paragraph (c)(iv), for the semi-colon substitute a full stop;
  - (iii) omit sub-paragraph (d);
- (b) after paragraph (2), insert—
  - “(3) In this Part, references to—
    - (a) import into the United Kingdom are references to import into the United Kingdom by introduction into Great Britain,
    - (b) export from the United Kingdom are references to export from the United Kingdom by transportation from Great Britain,and cognate expressions shall be construed accordingly.”;
- (d) in paragraph (6), in paragraphs (a) and (b)(iii)(bb)—
  - (i) before “Union” insert “the”;
  - (ii) for “United Kingdom” substitute “Great Britain”.

## CHAPTER 2

### Amendments relating to Northern Ireland

#### **Amendment of the Invasive Alien Species (Enforcement and Permitting) Order 2019**

8.—(1) The Invasive Alien Species (Enforcement and Permitting) Order 2019(5) is amended as follows.

- (2) In article 2(1)—
  - (a) in the definition of “Principal Regulation”, at the end insert “as it has effect by virtue of section 7A of the European Union (Withdrawal) Act 2018”;
  - (b) after the definition of “research”, insert—
    - ““the retained EU Regulation” means [EU 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 as it has effect by virtue of section 3 of the European Union (Withdrawal) Act 2018;”.
- (3) In article 3—
  - (a) after paragraph (1), insert—
    - “(1A) The offences in this Part apply as if the references to “the Union” in Article 7(1)(a) (bringing into the territory of the Union) and (d) (transportation) of the Principal Regulation included Northern Ireland, and the references to those offences in Table 1 of Schedule 1 are to be construed accordingly.”;
  - (b) after paragraph (6), insert—
    - “(7) Where regulations made under article 3A (emergency measures) provide that any provision specified in Table 1 of Schedule 1 is to apply in relation to a species specified in those regulations as it applies in relation to an invasive alien species, this Part and Parts 3 to 8 apply in relation to any contravention, or attempted contravention, of any such provision in relation to that species, as they apply in relation to a contravention, or attempted contravention, of that provision in relation to an invasive alien species.”.
- (4) After article 3, insert—

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(5) [S.I. 2019/527](#), amended by [2019/1213](#) and [1220](#).

### “Emergency measures

**3A.—**(1) For the purpose of Article 10 of the Principal Regulation (emergency measures), the Secretary of State may, by regulations, take emergency measures, consisting of relevant restrictions.

(2) In paragraph (1), “relevant restrictions” means restrictions of a kind specified in Article 7(1)(a) (bringing into territory of the Union) or (d) (transportation) of the Principal Regulation, in so far as they relate to controls on imports into and exports from the United Kingdom by the introduction of goods into, and transportation of goods from, Northern Ireland.

(3) The power to make regulations under paragraph (1) is exercisable by statutory instrument.

(4) A statutory instrument containing regulations under this regulation is subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Regulations made under paragraph (1) may—

- (a) contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments);
- (b) make different provision for different purposes.

(6) The Secretary of State may not make regulations under paragraph (1) without the consent of the Department of Agriculture, Environment and Rural Affairs in Northern Ireland.”

(5) Omit article 12.

(6) After Part 2, insert—

## “PART 2A

### Controls on invasive alien species in the offshore marine area

**13A.—**(1) Subject to paragraph (2), this Order applies (in so far as it is capable of so applying) to any person—

- (a) in any part of the waters comprised in the offshore marine area;
- (b) on a ship in any part of the waters comprised in the offshore marine area;
- (c) on or under an offshore marine installation.

(2) For the purposes of this article, the Order shall apply—

- (a) as if references to the “Principal Regulation” were to the retained EU Regulation, and references to provisions of the Principal Regulation were construed accordingly;
- (b) as if—
  - (i) references to “invasive alien species” were to any species of animal, plant, fungus or micro-organism included from time to time on the list of species of special concern;
  - (ii) references to “the Union list” were to the list of species of special concern;
  - (iii) in Article 7(1)(a) (bringing into the territory of Great Britain) and (d) (transportation) of the retained EU Regulation, references to “Great Britain” included the offshore marine area, and the references to those offences in Table 1 of Schedule 1 were construed accordingly;
  - (iv) the reference in article 3(8)(a) to article 3A (emergency measures) were a reference to Article 10 of the retained EU Regulation (emergency measures).



- (3) The offences applied by virtue of this Part do not apply to any person on a third country ship.
- (4) In this article—
- “list of species of special concern” has the same meaning as in the retained EU Regulation;
- “offshore marine installation” means any artificial island, installation or structure (other than a ship) which is situated—
- (a) in any part of the waters designated under section 1(7) of the Continental Shelf Act 1962 (exploration and exploitation of the continental shelf)(6); or
- (b) in any part of the waters in any area designated under section 84(4) of the Energy Act 2004 (exploitation of areas outside the territorial sea for energy production)(7);
- “ship” means any vessel (including hovercraft, submersible craft and other floating craft) other than one which permanently rests on, or is permanently attached to, the seabed;
- “third county ship” means a ship which—
- (a) is flying the flag, or registered in, any State or territory other than the United Kingdom; and
- (b) is not registered in the United Kingdom.”.
- (7) In article 16(4)—
- (a) in the definition of “relevant licence”, for sub-paragraphs (b) and (c) substitute—
- “(b) any provision corresponding to paragraphs (1) and (2)(d), read together, of article 36 which applies in relation to Scotland; or
- (c) any provision corresponding to paragraphs (1) and (2)(d), read together, of article 36 which applies in relation to Northern Ireland;”;
- (b) in the definition of “relevant permit”, for sub-paragraphs (b) and (c) substitute—
- “(b) any provision corresponding to article 35 which applies in relation to Scotland; or
- (c) any provision corresponding to article 35 which applies in relation to Northern Ireland;”.
- (8) In article 18(6)—
- (a) in sub-paragraph (a), for paragraphs (ii) and (iii) substitute—
- “(ii) any provision corresponding to article 35(1)(a) which applies in relation to Scotland; or
- (iii) any provision corresponding to article 35(1)(a) which applies in relation to Northern Ireland;”;
- (b) in sub-paragraph (b), for paragraphs (ii) and (iii) substitute—
- “(ii) any provision corresponding to article 35(1)(b) which applies in relation to Scotland; or
- (iii) any provision corresponding to article 35(1)(b) which applies in relation to Northern Ireland.”.
- (9) In article 21(2), omit sub-paragraphs (b) and (c).

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(6) 1964 c. 29. Section 1(7) was amended by section 37 of, 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 (as amended by S.I. 2000/3062) and 2013/3162.

(7) 2004 c. 20. Section 84(4) was substituted by paragraph 4 of Schedule 4 to the Marine and Coastal Access Act 2009 (c. 23). Areas have been designated under section 84(4) by S.I. 2004/2668 and 2013/3161.

## CHAPTER 3

### Amendments to domestic enforcement legislation in the United Kingdom

#### **The Invasive Alien Species (Enforcement and Permitting) Order 2019**

**9.**—(1) The Invasive Alien Species (Enforcement and Permitting) Order 2019<sup>(8)</sup> is amended as follows.

(2) After article 3(6), insert—

“(7) Where regulations made under Article 10 of the Principal Regulation<sup>(9)</sup> (emergency measures) provide that any provision specified in Table 1 of Schedule 1 is to apply in relation to a species specified in those regulations as it applies in relation to an invasive alien species, this Part and Parts 3 to 8 apply in relation to any contravention, or attempted contravention, of any such provision in relation to that species, as they apply in relation to a contravention, or attempted contravention, of that provision in relation to an invasive alien species.”.

(3) In articles 26(7)(a)(ii), 30(3), 30(4)(ii), 30(5)(b)(ii) and 33(3)(ii), for the words “permit or licence” substitute “relevant permit or relevant licence”.

(4) After article 33, insert—

#### **“Meaning of relevant permit and relevant licence**

**33A.** In this Part—

“relevant licence” means a licence granted in accordance with—

- (a) article 36 (licences for activities relating to invasive alien species) of this Order;
- (b) any provision corresponding to article 36 which applies in relation to Scotland;
- (c) any provision corresponding to article 36 which applies in relation to Northern Ireland;

“relevant permit” means a permit under—

- (a) article 35 (permits for activities relation to invasive species) of this Order;
- (b) any provision corresponding to article 35 which applies in relation to Scotland;
- (c) any provision corresponding to article 35 which applies in relation to Northern Ireland.”.

(5) In Schedule 3, in paragraph 29, at the end insert—

“(4) The provisions in paragraphs 30(2) to (7) and 31 apply to non-compliance penalties served pursuant to this paragraph as they apply to such penalties served pursuant to paragraph 30(1).

(5) For the purposes of sub-paragraph (4), the references to “compliance notice, restoration notice or third party undertaking” in paragraph 30(2) and (5) are to be read as a reference to “enforcement undertaking”.

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<sup>(8)</sup> S.I. 2019/527, amended by 2019/1213 and 1220.

<sup>(9)</sup> EUR 2014/1143 which is prospectively amended by S.I. 2019/223.