



**Cyfoeth
Naturiol
Cymru
Natural
Resources
Wales**

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Thursday 29th March 2018

Dear Sir or Madam,

Invasive Non-native Species: Tackling Invasive Non-native Species – A new enforcement regime

Natural Resources Wales are grateful for the opportunity to comment on the Consultation on tackling Invasive Non-native Species: a new enforcement regime.

The statutory purpose of Natural Resources Wales (NRW) is set out under the Environment (Wales) Act 2016. In the exercise of its functions under the Environment (Wales) Act 2016, NRW must pursue sustainable management of natural resources in relation to all of its work in Wales and apply the principles of sustainable management of natural resources in so far as that is consistent with the proper exercise of its functions. NRW's duty (in common with the other public bodies covered by the Well-Being of Future Generation (Wales) Act 2015) is to carry out sustainable development. This means, in general terms, looking after air, land, water, wildlife, plants, and soil to improve Wales' well-being, and provide a better future for everyone. NRW are also advisors to the Welsh Government on the natural heritage and resources of Wales and its coastal waters.

As a general comment we are in support of a new regime and regulation that are comprehensive and robust and will reflect the seriousness of the threat of INNS species to our natural resources.

Q1. Where a species of Union concern is already subject to control through an existing framework, do you consider that it should continue to be managed under that framework for restrictions that are covered by the Regulation?

We consider that for consistency and to avoid confusion, duplication and potential contradiction, it would be preferable to consolidate management and control of IAS species under a new and overarching framework rather than to have parts of the new regulation enforced by different legislation for different species. We would welcome further analysis of the implications for this enforcement strategy of existing regulatory frameworks. We also suggest a review of underlying legislation to determine whether new or existing frameworks would be the most effective, efficient and transparent means of enforcement. The overarching aim must be consistency across all species, whether plant or animal. A further consideration is that this issue requires certainty that post Brexit the new regulation will still be functional legislation.

Q2. Are you content with the proposed civil penalties regime including the levels for fixed monetary penalties and standards of proof? What, if any, changes would you propose?

We suggest that the fixed monetary penalty for businesses is rather low (£3000, £1500 if paid within 28 days) and is unlikely to pose a sufficient deterrent for a business who is engaged in restricted activities such as breeding, transporting, growing or selling. We are of the opinion that penalties and fines should reflect the severity of the offence in question to deter such offences and believe that more serious cases should be subject to criminal proceedings, especially where corporate bodies and/or commercial activities are involved.

Q3. Do you consider that breaches of these restrictions merit the creation of new criminal offences or should we rely on civil penalties and existing criminal offences?

We suggest that new criminal offences should be created for breaches of restrictions listed in part 34 of the consultation document. We believe that these activities pose the greatest risk to the spread of IAS and should be penalised accordingly through criminal offences. We recognise that in some instances there may be potential for Environmental Damage Regulations to be applied to IAS Regulation offences.

Q.4. Do you consider that breaches relating to the permitting scheme merit the creation of new criminal offences or should we rely solely on civil penalties?

We consider that breaches relating to the permitting scheme merit the creation of new criminal offences. This approach would be consistent with other environmental permitting regimes such as the Environmental Permitting Regulations and the Conservation of Habitats and Species Regulations. Enforcement of INNS legislation should be proportionate and reflect the serious threat that INNS pose to our natural resources.

Q.5. If new criminal offences are created, do you think that the penalties should be set at the same level as those for offences under section 14 or 14ZA of the Wildlife and Countryside Act 1981?

We suggest that should new criminal offences be created, it would be proportionate for the penalties to be set at the same level as those for offences under section 14 or 14ZA of the Wildlife and Countryside Act 1981.

We trust that our comments will be helpful. If you have any queries in relation to our response, please contact Jennie Jones, Invasive Non-Native Species Advisor, in the first instance at: jennie.jones@cyfoethnaturiolcymru.gov.uk.

Yours faithfully,



Keith Davies
Manager
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