

The EU Invasive Alien Species Regulation & Brexit

The IAS Regulation is an essential component of the UK's biosecurity and nature conservation legislation. Its full and effective conversion into UK law post-Brexit is essential for the UK's future ecological and economic prosperity.

Background

- Invasive Alien Species (IAS) are species that are introduced accidentally or deliberately into an area where they do not naturally occur, with serious negative consequences for their new environment.
- IAS are a critical threat to the UK's economy and environment. IAS have contributed to >50% of all global extinctions since the 1500s, and are currently the second greatest extinction driver in the world. IAS are estimated to cost the UK's economy £1.7 billion annually.
- The EU IAS Regulation (1143/2014) focuses on reducing the risk of IAS establishing in the wild. It does this by restricting the import, keeping, transport, release, reproduction and sale of the most dangerous IAS. This emphasis on preventative measures contrasts sharply with existing UK legislation and exemplifies why the IAS Regulation significantly improves existing UK biosecurity legislation.
- Ensuring the EU's IAS Regulation is fully and effectively converted into domestic law will significantly enhance the UK's biosecurity legislation. This will not only improve the UK's ability to tackle the IAS threat, it will also aid the UK's compliance with obligations arising from the Bern Convention, the Convention on Biological Diversity, and the Sustainable Development Goals.

Conversion

Following the UK's exit from the EU, the EU IAS Regulation must be fully converted into domestic law. Her Majesty's Government has committed to converting the EU IAS Regulation into domestic law. However, there remains uncertainty over the extent to which this will be achieved.

Invasive alien species policy is devolved to all three UK Devolved Administrations. However, not all aspects of the EU IAS Regulations relate to devolved competencies, for example management of the UK's external borders remains reserved to Westminster. In the absence of the co-ordinating role of the EU, the variety of jurisdictions responsible for implementing the IAS Regulation in the UK could result in the incoherent and ineffective implementation of the IAS Regulation in the UK post-Brexit. Environment Links UK makes no comment on what constitutional arrangements are needed to implement the IAS Regulation in the UK post-Brexit. However, any arrangement must be ecologically coherent across the UK and not lead to unnecessary barriers to enforcement.

Following an Environment Links UK analysis of the conversion of the EU IAS Regulation into domestic law, the following parts of the Regulation are considered to require the greatest scrutiny in regards to their conversion. **Please note, any reference to *domestic law* should be read as referring to the laws of any part of the UK that relate to the conversion of the IAS Regulation, and does not exclusively refer to laws relating solely to the competencies of Her Majesty's Government.**

- a) Future Co-operation with the EU:** Due to the inherent trans-boundary nature of IAS, co-operation is essential if the IAS threat is to be effectively addressed. Co-operation with the EU post-Brexit must continue to the greatest extent possible, with particular consideration given to the island of Ireland. This should include retaining access to the EU IAS Information System and novel IAS detection notifications.
- b) International Co-operation:** Just as effective co-operation with EU Member States is essential, so is co-operation with non-EU Member States including through the World Trade Organisation Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement).

- c) Related EU Legislation:** All legislative synergies between the IAS Regulation and other EU legislation must be maintained as the IAS Regulation and other EU legislation are converted into domestic law, in particular the link to the wider biosecurity and environmental acquis.
- d) Preamble:** Several essential components of the EU IAS Regulation are contained within the preamble (details available on request), these need to be fully converted into domestic law.
- e) Restricted IAS:** The EU's list of restricted IAS, formally known as the '*List of Invasive Alien Species of Union Concern*' is fundamental to the IAS Legislation and an equivalent system must be created in the UK in light of Brexit. Environment Links UK makes no comment on the merits of having a UK list and/or Devolved Administration lists. However, any list or lists must be ecologically coherent and the resulting restrictions must be implementable.
- i. As with the EU List, any proposal for a species to be included on a list within the UK must be supported by a rigorously produced Risk Assessment. The process by which species (or other taxonomic entities) are included or removed from the EU list currently involves academic experts, the European Commission and representatives of all EU Member States. This process must be replicated within the UK with clearly defined bodies having responsibility for managing this process. NGOs should be able to continue to submit their own Risk Assessments for consideration.
 - ii. Any list or lists within the UK must be annually reviewed for additions and removals as occurs with the EU list. All restrictions relating to any UK list or lists must remain the same as those relating to the EU list. The same level of oversight and scrutiny as currently occurs for exceptional deviations from the restrictions of the EU list must be maintained for any UK list or lists.
 - iii. The principle of lists for geographic entities smaller than the EU (i.e. regional and Member State lists) is clearly included within the IAS Regulation. This principle should be converted into domestic law to allow the creation of sub-UK lists, including offshore island-specific lists.
- f) Academic Integrity:** A noted strength of the IAS Regulation is its foundation in evidence and academic rigour. The IAS Regulation requires an independent academic body to provide expert guidance and review of its implementation. This independent academic guidance must be maintained in domestic law. An example of the benefits the independent body currently provides relates to its examination of species proposed for inclusion or removal from the EU list. In this instance, the body provides these benefits:
- i. A check against the inclusion of inappropriate species on the EU list.
 - ii. Legitimacy to the ultimate decisions of the political authorities in regard to the EU list.
 - iii. Improved efficiency of the political decision-making process, by ensuring time is not spent debating the political considerations of species for which the evidence does not currently support their inclusion on the EU list.
 - iv. Compliance with the World Trade Organisation SPS Agreement.
- g) Reporting & Review:** Post-Brexit there will no longer be a 6-yearly requirement to report to the European Commission on the actions taken to further the aims of the IAS Regulation. To ensure continued accountability and transparency post-Brexit, a report should be submitted to the relevant UK Parliament.
- h) Permitting Authority:** Bodies overseeing the issuing and compliance with any permits and authorisations issued relating to a UK list or lists should retain independence from Government, and will need sufficient resourcing to fulfil their role.
- i) Emergency Powers:** The process for emergency inclusion of species on the EU list should be replicated for a UK list or lists post-Brexit.
- j) External Borders:** In order to ensure the Regulation is fully and effectively implemented, adequate and well-resourced biosecurity controls for listed IAS will need to be ensured post-Brexit. In addition, all future novel UK trade deals should have invasive and biosecurity prevention measures at their core.

About Environment Links UK

Environment Links UK brings together environment and animal protection organisations to advocate for the conservation and protection of wildlife, countryside and the marine environment. The network comprises the combined memberships of Wildlife and Countryside Link, Scottish Environment LINK, Wales Environment Link and Northern Ireland Environment Link. Taken together, Environment Links UK members have the support of over eight million people in the UK and manage over 750,000 hectares of land.

This briefing is supported by the following organisations:



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