



Llywodraeth Cymru
Welsh Government

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Code of Practice for Species Control Provisions in Wales

How Species Control Agreements and Species Control Orders should be applied in Wales



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This document is also available in Welsh.

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1 Introduction

1. This code of practice sets out how the provisions for species control agreements and orders contained in the Wildlife and Countryside Act 1981⁴ should be applied by the Welsh Ministers and Natural Resources Wales. This code relates to Wales only. The Department for Environment, Food and Rural Affairs has published a separate code of practice for England.
2. An increasing number of species are being transported, either deliberately or unintentionally, outside their natural range by man. Whilst many of these non-native species may have positive benefits, for example to the agriculture, forestry, horticulture, fisheries and pet sectors, a small percentage of these species, known as invasive non-native species, can have negative impacts. Invasive non-native species are one of the biggest threats to our environment. They cost the UK economy about £4.2 billion per annum¹ and some even threaten our health. Invasive non-native species do not respect borders and to tackle them, Wales collaborates with the rest of Great Britain; this approach is set out in GB Invasive Non-Native Species Strategy². The Welsh Government takes this issue very seriously and recognises that preventing invasive non-native species becoming established is better than trying to control them after they become established, when it is often very expensive or is no longer a viable option.
3. ~~To do this, the~~ Welsh Ministers and Natural Resources Wales ~~may~~ need to be able to act rapidly when a new threat is discovered. Gaining access to ~~a~~ property to control a newly arrived invasive non-native species that is causing, or is likely to cause, harm can be vital. Normally this is achieved ~~through a voluntary approach voluntarily~~ as most landowners are happy to allow access to their land. However, it is necessary to ensure that this can be achieved at all times, even if it is not known who owns the property in question. ~~These new~~ The ~~species control provision~~ powers ~~will~~ ensure that the Welsh Ministers or Natural Resources Wales ~~can require landowners to take action on invasive non-native species or permit others to enter the land and carry out those operations where appropriate. gain access to the land and remove an invasive non-native species before it becomes more widely established.~~

¹ <https://link.springer.com/article/10.1007/s10530-023-03107-2>

² www.nonnativespecies.org/about/gb-strategy/

4. Illegal reintroductions^{3 2} of formerly resident^{4 3} native species could also, under certain circumstances, have significant negative impacts on environmental, social or economic interests because of changed circumstances since they were last present in Wales. In addition, such reintroductions could have an adverse impact on the welfare of the individual animals that are released if they are released into an environment which is not suitable for their needs. The Welsh Government or Natural Resources Wales may need to act to address unlicensed reintroductions in these circumstances. This will normally be possible by agreement but there may be rare cases where access to land through control powers will be necessary as a last resort.
5. The requirements relating to species control agreements or orders, and this guidance, do not replace or affect any other statutory requirements which may constrain operations on affected land or species.
- ~~6. To protect plant health, a Plant Health Order can be used to enforce controls and restrictions on the import, movement and keeping of certain plants, plant pests and other materials. The Plant Health Order totally prohibits the import of some genera and of certain types of material from particular species. The Order also imposes special restrictions, including movement conditions, on a number of crop or forestry species, to protect the UK agricultural, forestry and horticultural industries from particular non-indigenous pests and diseases. The Order requires that you must notify a Plant Health Seed inspector of the presence of any plant pest that is not normally present in Great Britain and likely to be injurious to plants in Great Britain, or is on the list of pests that are banned from the European Community. In Wales, a Plant Health Order allows Statutory Health Notices to be issued by the Animal Plant Health Agency or Natural Resources Wales. Plant Health Order regime is distinct regulation from Species Control Provisions and they will remain operationally separate control mechanisms.~~

^{3 2} Species reintroduced without a licence, contrary to Section 14 of the Wildlife and Countryside Act 1981.

^{4 3} Schedule 9A of the Wildlife and Countryside Act 1981 defines this category of species as an “animal that is no longer normally present in Great Britain”. For the purposes of this code, this category of species is referred to as a “formerly resident native species”

2 Overview of species control provisions

6. Section 23 of the Infrastructure Act 2015 amends the Wildlife and Countryside Act 1981 by inserting subsection 14(4A) providing for measures relating to species control agreements and species control orders to be contained in Schedule 9A ~~ed the Wildlife and Countryside Act 1981 by inserting a new Schedule 9A to introduce as statutory regime of species control agreements and orders.~~ The aim being to ensure that, in appropriate circumstances, landowners take action on invasive non-native species and formerly resident native species, or permit others to enter the land and carry out those operations, to prevent their establishment and spread. The environmental authorities with the powers to make species control agreements or orders in Wales are the Welsh Ministers and Natural Resources Wales. The term species control provision can relate to a species control agreement, a species control order, or an emergency species control order, or all three collectively.

2.1 Determining coordinating responsibility

7. The environmental authorities should refer to any rapid response protocol to determine who should co-ordinate any actions that may be required under these provisions. The coordinating body is responsible for offering an agreement or making an order.
- ~~8. Where an environmental authority is already funding action under an existing eradication programme prior to these provisions coming into force, it should continue to be responsible for any additional measures required under these provisions.~~

2.2 ~~Existing process~~ Initial Engagement

8. ~~Currently, environmental~~ Environmental authorities may make arrangements with owners on a voluntary basis to gain access to their premises to control invasive non-native species. In the majority of cases, this 'voluntary approach' ~~has these informal arrangements have~~ proved to be effective.
9. Where an environmental authority wishes to gain access to premises, it ~~must~~ should first seek agreement with the owner under the current ~~voluntary informal~~ approach. Agreement received under this approach is likely to be less of a burden on both the owner and the environmental authority.

2.3 ~~How these provisions will be applied Pursuing a more formal approach~~

- ~~10. Where an environmental authority has been unable to secure an owner's cooperation agreement within a reasonable timeframe through a voluntary approach on an informal basis, it may consider using these statutory provisions to attempt to come to a voluntary agreement with the owner in the form of a species control agreement. However, the focus of the statutory provisions remains on negotiating voluntary agreements, where practicable, and the environmental authority must first make reasonable efforts to conclude an effective species control agreement with an owner.~~
11. However, where a species control agreement ~~this~~ cannot be reached ~~concluded~~, the environmental authority has powers to make a species control order to require an owner to take action against an invasive non-native species (and formerly resident native species), or to allow the environmental authority to do so.

2.4 Scope of the measures

~~12. The scope of these measures includes any animal whose natural range does not include Great Britain (i.e. non-native species) where such species can be shown to be, or be capable of being, invasive. This includes, but is not limited to, the non-native animals that have become ordinarily resident in Great Britain that are listed in Part 1 of Schedule 9 of the Wildlife and Countryside Act 1981.~~

12. A species control agreement or species control order may relate to:
 1. a species of animal or plant included on the list of species of special concern or,
 2. an animal species listed in Part 1 of Schedule 9 of the Wildlife and Countryside Act 1981, or an animal, which is of a species whose natural range does not include any part of Great Britain, and which has been introduced to Great Britain or is present in Great Britain because of other human activity or,
 3. a plant species listed in Part 2 of Schedule 9, of the Wildlife and Countryside Act 1981 or,
 4. a species of animal listed in Part 1B of Schedule 9 of the Wildlife and Countryside Act 1981 or, is of a species whose natural range includes all or any part of Great Britain, and which has ceased to be ordinarily resident in, or a regular visitor to Great Britain. that is no longer normally present in Great Britain.

Tables are provided in the Annex of species listed as species of special concern and those of listed under Part 1, Part 2 and Part 1B of Schedule 9 (as listed at

the time this Code is drafted). A list of abbreviations and a glossary are also included at the end of this document.

13. The ~~provisions do scope does~~ not apply to a small number of native species on Part 1A of Schedule 9 that are listed there to ensure that any releases are carried out appropriately.

14. The provisions can be applied in the terrestrial, freshwater and marine⁵ environments.

~~15. The measures also can be applied to those non-native plant species that are listed on Part 2 of Schedule 9 to the Wildlife and Countryside Act 1981.~~

~~16. The scope also extends to animals that are re-introduced to Wales within their natural range but which are no longer normally present in the wild, where this is the result of unlicensed human actions. This includes animals listed on Part 1B of Schedule 9 to the Wildlife and Countryside Act 1981.~~

~~17. The scope does not apply to a small number of native species on Part 1A of Schedule 9 that are listed there to ensure that any releases are carried out appropriately.~~

~~18. The provisions can be applied in the terrestrial, freshwater and marine environments.~~

~~19. Schedule 9 to the Wildlife and Countryside Act 1981 and definitions in relation to species as defined in the the Wildlife and Countryside Act 1981 can be found in the Annex.~~

2.4.1 Naturally colonising species

15. From time to time, species naturally arrive in Great Britain through an extension of their natural range (e.g. as a result of climate change). In addition, it is possible that native species that are currently extinct to Great Britain could naturally recolonise from other parts of their natural range at some stage in the future. All such species are out of scope of these measures as they would be considered as within their natural range.

16. However, where a species colonises Great Britain from an area that is outside of its natural range, it would still fall within scope of the provisions. For example, should the Asian hornet arrive in Wales naturally from France where it was

⁵For the purposes of this document marine environment is defined in accordance with article 6 of, and Schedule 3 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (the sea adjacent to Wales).

accidentally introduced by human activity from China, it would remain within the scope of these provisions as its natural range does not include France.

2.4.2 Reintroduced formerly resident native species

17. Animals which have not been present in Great Britain for a prolonged period of time (often centuries), such as the wolf or lynx, are distinct from non-native species that have never naturally resided in Great Britain other than as a result of human intervention. However, the release of a formerly resident native species into the wild is regulated to ensure that environmental, social or economic harm, or harm to the welfare of the individuals themselves, does not occur. Such harm may occur, if, for example, the location to which the species is released is unsuitable or if the animals carry disease or harmful parasites.
18. Reintroductions of these species can be a very important conservation action. Reintroductions are thus permissible under a licence from Natural Resources Wales once careful consideration has been given to ensure that releases are in accordance with international recommendations. The scope of these measures does not, therefore, apply to those individuals of any species that are in that location as a result of such a licence.
19. However, if a formerly resident native species is released in an area without a licence from Natural Resources Wales, then species control provisions could potentially be used for those individuals. This includes a species that has been released under licence in one location but has been translocated by human intervention unlawfully to another location. Bringing these unlawfully released species into scope of these provisions is to tackle circumstances where they have been released into an area which is not suitable because of likely environmental, social or economic impacts, or harm to the welfare of the animals themselves.

2.4.3 ~~Protect Species and Habitats~~

- ~~20. The requirements relating to species control agreements or orders and this guidance do not replace or affect any other statutory requirements which may constrain operations on affected land or species.~~
- ~~21. An environmental authority must consider the need for a protected species licence from Natural Resources Wales if a species control agreement or order could affect a species which is protected under European or domestic wildlife legislation. A number of species of animals and plants are listed in schedules 2 and 5 of the Conservation of Habitats and Species Regulations 2010, and/or in schedules 5 and 8 of the Wildlife and Countryside Act 1981. Carrying out operations which may cause injury, killing or disturbance to such species, or which may damage breeding sites or resting places, could be offences unless~~

~~carried out in accordance with a licence issued by Natural Resources Wales.~~

~~22. An environmental authority should also consider whether the works could significantly affect a Site of Special Scientific Interest (SSSI) designated under the Wildlife & Countryside Act and/or a Special Area of Conservation (SAC) or Special Protection Area (SPA) designated under the EU Habitats or Birds Directives, or a site listed under the 'Ramsar' convention on conservation of wetlands.~~

~~23. Under section 28 of the Wildlife & Countryside Act (as amended), an environmental authority should give prior notice to Natural Resources Wales of any operations likely to affect an SSSI (even if the operations would take place outside the SSSI), and have regard to NRW's advice in deciding whether the operations should proceed.~~

~~24. If the operations are likely to significantly affect an SAC or SPA, the authority must carry out an appropriate assessment of the implications for the particular habitat or species for which the SPA is designated and, having consulted NRW, may only authorise the operations if they will not adversely affect the integrity of the SAC or SPA concerned. Damaging operations may then only proceed if there are no alternative solutions and the operations are necessary for 'imperative reasons of overriding public interest'. As a matter of policy, the Welsh Government applies substantially the same approach to Ramsar sites as to SAC and SPA sites.~~

2.4.3 The significant adverse impact test

20. The scope of these measures in relation to invasive non-native species is limited by a test of whether the species is likely to have a significant adverse impact, if uncontrolled, on biodiversity; other environmental interests; or social or economic interests. In determining whether a species meets this test, the environmental authority should consider, **on a case-by-case basis**, available information on its likely impacts and **the scale of these impacts**, in particular any risk assessment carried out by the Great Britain Non-Native Species Secretariat.
21. In relation to formerly resident native species, the environmental authority must have evidence that the animals are having significant adverse impact to (i) biodiversity; (ii) other environmental interests, or (iii) social or economic interests before it may enter into a species control agreement.

2.4.4 Widespread non-native species

22. These provisions should be used primarily to remove newly arrived invasive non-native species or species that currently have a relatively restricted distribution but have the potential to become more widely spread. In general, it

would not be an appropriate use of these powers or an effective use of resources to seek to apply these provisions to invasive non-native species that are already widespread. Other powers may be more appropriate to tackle widely spread invasive non-native species, such as those contained in the Anti-Social Behaviour, Crime and Policing Act 2014. ~~This permits a local authority or the police to issue a Community Protection Notice where the conduct is having a detrimental effect of a persistent or continuing nature on the quality of life of those in the locality, and where the conduct is unreasonable, which may include failure to act. A Community Protection Notice can place restrictions on behaviour and force steps to be taken to rectify the behaviour. which permit a local authority or the police to make a Community Protection Notice to tackle ongoing problems or nuisances which negatively affect the community's quality of life.~~

23. Notwithstanding this, there may be some limited circumstances where it may be appropriate to make a species control agreement or order in respect of widespread species. These circumstances are:

- where a widespread invasive non-native species is being ~~controlled removed~~ through an environmental authority ~~endorsed sanctioned~~ eradication programme;
- where a widespread invasive non-native species is newly arrived in a geographical area and eradication remains viable;
- where a widespread invasive non-native species is likely to have a detrimental impact on a Site of Special Scientific Interest or ~~a Natura-2000 site~~ another nationally designated site (e.g. SAC or SPA). This can include circumstances where the widespread invasive non-native species is likely to have a detrimental impact on a designated site but is outside the boundary of such a site; or
- where a widespread invasive non-native species is likely to have a detrimental impact in a Resilient Ecological Network.

Case Study Example

Floating pennywort is a widespread, highly invasive non-native aquatic plant that can displace native flora and interfere with flood control and drainage systems, clog waterways and impact navigation and recreation. A risk assessment has been carried out for this species. Floating pennywort is listed as a ~~species of special concern an Invasive Alien Species of Union Concern.~~

An environmental authority initiates a programme to eradicate floating pennywort at a catchment-scale level involving a number of landowners.

The environmental authority arranges access on a voluntary basis outside of these provisions with the landowners to remove this species. One landowner refuses the environmental authority access to their land for this purpose, leaving an untreated population of floating pennywort which could spread to surrounding areas and threaten the success of the eradication programme.

In order to ensure that the programme can be completed and the efforts of the other landowners are not wasted, the environmental authority determines that it would be proportionate to offer a species control agreement to the landowner in these circumstances.

2.4.5 Premises and Dwelling

24. The existing definition of “premises” contained in the Wildlife and Countryside Act 1981^{6 4} applies to these provisions. This states that premises includes land (including buildings), movable structures, vehicles, vessels, aircraft and other means of transport.

25. For the purpose of these provisions the Act has defined a “dwelling” as a building or structure, or part of a building or structure, occupied wholly or mainly as a dwelling.

2.5 ~~Animal welfare~~ Other statutory considerations

26. When planning for and gaining access to premises, carrying out species control operations or advising others on carrying them out it is important to ensure that all consents, licences and permissions are in place before work is undertaken e.g. relevant protected species licences, protected site consents, waste permits, felling licences, appropriate biosecurity measures etc.

2.5.1 Protected species and habitats

27. An environmental authority should consider the need for a protected species licence⁷ from Natural Resources Wales if a species control agreement or order could affect a species which is protected under wildlife legislation. Carrying out operations which may cause injury, killing or disturbance to such species, or which may damage breeding sites or resting places, could be offences unless carried out in accordance with a licence issued by Natural Resources Wales.

28. An environmental authority should also consider whether the works could affect

^{6 4} Section 27 of the Wildlife and Countryside Act 1981 (as amended)

⁷<https://naturalresourceswales.gov.uk/permits-and-permissions/species-licensing/apply-for-a-protected-species-licence/?lang=en>

a protected site⁸. An environmental authority should give prior notice to Natural Resources Wales of any operations likely to affect an SSSI (even if the operations would take place outside the SSSI) and have regard to NRW's advice in deciding whether the operations should proceed.

29. If the operations are likely to significantly affect a Special Area of Conservation (SAC) or Special Protection Area (SPA), the authority must carry out an appropriate assessment of the implications for the particular habitat or species for which the SAC/SPA is designated and, having consulted NRW, may only authorise the operations if they will not adversely affect the integrity of the SAC or SPA concerned. Damaging operations may then only proceed if there are no alternative solutions, and the operations are necessary for 'imperative reasons of overriding public interest'. As a matter of policy, the Welsh Government applies substantially the same approach to Ramsar sites as to SAC and SPA sites.

2.5.2 Interplay with other biosecurity regimes

30. There are some invasive non-native species which are also classified as notifiable animal or plant diseases and which are dealt with under other biosecurity regimes, including those for animals, plants, trees, bees, and fish. Species control provisions are not intended to be used where other legislative biosecurity measures exist.

2.5.3 Animal welfare obligations

31. It is essential that all species control operations must be carried out in accordance with legal requirements on animal welfare as set out in the Protection of Animals Act 1911, the Wildlife and Countryside Act 1981, the Wild Mammals (Protection) Act 1996, the Animal Welfare Act 2006, Agreement on International Humane Trapping Standards and the Animal Welfare Standards of the World Organizations of Animal Health. All operations **should ~~must~~** also be carried out in accordance with best practice to ensure that pain, distress or suffering to the animal is avoided or minimised.

32. Where an environmental authority is not carrying out the operations itself it **should ~~must~~** advise the owner or party carrying out the operations on the most appropriate method in light of these requirements.

2.5.4 Safeguarding non-target species

33. The environmental authority should, where practicable, agree methodologies that remove the target species whilst minimising detrimental impacts on non-

⁸<https://naturalresources.wales/guidance-and-advice/environmental-topics/wildlife-and-biodiversity/protected-areas-of-land-and-seas/?lang=en>

target species ~~and disruption to legitimate business activities.~~

~~2.6 Review of species control provisions~~

~~34. The Great Britain Invasive Non-Native Species Strategy is reviewed on a five-yearly basis and includes a section on legislative provisions. A review of the operation of these powers will be included as a part of the five-yearly Strategy review.~~

2.6 Publication of numbers of agreements and orders

34. Information on how many species control agreements and orders have been made will be posted annually on the Great Britain Non-Native Species Secretariat's website⁵ and on the ~~Natural Resources Wales Wales Biodiversity Partnership's~~ website⁶. This should also cover the number of species control agreements and orders that have been successfully completed during the year, their purpose, how many are still in force and which species have been the subject of these provisions.

3 Species control agreements

3.1 What is a species control agreement?

35. A species control agreement is a voluntary agreement made between an environmental authority and an owner of premises. ~~It that~~ sets out operations that are required to be taken against an invasive non-native species or formerly resident native species. An owner could be the freeholder, leaseholder or a person who exercises powers of management or control over the land.
36. There is no penalty for failing to comply with a species control agreement, although non-compliance could lead to the making of a species control order.

3.2 Who can enter into a species control agreement?

37. In Wales, the Welsh Ministers and Natural Resources Wales are defined as environmental authorities for the purposes of these provisions. These bodies may enter into a species control agreement with any owner of the premises.
38. In the case where there is more than one owner of the premises, the environmental authority must be satisfied that it is entering into the agreement with the most appropriate owner. For example, a leaseholder may be more appropriate than the landowner if the leaseholder is more actively involved in managing the land.
39. Where any necessary operations may affect a private dwelling e.g. access is required to a roof space, then the agreement (and any subsequent order) may only be entered into by the Welsh Ministers.
40. Natural Resources Wales should inform the Welsh Ministers in advance of ~~being issued to an owner~~ offering a species control agreement. However, the Welsh Ministers have no role in the decision-making process, other than in respect of agreements made by them.

3.3 When should an environmental authority offer to enter into a species control agreement?

41. Where an environmental authority considers that the premises contains an invasive non-native species or formerly resident native species which is in scope

of these provisions and ~~where for which~~ control of that species is of sufficient priority and viable, it ~~should~~ ~~must~~ first seek to ~~make arrangements with the owner on a voluntary basis through a voluntary approach reach an informal agreement with an owner~~^{9 7}. Where an environmental authority is unable to secure an owner's cooperation within a reasonable timeframe through a voluntary approach ~~this agreement cannot be reached~~, the environmental authority may attempt to make a species control agreement with the owner (unless the situation is urgent). ~~It is for the environmental authority to determine whether the control of the species is of sufficient priority and viable to warrant offering a species control agreement to an owner.~~

42. In reaching a decision as to whether the species is of sufficient priority to warrant offering an agreement, the Welsh Ministers consider that the environmental authority ~~should~~ ~~must~~ take the following factors into consideration:

- whether the species is already part of a national or local environmental authority ~~endorsed~~ ~~sanctioned~~ eradication programme. Species subject of a national eradication programme should automatically be considered to be of sufficient priority;
- ~~where the~~ evidence from any risk assessment, particularly those carried out by the GB Non-native Species Secretariat;
- whether the species is listed as a species of ~~special union concern under the EU Invasive Alien Species Regulation~~⁹;
- whether the species is widespread¹⁰.

43. In reaching a decision as to whether control of the species is viable, the Welsh Ministers consider that the environmental authority should ~~must~~ take the following factors into consideration:

- the results of any risk management analysis of the species carried out by the GB Non-native Species Secretariat;
- the likely success of any operations;
- the likelihood of re-invasion; and
- the costs of the operations, including any potential future costs associated with ongoing control.

~~44. The development of control plans which are based on best practice guidance and evidence or where this is not available, advice from an appropriate expert.~~

^{9 7} See section 2.2

~~Plans should include best practice biosecurity measures to be in place at the start and throughout a control program.~~

44. If the environmental authority determines that control of the species is both of a sufficient priority and viable so that a species control agreement should be offered to an owner, it must also satisfy itself that the provisions set out in the agreement are a proportionate response to dealing with the issue. The Welsh Ministers consider that in reaching this decision, the environmental authority **should must** take the following factors into consideration:

- whether non-lethal methods to remove the risk posed by the species may be equally effective as lethal methods;
- the potential impacts on non-target species and habitats;
- the potential impacts on legitimate business activities.

45. If an environmental authority decides to **issue offer** a species control agreement ~~to an owner~~, they should inform the Welsh Ministers. However, the Welsh Ministers have no role in the decision-making process, other than in respect of agreements made by them.

3.3.1 Formerly resident native species

46. There are additional requirements for the environmental authority to consider where it proposes to offer a species control agreement in respect of a formerly resident native species.

47. The environmental authority must be satisfied that the animals in question are not present **on the premises in the wild** in accordance with the terms of a licence issued by Natural Resources Wales **for their reintroduction**. Animals that are subject of a licence are not within the scope of these provisions.

48. The environmental authority must also **be satisfied have evidence** that the animals are having significant adverse impact on (i) biodiversity; (ii) other environmental interests, or (iii) social or economic interests before it may enter into a species control agreement. ~~This is a different and more stringent test to that applied to invasive non-native species, which only requires an environmental authority to determine that a species if uncontrolled is “likely to have a significant adverse impact”.~~

49. The environmental authority must also satisfy itself that there is no appropriate alternative way of **avoiding preventing** the impact from that species. This requires the environmental authority to consider all feasible alternative solutions to addressing the adverse impacts caused by the species and only offer a species control agreement where these have been objectively discounted. The environmental authority should determine the range and type

of possible alternatives to be considered, and use its judgement to decide what is feasible in any particular case. Where necessary, it ~~should~~ ~~may~~ consult other experts on potential alternatives.

50. The consideration of alternatives should be limited to options which are financially and technically feasible. An alternative should not be ruled out simply because it would cause greater inconvenience or cost. However, there would come a point where an alternative is so expensive or technically difficult that it would be unreasonable to consider it a feasible alternative. The environmental authority is responsible for making this judgement according to the details of each case.

3.4 What a species control agreement must contain

51. In the development of a species control agreement the environmental authority should take steps to have early engagement with the owner. It is essential that the environmental authority involve the owner fully in discussions about the terms of the agreement and consider any concerns before agreement is finalised.

52. A species control agreement must ~~provide for set-out clearly:~~

- the species control operations ~~that are required~~ to be carried out;
- ~~the party who is to carry them out Who is responsible for carrying out these operations – this could be the owner, the environmental authority, or both;~~ and
- the time by which ~~they these operations~~ are to be carried out.

53. A species control agreement ~~may contain should also include~~ additional supplementary information as ~~the parties consider appropriate considered appropriate by the parties~~. This may ~~If relevant this should~~ include details about:

- how ~~species control the~~ operations are to be ~~should~~ be carried out – ~~all operations should be carried out in accordance with best practice guidance and should take into account appropriate animal welfare considerations and biosecurity measures;~~
- ~~payment Any payments~~ to be made by either party to the other, or to another person, in respect of ~~the species control~~ operations to be carried out; and
- ~~any species control operations Operations~~ that must not be carried out – ~~for instance, prohibiting the cutting of an invasive non-native plant species during a specified period.~~

3.5 Ending an agreement

54. An agreement is effectively ended once ~~an owner has complied with~~ all of its requirements ~~have been complied with~~. For the sake of clarity, the environmental authority must provide confirmation of this to an owner in the form of a notice of compliance. The environmental authority should issue the notice of compliance to the owner no later than 21 days after it considers that the agreement has ended.
55. An owner may request that the environmental authority issue a notice of compliance where they consider that they have complied with all the requirements in an agreement but no notice of compliance has been issued by the environmental authority. The environmental authority should consider this request and respond to the owner within 21 days of receipt of the request.
56. The environmental authority should either:
- a) issue the notice; or
 - b) decline to issue the notice, setting out the operations that still need to be completed as part of the original agreement.

4 Species Control Orders

4.1 When an environmental authority may make a species control order

57. Section 14(4A) and Schedule 9A of the Wildlife and Countryside Act 1981 empowers an environmental authority to make a species control order in relation to an invasive non-native species or a formerly resident native species in any of the following circumstances:

- where **the environmental authority considers that** an owner has failed to comply with a species control agreement entered into with the environmental authority and, having been **given notice to that effect and** a reasonable opportunity to rectify the failure, has not done so;
- where the owner has refused to enter into any kind of species control agreement ~~with the~~ **The** environmental authority ~~or should seek confirmation of this in writing from the owner;~~
- ~~no species control agreement has been entered into in respect of the premises by the end of the period of 42 days beginning with the day after the offer was made~~ ~~Where 42 days have elapsed since the environmental authority made an offer in writing to the owner to enter into a species control agreement but the agreement has not been entered into~~ and the **environmental** authority considers it unlikely that the owner will enter into any kind of such agreement;
- where an environmental authority considers that the making of a species control order is urgently necessary; or ~~such that the agreement process should be dispensed with;~~
- ~~where~~ the environmental authority has been unable to identify an owner, having placed on the premises a conspicuous notice of its desire to enter into a species control agreement, and waited for 5 days after the day on which the notice was placed ~~and, thus, unable to conclude a species control agreement.~~

58. Before making a species control order, an environmental authority must be satisfied that the provisions of the order are proportionate to the objective to be achieved. ~~In considering whether to make a species control order, the environmental authority may only proceed having determined the provisions set out in the order are a proportionate response to dealing with the issue. The factors that should be taken into consideration by the environmental authority are~~

~~the same as those set out in respect of species control agreements¹².~~

~~58. There are additional tests to be met in respect of formerly resident native species before an environmental authority may proceed to make a species control order. These are the same tests that apply before a species control agreement can be offered¹³.~~

59. When an environmental authority ~~is~~ **are** considering issuing a species control order they should discuss this with the owner first and allow the owner an opportunity to resolve any outstanding issues. Before issuing a species control order, an environmental authority should formally write to the owner, explain the purpose of the species control order and the potential consequences should an owner breach it.

60. Natural Resources Wales ~~must should~~ inform the Welsh Ministers ~~after in-advance-of~~ making a species control order. ~~However, the~~ The Welsh Ministers have no role in the decision-making process, other than in respect of **any** orders made by them.

4.1.1 No known owner

61. Where the environmental authority has been unable to identify an owner, it must place a conspicuous notice on the premises stating its desire to enter into a species control agreement and wait at least five days before then making an order if no owner comes forward. In these cases, the environmental authority ~~should~~ **must** make reasonable efforts to identify an owner before proceeding to place a notice. A Land Registry Search should be carried out as a minimum. Before placing a notice or entering the premises a warrant issued by a Justice of the Peace is required by an environmental authority. An environmental authority can access the premises and begin work if the period for making an appeal has expired (presently 28 days) and no owner has appealed.

4.2 What a species control order ~~should~~ contains

62. A species control order must ~~contain~~ **provision**:

- ~~requiring the relevant owner to carry out species control provisions, or~~
- ~~state that the environmental authority propose to carry out species control operations, or both.~~
- specify the species to which the order relates;
- specify the **species control** operations to be carried out;
- ~~specify who is responsible for carrying out the species control operations;~~
~~and~~

- specify the time by which the operations must be carried out ~~or a time by which they are proposed to be carried out~~ by the environmental authority.
63. Where there is no identifiable owner a species control order under must contain provision stating that the environmental authority proposes to carry out species control operations.
- ~~63. The Order cannot specify that the operations are carried out until the period for making an appeal has finished, unless it is an emergency species control order.~~
64. If appropriate, include a map of the premises to which the order relates ~~should~~ must be included.
65. Unless the species control order has been issued as an 'emergency order' under the provisions of paragraph 10(2)(c) of Schedule 9A to the Wildlife and Countryside Act 1981 it may not require that the operations are carried out until the period for making an appeal has finished. Where an appeal has been made within the period an appeal may be made, the owner need not carry out the operations, or the environmental authority shall not carry out the operations, before the appeal is finally determined.
66. ~~If relevant a~~ A species control order may contain information supplementary to that contained in paragraph 62 above such as ~~should also include~~:
- how species control operations are to be carried out;
 - ~~Any payments~~ to be made by the environmental authority to the owner or another person for the reasonable costs of the operations;
 - ~~Any payments~~ that the owner must make in respect ~~of to the environmental authority for~~ the reasonable costs of the operations ~~to be carried out by the environmental authority~~;
 - ~~species control~~ operations that the owner must not carry out; ~~and~~
 - ~~Any persons~~ who will carry~~ing~~ out ~~the species control~~ operations ~~for on the behalf of~~ the environmental authority.

4.3 Notice requirements

67. ~~After making a species control order, an The~~ environmental authority ~~should~~ must forthwith give notice in writing ~~of its intention to issue an order where possible~~ to ~~any all~~ owners of the premises that it is aware of, not just the owner on whom the order imposes requirements. This is because any owner of the premises has a right of appeal against the order. The environmental authority must make reasonable efforts to identify all known owners of the premises, including Land Registry searches.

68. Additionally, the Welsh Ministers must be notified (unless they are the environmental authority making the order).

69. In the case of a species control order where no owner has been identifiable, the environmental authority must also give notice of the order by placing it on the premises conspicuously.

70. Notice must include reasons for making the species control order and, reasons for any requirement imposed by it on an owner.

4.4 ~~Coming into force~~ When a species control order comes into force ~~of the order~~

71. Unless it is made under the emergency provision in paragraph 10(2)(c) of Schedule 9A to the Wildlife and Countryside Act 1981, a species control order may not ~~cannot~~ require an owner to carry out species control operations or provide for ~~allow~~ the environmental authority to ~~do~~ carry out species control operations ~~so~~ before the end of the period in which an appeal may be made¹⁰ ~~applicable time limit¹⁵, currently 28 days, for making an appeal has expired.~~

72. ~~Unless it is an emergency order, W~~where an appeal against an order is made by the First-tier Tribunal's deadline, the owner is not required to carry out the species control operations, and the environmental authority must not do so, until the appeal has been determined by the First-tier Tribunal or the appeal has been withdrawn by the owner. The First-tier Tribunal aims to carry out an appeal within 30 weeks of its submission by the owner.

4.5 Emergency species control orders

73. In the majority of circumstances, an environmental authority should follow the procedures for making a species control order in the normal manner as set out above. However, there may be exceptional circumstances that could warrant an environmental authority making an "emergency species control order" under the provisions of paragraph 10(2)(c) of Schedule 9A to the Wildlife and Countryside Act 1981.

74. Where an environmental authority is concerned that any delay in carrying out a species control operation would be likely to significantly compromise its objectives in relation to that species, then it may make an "emergency species control order".

¹⁰ ~~15~~-Time-limits for appeals are governed by the Rules of the First-tier Tribunal; 28 days currently applies to species control order appeals. For more information about how and when an appeal should be brought, please see Rule 22 of the Tribunal Procedure (First-tier Tribunal)(General Regulatory Chamber) Rules 2009 (S.I. 2009/1976), as amended by S.I. 2014/2128.

75. The environmental authority ~~should~~ **must** determine whether the species is of sufficient priority for control, the control is viable and actions are proportionate to warrant making an “emergency species control order”, taking the same factors into consideration which are set out in respect of species control agreements^{11 46} and also if any contingency plan exist for the species.
76. In determining whether to make an “emergency species control order”, the environmental authority should also be governed by the principle of overriding public interest, i.e. it should not make an “emergency species control order” unless satisfied that it is clearly in the public interest to do so and that the public interest overrides the private interests of the owner on whom it is served, for example in cases where the species can rapidly spread if it is not eradicated as soon as possible. The significant adverse impact test^{12 47} will be used to establish if there is an overriding public interest.
77. An “emergency species control order” may come into force immediately, although any owner may still appeal against it and, in those circumstances, the First-tier Tribunal has the power to suspend the order.

Case Study Example

The environmental authority receives a credible report of an Asian hornet nest on an owner’s land. The environmental authority is satisfied, based on the risk assessment produced by the GB Non-Native Species Secretariat, that it is a species that has significant adverse impacts on biodiversity, social and economic interests. It is also satisfied that this species is of sufficient priority to warrant action as there is a national contingency plan in place for it, and that eradication is a viable option.

Given the Asian hornet is a highly mobile invasive non-native species, the environmental authority determines that the species requires immediate eradication as it may establish and spread quickly. The owner refuses the environmental authority access to the land ~~to confirm the presence of the species~~. The environmental authority considers the threat posed by this species is such that it cannot wait for the agreement process to be concluded. It concludes that there are reasons of overriding public interest to make a species control order under the emergency provisions. It determines the operations contained in the order – surveillance, followed by eradication if the species is confirmed - are proportionate.

^{11 46} See section 3.3

^{12 47} See section 2.4.3

4.6 Withdrawing a Species Control Order

78. An environmental authority may at any time withdraw a species control order.

Notice of revocation must be given by the environmental authority to all owners of the premises of whom the environmental authority is aware, as well as to the Welsh Ministers. Withdrawal of an order may be necessary if the environmental authority determines that the order is no longer fit for purpose and wishes to replace it. In these circumstances, the environmental authority would have to revoke the order and start the process afresh.

4.7 Ending an order

79. An order is effectively ended once the requirements of the order have been fully ~~an owner has~~ complied with ~~all of its requirements~~. For the sake of clarity, the environmental authority must provide confirmation of this to an owner in the form of a notice of compliance. The environmental authority should issue the notice of compliance to the owner no later than 21 days after it considers the order has been complied with. A copy of this notice should also be sent to the Welsh Ministers. If the environmental authority carries out the work associated with an SCO, the Welsh Ministers do not need to be informed upon completion of the SCO.

80. An owner may request that the environmental authority issues a notice of compliance where they consider that they have complied with all the requirements in an order, but no notice of compliance has been issued by the environmental authority. The environmental authority should consider this request and respond to the owner within 21 days of receipt of the request.

81. The environmental authority should either:

- a) issue the notice; or
- b) decline to issue the notice, setting out the operations that still need to be completed as part of the order.

5 Powers of entry, enforcement, offences and penalties

5.1 Powers of entry

82. ~~A person who is authorized to do so may enter any premises to An environmental authority may authorise the use of powers of entry to:~~

- ~~assist an environmental authority to determine whether to offer a species control agreement with a person, where it has reasonable grounds for suspecting the presence of an invasive non-native species or a formerly resident native species;~~
- ~~assist an environmental authority to determine whether to make or revoke a species control order, where it has reasonable grounds for suspecting the presence of an invasive non-native species or animals from an unlicensed reintroduction;~~
- investigate suspected non-compliance with a species control agreement or **species control** order;
- carry out species control operations **for an environmental authority** under a species control order;
- place a notice on the premises where **the environmental authority it** has been unable to notify the owner;
- carry out operations or work itself ~~(or by persons carrying out the operations on behalf of the environmental authority)~~ following a breach of a species control order.

83. These rights of entry are exercisable at any reasonable time. Certain circumstances require that the powers of entry may only be exercisable subject to a warrant from a justice of the peace. These are where:

- a) the premises ~~consist of are~~ a dwelling or a garden, yard, outbuildings or other land used or enjoyed wholly with a dwelling;
- b) ~~the owner has refused~~ admission to the premises ~~has been refused by an owner~~ or it can be reasonably assumed that they will do so;
- c) the premises are unoccupied;
- d) the owner is temporarily absent;
- e) giving notice would defeat the purpose of entry e.g. where an environmental authority has reason to believe the owner might dispose of the species in an inappropriate manner;

- f) entry is required to carry out species control operations in respect of an emergency species control order;
 - g) entry is required to carry out species control operations no owner could be identified;
 - h) entry is required to place a notice where no owner could be identified;
 - i) entry is required to carry out operations urgently where the environmental authority considers an order has been breached by the owner.
84. A justice of the peace may not grant a warrant, ~~in~~ in the circumstances 92. (a)-(d) above, a Justice of the Peace may not grant a warrant unless satisfied that reasonable notice of the proposed entry has been given to all owners identified. At least 48 hours' notice is considered reasonable ~~notice has been given to all known owners of the proposed entry. Where no owner could be identified, and entry is required to carry out species control operations, the justice of the peace may not grant a warrant unless they are satisfied that the environmental authority has complied with the requirements to place a notice. The placing of a notice (where no owner is identified) also requires a warrant issued by a justice of the peace. Where no owner can be identified, the Justice of the Peace may only grant a warrant if they are satisfied that the environmental authority has first placed a notice of the order on the premises conspicuously.~~
85. A person authorised by an environmental authority to exercise a power of entry may take onto the premises other people as necessary; take any equipment, machinery or materials on to the premises; and may take samples of anything in or on the premises. However, the environmental authority should exercise these powers judiciously and minimise disruption to the owner.

5.2 Enforcement

86. An environmental authority may take action if it considers that the owner who is required by a species control order to carry out an operation has not done so by the date or in the way specified by the order. In these circumstances, it may carry out the operation, or such further work as necessary to ensure that the operation is carried out in the way specified by the order; and recover from the owner any reasonable expenses incurred, less any payment it would have been required to make to the owner to carry out the operations.
87. However, before an environmental authority takes action in this way, it must notify the owner, setting out in writing why it considers a breach of the order has occurred and allow the owner a week to carry out the operations. The environmental authority should consider allowing an extension of this period where there are reasonable grounds to do so e.g. bad weather preventing the

completion of the operations.

5.3 Offences and penalties

88. Paragraph 19 of Schedule 9A makes it an offence for a person:

- without reasonable excuse, to fail to comply with a requirement imposed on them by a species control order;
- to intentionally obstruct a person from carrying out an operation required or proposed under a species control order.

89. A person guilty of either offence is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, or a fine, or both. Where an offence is committed before section 281(5) of the Criminal Justice Act 2003 comes into force, imprisonment may not exceed 6 months.

90. If an owner is not sure whether their excuse is reasonable the environmental authority will advise them to take legal advice.

6 Responsibility for costs and compensation

6.1 Responsibility for the costs of species control operations

91. In the vast majority of cases, the owner of a premises will not have been responsible for the introduction of the species found on their premises. In those circumstances, the environmental authority will meet the costs of all operations. However, if a landowner breaches a species control order this could result in enforcement action and additional cost which may be recovered by the environment authority^{13 48}.

Case Study Example

The environmental authority enters into a species control agreement with an owner to remove monk parakeets that are nesting in their garden. The owners bears no responsibility for the initial release of the birds into the wild. In these circumstances, the environmental authority will meet all costs of the operations.

92. However, where there is clear evidence that the landowner releases or allows the escape of a species on to their premises⁴⁹, then the landowner may be liable for the costs of the operations. A landowner will have a right of appeal to the First-tier Tribunal against any liability for costs which are listed on a species control order²⁰.

Case Study Example

The environmental authority is aware that prairie dogs are routinely escaping into the wild from a wildlife park due to inappropriate containment. The environmental authority enters into a species control agreement with the wildlife park setting out a requirement for improved fencing. The cost of the fencing falls to the wildlife park as it bears responsibility for the animals being released into the wild.

^{13 48} See section 5.2

⁴⁹ <http://www.legislation.gov.uk/ukpga/1981/69/section/14>

²⁰ See section 4.2

6.2 Compensation

93. Paragraph 25 of Schedule 9A provides a discretionary power for the Welsh Ministers to make arrangements for payments of compensation to compensate an owner of a premises in respect of financial loss resulting from a species control agreement or order, or the exercise of the powers under Schedule 9A. Paragraph 25 of Schedule 9A also permits the Welsh Ministers to set a minimum level only over which claims will be considered. All claims should be made directly in writing to the Welsh Ministers.

94. Most species subject of control operations will be wild and, therefore, not belong to any owner. Where they do belong to an owner (e.g. an animal that has escaped from a zoo or wildlife park), their presence in the wild may be as a result of the committing of an offence under section 14 of the Wildlife and Countryside Act 1981, or Article 3 of the Invasive Alien Species (Enforcement and Permitting) Order 2019, which regulates the release of species into the wild. In these circumstances, there will be no expectation that compensation would be paid for the loss of any species.

~~95. Compensation should be payable in the event of damage to property caused by operations carried out under a species control agreement or order where the presence of the species was due to no fault on the part of the owner or occupier.~~

6.3 Disputes

95. Where a dispute arises between an environmental authority and an owner which does not form part of the statutory appeal process, the environmental authority should seek to address the issue through its usual dispute resolution procedures.

7 Right to appeal

96. Any owner of the premises has a right of appeal against the making of, or any provision contained, within a species control order, not just the owner on whom the order imposes requirements. An appeal must be made to the First-tier Tribunal within the deadline set by its statutory rules, currently 28 days from the date on which notice of the order was given.

97. The First-tier Tribunal may:

- affirm the order;
- direct the environmental authority to revoke or amend the order;
- in the case of an emergency species control order, suspend the order; or
- make such other order as the Tribunal thinks fit.

8 Annex

Species lists referred to in section 2.4 of this Code

1. Species of special concern (as listed at September 2023)

Common Name	Scientific name
Alligator weed	<i>Alternanthera philoxeroides</i>
American skunk cabbage	<i>Lysichiton americanus</i>
Amur sleeper	<i>Percottus glenii</i>
Asian hornet	<i>Vespa velutina nigrithorax</i>
Asiatic tearthumb	<i>Persicaria perfoliata</i>
Balloon vine*	<i>Cardiospermum grandiflorum</i>
Broadleaf watermilfoil	<i>Myriophyllum heterophyllum</i>
Broomsedge bluestem	<i>Andropogon virginicus</i>
Chilean rhubarb	<i>Gunnera tinctoria</i>
Chinese bushclover	<i>Lespedeza cuneata</i>
Chinese mitten crab	<i>Eriocheir sinensis</i>
Chinese tallow	<i>Triadica sebifera</i>
Coati*	<i>Nasua nasua</i>
Common milkweed	<i>Asclepias syriaca</i>
Common myna	<i>Acridotheres tristis</i>
Coypu	<i>Myocastor coypus</i>
Crimson fountaingrass*	<i>Pennisetum setaceum</i>
Curly waterweed	<i>Lagarosiphon major</i>
Eastern baccharis	<i>Baccharis halimifolia</i>
Egyptian goose	<i>Alopochen aegyptiacus</i>
Fanwort	<i>Cabomba caroliniana</i>
Floating pennywort	<i>Hydrocotyle ranunculoide</i>
Floating primrose-willow	<i>Ludwigia peploides</i>
Fox squirrel	<i>Sciurus niger</i>
Giant hogweed	<i>Heracleum mantegazzianum</i>
Golden wreath wattle	<i>Acacia saligna</i>
Grey squirrel	<i>Sciurus carolinensis</i>
Himalayan balsam	<i>Impatiens glandulifera</i>
Indian house crow	<i>Corvus splendens</i>
Japanese hop	<i>Humulus scandens</i>
Japanese stiltgrass	<i>Microstegium vimineum</i>
Kudzu vine*	<i>Pueraria lobata</i>
Marbled crayfish	<i>Procambarus fallax f. virginalis</i> (<i>Procambarus virginalis</i>)
Mesquite*	<i>Prosopis juliflora</i>
Muntjac deer	<i>Muntiacus reevesi</i>
Muskrat	<i>Ondatra zibethicus</i>

New Zealand flatworm	<i>Arthurdendyus triangulatus</i>
Nuttall's waterweed	<i>Elodea nuttallii</i>
North American bullfrog	<i>Lithobates (Rana) catesbeianus</i>
Parrot's feather	<i>Myriophyllum aquaticum</i>
Pallas's squirrel	<i>Callosciurus erythraeus</i>
Perennial veldt grass*	<i>Ehrharta calycina</i>
Persian hogweed	<i>Heracleum persicum</i>
Pumpkinseed	<i>Lepomis gibbosus</i>
Purple pampas grass	<i>Cortaderia jubata</i>
Raccoon	<i>Procyon lotor</i>
Raccoon dog	<i>Nyctereutes procyonoides</i>
Red swamp crayfish	<i>Procambarus clarkii</i>
Ruddy duck	<i>Oxyura jamaicensis</i>
Sacred ibis	<i>Threskiornis aethiopicus</i>
Salvinia moss	<i>Salvinia molesta</i>
Senegal tea plant	<i>Gymnocoronis spilanthoides</i>
Siberian chipmunk	<i>Tamias sibiricus</i>
Signal crayfish	<i>Pacifastacus leniusculus</i>
Small Asian mongoose*	<i>Herpestes javanicus</i>
Sosnowsky's hogweed	<i>Heracleum sosnowskyi</i>
Spiny-cheek crayfish	<i>Orconectes limosus (Faxonius limosus)</i>
Striped eel catfish*	<i>Plotosus lineatus</i>
Terrapins - all subspecies including red-eared slider, yellow-bellied slider, Cumberland slider and common slider	<i>Trachemys scripta</i>
Topmouth gudgeon	<i>Pseudorasbora parva</i>
Tree of Heaven	<i>Ailanthus altissima</i>
Vine-like fern	<i>Lygodium japonicum</i>
Virile crayfish	<i>Orconectes virilis (Faxonius virilis)</i>
Water hyacinth*	<i>Eichhornia crassipes</i>
Water primrose	<i>Ludwigia grandiflora</i>
Whitetop weed*	<i>Parthenium hysterophorus</i>

*species due to be removed from the list of species of special concern following comprehensive review undertaken in 2022.

For more information on species of special concern see [Species of Special Concern » NNSS \(nonnativespecies.org\)](https://nonnativespecies.org).

2. Animals listed in Part 1 of Schedule 9 (as listed at September 2023)

Bass, Large mouthed Black	<i>Micropterus salmoides</i>
Bass, Rock	<i>Ambloplites rupestris</i>
Bitterling	<i>Rhodeus sericeus</i>
Crayfish, Noble	<i>Astacus astacus</i>
Crayfish, Turkish	<i>Astacus leptodactylus</i>
Deer, Chinese Water	<i>Hydropotes inermis</i>
Deer, Sika	<i>Cervus nippon</i>
Deer, any hybrid of Sika	Any hybrid of <i>Cervus nippon</i> , <i>Cervus</i> and any hybrid of the genus <i>Cervus</i>
Dormouse, Fat	<i>Glis glis</i>
Duck, Carolina Wood	<i>Aix sponsa</i>
Duck, Mandarin	<i>Aix galericulata</i>
Flatworm	<i>Kontikia andersoni</i>
Flatworm	<i>Kontikia ventrolineata</i>
Flatworm, Australian	<i>Australoplana sanguinea</i>
Flatworm, New Zealand*	<i>Arthurdendyus triangulatus</i>
Frog, Edible	<i>Rana esculenta</i>
Frog, European Tree (or Common Tree Frog)	<i>Hyla arborea</i>
Frog, Marsh	<i>Rana ridibunda</i>
Goose, Bar-headed	<i>Anser indicus</i>
Goose, Barnacle	<i>Branta leucopsis</i>
Goose, Canada	<i>Branta canadensis</i>
Goose, Emperor	<i>Anser canagicus</i>
Goose, Snow	<i>Anser caerulescens</i>
Heron, Night	<i>Nycticorax nycticorax</i>
Limpet, Slipper	<i>Crepidula fornicata</i>
Lizard, Common Wall	<i>Podarcis muralis</i>
Marmot, Prairie	<i>Cynomys</i>
Mink, American	<i>Mustela vison</i>
Newt, Alpine	<i>Triturus alpestris</i>
Newt, Italian Crested	<i>Triturus carnifex</i>
Owl Eagle	<i>Bubo bubo</i>
Oyster drill, American	<i>Urosalpinx cinerea</i>
Parakeet, Monk	<i>Myiopsitta monachus</i>
Parakeet, Ring-necked	<i>Psittacula krameria</i>
Partridge, Chukar	<i>Alectoris chukar</i>
Partridge, Rock	<i>Alectoris graeca</i>
Pheasant, Golden	<i>Chrysolophus pictus</i>
Pheasant, Lady Amherst's	<i>Chrysolophis amhersitae</i>
Pheasant Reeves	<i>Syrmaticus reevesii</i>
Pheasant, Silver	<i>Lophura nycthemera</i>
Pochard, Red crested	<i>Netta rufina</i>

Pumpkinseed*	<i>Lepomis gibbosus</i>
Rat, Black	<i>Rattus rattus</i>
Ruddy, Shelduck	<i>Tadorna ferruginea</i>
Snake, Aesculapian	<i>Elaphe longissimi</i>
Swan, Black	<i>Cyngus atratus</i>
Terrapin, European pond	<i>Emys orbicularis</i>
Toad, African clawed	<i>Xenopus laevis</i>
Toad, Midwife	<i>Alytes obstetricans</i>
Toad, Yellow-bellied	<i>Bombina variegata</i>
Wallaby, Red-necked	<i>Macropus rufogriseus</i>
Wels, Catfish	<i>Silurus glanis</i>
Zander	<i>Stizostedion lucoperca</i>

*Species due to be removed from Part 1 of Schedule 9 in relation to Wales.

3. Plants listed in Part 2 of Schedule 9 (as listed at September 2023)

Common Name	Scientific name
Alexanders, perfoliate	<i>Smyrniun perfoliatum</i>
Algae, red	<i>Grateloupia luxurians</i>
Archangel, variegated	<i>Lamiastrum galeobdolon subsp. argentatum</i>
Azalea, yellow	<i>Rhododendron luteum</i>
Cotoneaster	<i>Cotoneaster horizontalis</i>
Cotoneaster, entire leaved	<i>Cotoneaster intergrifolius</i>
Cotoneaster, Himalayan	<i>Cotoneaster simonsii</i>
Cotoneaster, hollyberry	<i>Cotoneaster bullatus</i>
Cotoneaster, small-leaved	<i>Cotoneaster microphyllus</i>
Creeper, false Virginia	<i>Parthenocissus inserta</i>
Creeper, Virginia	<i>Parthenocissus quinquefolia</i>
Dewplant, Purple	<i>Disphyma crassifolium</i>
Fern, water	<i>Azolla filiculoides</i>
Fig, Hottentot	<i>Carpobrotus edulis</i>
Garlic, Three cornered	<i>Allium triquetrum</i>
Kelp, giant	<i>Macrocystis angustifolia</i>
Kelp, giant	<i>Macrocystis intergrifolia</i>
Kelp, giant	<i>Macrocystis laevis</i>
Kelp, giant	<i>Macrocystis pyrifera</i>
Kelp, Japanese	<i>Fallopia sachalinensis</i>
Knotweed, hybrid	<i>Fallopia japonica x Fallopia sachalinensis</i>
Knotweed, Japanese	<i>Fallopia japonica</i>
Leek, few-lowered	<i>Allium paradoxum</i>
Lettuce, water	<i>Pistia stratiotes</i>
Montbretia	<i>Crocasmia x crocosmiflora</i>
Potato, duck	<i>Sagittaria latifolia</i>
Primrose, water	<i>Ludwigia uruguayensis</i>

Rhododendron	<i>Rhododendron ponticum</i>
Rhododendron	<i>Rhododendron maximum</i>
Rose, Japanese	<i>Rosa rugosa</i>
Salvinia, giant*	<i>Salvinia molesta</i>
Seafingers, green	<i>Codium fragile</i>
Seaweed, Californian red	<i>Pikea californica</i>
Seaweed, hooked asparagus	<i>Asparagopsis armata</i>
Seaweed, Japanese	<i>Sargassum muticum</i>
Seaweeds, laver (except native species)	<i>Porphyra</i> spp (except <i>P. amethystea</i> , <i>P. leucosticte</i> , <i>P. linearis</i> , <i>P. miniata</i> , <i>P. purpurea</i> & <i>P. umbilicalis</i>)
Stonecrop, Australian swamp (or New Zealand pigmyweed)	<i>Crassula helmsii</i>
Wakame	<i>Undaria pinnatifida</i>
Waterweeds	All species of the genus <i>Elodea</i>

*Species due to be removed from Part 2 of Schedule 9 in relation to Wales.

4. Animals listed in Part 1B of Schedule 9 (as at September 2023)

Common Name	Scientific name
Beaver, Eurasian	<i>Castor fiber</i>
Boar, wild	<i>Sus scrofa</i>

~~Schedule 9 to the Wildlife and Countryside Act 1981~~

~~Animals and plants to which section 14 applies~~

~~Part I—Non-native species~~

Common name	Scientific name
Bass, Large-mouthed Black	<i>Micropterus salmoides</i>
Bass, Rock	<i>Ambloplites rupestris</i>
Bitterling	<i>Rhodeus sericeus</i>
Crab, Chinese Mitten	<i>Eriocheir sinensis</i>
Crayfish, Noble	<i>Astacus astacus</i>
Crayfish, Red Swamp	<i>Procambarus clarkii</i>
Crayfish, Signal	<i>Pacifastacus leniusculus</i>
Crayfish, Spiny-cheek	<i>Orconectes limosus</i>
Crayfish, Turkish	<i>Astacus leptodactylus</i>
Deer, Chinese Water	<i>Hydropotes inermis</i>
Deer, Muntjac	<i>Muntiacus reevesi</i>
Deer, Sika	<i>Cervus nippon</i>
Deer, any hybrid of Sika	<i>Any hybrid of Cervus nippon, Cervus and any hybrid of the genus Cervus</i>
Dormouse, Fat	<i>Glis glis</i>
Duck, Carolina Wood	<i>Aix sponsa</i>
Duck, Mandarin	<i>Aix galericulata</i>
Duck, Ruddy	<i>Oxyura jamaicensis</i>
Flatworm	<i>Kontikia andersoni</i>
Flatworm	<i>Kontikia ventrolineata</i>
Flatworm, Australian	<i>Australoplana sanguinea</i>
Flatworm, New Zealand	<i>Artiposthia triangulata</i>
Frog, Edible	<i>Rana esculenta</i>
Frog, European Tree (or Common Tree Frog)	<i>Hyla arborea</i>
Frog, Marsh	<i>Rana ridibunda</i>
Goose, Bar-headed	<i>Anser indicus</i>
Goose, Barnacle	<i>Branta leucopsis</i>
Goose, Canada	<i>Branta canadensis</i>
Goose, Egyptian	<i>Alpeochen aegyptiacus</i>
Goose, Emperor	<i>Anser canagicus</i>
Goose, Snow	<i>Anser caerulescens</i>
Heron, Night	<i>Nycticorax nycticorax</i>
Limpet, Slipper	<i>Crepidula fornicata</i>
Lizard, Common Wall	<i>Pedarcis muralis</i>
Marmot, Prairie (or Prairie dog)	<i>Cynomys</i>
Mink, American	<i>Mustela vison</i>
Newt, Alpine	<i>Triturus alpestris</i>

Newt, Italian-Crested	<i>Triturus carnifex</i>
Owl, Eagle	<i>Bubo bube</i>
Oyster Drill, American	<i>Urosalpinx cinerea</i>
Parakeet, Monk	<i>Myiopsitta monachus</i>
Parakeet, Ring-necked	<i>Psittacula krameri</i>
Partridge, Chukar	<i>Alectoris chukar</i>
Partridge, Rock	<i>Alectoris graeca</i>
Pheasant, Golden	<i>Chrysolophus pictus</i>
Pheasant, Lady Amherst's	<i>Chrysolophus amherstiae</i>
Pheasant, Reeves'	<i>Syrmaticus reevesii</i>
Pheasant, Silver	<i>Lophura nycthemera</i>
Pochard, Red-crested	<i>Netta rufina</i>
Pumpkinseed (or Sun-fish or Pond-perch)	<i>Lepomis gibbosus</i>
Rat, Black	<i>Rattus rattus</i>
Shelduck, Ruddy	<i>Tadorna ferruginea</i>
Snake, Aesculapian	<i>Elaphe longissima</i>
Squirrel, Grey	<i>Sciurus carolinensis</i>
Swan, Black	<i>Cygnus atratus</i>
Terrapin, European Pond	<i>Emys orbicularis</i>
Toad, African Clawed	<i>Xenopus laevis</i>
Toad, Midwife	<i>Alytes obstetricans</i>
Toad, Yellow-bellied	<i>Bombina variegata</i>
Wallaby, Red-necked	<i>Macropus rufogriseus</i>
Wels (or European catfish)	<i>Silurus glanis</i>
Zander	<i>Stizostedion lucioperca</i>

Part 1A — Native animals

Native species

Common name	Scientific name
Capercaillie	<i>Tetrao urogallus</i>
Chough	<i>Pyrrhocorax pyrrhocorax</i>
Crane, Common	<i>Grus grus</i>
Corncrake	<i>Crex crex</i>
Eagle, White-tailed	<i>Haliaeetus albicilla</i>
Goshawk	<i>Accipiter gentilis</i>
Kite, Red	<i>Milvus milvus</i>
Owl, Barn	<i>Tyto alba</i>

Part 1B—Animals no longer normally present

Formerly resident native species

Common name	Scientific name
Beaver, Eurasian	<i>Castor fiber</i>
Boar, Wild	<i>Sus scrofa</i>

Part 2

Plants—Non-native species

Common name	Scientific name
Alexanders, Perfoliate	<i>Smyrniium perfoliatum</i>
Algae, Red	<i>Grateloupia luxurians</i>
Archangel, Variegated Yellow	<i>Lamiastrum galeobdolon</i> subsp. <i>argentatum</i>
Azalea, Yellow	<i>Rhododendron luteum</i>
Balsam, Himalayan	<i>Impatiens glandulifera</i>
Cotoneaster	<i>Cotoneaster horizontalis</i>
Cotoneaster, Entire-leaved	<i>Cotoneaster integrifolius</i>
Cotoneaster, Himalayan	<i>Cotoneaster simonsii</i>
Cotoneaster, Hollyberry	<i>Cotoneaster bullatus</i>
Cotoneaster, Small-leaved	<i>Cotoneaster microphyllus</i>
Creeper, False Virginia	<i>Parthenocissus inserta</i>
Creeper, Virginia	<i>Parthenocissus quinquefolia</i>
Dewplant, Purple	<i>Disphyma crassifolium</i>
Fanwort (or Carolina Water-Shield)	<i>Cabomba caroliniana</i>
Fern, Water	<i>Azolla filiculoides</i>
Fig, Hottentot	<i>Carpobrotus edulis</i>
Garlic, Three-cornered	<i>Allium triquetrum</i>
Hogweed, Giant	<i>Heracloum mantegazzianum</i>
Hyacinth, Water	<i>Eichhornia crassipes</i>
Kelp, Giant	<i>Macrocystis angustifolia</i>
Kelp, Giant	<i>Macrocystis integrifolia</i>
Kelp, Giant	<i>Macrocystis laevis</i>
Kelp, Giant	<i>Macrocystis pyrifera</i>
Kelp, Japanese	<i>Laminaria japonica</i>
Knotweed, Giant	<i>Fallopia sachalinensis</i>
Knotweed, Hybrid	<i>Fallopia japonica</i> x <i>Fallopia</i> <i>sachalinensis</i>
Knotweed, Japanese	<i>Fallopia japonica</i>

Leek, Few-flowered	<i>Allium paradoxum</i>
Lettuce, water	<i>Pistia stratiotes</i>
Montbretia	<i>Grocosmia x crocosmiiflora</i>
Parrot's Feather	<i>Myriophyllum aquaticum</i>
Pennywort, Floating	<i>Hydrocotyle ranunculoides</i>
Potato, Duck	<i>Sagittaria latifolia</i>
Primrose, Floating Water	<i>Ludwigia peploides</i>
Primrose, Water	<i>Ludwigia grandiflora</i>
Primrose, Water	<i>Ludwigia uruguayensis</i>
Rhododendron	<i>Rhododendron ponticum</i>
Rhododendron	<i>Rhododendron ponticum x</i> <i>Rhododendron maximum</i>
Rhubarb, Giant	<i>Gunnera tinctoria</i>
Rose, Japanese	<i>Rosa rugosa</i>
Salvinia, Giant	<i>Salvinia molesta</i>
Seafingers, Green	<i>Codium fragile</i>
Seaweed, Californian Red	<i>Pikea californica</i>
Seaweed, Hooked Asparagus	<i>Asparagopsis armata</i>
Seaweed, Japanese	<i>Sargassum muticum</i>
Seaweeds, Laver (except native-species)	<i>Porphyra spp (except P. amethystea, P. leucosticte, P. linearis, P. miniata, P. purpurea & P. umbilicalis)</i>
Stonecrop, Australian Swamp (or New Zealand Pigmyweed)	<i>Crassula helmsii</i>
Wakame	<i>Undaria pinnatifida</i>
Waterweed, Curly	<i>Lagarosiphon major</i>
Waterweeds	<i>All species of the genus Elodea.</i>

Abbreviations

ESCO: Emergency species control order

INNS: Invasive non-native species

NRW: Natural Resources Wales

SCA: Species control agreement

SCO: Species control order

SCP: Species control provisions

WG: Welsh Government

W&CA 1981: Wildlife and Countryside Act 1981

Glossary of terms

A **species control agreement** is a voluntarily made, legally binding agreement with an owner of premises that sets out what needs to be done, by whom and by when to control or eradicate an invasive non-native plant or animal or formerly resident native species to prevent their establishment and spread.

A **species control order** is a compulsory, legally binding order made to enforce the control or eradication of an invasive non-native plant or animal or formerly resident native species on particular premises.

An **emergency species control order** is a compulsory, legally binding order made when the situation is urgent to enforce the control or eradication of an invasive non-native plant or animal or formerly resident native species on particular premises. NRW is likely to carry out species control operations in an emergency.

The term **species control provision** can relate to a species control agreement, a species control order, or an emergency species control order, or all collectively.

'**Species control operations**' are operations to do one or more of the following:

- eradicate a species from premises
- control a species on premises
- prevent a species from returning to premises.

Species in scope of these provisions as defined in Paragraph 1(2) of Schedule 9A of the Wildlife & Countryside Act 1981 (W&CA 1981) that a species control agreement or species control order or emergency species control order may relate to:

- a) a species of animal or plant included on the **list of species of special concern**,
- b) an **invasive non-native species** of animal or plant not falling within subparagraph (a), or
- c) a species of animal that is no longer normally present in Great Britain.

Species is defined in Schedule 9 of the W&CA 1981 as any kind of animal and plant.

A species is '**non-native**' if:

- it is listed in Part I (Non-native animals which are established in the wild) or Part II (Plants) of Schedule 9 of the W&CA 1981, or
- in the case of a species of animal, it is a species:
 - o whose natural range does not include any part of GB, and
 - o which has been introduced into GB or is present in GB because of other human activity.

A species is '**invasive**' if, uncontrolled, it would be likely to have a significant adverse impact on:

- biodiversity,
- other environmental interests, or
- social or economic interests.

WG considers an '**invasive non-native species**' to be any non-native species that has the ability to spread causing damage to the environment, the economy, our health and the way we live.

A species of animal is '**no longer normally present in Great Britain**' as defined in Schedule 9A of the W&CA 1981 if:

- it is a species listed in Part IB (Animals no longer present) of Schedule 9, or
- it is a species of animal:
 - o whose natural range includes all or any part of GB, and
 - o which has ceased to be ordinarily resident in, or a regular visitor to, GB in a wild state

Note: For the purposes of this guidance, this category of species has also been referred to as a '**formerly resident native species**'.

An '**illegal reintroduction**' is a species reintroduced without a licence, contrary to Section 14 of the W&CA 1981. See the Code of Practice section 3.3.1 (Paragraph 47, page 17).

WG considers the definition of '**significant adverse impact**' to be: if uncontrolled is the species likely to have significant impact (for INNS) or having significant impact (for formerly resident native species) on biodiversity; other environmental interests; or social or economic interests. See the Code of Practice section 2.4.3 (Paragraphs 20 & 21 page 10).

Whether the impact of a species is '**significant**' will be decided on the basis of all relevant facts and on a case-by-case basis. NRW and Welsh Ministers should consider available information on its likely impacts, in particular any risk assessment, particularly those carried out by the GB Nonnative Species Secretariat. The risk assessment is likely to include a view on scale of impact and this should be considered when deciding on this test.

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. See the listed animals ([Invasive non-native \(alien\) animal species: rules in England and Wales - GOV.UK](#)) and plants ([Invasive non-native \(alien\) plant species: rules in England and](#)

Wales - GOV.UK (www.gov.uk).

WG's definition of **widely spread** (or **widespread**) means a species whose population is self-sustaining and has (or has the potential to) spread to colonise other locations within its potential range where it can survive and reproduce. Whether a species is 'widespread' will be decided on the basis of all relevant facts and on a case-by-case basis.

The Code of Practice (paragraph 35, page 15) explains that an '**owner**' in relation to premises consisting of land (as defined in Paragraph 4(1) of Schedule 9A) could be the: "freeholder, leaseholder or a person who exercises powers of management or control over the land." NRW and Welsh Ministers considers that the 'occupier' is a person that exercises powers of management or control over the land.

Premises as defined in Section 27 of the W&CA 1981 applies to these provisions. This states that premises includes land (including buildings), movable structures, vehicles, vessels, aircraft, and other means of transport.

A '**dwelling**' as defined in Paragraph 4(2) of Schedule 9A of the W&CA 1981 is a building or structure, or part of a building or structure, occupied wholly or mainly as a dwelling.

N.B. NRW has no powers under this legislation to enter a dwelling. The power to issue SCP for a **dwelling** can only be made by Welsh Ministers with a warrant from a justice of the peace. More detail on these requirements can be found in the Code of Practice section 2.4.5 page 12.

Urgent is not defined in Schedule 9A, but is used to refer to a situation that justifies the use of an **emergency species control order**. The Code of Practice (section 4.5, paragraph 74, page 23) states: where an environmental authority is concerned that where any delay in carrying out a species control operation would be likely to significantly compromise its objectives in relation to that species, then it may make an "emergency species control order". A situation may also be justified as urgent where delay would defeat the purpose of the action, or has a significant impact on the cost or feasibility of the action. Urgency may also depend partly on the species involved and partly on how long it has been there.

A **breach of a species control order** is considered to have occurred when the person specified in the order has not carried out the operations stated in the order by the required date or in the way specified.

~~Definitions relating to species~~

~~"Species" means any kind of animal or plant.~~

~~A species is "invasive" if, uncontrolled, it would be likely to have a significant adverse impact on:~~

- ~~a) biodiversity,~~
- ~~b) other environmental interests, or~~

~~c) social or economic interests.~~

~~A species is “non-native” if:~~

~~a) it is listed in Part 1 or 2 of Schedule 9, or~~

~~b) in the case of a species of animal, it is a species:~~

- ~~• whose natural range does not include any part of Great Britain, and~~
- ~~• which has been introduced into Great Britain or is present in Great Britain because of other human activity.~~

~~References to a species being “present” on premises include its being present at any stage in its life-cycle (for example, as eggs or seeds).~~

~~A species of animal is “no longer normally present in Great Britain” if:~~

~~a) it is a species listed in Part 1B of Schedule 9, or~~

~~b) it is a species:~~

- ~~• whose natural range includes all or any part of Great Britain, and~~
- ~~• which has ceased to be ordinarily resident in, or a regular visitor to, Great Britain in a wild state.~~