



Llywodraeth Cymru
Welsh Government

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Welsh Government
Consultation – summary of response

Revision of the Code of Practice for Species Control Provisions in Wales

July 2024

Mae'r ddogfen hon ar gael yn Gymraeg hefyd / This document is also available in Welsh
Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg / We welcome correspondence and telephone calls in Welsh

Overview

The purpose of species control provisions is to ensure, in appropriate circumstances, landowners are obliged to take action on invasive non-native species (“INNS”) and formerly resident native species, or to permit others to enter the land and carry out those operations, in order to prevent their establishment or spread. Gaining early access to property to control a newly arrived INNS which is causing, or is likely to cause harm, can be important to help prevent its spread before it becomes established and more difficult and more expensive to control.

The purpose of the Code of Practice for Species Control Provisions in Wales is to set out how the provisions for species control agreements and species control orders contained in the Wildlife and Countryside Act 1981 should be applied by environmental authorities in Wales. It was first published in 2017.

The amendments include aligning some of the text within the code more closely with the legislative requirements, updating references to legislation and legal requirements where new legislation has been introduced since 2017, and amending some of the order of sections within the code. Updates have also been made so the terms ‘must’ and ‘should’ are used more accurately and consistently throughout the document.

This document provides a summary of the responses received to the consultation on proposed revisions to the code.

Action Required

This document is for information only.

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

Contact details

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Additional copies

This summary of response and copies of all the consultation documentation are published in electronic form only and can be accessed on the Welsh Government’s website.

Link to the consultation documentation: [Proposed changes to the Code of Practice for Species Control Provisions in Wales: consultation document \(gov.wales\)](#)

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Introduction

Prior to the consultation taking place Welsh Government reviewed the document and liaised with Natural Resources Wales for their initial input to make proposed revisions to the code. The proposed revisions included aligning some of the text within the code more closely with the legislative requirements, updating references to legislation and legal requirements where new legislation has been introduced since 2017, and amending some of the order of sections within the code. Updates have also been made so the terms 'must' and 'should' are used more accurately and consistently throughout the document. This follows a report from the former Constitutional and Legal Affairs Committee (CLAC) which stated that the code could be drafted in a clearer way to help Welsh Ministers and Natural Resources Wales understand the use of the terms 'must and should'.

A [consultation](#) consisting of four questions was launched on the Welsh Government website on 29 January 2024, and closed on 21 April 2024. It sought views on whether it was necessary to update the code, if they agreed with the proposed changes, if there were any specific changes they disagreed with, and if there were any suggestions about additional changes that could be made.

Overview of responses to consultation

There were 9 responses submitted in response to the consultation. Some responses did not include an answer to every question.

The consultation response forms were available in Welsh and English and with individuals able to respond in their preferred language. All responses received were in English.

Respondents were able to respond using the Welsh Government's consultation webpage or download a response form and submit it to a designated electronic mailbox. An overview of the split in these responses is included below.

Responses submitted online	6
Responses submitted via email to the plant.health@gov.wales mailbox	3

A breakdown of the type of respondent is provided below:

Affiliated with an organisation	4
Unaffiliated with an organisation	5

Consultation responses

Question 1. Do you agree it is necessary to update the Code of Practice for Species Control Provisions in Wales (“the Code”)?

Q1			
	Yes	No	Not answered
No. of responses	7	0	2
% of responses	78%	0%	22%

The vast majority of the 9 respondents (78%) agreed that ‘yes’ the code did need to be updated. Two respondents (22%) did not answer the question. One of those who did not answer the question posed appeared to provide responses in relation to the use of snares in Wales, which is unrelated to the Code of Practice for Species Control Provisions Species in Wales. The Agriculture (Wales) Act, which came into force on 17 October 2023, bans the use of snares in Wales and the associated Code of Practice on the use of snares in fox control was withdrawn on that date.

Of those who responded ‘yes’ to this question, three did not give an explicit reason for their agreement. Where reasons were provided as to why the code should be updated the responses varied. Two responses stated that the code should be updated to ensure accuracy and clarity. Whilst another response suggested it was necessary to update the code in order to: align the text more closely with legislative requirements; update references to legislation and legal requirements; and so the terms ‘must’ and ‘should’ could be used more consistently throughout the document.

Example responses

“Yes – the language is much clearer now”. **Individual.**

“BASC believes that there are benefits to updating the Code to render it clearer and more accurate.” British Association for Shooting and Conservation.

“The Countryside Alliance recognises the value of updating the code to ensure accuracy and clarity.” Countryside Alliance.

Question 2. Do you agree or disagree with the proposed changes that have been made to the Code?

Q2				
	Agree	Partially agreed	Disagree	Not answered
No. of responses	1	6	0	2
% of responses	11%	67%	0%	22%

This question was answered by 7 of the 9 respondents. None of the respondents disagreed with all of the proposed changes. One responded saying they agreed with the changes as they all make the code easier to operate. Six (86%) of those who responded agreed with the changes made to some extent.

Of those who responded that they partially agreed with the proposed changes the responses varied. Two respondents thought that some of the changes seem to go beyond the existing legislative framework and hence broaden the scope of the code. Another thought that the proposed new code was an improvement on the previous version, but they had some concerns which they outlined in their response to question 3.

Example responses

“We welcome, in particular, that:

- 1. Although the Code is not aimed at species that are already widespread, it continues to except that this regime can be used where there is a Welsh Government/NRW endorsed eradication programme (e.g. Rhododendron ponticum in the Celtic Rainforest Wales project).*
- 2. As well as applying where an INNS is likely to have detrimental impact on a designated site, this will be extended to "where a widespread invasive non-native species is likely to have a detrimental impact in a Resilient Ecological Network". However, see our comments below in relation to the marine environment.*
- 3. There is no longer a requirement that action must "minimise disruption to legitimate business activities". It is right that the risk of allowing INNS to spread (and risk damage to the public good) is not compromised by a clause that requires an individual business to make no change to its operations.*
- 4. It states more clearly that NRW can permit others to access land to undertake control work.*
- 5. NRW no longer has to inform Ministers in advance of making a species control order. We believe this will reduce the risk of delay in tackling problematic INNS when time is of the essence.”* **RSPB Cymru.**

“In the main we think the Code is an improvement on the previous version as it easier to follow and brings better clarity to the readers and those businesses to which the code applies. However, we have some concerns on a couple of aspects which we will cover in the next question.” **NFU Cymru.**

Question 3. Do you disagree with the proposed changes that have been made to the Code? Are there any specific changes you disagree with and why?

Q3			
	Yes	No	Not answered
No. of responses	6	1	2
% of responses	67%	11%	22%

This question was answered by 7 of the 9 respondents. Six (86%) of those who responded disagreed with some of the changes made to the code and went on to explain specifically what they disagreed with. One respondent did not disagree with any of the changes made.

The respondent who didn't disagree with any of the changes made claimed that the changes appeared fair and simple to understand. There were a wide range of specific areas of disagreement given by those who responded that they didn't agree with all of the changes made to the code, with no distinguishable common theme shared between the various respondents. Two respondents noted that proposed deletions made the Code less clear and asked for some specific text to be reinstated. Two respondents questioned the inclusion and definition of Resilient Ecological Networks within the list of circumstances where it might be appropriate to make a species control agreement or order in respect of widespread species.

Another was concerned that the definitions in paragraph 23 exclude marine habitats outside the protected area network. They were of the view that ports, harbours and marinas pose a particularly high risk as an INNS pathway, and so the code would appear not to apply to those outside the SAC/SPA/MPA network, particularly in parts of South Wales. This is something the respondent wanted to see addressed.

Example responses

"There are several changes where deletion of the former text leaves a statement unexplained and hence unclear: -

e.g.: P. 18 "3.4 What a species control agreement must contain:

53. c) any species control operations that must not be carried out.

(Text deleted - for instance, prohibiting the cutting of an invasive non-native plant species during a specified period)"

The timing of control actions can be of great importance to the removal of the target species and to conservation of those remaining. This is the only place in the document where this was mentioned, and it should still be included for the benefit of future executors.

and e.g.: P 36 "4. Animals listed in Part 1B of Schedule 9 (as at September 2023)" I had to google what Part 1 B refers to. Stating that this refers to 'Animals no longer normally present' was useful and shouldn't be deleted.

Implementation of Species Control Provisions aims to work with landowners voluntarily.

*P 39 It is great that this update is much clearer but just a bit too much explanation has been cut so some user-friendliness is lost. **Individual.***

"We have the following concerns:

1. The scope of the Code (para 12) has become less clear than previously, and we are concerned that (a) the most important element is now a sub-clause of 12(2), (b) that it does not include species that are native to a part of Great Britain, but may not be native to a part of Wales, most critically an island (e.g. Hedgehog), and (c) it applies only to plants on Schedule 9 Part 2 or on the list of species of special concern, and not more widely if its arrival at a site proves to be invasive.

We propose that 12(2) is re-ordered thus:

A species control agreement or species control order may relate to:

- 1. an animal [or plant] 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*
- 2. a species of animal or plant included on the list of species of special concern, or*
- 3. an animal species listed in Part 1 of Schedule 9 of the Wildlife and Countryside Act 1981, or,*

4. a plant species listed in Part 2 of Schedule 9, of the Wildlife and Countryside Act 1981 or,

5. 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.

And the addition of:

1b. an animal or plant of a species native to part of Britain but whose natural range does not include a defined part of Wales, such as an island.

2. In para 23, we have assumed that the Resilient Ecological Network equates to the Terrestrial Priority Ecological Networks on DataMap Wales, and we ask that the Code clarifies this. However, we are concerned that these definitions exclude marine habitats outside the protected area network. Ports, harbours and marinas pose a particularly high risk as an INNS pathway, and so the Code would appear not to apply to those outside the SAC/SPA/MPA network, particularly in parts of South Wales. Furthermore, a number of Welsh seabird colonies - such as Denny Island and Ynys Badrig – are not designated as SSSIs. The proposed changes in the Code weaken the protection for these sites because the regime could not be used.

3. The removal of the need to include best practice biosecurity measures in any control programme (paragraphs 44 and 53) is a retrograde step, and there is no explanation or justification for this change. RSPB Cymru is currently delivering a major programme (under the Nature Networks Fund) to improve biosecurity measures on island SSSIs, which should be a government duty. It is widely understood that good biosecurity is the first step in a tiered approach to tackling INNS, and we want to see that requirement retained in the Code.

4. Beaver and Wild Boar are listed as “formerly resident” native species that could be subject to the same control regime if released without a licence. We fully support the need for a regulated system for the re-establishment of native species, and the means to respond to problems where these occur. We have concerns, however, that the test for applying the control regime in these cases has been weakened. Welsh Government/NRW previously had to “have evidence” of significant adverse impact, but now they must simply “be satisfied” that this is the case. This does not instil confidence about evidence-based decision-making, and we are concerned about unintended consequences if there are no longer additional tests that must be passed compared to an INNS.

5. The consultation states that New Zealand Flatworm, Pumpkinseed and Giant Salvinia are “due to be removed” from Schedule 9 in Wales, but no detail is provided on when this will occur or whether there will be any consultation on this change.

6. The Code says that co-ordinating action should follow any rapid response protocols, which we welcome, but does not appear to have a statement about where default responsibility will lie in the absence of any such protocols.” **RSPB Cymru.**

Question 4. Do you have any suggestions about additional changes that could be made? Please provide them here along with the reasoning for your suggested changes.

Q4			
	Yes	No	Not answered
No. of responses	4	3	2
% of responses	44%	33%	22%

This question was answered by 7 of the 9 respondents. Three of these seven answered this question by referring to their answers given in question 3, and so these have been recorded in the table above as a 'no' answer.

Of the four respondents who answered the question by providing suggestions about additional changes that could be made, answers varied greatly. One respondent noted a spelling error on page 35 which appears to have been caused by autocorrect. Another suggested that there were a number of spelling and formatting errors in the species listed in the annex. This same respondent made additional points, but these all fell outside the scope of the code. Another claimed that it was not clear enough in the code that if an animal or plant arrived on a landowner's property without the landowner's involvement that the landowner would not be held responsible for management costs should a species control agreement or order be implemented.

Another response was given that mentioned a number of spelling, formatting and grammatical errors. This respondent also thought a definition in the glossary of Resilient Ecological Networks (RENs) would be useful. In addition to this they suggested that in respect to widely spread species, their impact on 'protected species and natural habitats' should also be covered by species control provisions.

Example responses

"NFU Cymru do not believe that there is enough recognition in the Code that species, be they plant, or animal are transient and have moved from land they were first introduced. It needs to be made much clearer that the occupier or owner of the land to which the species has moved is not responsible for any control costs that may be necessary and in fact they are able to get the relevant authorities to carry out and pay for any required control work, with their agreement. This needs to be clearer." **NFU Cymru.**

"The changes that have been made generally make the Code more readable and clarify in many instances the changes between should, must and may in the respective action statements." **Individual.**

Government response and next steps

We welcome all of the responses to our consultation and are grateful to the people and organisations who have provided their comments. We received a range of

opposing views from those proposing the guidance in the code should take more account of landowners interests and those who propose that biodiversity should be prioritised more. We have considered every individual point raised in light of the requirements set out in the legislation and in the spirit of the recommendations originally set out by the Law Commission in their wildlife law reform project. We will proceed to produce a final version of the code for publication.

Annex 1 - List of respondents:

British Association for Shooting and Conservation

NFU Cymru

RSPB Cymru

Countryside Alliance

5 individuals