

EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION

8532/18

8532/18 ADD 1

C(2018) 2526 final

C(2018) 2526 final - ANNEX

**COMMISSION DELEGATED REGULATION (EU) .../... OF 30.4.2018
SUPPLEMENTING REGULATION (EU) NO 1143/2014 OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL WITH REGARD TO RISK ASSESSMENTS IN
RELATION TO INVASIVE ALIEN SPECIES**

**ANNEX TO THE COMMISSION DELEGATED REGULATION (EU) .../...
SUPPLEMENTING REGULATION (EU) NO 1143/2014 OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL WITH REGARD TO RISK ASSESSMENTS IN
RELATION TO INVASIVE ALIEN SPECIES**

Submitted by the Department for Environment, Food and Rural Affairs

23rd May 2018

SUBJECT MATTER

1. Regulation (EU) No. 1143/2014 of the European Parliament and of the Council on the prevention and management of the introduction and spread of invasive alien species (the 'Invasive Alien Species (IAS) Regulation') sets out a framework to deal with the impact of invasive species. This Commission Regulation further specifies the type of evidence acceptable for the purposes of risk assessment ("IAS risk assessment") required by Article 5(1) of the Invasive Alien Species Regulation.
2. The first document is the Commission Regulation, together with its explanatory memorandum (EM). The second document is the Annex to the Commission Regulation which sets out, in detail, what evidence should be provided in an IAS risk assessment.
3. The function of this Commission Regulation is to provide a guiding framework for the development and subsequent evaluation of risk assessments, and lays out the required level of detail required in each risk assessment.
4. The UK has already adopted this framework and uses the guidance set out in this Commission Regulation to develop risk assessments.

SCRUTINY HISTORY

5. The Parliamentary scrutiny history relevant to this document is contained in the attached Annex A.

MINISTERIAL RESPONSIBILITY

6. Responsibility lies with the Secretary of State for Environment, Food and Rural Affairs, Scottish Ministers, Welsh Ministers and Northern Ireland Executive Ministers.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

7. Scottish Government Ministers, Welsh Government Ministers and Northern Ireland Executive Ministers have an interest as they each have their own policy positions on invasive species. The devolved administrations have been consulted in the preparation of this EM, they have noted the Commission Regulation and there will be no implications for the devolved administrations.

LEGAL AND PROCEDURAL ISSUES

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i. Legal Basis

The legal basis for this Commission Regulation is Article 5(3) of Regulation (EU) No. 1143/2014 of the European Parliament and of the Council on the prevention and management of the introduction and spread of invasive species (the 'Invasive Species Regulation').

The Regulation is within the boundaries of the power conferred by that article, which enables the Commission to further specify the type of evidence acceptable for the purposes of Article 4(3)(b) of the Invasive Species Regulation (evidence that the species is capable of establishing a viable population and spreading in the environment under current conditions, and in foreseeable climate change conditions, in one biogeographical region shared by more than two Member States or one marine sub-region excluding their outermost regions), and to provide a detailed description of the application of Article 4(1)(a) – (h)¹ of the

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- a) a description of the species with its taxonomic identity, its history, and its natural and potential range;
- b) a description of its reproduction and spread patterns and dynamics including an assessment of whether the environmental conditions necessary for its reproduction and spread exist;
- c) a description of the potential pathways of introduction and spread of the species, both intentional and unintentional, including where relevant the commodities with which the species is generally associated;
- d) a thorough assessment of the risk of introduction, establishment and spread in relevant biogeographical regions in current conditions and in foreseeable climate change conditions;
- e) a description of the current distribution of the species, including whether the species is already present in the EU or in neighbouring countries, and a projection of its likely future distribution;
- f) a description of the adverse impact on biodiversity and related ecosystem services, including on native species, protected sites and endangered habitats, as well as on human health, safety, and the economy including an assessment of the potential future impact having regard to available scientific knowledge;
- g) an assessment of the potential costs of damage;
- h) a description of the known uses for the species and social and economic benefits deriving from those uses.

Invasive Species Regulation. The detailed description is required to include the methodology to be applied in the risk assessments, taking into account relevant national and international standards and the need to prioritise action against IAS associated with, or that have the potential to cause, a significant adverse impact on biodiversity or related ecosystem services, as well as on human health or the economy, such adverse impact being considered as an aggravating factor. This detailed description is set out in the Annex to the Commission Regulation.

In accordance with that Article 5(3) the Commission has carried out consultations with experts, in particular the Scientific Forum, and has also consulted the public (as explained in paragraph 2 of its EM).

In relation to this instrument, the Justice and Home Affairs opt-in is not a relevant consideration.

ii. European Parliament Procedure

The Commission Regulation was adopted on 30 April 2018, and in accordance with Article 29(5) of the Invasive Species Regulation enters into force two months after its adoption unless the European Parliament and Council have formulated any objections during that period, or, in the event that before the expiry of that period the European Parliament and the Council have both informed the Commission that they will not object, on the date of that notification.

iii. Voting Procedure

Not applicable to this regulation, which has been adopted by the Commission.

iv. Impact on United Kingdom Law

The requirements set out for risk assessments also apply for the purposes of a risk assessment which is submitted to the Commission by a Member State, together with any request under Article 4(4) of the Invasive Species Regulation for the inclusion of IAS on the EU list (see Article 4(4)(b) of that regulation).

v. Application to Gibraltar

Since, by virtue of Article 355(3) of the Treaty on the Functioning of the European Union (TFEU), the Invasive Species Regulation for the most part applies to Gibraltar, this regulation also applies to Gibraltar.

vi. Fundamental Rights Analysis

No issues arise.

APPLICATION TO THE EUROPEAN ECONOMIC AREA

9. This Commission Regulation does not apply to the European Economic Area.

SUBSIDIARITY

10. Not applicable. This Commission Regulation implements the Invasive Species Regulation. The EU has exclusive competence in relation to matters governed by the Invasive Species Regulation. By virtue of Article 5(3) of the TFEU, the principle of subsidiarity does not apply.

POLICY IMPLICATIONS (including exit implications where appropriate)

11. Parliament voted to trigger Article 50 of the TFEU and leave the EU. Until the UK leaves the EU, all the rights and obligations of EU membership remain in force. The outcome of our negotiations with the EU on a future partnership will determine what arrangements apply in future.

12. There are no policy implications for the UK that stem from this Commission Regulation. The UK already uses this framework to produce risk assessments.

CONSULTATION

13. The Commission consulted on the draft regulation (published in the Register of Commission Expert Groups and Other Similar Entities, code number E03276). No further consultation is required by the UK.

IMPACT ASSESSMENT

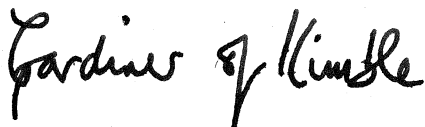
14. No impact assessment is necessary.

FINANCIAL IMPLICATIONS

15. There are no financial implications for the EU or the UK that stem from the Commission Regulation.

TIMETABLE

16. There is no timetable relevant to the Commission Regulation.



**LORD GARDINER
PARLIAMENTARY UNDER SECRETARY OF STATE FOR RURAL AFFAIRS AND
BIOSECURITY
DEPARTMENT FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS**

PARLIAMENTARY SCRUTINY HISTORY RELEVANT TO A:

COMMISSION DELEGATED REGULATION (EU) .../... OF 30.4.2018 SUPPLEMENTING REGULATION (EU) NO 1143/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL WITH REGARD TO RISK ASSESSMENTS IN RELATION TO INVASIVE ALIEN SPECIES

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EM 13457/13: PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE PREVENTION AND MANAGEMENT OF THE INTRODUCTION AND SPREAD OF INVASIVE ALIEN SPECIES

13457/13 ADD 1: COMMISSION STAFF WORKING DOCUMENT IMPACT ASSESSMENT ACCOMPANYING THE DOCUMENT PROPOSAL FOR A COUNCIL AND EUROPEAN PARLIAMENT REGULATION ON THE PREVENTION AND MANAGEMENT OF THE INTRODUCTION AND SPREAD OF INVASIVE ALIEN SPECIES THIS REPORT COMMITS ONLY THE COMMISSION'S SERVICES INVOLVED IN ITS PREPARATION AND DOES NOT PREJUDGE THE FINAL FORM OF ANY DECISION TO BE TAKEN BY THE COMMISSION

13457/13 ADD 2: COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT ACCOMPANYING THE DOCUMENT PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE PREVENTION AND MANAGEMENT OF THE INTRODUCTION AND SPREAD OF INVASIVE ALIEN SPECIES

13457/13 ADD 3: COMMISSION STAFF WORKING DOCUMENT IMPLEMENTATION PLAN ACCOMPANYING THE DOCUMENT PROPOSAL FOR A COUNCIL AND EUROPEAN REGULATION ON THE PREVENTION AND MANAGEMENT OF THE INTRODUCTION AND SPREAD OF INVASIVE ALIEN SPECIES

DATE EM SIGNED: 24/09/2013

SCRUTINY COMMITTEES' RECOMMENDATIONS:

COMMONS	LORDS
POLITICALLY IMPORTANT - NOT CLEARED COMMONS REPORT 17 - 11/10/2013	SIFTED TO SUB COMMITTEE D AT CHAIRMAN'S SIFT 1517 - 01/10/2013.
CLEARED BY COMMONS REPORT 19/03/2014	CLEARED BY LETTER ON 21/03/2014