

# The Wildlife and Natural Environment (WANE) Act – a new approach to invasive non-native species



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## Non-native species in Scotland: the current situation

Over 1100 species of non- native  
plants recorded

13 species of mammals

Problem fish

Unknown number of invertebrates

Growing number of marine INNS



## Wildlife and Countryside Act 1981

Before WANE amendments:

To allow any animal which is ***not ordinarily resident*** in or a regular visitor to Great Britain, to escape into ***the wild***, or to release it into the wild; or to release or allow to escape from captivity, any animal that is listed on Schedule 9

To plant or otherwise ***cause to grow*** in the wild any plant listed on Schedule 9



## Drawbacks of the previous system

Lack of coordination and  
some degree of overlap

Different treatment of animals  
to that for plants

Reliance on a listing process  
that is slow and bureaucratic

Terms such as “in the wild”  
not clearly defined



## Other drivers

Growing awareness of the threats posed by invasive non-native species

Establishment of the Scottish Working Group on Invasive non-native species

Publication of the GB Framework

Debate in the Scottish Parliament's - October 2008



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The answer :

# The Wildlife and Natural Environment (Scotland) Act 2011

**W**ildlife **A**nd **N**atural **E**nvironment Act = 'WANE'

**W**ildlife **A**nd **N**atural **E**nvironment **S**cotland **A**ct = 'WANESA'



A move away from listing species

Based on the “no release general presumption” – making it a much wider offence to release any non-native animal or plant species into the wider environment – “the wild”

Non-native includes native species ‘beyond their native range’



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The new 'Scottish' approach defines the offence by setting out what isn't an offence i.e. by providing exemptions:

Areas

e.g. arable cropping land, settlements

Certain activities

e.g. falconry

Species

Native species within native range  
some non-native game birds





## Definitions:

### Non-native species

Animals and plants which have been moved to a location by human action, whether intentional or not.

### Native range

The location in which an animal or plant is indigenous – where it occurs naturally



## Controlling species

Powers for specified bodies to:

- access land & water
- require land managers to control specified non-native species
- take unilateral action to control or eradicate non-native species

Controls on keeping and selling invasive plants and animals

Reporting the presence of invasive plants and animals



## Code of Practice on Non-native and Invasive Species

- Drafted by staff from Scottish Government and other agencies.
- Public consultation in spring 2011
- Consultation report in October
- Final version to be approved by the Scottish Parliament



Recommends that you seek  
advice and follow good  
practice adopting a  
Precautionary Approach

**IF IN DOUBT - DON'T DO IT**  
**SEEK SPECIALIST ADVICE**

But is it the law ?



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“ the Code is more what you'd call 'guidelines'  
than actual rules”





“The Code is the law”



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The Code is “soft law”.

Can only say what is good practice, it can't say what is or isn't an offence.

Failure to comply with the Code isn't an offence

Can be used in a Court of Law to show if “due diligence” has been exercised i.e. have reasonable (not absolute) steps been taken such as whether good practice has been followed an adequate assessment of risk



## The Code - Native Range

**“the locality to which the animal or plant is indigenous – where it occurs naturally”**

Native range encompasses all non-native species and also native species so releasing a native species outwith its native range is also an offence.

Information on which species are native and which are not well as native ranges will be via the SNH website but will also link to other key sources such as the BSBI.





## The Code – The release of non-native animals

### 1) Releasing an animal from captivity

But not domestic stock, fish farms, ferrets, falconry, cats and dogs

### 2) Allowing an animal to escape from captivity

All reasonable steps to avoid escape

### 3) Causing an animal to be at a place

‘Other’ actions which cause animals to be introduced or spread



## The Code – the release of non-native plants

### 1) Planting in the wild

The wild doesn't include:

- arable land and enclosed grazings
- managed woodlands
- amenity locations including parks & civic spaces
- private gardens



### 2) Causing to grow in the wild

The plant becomes present in the wild because:

- it is allowed to spread from a garden
- a management technique allowed it to spread
- inappropriate disposal



The Code on:

a) Keeping animals and plants

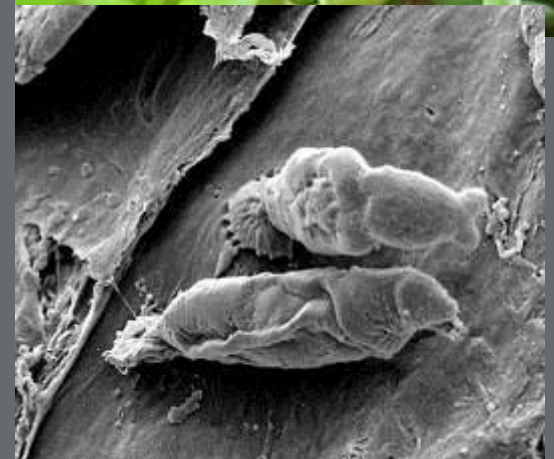
Power to ban outright or require licence

b) Selling invasive plants and animals

The 'ban on sale'

c) Notification of Invasive Species

Power to require persons who 'have knowledge/should have knowledge or likely to encounter to report



## The Code - Control Agreement and Orders

Species Control Agreements

Species Control Orders

28 days to appeal

Emergency Species Control Orders

Come into force once notice given

Entry to Land

Wide-ranging powers for 'relevant bodies'

Recovery of Cost

"polluter pays"



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### The new lead agency approach

Calls from NGOs and others for a single agency to lead on invasive non-native issues:

Overall coordination role – SNH

Terrestrial – SNH

Freshwater aquatics – SEPA

Marine – Marine Scotland

National forest estate and managed woodlands – FCS

Scottish Working Group - SG

