

# States of Jersey



## **Wildlife (Jersey) Law 20-**

### **Consultation**

27 November, 2018

# Background

## **The Wildlife (Jersey) Law 20- ('Wildlife Law') will replace the existing Conservation of Wildlife (Jersey) Law 2000 as Jersey's main legislation protecting wildlife from harm**

The Wildlife Law is essential to meeting Jersey's commitments under international environmental agreements (MEAs) including:

- The Convention on Biological Diversity (The Rio Convention)
- The Convention on the Conservation of European Wildlife and Natural Habitats (The Bern Convention)
- The Convention on the Conservation of Migratory Species of Wild Animals (The Bonn Convention)

MEA obligations range from broad biodiversity conservation and enhancement to protection of rare or threatened species and habitats.

Jersey has a number of wild animals, birds and plants that are locally rare or important, including some of European and international concern

# Problems with the existing Law



## Problems with the existing Conservation of Wildlife (Jersey) Law 2000 include:

- Ambiguous wording in the Law and gaps in coverage
- Failing to meet Jersey's MEA obligations to protect wildlife and habitat, particularly regarding species of European concern and migratory species
- Outdated legislation not reflecting current scientific understanding or modern terminology
- Lack of flexibility to apply different levels of protection to individual species
- Outdated licensing provisions that prevent effective regulation of modern activities affecting wildlife and habitat



# How the new Wildlife Law will address these issues

## The new Wildlife Law will provide:

- A modern approach to wildlife protection based on current best practice and using transparent wording
- Full MEA compliance
- A framework for varied levels of protection for species according to their conservation needs
- A clearer, efficient system of regulating and enforcing activities affecting wildlife
- Robust and flexible legislation that can address future needs, eg. changes in conservation status, new MEA priorities

# The main changes within the new Wildlife Law



## Definitions for ‘wild animal’ and ‘wild bird’

### The current law states:

*“a wild animal” means any animal other than a bird which is or, before it was killed or taken, was living wild;*

*“a wild bird” means any bird of a kind which is ordinarily resident in or is a visitor to Jersey in a wild state, but does not include poultry”*

- Some animals and birds are protected when in some situations may need to be controlled, including ‘escapees’ living wild (feral geese) and non-natives (ferrets)

### The new Law protects only those birds and animals that are ‘naturally occurring’ and living wild in Jersey AND excludes:

- captive breeds and offspring (unless re-introduced under licence, eg. red-billed chough)
- non-natives (unless listed as protected) and invasive non-natives (INNS)

# Schedules of Protected Wild Animals, Birds and Plants



## The current Schedules of Protected Species:

- Schedule 1 - protected wild animals and birds
- Schedule 2 - specially protected wild birds
- Schedule 3 - animals which may not be taken by certain methods
- Schedule 4 - reptiles and amphibians which may not be exported
- Schedule of protected wild plants made by Order 2009

(all listed species assigned same level of protection under the Law)

## Are replaced with a new set of Schedules that includes:

- Additional Schedules, with varied levels of protection
- Provision for invertebrates, marine species, fungi and algae to be added for protection
- Schedules amendable by Order

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# Schedules to the new Wildlife Law

- **Schedule 1** - Protected wild animals (with varied levels of protection)
- **Schedule 2** – Protected wild birds
- **NEW Schedule 3** – Protected wild birds that re-use their nest
- **NEW Schedule 4** – Birds with protected breeding sites and resting places
- **NEW Schedule 5** – Animals with protected breeding sites and resting places
- **NEW Schedule 6** - Animals and birds protected from disturbance
- **Schedule 7** – Protected Wild Plants
- **NEW Schedule 8** – Regulated Devices, substances and activities – Animals
- **NEW Schedule 9** – Regulated Devices, substances and activities – Birds
- **NEW Schedule 10** – Animals, birds and plants which are permitted to be released into the wild
- **NEW Schedule 11** – Invasive non-native species ('INNS')

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# Levels of Protection for Wild Animals, Birds and Plants

- Varied levels of protection for individual species listed within the Schedules
- Listing of species based on robust criteria meeting IUCN guidelines
- Protection status for each species will be reviewed at least every five years or when required

## SCHEDULE 1

(Article 5)

### PROTECTED WILD ANIMALS

<i>Common name</i>	<i>Species name</i>	<i>Provisions conferring protection*</i>
Ant, European red wood	<i>Formica pratensis</i>	
Allis shad	<i>Alosa alosa</i>	Articles 15 and 18
Bats, horseshoe (all species)	<i>Rhinodophidae</i>	

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# Protection of Dens, Nests, Breeding and Resting Sites



## Nests and Dens

- Existing protection to remain
- Nests of certain protected wild birds to be protected all year round (Schedule 3), eg. Barn swallow

## Breeding and Resting Sites (Schedules 4 & 5)

- To apply to certain protected wild animals and birds, eg. migratory birds, amphibians
- Allows for protection to be extended to include other habitat relied upon for breeding and survival, eg. for mating or hibernation
- Codes of practice may be issued to guide practical application

## Direct Disturbance (Schedule 6)

- New offence to disturb listed protected wild animals and birds whether or not at their den or nest
- Codes of practice may be issued to guide application
- Required to meet MEA obligations for certain species of European concern, particularly marine species

# Areas of Special Protection

**New provisions for Areas of Special Protection (ASP) will enable restrictions on entry and disturbance into defined areas at critical times of growth, breeding etc.**

## **An ASP will be:**

- Defined on a map and physically marked off on the ground
- Designated by Order, but only with the agreement of all landowners and occupiers

## **An ASP may:**

- Apply for any specified time period, eg only during the breeding season
- Contain provisions that have been agreed with the landowner, restricting access to the area or specifying activities that may or may not be carried out within the area

An example might include a piece of land or hedgerow within which a rare orchid might grow for only a short period each year.



# Methods of Capture or Killing

**The new Wildlife Law seeks to provide a clear and flexible framework for regulating the means of taking all wild animals and birds without causing harm**

- New Schedules (8 & 9) of regulated devices and methods which may be amended to add new devices or to take account of developments in best practice techniques
- Schedules may specify to which species or group certain prohibited methods will apply
- For example the use of nets for educational pond dipping will not be an offence provided that published guidance is followed

<i>Type of animal</i>	<i>Prohibited device, etc.</i>
Amphibians, reptiles	Nets if applied for large-scale or non-selective taking or killing
Mammals	Anaesthetic or stupefying substances Snares Artificial lighting, mirrors or other dazzling devices

# Release of Animals, Birds and Plants into the Wild



**New Schedules (10 and 11) plus new Articles will provide effective control of the release of wildlife into the wild so as to prevent adverse impacts on the environment**

It will be an offence to deliberately or recklessly release:

1. Any animal, bird or plant, **unless** it is listed on Schedule 10 (for example moles, or house mice); and
  2. Any invasive non-native species ('INNS') listed on new Schedule 11
- Any wild animal or bird captured accidentally or lawfully may be released lawfully
  - Schedule 10 may specify circumstances of permitted release, for example releasing a shrew found in a house
  - Schedules capable of being amended by Order

# Invasive Non-native Species (INNs)



## Species Control Agreements and Orders

New powers to allow authorised officers to investigate and take action to control or remove INNS found to be established in the wild

### Step 1 – Species Control Agreement

- With cooperation of landowner
- Agreed measures, responsibilities and costs for removal of INNS

### Step 2 – Species Control Order

An Order can be imposed requiring action if:

- Agreement cannot be reached; or
- Owner cannot be identified; or
- Agreed measures not carried out; or
- Urgent action is needed

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# Licences

The licensing regime under the new Law has been strengthened, updated and extended in a number of ways including:

## Licence 'Purpose'

Licences may be issued regulating present day activities such as

- photography
- falconry
- 'Other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'

## Administration of Licences

- 'General' licences may be issued for activities with a low risk to wildlife, eg. use of humane live traps
- Users of a general licence will still need to register and agree to terms regarding appropriate use

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# Biodiversity Duty

## The new Wildlife Law introduces a new duty to promote biodiversity in Jersey

*It is the duty of every public body, in exercising any public function conferred by a Jersey enactment, to promote the conservation of biodiversity so far as is consistent with the proper exercise of the function (Article 37)*

This includes a requirement to have regard to (and report on):

- Island-wide Strategies for the conservation of biodiversity
- International conventions (such as the Convention on Biological Diversity)
- Guidance on compliance with this duty may be published by the Minister

# The Next Steps



## Public consultation

**16<sup>th</sup> October 2018**

Launch of online questionnaire inviting comments on the main areas of change brought by the new Law, and any general feedback

**6<sup>th</sup>, 20<sup>th</sup> and 22<sup>nd</sup> November**

Public meetings involving those actively involved in wildlife activities, such as ecologists, land managers, environmental NGOs etc.

**End November, December**

Collation of responses, feedback to consultees  
Liaison with Law Draftsman to finalise draft Law

**2019**

Lodge draft Wildlife Law 'au greffe' for passage through States