

General Information	
Ministerial Decision Type	Presentation of: a Report
Report Title	Adoption of criteria for the selection of species for protection in the Schedules to the Wildlife (Jersey) Law 2021
Minister	Environment
Signatory	Minister
Lead Department	Infrastructure and Environment (IHE)
Lead Directorate	Natural Environment (IHE)
Ministerial Decision Summary: Public or Absolutely/Qualified Exempt	Public Select if more than one Absolutely/Qualified Exemption.
Date decision made if different to date 'Ministerial Decision Summary' signed.	Select date.
Report and Supplemental Report Details	
Report Author	Environment Manager – Legislation, IE
Date of Report	Select Date of Report.
Supplementary Report Title <i>(If applicable)</i>	N/A
Supplementary Report Author <i>(If applicable)</i>	
Date of Supplementary Report <i>(If applicable)</i>	Select Date of Supplemental Report. Select Date of Supplemental Report.
Ministerial Decision Report: Public or Absolutely/Qualified Exempt	Public Select if more than one Absolutely/Qualified Exemption.
Relevant Case/Application/URN <i>(Only complete if making a decision related to an appeal/case/application)</i>	N/A
Relevant Proposition Number <i>(Only complete if presenting Comments or if lodging an Amendment)</i>	Insert P. number.
Relevant Scrutiny Report <i>(Only complete if presenting a ministerial response)</i>	Insert S.R. number.
Associated Law(s) and/or Subordinate Legislation	Wildlife (Jersey) Law 2021
Action required if recommendation agreed	Department to take necessary action.

Resource Implications	There are no new financial and/or manpower implications.
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Introduction

1. Summary

The Minister is asked to approve the adoption and publication of a set of criteria for the selection of species to be included in the Schedules of protected species to the Wildlife (Jersey) Law 2021. The rationale and criteria are attached in Appendix 1 to this Report.

The adoption and publication of the criteria will enable the implementation of recommendations arising from the Review of Schedules and Protected Species that was carried out in 2016. The Schedules to the wildlife law are to be reviewed on a regular basis, to ensure that appropriate levels of protection to species are given in line with local and international conservation status.

Once published, the criteria will be used to undertake the forthcoming review of the Schedules to the Wildlife (Jersey) Law 2021, which is to be known as the Quinquennial Review (QQR).

The adoption of the criteria and the Quinquennial Review will in turn contribute to the delivery of one of the Minister's 2024 priorities for the protection and enhancement of Jersey's natural and heritage by: 'progressing strategic workstreams to address biodiversity loss'.

2. Background

Wildlife (Jersey) Law 2021

The Wildlife (Jersey) Law 2021 is the primary legislation for nature conservation purposes in Jersey. This Law provides a framework for the protection of Jersey's wildlife, for the regulation of activities affecting protected species and their habitat and for the control of invasive non-native species. The Land Resource Management (LRM) team within Infrastructure and Environment, Government of Jersey is responsible for administering the Wildlife Law and for ensuring that it meets the conservation requirements of the species in the Island and current environmental best practice, as well as complying with international obligations.

The Law confers different levels of protection on wild animals, wild birds and wild plants, as set out in Article 5 and the Schedules to the Law specifying various categories of wildlife and the protections applicable to each. The Schedules may be amended or varied by the Minister under Article 49 of the Law.

Rationale and Criteria for selection and listing of protected species

In December 2016 a review of the Schedules of protected species in Jersey was undertaken under the framework of the previous wildlife law - the Conservation of Wildlife (Jersey) Law 2000 (CWL). This review was carried out in consultation with species focus groups and undertaken using a rationale and robust set of criteria for selection and listing of species for protection that was derived from the approach taken in the UK and adapting the International Union for Conservation of Nature (IUCN) guidelines to the local context.

This review resulted in a report and recommendations which informed the establishment of the Schedules of protected species under the Wildlife (Jersey) Law 2021. See Appendix 2 for further details.

One of the recommendations of the review was that the rationale and criteria for the selection of species in the Schedules to the Wildlife Law should be formally adopted and published.

The rationale and criteria to be approved are attached in Appendix 1 to this Report.

Once adopted, this rationale and criteria will be used to undertake a regular review of the Schedules, to ensure that species continue to be afforded a level of protection that reflect their current conservation status and to ensure that Jersey's international commitments for the protection of wildlife continue to be met. This periodic review to be known as the Quinquennial Review of the Schedules of the Wildlife (Jersey) Law 2021 (QQR).

Recommendations

To contribute to the delivery of the ministerial priority, and to provide a robust and objective process for the selection of species for protection under the Wildlife (Jersey) Law 2021, it is recommended that the Minister:

- i. approves the adoption of the rationale and criteria for the selection of species for protection in the Schedules to the Wildlife (Jersey) Law 2021; and
- ii. authorises their publication to inform the regular review of the Schedules of protected species under the Wildlife (Jersey) Law 2021 and in order that they are accessible to those affected by or interested in it.

Appendix 1

Rationale and Criteria for Listing

The process of selecting species for listing in the Schedules to the Law follows three main steps:

- **Rationale for listing** – why species are considered
- **Eligibility Criteria** – used to determine which species should be considered
- **Decision Criteria** – used to determine whether the species meets the need for protection under the Wildlife Law

Rationale for listing

The rationale for listing a wild animal, bird or plant in the Schedules to the Wildlife Law is that legal protection should be provided where the species is close to extinction in Jersey, or is likely to become so, and where such protection is likely to improve its chances of survival. Protection should also be provided where there is an international obligation to do so. Listing will need to be supported by evidence to show that the species meets the above requirements. An animal, bird or plant species meeting the Eligibility Criteria below will only be recommended for listing in the relevant Schedule to the Law where there is a strong case that such protection will remove the risk of its extinction or risk of it becoming threatened, through the reduction of one or more of the direct human pressures listed in the Decision Criteria below. Protection should then facilitate an increase in population size, number of localities occupied or range.

Eligibility Criteria

Eligibility criteria for native species

For a species to be eligible for listing in a Schedule to the Wildlife Law, one of the Eligibility Criteria in each of sections A, B and C below should be met and supported by evidence.

Section A - Nomenclature

The species must satisfy the following:

1. The taxonomic status of the species must meet recognised international standards of nomenclature (i.e., with an authenticated authority¹).
2. Taxa below the species level may be considered, provided that they are:
 - i. clearly recognisable (i.e., morphologically distinct); or
 - ii. geographically or ecologically distinct.

Section B – Jersey Status

The species must satisfy one or more of the following:

- i. The species is native in the wild in Jersey i.e., arrived in Jersey without intervention by man, whether intentional or unintentional, having come from an area in from which it is native or a species which has arisen de novo in Jersey (Preston *et al* 2002)²; or
- ii. The species occurs as a vagrant in Jersey and requires international protection; or

¹e.g., [International Commission on Zoological Nomenclature \(iczn.org\)](http://www.iczn.org)

² Preston, C.D., Pearman, D.A. & Dines, T.D. (2002). *New Atlas of the British and Irish Flora*. Oxford University Press, Oxford.

- iii. The species is a native that is believed extinct in Jersey as a breeding species, but is in the process of being reintroduced to the island; or
- iv. The species is a native that is believed extinct in Jersey, but with the possibility that it could become re-established naturally; or
- v. The species is native to Jersey and listed on Appendices I, II or III of the Bern Convention³; Appendices I and II of the Bonn Convention⁴ (unless specific derogations apply); or
- vi. The species is threatened internationally, but Jersey provides or could provide a refuge for a wild population.

Section C – Conservation Status

The species must satisfy one or more of the following:

- i. The species is endangered in Jersey; or
- ii. The species is likely to become endangered, unless conservation measures are taken; or
- iii. There is an international obligation to afford the species legal protection (if not protected elsewhere e.g., International or European designation); or
- iv. The species or sub species is widely recognised and accepted by the scientific community (or other relevant community) as being endemic to Jersey; or
- v. Where a protected species is easily confused with other species.

NOTES REGARDING ENDANGERMENT: Endangered is interpreted as Threatened under the IUCN Red list Criteria (incorporates the categories of Critically Endangered, Endangered & Vulnerable) (IUCN, 2003).

A species is considered to be or to be likely to become endangered when:

- It is included in an approved Jersey Red List, using the IUCN criteria, as Extinct in the Wild, Critically Endangered, Endangered or Vulnerable; or
- Records indicate that the species is known locally from only a single locality or from a severely fragmented range.

For species yet to be assessed for Red Listing or where an approved Jersey Red List for the species group concerned has not yet been published, the species may be added if it can be shown to meet IUCN criteria for a threatened category. For example, if a species is rapidly declining in population, with a reduction in number of localities occupied or range according to the IUCN criteria. The decline must transcend normal fluctuations.

To be recommended for listing, the endangerment of a species must, at least in part, be due to one or more of the direct human pressures listed in the Decision Criteria.

³ [Convention on the Conservation of European Wildlife and Natural Habitats \(Bern Convention\)](#)

⁴ [CMS | Convention on the Conservation of Migratory Species of Wild Animals \(Bonn Convention\)](#)

Eligibility criteria for non-native species

- i. Generally, only native (including reintroduced native) taxa are to be considered (see Eligibility Criteria for native species above). In exceptional circumstances, non-native species which have been introduced or thought to have been introduced to Jersey by man could be considered if the species is endangered or extinct in its native range and if current information suggests that the species is unlikely to have an adverse impact on native species or ecosystems.

If a non-native species meets criterion (i) above, preference will be given to those non-native species whose native range reaches the north-west coast of Europe (i.e. continental distribution extends to the Atlantic coast of France, Belgium, the Netherlands, Germany or Scandinavia and the northern Mediterranean Countries) and for marine taxa, the distribution includes the north-west Atlantic area.

There are different types of non-native plants:

- Non-native species brought into Jersey by man, intentionally or unintentionally, even if native to the source area or which have come into Jersey without man's intervention, but from an area in which it is present as a non-native (Preston *et al* 2002)
- Neophytes: (naturalised after AD 1500). Where there is clear evidence that a species is a neophyte it will be excluded from listing except where new evidence shows these neophytes to be considered native (Cheffings and Farrell 2005)⁵
- Archaeophytes: (naturalised before AD 1500) can be included in the selection process (Cheffings and Farrell 2005)
- "Native or Alien": evidence for and against native status is too finely balanced to decide the status. These species will be eligible for the selection process under the precautionary principle unless new evidence is available to decide the status one way or the other (Cheffings and Farrell 2005)

Decision Criteria

An animal or plant species meeting the Eligibility Criteria will be recommended for listing in the relevant Schedule to the Wildlife Law where there is a strong case that scheduling will afford significant benefits to it through a decrease in any of the direct human pressures listed below:

- i. deliberate or reckless killing or injuring, picking or uprooting or reckless disturbance of the species; or
- ii. 'Collection' including possession, dead or alive, in full or part thereof; or
- iii. Deliberate or reckless damage to the habitat, disturbance or obstruction to any structure or place of shelter and protection which is regarded as essential for the survival of the species (such as nests, burrows, holes, scrapes, or similar resting sites; sites used to raise young (and eggs)); or
- iv. A currently or potentially damaging trade, or other forms of exploitation or pressure;

⁵ Cheffings, C. and Farrell, L. (2005) (Editors). The Vascular Plant Red Data List for Great Britain. Species Status 7: 1-116. JNCC, Peterborough.

- v. Incidental pressure from land use or other activity affecting the population or its habitat.

Removing species and changing the protection status

Where a species that is already listed in a Schedule to the Wildlife Law is no longer considered to meet the Eligibility or Decision Criteria for listing, then it may be reassessed for the purposes of removing from the Schedule concerned. Similarly, the level of protection may be varied if the protection currently afforded to a species is no longer appropriate. In each case evidence must be provided to support any recommendations for change.

Appendix 2

**Implementation of the recommendations from the review of
Schedules and protected species under the Conservation of Wildlife (Jersey)**

Law 2000

<https://www.gov.je/government/pages/statesreports.aspx?reportid=2468>

November 2023

Recommendation		Progress to date
1	Provide year round protection for nest sites of certain bird species	COMPLETE Schedule 3 of the new Wildlife Law lists species of wild animal or wild bird whose nest or den is protected even whilst not in use
2	Review conservation status of unprotected bird species to consider whether they should be given protected status Introduce general licence regulating capture of unprotected species using prohibited methods such as cage traps	ONGOING To be undertaken as part of the 1 st QQR A wild bird trapping General Licence was introduced in April 2023. This licence requires users to register traps used to capture wild birds
3	To carry out research into conservation status of the Common pheasant in Jersey	COMPLETE A study (MSc) of the conservation status of the Common Pheasant was completed and published November 2016 The current conservation status will be reviewed as part of the 1 st QQR
4	To consider means of preventing release into the wild of species of unknown provenance or of non native species that have established in the wild To consider the wildlife law's relationship with the Weeds (Jersey) Law 1961 with respect to the regulation of planting in the wild	COMPLETE Article 20 of the new Wildlife Law prohibit the release of any animal or bird without a licence or unless it is listed on Schedule 12 to the Law Article 23 prohibits the planting/release of invasive non native species (INN species) or protected wild plants into the wild. The Wildlife Law provides powers to contain and remove INN species. The Weeds Law provides similar powers, in respect to injurious weeds that are listed in the Schedule to the Weeds Law.
5	To consider means of regulating the sale of INN species	COMPLETE Article 33 of the Wildlife Law prohibits the possession or sale of an INN species without a licence

6	To review prohibited methods of capture and the species to which they apply	<p>COMPLETE Schedules 9, 10 and 11 of the Wildlife Law provide an updated list of prohibited methods, devices and substances used to capture certain species/groups of species.</p> <p>These schedules will be reviewed as part of the 1st QQR</p>
7	To consider making provision for invertebrate species to be protected species	<p>COMPLETE In the new Wildlife Law 'animal' is defined as including an invertebrate animal</p> <p>Schedule 1 to the law lists the invertebrate species that are currently protected.</p> <p>This Schedule will be reviewed as part of the 1st QQR</p>
8	To consider making provision for algae, fungi and lichens to be protected	<p>COMPLETE In the new Wildlife Law 'plant' is defined as including any algae, fungi or lichen</p> <p>Schedule 8 to the law lists the wild plant species that are currently protected.</p> <p>This Schedule will be reviewed as part of the 1st QQR</p>
9	To work with Jersey Marine Resources to consider adding marine species for protection, to ensure compliance with international obligations	<p>COMPLETE A number of marine species of animal, plants and fish have been added to the Schedules of protected species to the Wildlife Law</p> <p>The species in these Schedules will be reviewed as part of the 1st QQR</p>
10	To consider establishing a hierarchical framework with varying levels of protection according to the conservation status of species	<p>COMPLETE The new Wildlife Law and associated Schedules provides varying levels of protection</p> <p>The species in these Schedules will be reviewed as part of the 1st QQR</p>
11 and 12	To establish a rationale and rigorous set of criteria for the listing of protected species and changes to schedules, based on the results and recommendations from the Review of Schedules and Protected Species of the Conservation of Wildlife (Jersey) Law 2000 report (2016)	<p>COMPLETE A rationale and criteria for listing of protected species has been adopted based on the findings and recommendations of the 2016 report. This will be used in the 1st QRR.</p> <p>A further review of the rationale and criteria will be undertaken during the 1st QQR, to</p>

		inform any revisions to be made to support the 2 nd QQR.
13 and 15	To consider the establishment of Red Lists for Jersey for each taxon group, in consultation with all relevant stakeholders	ONGOING During the 1 st QQR, engagement with focus groups will be held with a view to defining a way forward in establishing Red Lists
14	To adopt a methodology for reporting on compliance with international commitments for wildlife and nature conservation	ONGOING A comprehensive review of Jersey's reporting requirements under all relevant international environmental agreements is under way, one of the aims of which is to establish a consistent and effective reporting regime
16	To provide an information pack to support the QQR process and to provide guidance for the listing/delisting/amendment of Schedules of protected species	COMPLETE An information pack has been produced to support participants in the 1 st QQR
17	To provide for a five yearly review period of the protected species schedules, whilst allowing for species to be added or removed during this period	COMPLETE Article 33 of the Wildlife Law provides for the adoption of one or more strategies for the conservation of biodiversity in Jersey, and lists of species and habitats of principal importance. A report on implementation of such strategy(s) is required every 5 years Following the recommendations of the 2016 review, a five yearly review (QQR) of the species on the Schedules to the Wildlife Law will be undertaken, based on the rationale, criteria and guidelines contained within the Information Pack
18	On completion of recommendations 12 and 16, to contact each taxon group to complete an assessment for existing and proposed species for listing as protected under the Law	ONGOING This will be completed as part of the 1 st QQR