



## Briefing for the Public Petitions Committee

**Petition Number:** [PE1586](#)

**Main Petitioner:** James A Mackie on behalf of Innes Community Council

**Subject:** Statutory control measures for Invasive Non-Native Species - Calling on the Scottish Parliament to urge the Scottish Government to amend the Wildlife and Natural Environment (Scotland) Act 2011 to include statutory powers enforced by penalties to force land owners/tenants to destroy invasive non-native species that grow on their lands.

### Background

An invasive non-native species is any non-native animal or plant that has the ability to spread causing damage to the environment, the economy, human health and the way people live. Non-native species are considered to be the second most serious threat to global biodiversity after habitat loss. Islands, freshwater and coastal waters are most at risk. Non-native species are estimated to cost the Scottish economy around £264 million each year.

The petition background information mentions three invasive non-native plants species in particular.

[Giant Hogweed](#) *Heracleum mantegazzianum* - Aptly named 'giant', this umbellifer (member of the cow-parsley family) has flowering stems typically 2-3m high with flowers up to 80 cm in diameter. It is especially abundant by lowland streams and rivers, but also occurs widely on waste ground and in rough pastures. It grows on moist fertile soils, achieving its greatest stature in partial shade. In more open grassland, flowering may be delayed by repeated grazing. The plant produces phytotoxic sap, which after contact with human skin cause burns when the affected skin is exposed to sunlight.

[Japanese Knotweed](#) *Fallopia japonica* - Herbaceous perennial, with stems typically about 2m tall and an extensive system of rhizomes (mass of roots). It has large, roughly triangular leaves. Japanese knotweed is an invasive non-native weed, found mainly in urban areas where it is considered a nuisance in property development, because plants regrowing from rhizomes can come up through gaps in flooring in conservatories and patios. The ecosystem impact of this species is poorly documented. It usually occurs in highly degraded urban situations where the native flora is already impoverished. However,

alteration in habitat structure and biological communities is known to impact directly on salmonid (including salmon and trout) fisheries. As well as hindering conservation efforts and the viability for angling, the presence of these plant species pose great management and access concerns if left uncontrolled.

[Himalayan Balsam](#), *Impatiens glandulifera* – this is annual herb with stout translucent hollow stems which can grow to 2.5 m. It grows in moist and semi-shaded damp places, predominant on banksides by slow-moving watercourses. It shades out and crowds out many native species, and produces much nectar and is therefore attractive to pollinating insects, possibly to the detriment of native flowering plants. It has the ability to completely change the appearance of riverbanks with its large showy, highly attractive and pungent flowers. It is not known to be poisonous, but does have a bitter taste if ingested. Having become dominant in its invaded habitat, the shallow root system can promote erosion during the annual cycle through dieback and subsequent destruction of bankside structure. Dense stands can impede water flow at times of high rainfall, thereby increasing the likelihood of flooding.

### **Scottish Government Action and Scottish Parliament Action**

Non-native species action is coordinated at the GB level, to ensure good coordination in a geographical area that makes sense ecologically. A GB Programme Board, made up of senior representatives from across GB Administrations and their agencies, is in place to give strategic consideration of the threat of invasive non-native species across GB.

This Board is supported by the independent [Non-Native Species Secretariat](#). Much of the work carried out across GB is led by the [Invasive Non-Native Species Framework Strategy for Great Britain](#), launched in 2015 by the Scottish Government, Defra and the Welsh Assembly Government. This is the second GB wide strategy, the first having been published in 2008.

A Scottish Non-Native Species Action Group was set up in March 2006 to ensure effective policy co-ordination and practical implementation in Scotland. In July 2012, the Wildlife and Countryside Act was amended to introduce new statutory powers relating to non-native species. The Statutory Group on Non Native Species was established to oversee the use of those powers and coordinate work between the statutory bodies with specific responsibilities for non-native species in Scotland.

### **Wildlife and Natural Environment (Scotland) Act 2011**

The Wildlife and Countryside Act 1981 is the main UK legislation on wildlife and non-native species. It was amended by the Wildlife and Natural Environment (Scotland) Act 2011. These amendments enable Scotland to adopt the internationally recognised three-stage approach to dealing with invasive non-native species:

1. Prevent the release and spread of non-native animal and plant species into areas where they can cause damage to native species and habitats and to economic interests;
2. Ensure a rapid response to new populations can be undertaken; and
3. Ensure effective control and eradication measures can be carried out when problem situations arise.

The Wildlife and Natural Environment (Scotland) Act 2011 also changed the release offences in the Wildlife and Countryside Act 1981 and added new sections on keeping, notification and control.

New release offences are based on a 'general no-release approach' which is considered to be a much more effective way in which to prevent the release or growing of potentially harmful animals or plants. It will be an offence to:

- Release or allow to escape from captivity any animal to a place outwith its native range;
- Release or allow to escape from captivity any other animal specified in an order made by the Scottish Ministers;
- Cause any animal outwith the control of any person to be at place outwith its native range; and
- Plant or otherwise cause to grow any plant in the wild outwith its native range.

Native range is defined as "... the locality to which the animal or plant of that type is indigenous, and does not refer to any locality to which that type of animal or plant has been imported (whether intentionally or otherwise) by any person."

Scottish Ministers have powers to prohibit by order the keeping of invasive animals and plants; this can either be an absolute prohibition, or allowed only under licence.

Scottish Ministers have powers to make orders requiring the notification of specified invasive animals and plants. This will ensure that reports of plants and animals that are considered a significant risk to Scotland are reported to the appropriate authority, so that they can be investigated at an early stage, and control or eradication measures considered as necessary.

Scottish Ministers have the powers to prohibit by order the sale of invasive animals or plants; this can either be an absolute prohibition, or allowed only under licence.

The 2011 Act introduced a new regime of Species Control Orders into the 1981 Act. This will enable relevant bodies (Scottish Ministers, Scottish Natural Heritage, the Scottish Environment Protection Agency and Forestry Commission Scotland) to make a Species Control Order setting out measures that must be taken to control or eradicate an invasive non-native animal or plant.

The Act also provides for a [Code of Practice on Non-Native Species](#) which was laid before the Scottish Parliament on 21 May 2012. The Parliament approved the Code on 28 June 2012, and it came into effect on 2 July 2012.

### **Specific regulation re: Japanese Knotweed**

Japanese knotweed is listed on Part II of Schedule 9 of the Wildlife and Countryside Act 1981, which makes it an offence (under Section 14 of that Act) for any person to plant or otherwise cause it to grow in the wild. The offence is punishable in most cases by a fine of up to £10,000 or 12 months imprisonment.

A failure to prevent the spread of Japanese knotweed will generally not be an offence. However, a landowner who does not control the spread of Japanese knotweed might in some circumstances incur civil liability to his or her neighbours.

Japanese knotweed and the soil containing particles of the species or their rhizomes, once removed, is regarded as controlled waste for the purposes of Part II of the Environmental Protection Act 1990. Controlled waste must be disposed of in accordance with Section 33 of the Environmental Protection Act 1990.

Section 33 of the Environmental Protection Act states that it is an offence to deposit, treat, keep or dispose of controlled waste without a licence. The offence is punishable in most cases by a fine of up to £50,000 and/or 12 months imprisonment.

### **Support for control of invasive non-native plant species**

Support is available for the control of Japanese knotweed, giant hogweed or Himalayan balsam under the [Scotland Rural Development Programme 2014-20](#). Support is available for initial and follow up treatments. Support is being [targeted at particular areas](#), but can be available outwith the target area if there is strong justification for control and that is supported by Scottish Natural Heritage. The target area largely covers most of Lowland Scotland. Any land which is infested with Japanese knotweed, giant hogweed or Himalayan balsam is eligible. Applicants must prepare an invasive plant management plan with a map and photographs showing the location and extent of the infestation and the areas to be treated, as well as the type and timing of the treatment proposed. The plan must also identify the locations of sensitive areas, where herbicide treatment would not be appropriate. If approved, payment rates are:

- Japanese knotweed: £1.70 per square metre treated
- Giant hogweed: £1.50 per square metre treated
- Himalayan balsam: £0.11 per square metre treated

Other sources of funding for control of INNS include:

- SEPA – water environment restoration fund – controlling non-native invasive bank side and in-stream plants;
- SNH – grants programme – although work eligible for SRDP funding is excluded;
- EU – LIFE + nature and biodiversity funding – large scale projects that contribute to EU Habitats Directive or halting biodiversity loss;
- Central Scotland – CSGN development fund – projects which support the development of strategic habitat networks and green networks;

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