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Michael McMahon
Convener
Public Petitions Committee
Scottish Parliament

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Dear Michael

PE1586: STATUTORY CONTROL MEASURES FOR INVASIVE NON-NATIVE SPECIES

Your committee recently discussed this petition and subsequently asked the Scottish Government for its views on the petition and for information relating to prosecutions for a failure to treat invasive non-native species. I felt it would be useful for me to first outline what the current legislation provides for, as context for the information you have requested.

The Wildlife and Countryside Act 1981, as amended by the Wildlife and Natural Environment (Scotland) Act 2011, is the principal legislation that governs non-native species in Scotland. It prohibits the planting, or causing to grow, of plants in the wild outwith their native range. It does not require landowners or managers to clear non-native species from their land, nor does it prohibit the planting of non-native species on non-wild land such as gardens. Exceptions for non-native plants that are not invasive and are beneficial are in place, for example for some wildflower species and some forestry species.

The 1981 Act also provides for additional restrictions to be put in place, for example to prohibit the sale or possession of specified species or to require the reporting of them. These additional restrictions currently apply to a number of animals. We have not listed any plants for this purpose. The Scottish Biodiversity Committee's Non-Native Species Action Group reviews these prohibitions on an annual basis.

The 1981 Act provides for Species Control Agreements (SCAs) and Species Control Orders (SCOs). These can be made in order to require a land owner or occupier to take specified actions to address invasive non-native species on their land. A

voluntary Species Control Agreement must be tried first. If the SCA is not complied with by the landowner or occupier, an SCO can be imposed. Failure to comply with an SCO is a criminal offence, and the agency responsible for the Order can arrange for work required to be undertaken where necessary and the costs reclaimed from the owner or occupier.

Scottish Natural Heritage, as the lead organisation for terrestrial non-native species, would be the body creating orders relevant to the issues identified in this petition in most situations. SCAs and SCOs can also be made by the Scottish Environment Protection Agency, Forestry Commission Scotland and Scottish Ministers (in order for Marine Scotland to be able to act in the marine environment).

Our policy is not to use SCAs and SCOs to require eradication of non-native species wherever they occur. Given the widespread establishment of these species this would be impracticable and would impose an unreasonable burden on landowners. Our policy is rather to use these agreements to support landscape-scale control programmes or to address specific local ecological or public health issues.

More details regarding what the 1981 Act contains and which organisations lead in which circumstances can be found in the Code of Practice on Non-Native Species (available on the Scottish Government website <http://www.gov.scot/Publications/2012/08/7367>)

You asked for information relating to prosecutions for *failure to treat any invasive non-native species*. This would only be an offence if treatment was a condition of a Species Control Order and I can confirm that no such prosecutions have taken place since the regime was put in place in 2012. Since 2012 two SCAs have been put in place, but no SCOs.

The petition asks for powers to be given to certain organisations allowing them to require action on the part land owners. I believe that the powers contained in the 1981 Act already provide a robust framework within which non-native species can be dealt with. In addition to this the Non-Native Species Action Group are in the process of finishing an exercise to identify Scotland's priority species for control or management. They will be looking at the action that is currently taken to address those priority species and identifying what more could and should be done. If that includes changes to legislation then I would, of course, consider what changes could be made.

Kind regards

AILEEN MCLEOD