

STATES OF JERSEY



DRAFT WILDLIFE (JERSEY) LAW 202- (P.110/2020): AMENDMENT (P.110/2020 AMD.) – COMMENTS

**Presented to the States on 30th October 2020
by the Minister for the Environment**

STATES GREFFE

COMMENTS

I would like to acknowledge the Deputy of St. Martin's amendment to P.110/2020 (Draft Wildlife (Jersey) Law 202-) and address each part of their proposal which I have done below.

Amendment 1

PAGE 33, ARTICLE 8 – For Article 8(3) (prohibitions relating to dens and nests, etc.) substitute –

“(3) The prohibitions in paragraphs (1) and (2) do not apply, except in relation to a bat of a species listed in Part 1 of Schedule 3, to anything done within – (a) the living area of a dwelling-house; (b) the footprint of any domestic premises attached to a dwelling house; or (c) an area inside the curtilage of a dwelling-house and extending to no further than 10 metres from the exterior of the house.”

Response

The draft Wildlife (Jersey) Law 202- is Jersey's primary legislation that protects wildlife from harm. It is also an essential tool in enabling Jersey to fully comply with its international obligations for the conservation of biodiversity. These obligations are laid out in a number of multi-lateral environmental agreements (“MEAs”) that have been extended to Jersey, notably:

- The Convention on Biological Diversity (“the Rio Convention”) (CBD);
- 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”) and associated Protocols and Agreements that have been extended to Jersey.

These international obligations include a requirement for each member country to take measures to conserve biodiversity, to protect rare wild flora and fauna from deliberate killing or harm and to prevent the deliberate damage of their breeding or resting sites.

The draft Wildlife Law does not differ from the current Conservation of Wildlife (Jersey) Law 2000, in that the protection afforded to wild animal and bird species applies whether the animal or bird is found within or outside of domestic curtilages. This is a reflection of best practice and mirrors equivalent legislation in other jurisdictions, including the UK and Isle of Man.

Wildlife knows no boundaries and many of Jersey's wild animals and birds, both common and rare, regularly use the gardens and grounds of private properties, whether for breeding or foraging or commuting. In most cases, they do so peaceably without the knowledge of or interfering with the houseowner.

The draft Wildlife Law is clear that order to constitute a potential offence, an act that results in the killing, harming or disturbance of a protected species should have been carried out ‘deliberately’ or ‘recklessly’. There would need to be a specific intention to kill or harm a wild animal or bird known to be present.

Where a protected wild animal or bird is known to be present and is needed to be moved or disturbed, for example in order to clean a pond that is in use by toads, simple practical measures can generally be taken to avoid causing harm. Best practice guidance around appropriate steps to avert any risk to wildlife will be published with the new Law.

It should also be noted that the draft Wildlife Law introduces a hierarchy of protection for wild animals and wild birds, which takes into account their distribution, threat and rarity. These varied levels of protection are reflected in the Schedules to the Law, which specify various categories of wildlife and the protections applicable to each.

Thus, the intentional disturbance of the den of a grass snake, which is one of our rarest species, may need to be carried out in a sensitive manner and handled under a licence. The disturbance of the nest of a shrew would not be considered an offence provided that no deliberate harm was caused to the animal in the process.

Summary

- The proposed amendment fails to comply with Jersey’s international obligations for the conservation of wildlife/biodiversity;
- The proposed amendment would have a detrimental impact on the island’s populations of a range of protected wild animals and wild birds, including rare or threatened species.

Amendment 2

PAGE 50, ARTICLE 35 –

In Article 35(6) (designation of Areas of Special Protection) for “28 days” substitute “3 months”.

Response

Article 35(6) of the draft Wildlife Law provides that the Minister may not make an Order under this Article before the expiration of a period of 28 days from the date of giving of a notice in writing of the proposal. The explanatory note will be amended and reissued in time for the debate to give clarity to this provision.

The prescribed period of 28 days is considered sufficient to allow for due contact and consultation with owners and occupiers affected by the proposals. This length of consultation period is used in other similar site designation procedures including the Site of Special Interest listing process under the Planning and Building (Jersey) Law 2002.

Summary

- The Minister will reissue the explanatory note ahead of the debate.

Conclusion

The Minister requests that members reject the amendments proposed by the Deputy of St. Martin.