

## **Explanatory Memorandum to The Humane Trapping Standards Regulations 2019**

This Explanatory Memorandum has been prepared by the Department for Environment and Rural Affairs and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

### **Cabinet Secretary/Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Humane Trapping Standards Regulations 2019. I am satisfied that the benefits justify the likely costs.

**Hannah Blythyn AM**  
**Minister for Environment**  
**Date: 14 November 2018**

## **PART 1**

### **1. Description**

The Humane Trapping Standards Regulations 2019 (“the Regulations”) amend the [Wildlife and Countryside Act 1981](#) (“the Act”) in order to implement, in Great Britain, requirements contained in the [Agreement on International Humane Trapping Standards](#) between the European Community, the Government of Canada and the Government of the Russian Federation (“the Agreement”). In doing so, the Regulations also implement the equivalent standards contained in the bilateral [Agreed Minute](#) between the European Community and the United States of America.

The Agreement seeks to improve animal welfare standards by prohibiting the use of traps that do not comply with humane trapping standards, by requiring compliant traps to be certified and identified by manufacturers and by requiring trapping to be carried out in accordance with its standards.

The European Union (EU) is a Party to the Agreement. However, there is no implementing legislation at the EU level. Under EU law, the UK as a Member State (MS) is therefore obliged to implement the trapping standards directly through domestic legislation.

For ease, this document will generally refer to the implementation of the Agreement. However, as mentioned above, in doing so, we will also be meeting the commitments in the separate Agreed Minute between the EU and the USA.

### **2. Matters of special interest to the Constitutional and Legislative Affairs Committee**

These Regulations make amendments to an existing UK Act of Parliament, and are being made on a composite basis by the Welsh Ministers (in relation to Wales) and by the Secretary of State (in relation to England and Scotland). These Regulations are subject to affirmative resolution procedure before the National Assembly for Wales and the UK Parliament. As the Regulations will be subject to UK Parliamentary scrutiny, it is not considered reasonably practicable for this instrument to be made or laid bilingually.

There is no difference in the policy on which these Regulations are based between Wales, England and Scotland. The composite approach allows for a series of coordinated amendments to the Act, which is heavily amended. A single instrument for England, Scotland and Wales offers an effective and efficient mechanism that would mean that further changes could be coordinated with a view to providing greater clarity. A single SI to implement the provisions of an international agreement that will apply throughout Great Britain should assist with the accessibility of relevant provisions for members of the public and others.

### **3. Legislative background**

[Council Regulation \(EEC\) No 3254/91](#) (“the Leghold Trap Regulation”) prohibits the use of leghold traps in the EU. It also prohibits the introduction into the EU of pelts and manufactured goods of certain wild animal species originating in countries which catch them by means of leghold traps or trapping methods which do not meet international humane trapping standards.

The Leghold Trap Regulation defines a ‘leghold trap’ as a device designed to restrain or capture an animal by means of jaws which close tightly upon one or more of the animal's limbs, thereby preventing withdrawal of the limb or limbs from the trap. A leghold trap is something akin to what is commonly referred to as a ‘gin trap’. Gin traps haven’t been approved for use in the UK since the 1950s.

In 1997, the EU concluded the Agreement with Canada and the Russian Federation and a similar Agreed Minute with the USA, for the purpose of establishing humane trapping standards and facilitating trade in fur and fur products. By establishing international standards, these agreements allow Canada, the Russian Federation and the USA (the main importers of wild-sourced pelts) to import pelts and manufactured goods of certain wild animal species into the EU.

These Regulations are required to meet the UK’s obligations under EU law to implement the Agreement. The EU is a Party to the Agreement, however there is no implementing legislation at the EU level. Under EU law, Member States are obliged to ensure that the obligations arising from international agreements entered into by the EU, such as the Agreement, are implemented. This is an obligation of the UK Government and the Welsh Ministers, to the extent that the Welsh Ministers can implement the Agreement by the exercise of any of their functions (section 80 Government of Wales Act 2006). The Welsh Ministers designation in relation to ‘wild animals’ (S.I 2014/1890) for the purposes of section 2(2) of the European Communities Act 1972 enables them to implement the Agreement in relation to Wales.

Article 7 of the Agreement requires the UK to prohibit the use of traps that are not certified as meeting the humaneness standards which are set out in the Agreement, and Article 8 of the Agreement requires the UK to put in place appropriate processes to grant or remove permission for the use of traps.

Article 12 of the Agreement, allows authorisation of the use of traps certified by other Parties, including other Member States, as compliant or else provide justification in writing to the Joint Management Committee (JMC) for not doing so.

The Agreement does not prevent individuals from constructing and using their own traps and snares, provided that such traps comply with designs approved by the relevant competent authority. These traps constructed by individuals are meant to be simple home-made traps for the constructor’s personal use.

In exceptional circumstances the use of non-compliant traps is possible under Article 10 of the Agreement, which permits derogations to be granted on a case

by case basis, provided they are not applied in a manner that would undermine the objectives of the Agreement.

Domestically, section 11 of the Wildlife and Countryside Act 1981 protects all animals from certain methods of killing and taking, with increased protection provided to those species listed in Schedule 6 to the Act. Our approach to implementation has been to amend this section, and the related section 16 (which allows derogation from those prohibitions, by means of licences) to reflect the requirements of the Agreement.

The Regulations improve the clarity of our implementation of the Leghold Trap Regulation. Article 2 of the Leghold Trap Regulation prohibits the use of leghold traps in the EU. This prohibition is implemented in Great Britain by the spring trap approval system under the Pests Act 1954 and the Agriculture (Scotland) Act 1948. In Wales, and in other administrations in Great Britain, there is an understanding that the use of leghold traps would not be approved in a spring trap approval order under the Pests Act 1954.

However, we consider that our reliance on the spring trap approval system for the purposes of implementing Article 2 should be made more transparent. To improve clarity, the regulations amend [section 8 of the Pests Act 1954](#) and [section 50 of the Agriculture \(Scotland\) Act 1948](#) to make it clear that the Welsh Ministers, Secretary of State and Scottish Ministers would not approve or authorise the use of a leghold trap.

#### **4. Purpose and intended effect of the legislation**

Under EU law, the UK Government and the Welsh Ministers are obliged to implement the Agreement. The deadline for implementation of the Agreement was July 2016.

These Regulations implement the Agreement using existing legislative frameworks. A 'do nothing option' would result in a continued failure to meet these obligations. In addition, there would be no improvement in animal welfare as there would be no incentive for trap operators to improve their traps.

The Agreement covers trapping of animals for a variety of different reasons and applies to 19 species in total, most of which are not native to the UK. All traps, including cage traps, are covered by the Agreement.

Of the 19 species covered by the Agreement, only five occur in the wild in the UK:

- European Badger, *Meles meles*
- European Beaver, *Castor fiber*
- European Otter, *Lutra lutra*
- Pine Marten, *Martes martes*
- Stoat, *Mustela ermine*

Of these, only the stoat is regularly and widely trapped in the UK and it is the only species for which kill (lethal) traps are commonly used.

The effects of the instrument will primarily impact those who trap stoats in the UK; especially the gamekeeping sector which regularly catch stoats to protect game birds, but also, farmers, pest controllers and conservation agencies. Businesses such as trap retailers, manufacturers and importers, pest control companies, farms and other land managers and traders of fur and fur products derived from trapped animals will also be affected.

In order to give manufacturers sufficient time to produce compliant traps in sufficient quantities and for trap users to replace their existing traps for stoats, Ministers have decided to include a transitional provision which delays implementation for stoat by 12 months (until 1 April 2020). This will provide a clear signal to manufacturers and trap users that they must transition to compliant traps, whilst recognising they will need time to do so. This transitional provision is permitted under paragraph 4.2.3 of the Standards (found in Annex 1 to the Agreement).

These Regulations enable the Welsh Ministers to certify traps and approve the design of traps. There are requirements for the Welsh Ministers to publish lists of traps that they have certified and approved - these will be made publicly available on gov.wales. In certifying traps, we propose to identify the trap by make, model and manufacturer. If the manufacturer of a certified trap were to change, we would need to certify the 'new' trap. Provided they are built using the same design and to the same standards, the certification process will be simple and straightforward (i.e. the submission of a trap to confirm it is to the same design and quality, then adding to certified list).

## **5. Consultation**

A Regulatory Impact Assessment (RIA) has been completed alongside this Explanatory Memorandum. Details of the [consultations undertaken are included in the RIA in Part 2, Section 8.](#)

## **PART 2 – REGULATORY IMPACT ASSESSMENT**

The EU has entered into agreements with Canada, the United States of America and the Russian Federation to improve the welfare standard of traps used to catch or kill some wild animals. These agreements require EU Member States, including the UK, to have a system in place for certifying traps which meet specified humaneness standards and to prohibit the use of uncertified traps for trapping a list of specified species by 22 July 2016.

Parties to the AIHTS (Canada, Russian Federation and the EU) are required to meet on an ongoing basis. Delegates to these meetings make up the JMC, established under the terms of the AIHTS to administer the Agreement. The USA is a permanent observer on the JMC.

## 6. Options

International obligations under the agreements require us to prohibit non-certified traps. A 'do nothing option' or a non-regulatory approach would result in a continued failure to meet these obligations. The European Commission (EC) has already written to Member States reminding them of their obligation to implement the AIHTS and requesting details of implementation.

Our preferred option (Option 1) is to amend existing legislation to prohibit the use of non-certified traps against the five UK species and ensure the trapping of these species can be regulated through the existing licensing system. We intend to implement from 28 March 2019, with the provisions relating to stoat having effect from 1 April 2020 to facilitate transition from non-compliant to compliant traps.

## 7. Costs and benefits

### Summary: Analysis & Evidence

### Policy Option 1

**Description:** Implementation of the Agreement on International Humane Trapping Standards (AIHTS) in the UK

### FULL ECONOMIC ASSESSMENT

Price Base Year 2016	PV Base Year 2017	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -5.18	High: -0.12	Best Estimate: -1.12

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.5		-0.1	0.1
High	6.0		-0.1	5.2
Best Estimate	1.8		-0.1	1.1

#### **Description and scale of key monetised costs by 'main affected groups'**

The main affected group are gamekeepers. They will be required to replace nearly all of their existing stoat traps before 1<sup>st</sup> April 2020 or else stop trapping stoats until they do and this comes to a total cost of £1.7m in the first year or so of the appraisal. This initial cost is offset by a reduced need to replace old traps in the following years, giving a total net present cost of this activity of around £1.0m. Gamekeepers also face a familiarisation cost of around £0.1m in the first year.

Under the High scenario there is also a large one-off cost associated with constructing new tunnels of around £2.6m and replacing traps around £2.3m. Together these factors make the estimated cost of the High scenario nearly five times larger than that of the Best Estimate (Central scenario), although the High

scenario would only represent an accurate view of the world if all of the independent “high” assumptions were true at the same time. This is extremely unlikely.				
<b>Other key non-monetised costs by ‘main affected groups’</b>				
N/A				
<b>BENEFITS (£m)</b>	<b>Total Transition (Constant Price) Years</b>		<b>Average Annual (excl. Transition) (Constant Price)</b>	<b>Total Benefit (Present Value)</b>
<b>Low</b>	Optional		Optional	<b>Optional</b>
<b>High</b>	Optional		Optional	<b>Optional</b>
<b>Best Estimate</b>				
<b>Description and scale of key monetised benefits by ‘main affected groups’</b>				
None				
<b>Other key non-monetised benefits by ‘main affected groups’</b>				
By removing less humane traps from use, implementation will result in improvements to the welfare of the 5 species covered by the Agreement. Furthermore, because stoat trappers catch multiple species in their traps, other small ground pest species will also benefit from more humane stoat traps. Evidence shows that the UK public places a value on higher welfare standards for animals, which suggests non-market benefits associated with implementation of the preferred option.				
Key assumptions/sensitivities/risks				3.5%
There are two key assumptions which influence the results: (1) The cost of new, compliant traps; (2) Whether new tunnels will need to be constructed when replacing traps. Variation in (1) is reflected in the “low” and “high” scenarios presented here. We assume that new tunnels need not be constructed in both the “low” and “best estimate” scenarios, but allowing for this accounts for the large increase in cost shown in the “high” scenario.				

#### **BUSINESS ASSESSMENT Option 1**

<b>Direct impact on business (Equivalent Annual) £m:</b>			<b>Score for Business Impact Target (qualifying provisions only) £m:</b>
<b>Costs: 0.1</b>	<b>Benefits: 0.0</b>	<b>Net: -0.1</b>	

## **Evidence Base for Summary Sheets**

### **Benefits**

The purpose of the AIHTS is to set minimal welfare standards for traps used to capture species commonly trapped for fur, food, pest control purposes or conservation. Implementation in the UK will result in improvements in the welfare of trapped animals by removing traps from use which have a lower standard of welfare.

There is significant evidence that the public value animal welfare. Research by the University of Reading ([Bennet, 2012](#)) conducted a small survey on animal welfare.

They found that 96% of respondents thought we had a moral obligation to safeguard the welfare of animals. They were also willing to pay approximately £5 more per month for meat from farm animals with improved welfare. These values relate to the welfare of farm animals and therefore cannot be applied directly to this case. However, it illustrates a clear preference for products which take animal welfare into account.

Improving the welfare of certain species, by complying with the AIHTS, is therefore likely to generate non-market benefits to the public. Implementation will also mean that we are meeting our EU obligations to comply with the AIHTS.

### **Public cost of licensing, enforcement and implementation**

The existing licensing mechanism would be used to allow compliant traps to be used. The AIHTS simply improves the standards with which traps must comply before they can be used and extends the scope of existing trap offences to two additional species (stoat and beaver). We propose that trapping of stoats using compliant traps should be permitted under a general licence granted by the licensing authority, which in Wales is Natural Resources Wales.

For other AIHTS species, we propose, licences would continue to be granted on a case-by-case basis or, in certain circumstances, under class licences.

In licensing trap use, we would require the licensing authority to only licence a trap or snare which is:

- of a certified type and make;
- identified by its manufacturer by means of a permanent marking as being of a certified type and make<sup>1</sup>; and

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<sup>1</sup> If manufactured by the manufacturer after the SI comes into force

- supplied with instructions for its appropriate setting, safe operation and maintenance; or
- if constructed by the person using it, compliant with a design approved by or on behalf of the Secretary of State for this purpose

In exceptional circumstances, the use of non-AIHTS compliant traps would be possible under licence on a case by case basis in accordance with Article 10 of the Agreement.

The impact on the public sector is likely to be minimal as we already have legal mechanisms in place for stipulating which traps can be used to capture certain species. This will result in negligible costs to the licensing authority and provides the least burdensome approach for trappers. It does not require the introduction of new offences or penalties and we would not anticipate significant additional enforcement costs as a consequence of implementing the Agreement.

### **Training requirements**

The Agreement requires that trappers are trained in the humane, safe and effective use of trapping methods, including new methods as these are developed. The EC has indicated that it is satisfied that instructions and guidance provided with traps when they are sold would meet this requirement. We are satisfied, therefore, that licence conditions of use which require a trapper to follow the manufacturer's instructions, such other instructions prescribed in the licence and the Spring Trap Approval Order, would be sufficient to meet the requirements of the Agreement with no additional training costs being incurred by gamekeepers as a result of implementation.

For home-made traps and snares, users should be required to follow the manufacturer's instructions for the certified design, or if there are no such instructions, in accordance with conditions of use set out in the licence under which the trapping is being permitted.

### **Requirements for manufacturers/retailers**

To be compliant with the Agreement, manufacturers will need to ensure their traps are identified as meeting the standards and provide instructions for their appropriate setting, safe operation and maintenance.

### **Marking of traps**

The identification of certified traps, the permanency and the purpose of such a marking is not prescribed in the Agreement. However, we have concluded that the best route to ensure that manufacturers fulfil their trap marking obligations would be for traps to carry permanent marking which clearly identifies the make and model of trap, and to build the requirement for trap marking into the certification process. Ideally, the marking should be stamped or embossed onto an ID plate permanently attached (e.g. riveted) to the trap itself.

Discussions with UK manufacturers and importers have indicated that these obligations could be fulfilled with minimal additional expense; many manufacturers already permanently mark their traps with data (e.g. their name). We do not have precise information on the proportion of manufacturers who do this. We sought to gather this information during the consultation process but no further reliable data was provided.

We need to consider the approval of traps which have been certified by other signatory countries, which means that the marking requirement would need to be suitably flexible to accommodate different approaches (e.g. Canada have implemented using serial numbers for traps). However, failure to have suitable markings on a trap would provide us with justification for not approving their use in the UK.

This requirement is placed on manufacturers and will therefore only apply to traps that are manufactured after the Regulations are implemented in Great Britain. Traps which are already with distributors or trappers and compliant with the Agreement, will not need to be marked (although trappers may choose to identify the trap as meeting the standards when tagging their traps). It is proposed that a condition of certification will be that the trap must be suitably identified as meeting the standards if manufactured after the implementation date. While this will create some initial enforcement issues, over time the numbers of unmarked traps in circulation will diminish as they are replaced.

### **Provision of user instructions**

There is some flexibility in how manufacturers provide instructions. For example, the instructions could be provided with the trap when purchased or separately on the internet, but we consider that they should continue to be obtainable via the manufacturer for the life of the trap, since traps may be in service for several years and instructions can be damaged or lost over time. All manufacturers/retailers we spoke to already provide this information and we don't expect any significant alteration of instructions will be required to ensure compliance, therefore we would anticipate no additional costs as a result of this requirement.

### **Live capture traps background and cost**

In evaluating whether a trap meets the Agreement, the humaneness assessment considers whether certain behavioural and injury indicators are shown. To be approved, the trap must meet the required standards for 80% of 20 humaneness assessments.

The UK AIHTS species other than stoat and European beaver are expressly protected under the Wildlife and Countryside Act 1981. These species are not frequently trapped, but when they are, it is usually for conservation, disease control or damage prevention purposes, under licence and using a live capture trap. European beaver has very recently begun to re-establish itself in the wild and will be subject to the same kind of trapping activity. Following

implementation of the Agreement, where there is a suitable certified AIHTS-compliant trap available, only a certified trap will be licensed.

We have adequate data on the cage traps most commonly used in the UK for the live capture of the European badger to certify their use under the AIHTS. We also have sufficient data to certify a cage trap model for stoat, pine marten and beaver. We are currently looking to acquire sufficient data to certify a cage trap model for otter.

Initially, our approach would be to rely on the above models and certifications by other AIHTS Parties (including EU Member States) who more commonly trap these species. It is likely that the traps used by UK trappers will be certified under AIHTS elsewhere. This means we can approve the same traps in the UK without cost to Government, manufacturers or end users.

If users have to replace non-compliant traps that they currently use for these species, there may be an additional cost. However, this is unlikely to be significant for a number of reasons:

- 1) Otters, beavers, stoats and pine marten are so rarely live caught that UK trappers will not have a significant stock of traps that need replacing.
- 2) There are several live capture traps certified by the Fur Institute of Canada for beaver. Whilst this is likely to mean the Canadian beaver (*Castor canadensis*) rather than the European beaver (*Castor fiber*), there are no significant morphological differences between the two species such that there are no welfare implications of approving traps for both species simultaneously. Agreement for simultaneous certification for both species would have to be sought from the JMC for AIHTS, but if this is secured, then these beaver traps will be available for use by UK trappers.
- 3) Because live caught animals are often released after capture, suitable medical assessments (to ensure they are fit for release) may already have been recorded such that certification of some UK trap models will be possible without a need for further humaneness assessment. We have already used such data to determine compliance of several cage traps as mentioned above.
- 4) Cage trap models are generally similar to each other, which means that small differences may not have an impact on the humaneness of the trap. Therefore, the certification of one trap model may mean a similar design can be certified without the need for separate humaneness assessment.

If there is no certified live capture trap design available, or insufficient welfare data available to consider certification of a design, or someone wants a trap design to be considered for certification for a particular AIHTS species, we would propose to use individual licences using the derogation purposes under Article 10 AIHTS to permit the use of unapproved live capture traps (e.g. cage

traps) to trap the species concerned, until we have gathered enough welfare data on the trapped animal to be able to determine whether the trap can be certified as AIHTS compliant.

A condition of such a licence will be that a suitable humaneness assessment should be carried out on any animals trapped under the licence and the suitability of the person undertaking the assessment would be recorded in the returnable assessment form.

The expectation would be that the licence applicant would be liable to any cost incurred in providing the data. However, part or even most of the humaneness assessment cost will already be incurred as part of current live capture trap user practice.

In summary, because humaneness assessments already take place, the number of trapping events (and therefore assessments undertaken) and the number of traps needing replacement, will be so small, it is assumed that the cost of implementing AIHTS with respect to live capture traps is likely to be negligible. We sought more information on frequency and cost in the consultation. However, the consultation didn't provide any further reliable data on this issue and for the purposes of this RIA, we will assume the cost here is £0.

### **Lethal traps background**

The Agreement's standards are met if the time to irrecoverable unconsciousness<sup>2</sup> does not exceed a specified time.

#### *Efforts to make available in the UK suitable run-through lethal traps for stoats*

The only country covered by the AIHTS other than the UK that has, to our knowledge, tested kill traps for stoats is Canada. The Fur Institute of Canada has certified over 20 traps as compliant with the AIHTS for stoat. However, the stoat is much smaller in Canada than in the UK (about the size of our weasel) and [scientific evidence from New Zealand](#) and subsequent trap testing in the UK demonstrates that the difference in the size of the two sub-species requires different trapping standards to ensure a humane kill.

Currently, Spring Trap Approval Orders made in England and Wales under the Pests Act 1954, Scotland under the Agriculture (Scotland) Act 1948 and Northern Ireland under the Wildlife (Northern Ireland) Order 1985 permit, by listing, the use of a number of traps for killing stoats. While there are limited data on trap use in the UK we know that the majority of these traps are either no longer manufactured or in use, or have already been assessed against the AIHTS criteria (see table 1).

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<sup>2</sup> Pain is not felt when unconscious

Evidence from the testing of run-through stoat traps has shown that there were no currently approved trap models available in the UK that have been shown to be compliant with AIHTS for European stoats using a run-through configuration.

A technical working group was established by Department of Environment Food and Rural Affairs (Defra) to identify AIHTS compliant traps that are suitable for stoats in the UK. The working group includes user representatives from the British Association of Shooting and Conservation (BASC), Countryside Alliance, the Game and Wildlife Conservation Trust (GWCT), the Moorland Association, the National Gamekeepers' Organisation and Scottish Land and Estates, as well as government organisations (Animal and Plant Health Agency and Science and Advice for Scottish Agriculture).

Besides the traps presently approved for stoat under the Spring Trap Approval Orders, we have also considered and tested several new potentially suitable trap designs, developed as commercial ventures.

As a result, four AIHTS-compliant trap models are to be listed on a new Welsh Spring Trap Approval Order, subject to required clearances, for use as run-through traps to trap stoat, by the time implementation starts. Other new potentially suitable traps are currently undergoing development and, if successful, will undergo approval in due course.

**Table 1: Traps approved for stoat in one or more<sup>3</sup> of the national Spring Traps Approval Orders - status in relation to the Standards.**

Part 1: Approved spring traps which are compliant with AIHTS	
Trap	AIHTS Status
DOC 150	AIHTS compliant. <b>Already approved</b> for use for stoats in baited configuration. Planned to be approved for run-through as well as baited set up.
DOC 200	AIHTS compliant. <b>Already approved</b> for use for stoats in baited configuration. Planned to be approved for run-through as well as baited set up.
DOC 250	AIHTS compliant. <b>Already approved</b> for use for stoats in baited configuration. Planned to be approved for run-through as well as baited set up.
Goodnature A24 rat and stoat trap	AIHTS compliant. Listed on English Spring Trap Order. Planned to be listed on new Welsh Spring Trap Order for use for stoats.
Part 2: Spring Traps which will not be approved for stoats after 1 April 2020	
Trap	AIHTS Status
BMI Magnum 110	Not compliant with AIHTS.
BMI Magnum 116	Not compliant with AIHTS.
Kania Trap 2000	Compliance with AIHTS unknown. It has been agreed with the manufacturer that this will not be tested as it is rarely if ever used for stoats. <b>Will not be approved</b> for stoats <b>unless industry funds testing.</b>

<sup>3</sup> Each Devolved Administration makes their own Spring Trap Approval Orders and the traps approved under them can vary between them at any given time.

Kania Trap 2500	Compliance with AIHTS unknown. It has been agreed with the manufacturer that this will not be tested as it is rarely if ever used for stoats. <b>Will not be approved</b> for stoats <b>unless industry funds testing.</b>
Fenn Mark IV	Not compliant with AIHTS.
Fenn Mark VI	Not compliant with AIHTS.
Solway Mark 4	Compliance with AIHTS unknown. Similar design to Fenn traps.
Solway Mark 6	Compliance with AIHTS unknown. Similar design to Fenn traps.
Springer No. 4	Replica of the Fenn Mark IV therefore not compliant with AIHTS.
Springer No. 6	Replica of the Fenn Mark VI therefore not compliant with AIHTS.
WCS tube trap	Compliance with AIHTS unknown. Rarely if ever used for stoats. Has been certified in Canada but it needs to be tested using European stoats. <b>Will not be approved</b> for stoats <b>unless industry funds testing.</b>
Part 3: Spring Traps which will have their approval withdrawn as soon as possible	
<b>Trap</b>	<b>AIHTS Status</b>
Fenn Mark I	Uncommonly used and almost certainly not compliant with AIHTS.
Fenn Mark II	Uncommonly used and almost certainly not compliant with AIHTS.
Fenn Mark III	Uncommonly used and almost certainly not compliant with AIHTS.
Imbra Mark I	Uncommonly used.
Imbra Mark II	Uncommonly used.
Juby Trap	Uncommonly used.
Lloyd Trap	Uncommonly used.
Sawyer Trap	Uncommonly used.

*Currently approved spring traps which are compliant*

Some of the assessed traps have been shown to be compliant with the AIHTS for European stoat and use of these will continue to be permitted after implementation (see Part 1 of Table 1 above). The DOC and Goodnature A24 traps have been shown to be compliant with the AIHTS. The use of DOC traps is presently on the current Spring Trap Order for Wales and will continue to be permitted after implementation and the Goodnature A24 is to be included in a new Spring Trap Order for Wales. However, in their current approved configuration (as baited traps) they are not suitable for most stoat trapping in the UK. Stoats will avoid entering baited traps when alternative preferred food is readily available which, in the UK, coincides with the main trapping period when prey is abundant.

Unlike the Goodnature trap, the DOC traps are capable of being used in a run-through configuration and we have successfully determined that they can be a compliant trap in this configuration without the need for any alteration of the trap design itself.

In addition to the DOC traps a new trap, the Tully Trap, has been shown to be compliant with AIHTS requirements.

*Currently approved spring traps which are commonly used but are not compliant*

Other assessed traps have been shown to be non-compliant. Published [trap testing data from New Zealand](#) indicates that Fenn IV and VI traps (the most commonly used type of stoat trap) fail to meet the AIHTS for European stoats. Given the similarity in design, expert opinion is that it is highly likely that other Fenn-type traps (e.g. Springer's and Solway's) will also not be compliant with AIHTS. In the light of this evidence, we will not test these traps against the AIHTS in the UK.

We have tested the BMI Magnum 55, 110 and 116 and also the Koro rodent snap trap and found that they do not meet the AIHTS for stoats.

These commonly available but non-compliant traps (see Part 2 of Table 1 above), will no longer be approved for use in targeting stoats after implementation.

*Currently approved spring traps which are rarely used and are not compliant*

We should be restricting the continued use of non-compliant traps to the minimum necessary to enable the continued trapping of stoats prior to implementation. The remaining traps approved for stoat have been out of production for some time and are not used in meaningful numbers to trap any permitted target species. These traps are identified in Part 3 of Table 1.

Even if a sufficient number of traps were available for humaneness assessment (a minimum of 10 is required), we do not propose to test them against the standards. Doing so would pose serious welfare issues and would be contrary to our approach to trap testing. Moreover, it would not be a responsible use of public money to test traps that we have every reasonable expectation will fail. We propose in the new Spring Trap Order for Wales to withdraw their approval for all current target species as soon as possible.

We propose that the trapping of stoats using AIHTS compliant traps should be permitted under a general licence<sup>4</sup> to minimise the licensing impact on both trappers and licensing authorities.

In exceptional circumstances, the use of non-AIHTS compliant stoat traps would be possible under licence on a case by case basis in accordance with Article 10 of the Agreement.

### **Lethal traps cost**

As a result of implementation, a number of traps will no longer be permitted for killing stoats. Most stoats caught in the UK are trapped by gamekeepers to protect game birds; therefore, the biggest impact of this will be on the gamekeeping sector as well as trap suppliers and manufacturers.

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<sup>4</sup> You don't need to apply for these licences but you must come within the terms of the licence and comply with its conditions

Lethal traps set for stoats are primarily general purpose run-through spring-traps designed to catch animals as they travel through their usual pathways across the landscape. The aim of the trapper may not be to catch one particular species when setting the trap but to catch a number of pest species for which the trap is approved. The traps listed in Part 2 of Table 1, which are not compliant with AIHTS for stoats, will still be permitted for use against other species, such as rats, weasels and squirrels.

Once the Agreement is implemented for stoat, trap users who set traps for those species in locations where a stoat may also be caught may, depending on the risk of catching a stoat, have to use AIHTS-compliant traps. This consideration will be part of the risk assessment that trap users already undertake when assessing the risk of capturing non-target species. Most pest control activity doesn't target stoat and occurs where stoats are unlikely to occur, therefore the pest control industry will be largely unaffected by these changes.

In most cases, the loss of the non-compliant traps will have a negligible economic impact as they are rarely, if ever, used. However, gamekeepers commonly use Fenn and Fenn-type traps such as the Springers and Solways. Gamekeepers will need to replace these traps with those that are compliant with the AIHTS which will result in transitional costs to ensure compliance with the AIHTS by the 1 April 2020 deadline.

There is no available information on the numbers of traps currently in circulation; however, an estimate of the number of traps that may need replacing can be made using annual sales figures. From discussions with manufacturers we can estimate the number of Fenn, Solway and Springer traps sold in the UK as well as their value. Manufacturers were unable to differentiate between the two types of Springer traps or the two types of Fenn traps and could only give overall sales figures. It was assumed that they were sold in the same proportion as the Solway traps for the purposes of these calculations. Manufacturers have estimated that only 20% of their trade in traps is with the gamekeeping sector, so we have reduced the reported annual sales figures by 80%.

These figures only represent the number of traps which have to be replaced each year, and not the total number/value of traps in circulation. Traps generally last a long time and are only replaced if damaged, stolen, or lost or if they have reached the end of their useable life. From discussion with trap users, we assume an average lifespan of 10 years for a trap, allowing us to calculate the number and value of traps in the game keeping sector that may need to be replaced with AIHTS-compliant traps. If a trap lasts 10 years, then in 10 years the entire stock of traps would have been replaced. We have therefore assumed a 10% per year replacement rate.

## **Table 2. Trap sales, use and population estimates for the UK**

Trap	Annual Sales for Gamekeeping	Cost per unit	Value	Estimated stock of traps in use
Springer 4	2,570	£7.20	£18,500	25,700
Springer 6	430	£8.70	£3,700	4,300
Fenn Mk4	5,140	£9.00	£46,300	51,400
Fenn Mk 6	860	£9.00	£7,700	8,600
Solway 4	1,200	£7.96	£9,600	12,000
Solway 6	200	£8.50	£1,700	2,000
<b>Total / Weighted Average</b>	<b>10,400</b>	<b>£8.41</b>	<b>£87,500</b>	<b>104,000</b>

Source: Personal communications from manufacturers

### *Trap Replacement*

Under option 1, we assume that the stock of existing non-compliant traps will be replaced immediately (subject to availability of compliant traps). One of the replacement trap suitability criteria set out in the implementation plan is the retail cost. From initial consideration of candidate traps and discussion with their designers, we anticipate there will be a suitable replacement trap available which will cost approximately £17.00 per unit or about double the price of the average cost of existing, non-compliant, traps.

Replacing the stock of existing traps, in the UK, in the first year or so, with relatively expensive new traps, leads to a large one-off cost of around £1.7 million. However, there is an offsetting saving to gamekeepers over the following ten years, as they no longer have to undertake regular replacement of the older traps. Overall the change in pattern and unit cost of trap replacement leads to a net present cost of around £1.0 million.

The rate at which new AIHTS-compliant traps can be manufactured is limited. With an industry estimated best production rate<sup>5</sup> of 50,000 new traps a year it could take several years to replace all the traps in the UK set to catch stoats. It may not, therefore, be possible for sufficient AIHTS-compliant stoat kill-traps to be available before the proposed implementation date. We sought comments and further evidence on this issue in the consultation paper. However, the consultation did not provide any further reliable data on this issue.

If a trapper is not able to replace their Fenn-type traps by the implementation deadline, their options would be to:

- 1) seek licensed use of their illegal traps. These would only be granted in exceptional circumstances.
- 2) choose not to target stoats whilst trapping other pest species
- 3) purchase and use compliant but less effective traps (e.g. baited traps)

### *Familiarisation*

<sup>5</sup> Production rate will be initially lower as investment in production capacity will be driven by demand and market share with competitors, which will not be immediately apparent.

Trappers will need to be aware which traps are compliant with the legislation and review their existing stocks. We estimate that this will take 1 hour to familiarise themselves with the guidance and ½ an hour to check the make and model of their stocks of traps. Estimated hourly rates for gamekeepers range between £6.73 and £9.62 an hour depending on age and level of responsibility, according to the [National Careers Service](#). The Annual Survey of Hours and Earnings gives a wage of £8.30 for “Elementary Agricultural Occupations” and £9.49 for “Skilled Trades Occupations: Agricultural and Related Trades”. Given this range of estimates, we take a mid-point between the two ASHE estimates to represent the relevant average labour costs, and increase it by 30% to reflect non-wage labour costs. This gives an estimate of £11.56 per hour.

The National Game Keepers’ Organisation estimates that there are 7,000 game keepers in the UK. Therefore, the total familiarisation cost for the UK sector is around £0.1 million.

As required by the Spring Trap Approval Orders, Fenn-type traps are set in tunnels. The trapper may need to modify or even build new trap tunnels depending on replacement trap design. However, one of the replacement trap suitability criteria set out in the implementation plan is that the replacement trap should be comparable in size to those traps currently used to allow setting in existing tunnels/locations.

We do not have data on the proportion of tunnels which may or may not need modifying or the scale of the work involved, but at least one of the replacement traps which will be certified first will fit in the majority of existing tunnels. We assume that new tunnels need not be constructed in both the “low” and “best estimate” scenarios, but allowing for this accounts for the large increase in cost shown in the “high” scenario, based on an hour’s work and £8.00 of required material.

### *Total*

The overall net present cost faced by gamekeepers in complying with AIHTS is around £1.1 million.

We sought comments and further evidence on the issue of lethal trap use in the consultation paper. However, the consultation did not provide any further reliable data on the number of tunnels that may need modifying to accommodate replacement traps.

### **Sensitivity Analysis**

The analysis above is based on our central estimates for the various assumptions underlying the calculations. In order to test the sensitivity of the result to errors in our assumptions, we have analysed a range of plausible alternative values for the assumptions. The complete set of assumptions is given in table 3.

**Table 3: Range of assumptions used**

<b>Assumption</b>	<b>Low</b>	<b>Central</b>	<b>High</b>
1. Gamekeeper wage (including 30% non-wage costs)	£10.79	£11.56	£12.34
2. Number of gamekeepers	7,000	7,000	8,000
3. Familiarisation time (hours)	1	1.5	2
4. Proportion of traps sold for gamekeeping	15%	20%	25%
5. Trap lifespan (years)	7	10	10
6. Modify trap tunnels (hours per trap)	0	0	1
7. Modify trap tunnels (£materials)	0	0	£8.00
8. Average existing trap cost	£8.41	£8.41	£8.41
9. Average new trap cost	£8.41	£16.83	£25.24
10. Stock of existing traps	54,600	104,000	130,000

**Notes:**

- 1) The range for gamekeeper wages comes from using values for “elementary” and “skilled” agricultural trades from ASHE for Low and High, respectively.
- 2) The central estimate for the number of gamekeepers comes from membership of a trade body, so we assume that, even in the Low scenario, there are no fewer gamekeepers than members of that body. We allow for the possibility that there are some non-member gamekeepers in the High scenario.
- 3) Our central estimate of the familiarisation time is made up of one hour to read the relevant literature and half an hour to check records relating to the types of existing traps in use. We allow for this estimate, which is derived from expert trap user opinion, to be adjusted either up and down over a plausible range.
- 4) Based on discussion with expert trap users, our best estimate of the trap life is ten years, though we allow for the possibility that traps have shorter lives, which reduces the corresponding estimate of the total stock of traps in use.
- 5) One of the replacement trap suitability criteria set out in the implementation plan is that the replacement trap should be comparable in size to those traps currently used to allow setting in existing tunnels/locations. From consideration of candidate traps and discussion with their designers, our opinion is that there will be little need to adjust the size or shape of the structures in which traps are placed, as there will be a strong incentive for manufacturers to design traps which are of similar dimensions to existing traps. However, the use of internal baffles to control entry through the trap may in some cases require some tunnel modification, so we allow for some time spent fitting new traps into modified old structures.
- 6) As for the previous point, if modifications are required to fit new traps, there may be the need to purchase materials for use in that process, so we allow for this in the High scenario.
- 7) The existing trap cost is derived from commercial information on individual trap costs available on trap retailer websites. This is combined with the sales figures in table 2 to generate a weighted average cost.

- 8) It is possible that new, compliant, traps will be more expensive than existing traps and we treat this as the Central scenario, where the trap cost doubles. We allow for the cost to either remain constant or increase to three times the existing trap cost in the other scenarios.
- 9) The stock of existing traps is determined entirely by assumptions on the number of traps sold, the percentage bought for gamekeeping and the lifespan of the traps.

Table 4 presents the estimated net present costs for lethal traps, based on the different scenarios. The cost of implementing AIHTS with respect to live capture traps is likely to be negligible and for the purposes of this RIA, we will assume the cost here is £0 in all the different scenarios.

**Table 4: Scenario net present cost estimates**

	<b>Low</b>	<b>Central</b>	<b>High</b>
Trap Replacement	£44,000	£997,000	£2,340,000
Familiarisation	£76,000	£121,000	£197,000
Tunnel modification	£0	£0	£2,644,000
<b>Total</b>	<b>£120,000</b>	<b>£1,118,000</b>	<b>£5,181,000</b>

The Central scenario is dominated by the trap replacement cost which reflects the increase in price of the traps used by gamekeepers.

Trap replacement in the Low scenario has a relative small cost because there is no difference in price between the existing and replacement traps. The residual cost is a result of gamekeepers having to bring forward the regular replacement of traps into one year.

In the High scenario, the trap replacement cost is significantly higher due to both an increase in the estimated number of traps needing replacement and a higher price for new traps. In addition, the costs associated with modifying existing trap placements add a substantial further cost. Together these factors make the estimated cost of the High scenario nearly five times larger than that of the Central scenario.

These scenarios are defined in such a way that they describe the widest possible range of outcomes. For example, the High scenario would only represent an accurate view if all of the independent “high” assumptions were true at the same time. This is extremely unlikely, so the High and Low scenario estimates define the bounds of the possible cost outcomes.

### **Small business impacts**

Due to the nature of gamekeeping, the cost of implementation will primarily fall to small businesses. The policy objectives and benefits cannot be achieved without the impact to small business. Moreover, the AIHTS has no derogation options which would allow us to reduce its financial impact on this sector. To minimise these costs we aim to take the least burdensome approach to implementation where possible, for example, by proposing that the use of AIHTS-certified traps for stoat should be permitted via a general licence.

We have agreed with stakeholders a delay to the implementation of the AIHTS (as permitted under the Agreement) to give the sector sufficient time to obtain new compliant traps.

Trap manufacturers will be unlikely to commit to the cost of producing and marketing new traps which have passed AIHTS standards until the SI approving the traps for sale and use<sup>6</sup> has been made. This is currently anticipated to be December 2018.

We will maintain constant contact with industry bodies and provide information on the traps we know to be compliant with the AIHTS as soon as testing of the traps has been completed.

This will maximise the length of time manufacturers have to invest in production and gamekeepers have to transition to the use of new traps, where it is necessary for them to do so.

### **Charities or voluntary bodies**

The impact on charities or voluntary bodies is likely to be minimal as few if any will be involved in trapping, especially of stoats.

## **8. Consultation**

Following several years of informal consultation with key stakeholders (trap users, retailers and manufacturers, welfare groups), DEFRA, Welsh, Scottish and Northern Irish government officials, the UK-wide 6-week public consultation on implementation of the Agreement ended on 30 April 2018. While stakeholders were broadly supportive of welfare improvements they opposed the implementation of the Agreement for two reasons:

- 74% of respondents (mostly gamekeepers and trappers) were opposed to the proposed implementation date of January 2019. They believe there will not be sufficient numbers of compliant stoat traps available in time. The Game and Wildlife Conservation Trust, the British Association of Shooting and Conservation and the National Farmers' Union support a delay in implementation, but have not proposed an alternative date. The National Gamekeepers' Organisation proposed a delay of three years, whilst individual gamekeepers called for delays of up to 5 years.
- For many welfare groups, there was a general disagreement with implementation on the grounds of the perception that the Agreement facilitates the wider use of traps and international trade in fur. However, the obligations in the Agreement bind the UK already (via the EU), and we are obliged to implement the requirements of the Agreement under EU law.

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<sup>6</sup> A Spring Traps Approval Order made under the Pests Act 1954.

A [summary of consultation responses](#) has been published, with a link from the Welsh Government consultation webpages.

Such was the strength of feeling expressed by the consultation respondents that the government has concluded that implementing in January 2019 would not provide sufficient time for manufacturers to produce compliant traps in sufficient quantities or for trap users to replace their existing traps for stoats.

Ministers have decided to implement AIHTS in March 2019 but include a transitional provision for stoat which delays implementation for stoat for a further year (until April 2020). This will provide a clear signal to manufacturers and traps users that they must transition to compliant traps, whilst recognising they will need time to do so.

## **9. Competition Assessment**

### **Competition filter**

- Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share? Yes
- Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share? Yes
- Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share? Yes
- Q4: Would the costs of the regulation affect some firms substantially more than others? Yes
- Q5: Is the regulation likely to affect the market structure, changing the number or size of businesses/organisation? Yes
- Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet? No
- Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet? No
- Q8: Is the sector characterised by rapid technological change? No
- Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products? Yes

As a result of implementation of AIHTS for stoats, 1 April 2020, a number of traps will no longer be permitted for killing stoats. Part 2 of Table 1 lists which traps are currently approved but are not compliant with AIHTS for stoats. However, they will still be permitted for use against other species, such as rats, weasels and squirrels but should not be set in locations where a stoat would be at risk of being caught. Kania and WCS tube traps are rarely used for stoats. The BMI magnum trap is manufactured in the USA and is rarely used for stoats in the UK. The Fenn traps are manufactured by DB Springs in England, Springer traps by AB County Products Ltd in England and the Solway traps by Solway Feeders Ltd in Scotland. For DB Springs and AB County Products, production of these traps is a significant part of their business, less so for Solway Feeders Ltd who are stockists, suppliers and manufacturers of a wide

range of products not just traps. There are no Wales-based manufacturers of these traps.

In most cases, the loss of the non-compliant traps will have a negligible economic impact as they are rarely, if ever, used. In the UK, the commonly used traps are Fenn and Fenn-type traps such as the Springers and Solways. For the UK, Table 2 lists trap sales, use and estimated stock for these commonly used traps.

At the initial stages of bringing forward this legislation, through e-mail and telephone conversations, trap manufacturers were contacted and informed of the implications of the AIHTS requirements. In January 2016, DEFRA held a meeting with trap users, manufacturers and retailers to discuss the implications of implementing the agreement. Out of this meeting, an implementation plan was drafted and signed off by UK government and representatives of trap manufacturers, retailers and users. Welsh Ministers later agreed to this planned approach.

In relation to design and use of a replacement trap, the main success criteria of the implementation plan are that, by the time AIHTS is implemented, at least one AIHTS-compliant killing trap model must be available to control stoat, this trap must be useable in a run-through or baited configuration, be approved for stoat, rat and weasel, and be available on the UK market in sufficient quantities and at a reasonable price. It should also be comparable in size to those currently available to allow setting in existing tunnels/locations.

This meeting highlighted some approved traps that could potentially meet the above criteria, however, testing of these traps proved they were not AIHTS compliant. So, in February 2017, a notice was issued in the specialist gamekeeper press calling for the development of new trap designs. The notice outlined that Defra had agreed to match funding provided by the countryside organisations and devolved administrations to finance the testing of new trap designs.

A steering committee consisting of representatives from each contributing organisation, would assess submitted trap designs and score them according to their likelihood of passing AIHTS and meeting the other success criteria of the implementation plan, the ease of setting and the build quality.

The highest scoring traps would then be prioritised for formal testing, with a view to having at least one approved, AIHTS compliant, run-through stoat trap available for summer 2018. The manufacturers of lower scoring traps, with potential for scoring higher if developed, were given feedback from the group with a view to re-submitting improved designs.

To be considered for testing, any new trap had to exist as a physical prototype, with ten examples required to complete the AIHTS testing. Any trap manufacturer or developer who had a design to submit for testing was encouraged to contact APHA for further technical advice. Trap manufacturers

were also advised that this was a short-term initiative with a strict time frame and they needed to get in touch as soon as possible.

Subsequently, existing trap manufacturers, including those adversely affected by implementation of the agreement, and private individuals submitted several designs for consideration. Both DB Springs and Springers manufacturers of Fenn type spring traps submitted designs which either failed to meet the requirements or are still subject to ongoing consideration.

The only traps that are currently compliant with AIHTS requirements and meet the success criteria in run-through configuration are the DOC traps and the Tully Trap. DOC traps are manufactured in New Zealand. Tully is manufactured by an English company which isn't a traditional trap manufacturer and produces other unrelated products. Between them, these companies will, subject to commercial success, have over 50% of the market share, although future successful trap designs might eat into that market share. Other established trap manufacturer companies were given the opportunity to submit appropriate traps and have not done so.

#### **10. Post implementation review**

Welsh Government will monitor the measures introduced by this instrument by keeping under review the level and nature of prosecutions in respect of illegal trap use under the 1981 Act. This will be done through liaison with the Police and the Crown Prosecution Service.