

Explanatory Memorandum to the Beavers (Wales) Order 2026

This Explanatory Memorandum has been prepared by the Marine and Biodiversity, Climate Change and Environmental Sustainability Directorate and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Cabinet Secretary Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Beavers (Wales) Order 2026. I am satisfied that the benefits justify the likely costs.

Huw Irranca-Davies MS

Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

3 February 2026

PART 1

1. Description

The Beavers (Wales) Order 2026 (“the Order”) amends the Conservation of Habitats and Species Regulations 2017 (“the Habitats Regulations”) in order to add the Eurasian Beaver (*Castor fiber*) to Schedule 2 to the Habitats Regulations, listing the Eurasian beaver as a European Protected Species of animal, in order to implement the UK’s obligations under the Convention on the Conservation of European Wildlife and Natural Habitats (“Bern Convention”).

The Order also varies the Wildlife and Countryside Act 1981 (“the 1981 Act”) in order to remove the Eurasian beaver from Part 1B (animals no longer normally present) of Schedule 9 to that Act and add it to Part 1A (native animals) of Schedule 9 to that Act. This amendment will retain the requirement for a licence to be issued in order to release Eurasian beavers into the wild but will prevent species control orders being issued, which would conflict with the protected status provided for under Schedule 2 to the Habitats Regulations.

The Order will revoke the Wildlife and Countryside Act 1981 (Variation of Schedule 9) (Wales) Order 2015 (“the 2015 Order”). The 2015 Order had the effect of inserting Eurasian beaver into Part 1B of Schedule 9 to the 1981 Act. Given the amendment outlined above, the 2015 Order is now superseded and its provisions no longer relevant, so will be revoked.

While the territorial extent of the Order is England and Wales the territorial application of this will apply only to Wales.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

None.

3. Legislative background

The Bern Convention imposes obligations on Contracting Parties to protect listed species to ensure the conservation of endangered and vulnerable wild flora and fauna and their habitats. The UK is a Party to the Bern Convention. In Wales, the Bern Convention is implemented by the Habitats Regulations.

The Eurasian beaver is listed in Appendix III of the Bern Convention. Article 7 to the Bern Convention requires each Contracting Party to take appropriate and necessary legislative and administrative measures to ensure the protection of the wild fauna species in Appendix III, including regulating their exploitation and sale. Article 8 to the Bern Convention establishes restrictions with regards the capture and killing of wild fauna species in Appendix III.

The Order varies Schedule 2 to the Habitats Regulations, to list the Eurasian beaver as a European Protected Species of animals, to implement the UK’s

international obligations under the Bern Convention. It varies Schedule 9 to the 1981 Act, to recognise that the Eurasian beaver is present in the wild in Wales.

Regulation 43 to the Habitats Regulations contains criminal offences for breach of protections flowing from the Bern Convention. Schedule 2 to the Habitats Regulations lists the species to which the offences will apply. Regulation 55 establishes a derogation from Regulation 43 for certain statutory purposes.

The Eurasian beaver is currently regulated under the control regime provided by section 14 and Schedule 9 to the 1981 Act. The Order maintains this control regime.

The Order is made using the following Welsh Ministers powers.

Regulation 143(1) of the Habitats Regulations provides that the Appropriate Authority (being the Welsh Ministers, in relation to Wales) may amend Schedule 2 for the purpose of adding any species listed in Annex IV(a) or (b) to the Habitats Directive where it is satisfied that the natural range of that species includes any area in Great Britain.

As Eurasian beaver is listed in Annex IV(a) to the Habitats Directive, the Welsh Ministers have the power to amend Schedule 2 to the Habitat Regulations in relation to Wales, to add Eurasian beaver, now that they are satisfied that the Eurasian beaver is present in the wild in Wales.

Section 22(5)(a) of the 1981 Act provides that the Secretary of State may, by Order, add or remove animals from Parts 1, 1A, or 1B of Schedule 9. These functions, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999/672, and under section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 now lie with the Welsh Ministers.

The Welsh Ministers therefore have the power under section 22(5)(a) of the 1981 Act to move Eurasian beaver from Part 1B to Part 1A of Schedule 9 of that Act, in relation to Wales.

The 2015 Order was made using powers under section 22(5)(a) of the 1981 Act and, pursuant to section 18(1) of the Legislation (Wales) Act 2019, a power to make legislation includes a power to revoke it. Therefore, the Welsh Ministers have the power to revoke the 2015 Order.

4. Purpose and intended effect of the legislation

The Eurasian beaver is native to Britain and was once widespread across Europe and northern Asia. The last record of beaver presence in Wales is from the river Teifi in 1188 AD and it is likely beavers were extinct in Wales by the 15th century. Consequently, the species is not protected in Wales. However, evidence shows a small number of unregulated Eurasian beavers are currently

living in the wild in Wales following re-introduction programmes in England and Scotland. It is therefore necessary to provide the species with suitable protection to meet our international obligations under the Bern Convention.

The Order will amend Schedule 2 to the Habitats Regulations to ensure that wild Eurasian beavers are protected in Wales as a European Protected Species. As Eurasian beavers are now present in the wild in Wales, it is necessary to amend Schedule 9 to the 1981 Act, moving Eurasian beavers from Part 1B of Schedule 9 'Animals no longer normally present' to Part 1A of Schedule 9 'Native animals', to recognise this. This also prevents species control agreements and orders being issued for Eurasian beavers, which would conflict with the protected status provided for under Schedule 2 to the Habitats Regulations.

What did any law do before the changes to be made by this instrument?

Before the changes to be made by this instrument, under the Habitats Regulations it was an offence to be in possession of or to control, to transport, to sell or exchange, or to offer for sale or exchange a Eurasian beaver.

Eurasian beaver is listed in Schedule 6ZA of the 1981 Act, meaning there are restrictions on certain methods that can be used to kill or take beavers, and, through the 2015 Order, is also listed in Part 1B (Animals no longer normally present) of Schedule 9 meaning that a licence is required for the release of beavers into the wild and that the species could be subject to species control agreements or orders.

Why is the law being changed?

Evidence shows a small number of unregulated Eurasian beavers are currently living in the wild in Wales. The population is small and considered critically endangered so is vulnerable to the negative impacts of inappropriate management. It is therefore necessary to provide the species with suitable protection to meet our international obligations under the Bern Convention.

As Eurasian beavers are now present in the wild in Wales, it is necessary to amend Schedule 9 to the 1981 Act to move Eurasian beavers from Part 1B (Animals no longer normally present) to Part 1A (Native animals) of Schedule 9 of that Act, to recognise this and to prevent species control agreements and orders being issued for this species, which would conflict with protection provided for under Schedule 2 of the Habitats Regulations.

What will it now do?

The amendment to Schedule 2 to the Habitats Regulations will make it an offence, under regulation 43 of those Regulations, to deliberately capture, kill, disturb or injure beavers. It will also be an offence to damage or destroy breeding sites or resting places. In some cases, beaver activity may cause negative impacts which may need to be managed. Where the impact cannot be

mitigated through permitted means, a licence, issued by Natural Resources Wales, will be required to carry out certain otherwise prohibited activities.

The variation to Schedule 9 to the 1981 Act will retain the requirement for a licence to release beavers into the wild in Wales but will prevent species control agreements and orders being issued under Schedule 9A to that Act for Eurasian beavers. Natural Resources Wales considers releases into enclosures as “into the wild” for licensing purposes. The only exceptions are artificial enclosures in zoos or similar highly controlled, isolated environments.

5. Consultation

Welsh Ministers are exercising the power to amend Schedule 9 to the 1981 Act in relation to Wales.

Under section 26(4), before making an Order the Welsh Ministers are required to give any local authority affected and, any other person affected an opportunity to submit objections or representations with respect to the subject matter of the order. Welsh Ministers shall also consult with whichever advisory body is considered best to advise.

Targeted stakeholder engagement was launched on the 20 December 2024 and closed on 14 March 2025. 157 individuals were invited to submit representations. A total of 23 responses were received. No responses were received in the Welsh language.

The engagement exercise demonstrated strong overall support for the proposed legislative changes, with respondents highlighting ecological benefits such as biodiversity enhancement, improved water quality, and natural flood management. Many welcomed the creation of a clear legal framework for regulated releases and the granting of EPS status to ensure robust protection and management.

Concerns were raised by landowners and farming interests regarding potential negative impacts on land, crop damage. In addition, freshwater stakeholders expressed concerns about possible effects on fish migration and river connectivity, particularly in catchments with sensitive species. Respondents called for clear guidance, monitoring, and mitigation measures to address these risks which will be considered further during the development, and before commencing, any reintroduction programme.

Overall, the responses endorsed the approach as proportionate and evidence-based, provided that implementation includes strong stakeholder engagement and adaptive management to minimise adverse impacts.

PART 2 – Regulatory Impact Assessment

The purpose of this Regulatory Impact Assessment (RIA) is to evaluate the socio-economic implications of amending the legal status of Eurasian beaver (*Castor fiber*) in Wales by moving it from Part 1B (animals no longer normally present) to Part 1A (native species) of Schedule 9 to the 1981 Act and adding it to Schedule 2 (European Protected Species of animals) to the Habitats Regulations. These amendments will formally recognise beavers as a native species and grant them European Protected Species (EPS) status, ensuring compliance with international obligations under the Bern Convention and providing the legal framework for their protection and management.

6. Options

The Welsh Government has recently announced its support to a managed re-introduction of Eurasian beaver in Wales. As Eurasian beaver re-introduction programmes have successfully been undertaken in England and Scotland, and Wales has no hard borders with these countries the risk of Eurasian beavers unlawfully entering Wales is high and current legislation offers little to no protection from persecution. Evidence already suggests small discrete populations Eurasian beavers living in Wales and therefore the options available that could achieve the policy objective are limited to business as usual or introducing new legislation.

A full impact assessment has not been prepared for the Order because there is no, or no significant, impact or additional costs associated with amending the legislative framework for beaver in Wales. However, any wider policy decisions on managed reintroduction programmes or large-scale releases will require separate and detailed impact assessments to consider ecological, economic, and stakeholder implications.

Option A - Business as usual

Under this option, Welsh Ministers would maintain the existing legislative framework for Eurasian beaver in Wales, with no changes to Schedule 9 to the 1981 Act or Schedule 2 to the Habitats Regulations. Beavers would therefore continue to be listed under Part 1B of Schedule 9 as a formerly native species and would not receive European Protected Species status because it was not listed in Schedule 2.

Option A - Costs

This is the baseline option and, as such, there are no additional costs associated with this option. It is assumed that unmanaged populations remain small and do not trigger enforcement or conflict resolution costs. If unmanaged populations increase in size and frequency, there is a risk NRW and landowners may face unmanaged beaver impacts such as flooding and crop damage without a clear management framework. This could lead to ad hoc

interventions, which are typically more expensive than licensed, planned management.

The main risk is reputational damage to Welsh Government for legal non-compliance and failure to meet obligations under the Bern Convention. This could lead to formal complaints or legal challenges at international level, requiring government resources to respond. While rare, such cases have occurred for other species and can cost tens of thousands of pounds in legal and administrative time. ⁽¹⁾

Collinson, A. (2023). *Case Study – Badgers and the Bern Convention: Challenging UK Policy via an International Convention*. Advocates for Animals, A-LAW. Available at: <https://www.alaw.org.uk/wp-content/uploads/2023/12/Case-Study-badgers.pdf>

Option A - Benefits

Maintaining the current legislative framework would avoid introducing new regulatory requirements, meaning applicants would not need EPS licences and NRW would not incur costs for updating guidance or systems. This approach offers short-term savings by avoiding licence fees and consultancy costs and provides greater flexibility for landowners to manage local impacts without strict EPS controls. However, these benefits are temporary and must be weighed against significant risks, including non-compliance with international obligations, reputational damage, and missed opportunities to enhance biodiversity and ecosystem resilience.

Option A – Conclusion

Maintaining the current legislative framework would avoid introducing new regulatory requirements and deliver short-term administrative simplicity. Applicants would not need to apply for EPS licences, and NRW would not incur costs for updating guidance or systems. Landowners would retain greater flexibility to manage localised impacts without strict EPS controls.

However, these benefits are outweighed by significant risks. Unregulated populations would remain vulnerable to persecution, and unmanaged releases could lead to ecological harm and costly reactive interventions. Wales would also fail to meet its international obligations under the Bern Convention, exposing Welsh Government to reputational damage and potential legal challenge. In addition, this approach would miss opportunities to enhance biodiversity, ecosystem resilience, and nature-based solutions for flood management and climate adaptation.

Overall, while Option A offers short-term simplicity, it does not provide a sustainable or compliant framework for managing beavers in Wales.

Option B - Introduce the Beaver (Wales) Order 2026

This option involves introducing The Beaver (Wales) Order 2026 which would:

- 1) Amend the 1981 Act:
 - Move Eurasian beaver (*Castor fiber*) from Part 1B (animals no longer normally present) to Part 1A (native animals) of Schedule 9.
 - This change recognises beavers as a native species and enables regulated management rather than prohibition.

- 2) Amend the Habitats Regulations:
 - Add Eurasian beaver to Schedule 2 (European Protected Species of animals).
 - This grants EPS status, making it an offence to:
 - Deliberately capture, kill, or disturb beavers.
 - Damage or destroy breeding sites or resting places.

- 3) Licensing provisions under Habitats Regulation 55 will allow derogations for management where necessary.

Option B - Costs

The cost implications of the proposed legislative amendments are limited and proportionate. Moving Eurasian beaver from Part 1B (formerly native species) to Part 1A (native species) of Schedule 9 to the 1981 Act does not introduce any new licensing requirements. Under Section 14 of the Act, it is already an offence to release any Schedule 9 species into the wild without a licence, and this requirement remains unchanged. Therefore, the administrative and compliance costs associated with this change are negligible, as the licensing framework is already in place and operational.

The substantive cost implications arise from adding Eurasian beaver to Schedule 2 to the Habitats Regulations, which grants Eurasian beaver Protected Species status. EPS designation introduces offences for deliberate capture, killing, disturbance, or destruction of breeding sites unless authorised by licence. Applicants undertaking works that may affect beavers or their habitats will require an EPS licence.

Estimated costs to the licensing authority (Natural Resources Wales)

A number of experts from Natural Resources Wales would be involved in assessing and determining any licence application to release Eurasian beaver into the wild in Wales. Such experts would be likely to include a mammal specialist, senior wildlife advisor operational staff and licensing staff.

For NRW, the administrative cost of adding beaver to the EPS licensing system is minimal. NRW already operates an established EPS licensing framework for other species, and the inclusion of beaver will require only minor adjustments to guidance and staff training. The assumption is that NRW will absorb administrative changes within existing resources, as the licensing framework for Schedule 2 species already exists.

This analysis assumes that the amendment does not trigger a wider managed reintroduction programme, which would require separate assessment.

There are no additional costs to Government.

Estimated costs to a licence applicant

While the number and type of additional applications that will be received as a result of these Regulations is unknown, given the current size of the beaver population in Wales, the number is expected to be small.

Costs to applicants arise primarily from EPS licensing requirements for activities that may disturb beavers or damage their habitats. Standard EPS licence fees are approximately £142 per application, with amendments costing £79.

Development-related EPS licences, such as those for construction projects, incur higher fees: £1,024 for local development and £125 per hour for major projects. In addition to these fees, applicants typically incur consultancy costs for ecological surveys and mitigation plans, which range from £500 to £2,000 per project depending on complexity. See Table 1 for summary.

We would expect applicants to comply with the IUCN Guidelines for Reintroductions and Other Conservation Translocations.

Table 1. Summary of direct costs to applicants.

Cost Category		Details	Amount
EPS License Application		Charged under the Habitats Regulations	
Standard EPS license		For survey, conservation, or disturbance	£142 per application
Amendments to licenses		Changes to existing license	£79
Development-related EPS license		For works affecting EPS	
	Local development	Fixed fee	£1,024
	Major projects	Complex cases	£125 per hour
Applicant Costs Beyond Fees		Ecologist consultancy for license preparation and mitigation plans	£500–£2,000 + per project depending on

			complexity
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Option B – Benefits

Environmental Gains: The Order enables the lawful, regulated reintroduction of Eurasian beavers, delivering significant biodiversity benefits, improved water quality, and natural flood management. These outcomes directly support statutory duties under the Environment (Wales) Act 2016 and commitments in the Nature Recovery Action Plan.

- **Climate Resilience:** Beaver activity creates wetlands and slows water flow, reducing flood risk and enhancing drought resilience—key priorities for climate adaptation.
- **Economic and Social Value:** Long-term cost savings on engineered flood defences and water treatment, alongside potential growth in eco-tourism and educational opportunities.
- **Legal and Policy Alignment:** Ensures compliance with international obligations under the Bern Convention and aligns Wales with best practice in other UK nations.
- **Public and Stakeholder Support:** Responds to strong public backing and expert recommendations from Natural Resources Wales, reinforcing trust in evidence-based policy.

Option B – Conclusion

Option B provides a controlled, science-led framework for species reintroduction that maximises ecological and socio-economic benefits while minimising risks through licensing and management measures. It represents the most effective and proportionate approach to meeting Wales’ biodiversity and climate commitments, delivering long-term value for money and strengthening Wales’ reputation as a leader in nature recovery.

Risks and assumptions

This assessment assumes that no large-scale, centrally managed reintroduction programme is being considered at this stage. Were such a programme to be considered in the future, it would be subject to a separate assessment of costs and benefits. The primary impact of granting European Protected Species (EPS) status will be on licensing for disturbance or habitat modification, rather than on release, which is already regulated under Schedule 9 to the 1981 Act.

There is an inherent risk that, without a clear legal framework, unregulated releases or persecution could occur, leading to ecological harm, stakeholder disputes, and reputational damage. The absence of statutory controls would increase potential costs associated with disease management, flooding, infrastructure repair, removal of animals, and enforcement actions. These risks

are significantly higher compared to scenarios where releases are regulated through legislation.

The underlying assumption is that Eurasian beaver is now considered ordinarily resident in Great Britain having been granted native species status in Scotland and England. As Wales has no hard borders with these countries without legislative amendment, controls in Wales would lapse. Adding beaver to Schedule 9 ensures continuity of a regulated process for considering releases into the wild. While this amendment will not completely prevent unlawful releases, since individuals' intent on acting illegally may not be deterred, the legal safeguard will act as a deterrent for many and provide a basis for enforcement and prosecution where sufficient evidence exists.

Summary and preferred option with description of implementation plan

The Beaver (Wales) Order 2026 proposes legislative amendments to recognise Eurasian beaver as a native species and grant EPS status. This will enable a lawful, regulated framework for reintroduction and management, aligning Wales with international obligations under the Bern Convention and domestic biodiversity duties under the Environment (Wales) Act 2016. The proposal responds to strong public support and expert recommendations from Natural Resources Wales, delivering ecological, climate resilience, and socio-economic benefits.

Option B is the preferred approach which:

- Provides a proportionate, evidence-based mechanism for managing releases and mitigating risks.
- Ensures compliance with international and domestic legal obligations.
- Maximises biodiversity and climate adaptation benefits while maintaining safeguards for landowners and infrastructure.
- Offers long-term value for money compared to unmanaged scenarios.

Rationale and evidence that justify the level of analysis used in the IA (proportionality approach)

The Integrated Impact Assessment is proportional to the level of interest surrounding the policy. The stakeholder engagement targeted 157 individuals including those with nature conservation interests, local government associations and organisations representing landowners and fisheries groups. 23 responses were received.

The IIA is available on the Welsh Government Website

7. Competition Assessment

The competition filter test	
Question	Answer yes or no
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	No
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No
Q4: Would the costs of the regulation affect some firms substantially more than others?	No
Q5: Is the regulation likely to affect the market structure, changing the number or size of firms?	No
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?	No

The competition filter test has been applied and has shown there is not expected to be an impact on competition in Wales or the competitiveness of Welsh businesses.

8. Post implementation review

A Post implementation review will be carried out in 10 Years to establish whether implementation of the Order is having the intended effect and to monitor any negative impact on the industry.