



Wildlife and Natural Environment Act (Northern Ireland) 2011

2011 CHAPTER 15

An Act to make provision about biodiversity; to amend the Wildlife (Northern Ireland) Order 1985 and Part 4 of the Environment (Northern Ireland) Order 2002; to abolish game licences and game dealers' licences; to prohibit hare coursing events; to amend the Game Preservation Act (Northern Ireland) 1928; and for connected purposes. [29th March 2011]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

Biodiversity

Duty to conserve biodiversity

1.—(1) It is the duty of every public body, in exercising any functions, to further the conservation of biodiversity so far as is consistent with the proper exercise of those functions.

(2) In complying with subsection (1), a public body must in particular have regard to any strategy designated under section 2(1).

(3) Conserving biodiversity includes—

- (a) in relation to any species of flora or fauna, restoring or enhancing a population of that species;
- (b) in relation to any type of habitat, restoring or enhancing the habitat.

(4) The Department must issue guidance containing recommendations, advice and information for the assistance of public bodies in complying with the duty under subsection (1).

(5) In this section “public body” means—

- (a) a Northern Ireland department;
- (b) a district council;
- (c) a statutory undertaker within the meaning of the Planning (Northern Ireland) Order 1991 (NI 11);
- (d) any other body established or constituted under a statutory provision.

The biodiversity strategy

2.—(1) The Department must designate one or more strategies for the conservation of biodiversity (whether prepared by the Department or by one or more other persons).

(2) The Department must publish any strategy so designated.

(3) A strategy so designated may include different provision for different cases or types of case.

(4) The Department must—

- (a) not later than 5 years after the coming into operation of subsection (1), and
- (b) at least once in every period of 5 years thereafter,

publish a report regarding the implementation of any strategy designated under that subsection.

Biodiversity lists

3.—(1) The Department must publish a list of the species of flora and fauna and types of habitat which in the Department's opinion are of principal importance for the purpose of conserving biodiversity.

(2) The Department must—

- (a) keep under review any list published under this section;
- (b) make such revisions of any such list as appear to the Department appropriate; and
- (c) publish any list so revised as soon as reasonably practicable after revising it.

(3) Without prejudice to section 1(1) and (2), a public body must—

- (a) take such steps as appear to the body to be reasonably practicable to further the conservation of the species of flora and fauna and types of habitat included in any list published under this section; or
- (b) promote the taking by others of such steps.

Changes to legislation: There are currently no known outstanding effects for the Wildlife and Natural Environment Act (Northern Ireland) 2011. (See end of Document for details)

(4) In this section “public body” has the same meaning as in section 1.

Amendments to the Wildlife Order

Protection of nests of certain birds

4.—(1) The Wildlife Order is amended as follows.

(2) In Article 4(1) (protection of wild birds, their nests and eggs) after subparagraph (b) insert—

“(ba) at any other time takes, damages or destroys the nest of any wild bird included in Schedule A1; or

(bb) obstructs or prevents any wild bird from using its nest; or”.

(3) Before Schedule 1 insert—

“SCHEDULE A1

Article 4

BIRDS WHICH RE-USE THEIR NESTS

<i>Common name</i>	<i>Scientific name</i>
Eagle, Golden	<i>Aquila chrysaetos</i>
Eagle, White-tailed	<i>Haliaeetus albicilla</i>
Osprey	<i>Pandion haliaetus</i>
Owl, Barn	<i>Tyto alba</i>
Peregrine	<i>Falco peregrinus</i>
Kite, Red	<i>Milvus milvus</i> ”.

NOTE: The first column of this Schedule, which gives the common name or names, is included by way of guidance only; in the event of any dispute or proceedings, only the second column is to be taken into account.

Offences: recklessness

5.—(1) In each of the provisions of the Wildlife Order mentioned in subsection (2) (which create offences which require an intentional act) after “intentionally” insert “ or recklessly ”.

(2) The provisions are—

- (a) Article 4(1) and (6) (protection of wild birds, their nests and eggs);
- (b) Article 10(1) and (4) (protection of certain wild animals);
- (c) Article 14(1)(a) and (b) (protection of wild plants); and
- (d) Article 16(1)(a) (wildlife refuges).

Offences: causing or permitting unlawful acts

6.—(1) The Wildlife Order is amended as follows.

(2) In Article 4 (protection of wild birds, their nests and eggs) after paragraph (6) insert—

“(6A) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by any of the foregoing provisions of this Article shall be guilty of an offence.”.

(3) In Article 7 (sale of birds, eggs, etc.) after paragraph (2) insert—

“(2A) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by paragraph (1) (a) or (2)(a) shall be guilty of an offence.”.

(4) In Article 10 (protection of certain wild animals) after paragraph (4A) (inserted by section 9) insert—

“(4B) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by any of the foregoing provisions of this Article shall be guilty of an offence.”.

(5) In Article 13 (sale of wild animals) after paragraph (2) insert—

“(2A) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by paragraph (1) (a) or (2)(a) shall be guilty of an offence.”.

(6) In Article 14 (protection of wild plants) after paragraph (3) insert—

“(3A) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by paragraph (1) or (2)(a) shall be guilty of an offence.”.

(7) In Article 15 (introduction of new species) after paragraph (2) insert—

“(2A) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by paragraph (1) or (2) shall be guilty of an offence.”.

Defences in relation to offences under Article 4

7.—(1) In Article 4 of the Wildlife Order (protection of wild birds, their nests and eggs) for paragraph (4) substitute—

“(4) In paragraph (3) “the relevant provisions” means the provisions of—

- (a) this Part and of orders made under it,
- (b) the Wild Birds Protection Acts (Northern Ireland) 1931 to 1968 and of orders made under those Acts,
- (c) any other legislation which implements either of the Wild Birds Directives and extends to any part of the United Kingdom, to any

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- area designated in accordance with section 1(7) of the Continental Shelf Act 1964, or to any area to which British fishery limits extend in accordance with section 1 of the Fishery Limits Act 1976, and
- (d) the law of any member State (other than the United Kingdom) implementing either of the Wild Birds Directives.
- (4A) For the purposes of paragraph (4) “the Wild Birds Directives” are—
- (a) Council Directive [79/409/EEC](#) on the conservation of wild birds; and
- (b) Directive [2009/147/EC](#) of the European Parliament and of the Council on the conservation of wild birds.”.
- (2) In Article 5 of the Wildlife Order (exceptions to Article 4) at the end add—
- “(7) An authorised person shall not be regarded as showing that any action of his was necessary for a purpose mentioned in paragraph (6) unless he shows that, as regards that purpose, there was no other satisfactory solution.
- (8) An authorised person shall not be entitled to rely on the defence provided by paragraph (6) as respects any action taken at any time if it had become apparent, before that time, that that action would prove necessary for the purpose mentioned in that paragraph and either—
- (a) a licence under Article 18 authorising that action had not been applied for as soon as reasonably practicable after that fact had become apparent; or
- (b) an application by him for such a licence had been determined.”.

Disqualification for registration

8 In Article 7(5) of the Wildlife Order (sale of wild birds, eggs, etc.) after sub-paragraph (a) insert—

- “(aa) within 5 years of his having been convicted of an offence under the Control of Trade in Endangered Species (Enforcement) Regulations 1997 (other than an offence under Regulation 9 of those Regulations); or
- (ab) within 5 years of his having been convicted of an offence under Regulation 34 of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995; or”.

Protection of certain wild animals from disturbance

9 In Article 10 of the Wildlife Order (protection of certain wild animals) after paragraph (4) insert—