



## 2011 CHAPTER 15

### *Amendments to the Wildlife Order*

#### **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 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.”.