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STATUTORY INSTRUMENTS

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**1985 No. 171**

**The Wildlife (Northern Ireland) Order 1985**

**PART II**

**Wildlife**

*Protection of birds*

***Protection of wild birds, their nests and eggs***

- 4.—(1) Subject to the provisions of this Part, if any person intentionally [<sup>F1</sup>or recklessly]—
- (a) kills, injures or takes any wild bird; or
  - (b) takes, damages or destroys the nest of any wild bird while that nest is in use or being built; or
- [<sup>F2</sup>(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]
  - (c) takes or destroys an egg of any wild bird,
- he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person has in his possession or control—
- (a) any live or dead wild bird or any part of, or anything derived from, such a bird; or
  - (b) an egg of a wild bird or any part of such an egg,
- he shall be guilty of an offence.
- (3) A person shall not be guilty of an offence under paragraph (2) if he shows that—
- (a) the bird or egg had not been killed or taken, or had been killed or taken otherwise than in contravention of the relevant provisions; or
  - (b) the bird, egg or other thing in his possession or control had been sold (whether to him or any other person) otherwise than in contravention of those provisions.
- [<sup>F3</sup>(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.

Status: Point in time view as at 17/08/2011.

Changes to legislation: There are currently no known outstanding effects for the The Wildlife (Northern Ireland) Order 1985, Section 4. (See end of Document for details)

- (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.]
- (5) <sup>F4</sup> . . . . .
- (6) Subject to the provisions of this Part, if any person intentionally [<sup>F1</sup>or recklessly]—
  - (a) disturbs any wild bird<sup>F5</sup>. . . while it is building a nest or is in, on or near a nest containing eggs or young; or
  - (b) disturbs dependent young of such a bird,

he shall be guilty of an offence <sup>F6</sup>. . . .

[<sup>F7</sup>(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.]

(7) Any reference in this Part to any bird included in Schedule 1 is a reference to any bird included in Part I of that Schedule and, during the close season for the bird in question, any bird included in Part II of that Schedule.

(8) In this Article and in Article 5 "close season" means, subject to the provisions of this Part, the period in any year commencing with 1st February and ending with 31st August.

(9) The Department may by order made with respect to the whole or any specified part of Northern Ireland vary the close season for any wild bird specified in the order.

(10) If it appears to the Department expedient that any wild birds included in Part II of Schedule 1 or Part I of Schedule 2 should be protected during any period outside the close season for those birds, the Department may, subject to paragraph (12), make an order with respect to the whole or any specified part of Northern Ireland declaring any period (which shall not in the case of any order exceed 14 days) as a period of special protection for those birds.

(11) This Article and Article 5 shall have effect as if any period of special protection declared under paragraph (10) for any birds formed part of the close season for those birds.

(12) <sup>F8</sup>. . . The Department shall, before making an order under paragraph (10), consult a person appearing to the Department to be a representative of persons interested in the shooting of birds of the species proposed to be protected by the order.

<b>F1</b>	Words in art. 4(1)(6) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 5(2)(a), 40(1); S.R. 2011/285, art. 2, Sch.
<b>F2</b>	Art. 4(1)(ba)(bb) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 4(2), 40(1); S.R. 2011/285, art. 2, Sch.
<b>F3</b>	Art. 4(4)-(4A) substituted (17.8.2011) for art. 4(4) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 7(1), 40(1); S.R. 2011/285, art. 2, Sch.
<b>F4</b>	Art. 4(5) repealed (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 39(2), 40(1), Sch. 3 Pt. 1; S.R. 2011/285, art. 2, Sch.
<b>F5</b>	1995 NI 6
<b>F6</b>	Words in art. 4(6) repealed (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 39(2), 40(1), Sch. 3 Pt. 1; S.R. 2011/285, art. 2, Sch.
<b>F7</b>	Art. 4(6A) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 6(2), 40(1); S.R. 2011/285, art. 2, Sch.
<b>F8</b>	Words in art. 4(12) repealed (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 39(2), 40(1), Sch. 3 Pt. 1; S.R. 2011/285, art. 2, Sch.

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