
STATUTORY INSTRUMENTS

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—
- (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
 - (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.
- (4) In paragraph (3) “the relevant provisions” means the provisions of this Part and of orders made under it and the provisions of the Wild Birds Protection Acts (Northern Ireland) 1931 to 1968 and of orders made under those Acts.
- (5) Any person convicted of an offence under paragraph (1) or (2) in respect of—
- (a) a bird included in Schedule 1 or any part of, or anything derived from, such a bird;
 - (b) the nest of such a bird; or
 - (c) an egg of such a bird or any part of such an egg,
- shall be liable to a special penalty.
- (6) Subject to the provisions of this Part, if any person intentionally—
- (a) disturbs any wild bird^{F1} . . . 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 and, where that offence is in respect of a bird included in Schedule 1, liable to a special penalty.

(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) Without prejudice to Article 29(3), 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.

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Exceptions to Article 4

5.—(1) Subject to the provisions of this Article, a person shall not be guilty of an offence under Article 4 by reason of the killing or taking of a bird included in Part I of Schedule 2 outside the close season for that bird, or the injuring of such a bird outside that season in the course of an attempt to kill it.

Para. (2) rep. by 1995 NI 6

(3) [F2Paragraph (1)] shall not apply on Sundays or during the period commencing one hour after sunset on any day and ending one hour before sunrise on the next day.

(4) Nothing in Article 4 shall make unlawful anything done—

- (a) in pursuance of a requirement by the Department of Agriculture under any scheme made under section 6 of the Agriculture Act (Northern Ireland) 1949 or under section 2 of the Agriculture (Miscellaneous Provisions) Act (Northern Ireland) 1959; or
- (b) under the Drainage (Northern Ireland) Order 1973.

(5) Notwithstanding anything in Article 4, a person shall not be guilty of an offence by reason of—

- (a) the taking of any wild bird if he shows that the bird had been disabled otherwise than by his unlawful act and was taken solely for the purpose of tending it and releasing it when no longer disabled;
- (b) the killing of any wild bird if he shows that the bird had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering; or
- (c) any act made unlawful by those provisions if he shows that the act was the incidental result of a lawful operation and could not reasonably have been avoided.

(6) Notwithstanding anything in the provisions of Article 4, an authorised person shall not be guilty of an offence by reason of the killing or injuring of any wild bird, other than a bird included in Schedule 1—

- (a) if he shows that his action was necessary for the purpose of—
 - (i) preserving public health or public or air safety,
 - (ii) preventing the spread of disease, or
 - (iii) preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, pasture or fisheries; and
- (b) he notifies the Department immediately after taking such action.

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Prohibition of certain methods of killing or taking wild birds

6.—(1) Subject to the provisions of this Part, if any person—

- (a) sets in position any of the following articles, being an article which is of such a nature and is so placed as to be calculated to cause bodily injury to any wild bird coming into contact therewith, that is to say, any springe, trap, gin, snare, hook and line, any electrical device for killing, stunning or frightening or any poisonous, poisoned or stupefying substance or muscle-relaxing agent;
- (b) uses for the purpose of killing or taking any wild bird any such article as aforesaid, whether or not of such a nature and so placed as aforesaid, or any net, baited board, bird-lime or substance of a like nature to bird-lime;
- (c) uses for the purpose of killing or taking any wild bird—
 - (i) any missile which is not discharged from a firearm, including in particular any arrow or spear;
 - (ii) any explosive other than ammunition for a firearm;
 - (iii) any automatic or semi-automatic weapon;
 - (iv) any shotgun of which the barrel has an internal diameter at the muzzle of more than one and three-quarter inches;
 - (v) any metal bar, axe, hatchet, cudgel, club, hammer or similar instrument;
 - (vi) any device for illuminating a target or any sighting device for night shooting;
 - (vii) any form of artificial light or any mirror or other dazzling device;
 - (viii) any gas or smoke not falling within sub-paragraphs (a) and (b) or
 - (ix) any chemical wetting agent;
- (d) uses as a decoy, for the purpose of killing or taking any wild bird, any sound recording or any live bird or other animal whatsoever which is tethered, or which is secured by means of braces or other similar appliances, or which is blind, maimed or injured; or
- (e) uses any mechanically propelled vehicle in immediate pursuit of a wild bird for the purpose of killing or taking that bird,

he shall be guilty of an offence and be liable to a special penalty.

(2) The Department may by order amend paragraph (1) by adding any method of killing or taking wild birds or by omitting any such method which is mentioned in that paragraph.

(3) In any proceedings under paragraph (1)(a) it shall be a defence to show that the article was set in position by the accused for the purpose of killing or taking, in the interests of public health,

Status: Point in time view as at 01/01/2006.

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agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took all reasonable precautions to prevent injury thereby to wild birds.

(4) Nothing in paragraph (1) shall make unlawful—
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(b) the use of a cage-trap or net for the purpose of taking any game-bird, if it is shown that the taking of the bird is solely for the purpose of breeding;

but nothing in this paragraph shall make lawful the use of any net for taking birds in flight or the use for taking birds on the ground of any net which is projected or propelled otherwise than by hand.

(5) Any person who, being the occupier or concerned in the management of any land, permits or suffers another person to commit an offence under paragraph (1) on that land, shall be guilty of an offence.

(6) Any person who sells, offers or exposes for sale, any self-locking snare with a view to its being used for a purpose which is unlawful under paragraph (1)(a) or (b), shall be guilty of an offence.

Sale, etc., of live or dead wild birds, eggs, etc.

7.—(1) Subject to the provisions of this Part, if any person—

(a) sells, offers or exposes for sale, or has in his possession or transports or causes to be transported for the purpose of sale at any premises—

(i) any live wild bird or an egg of a wild bird or any part of such an egg, or

(ii) any live bird one of whose parents was such a wild bird, or an egg of such a bird or any part of such an egg; or

(b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,

he shall be guilty of an offence.

(2) Subject to the provisions of this Part, if any person who is not for the time being registered in accordance with regulations made by the Department—

(a) sells, offers or exposes for sale, or has in his possession or transports or causes to be transported for the purpose of sale at any premises any dead wild bird other than a bird included in Schedule 3, or any part of, or anything derived from, such a wild bird; or

(b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,

he shall be guilty of an offence.

(3) Any person convicted of an offence under this Article in respect of—

(a) a bird included in Schedule 1 or any part of, or anything derived from, such a bird; or

(b) an egg of such a bird or any part of such an egg,

shall be liable to a special penalty.

(4) The power of the Department to make regulations under paragraph (2) shall include power—

(a) to impose requirements as to the carrying out by a person registered in accordance with the regulations of any act which, apart from the registration, would constitute an offence under this Article; and

(b) to provide that any contravention of the regulations shall constitute such an offence.

(5) Regulations under paragraph (2) shall secure that no person shall become or remain registered—

- (a) within 5 years of his having been convicted of an offence under this Part for which a special penalty is provided; or
- (b) within 3 years of his having been convicted of any other offence under this Part so far as it relates to the protection of birds or other animals or any offence involving their ill-treatment,

no account being taken for this purpose of a conviction which has become spent by virtue of the Rehabilitation of Offenders (Northern Ireland) Order 1978.

(6) Any person authorised in writing by the Department may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised, enter and inspect any premises where a registered person keeps any wild birds for the purpose of ascertaining whether an offence under this Article is being, or has been, committed on those premises.

(7) Any person who intentionally obstructs a person acting in the exercise of the power conferred by paragraph (6) shall be guilty of an offence.

Competitions, etc.

8.—(1) Subject to the provisions of this Part, if any person shows or causes or permits to be shown for the purposes of any competition or in any premises in which a competition is being held—

- (a) any live wild bird other than a bird included in Schedule 4 which was bred in captivity and has been ringed under a licence granted by the Department in accordance with Article 18(2)(d); or
- (b) any live bird one of whose parents was such a wild bird,

he shall be guilty of an offence.

(2) Any person who promotes any event at which any bird mentioned in Schedule 4 is to be shown for the purposes of any public exhibition or competition shall notify the Department in writing at least 7 days before the date upon which the event is to take place.

(3) Any person failing to comply with paragraph (2) shall be guilty of an offence.

Protection of captive birds

9.—(1) If any person keeps or confines any bird whatsoever in any cage or other receptacle which is not sufficient in height, length or breadth to permit the bird to stretch its wings freely, he shall be guilty of an offence and be liable to a special penalty.

(2) Paragraph (1) does not apply to poultry, or to the keeping or confining of any bird—

- (a) while that bird is in the course of conveyance by whatever means; or
- (b) while that bird is being shown for the purposes of any public exhibition or competition if the time during which the bird is kept or confined for those purposes does not in the aggregate exceed 72 hours;
- (c) while that bird is undergoing examination or treatment by a veterinary surgeon or veterinary practitioner; or
- (d) while that bird is being kept temporarily in a birdbag or keeping cage as part of a ringing exercise carried out under and in accordance with the terms of a licence granted under Article 18(2)(a).

(3) Every person who—

- (a) promotes, arranges, conducts, assists in, receives money for, or takes part in, any event whatsoever at or in the course of which captive birds are liberated by hand or by any other means whatsoever—

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- (i) for the purpose of being shot, or
 - (ii) for the purpose of being hunted by trained birds of prey, immediately after their liberation; or
 - (b) being the owner or occupier of any land, permits that land to be used for the purposes of such an event,
- shall be guilty of an offence and be liable to a special penalty.

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