
STATUTORY RULES OF NORTHERN IRELAND

1995 No. 380

The Conservation (Natural Habitats, etc.)
Regulations (Northern Ireland) 1995

PART V

SUPPLEMENTARY PROVISIONS

Supplementary provisions as to potentially damaging operations

Duties of Department of Agriculture with respect to European sites

65.—(1) Where an application for a farm capital grant is made as respects expenditure incurred or to be incurred for the purposes of activities on land within a European site, the Department of Agriculture—

- (a) shall, so far as may be consistent with the purpose of the grant provisions, so exercise its functions thereunder to further the conservation of the flora or fauna or geological or physiographical features by reason of which the land is a European site; and
- (b) where the Department has objected to the making of the grant on the grounds that the activities in question have destroyed or damaged or will destroy or damage that flora or fauna or those features, shall not make the grant except after considering the objection.

(2) Where in consequence of an objection by the Department, an application for grant as respects expenditure to be incurred is refused on the ground that the activities in question will have such an effect as is mentioned in paragraph 1(b), the Department shall, within three months of being advised of the decision of the Department of Agriculture, offer to enter into, in the terms of a draft submitted to the applicant, a management agreement—

- (a) imposing restrictions as respect those activities; and
- (b) providing for the making by it of payments to the applicant.

(3) In this regulation—

“farm capital grant” means—

- (a) a grant under a scheme made under Article 16(1) and (2) of the Agriculture and Fisheries (Financial Assistance) (Northern Ireland) Order 1987(1), or
- (b) a grant under regulations made under section 2(2) of the European Communities Act 1972(2) to a person carrying on an agricultural business within the meaning of those regulations in respect of expenditure incurred or to be incurred for the purposes of or in connection with that business, being expenditure of a capital nature or incurred in connection with expenditure of a capital return; and

“grant provisions” means—

(1) S.I. 1987/166 (N.I. 1)
(2) 1972 c. 68

- (i) in the case of such a grant as is mentioned in paragraph (a) the scheme under which the grant is made and Article 16(1) and (2) of the Agriculture and Fisheries (Financial Assistance) (Northern Ireland) Order 1987, and
- (ii) in the case of such a grant as mentioned in paragraph (b) the regulations under which the grant is made and the Community instrument in pursuance of which the regulations were made.

Supplementary provisions as to byelaws

Enforcement of byelaws

66.—(1) The Department or, as the case may be, the Secretary of State may authorise persons appointed or employed to enforce byelaws made under Articles 19 and 21 of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985⁽³⁾, as they are applied by virtue of regulations 23 and 31, and to take all steps and do all acts and things necessary for that purpose.

(2) In particular, any person authorised under paragraph (1) may, after due warning, remove or exclude a person from any land to which a byelaw made under Articles 19 or 21 of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985, as they are applied by virtue of regulations 23 and 31, applies who commits, or whom he reasonably suspects of committing, an offence against any such byelaw.

(3) A person who—

- (a) commits an offence against any byelaw made under Article 19 or 21 of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985, as they are applied by virtue of regulations 23 and 31; or
- (b) obstructs any person authorised under paragraph (1);

shall be guilty of an offence under that Order, as it applies by virtue of regulations 23 and 31, and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Supplementary provisions as to protection of species

Enforcement

67.—(1) If a constable suspects with reasonable cause that any person is committing or has committed an offence under Part III, the constable may without warrant—

- (a) stop and search that person if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found on that person;
- (b) search or examine any animal or thing which that person may be using or have in his possession if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found on that animal or thing;
- (c) seize and detain for the purposes of proceedings under that Part anything which may be evidence of the offence or may be liable to be forfeited under regulation 69.

(2) If a constable suspects with reasonable cause that any person is committing an offence under Part III, he may, for the purpose of exercising the powers conferred by paragraph (1) or arresting a person in accordance with Article 27 of the Police and Criminal Evidence (Northern Ireland) Order 1989⁽⁴⁾, enter any land other than a dwelling house.

(3) S.I. 1985/170 (N.I. 1)

(4) S.I. 1989/1341 (N.I. 12)

(3) If a justice of the peace is satisfied on a sworn complaint in writing that there are reasonable grounds for suspecting that an offence under regulations 34, 36 or 38 has been committed and that evidence of the offence may be found on any premises, he may grant a warrant to any constable (with or without other persons) to enter upon and search those premises for the purpose of obtaining that evidence.

(4) Where, under paragraph (1)(c), a constable seizes and detains any animal, he shall as soon as conveniently may be produce that animal to a magistrates' court and the court may order the animal to be sold, liberated or destroyed.

(5) Where in relation to any animal sold under paragraph (4), the person from whom that animal was seized—

- (a) is convicted of an offence under Part III, the proceeds of the sale shall be added to and dealt with in the same manner as any fine imposed in respect of the offence;
- (b) is not so convicted, the proceeds of the sale shall be handed over to him.

(6) A constable who, in pursuance of an order under paragraph (4), sells, liberates or destroys any animal seized under paragraph (1)(c), shall not be liable to legal proceedings for any such sale, liberation or destruction or for any loss caused by such sale, liberation or destruction.

Proceedings for offences: venue, time limits

68.—(1) An offence under Part III shall, for the purposes of conferring jurisdiction, be deemed to have been committed in any place where the offender is found or to which he is first brought after the commission of the offence.

(2) Summary proceedings for—

- (a) any offence under regulation 34(1) involving the taking or killing of any wild animal, and
- (b) any offence under regulation 38(1),

may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge; but no such proceedings shall be brought by virtue of this paragraph more than two years after the commission of this offence.

(3) For the purpose of paragraph (2) a certificate signed by or on behalf of the prosecutor and stating the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

Power of court to order forfeiture

69.—(1) The court by which a person is convicted of an offence under Part III—

- (a) shall order the forfeiture of any animal, plant or other thing in respect of which the offence was committed; and
- (b) may order the forfeiture of any vehicle, animal, weapon or other thing which was used to commit the offence.

(2) In paragraph (1)(b) “vehicle” includes aircraft, hovercraft and boat.

Saving for other protective provisions

70. Nothing in these Regulations shall be construed as excluding the application of the provisions of the Wildlife (Northern Ireland) Order 1985(5) in relation to animals or plants also protected under Part III.

General supplementary provisions

Public inquiries

71.—(1) The Department may cause an inquiry to be held in any case where the Department considers it advisable to do so in connection with any matter arising under these Regulations.

(2) Without prejudice to section 23 of the Interpretation Act (Northern Ireland) 1954⁽⁶⁾, the Department may make rules regulating the procedure to be followed in connection with inquiries held by or on behalf of the Department under these Regulations.

(3) Where—

- (a) an inquiry is to be held under these Regulations in connection with any matter; and
- (b) in the case of some other matter required or authorised (whether by these Regulations or by any other statutory provision) to be the subject of an inquiry (“the other inquiry”), it appears to the Department concerned that the matters are so far cognate that they should be considered together,

the Department concerned may direct that the two inquiries be held concurrently or combined as one inquiry.

(4) In paragraph (3) “the Department concerned” means the Department, or where causing the other inquiry to be held is a function of some other Department, the Department and that other Department acting jointly.

Amendments

72. In Schedule 11 to the Land Registration Act (Northern Ireland) 1970⁽⁷⁾ after paragraph 41 add:

“**42.** Any agreement under regulation 13 of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 and any entry in the register under regulation 10 of those Regulations.”

⁽⁶⁾ 1954 c. 33 (N.I.)
⁽⁷⁾ 1970 c. 18 (N.I.)