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STATUTORY INSTRUMENTS

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**2017 No. 1013**

**The Conservation of Offshore Marine  
Habitats and Species Regulations 2017**

**PART 3**

**PROTECTION OF SPECIES**

*Protection of plants*

**Offences relating to wild plants listed in Annex IV(b) to the Habitats Directive**

- 49.**—(1) Subject to paragraphs (4) and (5) and regulation 55, it is an offence for a person—
- (a) to keep or transport,
  - (b) to sell or exchange, or
  - (c) to offer for sale or exchange,
- anything to which this paragraph applies.
- (2) Paragraph (1) applies to—
- (a) any live or dead plant, or part of a plant—
    - (i) which has been taken in the wild; and
    - (ii) which is of a species or subspecies listed in Annex II(b) (other than any bryophyte), or listed in Annex IV(b), to the Habitats Directive; and
  - (b) any part of, or anything derived from, such a plant or such a part of a plant.
- (3) Paragraph (1) applies regardless of the stage of the biological cycle of the plant in question.
- (4) A person is not guilty of an offence under paragraph (1) if that person shows that the plant or part of the plant in question, or the plant or part of the plant from which the part or thing in question is derived, was lawfully taken in the wild.
- (5) A person is not guilty of an offence under paragraph (1)(a) if that person shows that the act in question was done solely for the purpose of investigating whether one or more of the following offences is being or has been committed—
- (a) an offence under this regulation or regulation 57;
  - (b) an offence of attempting to commit an offence under this regulation; or
  - (c) an offence under regulation 71 which relates to an offence under this regulation.
- (6) For the purposes of paragraph (4), a plant, or part of a plant, is to be treated as having been lawfully taken in the wild if—
- (a) it was taken in the wild in the European territory of a member State, being territory to which the Treaty on the Functioning of the European Union applies, without contravention of the law of that member State and before the implementation date; or

(b) it was taken in the wild elsewhere.

(7) In any proceedings for an offence under this regulation, where it is alleged that a plant or part of a plant was taken in the wild, it is to be presumed, unless the contrary is shown, that that plant or part of a plant was taken in the wild.

(8) A person guilty of an offence under this regulation is liable, either on summary conviction or on conviction on indictment, to a fine.

(9) In this regulation—

“the implementation date” means—

(a) where the relevant State became a member State before 10th June 1994, 10th June 1994; and

(b) in any other case, the date on which the relevant State became a member State; and

“relevant State” means the State in whose territory the plant, or part of it, was taken in the wild.