
STATUTORY INSTRUMENTS

1985 No. 171

The Wildlife (Northern Ireland) Order 1985

PART II

Wildlife

Other protection

Protection of wild plants

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

- (a) intentionally [^{F1}or recklessly] picks, removes, uproots or destroys any wild plant included in Part I of Schedule 8 [^{F2}or any seed or spore attached to any such wild plant]; or
- (b) not being an authorised person, intentionally [^{F1}or recklessly] uproots or destroys any wild plant not included in that Part of that Schedule,

he shall be guilty of an offence.

(2) 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, any live or dead wild plant included in Part I or Part II of Schedule 8, or any part of, or anything derived from, such a plant; 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) Notwithstanding anything in paragraph (1), a person shall not be guilty of an offence by reason of any act made unlawful by that paragraph if he shows that the act was an incidental result of a lawful operation and could not reasonably have been avoided.

[^{F3}(3A) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by paragraph (1) or (2)(a) shall be guilty of an offence.]

(4) In any proceedings for an offence under paragraph (2)(a) [^{F4}or for an offence under paragraph (3A) relating to an act which is mentioned in paragraph (2)(a)], the plant in question shall be presumed to have been a wild plant unless the contrary is shown.

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| F1 | Words in art. 14(1)(a)(b) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 5(2)(c), 40(1); S.R. 2011/285, art. 2, Sch. |
| F2 | Words in art. 14(1)(a) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 12(2), 40(1); S.R. 2011/285, art. 2, Sch. |
| F3 | Art. 14(3A) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 6(6), 40(1); S.R. 2011/285, art. 2, Sch. |

F4 Words in art. 14(4) inserted (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\), ss. 39\(1\), 40\(1\), Sch. 2 para. 14; S.R. 2011/285, art. 2, Sch.](#)

Introduction of new species, etc.

15.—(1) Subject to the provisions of this Part, if any person releases or allows to escape into the wild any animal which—

- (a) is of a kind which is not ordinarily resident in and is not a regular visitor to Northern Ireland in a wild state [^{F5}or is a hybrid of any animal of that kind]; or
- (b) is included in Part I of Schedule 9 [^{F6}or is a hybrid of any animal included in that Part],

he shall be guilty of an offence.

(2) Subject to the provisions of this Part, if any person plants or otherwise causes to grow in the wild any plant which is included in Part II of Schedule 9 [^{F7}or is a hybrid of any plant included in that Part], he shall be guilty of an offence.

[^{F8}(2A) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by paragraph (1) or (2) shall be guilty of an offence.]

(3) Subject to paragraph (4), it shall be a defence to a charge of committing an offence under paragraph (1) or (2) to prove that the accused took all reasonable steps and exercised all due diligence to avoid committing the offence.

(4) Where the defence provided by paragraph (3) involves an allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on the defence unless, within a period ending 7 days before the hearing, he has served on the prosecutor a notice giving such information identifying or assisting in the identification of the other person as was then in his possession.

- (5) ^{F9}
- (6) ^{F9}

[^{F10}(7) The Department may issue guidance (or approve guidance issued by others) for the purpose of providing persons with recommendations, advice and information regarding—

- (a) any animal mentioned in paragraph (1),
- (b) any plant mentioned in paragraph (2),

and may issue revisions of any guidance issued by it (or approve revisions of guidance issued by others).

(8) A person who fails to comply with any guidance issued or approved under paragraph (7) is not by reason of that failure liable in any criminal or civil proceedings.

(9) But any such guidance is admissible in evidence in such proceedings and a court may take account of any failure to comply with it in determining any questions in the proceedings.]

[^{F11}(10) Paragraph (1)(a) does not apply to species included on the list of invasive alien species of European Union concern adopted by the European Commission in accordance with Articles 4(1) and 10(4) of Regulation (EU) No 1143/2014 of the European Parliament and of the Council of 22 October 2014 on the prevention and management of the introduction and spread in invasive alien species as amended from time to time.]

F5 Words in art. 15(1)(a) inserted (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\), ss. 13\(2\)\(a\), 40\(1\); S.R. 2011/285, art. 2, Sch.](#)

F6 Words in art. 15(1)(b) inserted (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\), ss. 13\(2\)\(b\), 40\(1\); S.R. 2011/285, art. 2, Sch.](#)

- F7** Words in art. 15(2) inserted (17.8.2011) by *Wildlife and Natural Environment Act (Northern Ireland) 2011* (c. 15), **ss. 13(3)**, 40(1); S.R. 2011/285, **art. 2**, Sch.
- F8** Art. 15(2A) inserted (17.8.2011) by *Wildlife and Natural Environment Act (Northern Ireland) 2011* (c. 15), **ss. 6(7)**, 40(1); S.R. 2011/285, **art. 2**, Sch.
- F9** Art. 15(5)(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.
- F10** Art. 15(7)-(9) added (17.8.2011) by *Wildlife and Natural Environment Act (Northern Ireland) 2011* (c. 15), **ss. 13(4)**, 40(1); S.R. 2011/285, **art. 2**, Sch.
- F11** Art. 15(10) inserted (1.12.2019) by *The Invasive Alien Species (Enforcement and Permitting) Order (Northern Ireland) 2019* (S.R. 2019/159), **arts. 1(1)**, **32(2)** (with art. 1(2))

[^{F12}Prohibition on sale, etc. of invasive, non-native species

15A.—(1) This Article applies to—

- (a) any animal mentioned in Article 15(1)(a) or (b) which is specified in an order made by the Department for the purposes of this Article;
- (b) any plant included in Part 2 of Schedule 9 which is specified in such an order;
- (c) any hybrid of an animal or plant specified as mentioned in sub-paragraph (a) or (b).

(2) Subject to the provisions of this Part, any person who—

- (a) sells, offers or exposes for sale or has in his possession or transports for the purpose of sale any animal or plant to which this Article applies, or
- (b) publishes, or causes to be published, any advertisement likely to be understood as conveying that the person buys or sells, or intends to buy or sell, any such animal or plant,

is guilty of an offence.

(3) Paragraphs (3) and (4) of Article 15 (defence of due diligence, etc.) apply to an offence under paragraph (2) as they apply to an offence under paragraph (1) or (2) of that Article.

(4) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by paragraph (2)(a) shall be guilty of an offence.

(5) An order under paragraph (1) may be made in relation to a particular area or a particular time of year.]

- F12** Art. 15A inserted (17.8.2011) by *Wildlife and Natural Environment Act (Northern Ireland) 2011* (c. 15), **ss. 14**, 40(1); S.R. 2011/285, **art. 2**, Sch.

[^{F13}Possession of pesticides harmful to wildlife

15B.—(1) A person who is in possession of a pesticide containing a prescribed ingredient shall be guilty of an offence.

(2) A prescribed ingredient is one which is prescribed for the purposes of this Article by an order made by the Department; but the Department may not make an order under this Article unless it is satisfied that it is necessary or expedient to do so in the interests of protecting wild birds or wild animals from harm.

(3) A person shall not be guilty of an offence under this Article if the person shows that the possession of the pesticide was for the purposes of doing anything in accordance with—

- (a) regulations made under section 16(2) of the Food and Environment Protection Act 1985;
- (b) provision made by or under the Poisons (Northern Ireland) Order 1976;

- [^{F14}(c) Regulation (EU) No 528/2012 of the European Parliament and of the Council; or]
- (d) the Plant Protection Products Regulations (Northern Ireland) 2005 or any regulations amending or replacing those regulations.
- (4) In this Article “ pesticide ” means—
- (a) a pesticide as defined by section 16(15) of the Food and Environment Protection Act 1985; and
- (b) anything to which Part 3 of that Act applies, by virtue of section 16(16) of that Act, as if it were a pesticide.]

F13 Art. 15B inserted (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011](#) (c. 15), **ss. 15, 40(1)**; S.R. 2011/285, **art. 2**, Sch.

F14 Art. 15B(3)(c) substituted (1.9.2013) by [The Biocidal Products and Chemicals \(Appointment of Authorities and Enforcement\) Regulations \(Northern Ireland\) 2013](#) (S.R. 2013/206), reg. 2(1), **Sch. 4 para. 1** (with regs. 3, 19)

Wildlife refuges

16.—(1) The Department may by order make provision with respect to any area specified in the order providing for all or any of the following matters, that is to say—

- (a) that any person who, within that area or any part of it specified in the order, at any time or during any period so specified intentionally [^{F15}or recklessly]—
- (i) kills, injures or takes any wild bird or wild animal or any wild bird or wild animal so specified,
- (ii) takes, damages or destroys any nest or any structure or place which such a bird or animal uses for shelter or protection while that nest or structure is in use or being built or while that place is in use,
- (iii) takes, damages or destroys anything which conceals or protects any such nest, structure or place;
- [^{F16}(iiiia) obstructs or prevents any wild bird or wild animal from using its nest or any structure or place which such a bird or animal uses for shelter or protection;]
- (iv) takes or destroys an egg of such a bird or the egg, larva, pupa or any such immature stage of such an animal,
- (v) disturbs such a bird or animal while it is building a nest or structure for shelter or protection or while it is in, on or near such a nest or structure containing the egg of such a bird or the egg, larva, pupa or any such immature stage of such an animal,
- (vi) disturbs the dependent young of such a bird or animal, or
- (vii) picks, removes, uproots or destroys any wild plant or wild plant so specified,
- shall be guilty of an offence under this Article;
- (b) that any person who, except as may be provided in the order, enters into that area or any part of it specified in the order at any time or during any period so specified shall be guilty of an offence under this Article;
- (c) that where any offence under this Part, or any such offence under this Part as may be specified in the order, is committed within that area, [^{F17}the offence shall be treated as falling within Article 7(5A)].

Para. (2) rep. by 1995 NI 6

(3) If any authorised person suspects with reasonable cause that any person is committing or has committed an offence under an order made under this Article in relation to any area, he may require that person—

- (a) to give his full name and address; and
- (b) to quit that area forthwith;

and any person who fails to comply with a requirement under this paragraph shall be guilty of an offence.

(4) The making of any order under this Article with respect to any area shall not affect the exercise by any person of any right vested in him, whether as owner, lessee or occupier of any land in that area or by virtue of a licence or agreement.

(5) Before making any order under this Article the Department—

- (a) shall consult with any district council within whose district the area with respect to which the order is to be made or any part thereof is situated; and
- (b) shall give particulars of the intended order either by notice in writing to every owner and every occupier of any land included in the area with respect to which the order is to be made or, where the giving of such a notice is in the Department's opinion impracticable, by advertisement in a newspaper circulating in the locality in which that area is situated.

(6) The Department shall not make an order under this Article unless—

- (a) all the owners and occupiers aforesaid have consented thereto; or
- (b) no objections thereto have been made by any of those owners or occupiers before the expiration of a period of 3 months from the date of the giving of the notice or the publication of the advertisement; or
- (c) any such objections so made have been withdrawn.

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| <p>F15 Words in art. 16(1)(a) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 5(2)(d), 40(1); S.R. 2011/285, art. 2, Sch.</p> <p>F16 Art. 16(1)(a)(iiia) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 39(1), 40(1), Sch. 2 para. 15(2); S.R. 2011/285, art. 2, Sch.</p> <p>F17 Words in art. 16(1)(c) substituted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 39(1), 40(1), Sch. 2 para. 15(3); S.R. 2011/285, art. 2, Sch.</p> |
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Exceptions to Article 16

17.—(1) Paragraphs (4) and (5) of Article 5 shall apply in relation to any order made under Article 16 as if in those paragraphs—

- (a) for any reference to Article 4 there were substituted a reference to an order under Article 16; and
- (b) any reference to a wild bird included a reference to a wild animal.

(2) Paragraph (6) of Article 5 shall apply in relation to the protection by any order made under Article 16 of any wild bird, or the nest or egg of such a bird, in the same manner as that paragraph applies for the purposes of Article 4.

(3) Paragraph (3) of Article 11 shall apply in relation to the protection by an order made under Article 16 of any wild animal or its shelter in the same manner as that paragraph applies for the purposes of Article 10.

(4) Paragraph (3) of Article 14 shall apply in relation to the protection by an order under Article 16 of any wild plant in the same manner as that paragraph applies for the purposes of paragraph (1) of Article 14.

Changes to legislation:

There are currently no known outstanding effects for the The Wildlife (Northern Ireland) Order 1985, Cross Heading: Other protection.