

STATUTORY RULES OF NORTHERN IRELAND

2019 No. 159

The Invasive Alien Species (Enforcement and Permitting) Order (Northern Ireland) 2019

PART 3

Defences

Defences – permits and licences

10. Article 3 (keeping, breeding, transporting etc. of invasive alien species) does not apply to anything done under and in accordance with—

- (a) a permit; or
- (b) a licence.

Commencement Information

11 [Art. 10](#) in operation at 1.12.2019, see [art. 1\(1\)](#)

Defences – enforcement activity

11. It is a defence to a charge of committing an offence under Article 3 in relation to a breach of the restrictions in Article 3(1)(a), (c) or (e) if the person accused is—

- (a) an authorised person; or
- (b) a person acting at the request, or on behalf, of an authorised person,

and is acting for a purpose connected with the enforcement of this Order.

Commencement Information

12 [Art. 11](#) in operation at 1.12.2019, see [art. 1\(1\)](#)

Defences: due diligence

12.—(1) It is defence to a charge of committing an offence under Article 3(2) or (3) if the person charged (“P”) shows that P took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) Where the defence provided by paragraph (1) involves an allegation that the commission of the offence was due to the act or omission of another person, the person charged is not, without leave of the court, entitled to rely on the defence unless, within a period ending seven clear days before the hearing, the person has served on the prosecutor a notice giving such relevant information as was then in the person’s possession.

(3) In paragraph (2), “relevant information” means information which identifies or assists in the identification of the other person.

Commencement Information

I3 Art. 12 in operation at 1.12.2019, see [art. 1\(1\)](#)

Transitional provision for non-commercial owners: companion animals

13.—(1) It is a defence to a charge of committing an offence under Article 3(1)(a) or (c) to show that the specimen to which the alleged offence relates—

- (a) immediately before its inclusion on the Union list, was kept as a companion animal; and
 - (b) the condition in paragraph (2) or the condition in paragraph (3) applies.
- (2) The condition in this paragraph is that, at all material times—
- (a) the purpose in keeping the animal was to keep it as a companion animal; and
 - (b) the animal was kept in contained holding and appropriate measures were in place to ensure that the animal could not reproduce or escape.
- (3) The condition in this paragraph is that, at all material times—
- (a) the animal was kept for the purpose of transporting it to—
 - (i) a facility to which a relevant licence had been granted;
 - (ii) an establishment to which a relevant permit had been issued; or
 - (iii) a place where it was to be humanely dispatched; and
 - (b) the animal was kept in contained holding and appropriate measures were in place to ensure that the animal could not reproduce or escape.
- (4) In this Article—
- “relevant licence” means a licence under—
- (a) article 29(2)(d);
 - (b) article 36(2)(d) of the Invasive Alien Species (Enforcement and Permitting) Order 2019(1); or
 - (c) any provision in legislation which applies in relation to Scotland and which enables licences to be granted for the keeping of an animal by a facility until the end of its natural life in accordance with Article 31(4) (transitional provisions for non-commercial owners) of the Principal Regulation.
- “relevant permit” means a permit under—
- (a) article 28 (permits for activities relating to invasive alien species);
 - (b) article 35 of the Invasive Alien Species (Enforcement and Permitting) Order 2019; or
 - (c) any provision in legislation which applies in relation to Scotland and which enables permits to be issued in accordance with Article 8 (permits) or 9 (authorisations) of the Principal Regulation.

Commencement Information

I4 Art. 13 in operation at 1.12.2019, see [art. 1\(1\)](#)

Transitional provision for non-commercial owners: commercial stocks

14. It is a defence to a charge of committing an offence under Article 3(1)(a) or (c) to show that the specimen to which the alleged offence relates—

- (a) was received from a keeper of commercial stocks in accordance with Article 15(3)(d); and
- (b) at all material times, was kept in contained holding and appropriate measures were in place to ensure that the specimen could not reproduce or escape.

Commencement Information

15 Art. 14 in operation at 1.12.2019, see **art. 1(1)**

Transitional provisions for commercial stocks

15.—(1) It is a defence to a charge of committing an offence to which this Article applies for a keeper of a commercial stock of specimens to show that—

- (a) the specimens were acquired before their inclusion on the Union list; and
 - (b) the activity constituting the offence—
 - (i) was carried out for one of the purposes listed in paragraph (3); and
 - (ii) was not carried out after the end of the relevant period following the inclusion of the species to which the specimen in question belongs on the Union list.
- (2) This Article applies to an offence under Article 3(1)(a), (c), (d) or (e).
- (3) The purposes are—
- (a) sale or transfer to a research or ex situ conservation establishment which holds a relevant permit, provided that the conditions in paragraph (4) apply;
 - (b) medicinal activities pursuant to a relevant permit, provided that the conditions in paragraph (4) apply;
 - (c) humane dispatch (in the case of animals) or destruction (in the case of plants, fungi or micro-organisms) of the specimen to exhaust the keeper's stock; or
 - (d) sale or transfer to a non-commercial user, provided that the conditions in paragraph (4) apply.
- (4) The conditions are that, at all material times—
- (a) the specimen was kept and transported in contained holding; and
 - (b) appropriate measures were in place to ensure that the specimen could not reproduce or escape.
- (5) For the purposes of paragraph (1)(b)(ii), the relevant period is—
- (a) in relation to an activity carried out for a purpose mentioned in paragraph (3)(a) to (c), two years;
 - (b) in relation to an activity carried out for a purpose mentioned in paragraph (3)(d), one year.
- (6) In this Article, “relevant permit” means—
- (a) for the purposes of paragraph (3)(a), a permit under—
 - (i) article 28(1)(a);
 - (ii) article 35(1)(a) of the Invasive Alien Species (Enforcement and Permitting) Order 2019; or

Changes to legislation: *There are currently no known outstanding effects for the The Invasive Alien Species (Enforcement and Permitting) Order (Northern Ireland) 2019, PART 3. (See end of Document for details)*

- (iii) any provision in legislation which applies in relation to Scotland and which enables permits to be issued for research or ex situ conservation in accordance with Article 8 of the Principal Regulation; and
- (b) for the purposes of paragraph (3)(b), a permit under—
 - (i) article 28(1)(b);
 - (ii) article 35(1)(b) of the Invasive Alien Species (Enforcement and Permitting) Order 2019; or
 - (iii) any provision in legislation which applies in relation to Scotland and which enables permits to be issued for scientific production and subsequent medicinal use in accordance with Article 8 of the Principal Regulation.

Commencement Information

16 [Art. 15](#) in operation at 1.12.2019, see [art. 1\(1\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Invasive Alien Species (Enforcement and Permitting) Order (Northern Ireland) 2019, PART 3.