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STATUTORY INSTRUMENTS

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**2019 No. 527**

**The Invasive Alien Species (Enforcement  
and Permitting) Order 2019**

**PART 2**

**Offences**

**Import, keeping, breeding, purchase, release etc. of invasive alien species**

**3.**—(1) A person who contravenes a provision of the Principal Regulation specified in Table 1 of Schedule 1 is guilty of an offence.

(2) A person who releases or allows to escape into the wild any specimen which is of a species of animal which—

- (a) is not ordinarily resident in and is not a regular visitor to Great Britain in a wild state, or
- (b) is included in Part 1 of Schedule 2,

is guilty of an offence.

(3) A person who plants or otherwise causes to grow in the wild any specimen which is of a species of plant which is included in Part 2 of Schedule 2 is guilty of an offence.

(4) A person who—

- (a) sells, offers or exposes for sale, or has in his possession or transports for the purposes of sale, any specimen of a species included in Part 3 of Schedule 2, 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 specimen of a species included in Part 3 of Schedule 2,

is guilty of an offence.

(5) A person may not by reason of the same act be convicted of both—

- (a) an offence under paragraph (1); and
- (b) an offence under paragraph (2), (3) or (4).

(6) The power to make an order under section 14ZA(3)(b) of the Wildlife and Countryside Act 1981 (sale of invasive non-native species)(1) applies for the purposes of enabling the Secretary of State, or (in relation to Wales) the Welsh Ministers, to add to or remove from Part 3 of Schedule 2 any species of animal or plant as it applies for the purposes of enabling animals or plants to be prescribed for the purposes of section 14ZA of that Act.

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(1) 1981 c. 69. Section 14ZA was inserted by section 50 of the Natural Environment and Rural Communities Act 2006 (c. 16) and amended by section 25(3) of the Infrastructure Act 2015 (c. 7).

### **False statements**

4.—(1) A person who, for the purpose of obtaining the issue of a permit or the grant of a licence (whether for that person or another), knowingly or recklessly—

- (a) makes a statement or representation which is false in a material particular, or
- (b) furnishes a document or information which is false in a material particular,

is guilty of an offence.

(2) A person who, for the purpose of the notice referred to in article 19(2), makes a statement or representation which is false in a material particular is guilty of an offence.

### **Misuse of permits or licences**

5. A person who knowingly falsifies or alters a permit or a licence is guilty of an offence.

### **Compliance with permits and licences**

6. A person who knowingly contravenes a condition of a permit or of a licence is guilty of an offence.

### **Obstruction and deception**

7.—(1) A person who intentionally obstructs an enforcement officer or a designated customs official acting in accordance with the powers conferred in Part 5 is guilty of an offence.

(2) A person who, without reasonable excuse, fails to give any assistance or information reasonably required by an enforcement officer or a designated customs official acting in accordance with the powers conferred in Part 5 is guilty of an offence.

(3) A person who, with intent to deceive, pretends to be an enforcement officer or a designated customs official is guilty of an offence.

(4) A person who furnishes to an enforcement officer or a designated customs official any information knowing it to be false or misleading is guilty of an offence.

### **Attempts to commit offences etc.**

8.—(1) A person who attempts to commit an offence under articles 3 to 6 is guilty of an offence.

(2) A person who, for the purposes of committing an offence under articles 3 to 6 is in possession of anything capable of being used for committing the offence is guilty of an offence.

### **Offences by bodies corporate**

9.—(1) If an offence under this Part committed by a body corporate is proved—

- (a) to have been committed with the consent or connivance of an officer, or
- (b) to be attributable to any neglect on the part of an officer,

the officer, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) In paragraph (1), “officer”, in relation to a body corporate, means—

- (a) a director, manager, secretary or other similar officer of the body; or
- (b) a person purporting to act in any such capacity.

(3) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as it applies to an officer of a body corporate.

### **Offences by Scottish partnerships**

**10.**—(1) If an offence under this Part committed by a Scottish partnership is proved—

- (a) to have been committed with the consent or connivance of a partner, or
- (b) to be attributable to any neglect on the part of a partner,

the partner, as well as the partnership, is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) In paragraph (1), “partner” includes a person purporting to act as a partner.

### **Offences by partnerships and unincorporated associations**

**11.**—(1) Proceedings for an offence under this Part alleged to have been committed by a partnership (other than a Scottish partnership) or an unincorporated association must be brought against the partnership or association in the name of the partnership or association.

(2) For the purposes of such proceedings—

- (a) rules of court relating to the service of documents have effect as if the partnership or unincorporated association were a body corporate; and
- (b) the following provisions apply as they apply in relation to a body corporate—
  - (i) section 33 of the Criminal Justice Act 1925 (procedure on charge of offence against corporation)<sup>(2)</sup> and Schedule 3 to the Magistrates' Courts Act 1980 (corporations)<sup>(3)</sup>;
  - (ii) sections 70 and 143 of the Criminal Procedure (Scotland) Act 1995 (proceedings against organisations and prosecution of companies, etc.)<sup>(4)</sup>;
  - (iii) section 18 of the Criminal Justice Act (Northern Ireland) 1945 (procedure on charge)<sup>(5)</sup> and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981<sup>(6)</sup>.

(3) A fine imposed on a partnership or unincorporated association on its conviction of an offence under this Part is to be paid out of the funds of the partnership or association.

(4) If an offence under this Part committed by a partnership is proved—

- (a) to have been committed with the consent or connivance of a partner, or
- (b) to be attributable to any neglect on the part of a partner,

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(2) 1925 c. 86. Section 33 was amended by section 132 of, and Schedule 6 to, the Magistrates Courts Act 1952 (c. 55); paragraph 19 of Schedule 8 to the Courts Act 1971 (c. 23); and paragraph 71 of Schedule 8, and Schedule 10, to the Courts Act 2003 (c. 39) (subject to savings specified in S.I. 2004/2066).

(3) 1980 c. 43. Schedule 3 was amended by Schedule 13 to the Criminal Justice Act 1991 (c. 53); and paragraph 51 of Schedule 3, and paragraph 1 of Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44).

(4) 1995 (c. 46). Section 70 was amended by section 10(6) of the Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5) (subject to savings); section 28 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6); section 66 of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13); section 6(4) of the Partnerships (Prosecution) (Scotland) Act 2013 (c. 21); section 83(a) of Part 3 of the Criminal Justice (Scotland) Act 2016 (asp 1); and S.I. 2001/1149. Section 143 was amended by section 17 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6); section 67 of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13); and SSI 2001/128.

(5) 1945 c. 15 (N.I.). Section 18(1), (2) and (6) was repealed by Schedule 7 to the Magistrates' Court Act (Northern Ireland) 1964 (c. 21 (N.I.)). Section 18(3) was amended by S.I. 1972/538 (N.I. 1), and its effect was continued by paragraph 1 of Schedule 12 to the Justice (Northern Ireland) Act 2002 (c. 26).

(6) S.I. 1981/1675 (N.I. 26).

the partner, as well as the partnership, is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) In paragraph (4), “partner” includes a person purporting to act as a partner.

(6) If an offence under this Part committed by an unincorporated association (other than a partnership) is proved—

- (a) to have been committed with the consent or connivance of an officer of the association, or
- (b) to be attributable to any neglect on the part of such an officer,

the officer, as well as the association, is guilty of the offence and liable to be proceeded against and punished accordingly.

(7) In paragraph (6), “officer”, in relation to an unincorporated association, means—

- (a) an officer of the association or a member of its governing body; or
- (b) a person purporting to act in such a capacity.

### **Application of offences in the offshore marine area**

**12.**—(1) Subject to paragraph (2), the offences in this Part apply (in so far as they are capable of so applying) to any person—

- (a) in any part of the waters comprised in the offshore marine area;
- (b) on a ship in any part of the waters comprised in the offshore marine area;
- (c) on or under an offshore marine installation.

(2) The offences in this Part do not apply to any person on a third country ship.

(3) In this article—

“offshore marine installation” means any artificial island, installation or structure (other than a ship) which is situated—

- (a) in any part of the waters designated under section 1(7) of the Continental Shelf Act 1962 (exploration and exploitation of the continental shelf)(7); or
- (b) in any part of the waters in any area designated under section 84(4) of the Energy Act 2004 (exploitation of areas outside the territorial sea for energy production)(8);

“ship” means any vessel (including hovercraft, submersible craft and other floating craft) other than one which permanently rests on, or is permanently attached to, the seabed;

“third country ship” means a ship which—

- (a) is flying the flag of, or is registered in, any State or territory (other than Gibraltar) which is not a member State; and
- (b) is not registered in a member State.

### **Proceedings for offences: venue and time limits**

**13.**—(1) For the purposes of conferring jurisdiction in any proceedings for the prosecution of an offence under this Part, any such offence is deemed to have been committed in any place where the offender is found or to which the offender is first brought after the commission of the offence.

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(7) 1964 c. 29. Section 1(7) was amended by section 37 of, and paragraph 1 of Schedule 3 to, the Oil and Gas (Enterprise) Act 1982 (c. 23). Areas have been designated under section 1(7) by S.I. 1987/1265 (as amended by S.I. 2000/3062) and 2013/3162.

(8) 2004 c. 20. Section 84(4) was substituted by paragraph 4 of Schedule 4 to the Marine and Coastal Access Act 2009 (c. 23). Areas have been designated under section 84(4) by S.I. 2004/2668 and 2013/3161.

(2) Summary proceedings for such an offence may be commenced within the period of six months from the date on which the prosecutor first knows of evidence sufficient, in the prosecutor's opinion, to justify proceedings.

(3) But, subject to the time limits contained in paragraphs 17(2) and 29(3) of Schedule 3 (criminal proceedings following failure to comply with a civil penalty), no such proceedings may be commenced more than two years after the commission of the offence.

(4) For the purposes of paragraph (2)—

- (a) a certificate signed by or on behalf of the prosecutor and stating the date on which the prosecutor first knew of evidence to justify the proceedings is conclusive evidence of that fact; and
- (b) a certificate stating that matter and purporting to be so signed is deemed to be so signed unless the contrary is proved.