
STATUTORY INSTRUMENTS

2010 No. 490

The Conservation of Habitats and Species Regulations 2010

PART 7

ENFORCEMENT

Miscellaneous

Advice and assistance from nature conservation bodies

121.—(1) The appropriate nature conservation body may advise or assist any constable or wildlife inspector in, or in connection with, enforcement action in relation to an offence specified in paragraph (2).

(2) The offences specified for the purposes of this regulation are—

- (a) a species offence;
- (b) an offence under regulation 57 (false statements made for obtaining licence), where that offence relates to the obtaining of a licence under regulation 53 (licences for certain activities relating to animals or plants); and
- (c) an offence under regulation 116(1) or (2) (attempts and possession of means of committing offence).

Forfeiture

122.—(1) The court by which a person is convicted of an offence specified in paragraph (3)—

- (a) must 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 any aircraft, hovercraft or boat.

(3) The offences specified for the purposes of this regulation are—

- (a) a species offence;
- (b) an offence under regulation 57 (false statements made for obtaining licence), where that offence relates to the obtaining of a licence under regulation 53 (licences for certain activities relating to animals or plants); and
- (c) an offence under regulation 116(1) or (2) (attempts and possession of means of committing offence).

Proceedings for offences: venue and time limits

123.—(1) For the purposes of conferring jurisdiction, an offence specified in paragraph (5) 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.

(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 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 sufficient 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.

(5) The offences specified for the purposes of this regulation are—

(a) a species offence;

(b) an offence under regulation 52 (introduction of new species from ships);

(c) an offence under regulation 57 (false statements made for obtaining licence); and

(d) an offence under regulation 116(1) or (2) (attempts and possession of means of committing offence).

Offences by bodies corporate etc.

124.—(1) If an offence under these Regulations committed by a body corporate (other than a limited liability partnership or a Scottish partnership) 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) 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.

(3) If an offence under these Regulations committed by a partnership (including a limited liability partnership and 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.

(4) If an offence under these Regulations committed by an unincorporated body (other than an unincorporated partnership) is proved—

(a) to have been committed with the consent or connivance of an officer of the body, or

(b) to be attributable to any neglect on the part of such an officer,

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

(5) In this regulation—

- (a) “officer” includes a person purporting to act as an officer; and
- (b) “partner” includes a person purporting to act as a partner.

Application of criminal offences to the Crown

125.—(1) No contravention by the Crown of any provision of these Regulations makes the Crown criminally liable, but the High Court may, on the application of any person appearing to the Court to have an interest, declare unlawful an act or omission of the Crown which constitutes such a contravention.

(2) Notwithstanding paragraph (1), these Regulations apply to persons in the public service of the Crown as they apply to any other person.