
STATUTORY INSTRUMENTS

2002 No. 3153

The Environment (Northern Ireland) Order 2002

PART IV

AREAS OF SPECIAL SCIENTIFIC INTEREST

Offences

Offences

46.—(1) A person who, without reasonable excuse, contravenes Article 32(1) is guilty of an offence and is liable on summary conviction to a fine not exceeding £20,000 or on conviction on indictment to a fine.

(2) A public body which, in the exercise of its functions, carries out an operation which damages any of the flora, fauna or geological, physiographical or other features by reason of which an ASSI is of special scientific interest—

(a) without first complying with Article 39(1), or

(b) (if it has complied with Article 39(1)) without first complying with Article 39(4)(a),

is, unless there was a reasonable excuse for carrying out the operation without complying, guilty of an offence and is liable on summary conviction to a fine not exceeding £20,000 or on conviction on indictment to a fine.

(3) A public body acting in the exercise of its functions which, having complied with Article 39(1), fails without reasonable excuse to comply with Article 39(4)(b) is guilty of an offence and is liable on summary conviction to a fine not exceeding £20,000 or on conviction on indictment to a fine.

(4) For the purposes of paragraphs (1), (2) and (3), it is a reasonable excuse in any event for a person to carry out an operation (or to fail to comply with a requirement to send a notice about it) if—

(a) subject to paragraph (5), the operation in question was authorised by a planning permission granted on an application under [F1Part 3 of the Planning Act (Northern Ireland) 2011] or permitted by a public body which has acted in accordance with Article 40; or

(b) the operation in question was an emergency operation particulars of which (including details of the emergency) were notified to the Department as soon as practicable after the commencement of the operation.

(5) If an operation needs both a planning permission and the permission of a public body, paragraph (4)(a) does not provide reasonable excuse unless both have been obtained.

[F2(5A) A public body which, in the exercise of its functions, permits the carrying out of an operation which damages any of the flora, fauna or geological or physiographical features by reason of which an ASSI is of special interest—

(a) without first complying with Article 40(2), or

(b) where relevant, without first complying with Article 40(4) or (6),

is, unless there was a reasonable excuse for permitting the carrying out of the operation without complying, guilty of an offence and is liable on summary conviction to a fine not exceeding £20,000 or on conviction on indictment to a fine.

(5B) For the purposes of paragraph (5A), it is a reasonable excuse in any event for a public body to permit the carrying out of an operation without first complying with Article 40(2), (4) or (6) if the operation in question was an emergency operation particulars of which (including details of the emergency) were notified to the Department as soon as practicable after the permission was given.]

(6) A person (other than a public body acting in the exercise of its functions) who without reasonable excuse—

- (a) intentionally or recklessly destroys or damages any of the flora, fauna, or geological, physiographical or other features by reason of which land is of special scientific interest, or intentionally or recklessly disturbs any of those fauna, and
- (b) knew that what he destroyed, damaged or disturbed was within an ASSI,

is guilty of an offence and is liable on summary conviction to a fine not exceeding £20,000 or on conviction on indictment to a fine.

[^{F3}(6A) A person (other than a public body acting in the exercise of its functions) who without reasonable excuse—

- (a) intentionally or recklessly destroys or damages any of the flora, fauna, or geological or physiographical features by reason of which land is of special scientific interest, or
- (b) intentionally or recklessly disturbs any of those fauna,

is guilty of an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.]

(7) For the purposes of paragraph (6) [^{F4}or (6A)] it is a reasonable excuse in any event for a person to do what is mentioned in that paragraph if—

- (a) subject to paragraph (8), the destruction, damage or disturbance in question was authorised by a planning permission granted on an application under [^{F5}Part 3 of the Planning Act (Northern Ireland) 2011] or permitted by a public body which has acted in accordance with Article 40; or
- (b) the destruction, damage or disturbance in question was caused by an emergency operation particulars of which (including details of the emergency) were notified to the Department as soon as practicable after the commencement of the operation.

(8) If the destruction, damage or disturbance in question needs both a planning permission and the permission of a public body, paragraph (7)(a) does not provide reasonable excuse unless both have been obtained.

(9) A person who without reasonable excuse fails to comply with a requirement of a management notice is guilty of an offence and is liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to a fine.

(10) A person who intentionally obstructs a person acting in the execution of any power conferred by Article 44(1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(11) A person who—

- (a) contravenes any byelaw made under Article 45; or
- (b) intentionally obstructs any person authorised under paragraph (5) of that Article,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(12) In determining the amount of any fine to be imposed on a person convicted of an offence under this Article, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.

(13) Proceedings for an offence under this Article shall not, without the consent of the Director of Public Prosecutions for Northern Ireland, be taken by a person other than the Department.

- F1** Words in art. 46(4)(a) substituted (13.2.2015 for specified purposes) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 96\(a\)](#) (with s. 211); S.R. 2015/49, art. 2, Sch. 1
- F2** Art. 46(5A)(5B) inserted (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\), ss. 31\(2\), 40\(1\)](#); S.R. 2011/285, art. 2, Sch.
- F3** Art. 46(6A) inserted (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\), ss. 31\(3\), 40\(1\)](#); S.R. 2011/285, art. 2, Sch.
- F4** Words in art. 46(7) inserted (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\), ss. 31\(4\), 40\(1\)](#); S.R. 2011/285, art. 2, Sch.
- F5** Words in art. 46(7)(a) substituted (13.2.2015 for specified purposes) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 96\(b\)](#) (with s. 211); S.R. 2015/49, art. 2, Sch. 1

[^{F6}Notification of change of owner or occupier

46A.—(1) This Article applies where the owner of land included in an ASSI—

- (a) disposes of an interest in the land; or
- (b) becomes aware that it is occupied by an additional or a different occupier.

(2) If this Article applies, the owner shall send a notice to the Department before the end of the period of 28 days beginning with the date on which he disposed of the interest or became aware of the change in occupation.

(3) The notice is to specify the land concerned and—

- (a) in a case falling within paragraph (1)(a), the date on which the owner disposed of the interest in the land, and the name and address of the person to whom he disposed of the interest; or
- (b) in a case falling within paragraph (1)(b), the date on which the change of occupation took place (or, if the owner does not know the exact date, an indication of when to the best of the owner's knowledge it took place), and, as far as the owner knows them, the name and address of the additional or different occupier.

(4) A person who fails without reasonable excuse to comply with the requirements of this Article is guilty of an offence and is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(5) For the purposes of paragraph (1), an owner “disposes of” an interest in land if he disposes of it by way of sale, exchange or lease, or by way of the creation of any easement, right or privilege, or in any other way except by way of mortgage.]

- F6** Art. 46A inserted (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\), ss. 32, 40\(1\)](#); S.R. 2011/285, art. 2, Sch.

[^{F7}Notices and signs relating to ASSIs

46B.—(1) The Department may, on any land included in an ASSI, put up and maintain notices or signs relating to the site.

(2) The Department may remove any notice or sign put up under paragraph (1).

(3) Any other person who intentionally or recklessly and without reasonable excuse takes down, damages, destroys or obscures a notice or sign put up under paragraph (1) is guilty of an offence.

(4) A person guilty of an offence under this Article is liable on summary conviction to a fine not exceeding level 4 on the standard scale.]

F7 Art. 46B inserted (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011](#) (c. 15), **ss. 33**, 40(1); S.R. 2011/285, **art. 2**, Sch.

Restoration following offences under Article 46

47.—(1) Where—

- (a) the operation in respect of which a person is convicted of an offence under Article 46(1), (2) or (3) has destroyed or damaged any of the flora, fauna or geological, physiographical or other features by reason of which an ASSI is of special scientific interest, or
- (b) a person is convicted of an offence under Article 46(6) [^{F8}or (6A)],

the court by or before which he is convicted, in addition to dealing with him in any other way, may make an order requiring him to carry out, within such period as may be specified in the order, such operations (whether on land included in the ASSI or not) as may be so specified for the purpose of restoring the ASSI to its former condition.

(2) The period specified in an order made under paragraph (1) shall not begin to run—

- (a) in any case until the expiration of the period for the time being prescribed by law for the giving of notice of appeal against the conviction
- (b) where notice of appeal is given within the period so prescribed, until determination of the appeal.

(3) At any time before an order under paragraph (1) is complied with or fully complied with, the court by which it was made may, on the application of the person against whom it was made, discharge or vary the order if it appears to the court that a change in the circumstances has made compliance or full compliance with the order impracticable or unnecessary.

(4) If, within the period specified in an order under paragraph (1), the person against whom it was made fails, without reasonable excuse, to comply with it, he shall be guilty of an offence and liable on summary conviction—

- (a) to a fine not exceeding level 5 on the standard scale; and
- (b) in the case of a continuing offence, to a further fine not exceeding £100 for each day during which the offence continues after conviction.

(5) If, within the period specified in an order under paragraph (1), any operations specified in the order have not been carried out, the Department may carry out those operations and recover from the person against whom the order was made any expenses reasonably incurred by the Department in doing so.

F8 Words in art. 47(1)(b) inserted (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011](#) (c. 15), **ss. 31(5)**, 40(1); S.R. 2011/285, **art. 2**, Sch.

Changes to legislation:

There are currently no known outstanding effects for the The Environment (Northern Ireland) Order 2002, Cross Heading: Offences.