
STATUTORY RULES OF NORTHERN IRELAND

1995 No. 380

**The Conservation (Natural Habitats, etc.)
Regulations (Northern Ireland) 1995**

PART III

PROTECTION OF SPECIES

Protection of animals

European protected species of animals

33. The species of animals listed in Annex IV(a) to the Habitats Directive whose natural range includes any area in Northern Ireland are listed in Schedule 2 to these Regulations.

References in these Regulations to a “European protected species” of animal are to any of those species.

Protection of wild animals of European protected species

34.—(1) It is an offence—

- (a) deliberately to take or kill a wild animal of a European protected species;
- (b) deliberately to disturb any such animal;
- (c) deliberately to take or destroy the eggs of such an animal; or
- (d) to damage or destroy a breeding site or resting place of such an animal.

(2) It is an offence to keep, transport, sell or exchange, or offer for sale or exchange, any live or dead wild animal of a European protected species, or any part of, or anything derived from, such an animal.

(3) Paragraphs (1) and (2) apply to all stages of the life of the animals to which they apply.

(4) A person shall not be guilty of an offence under paragraph (2) if he shows—

- (a) that the animal had not been taken or killed, or had been lawfully taken or killed, or
- (b) that the animal or other thing in question had been lawfully sold (whether to him or any other person).

For this purpose “lawfully” means without any contravention of these Regulations or Part II of the Wildlife (Northern Ireland) Order 1985(1).

(5) In any proceedings for an offence under this regulation, the animal in question shall be presumed to have been a wild animal unless the contrary is shown.

(6) A person guilty of an offence under this regulation shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Exceptions from regulation 34

35.—(1) Nothing in regulation 34 shall make unlawful anything done—

- (a) in pursuance of a requirement by the Department of Agriculture under section 6 of the Agriculture Act (Northern Ireland) 1949⁽²⁾ or under section 2 of the Agriculture (Miscellaneous Provisions) Act (Northern Ireland) 1959⁽³⁾; or
- (b) under the Drainage (Northern Ireland) Order 1973⁽⁴⁾.

(2) Nothing in regulation 34(1)(b) or (d) shall make unlawful anything done within a dwelling house.

(3) Notwithstanding anything in regulation 34, a person shall not be guilty of an offence by reason of—

- (a) the taking of a wild animal of a European protected species if he shows that the animal had been disabled otherwise than by his unlawful act and was taken solely for the purpose of tending it and releasing it when no longer disabled;
- (b) the killing of such an animal if he shows that the animal had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering; or
- (c) any act made unlawful by that regulation if he shows that the act was the incidental result of a lawful operation and could not reasonably have been avoided.

(4) A person shall not be entitled to rely on the defence provided by paragraph (2) or (3)(c) as respects anything done in relation to a bat otherwise than in the living area of a dwelling house unless he had notified the Department of the proposed action or operation and allowed it a reasonable time to advise him as to whether it should be carried out and, if so, the method to be used.

(5) Notwithstanding anything in regulation 34 an authorised person shall not be guilty of an offence by reason of the killing or disturbing of an animal of a European protected species—

- (a) if he shows that his action was necessary for the purpose of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, pasture or any other form of property or to fisheries; and
- (b) he notifies the Department immediately after taking such action.

(6) An authorised person may not rely on the defence provided by paragraph (5) as respects any action taken at any time if it had become apparent, before that time, that the action would prove necessary for the purpose mentioned in that paragraph and either—

- (a) a licence under regulation 39 authorising that action had not been applied for as soon as reasonably practicable after that fact had become apparent; or
- (b) an application for such a licence had been determined.

(7) In this regulation “authorised person” means—

- (a) the owner or occupier, or any person authorised by the owner or occupier, of the land on which the action authorised is taken,
- (b) any person authorised by the Department;

so, however, that the authorisation of any person for the purposes of this definition shall not confer any right of entry upon any land.

(2) 1949 c. 2 (N.I.)

(3) 1959 c. 2 (N.I.)

(4) S.I. 1973/69 (N.I. 1)

Prohibition of certain methods of taking or killing wild animals

- 36.**—(1) This regulation applies in relation to the taking or killing of a wild animal—
- (a) of any of the species listed in Schedule 3 to these Regulations (which shows the species listed in Annex V(a) to the Habitats Directive, and to which Article 15 applies, whose natural range includes any area of Northern Ireland), or
 - (b) of a European protected species, where the taking or killing of such animals is permitted in accordance with these Regulations.
- (2) It is an offence to use for the purpose of taking or killing any such wild animal—
- (a) any of the means listed in paragraph (3) or (4), or
 - (b) any form of taking or killing from the modes of transport listed in paragraph (5).
- (3) The prohibited means of taking or killing of mammals are—
- (a) blind or mutilated animals used as live decoys;
 - (b) tape recorders;
 - (c) electrical and electronic devices capable of killing or stunning;
 - (d) artificial light sources;
 - (e) mirrors and other dazzling devices;
 - (f) devices for illuminating targets;
 - (g) sighting devices for night shooting comprising an electronic image magnifier or image converter;
 - (h) explosives;
 - (i) nets which are non-selective according to their principle or their conditions of use;
 - (j) traps which are non-selective according to their principle or their conditions of use;
 - (k) crossbows;
 - (l) poisons and poisoned or anaesthetic bait;
 - (m) gassing or smoking out; or
 - (n) semi-automatic or automatic weapons with a magazine capable of holding more than two rounds of ammunition.
- (4) The prohibited means of taking or killing fish are—
- (a) poison; or
 - (b) explosives.
- (5) The prohibited modes of transport are—
- (a) aircraft; or
 - (b) moving motor vehicles.
- (6) A person guilty of an offence under this regulation shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Protection of plants

European protected species of plants

37. The species of plants listed in Annex IV(b) to the Habitats Directive whose natural range includes any area in Northern Ireland are listed in Schedule 4.

References in these Regulations to a “European protected species” of plant are to any of those species.

Protection of wild plants of European protected species

38.—(1) It is an offence deliberately to pick, collect, cut, uproot or destroy a wild plant of a European protected species.

(2) It is an offence to keep, transport, sell or exchange, or offer for sale or exchange, any live or dead wild plant of a European protected species, or any part of, or anything derived from, such a plant.

(3) Paragraphs (1) and (2) apply to all stages of the biological cycle of the plants to which they apply.

(4) A person shall not be guilty of an offence under paragraph (1), 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.

(5) A person shall not be guilty of an offence under paragraph (2) if he shows that the plant or other thing in question had been lawfully sold (whether to him or any other person).

For this purpose “lawfully” means without any contravention of these Regulations or Part II of the Wildlife (Northern Ireland) Order 1985.

(6) In any proceedings for an offence under this regulation, the plant in question shall be presumed to have been a wild plant unless the contrary is shown.

(7) A person guilty of an offence under this regulation shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Power to grant licences

Grant of licences for certain purposes

39.—(1) Regulations 34, 36 and 38 do not apply to anything done for any of the following purposes under and in accordance with the terms of a licence granted by the Department.

(2) The purposes referred to in paragraph (1) are—

- (a) scientific or educational purposes;
- (b) ringing or marking, or examining any ring or mark on, wild animals;
- (c) conserving wild animals or wild plants or introducing them to particular areas;
- (d) protecting any zoological or botanical collection;
- (e) preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment;
- (f) preventing the spread of disease; or
- (g) preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, pasture or any other form of property or to fisheries.

(3) The Department shall not grant a licence under this regulation unless it is satisfied—

- (a) that there is no satisfactory alternative, and
- (b) that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

Licences: supplementary provisions

40.—(1) A licence under regulation 39—

- (a) may be, to any degree, general or specific;
- (b) may be granted either to persons of a class or to a particular person; and
- (c) may be subject to compliance with any specified conditions.

(2) For the purposes of a licence under regulation 39 the definition of a class of persons may be framed by reference to any circumstances whatever including, in particular, their being authorised by any other person.

(3) A licence under regulation 39 may be modified or revoked at any time by the Department; but otherwise shall be valid for the period stated in the licence.

(4) A licence under regulation 39 which authorises any person to kill wild animals—

- (a) shall specify—
 - (i) the species of wild animals which may be killed and the person authorised to kill them; and
 - (ii) the area within which and the methods by which the wild animals may be killed; and
- (b) shall not be granted for a period of more than two years.

False statements made for obtaining licence

41.—(1) A person who, for the purpose of obtaining, whether for himself or another, the grant of licence under regulation 39—

- (a) makes a statement or representation, or furnishes a document or information, which he knows to be false in a material particular; or
- (b) recklessly makes a statement or representation, or furnishes a document or information, which is false in a material particular, shall be guilty of an offence.

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