

2019 No. 68

WILDLIFE

**The Humane Trapping Standards Regulations (Northern Ireland)
2019**

Made - - - - - *27th March 2019*

Coming into operation - - - - - *31st May 2019*

The Department of Agriculture, Environment and Rural Affairs is a department designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in relation to wild animals. The Department makes these Regulations in exercise of the powers conferred by that section.

PART 1

Introductory provisions

Title, commencement and interpretation

1.—(1) These Regulations—

(a) may be cited as the Humane Trapping Standards Regulations (Northern Ireland) 2019; and

(b) shall come into operation on 31st May 2019.

(2) The Interpretation Act (Northern Ireland) 1954 applies to these Regulations as it applies to an Act of the Assembly^(c).

PART 2

Amendment of the Wildlife (Northern Ireland) Order 1985

Amendment of the Wildlife (Northern Ireland) Order 1985

2. The Wildlife (Northern Ireland) Order 1985^(d) is amended in accordance with regulations 3 to 8.

(a) S.I. 2014 No. 1890.

(b) 1972 c.68.

(c) 1954 c. 33.

(d) 1985 No.171 (N.I.2), as amended by the Wildlife and Natural Environment Act (N.I.) 2011 (c. 15)

Amendment of Article 12

3.—(1) Article 12 (prohibition of certain methods of killing or taking wild animals) is amended as follows.

(2) For paragraph (2) substitute—

“(2) Subject to the provisions of this Part and to those of Article 20, if any person—

- (a) uses any trap or snare for the purpose of killing, taking or restraining any wild animal included in Schedule 6 or 6A;
- (b) sets in position any trap or snare of such a nature and so placed as to be calculated to cause bodily injury to any wild animal included in Schedules 6 or 6A;
- (c) sets in position any—
 - (i) hook and line;
 - (ii) electrical device for killing or stunning; or
 - (iii) poisonous, poisoned or stupefying substance or muscle-relaxing agent, of such a nature and so placed as to be calculated to cause bodily injury to any wild animal included in Schedule 6;
- (d) uses for the purpose of killing or taking any wild animal included in Schedule 6 any—
 - (i) hook and line;
 - (ii) poisonous, poisoned or stupefying substance or muscle-relaxing agent;
 - (iii) net;
 - (iv) automatic or semi-automatic weapon;
 - (v) device for illuminating a target or sighting device for night shooting;
 - (vi) form of artificial light or any mirror or other dazzling device;
 - (vii) gas or smoke not falling within head (iii);
 - (viii) metal bar, axe, hatchet, cudgel, club, hammer or similar instrument;
- (e) uses any electrical device for killing or taking any wild animal included in Schedule 6;
- (f) uses any mechanically propelled vehicle in immediate pursuit of any wild animal included in Schedule 6 for the purpose of driving, killing or taking that animal; or
- (g) knowingly causes or permits to be done an act mentioned in any of sub-paragraphs (a) to (f),

that person shall be guilty of an offence.”.

(3) In paragraph (4), for “(2)(b) to (d)” substitute “(2)(a), (d), (e) or (f)”.

(4) In paragraph (5)—

- (a) for “(2)(a)” substitute “(2)(b) or (c)”;
- (b) for “Schedule 6” substitute “the relevant Schedule”.

(5) After paragraph (5), insert—

“(5A) In paragraph (5), “the relevant Schedule” means—

- (a) where proceedings relate to an offence under paragraph (2)(b), Schedule 6 or 6A;
- (b) where proceedings relate to an offence under paragraph (2)(c), Schedule 6.”.

Amendment of Article 12A

4.—(1) Article 12A (spring traps) is amended as follows.

(2) In paragraph (1)(a), after “Schedule 6” insert “or 6A”.

(3) After paragraph (3), add—

“(4) In paragraph (1) any reference to an approved trap shall not include a reference to any trap if that trap is a leghold trap.

(5) In paragraph (4), “leghold trap” means a device designed to restrain or capture an animal by means of jaws which close tightly upon one or more of the animal’s limbs, thereby preventing withdrawal of the limb or limbs from the trap.”.

Amendment of Article 18

5.—(1) Article 18 (power to grant licences) is amended as follows.

(2) After paragraph (3A), insert —

“(3B) A licence granted under paragraph (1) or (3) may not permit the use of a leghold trap for the purpose of killing, taking or restraining a wild animal included in Schedule 6 or 6A.

(3C) Subject to paragraph (3J) a licence granted under paragraph (3) may permit the use of a trap or snare for the purpose of killing, taking or restraining a wild animal included in Schedule 6A only if the trap or snare—

- (a) meets the conditions relating to certification (see paragraphs (3D) to (3G)); or
- (b) meets the approved design conditions (see paragraphs (3H) and (3I)).

(3D) Subject to paragraph (3J), a licence granted under paragraph (1) or (3) may permit the use of a trap (other than a leghold trap) or a snare for the purpose of killing, taking or restraining a wild animal included in Schedule 6A only if the trap or snare—

- (a) is of a certified type and make;
- (b) the manufacturer of the trap or snare provides instructions as to how it should be set, operated safely and maintained; and
- (c) where it is manufactured on or after 28th March 2019, the trap or snare is identified by its manufacturer by means of a permanent marking as being of a certified type and make.

(3E) For the purposes of paragraph (3D)(b), instructions provided by the supplier of a trap or snare with the authorisation of the manufacturer of that trap or snare are to be treated as provided by the manufacturer.

(3F) For the purposes of this Article, a type and make of trap or snare is “certified” in relation to a wild animal included in Schedule 6A if it is certified by the Department or by or on behalf of any of the following authorities as conforming (where the trap or snare is set, operated safely and maintained in accordance with instructions provided by the manufacturer) to the standards set out in the international trapping standards agreement in relation to the trapping of that animal—

- (a) the Secretary of State;
- (b) the Welsh Ministers;
- (c) the Scottish Ministers;
- (d) an authority in another country or territory which is designated for the purposes of the international trapping standards agreement as a certifying authority.

(3G) The Department shall—

- (a) publish in such manner as it considers appropriate a list of all traps and snares of a certified type and make of which it is aware; and
- (b) make the list available to anyone who asks for it in writing^(a).

(a) Requests in writing can be made to the Department of the Agriculture, Environment and Rural Affairs, Biodiversity and Conservation Science Team, Natural Environment Division, 2nd Floor, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA.

(3H) For the purposes of paragraph (3C)(b), a trap or snare meets the approved design conditions if it—

- (a) has been constructed by the person using it; and
- (b) complies with a design approved for this purpose by the Department.

(3I) The Department shall—

- (a) publish in such manner as it considers appropriate details of the design of a trap or snare approved in accordance with paragraph (3H)(b); and
- (b) make the details available to anyone who asks for them in writing^(a).

(3J) Paragraph (3C) does not apply in respect of a licence granted under paragraph (1) for a purpose mentioned in sub-paragraphs (a), (c), or (d) of that paragraph, or granted under paragraph (3), where the licence—

- (a) is subject to such conditions as the Department considers appropriate when granting the licence;
- (b) does not, in the opinion of the Department, undermine the objectives of the international trapping standards agreement; and
- (c) is accompanied by a written explanation of the reasons for that opinion and for the grant of the licence.”.

(3) In paragraph (8) after the definition of “development” insert—

““the international trapping standards agreement” means the Agreement on international humane trapping standards between the European Community, Canada and the Russian Federation^(b);

“leghold trap” means a device designed to restrain or capture an animal by means of jaws which close tightly upon one or more of the animal’s limbs, thereby preventing withdrawal of the limb or limbs from the trap.”.

Amendment of Article 20

6.—(1) Article 20 (exceptions to Articles 12 and 19) is amended as follows—

(2) In paragraph (1), for “12(2)(d)” substitute “12(2)(f)”.

(3) In paragraph (3), for “paragraph (2)(c)(iii) or (iv) or (2)(d) or Article 12 of” substitute “paragraph (2)(d)(v) or (vi) or (2)(f) of Article 12 or”.

(4) In paragraph (4), for “12(2)(a) or (b)” substitute “12(2)(b) or (c) or (d)(iii)”.

Amendment of Article 28

7.—(1) Article 28 (power to vary Schedules) is amended as follows—

(2) After paragraph (8), add—

“(9) The Department may by order, for the purpose of complying with the international trapping standards agreement, add any animal to, or remove any animal from, Schedule 6A.

(10) In paragraph (9), “the international trapping standards agreement” has the meaning given to it in Article 18(8).”.

New Schedule 6A

8. After Schedule 6, insert Schedule 6A to the Wildlife (Northern Ireland) Order 1985^(c), the Schedule set out in the Schedule to these Regulations.

(a) See footnote (a) above.

(b) The Agreement was approved on behalf of the European Community by Council Decision 98/142/EC (OJ No. L42, 14.2.98, p. 40). The text of the Agreement is attached to the Decision (at OJ No. L 42, 14.2.98, p. 43).

(c) 1985 No.171 (N.I.2), as amended by the Wildlife and Natural Environment Act (N.I.) 2011 (c. 15)

PART 3
Transitional provision

Transitional Provision

9. Until 1st April 2020, Schedule 6A to the Wildlife (Northern Ireland) Order 1985(a), set out in these Regulations, has effect as if the entry in respect of *mustela erminea* (stoat) were omitted.

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on 27th March 2019.



Dave Foster
A senior officer of the
Department of Agriculture, Environment and Rural affairs

SCHEDULE Regulation 8

Schedule inserted into the Wildlife (Northern Ireland) Order 1985 as
Schedule 6A

“SCHEDULE 6A Article 12(2), 28

**ANIMALS WHICH MAY NOT BE KILLED OR TAKEN BY
TRAPPING OR SNARING**

<i>Common name(b)</i>	<i>Scientific name</i>
Badger	<i>Meles meles</i>
Marten, Pine	<i>Martes martes</i>
Otter, Common	<i>Lutra lutra</i>
Stoat (otherwise known as Ermine)	<i>Mustela erminea</i>

NOTE. The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.”

(a) 1985 No.171 (N.I.2), as amended by the Wildlife and Natural Environment Act (N.I.) 2011 (c. 15)
(b) The common name or names given in the first column of this Schedule are included by way of guidance only; in the event of any dispute or proceedings, the common name or names shall not be taken into account.

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations amend the Wildlife (Northern Ireland) Order 1985 (the Order) in order to implement in Northern Ireland requirements contained in the Agreement on international humane trapping standards concluded between the European Community, the Government of Canada and the Government of the Russian Federation (“the Agreement”)(a).

The Regulations restate the existing prohibitions in Article 12 of the Order (animals which may not be killed or taken by certain methods) in relation to the animals listed in Schedule 6, without substantively adding to them. It introduces a prohibition on using or setting in position any trap or snare for the purpose of killing or taking Stoat (otherwise known as Ermine) which is listed in a new Schedule 6A to the Order. The Stoat is protected under the Agreement together with the Badger, the Otter and the Pine Marten, which are already listed in Schedule 6 to the Order. All four species are now listed in Schedule 6A.

The prohibitions in Article 12(2)(a) and (b) (as revised) (relating to using or setting in position a trap or snare) do not apply in relation to any animal specified in Schedule 6A where the use or setting of the trap is under and in accordance with a licence issued by the Department and the trap or snare is of a certified type and make, or is constructed by the person using it and which complies with a design approved by the Department (as the case may be) (see Article 18(3) together with new 18(3C) of the Order). This is subject to the exemption in new Article 18(3J) of the Regulations relating to the grant of individual licences, where in the opinion of the Department the licence does not undermine the objectives of the agreement. For this purpose, a trap or snare is one of a certified type and make if its type and make are for the time being certified as conforming, when used in accordance with any instructions specified by the manufacturer, to the humane trapping standards set out in Annex I to the Agreement.

The Regulations contains a transitional provision, by virtue of which the requirement in new Article 18(3C) of the Order for traps and snares to be of a certified type and make, if not constructed by the user and of a design approved by the Department, does not apply to Stoat until 1st April 2020.

A full impact assessment of the effect this instrument will have on the costs of business and on the private, voluntary or public sectors is available at www.gov.uk and is annexed to the Explanatory Memorandum which is available alongside the instrument at www.legislation.gov.uk.

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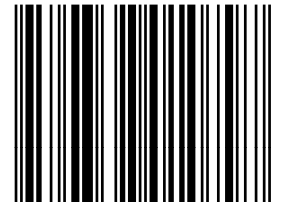
(a) The Agreement was approved on behalf of the European Community by Council Decision 98/142/EC (OJ No. L42, 14.2.98, p.40).

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