

GAME PRESERVATION (AMENDMENT) ACT (NORTHERN IRELAND) 2002

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Game Preservation (Amendment) Act (Northern Ireland) 2002. They have been prepared by the Department of the Environment (the Department) in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by the Assembly.
2. The Notes need to be read in conjunction with the Act. They do not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section or Schedule does not seem to require any explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. The principal policy objective of the Act is to amend the Game Preservation Act (Northern Ireland) 1928 as amended (“the 1928 Act”) to extend the partridge shooting season to include September each year. The open season for partridge ends on 31 January the following year. This change will bring the open season in NI into line with the remainder of the UK. The rest of the year remains a close season where it is an offence to wilfully take, kill or destroy any partridges.
4. The amendment is in response to a number of representations made by local enterprise to extend the partridge shooting season for commercial purposes. The extension received the full support of those organisations representing shooting interests throughout Northern Ireland.
5. There are no conservation objections to the proposal as the native grey partridge is now extinct in Northern Ireland due to lack of suitable habitat and there are presently no plans to re-introduce the native grey species by means of a specific initiative. All partridges presently shot during the open season are artificially reared and introduced, under controlled conditions to the wild by shoot organisers/game farmers, to be fully acclimatised for the commencement of the open shooting season.

6. The Act consolidates the provisions of an earlier statutory rule extending the open season for snipe to 1 September (SRO 1954/129).
7. The Department has taken the opportunity to make provision in the Act to amend section 7 of the 1928 Act which prescribes the close seasons for game, in order to enable the close seasons specified for hare, grouse and any other game-birds to be varied in future by means of subordinate legislation should the need arise.
8. The Act inserts a requirement in section 7(D)4 of the 1928 which deals with the prohibition of the use of traps, etc., that the Department must be satisfied, prior to issuing a permit to net hares for coursing, that the taking of those hares would not damage the existing hare population in that part of Northern Ireland or damage the population in Northern Ireland as a whole.
9. The Act dispenses with an unnecessary time-limiting restriction in relation to orders made by the Minister under section 7(3) of the 1928 Act. It also requires all orders (subordinate legislation) made by the Minister under the 1928 Act to be subject to negative resolution of the Assembly.
10. Finally, the Act substitutes a new section 7A of the 1928 Act which deals with the protection of game and rabbits at certain times. The new section 7A relaxes the current controls on where and when rabbits can be shot, to allow for pest rabbits to be shot on any lands at any time, but subject to the requirement that the person must hold a valid gun licence and be an authorised person in relation to the land in question. As a consequence of this relaxation the Act repeals the provisions in the Ground Game Acts which deal with and define rabbits as ground game for the purposes of the those Acts. The Ground Game Acts previously allowed farmers to control rabbits which are damaging their crops without requiring a game licence. It remains an offence under the new section 7A of the 1928 Act to kill, take or destroy any game on Sundays or at night.

CONSULTATION

11. A full public consultation was carried out and in addition to the Environment Committee and other statutory consultees, some 370 organisations/individuals were asked how they felt about the extension proposal. These included the Department's statutory advisory body on nature conservation - the Council for Nature Conservation and the Countryside; the relevant environmental Non-Governmental Organisations including the RSPB, the Game Conservancy Trust, the Ulster Wildlife Trust and the National Trust; all district councils, organisations representing farmers and landowners, the British Association for Shooting and Conservation and all licensed shooting clubs. In all 66 responses were received, the great majority favouring the proposed amendment.

OPTIONS CONSIDERED

12. The options considered were to make no changes to the legislation or to amend it primarily to extend the partridge shooting season for commercial reasons. The Department decided to proceed on the grounds that it is satisfied that there are no sound objections on conservation grounds to extending the open season for partridges.

OVERVIEW

13. The Act has 4 sections.

COMMENTARY ON SECTIONS

Section 1: Close seasons

This section provides for-

An amendment to section 7(1) of the 1928 Act, paragraph (c) of which specifies the close season for any game bird other than grouse. Subsection (2) inserts a new paragraph (bb) which introduces a separate close season for all types of partridges and snipe to run from 1 February to 31 August each year. It is during the close season period that it is an offence to wilfully take, kill or destroy such birds;

- the close season for snipe (which was already extended by an earlier statutory rule (SRO 1954/129)) being restated in the 1928 Act for clarity;
- an insertion in section 7D(4) of the 1928 Act of the requirement that the Department must first ensure, prior to issuing a permit to net hares, that the taking of such hares for coursing would not endanger the hare population in Northern Ireland or any part of Northern Ireland;
- the Minister to make future amendments to the close season for all types of game by order and
- a consequential amendment to section 7F(2) of the 1928 Act removing any time limitation in relation to such orders.

Section 2: Protection of game and rabbits

This section substitutes a new section 7A of the 1928 Act which deals with the protection of game and rabbits at certain times. It also makes consequential amendments to the Forestry Act (Northern Ireland) 1953 (c.2) (right of occupier to kill rabbits damaging trees / prevention of damage caused by rabbits, etc.), to the Ground Game Act

1880 (right of occupier to kill and take hares and rabbits) and to the Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1972 (game licences).

New section 7A(1) of the 1928 Act re-enacts the provision making it an offence to kill, take or destroy any game on Sundays or at night.

New section 7A(2) makes it an offence for rabbits to be shot on any land except by an authorised person, that is to say a person who is , or is authorised by , the owner or occupier of the land or the owner of shooting rights over the land ; but new section 7A(3) excepts from this offence persons acting in pursuance of a power under the Diseases of Animals (Northern Ireland) Order 1981 or the Forestry Act (Northern Ireland) 1953.

In Section 2, subsections (2), (3), (4), (5) make the necessary amendments to other legislation consequential on the relaxation of the law on the shooting of rabbits. Section 2(6) and the Schedule, repeal provisions of the existing law which are no longer necessary in view of that relaxation.

Section 3: Orders under the 1928 Act

This section provides for all orders made by the Minister under the 1928 Act to be subject to negative resolution of the Assembly. Prior to this there has been no Assembly control over such orders. The previous provision in section 7F(4) requiring that every order made under the 1928 Act be published in the Belfast Gazette is therefore repealed.

Section 4: Short title and commencement

States the title of the proposed Act and the commencement provisions ‘as the Department of the Environment may by order appoint’.