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STATUTORY INSTRUMENTS

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**1985 No. 171**

**The Wildlife (Northern Ireland) Order 1985**

**PART II**

**Wildlife**

***Interpretation of Part II***

**3.—(1)** In this Part—

“advertisement” includes a catalogue, a circular and a price list;

“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;
- (c) [<sup>F1</sup>any person authorised in writing by a water undertaker;]

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

“automatic weapon” and “semi-automatic weapon” do not include any weapon the magazine of which is incapable of holding more than two rounds;

“aviculture” means the breeding and rearing of birds in captivity;

“livestock” includes any animal which is kept—

- (a) for the provision of food, wool, skins or fur;
- (b) for the purpose of its use in the carrying on of any agricultural activity; or
- (c) for rearing and release into the wild for the provision or improvement of shooting or fishing, or for the purposes of nature conservation;

“occupier” includes any person having any right of hunting, shooting, fishing or taking game or fish.

(2) A bird shall not be treated as bred in captivity for the purposes of this Part unless its parents were lawfully in captivity when the egg was laid.

[<sup>F2</sup>(3) Any reference in this Part to a plant which is growing—

- (a) includes a reference to a bulb, corm or rhizome;
- (b) does not include a reference to a seed or spore.]

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**F1** [Art. 3\(1\)](#): in definition of "authorised person" sub - para. (c) inserted (1.4.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#), arts. 1, 308, [Sch. 12 para. 22](#) (with [art. 8\(8\)](#), [121\(3\)](#) and [307](#)); [S.R. 2007/194](#), [art. 2\(2\)](#), [Sch. 1 Pt. II](#) (subject to [art. 3](#), [Sch. 2](#))

*Status: Point in time view as at 31/05/2019.*

*Changes to legislation: There are currently no known outstanding effects for the The Wildlife (Northern Ireland) Order 1985, PART II. (See end of Document for details)*

**F2** Art. 3(3) added (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 12(4), 40(1); S.R. 2011/285, art. 2, Sch.

*Protection of birds*

***Protection of wild birds, their nests and eggs***

- 4.—(1) Subject to the provisions of this Part, if any person intentionally [<sup>F3</sup>or recklessly]—
  - (a) kills, injures or takes any wild bird; or
  - (b) takes, damages or destroys the nest of any wild bird while that nest is in use or being built; or
  - [<sup>F4</sup>(ba) at any other time takes, damages or destroys the nest of any wild bird included in Schedule A1; or
  - (bb) obstructs or prevents any wild bird from using its nest; or]
  - (c) takes or destroys an egg of any wild bird,

he shall be guilty of an offence.

- (2) Subject to the provisions of this Part, if any person has in his possession or control—
  - (a) any live or dead wild bird or any part of, or anything derived from, such a bird; or
  - (b) an egg of a wild bird or any part of such an egg,

he shall be guilty of an offence.

- (3) A person shall not be guilty of an offence under paragraph (2) if he shows that—
  - (a) the bird or egg had not been killed or taken, or had been killed or taken otherwise than in contravention of the relevant provisions; or
  - (b) the bird, egg or other thing in his possession or control had been sold (whether to him or any other person) otherwise than in contravention of those provisions.

- [<sup>F5</sup>(4) In paragraph (3) “the relevant provisions” means the provisions of—
  - (a) this Part and of orders made under it,
  - (b) the Wild Birds Protection Acts (Northern Ireland) 1931 to 1968 and of orders made under those Acts,
  - (c) any other legislation which implements either of the Wild Birds Directives and extends to any part of the United Kingdom, to any area designated in accordance with section 1(7) of the Continental Shelf Act 1964, or to any area to which British fishery limits extend in accordance with section 1 of the Fishery Limits Act 1976, and
  - (d) the law of any member State (other than the United Kingdom) implementing either of the Wild Birds Directives.

- (4A) For the purposes of paragraph (4) “the Wild Birds Directives” are—
  - (a) Council Directive 79/409/EEC on the conservation of wild birds; and
  - (b) Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds.]

(5) <sup>F6</sup> .....

- (6) Subject to the provisions of this Part, if any person intentionally [<sup>F3</sup>or recklessly]—
  - (a) disturbs any wild bird<sup>F7</sup> . . . while it is building a nest or is in, on or near a nest containing eggs or young; or

(b) disturbs dependent young of such a bird,  
he shall be guilty of an offence <sup>F8</sup> . . . .

[<sup>F9</sup>(6A) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by any of the foregoing provisions of this Article shall be guilty of an offence.]

(7) Any reference in this Part to any bird included in Schedule 1 is a reference to any bird included in Part I of that Schedule and, during the close season for the bird in question, any bird included in Part II of that Schedule.

(8) In this Article and in Article 5 "close season" means, subject to the provisions of this Part, the period in any year commencing with 1st February and ending with 31st August.

(9) The Department may by order made with respect to the whole or any specified part of Northern Ireland vary the close season for any wild bird specified in the order.

(10) If it appears to the Department expedient that any wild birds included in Part II of Schedule 1 or Part I of Schedule 2 should be protected during any period outside the close season for those birds, the Department may, subject to paragraph (12), make an order with respect to the whole or any specified part of Northern Ireland declaring any period (which shall not in the case of any order exceed 14 days) as a period of special protection for those birds.

(11) This Article and Article 5 shall have effect as if any period of special protection declared under paragraph (10) for any birds formed part of the close season for those birds.

(12) <sup>F10</sup> . . . The Department shall, before making an order under paragraph (10), consult a person appearing to the Department to be a representative of persons interested in the shooting of birds of the species proposed to be protected by the order.

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| <b>F3</b>  | Words in art. 4(1)(6) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 5(2)(a), 40(1); S.R. 2011/285, art. 2, Sch.           |
| <b>F4</b>  | Art. 4(1)(ba)(bb) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 4(2), 40(1); S.R. 2011/285, art. 2, Sch.                  |
| <b>F5</b>  | Art. 4(4)-(4A) substituted (17.8.2011) for art. 4(4) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 7(1), 40(1); S.R. 2011/285, art. 2, Sch.    |
| <b>F6</b>  | Art. 4(5) repealed (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 39(2), 40(1), Sch. 3 Pt. 1; S.R. 2011/285, art. 2, Sch.           |
| <b>F7</b>  | 1995 NI 6   |
| <b>F8</b>  | Words in art. 4(6) repealed (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 39(2), 40(1), Sch. 3 Pt. 1; S.R. 2011/285, art. 2, Sch.  |
| <b>F9</b>  | Art. 4(6A) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 6(2), 40(1); S.R. 2011/285, art. 2, Sch.                         |
| <b>F10</b> | Words in art. 4(12) repealed (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 39(2), 40(1), Sch. 3 Pt. 1; S.R. 2011/285, art. 2, Sch. |

#### Exceptions to Article 4

5.—(1) Subject to the provisions of this Article, a person shall not be guilty of an offence under Article 4 by reason of the killing or taking of a bird included in Part I of Schedule 2 outside the close season for that bird, or the injuring of such a bird outside that season in the course of an attempt to kill it.

Para. (2) rep. by 1995 NI 6

(3) [<sup>F11</sup>Paragraph (1)] shall not apply on Sundays or during the period commencing one hour after sunset on any day and ending one hour before sunrise on the next day.

*Status: Point in time view as at 31/05/2019.*

*Changes to legislation: There are currently no known outstanding effects for the The Wildlife (Northern Ireland) Order 1985, PART II. (See end of Document for details)*

- (4) Nothing in Article 4 shall make unlawful anything done—
- (a) in pursuance of a requirement by the Department of Agriculture under any scheme made under section 6 of the Agriculture Act (Northern Ireland) 1949 or under section 2 of the Agriculture (Miscellaneous Provisions) Act (Northern Ireland) 1959; or
  - (b) under the Drainage (Northern Ireland) Order 1973.
- (5) Notwithstanding anything in Article 4, a person shall not be guilty of an offence by reason of—
- (a) the taking of any wild bird if he shows that the bird 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 any wild bird if he shows that the bird 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 those provisions if he shows that the act was the incidental result of a lawful operation and could not reasonably have been avoided.
- (6) Notwithstanding anything in the provisions of Article 4, an authorised person shall not be guilty of an offence by reason of the killing or injuring of any wild bird, other than a bird included in Schedule 1—
- (a) if he shows that his action was necessary for the purpose of—
    - (i) preserving public health or public or air safety,
    - (ii) preventing the spread of disease, or
    - (iii) preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, pasture [<sup>F12</sup>, fisheries or inland waters]; and
  - (b) he notifies the Department immediately after taking such action.
- [<sup>F13</sup>(7) An authorised person shall not be regarded as showing that any action of his was necessary for a purpose mentioned in paragraph (6) unless he shows that, as regards that purpose, there was no other satisfactory solution.
- (8) An authorised person shall not be entitled to rely on the defence provided by paragraph (6) as respects any action taken at any time if it had become apparent, before that time, that that action would prove necessary for the purpose mentioned in that paragraph and either—
- (a) a licence under Article 18 authorising that action had not been applied for as soon as reasonably practicable after that fact had become apparent; or
  - (b) an application by him for such a licence had been determined.]

**F11** 1995 NI 6

**F12** Words in art. 5(6)(a)(iii) substituted (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\), ss. 39\(1\), 40\(1\), Sch. 2 para. 6](#); S.R. 2011/285, [art. 2](#), Sch.

**F13** [Art. 5\(7\)\(8\)](#) added (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\), ss. 7\(2\), 40\(1\)](#); S.R. 2011/285, [art. 2](#), Sch.

### ***Prohibition of certain methods of killing or taking wild birds***

- 6.—(1) Subject to the provisions of this Part, if any person—
- (a) sets in position any of the following articles, being an article which is of such a nature and is so placed as to be calculated to cause bodily injury to any wild bird coming into contact therewith, that is to say, any springe, trap, gin, snare, hook and line, any electrical device

for killing, stunning or frightening or any poisonous, poisoned or stupefying substance or muscle-relaxing agent;

- (b) uses for the purpose of killing or taking any wild bird any such article as aforesaid, whether or not of such a nature and so placed as aforesaid, or any net, baited board, bird-lime or substance of a like nature to bird-lime;
- (c) uses for the purpose of killing or taking any wild bird—
  - (i) any missile which is not discharged from a firearm, including in particular any arrow or spear;
  - (ii) any explosive other than ammunition for a firearm;
  - (iii) any automatic or semi-automatic weapon;
  - (iv) any shotgun of which the barrel has an internal diameter at the muzzle of more than one and three-quarter inches;
  - (v) any metal bar, axe, hatchet, cudgel, club, hammer or similar instrument;
  - (vi) any device for illuminating a target or any sighting device for night shooting;
  - (vii) any form of artificial light or any mirror or other dazzling device;
  - (viii) any gas or smoke not falling within sub-paragraphs (a) and (b) or
  - (ix) any chemical wetting agent;
- (d) uses as a decoy, for the purpose of killing or taking any wild bird, any sound recording or any live bird or other animal whatsoever which is tethered, or which is secured by means of braces or other similar appliances, or which is blind, maimed or injured; or
- (e) uses any mechanically propelled vehicle in immediate pursuit of a wild bird for the purpose of killing or taking that bird,

he shall be guilty of an offence <sup>F14</sup> . . . .

(2) The Department may by order amend paragraph (1) by adding any method of killing or taking wild birds or by omitting any such method which is mentioned in that paragraph.

(3) In any proceedings under paragraph (1)(a) it shall be a defence to show that the article was set in position by the accused for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took all reasonable precautions to prevent injury thereby to wild birds.

(4) Nothing in paragraph (1) shall make unlawful—  
*Sub#para. (a) rep. by 1995 NI 6*

- (b) the use of a cage-trap or net for the purpose of taking any game-bird, if it is shown that the taking of the bird is solely for the purpose of breeding;

but nothing in this paragraph shall make lawful the use of any net for taking birds in flight or the use for taking birds on the ground of any net which is projected or propelled otherwise than by hand.

(5) Any person who, being the occupier or concerned in the management of any land, [<sup>F15</sup>knowingly causes or permits] another person to commit an offence under paragraph (1) on that land, shall be guilty of an offence.

(6) Any person who sells, offers or exposes for sale, any self-locking snare with a view to its being used for a purpose which is unlawful under paragraph (1)(a) or (b), shall be guilty of an offence.

**F14** Words in art. 6(1) repealed (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\)](#), ss. 39(2), 40(1), [Sch. 3 Pt. 1](#); S.R. 2011/285, [art. 2](#), Sch.

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Changes to legislation: There are currently no known outstanding effects for the The Wildlife (Northern Ireland) Order 1985, PART II. (See end of Document for details)

**F15** Words in art. 6(5) substituted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 39(1), 40(1), Sch. 2 para. 7; S.R. 2011/285, art. 2, Sch.

**Sale, etc., of live or dead wild birds, eggs, etc.**

- 7.—(1) Subject to the provisions of this Part, if any person—
  - (a) sells, offers or exposes for sale, or has in his possession or transports or causes to be transported for the purpose of sale at any premises—
    - (i) any live wild bird or an egg of a wild bird or any part of such an egg, or
    - (ii) any live bird one of whose parents was such a wild bird, or an egg of such a bird or any part of such an egg; or
  - (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,

he shall be guilty of an offence.

(2) Subject to the provisions of this Part, if any person who is not for the time being registered in accordance with regulations made by the Department—

- (a) sells, offers or exposes for sale, or has in his possession or transports or causes to be transported for the purpose of sale at any premises any dead wild bird other than a bird included in Schedule 3, or any part of, or anything derived from, such a wild bird; or
- (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,

he shall be guilty of an offence.

[<sup>F16</sup>(2A) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by paragraph (1)(a) or (2)(a) shall be guilty of an offence.]

(3) <sup>F17</sup> .....

(4) The power of the Department to make regulations under paragraph (2) shall include power—

- (a) to impose requirements as to the carrying out by a person registered in accordance with the regulations of any act which, apart from the registration, would constitute an offence under this Article; and
- (b) to provide that any contravention of the regulations shall constitute such an offence.

(5) Regulations under paragraph (2) shall secure that no person shall become or remain registered—

(a) within 5 years of his having been convicted of an offence under this Part [<sup>F18</sup>to which paragraph (5A) applies]; or

[<sup>F19</sup>(aa) within 5 years of his having been convicted of an offence under the Control of Trade in Endangered Species (Enforcement) Regulations 1997 (other than an offence under Regulation 9 of those Regulations); or

(ab) within 5 years of his having been convicted of an offence under Regulation 34 of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995; or]

(b) within 3 years of his having been convicted of any other offence under this Part so far as it relates to the protection of birds or other animals or any offence involving their ill-treatment,

no account being taken for this purpose of a conviction which has become spent by virtue of the Rehabilitation of Offenders (Northern Ireland) Order 1978.

[<sup>F20</sup>(5A) The offences falling within this paragraph are —

- (a) any offence under Article 4(1), (2) or (6) in respect of—
  - (i) a bird included in Schedule A1 or 1 or any part of, or anything derived from, such a bird,
  - (ii) the nest of such a bird, or
  - (iii) an egg of such a bird or any part of such an egg;
- (b) any offence under Article 6(1);
- (c) any offence under Article 7 in respect of—
  - (i) a bird included in Schedule A1 or 1 or any part of, or anything derived from, such a bird, or
  - (ii) an egg of such a bird or any part of such an egg;
- (d) any offence under Article 9.]
- (6) <sup>F21</sup> .....
- (7) <sup>F22</sup> .....

<b>F16</b>	Art. 7(2A) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), <b>ss. 6(3), 40(1)</b> ; S.R. 2011/285, <b>art. 2</b> , Sch.
<b>F17</b>	Art. 7(3) repealed (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), <b>ss. 39(2), 40(1)</b> , <b>Sch. 3 Pt. 1</b> ; S.R. 2011/285, <b>art. 2</b> , Sch.
<b>F18</b>	Words in art. 7(5)(a) substituted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), <b>ss. 39(1), 40(1)</b> , <b>Sch. 2 para. 8(2)</b> ; S.R. 2011/285, <b>art. 2</b> , Sch.
<b>F19</b>	Art. 7(5)(aa)(ab) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), <b>ss. 8, 40(1)</b> ; S.R. 2011/285, <b>art. 2</b> , Sch.
<b>F20</b>	Art. 7(5A) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), <b>ss. 39(1), 40(1)</b> , <b>Sch. 2 para. 8(3)</b> ; S.R. 2011/285, <b>art. 2</b> , Sch.
<b>F21</b>	Art. 7(6) repealed (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), <b>ss. 39(2), 40(1)</b> , <b>Sch. 3 Pt. 1</b> ; S.R. 2011/285, <b>art. 2</b> , Sch.
<b>F22</b>	Art. 7(7) repealed (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), <b>ss. 39(2), 40(1)</b> , <b>Sch. 3 Pt. 1</b> ; S.R. 2011/285, <b>art. 2</b> , Sch.

**Competitions, etc.**

**8.—(1)** Subject to the provisions of this Part, if any person shows or causes or permits to be shown for the purposes of any competition or in any premises in which a competition is being held—

- (a) any live wild bird other than a bird included in Schedule 4 which was bred in captivity and has been ringed under a licence granted by the Department in accordance with Article 18(2)(d); or
- (b) any live bird one of whose parents was such a wild bird,

he shall be guilty of an offence.

(2) Any person who promotes any event at which any bird mentioned in Schedule 4 is to be shown for the purposes of any public exhibition or competition shall notify the Department in writing at least 7 days before the date upon which the event is to take place.

(3) Any person failing to comply with paragraph (2) shall be guilty of an offence.



*Status: Point in time view as at 31/05/2019.*

*Changes to legislation: There are currently no known outstanding effects for the The Wildlife (Northern Ireland) Order 1985, PART II. (See end of Document for details)*

### **Protection of captive birds**

**9.**—(1) If any person keeps or confines any bird whatsoever in any cage or other receptacle which is not sufficient in height, length or breadth to permit the bird to stretch its wings freely, he shall be guilty of an offence <sup>F23</sup> . . . .

- (2) Paragraph (1) does not apply to poultry, or to the keeping or confining of any bird—
- (a) while that bird is in the course of conveyance by whatever means; or
  - (b) while that bird is being shown for the purposes of any public exhibition or competition if the time during which the bird is kept or confined for those purposes does not in the aggregate exceed 72 hours; [<sup>F24</sup>or]
  - (c) while that bird is undergoing examination or treatment by a veterinary surgeon or veterinary practitioner; or
  - (d) while that bird is being kept temporarily in a birdbag or keeping cage as part of a ringing exercise carried out under and in accordance with the terms of a licence granted under Article 18(2)(a).
- (3) Every person who—
- (a) promotes, arranges, conducts, assists in, receives money for, or takes part in, any event whatsoever at or in the course of which captive birds are liberated by hand or by any other means whatsoever—
    - (i) for the purpose of being shot, or
    - (ii) for the purpose of being hunted by trained birds of prey, immediately after their liberation; or
  - (b) being the owner or occupier of any land, permits that land to be used for the purposes of such an event,

shall be guilty of an offence <sup>F25</sup> . . . .

**F23** Words in art. 9(1) repealed (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\)](#), ss. 39(2), 40(1), [Sch. 3 Pt. 1](#); S.R. 2011/285, [art. 2](#), Sch.

**F24** Word in art. 9(2)(b) inserted (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\)](#), ss. 39(1), 40(1), [Sch. 2 para. 9](#); S.R. 2011/285, [art. 2](#), Sch.

**F25** Words in art. 9(3) repealed (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\)](#), ss. 39(2), 40(1), [Sch. 3 Pt. 1](#); S.R. 2011/285, [art. 2](#), Sch.

### *Protection of other animals*

#### **Protection of certain wild animals**

**10.**—(1) Subject to the provisions of this Part, if any person intentionally [<sup>F26</sup>or recklessly] kills, injures or takes any wild animal included in Schedule 5 he shall be guilty of an offence.

(2) Subject to the provisions of this Part, if any person has in his possession or control any live or dead wild animal included in Schedule 5 or any part of, or anything derived from, such an animal, he shall be guilty of an offence.

- (3) A person shall not be guilty of an offence under paragraph (2) if he shows that—
- (a) the animal had not been killed or taken, or had been killed or taken otherwise than in contravention of the provisions of this Part; or
  - (b) the animal or other thing in his possession or control had been sold (whether to him or any other person) otherwise than in contravention of the provisions of this Part.



- (4) Subject to the provisions of this Part, if any person intentionally [<sup>F26</sup>or recklessly]—
  - (a) damages or destroys, or obstructs access to, any structure or place which any wild animal included in Schedule 5 uses for shelter or protection;
  - (b) damages or destroys anything which conceals or protects any such structure; or
  - (c) disturbs any such animal while it is occupying a structure or place which it uses for shelter or protection,

he shall be guilty of an offence.

[<sup>F27</sup>(4A) Subject to the provisions of this Part, if any person intentionally or recklessly disturbs any wild animal included in Schedule 5 as—

- (a) a common seal (*phoca vitulina*),
- (b) a grey seal (*halichoerus grypus*), or
- (c) a basking shark (*cetorhinus maximus*),

he shall be guilty of an offence.]

[<sup>F28</sup>(4B) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by any of the foregoing provisions of this Article shall be guilty of an offence.]

(5) In any proceedings under paragraph (1) or (2) [<sup>F29</sup>or for an offence under paragraph (4B) relating to an act which is mentioned in paragraph (1) or (2)], the animal in question shall be presumed to have been a wild animal unless the contrary is shown.

<b>F26</b>	Words in art. 10(1)(4) inserted (17.8.2011) by <a href="#">Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 5(2)(b), 40(1)</a> ; S.R. 2011/285, <a href="#">art. 2</a> , Sch.
<b>F27</b>	Art. 10(4A) inserted (17.8.2011) by <a href="#">Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 9, 40(1)</a> ; S.R. 2011/285, <a href="#">art. 2</a> , Sch.
<b>F28</b>	Art. 10(4B) inserted (17.8.2011) by <a href="#">Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 6(4), 40(1)</a> ; S.R. 2011/285, <a href="#">art. 2</a> , Sch.
<b>F29</b>	Words in art. 10(5) inserted (17.8.2011) by <a href="#">Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 39(1), 40(1)</a> , <a href="#">Sch. 2 para. 10</a> ; S.R. 2011/285, <a href="#">art. 2</a> , Sch.

**Exceptions to Article 10**

11.—(1) Paragraphs (4) and (5) of Article 5 shall apply in relation to Article 10 as if in those paragraphs—

- (a) for any reference to Article 4 there were substituted a reference to Article 10; and
- (b) for any reference to a wild bird there were substituted a reference to a wild animal.

(2) Subject to paragraph (4), nothing in Article 10(4) shall make unlawful anything done within a dwelling house.

(3) Notwithstanding anything in Article 10, an authorised person shall not be guilty of an offence by reason of the killing or injuring of a wild animal included in Schedule 5—

- (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 [<sup>F30</sup>or inland waters]; and
- (b) he notifies the Department immediately after taking such action.

(4) <sup>F31</sup> .....

*Status: Point in time view as at 31/05/2019.*

*Changes to legislation: There are currently no known outstanding effects for the The Wildlife (Northern Ireland) Order 1985, PART II. (See end of Document for details)*

(5) An authorised person shall not be entitled to rely on the defence provided by paragraph (3) as respects any action taken at any time if it had become apparent, before that time, that that action would prove necessary for the purpose mentioned in that paragraph and either—

- (a) a licence under Article 18 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.

**F30** Words in art. 11(3)(a) inserted (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\), ss. 39\(1\), 40\(1\), Sch. 2 para. 11\(2\)](#); S.R. 2011/285, [art. 2](#), Sch.

**F31** Art. 11(4) repealed (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\), ss. 39, 40\(1\), Sch. 2 para. 11\(3\), Sch. 3 Pt. 1](#); S.R. 2011/285, [art. 2](#), Sch.

### ***Prohibition of certain methods of killing or taking wild animals***

**12.**—(1) Subject to the provisions of this Part, if any person—

- (a) sets in position [<sup>F32</sup>or otherwise uses] any self-locking snare which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal coming into contact therewith;
- [<sup>F33</sup>(aa) sets in position or otherwise uses any other type of snare which is either of such a nature or so placed (or both) as to be calculated to cause unnecessary suffering to any wild animal coming into contact with it;]
- (b) uses for the purpose of killing or taking any wild animal <sup>F34</sup>. . . any missile which is not discharged from a firearm, including in particular any arrow or spear, or any explosive other than ammunition for a firearm; or
- (c) uses as a decoy, for the purpose of killing or taking any wild animal, any sound recording or any live mammal or bird whatever,

he shall be guilty of an offence.

[<sup>F35</sup>(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.]

[<sup>F36</sup>(2A) Any person who sets a snare in position or who knowingly causes or permits a snare to be so set must, while it remains in position, inspect it or cause it to be inspected at least once every day at intervals of no more than 24 hours.

(2B) Any person who, while carrying out such an inspection, finds an animal caught by the snare being inspected must, during the course of the inspection, release or remove the animal (whether live or dead).

(2C) Any person who—

- (a) without reasonable excuse, contravenes paragraph (2A), or
- (b) contravenes paragraph (2B),

shall be guilty of an offence.

(2D) Any person who, without reasonable excuse, is in possession of a snare which is capable of operating as a self-locking snare shall be guilty of an offence.

(2E) Any person who, without reasonable excuse—

- (a) while on any land, has in his possession any snare without the authorisation of the owner or occupier of the land, or
- (b) sets any snare in position on any land without the authorisation of the owner or occupier of the land,

shall be guilty of an offence.

(2F) Any person who—

- (a) uses a snare otherwise than in accordance with such requirements as may be specified in an order made by the Department, or
- (b) knowingly causes or permits any other person to do so,

shall be guilty of an offence.]

(3) The Department may by order, either generally or in relation to any species of wild animal specified in the order, amend paragraph (1) or (2) by adding any method of killing or taking wild animals or by omitting any such method as is mentioned in that paragraph.

(4) In any proceedings for an offence under paragraph (1)(b) or (c) or [<sup>F37</sup>(2)(a), (d), (e) or (f)] , the animal in question shall be presumed to have been a wild animal unless the contrary is shown.

(5) In any proceedings under paragraph [<sup>F38</sup>(2)(b) or (c)] it shall be a defence to show that the article was set in position by the accused for the purpose of killing or taking, in the interests of public health, agriculture or nature conservation, any wild animals which could be lawfully killed or taken by that method and that he took all reasonable precautions to prevent injury thereby to any wild animals included in [<sup>F39</sup>the relevant Schedule] .

[<sup>F40</sup>(5A) In paragraph (5), “the relevant Schedule” means—

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- (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.]
- (6) Any person who, being the occupier or concerned in the management of any land, [<sup>F41</sup>knowingly causes or permits] another person to commit an offence under paragraph (1) or (2) on that land, shall be guilty of an offence.
- (7) Any person who sells, offers or exposes for sale, any self-locking snare <sup>F42</sup>. . . shall be guilty of an offence.

- F32** Words in art. 12(1)(a) inserted (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\), ss. 10\(2\), 40\(1\)](#); S.R. 2011/285, [art. 2](#), Sch.
- F33** Art. 12(1)(aa) inserted (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\), ss. 10\(3\), 40\(1\)](#); S.R. 2011/285, [art. 2](#), Sch.
- F34** Words in art. 12(1)(b) repealed (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\), ss. 39\(2\), 40\(1\), Sch. 3 Pt. 1](#); S.R. 2011/285, [art. 2](#), Sch.
- F35** Art. 12(2) substituted (31.5.2019) by [The Humane Trapping Standards Regulations \(Northern Ireland\) 2019 \(S.R. 2019/68\), regs. 1\(1\)\(b\), 3\(2\)](#)
- F36** Art. 12(2A)-(2F) inserted (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\), ss. 10\(4\), 40\(1\)](#); S.R. 2011/285, [art. 2](#), Sch.
- F37** Words in art. 12(4) substituted (31.5.2019) by [The Humane Trapping Standards Regulations \(Northern Ireland\) 2019 \(S.R. 2019/68\), regs. 1\(1\)\(b\), 3\(3\)](#)
- F38** Words in art. 12(5) substituted (31.5.2019) by [The Humane Trapping Standards Regulations \(Northern Ireland\) 2019 \(S.R. 2019/68\), regs. 1\(1\)\(b\), 3\(4\)\(a\)](#)
- F39** Words in art. 12(5) substituted (31.5.2019) by [The Humane Trapping Standards Regulations \(Northern Ireland\) 2019 \(S.R. 2019/68\), regs. 1\(1\)\(b\), 3\(4\)\(b\)](#)
- F40** Art. 12(5A) inserted (31.5.2019) by [The Humane Trapping Standards Regulations \(Northern Ireland\) 2019 \(S.R. 2019/68\), regs. 1\(1\)\(b\), 3\(5\)](#)
- F41** Words in art. 12(6) substituted (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\), ss. 39\(1\), 40\(1\), Sch. 2 para. 12](#); S.R. 2011/285, [art. 2](#), Sch.
- F42** Words in art. 12(7) repealed (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\), ss. 39\(2\), 40\(1\), Sch. 3 Pt. 1](#); S.R. 2011/285, [art. 2](#), Sch.

### <sup>F43</sup>Spring traps

- 12A.**—(1) Subject to the provisions of this Part, any person who—
- (a) for the purpose of killing or taking any wild animal other than one included in Schedule 6 [<sup>F44</sup>or 6A] , uses or permits the use of any spring trap other than an approved trap or uses or permits the use of an approved trap in circumstances or for wild animals for which it is not approved, or
  - (b) sells, or exposes or offers for sale, any spring trap other than an approved trap with a view to its being used for a purpose which is unlawful under sub-paragraph (a), or
  - (c) has in his possession any spring trap for a purpose which is unlawful under this paragraph,
- shall be guilty of an offence.
- (2) Paragraph (1) does not apply to traps of any description specified by order of the Department as being adapted solely for the destruction of rats, mice or other small ground vermin.
- (3) In paragraph (1) any reference to an approved trap is a reference to a trap of a type and make for the time being specified by an order of the Department, either generally or subject to conditions as to the circumstances in which or the wild animals for which it may be used, and any reference to the circumstances or wild animals for which a trap is approved shall be construed accordingly.]

[<sup>F45</sup>(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.]

**F43** Art. 12A inserted (30.1.2012 for specified purposes, 12.3.2012 in so far as not already in operation) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\)](#), **ss. 11(1)**, 40(1); S.R. 2012/21, art. 2(1)(2)(a)

**F44** Words in art. 12A(1)(a) inserted (31.5.2019) by [The Humane Trapping Standards Regulations \(Northern Ireland\) 2019 \(S.R. 2019/68\)](#), regs. 1(1)(b), **4(2)**

**F45** Art. 12A(4)(5) inserted (31.5.2019) by [The Humane Trapping Standards Regulations \(Northern Ireland\) 2019 \(S.R. 2019/68\)](#), regs. 1(1)(b), **4(3)**

### *Sale, etc., of live or dead wild animals*

13.—(1) Subject to the provisions of this Part, if any person—

- (a) sells, or offers or exposes for sale, or has in his possession or transports or causes to be transported for the purpose of sale at any premises any live wild animal included in Schedule 7;
- (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any such animal,

he shall be guilty of an offence.

(2) Subject to the provisions of this Part, if any person who is not for the time being registered in accordance with regulations made by the Department—

- (a) sells, offers or exposes for sale, or has in his possession or transports or causes to be transported for the purpose of sale at any premises any dead wild animal included in Schedule 7 or any part, or anything derived from, such a wild animal; or
- (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,

he shall be guilty of an offence.

[<sup>F46</sup>(2A) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by paragraph (1)(a) or (2)(a) shall be guilty of an offence.]

(3) Paragraphs (4) [<sup>F47</sup>to (5A)] of Article 7 shall apply for the purposes of this Article in the same manner as they apply for the purposes of that Article.

(4) In any proceedings under paragraph (1) or (2) [<sup>F48</sup>or for an offence under paragraph (2A) relating to an act which is mentioned in paragraph (1)(a) or (2)(a)], the animal in question shall be presumed to have been a wild animal unless the contrary is shown.

**F46** Art. 13(2A) inserted (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\)](#), **ss. 6(5)**, 40(1); S.R. 2011/285, **art. 2**, Sch.

**F47** Words in art. 13(3) substituted (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\)](#), **ss. 39(1)**, 40(1), **Sch. 2 para. 13(2)**; S.R. 2011/285, **art. 2**, Sch.

**F48** Words in art. 13(4) inserted (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011 \(c. 15\)](#), **ss. 39(1)**, 40(1), **Sch. 2 para. 13(3)**; S.R. 2011/285, **art. 2**, Sch.

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### *Other protection*

#### ***Protection of wild plants***

14.—(1) Subject to the provisions of this Part, if any person—

- (a) intentionally [<sup>F49</sup>or recklessly] picks, removes, uproots or destroys any wild plant included in Part I of Schedule 8 [<sup>F50</sup>or any seed or spore attached to any such wild plant]; or
- (b) not being an authorised person, intentionally [<sup>F49</sup>or recklessly] uproots or destroys any wild plant not included in that Part of that Schedule,

he shall be guilty of an offence.

(2) Subject to the provisions of this Part, if any person—

- (a) sells, offers or exposes for sale, or has in his possession or transports or causes to be transported for the purpose of sale at any premises, any live or dead wild plant included in Part I or Part II of Schedule 8, or any part of, or anything derived from, such a plant; or
- (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,

he shall be guilty of an offence.

(3) Notwithstanding anything in paragraph (1), a person shall not be guilty of an offence 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.

[<sup>F51</sup>(3A) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by paragraph (1) or (2)(a) shall be guilty of an offence.]

(4) In any proceedings for an offence under paragraph (2)(a) [<sup>F52</sup>or for an offence under paragraph (3A) relating to an act which is mentioned in paragraph (2)(a)], the plant in question shall be presumed to have been a wild plant unless the contrary is shown.

- F49** Words in art. 14(1)(a)(b) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 5(2)(c), 40(1); S.R. 2011/285, art. 2, Sch.
- F50** Words in art. 14(1)(a) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 12(2), 40(1); S.R. 2011/285, art. 2, Sch.
- F51** Art. 14(3A) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 6(6), 40(1); S.R. 2011/285, art. 2, Sch.
- F52** Words in art. 14(4) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 39(1), 40(1), Sch. 2 para. 14; S.R. 2011/285, art. 2, Sch.

#### ***Introduction of new species, etc.***

15.—(1) Subject to the provisions of this Part, if any person releases or allows to escape into the wild any animal which—

- (a) is of a kind which is not ordinarily resident in and is not a regular visitor to Northern Ireland in a wild state [<sup>F53</sup>or is a hybrid of any animal of that kind]; or
- (b) is included in Part I of Schedule 9 [<sup>F54</sup>or is a hybrid of any animal included in that Part],

he shall be guilty of an offence.

(2) Subject to the provisions of this Part, if any person plants or otherwise causes to grow in the wild any plant which is included in Part II of Schedule 9 [<sup>F55</sup>or is a hybrid of any plant included in that Part], he shall be guilty of an offence.

[<sup>F56</sup>(2A) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by paragraph (1) or (2) shall be guilty of an offence.]

(3) Subject to paragraph (4), it shall be a defence to a charge of committing an offence under paragraph (1) or (2) to prove that the accused took all reasonable steps and exercised all due diligence to avoid committing the offence.

(4) Where the defence provided by paragraph (3) involves an allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on the defence unless, within a period ending 7 days before the hearing, he has served on the prosecutor a notice giving such information identifying or assisting in the identification of the other person as was then in his possession.

(5) <sup>F57</sup> .....

(6) <sup>F57</sup> .....

[<sup>F58</sup>(7) The Department may issue guidance (or approve guidance issued by others) for the purpose of providing persons with recommendations, advice and information regarding—

(a) any animal mentioned in paragraph (1),

(b) any plant mentioned in paragraph (2),

and may issue revisions of any guidance issued by it (or approve revisions of guidance issued by others).

(8) A person who fails to comply with any guidance issued or approved under paragraph (7) is not by reason of that failure liable in any criminal or civil proceedings.

(9) But any such guidance is admissible in evidence in such proceedings and a court may take account of any failure to comply with it in determining any questions in the proceedings.]

**F53** Words in art. 15(1)(a) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 13(2)(a), 40(1); S.R. 2011/285, art. 2, Sch.

**F54** Words in art. 15(1)(b) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 13(2)(b), 40(1); S.R. 2011/285, art. 2, Sch.

**F55** Words in art. 15(2) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 13(3), 40(1); S.R. 2011/285, art. 2, Sch.

**F56** Art. 15(2A) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 6(7), 40(1); S.R. 2011/285, art. 2, Sch.

**F57** Art. 15(5)(6) repealed (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 39(2), 40(1), Sch. 3 Pt. 1; S.R. 2011/285, art. 2, Sch.

**F58** Art. 15(7)-(9) added (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 13(4), 40(1); S.R. 2011/285, art. 2, Sch.

### [<sup>F59</sup>Prohibition on sale, etc. of invasive, non-native species

15A.—(1) This Article applies to—

(a) any animal mentioned in Article 15(1)(a) or (b) which is specified in an order made by the Department for the purposes of this Article;

(b) any plant included in Part 2 of Schedule 9 which is specified in such an order;

(c) any hybrid of an animal or plant specified as mentioned in sub-paragraph (a) or (b).

(2) Subject to the provisions of this Part, any person who—

(a) sells, offers or exposes for sale or has in his possession or transports for the purpose of sale any animal or plant to which this Article applies, or



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(b) publishes, or causes to be published, any advertisement likely to be understood as conveying that the person buys or sells, or intends to buy or sell, any such animal or plant, is guilty of an offence.

(3) Paragraphs (3) and (4) of Article 15 (defence of due diligence, etc.) apply to an offence under paragraph (2) as they apply to an offence under paragraph (1) or (2) of that Article.

(4) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by paragraph (2)(a) shall be guilty of an offence.

(5) An order under paragraph (1) may be made in relation to a particular area or a particular time of year.]

**F59** Art. 15A inserted (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011](#) (c. 15), **ss. 14**, 40(1); S.R. 2011/285, **art. 2**, Sch.

#### [<sup>F60</sup>Possession of pesticides harmful to wildlife

**15B.**—(1) A person who is in possession of a pesticide containing a prescribed ingredient shall be guilty of an offence.

(2) A prescribed ingredient is one which is prescribed for the purposes of this Article by an order made by the Department; but the Department may not make an order under this Article unless it is satisfied that it is necessary or expedient to do so in the interests of protecting wild birds or wild animals from harm.

(3) A person shall not be guilty of an offence under this Article if the person shows that the possession of the pesticide was for the purposes of doing anything in accordance with—

- (a) regulations made under section 16(2) of the Food and Environment Protection Act 1985;
- (b) provision made by or under the Poisons (Northern Ireland) Order 1976;

[<sup>F61</sup>(c) Regulation (EU) No 528/2012 of the European Parliament and of the Council; or]

- (d) the Plant Protection Products Regulations (Northern Ireland) 2005 or any regulations amending or replacing those regulations.

(4) In this Article “ pesticide ” means—

- (a) a pesticide as defined by section 16(15) of the Food and Environment Protection Act 1985; and
- (b) anything to which Part 3 of that Act applies, by virtue of section 16(16) of that Act, as if it were a pesticide.]

**F60** Art. 15B inserted (17.8.2011) by [Wildlife and Natural Environment Act \(Northern Ireland\) 2011](#) (c. 15), **ss. 15**, 40(1); S.R. 2011/285, **art. 2**, Sch.

**F61** Art. 15B(3)(c) substituted (1.9.2013) by [The Biocidal Products and Chemicals \(Appointment of Authorities and Enforcement\) Regulations \(Northern Ireland\) 2013](#) (S.R. 2013/206), reg. 2(1), **Sch. 4 para. 1** (with regs. 3, 19)

#### **Wildlife refuges**

**16.**—(1) The Department may by order make provision with respect to any area specified in the order providing for all or any of the following matters, that is to say—

- (a) that any person who, within that area or any part of it specified in the order, at any time or during any period so specified intentionally [<sup>F62</sup>or recklessly]—

- (i) kills, injures or takes any wild bird or wild animal or any wild bird or wild animal so specified,
  - (ii) takes, damages or destroys any nest or any structure or place which such a bird or animal uses for shelter or protection while that nest or structure is in use or being built or while that place is in use,
  - (iii) takes, damages or destroys anything which conceals or protects any such nest, structure or place;
  - <sup>F63</sup>(iiiia) obstructs or prevents any wild bird or wild animal from using its nest or any structure or place which such a bird or animal uses for shelter or protection;]
  - (iv) takes or destroys an egg of such a bird or the egg, larva, pupa or any such immature stage of such an animal,
  - (v) disturbs such a bird or animal while it is building a nest or structure for shelter or protection or while it is in, on or near such a nest or structure containing the egg of such a bird or the egg, larva, pupa or any such immature stage of such an animal,
  - (vi) disturbs the dependent young of such a bird or animal, or
  - (vii) picks, removes, uproots or destroys any wild plant or wild plant so specified,
- shall be guilty of an offence under this Article;
- (b) that any person who, except as may be provided in the order, enters into that area or any part of it specified in the order at any time or during any period so specified shall be guilty of an offence under this Article;
  - (c) that where any offence under this Part, or any such offence under this Part as may be specified in the order, is committed within that area, <sup>F64</sup>the offence shall be treated as falling within Article 7(5A)].

*Para. (2) rep. by 1995 NI 6*

(3) If any authorised person suspects with reasonable cause that any person is committing or has committed an offence under an order made under this Article in relation to any area, he may require that person—

- (a) to give his full name and address; and
- (b) to quit that area forthwith;

and any person who fails to comply with a requirement under this paragraph shall be guilty of an offence.

(4) The making of any order under this Article with respect to any area shall not affect the exercise by any person of any right vested in him, whether as owner, lessee or occupier of any land in that area or by virtue of a licence or agreement.

(5) Before making any order under this Article the Department—

- (a) shall consult with any district council within whose district the area with respect to which the order is to be made or any part thereof is situated; and
- (b) shall give particulars of the intended order either by notice in writing to every owner and every occupier of any land included in the area with respect to which the order is to be made or, where the giving of such a notice is in the Department's opinion impracticable, by advertisement in a newspaper circulating in the locality in which that area is situated.

(6) The Department shall not make an order under this Article unless—

- (a) all the owners and occupiers aforesaid have consented thereto; or

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- (b) no objections thereto have been made by any of those owners or occupiers before the expiration of a period of 3 months from the date of the giving of the notice or the publication of the advertisement; or
- (c) any such objections so made have been withdrawn.

- F62** Words in art. 16(1)(a) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 5(2)(d), 40(1); S.R. 2011/285, art. 2, Sch.
- F63** Art. 16(1)(a)(iiia) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 39(1), 40(1), Sch. 2 para. 15(2); S.R. 2011/285, art. 2, Sch.
- F64** Words in art. 16(1)(c) substituted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 39(1), 40(1), Sch. 2 para. 15(3); S.R. 2011/285, art. 2, Sch.

### ***Exceptions to Article 16***

17.—(1) Paragraphs (4) and (5) of Article 5 shall apply in relation to any order made under Article 16 as if in those paragraphs—

- (a) for any reference to Article 4 there were substituted a reference to an order under Article 16; and
- (b) any reference to a wild bird included a reference to a wild animal.

(2) Paragraph (6) of Article 5 shall apply in relation to the protection by any order made under Article 16 of any wild bird, or the nest or egg of such a bird, in the same manner as that paragraph applies for the purposes of Article 4.

(3) Paragraph (3) of Article 11 shall apply in relation to the protection by an order made under Article 16 of any wild animal or its shelter in the same manner as that paragraph applies for the purposes of Article 10.

(4) Paragraph (3) of Article 14 shall apply in relation to the protection by an order under Article 16 of any wild plant in the same manner as that paragraph applies for the purposes of paragraph (1) of Article 14.

### *Licences*

#### ***Power to grant licences***

18.—(1) Articles 4, 6, 8, 9, 10(1), (2) [<sup>F65</sup>, (4) and (4A)], 12(1) and (2), 14(1), and orders under Article 16, do not apply to anything done—

- (a) for scientific [<sup>F66</sup>, research] or educational purposes;
- (b) for the purpose of photography;
- (c) for the purpose of preventing the spread of disease; or
- (d) for the purpose of preserving public health or public or air safety,

if it is done under and in accordance with a licence granted by the Department.

(2) Articles 4, 6, 8 and 9 and orders under Article 16 do not apply to anything done—

- (a) for the purpose of ringing or marking, or examining any ring or mark on, wild birds or their eggs;
- [<sup>F67</sup>(aa) for the purposes of the re-population of an area with, or the re-introduction into an area of, wild birds, including any breeding necessary for those purposes;
- (ab) for the purpose of conserving flora or fauna;]

- (b) for the purpose of conserving wild birds;
- (c) for the purpose of protecting any collection of wild birds;
- (d) for the purposes of falconry or aviculture;
- (e) for the purposes of any public exhibition or competition;
- (f) for the purposes of taxidermy; or
- (g) for the purposes of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, pasture [<sup>F68</sup>, fisheries or inland waters],

if it is done under and in accordance with the terms of a licence granted by the Department.

[<sup>F69</sup>(2A) The Department—

- (a) shall not grant a licence for any purpose mentioned in paragraph (1) or (2) in relation to a wild bird unless it is satisfied that, as regards that purpose, there is no other satisfactory solution; and
- (b) shall not grant a licence for any purpose mentioned in paragraphs (1)(b) or (2)(d) to (f) otherwise than on a selective basis and in respect of a small number of birds.”.]

(3) Articles 10(1), (2) [<sup>F65</sup>, (4) and (4A)], 12(1) and (2) and 14(1), and orders under Article 16, do not apply to anything done—

- (a) for the purpose of ringing or marking, or examining any ring or mark on, wild animals;
- (b) for the purpose of conserving wild animals [<sup>F70</sup>, wild birds] or wild plants or introducing them to particular areas;
- (c) for the purpose of protecting any zoological or botanical collection; or
- (d) 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,

if it is done under and in accordance with the terms of a licence granted by the Department.

[<sup>F71</sup>(3A) Article 10(4) does not apply to anything done for the purpose of any development if it is done under and in accordance with the terms of a licence granted by the Department.]

[<sup>F72</sup>(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 28<sup>th</sup> 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.

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*Changes to legislation: There are currently no known outstanding effects for the The Wildlife (Northern Ireland) Order 1985, PART II. (See end of Document for details)*

(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.

(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.

(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.]

(4) Articles 7(1) and (2), 13(1) and (2), 14(1)(a) and (2) [<sup>F73</sup>, 15 or 15A] do not apply to anything done under and in accordance with the terms of a licence granted by the Department.

[<sup>F74</sup>(4A) Article 12A(1)(a) does not apply to anything done for the purpose of enabling a spring trap to be developed or tested with a view to its being approved under Article 12A(3) if it is done under and in accordance with a licence granted by the Department.]

(5) Subject to [<sup>F75</sup> paragraphs (6) and (6A)], a licence under the foregoing provisions of this Article—

- (a) may be, to any degree, general or specific;
- (b) may be granted either to persons of a class or to a particular person;
- (c) may be subject to compliance with any specified conditions;
- (d) may be modified or revoked at any time by the Department; and
- (e) subject to sub-paragraph (d) shall be valid for such period as may be stated in the licence; and the Department may charge therefor such reasonable sum (if any) as it may determine.

- [<sup>F75</sup>(6) A licence under this Article which authorises any person to kill wild birds—
- (a) shall specify—
    - (i) the species of wild birds which may be killed;  
[ the circumstances in which, and the conditions subject to which, such birds may be <sup>F76</sup>(ia) killed;]
    - (ii) the area within which, and the methods by which such wild birds may be killed; and
  - (b) subject to paragraph (5)(d), shall be valid for the period, not exceeding two years, stated in the licence.
- (6A) A licence under this Article which authorises any person to kill wild animals—
- (a) shall specify—
    - (i) the species of wild animals which may be killed and the person who is authorised to kill them;
    - (ii) the area within which, and the methods by which such wild animals may be killed; and
  - (b) subject to paragraph (5)(d), shall be valid for the period, not exceeding two years, stated in the licence.]
- (7) For the purposes of a licence granted under the foregoing provisions of this Article, 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.
- [<sup>F77</sup>(8) In this Article—
- “development” has the meaning given in Article 11 of the Planning (Northern Ireland) Order 1991;
  - [<sup>F78</sup>“the international trapping standards agreement” means the Agreement on international humane trapping standards between the European Community, Canada and the Russian Federation;
  - “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.]
  - “re-population” and “re-introduction”, in relation to wild birds, have the same meanings as in the Directive of the Council of the European Communities dated 2nd April 1979 ( No.79/409/EEC ) on the conservation of wild birds. ]

**F65** Words in art. 18(1)(3) substituted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 39(1), 40(1), Sch. 2 para. 16(a); S.R. 2011/285, art. 2, Sch.

**F66** Words in art. 18(1)(a) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 16(2), 40(1); S.R. 2011/285, art. 2, Sch.

**F67** Art. 18(2)(aa)(ab) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 16(3), 40(1); S.R. 2011/285, art. 2, Sch.

**F68** Words in art. 18(2)(g) substituted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 16(4), 40(1); S.R. 2011/285, art. 2, Sch.

**F69** Art. 18(2A) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 16(5), 40(1); S.R. 2011/285, art. 2, Sch.

**F70** Words in art. 18(3)(b) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 16(6), 40(1); S.R. 2011/285, art. 2, Sch.

**F71** Art. 18(3A) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 16(7), 40(1); S.R. 2011/285, art. 2, Sch.

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- F72** Art. 18(3B)-(3J) inserted (31.5.2019) by The Humane Trapping Standards Regulations (Northern Ireland) 2019 (S.R. 2019/68), regs. 1(1)(b), **5(2)**
- F73** Words in art. 18(4) substituted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 39(1), 40(1), **Sch. 2 para. 16(b)**; S.R. 2011/285, **art. 2**, Sch.
- F74** Art. 18(4A) inserted (30.1.2012 for specified purposes, 12.3.2012 in so far as not already in operation) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), **ss. 11(2)**, 40(1); S.R. 2012/21, art. 2(1)(2)(a)
- F75** 1995 NI 6
- F76** Art. 18(6)(ia) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), **ss. 16(8)**, 40(1); S.R. 2011/285, **art. 2**, Sch.
- F77** Art. 18(8) added (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), **ss. 16(9)**, 40(1); S.R. 2011/285, **art. 2**, Sch.
- F78** Words in art. 18(8) inserted (31.5.2019) by The Humane Trapping Standards Regulations (Northern Ireland) 2019 (S.R. 2019/68), regs. 1(1)(b), **5(3)**



**Status:**

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