
STATUTORY RULES OF NORTHERN IRELAND

2007 No. 345

**The Conservation (Natural Habitats, etc.)
(Amendment) Regulations (Northern Ireland) 2007**

Amendments to the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995

9. For regulation 38 (protection of wild plants) substitute the following regulation—

“Protection of wild plants

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 for any person—

- (a) to have in his possession or control,
- (b) to transport,
- (c) to sell or exchange, or
- (d) to offer for sale or exchange,

any live or dead plant which is taken in the wild and is of a species listed in Annex II(b) (other than a bryophyte) or Annex IV(b) to the Habitats Directive, or any part of, or anything derived from, such a plant.

(3) The offences in paragraphs (1) and (2) apply to all stages of the biological cycle of the plants to which they apply.

(4) Subject to paragraph (5), a person shall not be guilty of an offence under paragraph (2) if he shows that the plant or part of the plant in question, or the plant or part of the plant from which the part or thing in question is derived, was lawfully taken in the wild.

(5) The defence in paragraph (4) does not apply—

- (a) in respect of the offences in paragraph 2(a) and (b) if—
 - (i) the plant in question is of a European protected species, or the part or thing in question is derived from such a plant; and
 - (ii) the plant, part or thing in question was in the defendant’s possession or control, or transported by the defendant, for the purpose of sale or exchange;
- (b) in respect of the offences in paragraph 2(c) and (d) if the plant in question is of a European protected species, or the part or thing in question is derived from such a plant.

(6) For the purposes of paragraph (4) a plant, or part of a plant, shall be treated as having been lawfully taken in the wild if—

- (a) it was taken in the wild in the European territory of a member State to which the EC Treaty applies, without contravention of the law of that member State and before the implementation date; or

- (b) it was taken in the wild elsewhere.
- (7) Unless the contrary is shown, in any proceedings—
 - (a) for an offence under paragraph (1), the plant in question shall be presumed to have been a wild plant; and
 - (b) for an offence under paragraph (2)—
 - (i) the plant or part of the plant in question shall be presumed to have been taken in the wild;
 - (ii) the part or thing in question shall be presumed to be from a plant taken in the wild.
- (8) 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.
- (9) In this regulation—
 - “the implementation date” means—
 - (a) where the relevant State became a member State before 10th June 1994, the 10th June 1994; and
 - (b) in any other case, the date on which the relevant State became a member State; and
 - “relevant State” means the State in whose territory the plant, or part of it, was taken in the wild.”.