

EXPLANATORY MEMORANDUM TO

The Conservation (Natural Habitats, etc) (Amendment) Regulations (Northern Ireland) 2011

2011 No. 216

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of the Environment to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under section 2(2) of the European Communities Act 1972 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. These Regulations make amendments to the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 ("the principal Conservation Regulations").
- 2.2. The amendments in these Regulations transpose obligations contained in Articles 4(1) and (2) of the Wild Birds Directive and impose a duty on the Department of the Environment to classify certain areas as Special Protection Areas. The Secretary of State retains responsibility for this function in the marine environment.
- 2.3. The amendments also change the definition of the Wild Birds Directive contained in the principal Conservation Regulations in order to reflect the change referred to in paragraph 3.2 below.

3. Background

- 3.1. The principal Conservation Regulations are the means by which Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora ("the Habitats Directive") is transposed for Northern Ireland.
- 3.2. The principal Conservation Regulations also transpose certain provisions in Council Directive 79/409/EC (now codified as Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds ("the Wild Birds Directive")).
- 3.3. The amendments will ensure that certain requirements under the Wild Birds Directive are transposed to achieve legal clarity. The amendments will specifically transpose the obligations contained in Article 4(1) and (2) of the Wild Birds Directive. These obligations require Member States to classify suitable territories as Special Protection Areas to protect bird species listed on Annex 1 to the Directive and regularly occurring migratory species not listed in Annex 1. Northern Ireland has, since 1992, designated such sites in terrestrial and coastal areas on the basis of established administrative procedures. However, we recognise the need to transpose these obligations expressly by providing for the administrative process on the face of the legislation.

4. Consultation

4.1. The proposal to amend the principal Conservation Regulations in order to transpose the obligations in the Wild Birds Directive to classify suitable sites as special protection areas has not been the subject of public consultation. We believe that such consultation was unnecessary in these circumstances as these Regulations will simply transpose an administrative procedure already followed for many years.

5. Equality Impact

5.1. There are no equality impact implications arising from the Regulations.

6. Regulatory Impact

6.1. The impacts of these Regulations are technical updates and are not expected to have any direct additional burdens on businesses, charities, voluntary bodies or the public sector.

7. Financial Implications

7.1. There are no anticipated financial implications.

8. Section 24 of the Northern Ireland Act 1998

8.1. These Regulations do not contravene Section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. The purpose of the Regulations is to transpose certain obligations under the Wild Birds Directive. A Transposition Note can be found in the Annex to this document.

10. Parity or Replicatory Measure

10.1. Similar legislation has been introduced by the other UK administrations to allow for a common approach to meet the relevant obligations of the Wild Birds Directive.

11. Additional Information

11.1. None.

Annex

Transposition Note

Relating to Council Directive 79/409/EEC which has now been codified in Directive 2009/147/EC of the European Parliament and of the Council on the Conservation of Wild Birds (“the Wild Birds Directive”).

The Conservation (Natural Habitats, etc.) (Amendment) Regulations (Northern Ireland) 2011 (S.R. 2011 No. 216)

The Wild Birds Directive provides a framework for the conservation of wild birds and management of their habitats.

In Northern Ireland, the Directive is transposed by the Wildlife (Northern Ireland) Order 1985 and the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (“the principal Conservation Regulations”).

The Conservation (Natural Habitats, etc.) (Amendment) Regulations (Northern Ireland) 2011 amends the principal Conservation Regulations in order to meet the requirements of Article 4(1) and (2) of the Wild Birds Directive which requires Member States to classify suitable territories as Special Protection Areas to protect bird species in Annex 1 to the Directive and regularly occurring migratory species not listed in Annex 1. Northern Ireland has for many years designated such sites in terrestrial and coastal areas on the basis of established administrative procedure. The amendments transpose these obligations expressly by providing for the administrative process in the principal Conservation Regulations.

The other UK administrations are making the same amendment.

These Regulations do not go beyond what is necessary to implement the Directive.

Directive 2009/147/EC on the Conservation Of Natural Habitats and of Wild Fauna and Flora			
Article	Objective	Implementation	Responsibility
4(1) and (2)	Member States are required to take special conservation measures for the habitats of certain bird species including regularly occurring migratory species and to classify special protection areas for such species.	Regulation 3 inserts new Regulations 8A and 8B into the principal Conservation Regulations. New Regulation 8A places a statutory duty on the Department of the Environment and, for the marine environment, upon the Secretary of State, to classify Special Protection Areas. It sets out the criteria for the selection of special protection areas and also sets out the information that must be provided to the Commission and the format such information must take when special protection areas are classified.	Secretary of State and the Department of the Environment.

