
SCOTTISH STATUTORY INSTRUMENTS

2004 No. 475

**The Conservation (Natural Habitats, &c.)
Amendment (Scotland) Regulations 2004**

Amendments to Part III

- 13.** In regulation 43 (protection of wild plants of European protected species)–
- (a) in paragraph (1) after “deliberately” insert “ or recklessly ”;
 - (b) in paragraph (4), for the words from “if” to the end substitute– “(“an unlawful act”) if he shows that–
 - (a) the unlawful act was the incidental result of a lawful operation or other activity;
 - (b) the person who carried out the lawful operation or other activity–
 - (i) took reasonable precautions for the purpose of avoiding carrying out the unlawful act; or
 - (ii) did not foresee, and could not reasonably have foreseen, that the unlawful act would be an incidental result of the carrying out of the lawful operation or other activity; and
 - (c) the person who carried out the unlawful act took, immediately upon the consequence of that act becoming apparent, such steps as were reasonably practicable in the circumstances to minimise the damage to the wild plant of a European protected species in relation to which the unlawful act was carried out.”;
 - (c) after paragraph (5) insert–

“(5A) 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 provisions of this regulation shall be guilty of an offence.”; and
 - (d) in paragraph (7)–
 - (i) after “conviction” insert “ to imprisonment for a term not exceeding six months or ”;
 - (ii) for “4” substitute “ 5 ”; and
 - (iii) at the end add “ , or to both ”.

Changes to legislation:

There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004, Section 13.