STATUTORY RULES OF NORTHERN IRELAND

2019 No. 159

EUROPEAN UNION

ENVIRONMENTAL PROTECTION

WILDLIFE

The Invasive Alien Species (Enforcement and Permitting) Order (Northern Ireland) 2019

Made - - - -	*15th August 2019*
Coming into operation	*1st December 2019*

The Department of Agriculture, Environment and Rural Affairs, being a Department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to the environment, makes this Order in exercise of the powers conferred by that section of, and paragraph 1A of Schedule 2 to, that Act(**3**) and by Article 28(5) of the Wildlife (Northern Ireland) Order 1985(**4**). In accordance with Article 29(3) of that Order, the Department has consulted the Council for Nature Conservation and the Countryside(**5**) and has given to district councils and other persons affected an opportunity to submit objections or representations with respect to the subject-matter of this Order.

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Department that it is expedient for the references to the list of invasive alien species of European Union concern, adopted by the Commission in accordance with Regulation (EU) No. 1143/2014 of the European Parliament and of the Council on the prevention and management of the introduction and spread of invasive alien species(**6**), to be construed as references to that list as amended from time to time.

(**1**) S.I. 2008/301

(**2**) 1972 c. 68. Section 2(2) is amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7)

(**3**) Paragraph 1A is inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51). The relevant amendments are section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).

(**4**) 1985 No.171 (N.I.2), as amended by the Wildlife and Natural Environment Act (N.I.) 2011 (c. 15)

(**5**) The Council for Nature Conservation and the Countryside (CNCC) was established in 1989 under the provisions of the Nature Conservation and Amenity Lands (Amendment) (Northern Ireland) Order 1989. It replaced the existing Committee for Nature Conservation established under Article 5 of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985

(**6**) O.J. No. L317, 4.11.2014, p.35

PART 1

INTRODUCTORY PROVISIONS

Citation

1.—(1) This Order may be cited as the Invasive Alien Species (Enforcement and Permitting) Order (Northern Ireland) 2019 and comes into operation on 1st December 2019.

(2) This Order applies to Northern Ireland only in so far as it does not deal with import and export controls and trade with any place outside the United Kingdom, within the meaning of paragraph 20 of Schedule 3 to the Northern Ireland Act 1998(**7**).

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**8**) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order—

"authorised person" means any person authorised, for the purposes of the enforcement of this Order, by the Department in writing;

"biodiversity" means the variability among living organisms from all sources, including terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part, including diversity within species, between species and of ecosystems;

"contained holding" means keeping an organism in closed facilities from which escape or spread is not possible;

"Department" means the Department of Agriculture, Environment and Rural Affairs;

"ecosystem services" means the direct and indirect contributions of ecosystems to human wellbeing;

"ex-situ conservation" means the conservation of components of biological diversity outside their natural habitat;

"invasive alien species" means any species of animal, plant, fungus or micro-organism included from time to time on the Union list;

"licence" means a licence granted in accordance with Article 29 (licences for activities relating to invasive alien species);

"owner", in relation to any land, means any person (other than a mortgagee not in possession) who is the holder of or who is for the time being entitled to sell or otherwise dispose of the fee simple (including a fee farm grant) of the land or any person entitled to possession of the land by virtue of any estate in the land other than a mere licence;

"permit" means a permit issued in accordance with Article 28 (permits for activities relating to invasive alien species);

"premises" includes any place or land (including buildings) and, in particular, includes any place, plant, machinery, apparatus, vehicle, vessel, aircraft, boat, ship, hovercraft, trailer, container, tent or movable building or structure;

"Principal Regulation" means Regulation (EU) No. 1143/2014 of the European Parliament and of the Council of 22 October 2014 on the prevention and management of the introduction and spread of invasive alien species;

(**7**) 1998 c. 47
(**8**) 1954 c. 33 (N.I.)

"registered veterinary surgeon" means a person who is registered in the register of veterinary surgeons under section 2 of the Veterinary Surgeons Act 1966(**9**);

"relevant organism" means a live animal, plant, fungus or micro-organism, and includes any part, gamete, seed, egg, or propagule that might grow, hatch or reproduce, as the case may be;

"research" means descriptive or experimental work, undertaken under regulated conditions, to obtain new scientific findings or to develop new products, including the initial phases of identification, characterisation and isolation of genetic features (other than those features which make a species invasive) of invasive alien species insofar as essential to enable the breeding of those features into non-invasive species;

"sample" means a sample of blood, tissue or other biological material;

"seize" includes "detain" and cognate words are to be construed accordingly;

"species" includes—

(a) any hybrid, variety or breed of a species that might survive and subsequently reproduce; and

(b) any subspecies or lower taxon of a species;

"specimen" means a specimen of any live invasive alien species, and includes any part, gamete, seed, egg, or propagule of such a species that might grow, hatch or reproduce, as the case may be;

"the Union list" means the list of invasive alien species of European Union concern adopted by the European Commission in accordance with Articles 4(1) and 10(4) of the Principal Regulation as amended from time to time; and

"vehicle" includes any aircraft, boat, hovercraft or vessel.

(3) Expressions used in this Order and in the Principal Regulation, unless otherwise defined, have the same meaning in this Order as they do in the Principal Regulation.

PART 2

OFFENCES

Keeping, breeding, transporting etc. of invasive alien species

3.—(1) Any person who contrary to Article 7 (restrictions) of the Principal Regulation intentionally—

(a) keeps, including in a contained holding;

(b) breeds, including in a contained holding;

(c) transports to or from Northern Ireland to or from any place within Great Britain, or within Northern Ireland, except where such transportation is of species to facilities in the context of eradication;

(d) places on the market;

(e) uses or exchanges;

(f) permits to reproduce, grows or cultivates, including in a contained holding; or

(g) releases into the environment,

an invasive alien species commits an offence.

(**9**) 1966 c. 36

(2) Any person who releases or allows to escape into the wild any specimen which is of a species of animal which—

(a) is of a kind not ordinarily resident in and is not a regular visitor to Northern Ireland in a wild state or is a hybrid of any animal of that kind; or

(b) is included in Part 1 of the Schedule,

commits an offence.

(3) Any person who plants or otherwise causes to grow in the wild any specimen which is of a species of plant which is included in Part 2 of the Schedule or is a hybrid of any plant included in that Part, commits an offence.

(4) A person may not by reason of the same act be convicted of both—

(a) an offence under paragraph (1); and

(b) an offence under paragraph (2) or (3).

False statements

4.—(1) Any person who, for the purpose of obtaining the issue of a permit or the grant of a licence (whether for themselves or another), knowingly or recklessly—

(a) makes a statement or representation which is false in a material particular; or

(b) furnishes a document or information which is false in a material particular,

commits an offence.

(2) Any person who, for the purpose of the notice referred to in Article 12(2), makes a statement or representation which is false in a material particular commits an offence.

Misuse of permits or licences

5. Any person who knowingly falsifies or alters a permit or of a licence commits an offence.

Compliance with permits and licences

6. Any person who knowingly contravenes a condition or requirement of a permit or of a licence commits an offence.

Obstruction and deception

7.—(1) Any person who intentionally obstructs an authorised person acting in accordance with the powers conferred in Part 5 commits an offence.

(2) Any person who, without reasonable excuse, fails to give any assistance or information reasonably required by an authorised person acting in accordance with the powers conferred in Part 5 commits an offence.

(3) Any person who, with intent to deceive, pretends to be an authorised person commits an offence.

(4) Any person who furnishes to an authorised person any information knowing it to be false or misleading commits an offence.

Offences committed by bodies corporate, partnerships and unincorporated associations

8.—(1) For the purposes of this Order—

(a) section 20(2) of the Interpretation Act (Northern Ireland) 1954 applies with the omission of the words "the liability of whose members is limited";

(b) section 20(3) of that Act does not apply; and

(c) where the affairs of a body corporate are managed by its members, section 20(2) of the Act applies in relation to the acts or defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

(2) Where any offence under this Order committed by a partnership is proved—

(a) to have been committed with the consent or connivance of a partner; or

(b) to be attributable to any neglect on the partner's part,

the partner as well as the partnership commits the offence and is liable to be proceeded against and punished accordingly.

(3) For the purposes of paragraph (2), "partner" includes a person purporting to act as a partner.

(4) Where any offence under this Order committed by an unincorporated association (other than a partnership) is proved—

(a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body; or

(b) to be attributable to any neglect on the part of such an officer or member,

the officer or member as well as the association commits the offence and is liable to be proceeded against and punished accordingly.

(5) For the purpose of proceedings under paragraphs (2) or (4)—

(a) rules of court relating to the service of documents have effect as if the partnership or association were a body corporate; and

(b) the provisions of section 18 (procedure on charge) of the Criminal Justice Act (Northern Ireland) 1945(**10**) and Article 166 (corporations) of, and Schedule 4 to, the Magistrates' Courts (Northern Ireland) Order 1981(**11**) apply as they apply in relation to a body corporate.

(6) A fine imposed on a partnership or an unincorporated association on its conviction for an offence under this Part may be made payable out of the funds of the partnership or the association.

Proceedings for offences: venue and time limits

9.—(1) For the purposes of conferring jurisdiction in any proceedings for the prosecution of an offence under this Part, any such offence is deemed to have been committed in any place where the offender is found or to which the offender is first brought after the commission of the offence.

(2) Summary proceedings for such an offence may be commenced within the period of six months from the date on which the prosecutor first knows of evidence sufficient, in the prosecutor's opinion, to justify proceedings.

(3) But, no such proceedings may be commenced more than two years after the commission of the offence.

(4) For the purposes of paragraph (2)—

(a) a certificate signed by or on behalf of the prosecutor and stating the date on which the prosecutor first knew of evidence to justify the proceedings is conclusive evidence of that fact; and

(**10**) 1945 c. 15 (N.I.)
(**11**) S.I. 1981/1675 (N.I.)