STATUTORY RULES OF NORTHERN IRELAND

2012 No. 368

EUROPEAN COMMUNITIES

NATURE CONSERVATION

The Conservation (Natural Habitats, etc.) (Amendment) Regulations (Northern Ireland) 2012

Made - - - -	*26th September 2012*
Coming into operation-	*29th October 2012*

The Department of the Environment is a department designated(**1**) for the purpose of making regulations under section 2(2) of the European Communities Act 1972(**2**) in relation to the environment. The Department makes these Regulations in exercise of the powers conferred by that section.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Conservation (Natural Habitats, etc.) (Amendment) Regulations (Northern Ireland) 2012 and shall come into operation on 29th October 2012.

(2) The Interpretation Act (Northern Ireland) 1954(**3**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

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

2. The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995(**4**) are amended in accordance with regulations 3 to 16.

3. Regulation 2 (interpretation and application), paragraph 2, is amended as follows—

(a) after the definition of "destroy" insert—

> ""the Directives" means the Habitats Directive and the Wild Birds Directive, as defined in paragraph 2A;";

(**1**) S.I. 2008/301.
(**2**) 1972 c.68.
(**3**) 1954 c.33 (N.I.).
(**4**) S.R. 1995 No.380 as amended by S.R. 2003 No.46, S.R. 2004 No.435, S.R. 2007 No.345, S.R.2009 No.8 and S.R.2011 No.216.

(b) after the definition of "the Wild Birds Directive" insert—

""wild birds" means all species of naturally occurring birds in the wild and includes their eggs, nests and habitats".

4. For regulation 3 (implementation of Directive) substitute—

"**Duties relating to compliance with the Directives**

3.—(1) A Northern Ireland Department and, in relation to the marine area, a competent authority, in the exercise of their functions relative to nature conservation, including marine conservation, shall secure compliance with the requirements of the Directives.

(2) Paragraph (1) applies, in particular but not exclusively, to functions under the following enactments—

Section 2(2) of the Military lands Act 1900 (provisions as to the use of sea, tidal water and shore)(**5**);

the Foyle Fisheries Act (Northern Ireland) 1952(**6**);

the Fisheries Act (Northern Ireland) 1966(**7**);

the Harbours Act (Northern Ireland) 1970(**8**);

the Drainage (Northern Ireland) Order 1973(**9**);

Parts, 2, 3, & 5 of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985(**10**);

the Wildlife (Northern Ireland) Order 1985(**11**);

the Sea Fisheries Acts within the meaning of section 1 of the Sea Fisheries (Wildlife Conservation) Act 1992(**12**) (conservation in the exercise of sea fisheries functions);

the Water (Northern Ireland) Order 1999(**13**);

Part 4 of the Environment (Northern Ireland) Order 2002(**14**);

the Water and Sewerage Services (Northern Ireland) Order 2006(**15**);

the Water Environment (Floods Directive) Regulations (Northern Ireland) 2009(**16**);

the Forestry Act (Northern Ireland) 2010(**17**);

the Planning Act (Northern Ireland) 2011(**18**); and

these Regulations.

(3) Without prejudice to paragraphs (1) and (2), a competent authority in the exercise of functions generally, shall have regard to the requirements of the Directives.

(**5**) 1900 c.56; the power conferred by Section 2(2) was extended by Section 7 of the Land Powers (Defence) Act 1958 (c.30)
(**6**) 1952 c.5 (N.I.)
(**7**) 1966 c.17 (N.I.)
(**8**) 1970 c.1 (N.I.)
(**9**) S.I.1973/69 (N.I.)
(**10**) S.I.1985/170 (N.I.1)
(**11**) S.I. 1985/171 (N.I.2)
(**12**) 1992 c.36
(**13**) S.I. 1999/662 (N.I.6)
(**14**) 2002 c.7 (N.I.)
(**15**) S.I. 2006/3336 (N.I.21)
(**16**) S.R. 2009/376
(**17**) 2010 c.10 (N.I.)
(**18**) 2011 c.25 (N.I.)

Duties in relation to wild bird habitat

3A.—(1) Without prejudice to regulation 3(1), a Northern Ireland Department and, in relation to the marine area, a competent authority, shall take such steps in the exercise of their functions as they consider appropriate to secure the objective in paragraph (3).

(2) Except in relation to the marine area, a district council shall take such steps in the exercise of their functions as they consider appropriate to contribute to the achievement of the objective in paragraph (3).

(3) The objective is the preservation, maintenance and re-establishment of a sufficient diversity and area of habitat for wild birds as is appropriate, so as to secure compliance with the requirements of Articles 2 and 3 of the Wild Birds Directive.

(4) Paragraphs (1) and (2) shall apply, in particular but not exclusively, to—

(a) functions under the following provisions—

Section 9 (management agreements) and Part 4 (national nature reserves, nature reserves and marine nature reserves) of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985;

Part 1 (management of forestry land) and Part 3 (restriction of felling) of the Forestry Act (Northern Ireland) 2010;

Part 4 (areas of special scientific interest) of the Environment (Northern Ireland) Order 2002; and

these Regulations; and

(b) any function in relation to town and country planning.

(5) In considering what measures may be appropriate for the purpose of securing or contributing to the objective at paragraph (3), appropriate account may be taken of economic and recreational requirements.

(6) A competent authority shall take appropriate steps to avoid any pollution or deterioration of habitats of wild birds.

(7) The Department shall take such steps as are necessary to facilitate or co-ordinate arrangements with a competent authority so as to ensure compliance with paragraphs (1) and (2).

Review and guidance

3B.—(1) The Department shall periodically review the extent to which the objective in regulation 3A(3) has been met.

(2) In carrying out a review under paragraph (1), the Department shall, in so far as is reasonable, take account of any measures taken which contribute to the achievement of that objective, whether or not taken pursuant to a requirement imposed by any enactment.

(3) The Department shall give such guidance to a competent authority as it considers appropriate so as to facilitate their determination of—

(a) the extent to which the diversity and area of wild bird habitat is sufficient; and

(b) the steps that it may be appropriate to take under regulation 3A(1) and (2).

(4) A competent authority shall have regard to guidance given under paragraph (3).".

5. In regulation 4 (relevant authorities in relation to marine areas and European marine sites)—

(a) at the end of sub-paragraph (c) insert the word "and";

(b) omit sub-paragraph (d).