STATUTORY RULES OF NORTHERN IRELAND

2009 No. 8

EUROPEAN COMMUNITIES

NATURE CONSERVATION

The Conservation (Natural Habitats, etc.) (Amendment) Regulations (Northern Ireland) 2009

Made - - - -	*7th January 2009*
Coming into operation-	*30th January 2009*

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) 2009 and shall come into operation on 30th January 2009.

(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 6.

3. In regulation 9A (surveillance of conservation status of habitats and species)—

(**1**) S.I. 2008/301.
(**2**) 1972 c.68.
(**3**) 1954 c.33 (N.I.).
(**4**) S.R. 1995/380 Relevant amendments have been made by S.R.2007 No.345. The 1995 Regulations make provision for the purpose of implementing, for Northern Ireland, Council Directive 92/43/EEC on the conservation of natural habitats and of wild flora and fauna (O.J. No. L206, 22.07.92, p.7) as last amended by Council Directive 2006/105/EC of 20 November 2006 adapting Directives 79/409/EEC, 92/43/EEC, 97/68/EC, 2001/80/EC and 2001/81/EC in the field of environment, by reason of the accession of Bulgaria and Romania (O.J. No. L363, 20.12.06, p.368).

(a) in paragraph (1), after "arrangements", insert "in accordance with paragraphs (1A) and (1B)";

(b) after paragraph (1) insert—

"(1A) The Department shall—

(a) assess how and to what extent surveillance of the conservation status of each relevant habitat and species needs to be carried out, having regard to—

(i) whether a habitat or species is a priority natural habitat type or priority species; and

(ii) the conservation status of the habitat or species; and

(b) ensure that the necessary surveillance is carried out on an ongoing basis.

(1B) Surveillance for the purpose of this regulation may be carried out by—

(a) the Department; or

(b) any other person acting pursuant to, and in accordance with, an agreement with the Department.

(1C) In paragraph (1A), a "relevant" habitat or species means a habitat or species of a type referred to in paragraph (1)"; and

(c) for paragraph (5) substitute—

"(5) In this regulation, in relation to any marine area—

(a) for the words "the Department" where they occur substitute "the Secretary of State" (but see subparagraph (b));

(b) the activities referred to in paragraphs (1A)(a) and (1B)(a) shall be carried out by the Department on behalf of the Secretary of State.".

4. In regulation 34 (protection of wild animals)—

(a) for paragraph (1) substitute—

"(1) It is an offence—

(a) deliberately to capture, injure or kill a wild animal of a European protected species;

(b) deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;

(c) deliberately to disturb such an animal in such a way as to be likely to—

(i) affect the local distribution or abundance of the species to which it belongs;

(ii) impair its ability to survive, breed or reproduce, or rear or care for its young; or

(iii) impair its ability to hibernate or migrate;

(d) deliberately to take or destroy the eggs of such an animal;

(e) deliberately to obstruct access to a breeding site or resting place of such an animal; or

(f) to damage or destroy a breeding site or resting place of such an animal."; and

(b) omit paragraphs (8), (9) and (10).

5. In regulation 35 (exceptions from regulation 34)—

(a) in paragraph (1), for "regulation 34(1)(a) or (b)", substitute "regulation 34(1)(a), (b) or (c)"; and