STATUTORY INSTRUMENTS

1985 No. 171 (N.I. 2)

The Wildlife (Northern Ireland) Order 1985

- - - - - - 13th February 1985

PART I

Introductory

Title and commencement

1. This Order may be cited as the Wildlife (Northern Ireland) Order 1985 and shall come into operation on such day as the Head of the Department may by order appoint[F1].

F1 fully exercised by SR 1985/82

General interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

"ammunition" has the same meaning as in the Firearms (Northern Ireland) Order**[**[F2] 2004**]**;

"Committee for Nature Conservation" means the Committee established under Article 5 of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985;

"deer", except where otherwise provided, means deer of any species and their hybrids, and includes those on enclosed land where deer not in the wild state are usually kept;

"the Department" means the Department of the Environment;

"destroy", in relation to an egg, includes doing anything to the egg which is calculated to prevent it from hatching;

"firearm" has the same meaning as in the Firearms (Northern Ireland) Order**[**[F2] 2004**]**;

"game" means any hare or game-bird and includes deer;

"game-bird" means any pheasant, partridge (including chukar partridge and red-legged partridge), woodcock, snipe or red grouse;

[[F3]"inland waters" has the meaning given in Article 2(2) of the Water and Sewerage Services (Northern Ireland) Order 2006;**]**

"pick", in relation to a plant, means gather or pluck any part of the plant without uprooting it;

"poultry" means domestic fowls, turkeys, geese, ducks, guinea-fowls, pigeons and quails;

"sale" includes barter and exchange, and any other transaction by which anything is disposed of for value;

"uproot", in relation to a plant, means dig up or otherwise remove the plant with its roots from the land on which it is growing;

"vehicle" includes any aircraft, hovercraft and boat;

"veterinary practitioner" means a person who is for the time being registered in the supplementary veterinary register;

"veterinary surgeon" means a person who is for the time being registered in the register of veterinary surgeons;

"wild animal" means, subject to paragraph (3), any animal (other than a bird) which is or (before it was killed or taken) was living wild;

"wild bird" means, subject to paragraph (4), any bird of a **[**F4species**]** which is ordinarily resident in or is a visitor to **[**F5the United Kingdom or**][**F4the European territory of any Member State**]** in a wild state but does not include poultry **[**F6or any game bird**]**;

"wild plant" means any plant **[**F7(including fungi)**]** which is or (before it was picked, removed, uprooted or destroyed) was growing wild and is of a kind which ordinarily grows in Northern Ireland in a wild state.

(3) F8 . . . . . .

(4) In Articles 6 and 16 and, in so far as they have effect in relation to those Articles, in Articles 17 and 18 and Part IV, any reference to a wild bird includes a reference to a game-bird.

(5) In this Order any reference to any part of Northern Ireland includes, unless the context otherwise requires, a reference to the territorial waters adjacent to that part.

(6) Any reference in this Order to an animal of any kind includes, unless the context otherwise requires, a reference to an egg, larva, pupa, or other immature stage of an animal of the kind.

(7) Nothing in this Order shall make unlawful anything done under the Diseases of Animals (Northern Ireland) Order 1981.

F2 2004 NI 3
F3 Art. 2(2): definition of "inland waters" inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 39(1), 40(1), **Sch. 2 para. 5(2)**; S.R. 2011/285, **art. 2**, Sch.
F4 SR 2004/435
F5 Words in art. 2(2) inserted (31.12.2020) by The Conservation (Natural Habitats, etc.) (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/582), regs. 1(1), **2**; 2020 c. 1, Sch. 5 para. 1(1)
F6 Art. 2(2): words in definition of "wild bird" added (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 39(1), 40(1), **Sch. 2 para. 5(3)**; S.R. 2011/285, **art. 2**, Sch.
F7 Art. 2(2): words in definition of "wild plant" inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), **ss. 12(3)**, 40(1); S.R. 2011/285, **art. 2**, Sch.
F8 Art. 2(3) repealed (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 39, 40(1), Sch. 2 para. 5(4), **Sch. 3 Pt. 1**; S.R. 2011/285, **art. 2**, Sch.

PART II

Wildlife

Interpretation of Part II

3.—(1) In this Part—

"advertisement" includes a catalogue, a circular and a price list;

"authorised person" means—

(a) the owner or occupier, or any person authorised by the owner or occupier, of the land on which the action authorised is taken,

(b) any person authorised by the Department;

(c) **[**[F9]any person authorised in writing by a water undertaker;**]**

so, however, that the authorisation of any person for the purposes of this definition shall not confer any right of entry upon any land;

"automatic weapon" and "semi-automatic weapon" do not include any weapon the magazine of which is incapable of holding more than two rounds;

"aviculture" means the breeding and rearing of birds in captivity;

"livestock" includes any animal which is kept—

(a) for the provision of food, wool, skins or fur;

(b) for the purpose of its use in the carrying on of any agricultural activity; or

(c) for rearing and release into the wild for the provision or improvement of shooting or fishing, or for the purposes of nature conservation;

"occupier" includes any person having any right of hunting, shooting, fishing or taking game or fish.

(2) A bird shall not be treated as bred in captivity for the purposes of this Part unless its parents were lawfully in captivity when the egg was laid.

[[F10](3) Any reference in this Part to a plant which is growing—

(a) includes a reference to a bulb, corm or rhizome;

(b) does not include a reference to a seed or spore.**]**

F9 Art. 3(1): in definition of "authorised person" sub - para. (c) inserted (1.4.2007) by Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1, 308, **Sch. 12 para. 22** (with art. 8(8), 121(3) and 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

F10 Art. 3(3) added (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), **ss. 12(4)**, 40(1); S.R. 2011/285, **art. 2**, Sch.

Protection of birds

Protection of wild birds, their nests and eggs

4.—(1) Subject to the provisions of this Part, if any person intentionally **[**[F11]or recklessly**]**—

(a) kills, injures or takes any wild bird; or

(b) takes, damages or destroys the nest of any wild bird while that nest is in use or being built; or

[F12(ba) at any other time takes, damages or destroys the nest of any wild bird included in Schedule A1; or

(bb) obstructs or prevents any wild bird from using its nest; or**]**

(c) takes or destroys an egg of any wild bird,

he shall be guilty of an offence.

(2) Subject to the provisions of this Part, if any person has in his possession or control—

(a) any live or dead wild bird or any part of, or anything derived from, such a bird; or

(b) an egg of a wild bird or any part of such an egg,

he shall be guilty of an offence.

(3) A person shall not be guilty of an offence under paragraph (2) if he shows that—

(a) the bird or egg had not been killed or taken, or had been killed or taken otherwise than in contravention of the relevant provisions; or

(b) the bird, egg or other thing in his possession or control had been sold (whether to him or any other person) otherwise than in contravention of those provisions.

[F13(4) In paragraph (3) "the relevant provisions" means the provisions of—

(a) this Part and of orders made under it,

(b) the Wild Birds Protection Acts (Northern Ireland) 1931 to 1968 and of orders made under those Acts,

(c) any other legislation which implements either of the Wild Birds Directives and extends to any part of the United Kingdom, to any area designated in accordance with section 1(7) of the Continental Shelf Act 1964, or to any area to which British fishery limits extend in accordance with section 1 of the Fishery Limits Act 1976, and

(d) the law of any member State (other than the United Kingdom) implementing either of the Wild Birds Directives.

(4A) For the purposes of paragraph (4) "the Wild Birds Directives" are—

(a) Council Directive 79/409/EEC on the conservation of wild birds; and

(b) Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds.**]**

(5) F14. . . . . .

(6) Subject to the provisions of this Part, if any person intentionally **[**F11or recklessly**]**—

(a) disturbs any wild bird F15. . . while it is building a nest or is in, on or near a nest containing eggs or young; or

(b) disturbs dependent young of such a bird,

he shall be guilty of an offence F16. . . .

[F17(6A) 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 foregoing provisions of this Article shall be guilty of an offence.**]**

(7) Any reference in this Part to any bird included in Schedule 1 is a reference to any bird included in Part I of that Schedule and, during the close season for the bird in question, any bird included in Part II of that Schedule.

(8) In this Article and in Article 5 "close season" means, subject to the provisions of this Part, the period in any year commencing with 1st February and ending with 31st August.

(9) The Department may by order made with respect to the whole or any specified part of Northern Ireland vary the close season for any wild bird specified in the order.

(10) If it appears to the Department expedient that any wild birds included in Part II of Schedule 1 or Part I of Schedule 2 should be protected during any period outside the close season for those birds, the Department may, subject to paragraph (12), make an order with respect to the whole or any specified part of Northern Ireland declaring any period (which shall not in the case of any order exceed 14 days) as a period of special protection for those birds.

(11) This Article and Article 5 shall have effect as if any period of special protection declared under paragraph (10) for any birds formed part of the close season for those birds.

(12) **F18**. . . The Department shall, before making an order under paragraph (10), consult a person appearing to the Department to be a representative of persons interested in the shooting of birds of the species proposed to be protected by the order.

F11 Words in art. 4(1)(6) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), **ss. 5(2)(a)**, 40(1); S.R. 2011/285, **art. 2**, Sch.
F12 Art. 4(1)(ba)(bb) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), **ss. 4(2)**, 40(1); S.R. 2011/285, **art. 2**, Sch.
F13 Art. 4(4)-(4A) substituted (17.8.2011) for art. 4(4) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), **ss. 7(1)**, 40(1); S.R. 2011/285, **art. 2**, Sch.
F14 Art. 4(5) repealed (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 39(2), 40(1), **Sch. 3 Pt. 1**; S.R. 2011/285, **art. 2**, Sch.
F15 1995 NI 6
F16 Words in art. 4(6) repealed (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 39(2), 40(1), **Sch. 3 Pt. 1**; S.R. 2011/285, **art. 2**, Sch.
F17 Art. 4(6A) inserted (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), **ss. 6(2)**, 40(1); S.R. 2011/285, **art. 2**, Sch.
F18 Words in art. 4(12) repealed (17.8.2011) by Wildlife and Natural Environment Act (Northern Ireland) 2011 (c. 15), ss. 39(2), 40(1), **Sch. 3 Pt. 1**; S.R. 2011/285, **art. 2**, Sch.

Exceptions to Article 4

5.—(1) Subject to the provisions of this Article, a person shall not be guilty of an offence under Article 4 by reason of the killing or taking of a bird included in Part I of Schedule 2 outside the close season for that bird, or the injuring of such a bird outside that season in the course of an attempt to kill it.
Para. (2) rep. by 1995 NI 6

(3) **[**F19Paragraph (1)**]** shall not apply on Sundays or during the period commencing one hour after sunset on any day and ending one hour before sunrise on the next day.

(4) Nothing in Article 4 shall make unlawful anything done—

(a) in pursuance of a requirement by the Department of Agriculture under any scheme made under section 6 of the Agriculture Act (Northern Ireland) 1949 or under section 2 of the Agriculture (Miscellaneous Provisions) Act (Northern Ireland) 1959; or

(b) under the Drainage (Northern Ireland) Order 1973.

(5) Notwithstanding anything in Article 4, a person shall not be guilty of an offence by reason of—