

2011 No. 216

EUROPEAN COMMUNITIES

NATURE CONSERVATION

**The Conservation (Natural Habitats, etc.) (Amendment)
Regulations (Northern Ireland) 2011**

Made - - - -

7th June 2011

Coming into operation -

15th July 2011

The Department of the Environment is a department designated(a) for the purpose of making regulations under section 2(2) of the European Communities Act 1972(b) 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) 2011 and shall come into operation on 15th July 2011.

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

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

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

3. In regulation 2 (interpretation and application)—

(a) for paragraph (2A)(a)(ii) substitute—

““the Wild Birds Directive” means Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds(e); and”;

(b) after paragraph (3) insert the following paragraph—

“(3A) Expressions used in the Wild Birds Directive and in these Regulations have the same meaning as in that Directive.”.

(a) S.I. 2008/301.

(b) 1972 c.68.

(c) 1954 c.33 (N.I.).

(d) S.R. 1995 No.380 as amended by S.R. 2003 No. 46, S.R. 2004 No.435, S.R. 2007 No.345 and S.R. 2009 No.8.

(e) O.J. No. L 20, 26.1.2010, p.7. This instrument codifies, with minor amendments, Council Directive 1979/409/EEC as amended.

4. After regulation 8 (consultation as to inclusion of site omitted from the list) insert—

“Classification of sites as special protection areas

8A.—(1) The Department shall classify as special protection areas such sites in Northern Ireland as it considers necessary to ensure that the objective specified in paragraph (2) is met.

(2) The objective referred to in paragraph (1) is that those sites across the United Kingdom’s territory which are most suitable in number and size for—

- (a) the conservation of the species listed in Annex I to the Wild Birds Directive which naturally occur in that territory; and
- (b) the conservation of regularly occurring migratory species of birds not listed in Annex I which naturally occur in that territory,

are classified as special protection areas.

(3) The Department shall make its decision as to the sites to be classified under paragraph (1) only on the basis of relevant scientific information and—

- (a) in the case of a site to be classified for the purpose mentioned in paragraph (2)(a), on the basis of the criteria set out in Article 4(1) of the Wild Birds Directive; and
- (b) in the case of a site to be classified for the purpose mentioned in paragraph (2)(b), on the basis of the criteria set out in Article 4(2) of the Wild Birds Directive.

(4) Where a site is classified under paragraph (1), the Department shall provide information on that site to the European Commission including—

- (a) a map or chart of the site;
- (b) its name, location and extent; and
- (c) the data resulting from application of the criteria set out in Article 4(1) or Article 4(2) of the Wild Birds Directive.

(5) The information specified in paragraph (4) shall be provided in such format as is established by the Commission.

(6) In this regulation—

- (a) “the United Kingdom’s territory” means the United Kingdom (including its internal waters), the territorial sea adjacent to the United Kingdom, and the offshore marine area, and
- (b) where a site which is classified under paragraph (1) is a European marine site then for the words “the Department” where they occur substitute “the Secretary of State”.

Notification of a proposal to classify a special protection area

8B.—(1) Where the Department proposes to classify a site as a special protection area under regulation 8A, it shall give notice of that proposal and an accompanying statement of its reasons for that proposal to—

- (a) competent authorities which exercise functions in relation to the site;
- (b) competent authorities which exercise functions in relation to an area adjacent to the site;
- (c) every owner and occupier of the site; and
- (d) such other persons as in its opinion ought to be notified.

(2) A notice under paragraph (1) shall specify the time (being not less than 3 months from the date of the giving of the notice) within which representations with respect to the proposal may be made to the Department.

(3) The Department shall also publish in at least two newspapers circulating in the area in which the site is located notice—

- (a) of the proposal to classify the site as a special protection area; and
- (b) of the place (at least one of which is in the area) at which a copy of the proposal may be inspected at all reasonable hours.

(4) The Department shall consider any representation duly made when determining whether to classify a site as a special protection area and give notice of its decision to the persons mentioned in paragraph (1).

(5) In this regulation where a proposal to classify a site as a special protection area consists of marine areas then for the words “the Department” where they occur substitute “the Secretary of State”.”.

Sealed with the Official Seal of the Department of the Environment on 7th June 2011.



Denis McMahon
A senior officer of the Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (“the 1995 Regulations”) which make provision for implementing Council Directive 92/43/EEC on the conservation of natural habitats and of wild flora and fauna (“the Habitats Directive”)(a). These Regulations also transpose certain aspects of Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds (“the Wild Birds Directive”)(b).

Regulation 3 changes the definition of the Wild Birds Directive to mean Directive 2009/147/EC, which replaced Council Directive 79/409/EEC(c) and provides for the meaning of terms used both in the 1995 Regulations and the Wild Birds Directive.

Regulation 4 inserts new regulations 8A and 8B into the 1995 Regulations as follows:

- (a) Regulation 8A of the 1995 Regulations places a duty on the Department of the Environment (or the Secretary of State for sites consisting of marine areas) to classify as special protection areas all sites that require to be classified pursuant to Articles 4(1) and 4(2) of the Wild Birds Directive.
- (b) Regulation 8B of the 1995 Regulations provides for the notification of a proposal to classify a site as a special protection area to all relevant bodies and persons who may have an interest in the classification.

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- (a) O.J. No L206, 22.7.1992, p.7, last amended by Council Directive 2006/105/EC (OJ No L363, 20.12.2006, p.368).
 - (b) O.J. No L20, 26.1.2010, p.7. This instrument codifies, with minor amendments, Council Directive 1979/409/EEC as amended.
 - (c) O.J. No L103, 25.4.1979, p.1.

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