



Review of the Wildlife (NI) Order 1985

Introduction

The Partnership for Action Against Wildlife Crime (PAW) is a multi-agency body comprising representatives of the organisations involved in wildlife law enforcement in the UK. It provides opportunities for statutory and non-Government organisations to work together to combat wildlife crime. Its main objective is to promote the enforcement of wildlife conservation legislation, particularly through supporting the networks of Police Wildlife Crime Officers and HM Revenue and Customs officers.

The PAW Northern Ireland (PAWNI) working group includes organisations such as the PSNI, EHS, RSPB, USPCA, Forest Service, Countryside Alliance Ireland, British Association for Shooting and Conservation (BASC), the League Against Cruel Sports (LACS) and other statutory bodies and NGOs, all working in partnership to raise awareness of, and tackle, wildlife crime. More information can be found at www.defra.gov.uk/paw.

This response stands alongside comments that any individual organisation may make, and represents the view on all of the proposals where there is consensus amongst the group.

Custodial sentences

PAWNI is very disappointed that there is no proposal for the provision of custodial sentences in serious cases of wildlife crime and we urge Government to adopt such a provision. We believe the courts in Northern Ireland should be able to award custodial sentences, including the ability to award community service penalties and suspended sentences. The deterrent value of custodial sentences when combined with effective policing is well-recorded and we see no reason why Northern Ireland should not be brought into line with the rest of the UK on this point.

Wildlife (Northern Ireland) Order 1985 consultation proposals

PAWNI supports the proposals listed below:

Proposal C:

- place a general statutory duty upon government departments and public bodies to further the conservation of biological diversity consistent with the exercise of their functions;
- place a statutory duty upon the Department to designate a Biodiversity Strategy for Northern Ireland;
- place a statutory duty upon the Department to present to the Minister reports on progress on the implementation of the Strategy every 3 years; and
- place a statutory duty upon the Department to produce lists of habitats and species of conservation importance, and to support and promote their conservation.

Proposal D: give the police additional stop and search powers, and powers of entry, but with appropriate safeguards.

Proposal E:

- give Wildlife Inspectors powers of entry and inspection to investigate offences under Articles 7(1) & (2), 8(1), 9(1); 13(1) & (2) and 14(2) of the Wildlife Order;
- give Wildlife Inspectors powers of entry and inspection for the purpose of checking applications for licences or registrations and for checking compliance with same;
- require persons to make specimens available to Wildlife Officers conducting inspections for the above mentioned purposes and to assist the Wildlife Inspectors to examine the specimen;
- give Wildlife Inspectors powers to require the taking of blood or tissue samples; and
- make it an offence to obstruct an Inspector or fail to assist him.

Proposal F: reckless action which harms wildlife listed on Schedules 1, 5 and 8 should be an offence.

Proposal G: make it an offence for a person to cause or permit another person to carry out certain acts against wildlife i.e. those under Articles 4(1), (2) & (6); Article 10(1), (2) & (4); and Article 14(1).

Proposal H: amend the wording of the offence for a person to use or set in position certain articles and devices where these are 'calculated or likely' to cause injury to wild birds and wild animals.

Proposal I: create an offence for anyone to attempt to commit wildlife offences.

Proposal J: set the time limit for bringing prosecutions for all offences under the Wildlife Order at 6 months from the date on which sufficient evidence comes to the knowledge of the prosecutor.

Proposal K:

- qualify the statutory defences in Article 5(6) regarding action against wild birds by 'authorised' persons;
- qualify the circumstances requiring the Department to be sure, when issuing a licence in relation to wild birds, there was not another satisfactory solution and, for certain activities, that the licence is on a selective basis and in respect of a small number of birds; and
- give the Department power to issue licences for the purposes of the re-population of an area with, or the re-introduction into an area of, wild bird; and add 'research' and the protection of 'inland waters' to existing derogations.

This is to correctly transpose and implement the Bird Directive, so we particularly support these moves.

Proposal L: make it an offence to intentionally or recklessly disturb or harass basking sharks.

Proposal M:

- Update Schedule 9, which will also include prohibiting the release of certain mammals onto offshore islands;
- give the Department power to prohibit the sale of any species it may specify in an Order;
- provide a discretionary general power for the Department to take actions to control, contain or eradicate invasive non-native species and provide associated powers of entry;
- give the Department power to produce Codes of Practice about invasive non-native species;
- give courts the power to issue 'restoration orders' to persons convicted of causing damage under offences under Article 15; and
- clarify that existing offences cover hybrids of any species listed on Schedule 9.

Proposal N: make the provisions of the Wildlife Order applicable to the Crown and all public bodies that are part of the Crown.

Proposal O:

- clarify the provisions in the Wildlife Order that make it an offence to use a self-locking snare or to adapt or use any other form of snare in a manner that is likely to cause injury;
- make it an offence to possess (without reasonable excuse) a self locking snare;
- make it an offence for anyone to use or be in possession of a snare on any land without the owner/occupiers permission; and
- place a requirement upon any person setting a snare to inspect it at least once in any 24 hour period and to remove or release any animal caught.

Proposal P: ONLY part three

- make it an offence to contravene a conditions of a licence issued under Article 18 of the Wildlife Order.

Please note that proposal P contains two other sections (provision to issue licences for the purpose of development and licensed activity to conserve wild birds) on which PAWNI does not comment.

Proposal Q: amend the definition of ‘wild plant’ to include fungi and non-vascular plants; to clarify that protection afforded to Schedule 8 species extends to all stages of their biological cycle.

Proposal S: prohibit someone from becoming or remaining registered for the purpose of selling dead wild birds or animals if they have committed an offence in relation to the trade in internationally endangered species.

Proposal U: ONLY sections three and four

- introduce a new power for the Department to issue temporary stop notices to prevent unlawful damage to ASSIs and associated powers of entry;
- give new power to Department to issue reinstatement notices and associated right of appeal, and make it an offence for failure to comply.

Please note that proposal P contains several other sections on which PAWNI does not comment.

With regard to the information available on ownership of ASSIs, we recommend that the Department be required to give all details of ASSI boundaries to the Land Register and for the data to be held on the relevant Land Register portfolios. This would help ensure that information on the ASSI status of the land would be passed on with ownership of the land through sale or inheritance.