

Wildlife and Natural Environment Bill Committee Stage: Written evidence from the Ulster Wildlife Trust.

The Ulster Wildlife Trust is a local nature conservation charity with over 6,400 members which works to achieve an environment rich in wildlife and valued by all.

The Ulster Wildlife Trust has strongly welcomed the proposal to review the Wildlife (Northern Ireland) Order 1985. In this document our responses are constructed to follow the clauses set out in the Wildlife and Natural Environment Bill, as introduced to the Assembly.

Duty to conserve biodiversity

The Ulster Wildlife Trust supports clause 1. However, there is no specific mention of the genetic component of biodiversity (ie diversity within species) within clause 1. The Convention on Biological Diversity defines biological diversity as “the variability among living organisms from all sources, including, *inter alia*, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part: this includes diversity within species, between species and of ecosystems.”

The Biodiversity Strategy

The Ulster Wildlife Trust supports the proposal in clause 2 (1), 2(2) and 2(3). This enables Northern Ireland to contribute to obligations under Article 6(a) of the Convention on Biological Diversity which states that each contracting party shall “develop national strategies, plans or programmes for the conservation and sustainable use of biological diversity...”. This convention was ratified by the UK in 1994 and by the Republic of Ireland in 1996.

Clause 2(4) of the Wildlife and Natural Environment Bill states that the Department must ‘from time to time’ publish a report regarding the implementation of the biodiversity strategy. The Ulster Wildlife Trust is concerned that this seems a rather vague statement and the original consultation proposal was to place a statutory duty on the Department to provide progress reports on the implementation *every three years*.

The Ulster Wildlife Trust considers it would be good practice to align the reporting schedule under the biodiversity strategy to the national and international reporting rounds and commitments in relation to biodiversity eg the Convention on Biological Diversity (see COP8 Decision VIII/14). Given limited resources, such an approach can offer efficiency savings.

Biodiversity Lists

The Ulster Wildlife Trust supports clause 3, while recognising that it is important that the lists of species and habitats also take account of responsibilities at an EU level.

Protection of nests of certain birds.

The Ulster Wildlife Trust welcomes the inclusion of the Golden eagle (*Aquila chrysaetos*).

Barn owls (*Tyto alba*) tend to use the same roost and nest sites from year to year. Since there is an estimated population of only 45-55 breeding pairs the Ulster Wildlife Trust believes there is a case for the year round protection of sites.

Offences

The Ulster Wildlife Trust supports the insertion of 'or recklessly' within the articles listed in 5(2). In our consultation response we welcomed the proposal that reckless action that harms wildlife on Schedules 1, 5 and 8 should be an offence. We also welcomed the proposal that it should be an offence for a person to cause or permit another person to carry out certain acts against wildlife.

Protection of basking sharks from disturbance

We support the insertion of clause 4A after 10(4) of the Wildlife Order but would also wish to see this extended to seals. Dr. S. Wilson (pers. comm.) has reported that the common seal (*Phoca vitulina*) colony at Minerstown has been disturbed by jet skis.

Licences under Article 18

14 (7) "Article 10(4) does not apply to anything done for the purpose of any development if it is done under and is in accordance with the terms of a licence granted by the Department". We note that both NIEA and Planning Service are within the same government department.

If development has the same meaning in Article 18 (power to grant licences) as is given in Article 11 of the Planning (Northern Ireland) Order 1991, then 'development' means 'the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land'. There are, however a number of excluded activities including use of land for agriculture or forestry and the carrying out of works affect only the interior or do not materially alter the external appearance of the building.

Enforcement and Penalties

We welcome the proposed new powers in clause 22 for courts to impose custodial sentences for serious offences. We stress that where fines are imposed they must be sufficient to act as a deterrent to crime.

Application to the Crown

As we stated in our consultation response the Ulster Wildlife Trust is of the opinion that the Crown should be seen to take a lead in protecting the environment and we therefore support the proposal to add 27A.

Review of Schedules to the Wildlife Order

The proposed clause 28(8) states that the Department 'shall' review on a 5 yearly basis the following schedules:-

A1 and 1 Birds; 2 Birds which may be killed or taken; 5 Animals protected at all times; 8 Protected plants.

There is no mention of Schedule 9 'Animals and Plants to which Article 15 Applies' ie the introduction of new species. We would hope that the intention of this clause is to permit the Department to undertake more frequent review of this schedule given the need to be able to

respond quickly to potential threats from non-native invasive species. The ability to respond quickly to invasive species is a crucial factor in keeping down costs to the public purse.

We would also welcome clarification on the legal status of any species where there is a change to the Latin name as a result of research findings. Is it potentially no longer protected under the Bill? Will it require formal review to rectify the name change or can there be a mechanism within the legislation to take account of changes in Latin names? At the moment the Bill states that in the event of any dispute or proceedings only the second column, that is, the official Latin name, is to be taken into account but what if the official Latin name of a species is changed after the Bill becomes an Act?

Offences in connection with ASSI

We welcome the amendments to the Environment Order in clauses 27-30 of the Bill. The importance of preventing damage to ASSIs cannot be overemphasised. While the Trust supports the principle that those who cause environmental damage through unlawful activity should pay for putting it right the difficulties and costs of habitat restoration can be considerable, as can also be the time-scales required. It is important that this section gives the enforcement authorities the power to intervene as soon as unauthorised or illegal activity is identified.

In relation to 27 (3) of the Bill which inserts clause 6A after 46(6) of the Environment Order we question whether a fine not exceeding level 4 on the standard scale is a sufficient financial deterrent in cases where a person intentionally damages an ASSI with the aim of securing a financial gain for themselves.

The addition of clause 48A to clause 48 of the Environment Order provides a valuable safeguard in some habitats where notifying every single owner and occupier is extremely difficult because of the historic complexity of ownership and where those with rights may not have exercised them for a generation or more. The legal requirement on the Department to take all reasonable steps provides an adequate safeguard to the public and seems a sensible way to proceed in terms of the allocation of public servants' time, and thus public money. It is important to stress that for most land it is relatively straightforward to establish who the owners and occupiers are.

CHANGES TO SCHEDULES

Schedule 1 Birds which are protected by special penalties.

Part 1 At all times

The Ulster Wildlife Trust supports the proposal to amend Schedule 1 and insert the following species:- Cuckoo (*Cuculus canorus*), Stock Dove (*Columba oenas*), Little Egret (*Egretta garzetta*), Spotted flycatcher (*Muscicapa striata*), Mediterranean Gull (*Larus melanocephalus*), Hobby (*Falco subbuteo*), Red Kite (*Milvus milvus*), Sand martin (*Riparia riparia*), Puffin (*Fratercula arctica*), Tree sparrow (*Passer montanus*), Manx shearwater (*Puffinus puffinus*), Lesser whitethroat (*Sylvia curruca*) and Yellowhammer (*Emberiza citrinella*).

We consider that there is a case for the curlew (*Numenius arquata*) being moved to Schedule 1 from schedule 2. The curlew is an all-Ireland Red-listed species, a UK amber-

listed species and a priority species in the Northern Ireland Biodiversity Strategy (see <http://www.habitats.org.uk/>). Winter counts of the bird are higher because of an influx of the birds from Britain and further afield to winter around coastal areas whereas the local breeding population has experienced a decline since the 1980s.

In addition we would support the addition of bullfinch (*Pyrrhula pyrrhula*) and raven (*Corvus corax*) as birds which have a history of persecution. The raven in particular is vulnerable to persecution.

Schedule 2 Birds which may be killed or taken outside the close season.

The Ulster Wildlife Trust supports the addition of the Ruddy duck (*Oxyura jamencis*) to schedule 2 because of the threat inter-breeding poses to native duck populations.

Schedule 5 Animals which are protected at all times.

The Ulster Wildlife Trust supports the addition of the following species to schedule 5:- Real's wood white butterfly (*Leptidea reali*), white-clawed crayfish (*Austropotamobius pallipes*), Irish Damselfly (*Coenagrion lunulatum*), spiny lobster (*Palinurus elephas*), fan mussel (*Atrina fragilis*), short-snouted seahorse (*Hippocampus hippocampus*), spiny seahorse (*Hippocampus guttulatus*), common skate (*Dipturus batis*), angel shark (*Squatina squatina*) and basking shark (*Cetorhinus maximus*).

The Common skate (known as *Dipturus batis*) is severely depleted in Northern Ireland's waters. It has been on IUCN's Red List of threatened species since 2006. We would stress the need to ensure that the legislation reflects the taxonomic status of the species in a way that offers the intended legal protection. From the mid-nineteenth century until the work of Clark in the 1920s it was described as two distinct species. The European common skate has recently been subject to further taxonomic investigation, including modern techniques of molecular genetics, and it is now thought it is actually two species *Dipturus intermedia* (blue skate) and *Dipterus flossada* (flapper skate) both of which need to be listed on schedule 5 to ensure legal protection. *D. intermedia* is the world's largest skate and the more endangered of the two species.

The Ulster Wildlife Trust suggests the addition of the black skate (*Dipturus nidarosiensis*) the white skate (*Rostroraja alba*) and the long-nose skate (*Dipturus oxyrinchus*) on the following grounds.

- White skate are now rarely observed in Northern Ireland Waters. Under the OSPAR Convention it is defined as a species 'under threat and/or in decline for Region III Celtic Seas.
- Black skate have been assessed as 'near threatened' by IUCN and the Shark Trust have noted that the species is extremely scarce though little is known about the status of the stocks. What is known about its biology ie. its slow growth and slow time to reach maturity, suggests the precautionary principle should be followed and this species added to schedule 5.
- The long-nose skate is listed as near threatened by IUCN and the Shark Trust suspects it may even have disappeared from the Irish sea.

The angel shark is deserving of protection over the whole territorial waters. It is a species under threat for Region III Celtic seas (OSPAR Convention).

Schedule 6 Animals which may not be killed or taken by certain methods.

The Ulster Wildlife Trust supports the addition of the white clawed crayfish (*Austropotamobius pallipes*) and pygmy shrew (*Sorex minutus*) to schedule 6.

Schedule 8 Plants which are protected

Part 1

The Ulster Wildlife Trust welcomes the proposal to add these species to schedule 8 (part 1).

Part 2

The Ulster Wildlife Trust welcomes the proposal to add the bluebell (*Hyacinthoides non-scripta*) to schedule 8 part 2.

Schedule 9 Animals and plants to which Article 15 applies.

Part 1 Animals

The Ulster Wildlife Trust is particularly pleased to see the inclusion of the brown hare (*Lepus europaeus*) in schedule 9 part 1.

Part 2 plants

The Ulster Wildlife Trust supports the addition of these species and is pleased to see the inclusion of *Lagarosiphon major* (curly waterweed) and *Egeria densa* (large flowered waterweed).

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