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Mr C Savage  
Regulatory and Natural Resources Policy Division  
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22 January 2015

Dear Mr Savage

**THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS  
(NORTHERN IRELAND) 2015**

Thank you for the opportunity to respond to the above consultation document. The Ulster Farmers' Union (UFU) is the largest farming organisation in Northern Ireland with over 11,500 members.

The UFU welcomes the aims of the Department to improve transparency and legal clarity by undertaking this consolidation exercise in order to bring the original set of regulations and the subsequent amendments into one piece of legislation.

It is noted that there are a number of proposed changes to the regulations to ensure that the Department has delivered adequate protection under the EC Habitats Directive. However, the consultation paper and draft regulations fail to adequately outline to consultees exactly what changes have been introduced without having to trawl through the previous regulations and amendments therefore making it difficult for stakeholders to comment appropriately on the proposals.

The UFU has serious concerns about the powers within the Environment (NI) Order 2002 particularly around the designation of sites such as ASSIs and therefore would have concerns about any attempt to bring in similar powers under the Habitats Regulations to cover other species and habitats that fall outside of existing ASSIs.

As highlighted to NIEA on previous occasions, the UFU believe that designation of sites on farmland is equivalent to having an additional or new 'landlord' on your own land. Designation can place additional constraints on farmers that can prevent their business from operating how it otherwise might and often the conditions attached to designations are impractical. Any new development is restricted and this can prevent a business from

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adapting to remain efficient and competitive. There is also concern that designation results in the devaluation of land due to the restrictions imposed, particularly as designations must be registered as a statutory charge on the property. It is extremely concerning that the powers which go with designation such as management agreements and notices are therefore being extended into these new Habitats Regulations and the UFU would strongly object to this proposal.

The UFU have also highlighted to DoE and NIEA on previous occasions and would re-iterate that there is no appropriate financial compensation for land designated. Agri-environment schemes are not a satisfactory way of compensating farmers following designation as these are voluntary schemes, often oversubscribed and budget dependent e.g. DARD are not intending to open the proposed Environmental Farming Scheme in 2015 due to budgetary pressures within the Department. We are aware that NIEA already has the Management of Sensitive Sites Scheme (MOSS), however with a reported budget of £440,000 however this is not sufficient to adequately fund the large areas of Northern Ireland which have been designated as ASSIs and Natura 2000 sites. In the original 1995 Habitats Regulations, there is provision to allow compensation to landowners to be made. It appears that these regulations have not been transferred to the proposed Conservation Of Habitats and Species Regulations (Northern Ireland) 2015 and the UFU would insist that these specific regulations are retained. DOE must consider a more appropriate form of compensation than agri-environment schemes and MOSS for land which is designated.

### **Comments on specific regulations**

#### *Regulation 13: Notification of a proposal to classify a special protection area*

2) The UFU would propose that the length of time for representations to be made about a designation must be extended. The minimum time of 3 months is totally inadequate for farmers/landowners to challenge designations and a more appropriate minimum time set. Farmers also lack the relevant expertise and are unable to afford the fees required to bring in the necessary expertise to consider such designations. The UFU would suggest that NIEA should pay agent expenses for farmers to seek the relevant expertise to consider any new designations (up to an agreeable limit). This process is already established for farmers who will have land vested as part of road/utility schemes and should be considered within these regulations. As outlined above, options for compensation following designation should be outlined at this stage in the process.

#### *Regulation 15: Notice to landowners, district councils etc*

Despite the Union's objections to the designating of sites and the problems that they present for farmers, where they are must be introduced, the UFU supports the requirement to notify landowners of any designation. This is particularly important when land is transferred to a different landowner. NIEA/DOE must ensure that any new landowner is made clearly aware of the obligations of a designated site.

#### *Regulation 17: Management agreements*

Management agreements must be drawn up in conjunction with landowners / farmers in order to respect their views and practices of shaping the environmental/farming landscape over hundreds of years. Provision for this should be made within the regulations. Any management agreements must be practical and must be agreed by all parties involved.

Designation of sites is a very sensitive issue and requires careful and considered consultation with affected landowners. NIEA must meet with any landowners impacted by proposed designations early in the process and consult effectively with them.

Any variation to management agreements should be done in conjunction with landowners/farmers.

It is often reported that management restrictions placed on those operating within ASSIs and other designated sites are creating other environmental problems and there is often a lack of consistency with other scheme rules (Agri-Environment Scheme conditions, Single Farm Payment eligibility rules etc). This needs to be considered when drawing up management agreements.

*Regulation 22: Restriction on carrying out operations specified in declaration*

The current process for consent is causing many problems with farmers. When land is designated, there are often practical issues impacting farmers e.g. the length of time taken by NIEA to consider consents. This specific issue was highlighted to the UFU by affected members where often by the time permission is granted the weather is no longer suitable to do the works applied for, or that the conditions attached to consent can be impractical. There are also many issues with the conditions outlined in the management schedules. The UFU propose that the regulations should include a requirement for NIEA etc to consider a request and make a decision within 10 working days of submission.

Consents should not be required for normal farming practices that have been practised in the past.

*Regulation 28: Powers of entry: authorised persons*

While the UFU recognises that the Department may authorise powers of entry onto land under these regulations, it is important that this is carried out appropriately.

Entry onto farmland can bring health and safety or biosecurity threats to/from livestock and crops. The UFU would insist that a farmer/landowner is notified before entry onto their land unless a serious environmental crime is being investigated. Health and safety and biosecurity precautions must be undertaken and an agreed set of protocols established for authorised persons entering land. Reference to agreed protocols/Code of Conduct should be made within these regulations.

I trust that these comments are of use to you. If you would like to discuss further please do not hesitate to get in contact.

Yours sincerely

**Aileen Lawson**  
**Senior Policy Officer**