



Conservation of Wild Creatures and Wild Plants Act 1975

CHAPTER 48

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Conservation of Wild Creatures and Wild Plants Act 1975

1975 CHAPTER 48

An Act to provide for the protection and conservation of wild creatures and of plants growing wild and to amend section 9 of the Badgers Act 1973.

[1st August 1975]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. If, save as may be permitted by or under this Act, any person without reasonable excuse—

- (a) kills, injures or takes, or attempts to kill, injure or take any protected wild creature ; or
- (b) has in his possession any protected wild creature which is not shown by him to have been killed or taken otherwise than in contravention of this Act ;

he shall be guilty of an offence :

Provided that an authorised person shall not be guilty of an offence against this section by reason only of any action taken in respect of a protected wild creature, if he satisfies the court before whom he is charged that his action was necessary for the purpose of preventing serious damage to land, crops, poultry or any other form of property.

2.—(1) If, save as may be permitted by or under this Act, any person without reasonable excuse sells, offers for sale or has in his possession for sale any live or dead creature of a species specified in Schedule 1 to this Act, whether or not found living wild, he shall be guilty of an offence.

(2) In this section any reference to sale shall be construed as including a reference to barter and exchange and any refer-

Restriction on killing etc. protected wild creatures.

Restriction on sale of certain wild creatures.

ence to dead creatures shall be construed as including the skins or skeletons of such creatures.

Restriction
on marking
or ringing.

3. If, save as may be permitted by or under this Act, any person marks any protected wild creature or any other wild creature being a bat or attaches any ring, tag or other marking device to a protected wild creature or any other wild creature being a bat, he shall be guilty of an offence.

Restriction
on uprooting
wild plants.

4. If, save as may be permitted by or under this Act, any person, other than an authorised person, without reasonable excuse uproots any plant, he shall be guilty of an offence.

Protection of
rare plants.

5. If, save as may be permitted by or under this Act, any person without reasonable excuse picks, uproots or destroys any protected plant, he shall be guilty of an offence unless the picking, uprooting or destruction occurs as an incidental result, which could not reasonably have been avoided, of any operation which was carried out in accordance with good agricultural or forestry practice.

General
exceptions.

6. A person shall not be guilty of an offence against this Act by reason only of—

- (a) the taking, or attempted taking, of any protected wild creature which has been disabled otherwise than by his act and was taken, or attempted to be taken, solely for the purpose of tending it ;
- (b) the killing, or attempted killing, of any protected wild creature which appeared to be so seriously injured or in such a condition that to kill it was, or would have been, an act of mercy ; or
- (c) the doing of anything in pursuance or furtherance of any obligation imposed, or in exercise of any powers conferred, by or under an Act of Parliament.

Variation of
Schedules.

7.—(1) Where, on a representation made to him by the Nature Conservancy Council, it appears to the Secretary of State to be necessary in the interests of the proper conservation of wild creatures or plants he may by order add any wild creature or plant to, or remove any wild creature or plant from, Schedule 1 or Schedule 2 to this Act.

(2) An order made under subsection (1) of this section may apply—

- (a) to the whole or to particular provisions of this Act ;
- (b) generally or to a particular area ;
- (c) to wild creatures or plants in a particular category ; or
- (d) at all times or at particular times of the year ;

and the order may make different provision for different circumstances.

8.—(1) A licence may be granted to any person by the appropriate authority stipulated in the next subsection authorising that person, notwithstanding anything in this Act or in any order made under this Act, but subject to compliance with any specified conditions—

- (a) for scientific or educational purposes or for the conservation of wild creatures, to kill or take within a specified area by any specified means or to have in his possession any number of specified protected wild creatures ;
- (b) for the purposes of any specified zoological gardens or collection, to take within a specified area by any specified means or to have in his possession any number of specified protected wild creatures ;
- (c) for any of the purposes mentioned in paragraphs (a) and (b) of this subsection, to offer for sale or to sell or to have in his possession for sale any number of specified live or dead creatures the sale, offering for sale or possession of which for sale would otherwise be an offence under section 2 of this Act ;
- (d) for the purpose of marking or ringing, to take within a specified area by any specified means any specified protected wild creatures or any other wild creatures being bats, to mark such protected wild creatures or other wild creatures being bats, or to attach to them any specified ring, tag or other marking device ;
- (e) for the purpose of preventing the spread of disease, to kill or take protected wild creatures within a specified area by any specified means ; or
- (f) for scientific or educational purposes or for the conservation of plants, to pick or uproot within a specified area by any specified means any plant of a specified species.

In this subsection “specified” means specified in the licence and in paragraph (c) of this subsection any reference to dead creatures shall be construed as including the skins or skeletons of such creatures.

(2) The appropriate authority for the grant of a licence under the foregoing subsection shall be—

- (a) in the case of a licence under paragraph (a), (b), (c), (d) or (f) of that subsection, the Nature Conservancy Council ; and
- (b) in the case of a licence under paragraph (e) of that subsection, the Minister of Agriculture, Fisheries and Food or, in Scotland, the Secretary of State.

(3) Subject to the provisions of the next subsection, any licence granted under this section shall remain in force for such period as shall be specified therein.

(4) A licence granted under this section may be revoked at any time by the authority by which it was granted.

(5) A licence granted under this section shall not confer any right of entry upon any land.

(6) Without prejudice to any other penalty which he may have incurred under this or any other Act, any person who contravenes or fails to comply with any condition specified in a licence granted under this section shall be guilty of an offence.

Offender
may be
required to
quit land.

9. If any person shall be found committing, or shall with reasonable cause be suspected of committing or of having committed, an offence under this Act on any land, it shall be lawful for an authorised person or any constable to require that person forthwith to quit such land and also give his name and address ; and, if that person on being so required wilfully and without claim of right remains upon the land or refuses to give his full name and address, he shall be guilty of an offence.

Enforcement.

10. A constable may stop any person he suspects with reasonable cause of committing or of having committed an offence under this Act, and may without warrant search that person if, with reasonable cause, he suspects him of having evidence on his person of the commission of an offence under this Act, and may—

- (a) without warrant arrest that person if he fails to give his name and address to the constable's satisfaction ;
- (b) without warrant search any vehicle, boat or animal which that person may be using at that time ;
- (c) seize and detain for the purpose of proceedings under this Act anything which is capable of being used for the taking or killing of protected wild creatures and which he finds in the possession of that person ;
- (d) seize any protected wild creature or plant which is liable to be forfeited or restored under subsection (2) of section 11 of this Act ; and
- (e) seize and detain for the purpose of proceedings under this Act anything which may be in that person's possession and which may be evidence of the commission of the offence.

Penalties.

11.—(1) Any person guilty of an offence under this Act shall be liable on summary conviction to a fine not exceeding £100:

Provided that, where the offence was committed in respect of more than one protected wild creature or in respect of more

than one species of plant, the maximum fine which may be imposed under this subsection shall be determined as if the person convicted had been convicted of a separate offence in respect of each protected wild creature or each species of plant, as the case may be.

(2) The court before whom any person is convicted of an offence under this Act may order the forfeiture or the restoration to the owner of any wild creature or plant in respect of which the offence was committed and the forfeiture of anything which is capable of being used for the taking or killing of protected wild creatures and which is found in the possession of that person.

12. The Nature Conservancy Council in exercising its functions under section 1(1)(a)(ii) of the Nature Conservancy Council Act 1973—

Duty of
Nature
Conservancy
Council.
1973 c. 54.

(a) at any time may, and five years after the passing of this Act and every five years thereafter shall, review the Schedules to this Act and shall advise the Secretary of State if any wild creature or plant has become so rare that its status as a British wild creature or plant is being endangered by any action designated as an offence under this Act and it should be included in Schedule 1 or 2 either generally or with respect to a particular area or in relation to a particular category and either at all times or at particular times of the year or has become so common that its status is no longer endangered and it should be removed therefrom ; and

(b) shall include a report on the advice given under the foregoing paragraph (a) and on the evidence which leads them to give that advice in the annual report referred to in paragraph 17 of Schedule 3 to the Nature Conservancy Council Act 1973.

13.—(1) A local authority shall take such steps as they consider expedient for bringing the effect of this Act to the attention of the public and in particular schoolchildren.

Power of local
authorities.

(2) A local authority in England or Wales shall have power to institute proceedings for any offence under this Act committed within their area.

14.—(1) Any order made under this Act shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament and may be varied or revoked by a subsequent order made in the same manner.

Orders.

(2) The Secretary of State shall not make any order under this Act except after consultation with such bodies appearing to him to be representative of local authorities as he considers appropriate and such other bodies or persons as he thinks fit.

(3) The Secretary of State shall cause notice of the making of any order under this Act to be published in the Gazette.

(4) In the case of an order relating to any area specified therein, each local authority in whose administrative area any part of the area as specified is situated shall take such steps, if any, as may appear to them expedient, or as the Secretary of State may direct, to bring the effect of the order to the notice of the public within their area.

Interpretation. 15.—(1) In this Act, unless the context otherwise requires—

“ authorised person ” means the owner or occupier, or any servant of the owner or occupier, or any person authorised by the owner or occupier, of the land on which the protected wild creature is killed, injured or taken or on which the plant is growing ;

“ Gazette ” means, in England and Wales, the London Gazette and, in Scotland, the Edinburgh Gazette ;

“ local authority ” means—

(a) in relation to England and Wales—

(i) a county council, the Greater London Council, a district council, a London borough council, the Common Council of the City of London or a parish or community council ;

(ii) a joint planning board (within the meaning of section 1(2) of the Town and Country Planning Act 1971), a special planning board (within the meaning of paragraph 3 of Schedule 17 to the Local Government Act 1972) or a National Park Committee (within the meaning of paragraph 5 of the said Schedule 17) on which any of the authorities mentioned in subparagraph (i) above is represented ; or

(iii) the Council of the Isles of Scilly ; and

(b) in relation to Scotland, a regional, islands or district council ;

1971 c. 78.

1972 c. 70.

“pick”, in relation to a plant, means gather or pluck but not uproot, any part of the plant from the land on which it is growing ;

“plant” means, subject to subsection (2) of this section, any plant growing wild on any land ;

“protected plant” means a plant specified in Schedule 2 to this Act ;

“protected wild creature” means a wild creature specified in Schedule 1 to this Act found living wild, and includes the eggs, larvae or pupae of any such wild creature ;

“uproot”, in relation to a plant, means pull up, dig up or remove the plant with its roots from the land on which it is growing.

(2) Any fungus or alga shall not be treated as a plant for the purposes of this Act unless it is a composite of fungus and alga in the form of lichen.

(3) Any reference in this Act to a plant includes reference to any part of a plant.

16. In section 9 of the Badgers Act 1973 (which makes, in relation to badgers, provision corresponding to that made by section 8 of this Act) there shall be inserted after subsection (3) the following subsection :—

Amendment of
s.9 of
Badgers Act
1973.
1973 c 57.

“ (4) It shall be a defence in proceedings for an offence under section 8(b) of the Protection of Animals Act 1911 or section 7(b) of the Protection of Animals (Scotland) Act 1912 (each of which restricts the placing on land of poison and poisonous substances) to show that—

(a) the act alleged to constitute the offence was done under the authority of a licence granted under paragraph (d) of subsection (1) of this section ; and

(b) any conditions specified in the licence were complied with.”

17.—(1) This Act may be cited as the Conservation of Wild Creatures and Wild Plants Act 1975.

Short title
and extent.

(2) This Act shall not extend to Northern Ireland.

SCHEDULES

SCHEDULE 1

WILD CREATURES PROTECTED BY THIS ACT

<i>Common name</i>	<i>Scientific name</i>
Greater Horse-shoe Bat	<i>Rhinolophus ferrumequinum</i>
Mouse-eared Bat	<i>Myotis myotis</i>
Sand Lizard	<i>Lacerta agilis</i>
Smooth Snake	<i>Coronella austriaca</i>
Natterjack Toad	<i>Bufo calamita</i>
Large Blue Butterfly	<i>Maculinea arion</i>

SCHEDULE 2

SPECIES OF PROTECTED PLANTS

<i>Common name</i>	<i>Scientific name</i>
Alpine Gentian	<i>Gentiana nivalis</i>
Alpine Sow-thistle	<i>Cicerbita alpina</i>
Alpine Woodsia	<i>Woodsia alpina</i>
Blue Heath	<i>Phyllodoce caerulea</i>
Cheddar Pink	<i>Dianthus gratianopolitanus</i>
Diapensia	<i>Diapensia lapponica</i>
Drooping Saxifrage	<i>Saxifraga cernua</i>
Ghost Orchid	<i>Epipogium aphyllum</i>
Killarney Fern	<i>Trichomanes speciosum</i>
Lady's-slipper	<i>Cypripedium calceolus</i>
Mezereon	<i>Daphne mezereum</i>
Military Orchid	<i>Orchis militaris</i>
Monkey Orchid	<i>Orchis simia</i>
Oblong Woodsia	<i>Woodsia ilvensis</i>
Red Helleborine	<i>Cephalanthera rubra</i>
Snowdon Lily	<i>Lloydia serotina</i>
Spiked Speedwell	<i>Veronica spicata</i>
Spring Gentian	<i>Gentiana verna</i>
Teesdale Sandwort	<i>Minuartia stricta</i>
Tufted Saxifrage	<i>Saxifraga cespitosa</i>
Wild Gladiolus	<i>Gladiolus illyricus</i>

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