

## SCHEDULES

### SCHEDULE 7

Section 12.

#### PROTECTION OF CERTAIN MAMMALS

##### *The Ground Game Act 1880*

- 1 (1) Notwithstanding the provisions of section 6 of the Ground Game Act 1880, it shall not be unlawful for the occupier of any land himself, or one other person authorised by him under section 1 of that Act, to use firearms for the purpose of killing ground game thereon between the expiration of the first hour after sunset and the commencement of the last hour before sunrise if (except where he has the exclusive right) the occupier has the written authority of the other person or one of the other persons entitled to kill and take the ground game on the land.
- (2) In this paragraph " ground game " means hares and rabbits.

##### *The Agriculture (Scotland) Act 1948*

- 2 (1) Notwithstanding the provisions of section 50(1)(a) of the Agriculture (Scotland) Act 1948, it shall not be unlawful for the owner of the shooting rights on any land or any person holding those rights from him, or subject to sub-paragraph (2) below the occupier of any land, to use a firearm for the purpose of killing ground game thereon between the expiration of the first hour after sunset and the commencement of the last hour before sunrise.
- (2) The occupier of any land shall not use a firearm as mentioned in sub-paragraph (1) above unless (except where he has the exclusive right) he has first obtained the written authority of the other person or one of the other persons entitled to kill and take the ground game on the land.
- (3) An occupier who is entitled, in terms of this paragraph, to use a firearm for the purpose of killing ground game may, subject to the provisions of section 1 of the Ground Game Act 1880, authorise one other person so to use a firearm.
- (4) In this paragraph " ground game " means hares and rabbits.

##### *The Dogs (Protection of Livestock) Act 1953*

- 3 (1) At the end of subsection (2) of section 1 of the Dogs (Protection of Livestock) Act 1953 (penalty where dog worries livestock on agricultural land) there shall be inserted the words "or
- (c) being at large (that is to say not on a lead or otherwise under close control) in a field or enclosure in which there are sheep ".
- (2) After that subsection there shall be inserted the following subsection—
- “(2A) Subsection (2)(c) of this section shall not apply in relation to—

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- (a) a dog owned by, or in the charge of, the occupier of the field or enclosure or the owner of the sheep or a person authorised by either of those persons ; or
- (b) a police dog, a guide dog, a trained sheep dog, a working gun dog or a pack of hounds.”

*The Deer Act 1963*

- 4 For subsection (3) of section 10 of the Deer Act 1963 (general exceptions) there shall be substituted the following subsections—

- “(3) A person shall not be guilty of an offence under section 3(1)(c)(i) of this Act by reason of the use of any smooth-bore gun for the purpose of killing any deer if he shows that the deer had been so seriously injured otherwise than by his unlawful act or was in such a condition that to kill it was an act of mercy.
- (4) A person shall not be guilty of an offence under section 3(1)(c)(i) of this Act by reason of the use as a slaughtering instrument, for the purpose of killing any deer, of a smooth-bore gun which—
- (a) is of not less gauge than 12 bore ;
  - (b) has a barrel less than 24 inches (609.6 millimetres) in length ; and
  - (c) is loaded with a cartridge purporting to contain shot none of which is less than .203 inches (5.16 millimetres) in diameter (that is to say, size AAA or any larger size).”

- 5 (1) After section 10 of that Act there shall be inserted the following section—

**“10A Exceptions for authorised persons.**

- (1) Subject to subsection (3) of this section an authorised person shall not be guilty of an offence under section 1 of this Act by reason of—
- (a) the taking or killing of any deer by means of shooting ; or
  - (b) the injuring of any deer by means of shooting in an attempt to take or kill it,
- on any cultivated land, pasture or enclosed woodland.
- (2) Subject to subsection (3) of this section an authorised person shall not be guilty of an offence under section 3(1)(c)(i) of this Act by reason of the use, for the purpose of taking or killing any deer on any land, of any smoothbore gun of not less gauge than 12 bore which is loaded with—
- (a) a cartridge containing a single non-spherical projectile weighing not less than 350 grains (22.68 grammes); or
  - (b) a cartridge purporting to contain shot each of which is .203 inches (5.16 millimetres) in diameter (that is to say, size AAA).
- (3) An authorised person shall not be entitled to rely on the defence provided by subsection (1) or (2) of this section as respects anything done in relation to any deer on any land unless he shows that—
- (a) he had reasonable grounds for believing that deer of the same species were causing, or had caused, damage to crops, vegetables, fruit, growing timber or any other form of property on the land ;
  - (b) it was likely that further damage would be so caused and any such damage was likely to be serious ; and

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- (c) his action was necessary for the purpose of preventing any such damage.
- (4) The Secretary of State and the agriculture Minister acting jointly may by order, either generally or in relation to any area or any species and description of deer specified in the order, repeal subsection (2) of this section or amend it by adding any firearm or ammunition or by altering the description of, or deleting, any firearm or ammunition mentioned in it, or by adding any further conditions which must be satisfied.
- (5) Before making an order under subsection (4) of this section, the Secretary of State and the agriculture Minister shall consult organisations that appear to them to represent persons likely to be interested in or affected by the order.
- (6) In this section—
- ' agriculture Minister ' means the Minister of Agriculture, Fisheries and Food in relation to England and the Secretary of State for Wales in relation to Wales ;
- ' authorised person ' means—
- (a) the occupier of the land on which the action is taken;
- (b) any member of the occupier's household normally resident on the occupier's land, acting with the written authority of the occupier ;
- (c) any person in the ordinary service of the occupier on the occupier's land, acting with the written authority of the occupier ; or
- (d) any person having the right to take or kill deer on the land on which the action is taken or any person acting with the written authority of a person having that right.”
- (2) In sections 1(1) and 3(1) of that Act for the words " sections 10 and 11 " there shall be substituted the words " sections 10, 10A and 11 ".
- (3) For subsection (1) of section 12 of that Act (orders) there shall be substituted the following subsections—
- “(1) Any power to make orders under this Act shall be exercisable by statutory instrument.
- (1A) A statutory instrument containing an order under section 1(2) or 3(4) of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (1B) No order under section 10A(4) of this Act shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.”
- 6 (1) In paragraph 1 of Schedule 2 to that Act (prohibited firearms and ammunition) the words " of less gauge than 12 bore " shall be omitted.
- (2) In paragraph 4 of that Schedule the words from " other than " onwards shall be omitted.

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*The Conservation of Seals Act 1970*

- 7 (1) In subsection (1)(c) of section 10 of the Conservation of Seals Act 1970 (power to grant licences), the word " or " immediately following sub-paragraph (ii) shall be omitted and after sub-paragraph (iii) there shall be inserted the words "or  
 (iv) the protection of flora or fauna in an area to which subsection (4) of this section applies,".
- (2) In subsection (3)(b) of that section for the words from " a nature reserve " onwards there shall be substituted the words " an area to which subsection (4) of this section applies ".
- (3) After subsection (3) of that section there shall be inserted the following subsection—
- “(4) This subsection applies to any area which—
- (a) is a nature reserve within the meaning of section 15 of the National Parks and Access to the Countryside Act 1949 ;
  - (b) has been notified under section 28(1) of the Wildlife and Countryside Act 1981 (areas of special scientific interest) ;
  - (c) is an area to which section 29(3) of that Act (special protection for certain areas of special scientific interest) applies ; or
  - (d) has been designated as a marine nature reserve under section 36 of that Act.”

*The Badgers Act 1973*

- 8 For subsections (2) and (3) of section 1 of the Badgers Act 1973 (possession of recently killed badgers etc.) there shall be substituted the following subsections—
- “(2) If, save as permitted by or under this Act, any person has in his possession or under his control any dead badger or any part of, or anything derived from, a dead badger, he shall be guilty of an offence.
- (3) A person shall not be guilty of an offence under subsection (2) above if he shows that—
- (a) the badger had not been killed, or had been killed other wise than in contravention of the provisions of this Act; or
  - (b) the badger or other thing in his possession or control had been sold (whether to him or any other person) and, at the time of the purchase, the purchaser had had no reason to believe that the badger had been killed in contravention of those provisions.”
- 9 (1) Section 7 of that Act (exceptions for authorised persons) shall be omitted.
- (2) In section 2(c) of that Act for the words " subject to section 7(3) of this Act" there shall be substituted the words " save as permitted by or under this Act ".
- (3) Section 6 of that Act (areas within which section 7(1) does not apply) shall be omitted.
- (4) In subsection (2) of section 8 of that Act (general exceptions) paragraph (c) (live badger taken in circumstances in which, by virtue of section 7(1) or (2), the taking did not constitute an offence) shall be omitted.
- (5) In section 11 of that Act (interpretation) the definitions of " area of special protection " and " authorised person " shall be omitted.

- 10 (1) In section 8 of that Act (general exceptions), after subsection (1) there shall be inserted the following subsections—
- “(1A) A person shall not be guilty of an offence under section 1(1) of this Act by reason of—
- (a) the killing or taking or the attempted killing or taking of any badger, or
  - (b) the injuring of any badger in the course of taking it or attempting to kill or take it,
- if he shows that his action was necessary for the purpose of preventing serious damage to land, crops, poultry or any other form of property.
- (1B) The defence provided by subsection (1A) above shall not apply in relation to any action taken at any time if it had become apparent, before that time, that that action would prove necessary for the purpose mentioned in that subsection and either—
- (a) a licence under section 9 of this Act authorising that action had not been applied for as soon as reasonably practicable after that fact had become apparent; or
  - (b) an application for such a licence had been determined”.
- (2) In section 9 of that Act (licences) at the end of subsection (1) there shall be inserted the following paragraph—
- “(e) for the purpose of preventing serious damage to land, crops, poultry or any other form of property, to kill or take badgers within an area specified in the licence by any means so specified.”
- (3) In subsection (2)(b) of that section after the words " paragraph (d) " there shall be inserted the words " or (e) ".
- (4) After subsection (3) of that section there shall be inserted the following subsection—
- “(4) The Minister of Agriculture, Fisheries and Food and the Secretary of State shall from time to time consult with the Nature Conservancy Council as to the exercise of their functions under subsection (1)(e) above ; and neither of them shall grant a licence of any description unless he has been advised by the Council as to the circumstances in which, in the Council's opinion, licences of that description should be granted.”
- 11 (1) In subsection (1)(c) of section 10 of that Act (enforcement, penalties etc.) for the words from " any badger " onwards there shall be substituted the words " anything which may be evidence of the commission of the offence or may be liable to be forfeited under subsection (3) below ".
- (2) In subsection (2) of that section for " £20 " there shall be substituted " £200 " and for " £100 " there shall be substituted " £1,000 ".
- 12 In section 11 of that Act (interpretation) for the definition of " local authority " there shall be substituted the following definition—
- “ 'sale' includes hire, barter and exchange and cognate expressions shall be construed accordingly.”