



# Protection of Badgers Act 1992

## 1992 CHAPTER 51

### *Exceptions and licences*

#### **8 Exceptions from s. 3.**

- (1) Subject to subsection (2) below, a person is not guilty of an offence under section <sup>[F13]</sup>[<sup>F1</sup> 3(1) or (2) ] above 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.
- (2) Subsection (2) of section 7 above applies to the defence in subsection (1) above as it applies to the defence in subsection (1) of that section.
- (3) A person is not guilty of an offence under section <sup>[F23(a)]</sup>[<sup>F23(1)(a)]</sup>, (c) or (e) above <sup>[F3]</sup>or an offence under section 3(2) above relating to an offence under section 3(1) (a), (c) or (e) above ]if he shows that his action was the incidental result of a lawful operation and could not reasonably have been avoided.
- <sup>[F4]</sup>(4) <sup>[F5]</sup>A person is not guilty of an offence under section 3(a), (c) or (e) above by reason of obstructing any entrance of a badger sett for the purpose of hunting foxes with hounds if he—
  - (a) takes no action other than obstructing such entrances;
  - (b) does not dig into the tops or sides of the entrances;
  - (c) complies with subsection (5) below as to the materials used for obstructing the entrances and with subsection (6) below as to how and when they are to be placed and removed; and
  - (d) is acting with the authority of the owner or occupier of the land and the authority of a recognised Hunt.]
- (5) <sup>[F5]</sup>The materials used shall be only—
  - (a) untainted straw or hay, or leaf-litter, bracken or loose soil; or
  - (b) a bundle of sticks or faggots, or paper sacks either empty or filled with untainted straw or hay or leaf-litter, bracken or loose soil.]
- (6) <sup>[F5]</sup>The materials shall not be packed hard into the entrances and—

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*Changes to legislation: There are currently no known outstanding effects for the Protection of Badgers Act 1992, Section 8. (See end of Document for details)*

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- (a) if they are of the kind mentioned in paragraph (a) of subsection (5) above, they shall not be placed in the entrances except on the day of the hunt or after midday on the preceding day;
  - (b) if they are of the kind mentioned in paragraph (b) of that subsection, they shall not be placed in the entrances except on the day of the hunt and shall be removed on the same day.]
- (7) [<sup>F5</sup>A person is not guilty of an offence under section 3(a), (c) or (e) above by reason of his hounds marking at a badger sett provided they are withdrawn as soon as reasonably practicable.]
- (8) [<sup>F5</sup>Each recognised Hunt shall keep a register of the persons authorised to act under subsection (4) above.]
- (9) [<sup>F5</sup> In this section “ recognised Hunt ” means a Hunt recognised by the Masters of Fox Hounds Association, the Association of Masters of Harriers and Beagles or the Central Committee of Fell Packs. ]]

#### Textual Amendments

- F1** Words in s. 8(1) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **Sch. 6 para. 26(5)(a)**; S.S.I. 2004/407, art. 2(b)
- F2** Word in s. 8(3) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **Sch. 6 para. 26(5)(b)(i)**; S.S.I. 2004/407, art. 2(b)
- F3** Words in s. 8(3) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), s. 59(2), **Sch. 6 para. 26(5)(b)(ii)**; S.S.I. 2004/407, art. 2(b)
- F4** S. 8(4)-(9) repealed (S.) (1.8.2002) by 2002 asp 6, s. 11, **Sch. para. 5**; S.S.I. 2002/181, **art. 2**
- F5** S. 8(4)-(9) repealed (E.W.) (18.2.2005) by Hunting Act 2004 (c. 37), s. 15, Sch. 2 para. 4, **Sch. 3** (with s. 12)

**Changes to legislation:**

There are currently no known outstanding effects for the Protection of Badgers Act 1992, Section 8.