



# Natural Environment and Rural Communities Act 2006

## 2006 CHAPTER 16

### PART 3

#### WILDLIFE ETC.

##### *Pesticides harmful to wildlife*

#### **43 Possession of pesticides harmful to wildlife**

- (1) A person is guilty of an offence if he has in his possession a pesticide containing an ingredient that is prescribed for the purposes of this section by an order made by the Secretary of State.
- (2) The Secretary of State may not make an order under subsection (1) unless he is satisfied that it is necessary or expedient to do so in the interests of protecting wild birds or wild animals from harm.
- (3) It is a defence for a person charged with an offence under this section to prove that his possession of the pesticide was for the purposes of doing anything in accordance with—
  - (a) provision made by or under the Poisons Act 1972 (c. 66);
  - (b) regulations made under section 16(2) of the Food and Environment Protection Act 1985 (c. 48);
  - <sup>[F1]</sup>(c) Regulation (EU) No 528/2012 of the European Parliament and of the Council <sup>[F2]</sup>, as last corrected by a corrigendum (OJ No L 280, 28.10.2017, p 57)];
  - <sup>[F3]</sup>(d) Regulation (EC) No 1107/2009 of the European Parliament and of the Council <sup>[F4]</sup>, as last amended by <sup>[F5]</sup>Regulation (EU) 2019/1009 of the European Parliament and of the Council]].]

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**Changes to legislation:** There are currently no known outstanding effects for the Natural Environment and Rural Communities Act 2006, Section 43. (See end of Document for details)

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- (4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 5 on the standard scale (or both).
- (5) The court by which a person is convicted of an offence under this section may order the forfeiture of the pesticide in respect of which the offence was committed.
- (6) The power to make an order under subsection (1) is exercisable by statutory instrument.
- (7) A statutory instrument containing an order under subsection (1) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) The Secretary of State must take such steps as are reasonably practicable to bring information about the effect of an order under subsection (1) to the attention of persons likely to be affected by the order.
- (9) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), the reference in subsection (4) to 51 weeks is to be read as a reference to 6 months.

#### Textual Amendments

- F1** S. 43(3)(c) substituted (1.9.2013) by [The Biocidal Products and Chemicals \(Appointment of Authorities and Enforcement\) Regulations 2013](#) (S.I. 2013/1506), reg. 2(1), **Sch. 5 para. 2** (with reg. 3(4)(5)31)
- F2** Words in s. 43(3)(c) inserted (17.9.2018) by [The Environment, Food and Rural Affairs \(Miscellaneous Amendments and Revocations\) Regulations 2018](#) (S.I. 2018/942), regs. 1(2), **5(a)**
- F3** S. 43(3)(d) substituted (6.4.2017) by [The Health and Safety \(Miscellaneous Amendments and Revocation\) Regulations 2017](#) (S.I. 2017/304), regs. 1(4), **2(2)**
- F4** Words in s. 43(3)(d) inserted (10.11.2018) by [The Environment, Food and Rural Affairs \(Miscellaneous Amendments and Revocations\) Regulations 2018](#) (S.I. 2018/942), regs. 1(2), **5(b)**
- F5** Words in s. 43(3)(d) substituted (31.10.2019) by [The Pesticides \(Amendment\) Regulations 2019](#) (S.I. 2019/1290), regs. 1, **2**

#### Commencement Information

- I1** S. 43 in force at 1.10.2006 by [S.I. 2006/2541](#), **art. 2** (with Sch.)

**Changes to legislation:**

There are currently no known outstanding effects for the Natural Environment and Rural Communities Act 2006, Section 43.