

2004 No. 1487

WILDLIFE

**The Wildlife and Countryside Act 1981(England and Wales)
(Amendment) Regulations 2004**

<i>Made</i> - - - -	<i>6th June 2004</i>
<i>Laid before Parliament</i>	<i>9th June 2004</i>
<i>Coming into force</i> - -	<i>14th July 2004</i>

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the conservation of natural habitats and of wild fauna and flora, in exercise of the powers conferred upon her by the said section 2(c), hereby makes the following Regulations:

Citation, commencement and extent

- 1.—(1) These Regulations may be cited as The Wildlife and Countryside Act 1981 (England and Wales) (Amendment) Regulations 2004 and shall come into force on 14th July 2004.
- (2) These Regulations shall extend to England and Wales only.

Amendment of the Wildlife and Countryside Act 1981

2. The Wildlife and Countryside Act 1981(d) shall be amended as follows.
3. In section 1 (protection of wild birds, their nests and eggs)—
- (a) in subsection (3)(a)—
 - (i) before “killed”, the second time it occurs, insert “lawfully”, and
 - (ii) omit “otherwise than in contravention of the relevant provisions”;
 - (b) in subsection (3)(b)—
 - (i) before “sold” insert “lawfully”, and
 - (ii) omit “otherwise than in contravention of those provisions”;
 - (c) in subsection (3) omit the words from “and”, where first occurring, to the end of the subsection; and
 - (d) after subsection (3) insert the following subsection—

“(3A) In subsection (3) “lawfully” means without any contravention of—

(a) S.I. 1992/2870.

(b) 1972 c.68.

(c) As respects Scotland, the powers were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (c.46); as respects Wales the powers are exercisable by the National Assembly for Wales by virtue of the European Communities (Designation) Order 2002 (S.I. 2002/248), article 3 and Schedule 2.

(d) 1981 c.69.

- (a) this Part and orders made under it,
- (b) the Protection of Birds Acts 1954 to 1967^(a) and orders made under those Acts,
- (c) any other legislation which implements Council Directive 79/409/EEC^(b) on the conservation of wild birds and extends to any part of the United Kingdom, to any area designated in accordance with section 1(7) of the Continental Shelf Act 1964^(c), or to any area to which British fishery limits extend in accordance with section 1 of the Fishery Limits Act 1976^(d), and
- (d) the provisions of the law of any member State (other than the United Kingdom) implementing the Council Directive referred to in paragraph (c).”

4. In the definition of “wild bird” in subsection (1) of section 27 (interpretation of Part 1)—

- (a) for “kind” substitute “species”, and
- (b) for “Great Britain” substitute “the European territory of any member State”.

5. After section 27 insert the following section—

“Application of Part 1 to England and Wales

27ZA.—(1) The amendments made to this Part of the Act by the 2004 Regulations have effect in relation to England only, and accordingly, in the application of this Act in relation to Wales, this Part continues to have effect without the amendments made by the 2004 Regulations.

This subsection is subject to any regulations which may be made under section 2(2) of the European Communities Act 1972^(e) by the National Assembly for Wales.

(2) In this section “the 2004 Regulations” means the Wildlife and Countryside Act 1981 (England and Wales) (Amendment) Regulations 2004. ”

Ben Bradshaw

Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

6th June 2004

^(a) 1954 c.30; 1964 c.59; 1967 c.46.
^(b) O.J. No. L103, 25.04.79 p.1.
^(c) 1964 c.29.
^(d) 1976 c.86.
^(e) 1972 c.68.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to England and Wales, amend Part 1 of the Wildlife and Countryside Act 1981 (“the Act”), which transposes in part Council Directive 79/409/EEC on the conservation of wild birds (O.J. No. L103, 25.04.1979, p.1).

The Regulations amend the definition of “wild bird” in section 27 of the Act which now includes any species which is ordinarily resident in or is a visitor to the European Territory of any member State. Regulation 3 makes consequential changes to the defence provided under section 1(3) of the Act.

Regulations 1 and 5 ensure that the amendments to Part 1 of the Act apply in relation to England only as the conservation of natural habitats and of wild fauna and flora is a devolved matter as regards Wales.

A Transposition Note is available for the Regulations and can be found on the website of the Department for Environment, Food and Rural Affairs, www.defra.gov.uk.

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