
Changes to legislation: There are currently no known outstanding effects for the Nature Conservation (Scotland) Act 2004, Paragraph 8. (See end of Document for details)

SCHEDULE 6 PROTECTION OF WILDLIFE

Protection of animals: offences

- 8 (1) Section 9 (protection of certain wild animals) is amended as follows.
- (2) In subsection (1), after “intentionally” insert “ or recklessly ”.
- (3) In subsection (3)—
- (a) in paragraph (a), after “taken”, where second occurring, insert “ at or from a place in Scotland ”,
 - (b) the word “or” at the end of that paragraph is repealed,
 - (c) in paragraph (b), after “sold” insert “ at a place in Scotland ”,
 - (d) after paragraph (b) insert “; or
 - (c) that the animal or other thing in his possession or control had been killed at, taken from or sold at a place outwith Scotland and—
 - (i) that the act of killing, taking or sale would not, if it had been committed in Scotland, have been in contravention of the relevant provisions; or
 - (ii) that the animal or other thing had been brought from the place where it was killed, taken or sold in accordance with the relevant regulations.”,
 - (e) the words from “and”, where first occurring, to the end of the subsection are repealed.
- (4) After that subsection insert—
- “(3A) In subsection (3)—
- “the relevant provisions” means such of the provisions of the Conservation of Wild Creatures and Wild Plants Act 1975 (c. 48) and this Part as were in force at the time when the animal was killed or taken or, as the case may be, the animal or other thing was sold, and
- “the relevant regulations” means—
- (a) Council Regulation 338/97/EC on the protection of species of wild fauna and flora by regulating trade, and
 - (b) Commission Regulation 1808/2001/EC on the implementation of that Council Regulation,
- as amended from time to time (or any [F1EU] instrument replacing either of them).”
- (5) In subsection (4), after “intentionally” insert “ or recklessly ”.
- (6) After that subsection insert—
- “(4A) Subject to the provisions of this Part, any person who, intentionally or recklessly, disturbs or harasses any wild animal included in Schedule 5 as a—
- (a) dolphin, whale or porpoise (cetacea); or
 - (b) basking shark (cetorhinus maximus),

Changes to legislation: There are currently no known outstanding effects for the Nature Conservation (Scotland) Act 2004, Paragraph 8. (See end of Document for details)

shall be guilty of an offence.”

(7) After subsection (5) insert—

“(5A) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by any of the foregoing provisions of this section (other than subsection (5)(b)) shall be guilty of an offence.”

(8) In subsection (6), after “(5)(a)” insert “ or for an offence under subsection (5A) relating to an act which is mentioned in subsection (1), (2) or (5)(a) ”.

Textual Amendments

F1 Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with art. 3(2)(3)4(2)6(4)6(5))

Commencement Information

I1 Sch. 6 para. 8 in force at 1.10.2004 by [S.S.I. 2004/407](#), art. 2(b)

Changes to legislation:

There are currently no known outstanding effects for the Nature Conservation (Scotland) Act 2004, Paragraph 8.