



# Wildlife and Natural Environment (Scotland) Act 2011

2011 asp 6

## PART 2

### WILDLIFE UNDER THE 1981 ACT

#### *Wild birds, their nests and eggs*

#### **5 Sale of live or dead wild birds, their eggs etc.**

- (1) The 1981 Act is amended as follows.
- (2) In section 2—
  - (a) in subsection (4) (close seasons), for “this section and section 1” substitute “section 1, this section and section 6”,
  - (b) in subsection (6) (period of special protection forms part of close season), for “this section and section 1” substitute “section 1, this section and section 6”.
- (3) In section 6 (sale etc. of live or dead wild birds, eggs etc.)—
  - (a) in subsection (1)(a)—
    - (i) the words from “other” to “3” are repealed,
    - (ii) after “egg” where it second occurs insert “other than—
      - (i) a bird included in Part I of Schedule 3 (see also subsection (5));
      - (ii) a bird included in Part 1A of that Schedule to which subsection (1A) applies; or
      - (iii) an egg to which subsection (1B) applies or any part of such an egg”,
  - (b) after subsection (1) insert—

“(1A) This subsection applies to a bird which—

    - (a) was bred in captivity and remained in captivity or a place where it was reared;

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*Status: This is the original version (as it was originally enacted).*

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- (b) was a wild bird for the purposes of section 1 (see section 1(6)) and was taken by a person who had a legal right to take such a bird or a person with permission, from a person who had a right to give permission, to take such a bird outside the close season for the bird; or
  - (c) was such a wild bird of the following type and was taken by a person with such right or permission during the period of 28 days which commences with the first day of its close season—
    - (i) a partridge included also in Part I of Schedule 2; or
    - (ii) a pheasant included also in that Part.
- (1B) This subsection applies to the following eggs—
- (a) an egg of a bird included in Part IA of Schedule 3 to which subsection (1A) applies; or
  - (b) an egg of a bird included in Part IA of Schedule 3 to which that subsection does not apply if the egg was taken—
    - (i) outside the close season for the bird or during the period of 28 days commencing with the first day of its close season; and
    - (ii) by a person who had a legal right to take such a bird or a person with permission, from a person who had a right to give permission, to take such a bird.”,
- (c) in subsection (2)(a)—
- (i) after “Part II” insert “, IIA”,
  - (ii) after “Schedule 3” insert “(see also subsections (5B) and (6))”,
- (d) for subsection (5) substitute—
- “(5) Any reference in this section to any bird included in Part I of Schedule 3 is a reference to any bird included in that Part which—
- (a) was bred in captivity;
  - (b) has been ringed or marked in accordance with regulations made by the Scottish Ministers; and
  - (c) has not been lawfully released or allowed to escape from captivity as part of a re-population or re-introduction programme.
- (5A) Regulations made for the purposes of subsection (5)(b) may make different provision for different birds or different provisions of this section.”,
- (e) after subsection (5A) (as inserted by paragraph (d)) insert—
- “(5B) Any reference in this section to any bird included in Part IIA of Schedule 3 is a reference to any bird included in that Part which was killed outside the close season for the bird by a person who had a legal right to kill such a bird or permission, from a person who had a right to give permission, to kill such a bird.”,
- (f) for subsection (6), substitute—
- “(6) Any reference in this section to any bird included in Part III of Schedule 3 is a reference, during the period commencing with 1st

September in any year and ending with 28th February of the following year, to any bird included in that Part.”.

(4) In Schedule 3 (birds which may be sold)—

(a) after Part I insert—

**“PART IA**

ALIVE IF TAKEN IN CAPTIVITY OR BY CERTAIN PERSONS OUTSIDE  
CLOSE SEASON OR DURING FIRST 28 DAYS OF CLOSE SEASON

| <i>Common name</i>    | <i>Scientific name</i>   |
|-----------------------|--------------------------|
| Grouse, Red           | Lagopus lagopus scoticus |
| Mallard               | Anas platyrhynchos       |
| Partridge, Grey       | Perdix perdix            |
| Partridge, Red-legged | Alectoris rufa           |
| Pheasant, Common      | Phasianus colchicus”     |

(b) after Part II insert—

**“PART IIA**

DEAD IF KILLED OUTSIDE CLOSE SEASON BY CERTAIN PERSONS

| <i>Common name</i>    | <i>Scientific name</i>   |
|-----------------------|--------------------------|
| Coot                  | Fulica atra              |
| Duck, Tufted          | Aythya fuligula          |
| Grouse, Black         | Tetrao tetrix            |
| Grouse, Red           | Lagopus lagopus scoticus |
| Mallard               | Anas platyrhynchos       |
| Partridge, Grey       | Perdix perdix            |
| Partridge, Red-legged | Alectoris rufa           |
| Pheasant, Common      | Phasianus colchicus      |
| Pintail               | Anas acuta               |
| Plover, Golden        | Pluvialis apricaria      |
| Pochard               | Aythya ferina            |
| Ptarmigan             | Lagopus mutus            |
| Shoveler              | Anas clypeata            |
| Snipe, Common         | Gallinago gallinago      |
| Teal                  | Anas crecca              |

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| <i>Common name</i>  | <i>Scientific name</i>       |
|---|------------------------------|
| Wigeon  | <i>Anas penelope</i>         |
| Woodcock  | <i>Scolopax rusticola</i> ”, |
| (c) in Part III (birds which may be sold dead from 1st September to 28th February), the entries relating to birds with the following common names are repealed— |                              |
| Coot  |                              |
| Duck, Tufted  |                              |
| Mallard   |                              |
| Pintail   |                              |
| Plover, Golden  |                              |
| Pochard   |                              |
| Shoveler  |                              |
| Snipe, Common   |                              |
| Teal  |                              |
| Wigeon  |                              |
| Woodcock.   |                              |