



# Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020

2020 asp 14

## CHAPTER 1

### ANIMAL WELFARE, ANIMAL HEALTH AND WILDLIFE: OFFENCES AND PENALTIES

#### *Wildlife offences: penalties*

#### **7 Wildlife and Countryside Act 1981: penalties for offences**

- (1) The Wildlife and Countryside Act 1981 is amended as follows.
- (2) In section 15A (possession of pesticides), in subsection (2)—
  - (a) “or” immediately after paragraph (a) is repealed,
  - (b) after that paragraph insert—
    - “(aa) Regulation (EC) 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market, as amended, extended or applied from time to time,”
  - (c) at the end of paragraph (b) insert “of 22 May 2012 concerning the making available on the market and use of biocidal products, as amended, extended or applied from time to time.”
- (3) In section 18A (vicarious liability for certain offences by employee or agent), in subsection (6)(a)—
  - (a) “or” immediately after sub-paragraph (ii) is repealed,
  - (b) after that sub-paragraph insert—
    - “(ia) section 11(1)(a) or (aa), (2)(a) or (b)(ii); or”
- (4) In section 20(2) (summary prosecutions), for “Summary proceedings for an offence under this Part” substitute “Proceedings for an offence under this Part which is triable only summarily”.

(5) The section title of section 20 becomes “**Proceedings for summary offences**”.

(6) In section 21 (penalties)—

(a) for subsections (1), (1A) and (1B) substitute—

“(1) Subject to subsection (5), a person guilty of an offence under a provision mentioned in subsection (1A) is liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).

(1A) The provisions referred to in subsection (1) are—

- (a) section 5(1)(e) and (f) (in relation to an act made unlawful by section 5(1)(e)),
- (b) section 6(2) and (2A) (in relation to an act made unlawful by section 6(2)(a)),
- (c) section 7 (other than section 7(1) and (5A) (in relation to an act made unlawful by section 7(1))),
- (d) section 9(5)(b),
- (e) section 11A,
- (f) section 11C,
- (g) section 11E,
- (h) section 13,
- (i) section 14B,
- (j) section 17,
- (k) section 19ZC (other than an offence under section 19ZC(7) in relation to a wildlife inspector acting in exercise of the power conferred by section 19ZC(3)(d)),
- (l) section 19ZD.

(1B) Subject to subsection (5), a person guilty of an offence under a provision mentioned in subsection (1C) is liable on summary conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding £40,000 (or both).

(1C) The provisions referred to in subsection (1B) are—

- (a) section 6(3),
  - (b) section 7(1) and (5A) (in relation to an act made unlawful by section 7(1)),
  - (c) section 8,
  - (d) section 9(2), (4A), (5)(a) and (5A) (in relation to an act made unlawful by section 9(2), (4A) or (5)(a)),
  - (e) section 11B,
  - (f) section 11G,
  - (g) section 11I.”
- (b) subsections (4), (4ZZA) and (4ZA) are repealed,
- (c) after subsection (4A) insert—

“(4B) A person guilty of an offence under a provision mentioned in subsection (4C) is liable—

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

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- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding £40,000 (or both),
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).
- (4C) The provisions referred to in subsection (4B) are—
- (a) section 14ZC,
  - (b) section 14A,
  - (c) section 14AA,
  - (d) section 14K.
- (4D) A person guilty of an offence under a provision mentioned in subsection (4E) is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding £40,000 (or both),
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both).
- (4E) The provisions referred to in subsection (4D) are—
- (a) section 1,
  - (b) section 5(1)(a) to (d) and (f) (in relation to an act made unlawful by section 5(1)(a) to (d)),
  - (c) section 6(1) and (2A) (in relation to an act made unlawful by section 6(1)(a)),
  - (d) section 9(1), (4) and (5A) (in relation to an act made unlawful by section 9(1) or (4)),
  - (e) section 10A,
  - (f) section 11,
  - (g) section 14,
  - (h) section 15A.”,
- (d) in subsection (5)—
- (i) after “(1),” insert “or (1B)”,
  - (ii) for “that subsection” substitute “the subsection in question”.