
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2007 No.

**The Conservation (Natural Habitats, &c.)
Amendment (Scotland) Regulations 2007**

PART II

**AMENDMENTS TO THE CONSERVATION
(NATURAL HABITATS, &c.) REGULATIONS 1994**

11. For regulation 40 (exceptions from regulation 39) substitute—

“Exceptions to regulation 39

40.—(1) A person shall not be guilty of an offence under regulation 39(1)(a) or (b), (2), or (3)(a) or (b), if that person shows that what was done—

- (a) was in relation to an animal that had been seriously disabled otherwise than by that person’s unlawful act and there was no reasonable chance of its recovering; and
- (b) was done solely for one or more of the purposes of—
 - (i) ending the animal’s life in a humane manner; or
 - (ii) where the animal’s life had been so ended, disposing of it (otherwise than by sale or exchange) as soon as practicable after it was dead.

(2) A person shall not be guilty of the offence under regulation 39(1)(a) of deliberately or recklessly capturing a wild animal of a European protected species, or an offence under regulation 39(3)(a) or (b), if that person shows that what was done—

- (a) was in relation to an animal that had been disabled otherwise than by that person’s unlawful act; and
- (b) was done solely for one or more of the purposes of—
 - (i) tending it and releasing it when no longer disabled; or
 - (ii) releasing it after it had been tended,and was done in a manner or in circumstances unlikely to cause the animal unnecessary suffering.

(3) A person shall not be guilty of an offence by reason of any act made unlawful by regulation 39 if that person shows that the act was carried out in relation to an animal bred and, at the time the act was carried out, lawfully held in captivity.”.