



# Wildlife and Countryside Act 1981

## 1981 CHAPTER 69

### PART I

#### WILDLIFE

#### *Protection of birds <sup>[F1]</sup> and prevention of poaching]*

#### Textual Amendments

**F1** Words in Pt. I cross-heading added (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\), ss. 3\(2\), 43\(1\)](#) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)

### **1 Protection of wild birds, their nests and eggs. E+W**

- (1) Subject to the provisions of this Part, if any person intentionally—
- (a) kills, injures or takes any wild bird;
  - [<sup>F2</sup>(aa) takes, damages or destroys the nest of a wild bird included in Schedule ZA1;]
  - (b) takes, damages or destroys the nest of any wild bird while that nest is in use or being built; or
  - (c) takes or destroys an egg of any wild bird,
- he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person has in his possession or control—
- (a) any live or dead wild bird or any part of, or anything derived from, such a bird; or
  - (b) an egg of a wild bird or any part of such an egg,
- he shall be guilty of an offence.
- (3) A person shall not be guilty of an offence under subsection (2) if he shows that—
- (a) the bird or egg had not been killed or taken, or had been [<sup>F3</sup>lawfully] killed or taken <sup>F4</sup>. . . ; or

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- (b) the bird, egg or other thing in his possession or control had been [<sup>F5</sup>lawfully] sold (whether to him or any other person) <sup>F6</sup>. . . ;

<sup>F7</sup>. . .

[<sup>F8</sup>(3A) In subsection (3) “lawfully” means without any contravention of—

- (a) this Part and orders made under it,  
 (b) the Protection of Birds Acts 1954 to 1967 <sup>F9</sup> and orders made under those Acts,  
 (c) any other legislation which implements [<sup>F10</sup> the Wild Birds Directive ] 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 <sup>F11</sup> , or to any area to which British fishery limits extend in accordance with section 1 of the Fishery Limits Act 1976 <sup>F12</sup> , and  
 (d) the provisions of the law of any member State (other than the United Kingdom) implementing [<sup>F13</sup>the Wild Birds Directive] .]

(4) <sup>F14</sup> . . . . .

(5) Subject to the provisions of this Part, if any person intentionally [<sup>F15</sup>or recklessly]—

- (a) disturbs any wild bird included in Schedule 1 while it is building a nest or is in, on or near a nest containing eggs or young; or  
 (b) disturbs dependent young of such a bird,

he shall be guilty of an offence <sup>F16</sup>. . . .

[<sup>F17</sup>(6) For the purposes of this section the definition of “wild bird” in section 27(1) is to be read as not including any bird which is shown to have been bred in captivity unless it has been lawfully released into the wild as part of a re-population or re-introduction programme.

(6A) “Re-population” and “re-introduction” have the same meaning as in [<sup>F18</sup> the Wild Birds Directive ] . ]

(7) Any reference in this Part to any bird included in Schedule 1 is a reference to any bird included in Part I and, during the close season for the bird in question, any bird included in Part II of that Schedule.

#### Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

- F2** S. 1(1)(aa) inserted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c.16\), ss. 47\(2\)](#),107; [S.I. 2006/1382](#), [art. 2](#)
- F3** Word in s. 1(3)(a) inserted (E.W.) (14.7.2004 as specified in [S.I. 2004/1487](#) and 2.8.2004 as specified in [S.I. 2004/1733](#)) by The Wildlife and Countryside Act 1981(England and Wales) (Amendment) Regulations 2004 ([S.I. 2004/1487](#)), {reg. 3(a)(i)} and by [The Wildlife and Countryside Act 1981 \(Amendment\) \(Wales\) Regulations 2004 \(S.I. 2004/1733\)](#), [reg. 3\(1\)](#), [Sch. para. 1\(a\)\(i\)](#)
- F4** Words in s. 1(3)(a) omitted (E.W.) (14.7.2004 as specified in [S.I. 2004/1487](#) and 2.8.2004 as specified in [S.I. 2004/1733](#)) by virtue of The Wildlife and Countryside Act 1981(England and Wales) (Amendment) Regulations 2004 ([S.I. 2004/1487](#)), {reg. 3(a)(ii)} and by virtue of [The Wildlife and Countryside Act 1981 \(Amendment\) \(Wales\) Regulations 2004 \(S.I. 2004/1733\)](#), [reg. 3\(1\)](#), [Sch. para. 1\(a\)\(ii\)](#)

**Status:** Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.

**Changes to legislation:** Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F5** Word in s. 1(3)(b) inserted (E.W.) (14.7.2004 as specified in [S.I. 2004/1487](#) and 2.8.2004 as specified in [S.I. 2004/1733](#)) by The Wildlife and Countryside Act 1981(England and Wales) (Amendment) Regulations 2004 ([S.I. 2004/1487](#)), {reg. 3(b)(i)} and by [The Wildlife and Countryside Act 1981 \(Amendment\) \(Wales\) Regulations 2004 \(S.I. 2004/1733\)](#), reg. 3(1), **Sch. para. 1(b)(i)**
- F6** Words in s. 1(3)(b) omitted (E.W.) (14.7.2004 as specified in [S.I. 2004/1487](#) and 2.8.2004 as specified in [S.I. 2004/1733](#)) by virtue of The Wildlife and Countryside Act 1981(England and Wales) (Amendment) Regulations 2004 ([S.I. 2004/1487](#)), {reg. 3(b)(ii)} and by virtue of [The Wildlife and Countryside Act 1981 \(Amendment\) \(Wales\) Regulations 2004 \(S.I. 2004/1733\)](#), reg. 3(1), **Sch. para. 1(b)(ii)**
- F7** Words in s. 1(3) omitted (E.W.) (14.7.2004 as specified in [S.I. 2004/1487](#) and 2.8.2004 as specified in [S.I. 2004/1733](#)) by virtue of The Wildlife and Countryside Act 1981(England and Wales) (Amendment) Regulations 2004 ([S.I. 2004/1487](#)), {reg. 3(c)} and by virtue of [The Wildlife and Countryside Act 1981 \(Amendment\) \(Wales\) Regulations 2004 \(S.I. 2004/1733\)](#), reg. 3(1), **Sch. para. 1(c)**
- F8** S. 1(3A) inserted (E.W.) (14.7.2004 as specified in [S.I. 2004/1487](#) and 2.8.2004 as specified in [S.I. 2004/1733](#)) by The Wildlife and Countryside Act 1981(England and Wales) (Amendment) Regulations 2004 ([S.I. 2004/1487](#)), {reg. 3(d)} and by [The Wildlife and Countryside Act 1981 \(Amendment\) \(Wales\) Regulations 2004 \(S.I. 2004/1733\)](#), reg. 3(1), **Sch. para. 1(d)**
- F9** 1954 c. 30; 1964 c. 59; 1967 c. 46.
- F10** Words in s. 1(3A)(c) substituted (E.W.) (21.8.2007) by [The Conservation \(Natural Habitats, & c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), **reg. 7(2)(a)(i)**
- F11** 1964 c. 29.
- F12** 1976 c. 86.
- F13** Words in s. 1(3A)(d) substituted (E.W.) (21.8.2007) by [The Conservation \(Natural Habitats, & c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), **reg. 7(2)(a)(ii)**
- F14** S. 1(4) repealed (30.1.2001 for E.W and 26.3.2003 for S.) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6)) and by the [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. 86, 89(2)(d), **Sch. 5**
- F15** Words in s. 1(5) inserted (30.1.2001 for E.W. and 1.10.2004 for S.) by 2000 c. 37, ss. 81(1), 103(2), Sch. 12 para. 1 and inserted by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, **Sch. 6 para. 2(5)**; [S.S.I. 2004/407](#), **art. 2**
- F16** Words in s. 1(5) repealed (30.1.2001 for E.W. and 26.3.2003 for S.) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6)) and by the [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. 86, 89(2)(d), **Sch. 5**
- F17** S. 1(6)(6A) substituted (E.W.) (1.10.2006) for s. 1(6) by [Natural Environment and Rural Communities Act 2006 \(c.16\)](#), **ss. 48(1),107**; [S.I. 2006/2541](#), **art. 2**
- F18** Words in s. 1(6A) substituted (E.W.) (21.8.2007) by [The Conservation \(Natural Habitats, & c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), **reg. 7(2)(b)**

## 1 Protection of wild birds, their nests and eggs. **S**

- (1) Subject to the provisions of this Part, if any person intentionally [<sup>F476</sup>or recklessly]—
- (a) kills, injures or takes any wild bird;
  - (b) takes, damages [<sup>F477</sup>, destroys or otherwise interferes with] the nest of any wild bird while that nest is in use or being built; or
- [<sup>F478</sup>(ba) at any other time takes, damages, destroys or otherwise interferes with any nest habitually used by any wild bird included in Schedule A1;
- (bb) obstructs or prevents any wild bird from using its nest;]
  - (c) takes or destroys an egg of any wild bird,
- he shall be guilty of an offence.

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- (2) Subject to the provisions of this Part, if any person has in his possession or control—
  - (a) any live or dead wild bird or any part of, or anything derived from, such a bird; or
  - (b) an egg of a wild bird or any part of such an egg,
 he shall be guilty of an offence.
  
- (3) A person shall not be guilty of an offence under subsection (2) if he shows that—
  - (a) the bird or egg had not been killed or taken, or had been killed or taken [F479 at or from a place in Scotland] otherwise than in contravention of the relevant provisions; F480 . . .
  - (b) the bird, egg or other thing in his possession or control had been sold [F481 at a place in Scotland](whether to him or any other person) otherwise than in contravention of those provisions; [F482; or
  - (c) that the bird, egg 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 bird, egg or other thing had been brought from the place where it was killed, taken or sold in accordance with the relevant regulations.]

F483 . . .

[F484(3A) In subsection (3)—

“ the relevant provisions ” means such of the provisions of—

- (a) the Protection of Birds Acts 1954 to 1967 and orders made under those Acts, and
- (b) this Part and orders made under it,

as were in force at the time when the bird or egg was killed or taken or, as the case may be, the bird, egg or other thing was sold,

“ 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 [F181EU] instrument replacing either of them). ]

(4) F14 . . . . .

- (5) Subject to the provisions of this Part, if any person intentionally [F15 or recklessly]—
  - (a) disturbs any wild bird included in Schedule 1 while it is building a nest or is in, on or near a nest containing eggs or young; or
  - (b) disturbs dependent young of such a bird,
 he shall be guilty of an offence F16 . . . .

[F485(5A) Subject to the provisions of this Part, any person who intentionally or recklessly disturbs any wild bird included in Schedule 1 which leks while it is doing so shall be guilty of an offence.

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- (5B) Subject to the provisions of this Part, any person who intentionally or recklessly harasses any wild bird included in Schedule 1A shall be guilty of an offence.
- (5C) 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 shall be guilty of an offence.]
- [<sup>F486</sup>(6) For the purposes of this section, the definition of “wild bird” in section 27(1) is to be read as not including any bird which is shown to have been bred in captivity unless—
- (a) it has been lawfully released or allowed to escape from captivity as part of a re-population or re-introduction programme; or
  - (b) it is a mallard, grey or red-legged partridge, common pheasant or red grouse which is no longer in captivity and is not in a place where it was reared.]
- (7) Any reference in this Part to any bird included in Schedule 1 is a reference to any bird included in Part I and, during the close season for the bird in question, any bird included in Part II of that Schedule.

#### Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

- F14** S. 1(4) repealed (30.1.2001 for E.W and 26.3.2003 for S.) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6)) and by the Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89(2)(d), Sch. 5
- F15** Words in s. 1(5) inserted (30.1.2001 for E.W. and 1.10.2004 for S.) by 2000 c. 37, ss. 81(1), 103(2), Sch. 12 para. 1 and inserted by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 2(5); S.S.I. 2004/407, art. 2
- F16** Words in s. 1(5) repealed (30.1.2001 for E.W. and 26.3.2003 for S.) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6)) and by the Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89(2)(d), Sch. 5
- F181** 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 arts. 3(2)(3), 4(2), 6(4)(5))
- F476** Words in s. 1(1) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 2(2)(a); S.S.I. 2004/407, art. 2
- F477** Words in s. 1(1)(b) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 2(2)(b); S.S.I. 2004/407, art. 2
- F478** S. 1(1)(ba)(bb) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 2(2)(c); S.S.I. 2004/407, art. 2
- F479** Words in s. 1(3)(a) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 2(3)(a); S.S.I. 2004/407, art. 2
- F480** Word in s. 1(3)(a) repealed (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 2(3)(b); S.S.I. 2004/407, art. 2
- F481** Words in s. 1(3)(b) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 2(3)(c); S.S.I. 2004/407, art. 2
- F482** S. 1(3)(c) and preceding word inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 2(3)(d); S.S.I. 2004/407, art. 2
- F483** Words in s. 1(3) repealed (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, Sch. 6 para. 2(3)(e); S.S.I. 2004/407, art. 2

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- F484** S. 1(3A) inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 2\(4\)](#); [S.S.I. 2004/407, art. 2](#)
- F485** S. 1(5A)-(5C) inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 2\(6\)](#); [S.S.I. 2004/407, art. 2](#)
- F486** S. 1(6) substituted (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 3\(3\)](#), [43\(1\)](#) (with s. [41\(1\)](#)); [S.S.I. 2011/279, art. 2\(1\)\(b\)](#)

## 2 Exceptions to s. 1. **E+W**

- (1) Subject to the provisions of this section, a person shall not be guilty of an offence under section 1 by reason of the killing or taking of a bird included in Part I of Schedule 2 outside the close season for that bird, or the injuring of such a bird outside that season in the course of an attempt to kill it.
- (2) Subject to the provisions of this section, an authorised person shall not be guilty of an offence under section 1 by reason of—
  - (a) the killing or taking of a bird included in Part II of Schedule 2, or the injuring of such a bird in the course of an attempt to kill it;
  - (b) the taking, damaging or destruction of a nest of such a bird; or
  - (c) the taking or destruction of an egg of such a bird.
- (3) Subsections (1) and (2) shall not apply in Scotland on Sundays or on Christmas Day; and subsection (1) shall not apply on Sundays in any area of England and Wales which the Secretary of State may by order prescribe for the purposes of that subsection.
- (4) In this section and section 1 “close season” means—
  - (a) in the case of capercaillie and (except in Scotland) woodcock, the period in any year commencing with 1st February and ending with 30th September;
  - (b) in the case of snipe, the period in any year commencing with 1st February and ending with 11th August;
  - (c) in the case of wild duck and wild geese in or over any area below high-water mark of ordinary spring tides, the period in any year commencing with 21st February and ending with 31st August;
  - (d) in any other case, subject to the provisions of this Part, the period in any year commencing with 1st February and ending with 31st August.
- (5) The Secretary of State may by order made with respect to the whole or any specified part of Great Britain vary the close season for any wild bird specified in the order.
- (6) If it appears to the Secretary of State expedient that any wild birds included in Part II of Schedule 1 or Part I of Schedule 2 should be protected during any period outside the close season for those birds, he may by order made with respect to the whole or any specified part of Great Britain declare any period (which shall not in the case of any order exceed fourteen days) as a period of special protection for those birds; and this section and section 1 shall have effect as if any period of special protection declared under this subsection for any birds formed part of the close season for those birds.
- (7) Before making an order under subsection (6) the Secretary of State shall consult a person appearing to him to be a representative of persons interested in the shooting of birds of the kind proposed to be protected by the order.

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**Extent Information**

**E2** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

**Modifications etc. (not altering text)**

**C1** S.2(6): Functions transferred (W.) (1.7.1999) by S.I. 1999/672, art. 2, Sch. 1

**2 Exceptions to s. 1<sup>F487</sup>: acts by certain persons outside close season]. S**

(1) Subject to the provisions of this section [<sup>F488</sup>where subsection (1A) applies], a person shall not be guilty of an offence under section 1 by reason of the killing or taking of a bird included in Part I of Schedule 2 outside the close season for that bird, or the injuring of such a bird outside that season in the course of an attempt to kill it.

<sup>F489</sup>(1A) This subsection applies where—

- (a) the person who kills or injures had—
  - (i) a legal right to kill such a bird; or
  - (ii) permission, from a person who had a right to give permission, to kill such a bird; or
- (b) the person who takes had—
  - (i) a legal right to take such a bird; or
  - (ii) permission, from a person who had a right to give permission, to take such a bird.]

(2) <sup>F490</sup> .....

(3) [<sup>F491</sup>Subsection (1)] shall not apply in Scotland on Sundays or on Christmas Day [<sup>F492</sup>in relation to those birds included in Part I of Schedule 2 which are also included in Part IA of that Schedule]; and subsection (1) shall not apply on Sundays in any area of England and Wales which the Secretary of State may by order prescribe for the purposes of that subsection.

<sup>F493</sup>(3A) Subject to the provisions of this section, where subsection (3B) applies a person does not commit an offence under section 1 by reason of the taking for the purposes of breeding of—

- (a) a partridge or pheasant included in Part I of Schedule 2; or
- (b) an egg of such a bird.

(3B) This subsection applies where—

- (a) the person who takes does so during the period of 28 days commencing with the first day of the close season for the bird; and
- (b) the person who takes had—
  - (i) a legal right to take such a bird; or
  - (ii) permission, from a person who had a right to give permission, to take such a bird.

(3C) A person does not commit an offence under section 1 by reason of the taking of a red grouse if—

- (a) the grouse is taken—
  - (i) for the purpose of preventing the spread of disease; and

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- (ii) with the intention of releasing it from captivity after no more than 12 hours; and
  - (b) the person had—
    - (i) a legal right to take such a grouse; or
    - (ii) permission, from a person who had a right to give permission, to take such a grouse.]
- (4) In [<sup>F494</sup>section 1, this section and section 6] “close season” means—
- (a) in the case of [<sup>F495</sup>capercaillie and] (except in Scotland) woodcock, the period in any year commencing with 1st February and ending with 30th September;
  - (b) in the case of snipe, the period in any year commencing with 1st February and ending with 11th August;
  - [<sup>F496</sup>(ba) in the case of pheasant, the period in any year commencing with 2nd February and ending with 30th September;
  - (bb) in the case of partridge, the period in any year commencing with 2nd February and ending with 31st August;]
  - (c) in the case of wild duck and wild geese in or over any area below high-water mark of ordinary spring tides, the period in any year commencing with 21st February and ending with 31st August;
  - [<sup>F497</sup>(ca) in the case of black grouse, the period commencing with 11th December in any year and ending with 19th August in the following year;
  - (cb) in the case of ptarmigan and red grouse, the period commencing with 11th December in any year and ending with 11th August in the following year;]
  - (d) in any other case, subject to the provisions of this Part, the period in any year commencing with 1st February and ending with 31st August.
- (5) The Secretary of State may by order made with respect to the whole or any specified part of Great Britain vary the close season for any wild bird specified in the order.
- (6) If it appears to the Secretary of State expedient that any wild birds included in Part II of Schedule 1 or Part I of Schedule 2 should be protected during any period outside the close season for those birds, he may by order made with respect to the whole or any specified part of Great Britain declare any period (which shall not in the case of any order exceed fourteen days) as a period of special protection for those birds; and [<sup>F498</sup>section 1, this section and section 6] shall have effect as if any period of special protection declared under this subsection for any birds formed part of the close season for those birds.
- (7) Before making an order under subsection (6) the Secretary of State shall consult [<sup>F499</sup>such persons] appearing to him to be a representative of persons interested in the shooting of birds of the kind proposed to be protected by the order [<sup>F500</sup>as he considers appropriate].

#### Extent Information

- E29** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

- F487** Words in s. 2 title added (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011](#) (asp 6), **ss. 3(4)(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)



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- F488** Words in s. 2(1) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(4)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)
- F489** S. 2(1A) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(4)(c)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)
- F490** S. 2(2) repealed (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 3(a)**; S.S.I. 2004/407, **art. 2**
- F491** Words in s. 2(3) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 3(b)**; S.S.I. 2004/407, **art. 2**
- F492** Words in s. 2(3) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(4)(d)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)
- F493** S. 2 inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(4)(e)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)
- F494** Words in s. 2(4) substituted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 5(2)(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(c)
- F495** Words in s. 2(4)(a) omitted (S.) (4.11.2001) by virtue of S.S.I. 2001/337, **reg. 2(2)**
- F496** S. 2(4)(ba)(bb) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(4)(f)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)
- F497** S. 2(4)(ca)(cb) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(4)(f)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)
- F498** Words in s. 2(6) substituted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 5(2)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(c)
- F499** Words in s. 2(7) substituted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(4)(g)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)
- F500** Words in s. 2(7) added (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(4)(g)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)

### 3 Areas of special protection. **E+W**

- (1) The Secretary of State may by order make provision with respect to any area specified in the order providing for all or any of the following matters, that is to say—
- (a) that any person who, within that area or any part of it specified in the order, at any time or during any period so specified, intentionally—
    - (i) kills, injures or takes any wild bird or any wild bird so specified;
    - (ii) takes, damages or destroys the nest of such a bird while that nest is in use or being built;
    - (iii) takes or destroys an egg of such a bird;
    - (iv) disturbs such a bird while it is building a nest or is in, on or near a nest containing eggs or young; or
    - (v) disturbs dependent young of such a bird,
 shall be guilty of an offence under this section;
  - (b) that any person who, except as may be provided in the order, enters into that area or any part of it specified in the order at any time or during any period so specified shall be guilty of an offence under this section;
  - (c) that where any offence under this Part, or any such offence under this Part as may be specified in the order, is committed within that area, <sup>[F19]</sup>the offence shall be treated as falling within section 7(3A)].
- (2) An authorised person shall not by virtue of any such order be guilty of an offence by reason of—
- (a) the killing or taking of a bird included in Part II of Schedule 2, or the injuring of such a bird in the course of an attempt to kill it;

*Status: Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) the taking, damaging or destruction of the nest of such a bird;
  - (c) the taking or destruction of an egg of such a bird; or
  - (d) the disturbance of such a bird or dependent young of such a bird.
- (3) The making of any order under this section with respect to any area shall not affect the exercise by any person of any right vested in him, whether as owner, lessee or occupier of any land in that area or by virtue of a licence or agreement.
- (4) Before making any order under this section the Secretary of State shall give particulars of the intended order either by notice in writing to every owner and every occupier of any land included in the area with respect to which the order is to be made or, where the giving of such a notice is in his opinion impracticable, by advertisement in a newspaper circulating in the [<sup>F20</sup>locality] in which that area is situated.
- (5) The Secretary of State shall not make an order under this section unless—
- (a) all the owners and occupiers aforesaid have consented thereto;
  - (b) no objections thereto have been made by any of those owners or occupiers before the expiration of a period of three months from the date of the giving of the notice or the publication of the advertisement; or
  - (c) any such objections so made have been withdrawn.

**Extent Information**

**E3** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

**Textual Amendments**

**F19** Words in s. 3(1)(c) substituted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), **Sch. 12 para. 2**

**F20** Word in s. 3(4) substituted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 65(1)** (with ss. 54(5)(7), 55(5), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1996/396, art. 4, **Sch. 2**

**<sup>F501</sup>3 Areas of special protection. S**

.....

**Extent Information**

**E30** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

**Textual Amendments**

**F501** S. 3 repealed (S.) (1.1.2012) by **Wildlife and Natural Environment (Scotland) Act 2011 (asp 6)**, ss. **4(2), 43(1)** (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(a)

**4 Exceptions to ss. 1 and 3. E+W**

- (1) Nothing in section 1 or in any order made under section 3 shall make unlawful—
- (a) anything done in pursuance of a requirement by the Minister of Agriculture, Fisheries and Food or the Secretary of State under section 98 of the

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- <sup>M1</sup>Agriculture Act 1947, or by the Secretary of State under section 39 of the <sup>M2</sup>Agriculture (Scotland) Act 1948;
- (b) anything done under, or in pursuance of an order made under, section 21 or 22 of the <sup>M3</sup>Animal Health Act 1981; or
- (c) except in the case of a wild bird included in Schedule [<sup>F21</sup>ZA1 or] 1 or the nest or egg of such a bird, anything done under, or in pursuance of an order made under, any other provision of the said Act of 1981.
- (2) Notwithstanding anything in the provisions of section 1 or any order made under section 3, a person shall not be guilty of an offence by reason of—
- (a) the taking of any wild bird if he shows that the bird had been disabled otherwise than by his unlawful act and was taken solely for the purpose of tending it and releasing it when no longer disabled;
- (b) the killing of any wild bird if he shows that the bird had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering; or
- (c) any act made unlawful by those provisions if he shows that the act was the incidental result of a lawful operation and could not reasonably have been avoided.
- (3) Notwithstanding anything in the provisions of section 1 or any order made under section 3, an authorised person shall not be guilty of an offence by reason of the killing or injuring of any wild bird, other than a bird included in Schedule 1, if he shows that his action was necessary for the purpose of—
- (a) preserving public health or public or air safety;
- (b) preventing the spread of disease; or
- (c) preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, [<sup>F22</sup>, fisheries or inland waters].
- [<sup>F23</sup>(4) An authorised person shall not be regarded as showing that any action of his was necessary for a purpose mentioned in subsection (3)(c) unless he shows that as regards that purpose, there was no other satisfactory solution.
- (5) An authorised person shall not be entitled to rely on the defence provided by subsection (3)(c) as respects any action taken at any time for any purpose mentioned in that paragraph if it had become apparent, before that time, that that action would prove necessary for that purpose and either—
- (a) a licence under section 16 authorising that action had not been applied for by him as soon as reasonably practicable after that fact had become apparent; or
- (b) an application by him for such a licence had been determined.
- (6) An authorised person shall not be entitled to rely on the defence provided by subsection (3)(c) as respects any action taken at any time unless he notified the agriculture Minister as soon as reasonably practicable after that time that he had taken the action.]

#### Extent Information

- E4** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

*Status: Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

- F21** Words in s. 4(1)(c) inserted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c.16\)](#), [ss. 47\(4\)\(a\)](#), 107; S.I. 2006/1382, [art. 2](#)
- F22** Words in s. 4(3)(c) substituted (30.11.1995) by [S.I. 1995/2825](#), [reg. 2\(1\)](#)
- F23** S. 4(4)-(6) inserted (30.11.1995) by [S.I. 1995/2825](#), [reg. 2\(2\)](#)

### Marginal Citations

- M1** 1947 c. 48.
- M2** 1948 c. 45.
- M3** 1981 c. 22.

## 4 <sup>[F502]</sup> Further exceptions to s. 1 **S**

- (1) Nothing in section 1 <sup>F503</sup> ... shall make unlawful—
- (a) anything done in pursuance of a requirement by the Minister of Agriculture, Fisheries and Food or the Secretary of State under section 98 of the <sup>M1</sup>Agriculture Act 1947, or by the Secretary of State under section 39 of the <sup>M2</sup>Agriculture (Scotland) Act 1948;
  - (b) anything done under, or in pursuance of an order made under, section 21 or 22 of the <sup>M3</sup>Animal Health Act 1981; or
  - (c) except in the case of a wild bird included in Schedule 1 or the nest or egg of such a bird, anything done under, or in pursuance of an order made under, any other provision of the said Act of 1981.
- (2) Notwithstanding anything in the provisions of section 1 <sup>F504</sup> ..., a person shall not be guilty of an offence by reason of—
- (a) the taking of any wild bird if he shows that the bird had been disabled otherwise than by his unlawful act and was taken solely for the purpose of tending it and releasing it when no longer disabled;
  - (b) the killing of any wild bird if he shows that the bird had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering; or
  - (c) any act made unlawful by those provisions <sup>[F505]</sup> (an unlawful act if he shows that each of the conditions specified in subsection (2A) was satisfied in relation to the carrying out of the unlawful act.)

<sup>[F506]</sup>(2A) Those conditions are—

- (a) that the unlawful act was the incidental result of a lawful operation or other activity;
- (b) that the person who carried out the lawful operation or other activity—
  - (i) took reasonable precautions for the purpose of avoiding carrying out the unlawful act; or
  - (ii) did not foresee, and could not reasonably have foreseen, that the unlawful act would be an incidental result of the carrying out of the lawful operation or other activity; and
- (c) that the person who carried out the unlawful act took, immediately upon the consequence of that act becoming apparent to the person, such steps as were reasonably practicable in the circumstances to minimise the damage or disturbance to the wild bird, nest or, as the case may be, egg in relation to which the unlawful act was carried out.]

*Status:* Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.

*Changes to legislation:* Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Notwithstanding anything in the provisions of section 1 <sup>F507</sup>..., an authorised person shall not be guilty of an offence by reason of the killing or injuring of any wild bird, other than a bird included in Schedule 1, if he shows that his action was necessary for the purpose of—
- preserving public health or public or air safety;
  - preventing the spread of disease; or
  - preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, [<sup>F22</sup>, fisheries or inland waters].
- [<sup>F23</sup>(4) An authorised person shall not be regarded as showing that any action of his was necessary for a purpose mentioned in subsection [<sup>F508</sup>(3)] unless he shows that as regards that purpose, there was no other satisfactory solution.
- (5) An authorised person shall not be entitled to rely on the defence provided by subsection [<sup>F509</sup>(3)] as respects any action taken at any time for any purpose mentioned in that [<sup>F510</sup>subsection] if it had become apparent, before that time, that that action would prove necessary for that purpose and either—
- a licence under section 16 authorising that action had not been applied for by him as soon as reasonably practicable after that fact had become apparent; or
  - an application by him for such a licence had been determined.
- (6) An authorised person shall not be entitled to rely on the defence provided by subsection [<sup>F511</sup>(3)] as respects any action taken at any time unless he notified the agriculture Minister as soon as reasonably practicable after that time that he had taken the action.]

#### Extent Information

- E31** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

- F22** Words in s. 4(3)(c) substituted (30.11.1995) by S.I. 1995/2825, **reg. 2(1)**
- F23** S. 4(4)-(6) inserted (30.11.1995) by S.I. 1995/2825, **reg. 2(2)**
- F502** S. 4 heading substituted (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 4(3)(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(a)
- F503** Words in s. 4(1) repealed (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 4(3)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(a)
- F504** Words in s. 4(2) repealed (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 4(3)(c)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(a)
- F505** Words in s. 4(2)(c) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), **ss. 50, 59, Sch. 6 para. 5(2)**; S.S.I. 2004/407, **art. 2**
- F506** S. 4(2A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), **ss. 50, 59, Sch. 6 para. 5(3)**; S.S.I. 2004/407, **art. 2**
- F507** Words in s. 4(3) repealed (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 4(3)(c)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(a)
- F508** Words in s. 4(4) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), **ss. 50, 59, Sch. 6 para. 5(4)**; S.S.I. 2004/407, **art. 2**
- F509** Words in s. 4(5) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), **ss. 50, 59, Sch. 6 para. 5(5)(a)**; S.S.I. 2004/407, **art. 2**
- F510** Word in s. 4(5) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), **ss. 50, 59, Sch. 6 para. 5(5)(b)**; S.S.I. 2004/407, **art. 2**

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**F511** Words in s. 4(6) substituted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 5\(6\)](#); S.S.I. 2004/407, [art. 2](#)

#### Marginal Citations

**M1** 1947 c. 48.  
**M2** 1948 c. 45.  
**M3** 1981 c. 22.

## 5 Prohibition of certain methods of killing or taking wild birds. **E+W**

- (1) Subject to the provisions of this Part, if any person—
- (a) sets in position any of the following articles, being an article which is of such a nature and is so placed as to be calculated to cause bodily injury to any wild bird coming into contact therewith, that is to say, any springe, trap, gin, snare, hook and line, any electrical device for killing, stunning or frightening or any poisonous, poisoned or stupefying substance;
  - (b) uses for the purpose of killing or taking any wild bird any such article as aforesaid, whether or not of such a nature and so placed as aforesaid, or any net, baited board, bird-lime or substance of a like nature to bird-lime;
  - (c) uses for the purpose of killing or taking any wild bird—
    - (i) any bow or crossbow;
    - (ii) any explosive other than ammunition for a firearm;
    - (iii) any automatic or semi-automatic weapon;
    - (iv) any shot-gun of which the barrel has an internal diameter at the muzzle of more than one and three-quarter inches;
    - (v) any device for illuminating a target or any sighting device for night shooting;
    - (vi) any form of artificial lighting or any mirror or other dazzling device;
    - (vii) any gas or smoke not falling within paragraphs (a) and (b); or
    - (viii) any chemical wetting agent;
  - (d) uses as a decoy, for the purpose of killing or taking any wild bird, any sound recording or any live bird or other animal whatever which is tethered, or which is secured by means of braces or other similar appliances, or which is blind, maimed or injured;<sup>F24</sup> . . .
  - (e) uses any mechanically propelled vehicle in immediate pursuit of a wild bird for the purpose of killing or taking that bird, [<sup>F25</sup> ; or
  - (f) knowingly causes or permits to be done an act which is mentioned in the foregoing provisions of this subsection and which is not lawful under subsection (5),]

he shall be guilty of an offence<sup>F26</sup> . . . .

- (2) Subject to subsection (3), the Secretary of State may by order, either generally or in relation to any kind of wild bird specified in the order, amend subsection (1) by adding any method of killing or taking wild birds or by omitting any such method which is mentioned in that subsection.
- (3) The power conferred by subsection (2) shall not be exercisable, except for the purpose of complying with an international obligation, in relation to any method of killing or taking wild birds which involves the use of a firearm.

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- (4) In any proceedings under subsection (1)(a) it shall be a defence to show that the article was set in position for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took all reasonable precautions to prevent injury thereby to wild birds.
- <sup>F27</sup>[( 4A ) In any proceedings under subsection (1)(f) relating to an act which is mentioned in subsection (1)(a) it shall be a defence to show that the article was set in position for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took or caused to be taken all reasonable precautions to prevent injury thereby to wild birds.]
- (5) Nothing in subsection (1) shall make unlawful—
- (a) the use of a cage-trap or net by an authorised person for the purpose of taking a bird included in Part II of Schedule 2;
  - (b) the use of nets for the purpose of taking wild duck in a duck decoy which is shown to have been in use immediately before the passing of the <sup>M4</sup>Protection of Birds Act 1954; or
  - (c) the use of a cage-trap or net for the purpose of taking any game bird if it is shown that the taking of the bird is solely for the purpose of breeding;
- but nothing in this subsection shall make lawful the use of any net for taking birds in flight or the use for taking birds on the ground of any net which is projected or propelled otherwise than by hand.

#### Extent Information

- E5** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

- F24** Word "or" in s. 5(1)(d) omitted (25.9.1991) by virtue of [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), [ss. 1\(2\), 3\(3\)](#).
- F25** Word "or" and s. 5(1)(f) inserted (25.9.1991) by [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), [ss. 1\(3\), 3\(3\)](#).
- F26** Words in s. 5(1) repealed (30.1.2001 for E.W. and 26.3.2002 for S.) by [2000 c. 37, ss. 102, 103\(2\), Sch. 16 Pt. IV \(with Sch. 12 para. 10\(6\)\)](#) and by the [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), [ss. 86, 89\(2\)\(d\)](#), [Sch. 5](#)
- F27** S. 5(4A) inserted (25.9.1991) by [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), [ss. 1\(4\), 3\(3\)](#).

#### Marginal Citations

- M4** 1954 c. 30.

## 5 Prohibition of certain methods of killing or taking wild birds. S

- (1) Subject to the provisions of this Part, if any person—
- (a) sets in position any of the following articles, being an article which is of such a nature and is so placed as to be [<sup>F512</sup>likely] to cause bodily injury to any wild bird coming into contact therewith, that is to say, any springe, trap, gin, snare,

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hook and line, any electrical device for killing, stunning or frightening or any poisonous, poisoned or stupefying substance;

- (b) uses for the purpose of killing or taking any wild bird any such article as aforesaid, whether or not of such a nature and so placed as aforesaid, or any net, baited board, bird-lime or substance of a like nature to bird-lime;
- (c) uses for the purpose of killing or taking any wild bird—
  - (i) any bow or crossbow;
  - (ii) any explosive other than ammunition for a firearm;
  - (iii) any automatic or semi-automatic weapon;
  - (iv) any shot-gun of which the barrel has an internal diameter at the muzzle of more than one and three-quarter inches;
  - (v) any device for illuminating a target or any sighting device for night shooting;
  - (vi) any form of artificial lighting or any mirror or other dazzling device;
  - (vii) any gas or smoke not falling within paragraphs (a) and (b); or
  - (viii) any chemical wetting agent;
- (d) uses as a decoy, for the purpose of killing or taking any wild bird, any sound recording or any live bird or other animal whatever which is tethered, or which is secured by means of braces or other similar appliances, or which is blind, maimed or injured;<sup>F24</sup> . . .
- (e) uses any mechanically propelled vehicle in immediate pursuit of a wild bird for the purpose of killing or taking that bird, [<sup>F25</sup> ; or
- (f) knowingly causes or permits to be done an act which is mentioned in the foregoing provisions of this subsection and which is not lawful under subsection (5),]

he shall be guilty of an offence<sup>F26</sup> . . . .

- (2) Subject to subsection (3), the Secretary of State may by order, either generally or in relation to any kind of wild bird specified in the order, amend subsection (1) by adding any method of killing or taking wild birds or by omitting any such method which is mentioned in that subsection.
- (3) The power conferred by subsection (2) shall not be exercisable, except for the purpose of complying with an international obligation, in relation to any method of killing or taking wild birds which involves the use of a firearm.
- (4) In any proceedings under subsection (1)(a) it shall be a defence to show that the article was set in position for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took all reasonable precautions to prevent injury thereby to wild birds.

<sup>F27</sup>[(4A) In any proceedings under subsection (1)(f) relating to an act which is mentioned in subsection (1)(a) it shall be a defence to show that the article was set in position for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took or caused to be taken all reasonable precautions to prevent injury thereby to wild birds.]

(5) Nothing in subsection (1) shall make unlawful—

- (a) <sup>F513</sup> . . . . .
- (b) <sup>F513</sup> . . . . .



**Status:** Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.

**Changes to legislation:** Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (c) the use of a cage-trap or net for the purpose of taking any [<sup>F514</sup>grouse, mallard, partridge or pheasant included in Part I of Schedule 2] if it is shown that the taking of the bird is solely for the purpose of breeding;

but nothing in this subsection shall make lawful the use of any net for taking birds in flight or the use for taking birds on the ground of any net which is projected or propelled otherwise than by hand.

#### Extent Information

- E32** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

- F24** Word "or" in s. 5(1)(d) omitted (25.9.1991) by virtue of [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), [ss. 1\(2\)](#), 3(3).
- F25** Word "or" and s. 5(1)(f) inserted (25.9.1991) by [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), [ss. 1\(3\)](#), 3(3).
- F26** Words in s. 5(1) repealed (30.1.2001 for E.W. and 26.3.2002 for S.) by [2000 c. 37, ss. 102, 103\(2\)](#), [Sch. 16 Pt. IV \(with Sch. 12 para. 10\(6\)\)](#) and by the [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), [ss. 86, 89\(2\)\(d\)](#), [Sch. 5](#)
- F27** S. 5(4A) inserted (25.9.1991) by [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), [ss. 1\(4\)](#), 3(3).
- F512** Word in s. 5(1)(a) substituted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), [ss. 50, 59](#), [Sch. 6 para. 6\(a\)](#); [S.S.I. 2004/407](#), [art. 2](#)
- F513** S. 5(5)(a)(b) repealed (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), [ss. 50, 59](#), [Sch. 6 para. 6\(b\)](#); [S.S.I. 2004/407](#), [art. 2](#)
- F514** Words in s. 5(5)(c) substituted (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 3\(5\)](#), 43(1) (with s. 41(1)); [S.S.I. 2011/279](#), [art. 2\(1\)\(b\)](#)

## 6 Sale etc. of live or dead wild birds, eggs etc. **E+W**

- (1) Subject to the provisions of this Part, if any person—
- sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live wild bird other than a bird included in Part I of Schedule 3, or an egg of a wild bird or any part of such an egg; or
  - publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things, he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person<sup>F28</sup> . . . —
- sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any dead wild bird other than a bird included in Part II or III of Schedule 3, or any part of, or anything derived from, such a wild bird; or
  - publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things, he shall be guilty of an offence.
- (3) Subject to the provisions of this Part, if any person shows or causes or permits to be shown for the purposes of any competition or in any premises in which a competition is being held—
- any live wild bird other than a bird included in Part I of Schedule 3; or

*Status: Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) any live bird one of whose parents was such a wild bird,  
he shall be guilty of an offence.

(4) <sup>F29</sup> .....

[<sup>F30</sup>(5) Any reference in this section to any bird included in Part 1 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 Secretary of State, and
- (c) has not been lawfully released into the wild as part of a re-population or re-introduction programme.

(5A) “ Re-population ” and “ re-introduction ” have the same meaning as in [<sup>F31</sup> the Wild Birds Directive ] .

(5B) Regulations made for the purposes of subsection (5)(b) may make different provision for different birds or different provisions of this section.]

(6) Any reference in this section to any bird included in Part II or III of Schedule 3 is a reference to any bird included in Part II and, during the period commencing with 1st September in any year and ending with 28th February of the following year, any bird included in Part III of that Schedule.

(7) <sup>F32</sup> .....

(8) <sup>F32</sup> .....

(8A) <sup>F32</sup> .....

(9) <sup>F32</sup> .....

(10) <sup>F32</sup> .....

**Extent Information**

**E6** This version on this provision extends to England and Wales only; a separate version has been created for Scotland only.

**Textual Amendments**

**F28** Words in s. 6(2) repealed (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 102, 103(2), Sch. 12 para. 3, **Sch. 16 Pt. IV** (with Sch. 12 para. 10(6))

**F29** S. 6(4) repealed (30.1.2001 for E.W. and 26.3.2003 for S.) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6)) and by the Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89(2)(d), **Sch. 5**

**F30** S. 6(5)-(5B) substituted (E.W.) (1.10.2006) for s. 6(5) by Natural Environment and Rural Communities Act 2006 (c.16), ss. 48(2), 107; S.I. 2006/2541, **art. 2**

**F31** Words in s. 6(5A) substituted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, & c.) (Amendment) Regulations 2007 (S.I. 2007/1843) {reg. 7(3)}

**F32** S. 6(7)-(10) repealed (E.W.) (30.1.2001) by 2000 c. 37, ss. 102, 103(2), **Sch. 16 Pt. IV** (with Sch. 12 para. 10(6))

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**Status:** Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.  
**Changes to legislation:** Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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## 6 Sale etc. of live or dead wild birds, eggs etc. **S**

(1) Subject to the provisions of this Part, if any person—

- (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live wild bird<sup>F515</sup> ..., or an egg of a wild bird or any part of such an egg [<sup>F516</sup> 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]; or
- (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things, he shall be guilty of an offence.

[<sup>F517</sup>(1A) This subsection applies to a bird which—

- (a) was bred in captivity and remained in captivity or a place where it was reared;
- (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 1A of Schedule 3 to which subsection (1A) applies; or
- (b) an egg of a bird included in Part 1A 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.]

(2) Subject to the provisions of this Part, if any person who is not for the time being registered in accordance with regulations made by the Secretary of State—

- (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any dead wild bird other than a bird included in Part II [<sup>F518</sup>, IIA] or III of Schedule 3 [<sup>F519</sup>(see also subsections (5B) and (6))], or any part of, or anything derived from, such a wild bird; or
- (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things, he shall be guilty of an offence.

[<sup>F520</sup>(2A) 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 subsections (1)(b) and (2)(b)) shall be guilty of an offence.]

*Status:* Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.

*Changes to legislation:* Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Subject to the provisions of this Part, if any person shows or causes or permits to be shown for the purposes of any competition or in any premises in which a competition is being held—
  - (a) any live wild bird other than a bird included in Part I of Schedule 3; or
  - (b) any live bird one of whose parents was such a wild bird,
 he shall be guilty of an offence.

(4) <sup>F29</sup> .....

- [<sup>F521</sup>(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.]

- [<sup>F522</sup>(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.]

- [<sup>F523</sup>(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.]

- (7) The power of the Secretary of State to make regulations under subsection (2) shall include power—
  - (a) to impose requirements as to the carrying out by a person registered in accordance with the regulations of any act which, apart from the registration, would constitute an offence under this section; and
  - (b) to provide that any contravention of the regulations shall constitute such an offence.

- (8) Regulations under subsection (2) shall secure that no person shall become or remain registered [<sup>F524</sup>within five years of his having been convicted of—
  - (a) an offence under this Part (being an offence relating to the protection of birds or other animals); or
  - (b) any other offence involving their ill-treatment,]

no account being taken for this purpose of a conviction which has become spent by virtue of the <sup>M41</sup>Rehabilitation of Offenders Act 1974.

(8A) The Secretary of State may charge such reasonable sum (if any) as he may determine in respect of any registration effected in accordance with regulations under subsection (2).

<sup>F525</sup>(9) .....

<sup>F525</sup>(10) .....

**Status:** Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.  
**Changes to legislation:** Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### Extent Information

- E33** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

### Textual Amendments

- F29** S. 6(4) repealed (30.1.2001 for E.W. and 26.3.2003 for S.) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6)) and by the Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89(2)(d), Sch. 5
- F515** Words in s. 6(1)(a) repealed (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), ss. 5(3)(a)(i), 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(c)
- F516** Words in s. 6(1)(a) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), ss. 5(3)(a)(ii), 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(c)
- F517** S. 6(1A)(1B) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), ss. 5(3)(b), 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(c)
- F518** Word in s. 6(2)(a) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), ss. 5(3)(c)(i), 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(c)
- F519** Words in s. 6(2)(a) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), ss. 5(3)(c)(ii), 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(c)
- F520** S. 6(2A) inserted (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), ss. 21(2), 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(e)
- F521** S. 6(5)(5A) substituted for s. 6(5) (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), ss. 5(3)(d), 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(c)
- F522** S. 6(5B) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), ss. 5(3)(e), 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(c)
- F523** S. 6(6) substituted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), ss. 5(3)(f), 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(c)
- F524** S. 6(8): paras. (a)(b) and preceding words substituted (S.) (26.3.2003) for paras. (a)(b) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 77, 89(2)(b), Sch. 3 para. 2
- F525** S. 6(9)(10) repealed (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), ss. 22(2), 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(d)

### Marginal Citations

- M41** 1974. c. 53.

## 7 Registration etc. of certain captive birds. **E+W**

- (1) If any person keeps or has in his possession or under his control any bird included in Schedule 4 which has not been registered and ringed or marked in accordance with regulations made by the Secretary of State, he shall be guilty of an offence<sup>F33</sup> . . .
- (2) The power of the Secretary of State to make regulations under subsection (1) shall include power—
- to impose requirements which must be satisfied in relation to a bird included in Schedule 4 before it can be registered in accordance with the regulations; and
  - to make different provision for different birds or different descriptions of birds.

[<sup>F34</sup>(2A) The Secretary of State may charge such reasonable sum (if any) as he may determine in respect of any registration effected in accordance with regulations under subsection (1).]

*Status: Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) If any person keeps or has in his possession or under his control any bird included in Schedule 4—

- (a) within five years of his having been convicted of an offence under this Part <sup>F35</sup>which falls within subsection (3A)]; or
- (b) within three years of his having been convicted of any other offence under this Part so far as it relates to the protection of birds or other animals or any offence involving their ill-treatment,

he shall be guilty of an offence.

<sup>F36</sup>(3A) The offences falling within this subsection are—

- (a) any offence under section 1(1) or (2) in respect of—
  - (i) a bird included in Schedule <sup>F37</sup>ZA1 or] 1 or any part of, or anything derived from, such a bird,
  - (ii) the nest of such a bird, or
  - (iii) an egg of such a bird or any part of such an egg;
- (b) any offence under section 1(5) or 5;
- (c) any offence under section 6 in respect of—
  - (i) a bird included in Schedule <sup>F37</sup>ZA1 or] 1 or any part of, or anything derived from, such a bird, or
  - (ii) an egg of such a bird or any part of such an egg;

<sup>F38</sup>(ca) [ any offence under subsection (1);]

- (d) any offence under section 8.]

(4) If any person knowingly disposes of or offers to dispose of any bird included in Schedule 4 to any person—

- (a) within five years of that person's having been convicted of such an offence as is mentioned in paragraph (a) of subsection (3); or
- (b) within three years of that person's having been convicted of such an offence as is mentioned in paragraph (b) of that subsection,

he shall be guilty of an offence.

(5) No account shall be taken for the purposes of subsections (3) and (4) of any conviction which has become spent for the purpose of the <sup>M5</sup>Rehabilitation of Offenders Act 1974.

<sup>F39</sup>(6) .....

<sup>F39</sup>(7) .....

#### Extent Information

**E7** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

**F33** Words in s. 7(1) repealed (E.W.) (30.1.2001) by 2000 c. 37, ss. 102, 103(2), **Sch. 16 Pt. IV** (with **Sch. 12 para. 10(6)**)

**F34** S. 7(2A) inserted (21.3.1997) by 1997 c. 55, **s. 1(2)**

**F35** Words in s. 7(3)(a) substituted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), **Sch. 12 para. 4(1)**

**F36** S. 7(3A) inserted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), **Sch. 12 para. 4(2)**

**Status:** Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.

**Changes to legislation:** Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F37** Words in s. 7(3A)(a)(i)(c)(i) inserted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c.16\), ss. 47\(4\)\(b\), 107; S.I. 2006/1382, art. 2](#)
- F38** S. 7(3A)(ca) inserted (E.W.) (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c.16\), ss. 49, 107; S.I. 2006/2541, art. 2](#)
- F39** S. 7(6)(7) repealed (E.W.) (30.1.2001) by [2000 c. 37, ss. 102, 103\(2\), Sch. 16 Pt. IV \(with Sch. 12 para. 10\(6\)\)](#)

**Modifications etc. (not altering text)**

- C2** S. 7(2A): power to transfer functions conferred (1.5.2000) by [S.I. 2000/745, art. 2\(1\), Sch.](#)

**Marginal Citations**

- M5** [1974 c. 53.](#)

**7 Registration etc. of certain captive birds. S**

- (1) If any person keeps or has in his possession or under his control any bird included in Schedule 4 which has not been registered and ringed or marked in accordance with regulations made by the Secretary of State, he shall be guilty of an offence <sup>F526</sup> . . . .
- (2) The power of the Secretary of State to make regulations under subsection (1) shall include power—
- (a) to impose requirements which must be satisfied in relation to a bird included in Schedule 4 before it can be registered in accordance with the regulations; and
  - (b) to make different provision for different birds or different descriptions of birds.
- [<sup>F527</sup>(2A) The Secretary of State may charge such reasonable sum (if any) as he may determine in respect of any registration effected in accordance with regulations under subsection (1).]
- (3) If any person keeps or has in his possession or under his control any bird included in Schedule 4 [<sup>F528</sup>within five years of his having been convicted of—
- (a) an offence under this Part (being an offence relating to the protection of birds or other animals); <sup>F529</sup> . . .
  - (b) any other offence involving their ill-treatment][<sup>F530</sup>; or
  - (c) any offence under the Control of Trade in Endangered Species (Enforcement) Regulations 1997 (S.I. 1997/1372) relating to birds (other than an offence under Regulation 9 of those Regulations)]
- he shall be guilty of an offence.
- (4) If any person knowingly disposes of or offers to dispose of any bird included in Schedule 4 to any person[<sup>F531</sup> within five years of that person's having been convicted of such an offence as is mentioned in subsection (3),] he shall be guilty of an offence.
- (5) No account shall be taken for the purposes of subsections (3) and (4) of any conviction which has become spent for the purpose of the <sup>M42</sup>Rehabilitation of Offenders Act 1974.
- [<sup>F532</sup>(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 shall be guilty of an offence.]
- <sup>F533</sup>(6) . . . . .

**Status:** Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.

**Changes to legislation:** Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F533(7) . . . . .

#### Extent Information

**E34** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

**F526** Words in s. 7(1) repealed (S.) (26.3.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), s. 86, **Sch. 5**

**F527** S. 7(2A) inserted (21.3.1997) by [1997 c. 55, s. 1\(2\)](#)

**F528** S. 7(3): paras. (a)(b) and preceding words substituted (S.) (26.3.2003) for paras. (a)(b) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. 77, 89(2)(b), **Sch. 3 para. 2**

**F529** Word in s. 7(3)(a) repealed (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, **Sch. 6 para. 7(a)**; S.S.I. 2004/407, **art. 2**

**F530** S. 7(3)(c) and preceding word inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, **Sch. 6 para. 7(b)**; S.S.I. 2004/407, **art. 2**

**F531** S. 7(4)(a)(b) substituted (S.) (26.3.2003) for words by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. 77, 89(2)(b), **Sch. 3 para. 3**

**F532** S. 7(5A) inserted (S.) (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), ss. **21(3)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, **art. 2(1)(e)**

**F533** S. 7(6)(7) repealed (S.) (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), ss. **22(3)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, **art. 2(1)(d)**

#### Modifications etc. (not altering text)

**C33** S. 7(2A): power to transfer functions conferred (1.5.2000) by [S.I. 2000/745](#), **art. 2(1)**, **Sch.**

#### Marginal Citations

**M42** [1974 c. 53](#).

## 8 Protection of captive birds.

- (1) If any person keeps or confines any bird whatever in any cage or other receptacle which is not sufficient in height, length or breadth to permit the bird to stretch its wings freely, he shall be guilty of an offence<sup>F40</sup> . . . .
- (2) Subsection (1) does not apply to poultry, or to the keeping or confining of any bird—
  - (a) while that bird is in the course of conveyance, by whatever means;
  - (b) while that bird is being shown for the purposes of any public exhibition or competition if the time during which the bird is kept or confined for those purposes does not in the aggregate exceed 72 hours; or
  - (c) while that bird is undergoing examination or treatment by a veterinary surgeon or veterinary practitioner.
- (3) Every person who—
  - (a) promotes, arranges, conducts, assists in, receives money for, or takes part in, any event whatever at or in the course of which captive birds are liberated by hand or by any other means whatever for the purpose of being shot immediately after their liberation; or
  - (b) being the owner or occupier of any land, permits that land to be used for the purposes of such an event,



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shall be guilty of an offence<sup>F41</sup> . . . .

#### Textual Amendments

- F40** Words in s. 8(1) repealed (30.1.2001 for E.W. and 26.3.2003 for S.) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6)) and by the Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89(2)(d), Sch. 5
- F41** Words in s. 8(3) repealed (30.1.2001 for E.W. and 26.3.2003 for S.) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6)) and by the Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89(2)(d), Sch. 5

#### *Protection of other animals [<sup>F42</sup>and prevention of poaching]*

#### Textual Amendments

- F42** Words in Pt. I cross-heading added (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), ss. 7(2), 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(e)

## 9 Protection of certain wild animals. **E+W**

- (1) Subject to the provisions of this Part, if any person intentionally kills, injures or takes any wild animal included in Schedule 5, he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person has in his possession or control any live or dead wild animal included in Schedule 5 or any part of, or anything derived from, such an animal, he shall be guilty of an offence.
- (3) A person shall not be guilty of an offence under subsection (2) if he shows that—
  - (a) the animal had not been killed or taken, or had been killed or taken otherwise than in contravention of the relevant provisions; or
  - (b) the animal or other thing in his possession or control had been sold (whether to him or any other person) otherwise than in contravention of those provisions and in this subsection "the relevant provisions" means the provisions of this Part and of the Conservation of Wild Creatures and Wild Plants Act 1975
- [<sup>F43</sup>(4) Subject to the provisions of this Part, a person is guilty of an offence if intentionally or recklessly—
  - (a) he damages or destroys any structure or place which any wild animal specified in Schedule 5 uses for shelter or protection;
  - (b) he disturbs any such animal while it is occupying a structure or place which it uses for shelter or protection; or
  - (c) he obstructs access to any structure or place which any such animal uses for shelter or protection.]
  - [<sup>F44</sup>(4A) Subject to the provisions of this Part, if any person intentionally or recklessly disturbs any wild animal included in Schedule 5 as—
    - (a) a dolphin or whale (cetacea), or
    - (b) a basking shark (cetorhinus maximus),he shall be guilty of an offence.]

*Status: Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (5) Subject to the provisions of this Part, if any person—
- (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live or dead wild animal included in Schedule 5, or any part of, or anything derived from, such an animal; or
  - (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things, he shall be guilty of an offence.
- (6) In any proceedings for an offence under subsection (1), (2) or (5)(a), the animal in question shall be presumed to have been a wild animal unless the contrary is shown.

#### Extent Information

**E8** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

**F43** S. 9(4) substituted (E.W.) (21.8.2007) by [The Conservation \(Natural Habitats, & c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#) {reg. 7(4)}

**F44** S. 9(4A) inserted (E.W.) (30.1.2001) by [2000 c. 37](#), ss. 81(1), 103(2), [Sch. 12 para. 5\(b\)](#)

## 9 Protection of certain wild animals. **S**

- (1) Subject to the provisions of this Part, if any person intentionally [<sup>F534</sup>or recklessly] kills, injures or takes any wild animal included in Schedule 5, he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person has in his possession or control any live or dead wild animal included in Schedule 5 or any part of, or anything derived from, such an animal, he shall be guilty of an offence.
- (3) A person shall not be guilty of an offence under subsection (2) if he shows that—
- (a) the animal had not been killed or taken, or had been killed or taken [<sup>F535</sup>at or from a place in Scotland] otherwise than in contravention of the relevant provisions; [<sup>F536</sup> . . .
  - (b) the animal or other thing in his possession or control had been sold [<sup>F537</sup>at a place in Scotland] (whether to him or any other person) otherwise than in contravention of those provisions [<sup>F538</sup>; 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.]

<sup>F539</sup> . . .

[<sup>F540</sup>(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

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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 Community instrument replacing either of them).]

(4) Subject to the provisions of this Part, if any person intentionally [<sup>F541</sup>or recklessly]—

- (a) damages or destroys, or obstructs access to, any structure or place which any wild animal included in Schedule 5 uses for shelter or protection; or
- (b) disturbs any such animal while it is occupying a structure or place which it uses for that purpose,

he shall be guilty of an offence.

[<sup>F542</sup>(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),

shall be guilty of an offence.]

(5) Subject to the provisions of this Part, if any person—

- (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live or dead wild animal included in Schedule 5, or any part of, or anything derived from, such an animal; or
- (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,

he shall be guilty of an offence.

[<sup>F543</sup>(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.]

(6) In any proceedings for an offence under subsection (1), (2) or (5)(a) [<sup>F544</sup>or for an offence under subsection (5A) relating to an act which is mentioned in subsection (1), (2) or (5)(a)], the animal in question shall be presumed to have been a wild animal unless the contrary is shown.

#### Extent Information

**E35** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

**F534** Word in s. 9(1) inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 8\(2\)](#); [S.S.I. 2004/407](#), [art. 2](#)

**F535** Words in s. 9(3)(a) inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 8\(3\)\(a\)](#); [S.S.I. 2004/407](#), [art. 2](#)

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*Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F536** Word in s. 9(3)(a) repealed (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 8(3)(b)**; S.S.I. 2004/407, **art. 2**
- F537** Words in s. 9(3)(b) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 8(3)(c)**; S.S.I. 2004/407, **art. 2**
- F538** S. 9(3)(c) and preceding word inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 8(3)(d)**; S.S.I. 2004/407, **art. 2**
- F539** Words in s. 9(3) repealed (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 8(3)(e)**; S.S.I. 2004/407, **art. 2**
- F540** S. 9(3A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 8(4)**; S.S.I. 2004/407, **art. 2**
- F541** Words in s. 9(4) inserted (30.1.2001 for E.W. and 1.10.2004 for S.) by 2000 c. 37, ss. 81(1), 103(2), Sch. 12 para. 5(a) and by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 8(5)**; S.S.I. 2004/407, **art. 2**
- F542** S. 9(4A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 8(6)**; S.S.I. 2004/407, **art. 2**
- F543** S. 9(5A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 8(7)**; S.S.I. 2004/407, **art. 2**
- F544** Words in s. 9(6) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 8(8)**; S.S.I. 2004/407, **art. 2**

## 10 Exceptions to s. 9. **E+W**

- (1) Nothing in section 9 shall make unlawful—
- (a) anything done in pursuance of a requirement by the Minister of Agriculture, Fisheries and Food or the Secretary of State under section 98 of the <sup>M6</sup>Agriculture Act 1947, or by the Secretary of State under section 39 of the <sup>M7</sup>Agriculture (Scotland) Act 1948; or
  - (b) anything done under, or in pursuance of an order made under, the <sup>M8</sup>Animal Health Act 1981.
- (2) Nothing in subsection (4) of section 9 shall make unlawful anything done within a dwelling-house.
- (3) Notwithstanding anything in section 9, a person shall not be guilty of an offence by reason of—
- (a) the taking of any such animal if he shows that the animal had been disabled otherwise than by his unlawful act and was taken solely for the purpose of tending it and releasing it when no longer disabled;
  - (b) the killing of any such animal if he shows that the animal had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering; or
  - (c) any act made unlawful by that section if he shows that the act was the incidental result of a lawful operation and could not reasonably have been avoided.
- (4) Notwithstanding anything in section 9, an authorised person shall not be guilty of an offence by reason of the killing or injuring of a wild animal included in Schedule 5 if he shows that his action was necessary for the purpose of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries.
- (5) A person shall not be entitled to rely on the defence provided by subsection (2) or (3)(c) as respects anything done in relation to a bat otherwise than in the living area

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of a dwelling house unless he had notified the [<sup>F45</sup>conservation body][<sup>F46</sup>for the area in which the house is situated or, as the case may be, the act is to take place] of the proposed action or operation and allowed them a reasonable time to advise him as to whether it should be carried out and, if so, the method to be used.

- (6) An authorised person shall not be entitled to rely on the defence provided by subsection (4) as respects any action taken at any time if it had become apparent, before that time, that that action would prove necessary for the purpose mentioned in that subsection and either—
- (a) a licence under section 16 authorising that action had not been applied for as soon as reasonably practicable after that fact had become apparent; or
  - (b) an application for such a licence had been determined.

#### Extent Information

- E9** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

- F45** Words in s. 10(5) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), ss. 105\(1\), 107, Sch. 11 para. 70](#); S.I. 2006/2541, [art. 2](#)
- F46** Words in s. 10(5) inserted (*1.4.1991*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 132, [Sch. 9 para. 11\(2\)](#); S.I. 1991/685, [art.3](#).

#### Marginal Citations

- M6** 1947 c. 48.  
**M7** 1948 c. 45.  
**M8** 1981 c. 22.

## 10 Exceptions to s. 9. **S**

- (1) Nothing in section 9 shall make unlawful—
- (a) anything done in pursuance of a requirement by the Minister of Agriculture, Fisheries and Food or the Secretary of State under section 98 of the <sup>M6</sup>Agriculture Act 1947, or by the Secretary of State under section 39 of the <sup>M7</sup>Agriculture (Scotland) Act 1948; or
  - (b) anything done under, or in pursuance of an order made under, the <sup>M8</sup>Animal Health Act 1981.
- (2) Nothing in subsection (4) of section 9 shall make unlawful anything done within a dwelling-house.
- (3) Notwithstanding anything in section 9, a person shall not be guilty of an offence by reason of—
- (a) the taking of any such animal if he shows that the animal had been disabled otherwise than by his unlawful act and was taken solely for the purpose of tending it and releasing it when no longer disabled;
  - (b) the killing of any such animal if he shows that the animal had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering; or
  - (c) any act made unlawful by that section [<sup>F545</sup> (“an unlawful act”) if he shows—

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- (i) that each of the conditions specified in subsection (3A) was satisfied in relation to the carrying out of the unlawful act, or
- (ii) that the unlawful act was carried out in relation to an animal bred and, at the time the act was carried out, lawfully held in captivity.]

[<sup>F546</sup>(3A) Those conditions are—

- (a) that the unlawful act was the incidental result of a lawful operation or other activity;
  - (b) that the person who carried out the lawful operation or other activity—
    - (i) took reasonable precautions for the purpose of avoiding carrying out the unlawful act; or
    - (ii) did not foresee, and could not reasonably have foreseen, that the unlawful act would be an incidental result of the carrying out of the lawful operation or other activity; and
  - (c) that the person who carried out the unlawful act took, immediately upon the consequence of that act becoming apparent to the person, such steps as were reasonably practicable in the circumstances to minimise the damage or disturbance to the wild animal, or the damage or obstruction to the structure or place, in relation to which the unlawful act was carried out.]
- (4) Notwithstanding anything in section 9, an authorised person shall not be guilty of an offence by reason of the killing or injuring of a wild animal included in Schedule 5 if he shows that his action was necessary for the purpose of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries.
- (5) A person shall not be entitled to rely on the defence provided by subsection (2) or (3)(c) as respects anything done in relation to a bat otherwise than in the living area of a dwelling house unless he had notified the [<sup>F547</sup>conservation body][<sup>F46</sup>for the area in which the house is situated or, as the case may be, the act is to take place] of the proposed action or operation and allowed them a reasonable time to advise him as to whether it should be carried out and, if so, the method to be used.
- (6) An authorised person shall not be entitled to rely on the defence provided by subsection (4) as respects any action taken at any time if it had become apparent, before that time, that that action would prove necessary for the purpose mentioned in that subsection and either—
- (a) a licence under section 16 authorising that action had not been applied for as soon as reasonably practicable after that fact had become apparent; or
  - (b) an application for such a licence had been determined.

[<sup>F548</sup>(6A) An authorised person shall not be entitled to rely on the defence provided by subsection (4) as respects any action taken at any time unless he notified the Scottish Ministers as soon as reasonably practicable after that time that he had taken the action.]

#### Extent Information

**E36** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

**Status:** Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.

**Changes to legislation:** Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### Textual Amendments

- F46** Words in s. 10(5) inserted (*1.4.1991*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132, **Sch. 9 para. 11(2)**; S.I. 1991/685, **art.3**.
- F545** Words in s. 10(3)(c) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 9(a)**; S.S.I. 2004/407, **art. 2**
- F546** S. 10(3A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 9(b)**; S.S.I. 2004/407, **art. 2**
- F547** Words in s. 10(5) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 70**; S.I. 2006/2541, **art. 2**
- F548** S. 10(6A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 9(c)**; S.S.I. 2004/407, **art. 2**

### Marginal Citations

- M6** 1947 c. 48.  
**M7** 1948 c. 45.  
**M8** 1981 c. 22.

## [<sup>F47</sup>10A Protection of wild hares etc.

- (1) Subject to the provisions of this Part, any person who intentionally or recklessly kills, injures or takes any wild animal included in Schedule 5A in the close season for the animal is guilty of an offence.
- (2) In this section, “close season” means—
  - (a) in the case of a mountain hare, the period in any year beginning with 1st March and ending with 31st July;
  - (b) in the case of a brown hare, the period in any year beginning with 1st February and ending with 30th September.
- (3) The Scottish Ministers may by order vary the close season for any wild animal included in Schedule 5A which is specified in the order.
- (4) If it appears to the Scottish Ministers expedient that any wild animals included in Schedule 5A should be protected during any period outside the close season for those animals, they may by order declare any period not exceeding 14 days as a period of special protection for those animals.
- (5) Before making an order under subsection (4), the Scottish Ministers must consult such persons appearing to them to be representative of persons interested in the killing or taking of animals of the kind proposed to be protected by the order as they consider appropriate.
- (6) Where an order is made under subsection (4), this section has effect as if any period of special protection declared by the order forms part of the close season for those animals.
- (7) An order under subsection (3) or (4) may be made as respects the whole of Scotland or any part of Scotland specified in the order.
- (8) In any proceedings for an offence under subsection (1), the animal in question is to be presumed to have been a wild animal unless the contrary is shown.

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### Textual Amendments

**F47** Ss. 10A, 10B inserted (S.) (29.6.2011 for specified purposes, 1.1.2012 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 6(2), 43(1)** (with s. 41(1)); [S.S.I. 2011/279](#), art. 2(1)(d); [S.S.I. 2011/433](#), art. 2(1)(b)

## 10B Exceptions to s. 10A

- (1) A person is not guilty of an offence under section 10A(1) by reason of the killing of an animal included in Schedule 5A if he shows that the animal had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering.
- (2) A person is not guilty of an offence under section 10A(1) by reason of taking any such animal if he shows that—
  - (a) he had a legal right to take such an animal or permission, from a person who had a right to give permission, to take such an animal; and
  - (b) the animal—
    - (i) had been disabled otherwise than by his unlawful act; and
    - (ii) was taken solely for the purpose of tending it and releasing it when no longer disabled.
- (3) An authorised person is not guilty of an offence under section 10A(1) by reason of the killing or injuring of an animal included in Schedule 5A if he shows that his action was necessary for the purpose of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries.
- (4) An authorised person is not entitled to rely on the defence provided by subsection (3) as respects any action if—
  - (a) it had become apparent, before the action was taken, that it would prove necessary for the purpose mentioned in that subsection; and
  - (b) either—
    - (i) a licence under section 16 authorising the action had not been applied for as soon as reasonably practicable after that fact had become apparent; or
    - (ii) an application for such a licence had been determined.
- (5) An authorised person is not entitled to rely on the defence provided by subsection (3) as respects any action unless he notified the appropriate authority as soon as reasonably practicable after the action was taken that he had taken it.
- (6) In subsection (5), “the appropriate authority” has the same meaning as in section 16(9).
- (7) Nothing in section 10A makes unlawful—
  - (a) anything done in pursuance of a requirement by the Scottish Ministers under section 39 of the Agriculture (Scotland) Act 1948; or
  - (b) anything done under, or in pursuance of an order made under, the Animal Health Act 1981.]



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### Textual Amendments

**F47** Ss. 10A, 10B inserted (S.) (29.6.2011 for specified purposes, 1.1.2012 in so far as not already in force) by **Wildlife and Natural Environment (Scotland) Act 2011 (asp 6)**, ss. **6(2)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(d); S.S.I. 2011/433, art. 2(1)(b)

## 11 Prohibition of certain methods of killing or taking wild animals. **E+W**

- (1) Subject to the provisions of this Part, if any person—
- (a) sets in position any self-locking snare which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal coming into contact therewith;
  - (b) uses for the purpose of killing or taking any wild animal any self-locking snare, whether or not of such a nature or so placed as aforesaid, any bow or cross-bow or any explosive other than ammunition for a firearm; <sup>F48</sup> . . .
  - (c) uses as a decoy, for the purpose of killing or taking any wild animal, any live mammal or bird whatever, [<sup>F49</sup> ; or
  - (d) knowingly causes or permits to be done an act which is mentioned in the foregoing provisions of this section,]

he shall be guilty of an offence.

- (2) Subject to the provisions of this Part, if any person—
- (a) sets in position any of the following articles, being an article which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal included in Schedule 6 which comes into contact therewith, that is to say, any trap or snare, any electrical device for killing or stunning or any poisonous, poisoned or stupefying substance;
  - (b) uses for the purpose of killing or taking any such wild animal any such article as aforesaid, whether or not of such a nature and so placed as aforesaid, or any net;
  - (c) uses for the purpose of killing or taking any such wild animal—
    - (i) any automatic or semi-automatic weapon;
    - (ii) any device for illuminating a target or sighting device for night shooting;
    - (iii) any form of artificial light or any mirror or other dazzling device; or
    - (iv) any gas or smoke not falling within paragraphs (a) and (b);
  - (d) uses as a decoy, for the purpose of killing or taking any such wild animal, any sound recording; <sup>F50</sup> . . .
  - (e) uses any mechanically propelled vehicle in immediate pursuit of any such wild animal for the purpose of driving, killing or taking that animal, [<sup>F51</sup> ; or
  - (f) knowingly causes or permits to be done an act which is mentioned in the foregoing provisions of this subsection,]

he shall be guilty of an offence.

- (3) Subject to the provisions of this Part, if any person—
- (a) sets in position [<sup>F52</sup> or knowingly causes or permits to be set in position] any snare which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal coming into contact therewith; and

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- (b) while the snare remains in position fails, without reasonable excuse, to inspect it, or cause it to be inspected, at least once every day,  
he shall be guilty of an offence.
- (4) The Secretary of State may, for the purpose of complying with an international obligation, by order, either generally or in relation to any kind of wild animal specified in the order, amend subsection (1) or (2) by adding any method of killing or taking wild animals or by omitting any such method as is mentioned in that subsection.
- (5) In any proceedings for an offence under subsection (1)(b) or (c) or (2)(b), (c), (d) or (e), [<sup>F53</sup>and in any proceedings for an offence under subsection (1)(d) or (2)(f) relating to an act which is mentioned in any of those paragraphs] the animal in question shall be presumed to have been a wild animal unless the contrary is shown.
- (6) In any proceedings for an offence under subsection (2)(a) it shall be a defence to show that the article was set in position by the accused for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took all reasonable precautions to prevent injury thereby to any wild animals included in Schedule 6.
- <sup>F54</sup>[(7) In any proceedings for an offence under subsection (2)(f) relating to an act which is mentioned in subsection (2)(a) it shall be a defence to show that the article was set in position for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took or caused to be taken all reasonable precautions to prevent injury thereby to any wild animals included in Schedule 6.]

#### Extent Information

- E10** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

- F48** Word "or" in s. 11(1)(b) omitted (25.9.1991) by virtue of [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), **ss. 2(2)(a)**, 3(3).
- F49** Word "or" and s. 11(1)(d) inserted (25.9.1991) by [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), **ss. 2(2)(b)**, 3(3).
- F50** Word "or" in s. 11(2)(d) omitted (25.9.1991) by virtue of [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), **ss. 2(3)(a)**, 3(3).
- F51** Word "or" and s. 11(2)(f) inserted (25.9.1991) by [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), **ss. 2(3)(b)**, 3(3).
- F52** Words in s. 11(3)(a) inserted (25.9.1991) by [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), **ss. 2(4)**, 3(3).
- F53** Words in s. 11(5) inserted (25.9.1991) by [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), **ss. 2(5)**, 3(3).
- F54** S. 11(7) added (25.9.1991) by [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), **ss. 2(6)**, 3(3).

## 11 Prohibition of certain methods of killing or taking wild animals. **S**

- (1) Subject to the provisions of this Part, if any person—

*Status:* Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.

*Changes to legislation:* Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) sets in position [<sup>F549</sup>or otherwise uses] any self-locking snare [<sup>F550</sup>or a snare of any other type specified in an order made by the Scottish Ministers];
- [<sup>F551</sup>(aa) sets in position or otherwise uses any other type of snare which is either of such a nature or so placed (or both) as to be calculated to cause unnecessary suffering to any animal coming into contact with it;]
- (b) uses for the purpose of killing or taking any [<sup>F552</sup>animal] , any bow or cross-bow or any explosive other than ammunition for a firearm; <sup>F48</sup> . . .
- (c) uses as a decoy, for the purpose of killing or taking any wild animal, any live mammal or bird whatever, [<sup>F49</sup>; or
- (d) knowingly causes or permits to be done an act which is mentioned in the foregoing provisions of this section,]

he shall be guilty of an offence.

[<sup>F553</sup>(1A) For the purposes of subsection (1)(aa), a snare which is of such a nature or so placed (or both) as to be calculated to cause unnecessary suffering to any animal coming into contact with it includes—

- (a) where the person who sets in position or otherwise uses the snare does so to catch any animal other than a fox, a snare which is not fitted with a stop which is capable of preventing the noose of the snare reducing in circumference to less than 13 centimetres;
- (b) where the person who sets in position or otherwise uses the snare does so to catch a fox, a snare which is not fitted with a stop which is capable of preventing the noose of the snare reducing in circumference to less than 23 centimetres;
- (c) a snare which is neither—
  - (i) staked to the ground; nor
  - (ii) attached to an object,in a manner which will prevent the snare being dragged by an animal caught by it; and
- (d) a snare which is set in a place where an animal caught by the snare is likely to—
  - (i) become fully or partially suspended; or
  - (ii) drown.]

(2) Subject to the provisions of this Part, if any person—

- (a) sets in position any of the following articles, being an article which is of such a nature and so placed as to be [<sup>F554</sup>likely] to cause bodily injury to any wild animal included in Schedule 6 which comes into contact therewith, that is to say, any trap or snare, any electrical device for killing or stunning or any poisonous, poisoned or stupefying substance;
- (b) uses for the purpose of killing or taking any such wild animal any such article as aforesaid, whether or not of such a nature and so placed as aforesaid, or any net;
- (c) uses for the purpose of killing or taking any such wild animal—
  - (i) any automatic or semi-automatic weapon;
  - (ii) any device for illuminating a target or sighting device for night shooting;
  - (iii) any form of artificial light or any mirror or other dazzling device; or
  - (iv) any gas or smoke not falling within paragraphs (a) and (b);

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*Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (d) uses as a decoy, for the purpose of killing or taking any such wild animal, any sound recording; <sup>F50</sup> . . .
- (e) uses any mechanically propelled vehicle in immediate pursuit of any such wild animal for the purpose of driving, killing or taking that animal, [<sup>F51</sup> ; or
- (f) knowingly causes or permits to be done an act which is mentioned in the foregoing provisions of this subsection,]

he shall be guilty of an offence.

<sup>F555</sup> [<sup>F556</sup> (3) . . . . .

<sup>F555</sup> (3A) . . . . .

<sup>F555</sup> (3B) . . . . .

(3C) Subject to the provisions of this Part, any person who—

- (a) is, without reasonable excuse, in possession of; or
- (b) sells, or offers or exposes for sale,

a snare which is capable of operating as a self-locking snare or a snare of any other type specified in an order under subsection (1)(a) shall be guilty of an offence.

<sup>F557</sup> (3D) . . . . .

(3E) Subject to the provisions of this Part, any person who uses a snare otherwise than in accordance with such requirements as may be specified in an order made by the Scottish Ministers, or who knowingly causes or permits any other person to do so, shall be guilty of an offence.]

(4) The Secretary of State may, for the purpose of complying with an international obligation, by order, either generally or in relation to any kind of wild animal specified in the order, amend subsection (1) or (2) by adding any method of killing or taking wild animals or by omitting any such method as is mentioned in that subsection.

[<sup>F558</sup> (4A) The Scottish Ministers may by order specify—

- (a) criteria which articles of a type referred to in subsections (1) to (3E) must meet to be treated as articles of that type for the purposes of those subsections,
- (b) circumstances in which articles of that type are to be treated as having been set or used in a manner which constitutes an offence under those subsections.]

(5) In any proceedings for an offence under subsection [<sup>F559</sup> (1)(c)] or (2)(b), (c), (d) or (e), [<sup>F53</sup> and in any proceedings for an offence under subsection (1)(d) or (2)(f) relating to an act which is mentioned in any of those paragraphs] the animal in question shall be presumed to have been a wild animal unless the contrary is shown.

(6) In any proceedings for an offence under subsection (2)(a) it shall be a defence to show that the article was set in position by the accused for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took all reasonable precautions to prevent injury thereby to any wild animals included in Schedule 6.

<sup>F54</sup> [(7) In any proceedings for an offence under subsection (2)(f) relating to an act which is mentioned in subsection (2)(a) it shall be a defence to show that the article was set in position for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took or caused to be taken

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all reasonable precautions to prevent injury thereby to any wild animals included in Schedule 6.]

#### Extent Information

**E37** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

- F48** Word "or" in s. 11(1)(b) omitted (25.9.1991) by virtue of [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), [ss. 2\(2\)\(a\)](#), 3(3).
- F49** Word "or" and s. 11(1)(d) inserted (25.9.1991) by [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), [ss. 2\(2\)\(b\)](#), 3(3).
- F50** Word "or" in s. 11(2)(d) omitted (25.9.1991) by virtue of [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), [ss. 2\(3\)\(a\)](#), 3(3).
- F51** Word "or" and s. 11(2)(f) inserted (25.9.1991) by [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), [ss. 2\(3\)\(b\)](#), 3(3).
- F53** Words in s. 11(5) inserted (25.9.1991) by [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), [ss. 2\(5\)](#), 3(3).
- F54** S. 11(7) added (25.9.1991) by [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), [ss. 2\(6\)](#), 3(3).
- F549** Words in s. 11(1)(a) inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), [ss. 50, 59](#), [Sch. 6 para.10\(2\)\(a\)](#); S.S.I. 2004/407, [art. 2](#)
- F550** Words in s. 11(1)(a) substituted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), [ss. 50, 59](#), [Sch. 6 para.10\(2\)\(b\)](#); S.S.I. 2004/407, [art. 2](#)
- F551** S. 11(1)(aa) inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), [ss. 50, 59](#), [Sch. 6 para.10\(3\)](#); S.S.I. 2004/407, [art. 2](#)
- F552** Words in s. 11(1)(b) substituted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), [ss. 50, 59](#), [Sch. 6 para.10\(4\)](#); S.S.I. 2004/407, [art. 2](#)
- F553** S. 11(1A) inserted (S.) (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 13\(2\)\(a\)](#), 43(1) (with s. 41(1)); S.S.I. 2011/433, [art. 2\(1\)\(c\)\(i\)](#)
- F554** Word in s. 11(2)(a) substituted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), [ss. 50, 59](#), [Sch. 6 para.10\(5\)](#); S.S.I. 2004/407, [art. 2](#)
- F555** S. 11(3)-(3B) repealed (S.) (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 13\(2\)\(b\)](#), 43(1) (with s. 41(1)); S.S.I. 2011/433, [art. 2\(1\)\(c\)\(i\)](#)
- F556** S. 11(3)-(3E) substituted (S.) (1.10.2004) for s. 11(3) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), [ss. 50, 59](#), [Sch. 6 para.10\(6\)](#); S.S.I. 2004/407, [art. 2](#)
- F557** S. 11(3D) repealed (S.) (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 13\(2\)\(b\)](#), 43(1) (with s. 41(1)); S.S.I. 2011/433, [art. 2\(1\)\(c\)\(i\)](#)
- F558** S. 11(4A) inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), [ss. 50, 59](#), [Sch. 6 para.10\(7\)](#); S.S.I. 2004/407, [art. 2](#)
- F559** Words in s. 11(5) substituted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), [ss. 50, 59](#), [Sch. 6 para.10\(8\)](#); S.S.I. 2004/407, [art. 2](#)

#### [<sup>F55</sup>11A Snares: training, identification numbers, tags etc.

- (1) Any person who sets a snare in position must have an identification number (see also subsections (3), (4) and (7) in relation to identification numbers and training).
- (2) Any person who sets in position or otherwise uses a snare must ensure—
  - (a) that a tag is fitted on the snare in such a manner that it is not capable of being easily removed from the snare;

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- (b) that there is displayed on the tag (in a manner in which it will remain readable) the identification number of the person who set the snare in position; and
- (c) where the snare is intended to catch the following types of animal—
  - (i) brown hares or rabbits; or
  - (ii) foxes,
 that there is also displayed on the tag (in a manner in which it will remain readable) a statement that it is intended to catch the type of animal in question.
- (3) For the purposes of this section and sections 11D and 11E, the identification number of a person who sets a snare in position is the identification number issued to him by <sup>F56</sup>the] chief constable.
- (4) <sup>F57</sup>The] chief constable—
  - (a) on receipt of an appropriate application from any person for an identification number for the purpose of setting snares in position <sup>F58</sup>...; and
  - (b) on being satisfied that the applicant has been trained to set a snare in position and on the circumstances in which the setting of snares is an appropriate method of predator control,
 must grant the application and issue the applicant with an identification number.
- (5) Any person who fails to comply with subsection (1) is guilty of an offence.
- (6) Any person who—
  - (a) has an identification number and sets in position or otherwise uses a snare; but
  - (b) fails to comply with subsection (2) in any respect,
 is guilty of an offence.
- <sup>F59</sup>(7) .....
- (8) The Scottish Ministers may by order make provision as regards—
  - (a) when a person has been trained to set a snare in position and on the circumstances in which the setting of snares is an appropriate method of predator control;
  - (b) how <sup>F60</sup>the] chief constable is to be satisfied that an applicant for an identification number has been so trained;
  - (c) the manner in which a tag is to be fitted for the purposes of subsection (2)(a) (including the material from which a tag is to be made);
  - (d) the manner in which an identification number is to appear on a tag for the purposes of subsection (2)(b), and in which a statement is to be displayed on a tag for the purposes of subsection (2)(c);
  - (e) the form of and manner of making an application for an identification number;
  - (f) the determining by the Scottish Ministers, or by <sup>F61</sup>the chief constable] in accordance with the order, of any fee to accompany the application and the charging of any such fee;
  - (g) the issuing of identification numbers under subsection (4);
  - (h) the keeping of records of identification numbers issued, the persons to whom they are issued and the sharing of information from such records;
  - (i) such other matters in relation to training, tags or identification numbers (including the making of an application for, or the issuing of, an identification number) as they consider appropriate.
- (9) In this section—

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“appropriate application” means an application made in accordance with the provisions of an order under subsection (8);

[<sup>F62</sup>“chief constable” means the chief constable of the Police Service of Scotland]

<sup>F63</sup>  
...

#### Textual Amendments

- F55** Ss. 11A-11F inserted (1.1.2012 for specified purposes, 22.11.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 13\(3\)](#), [43\(1\)](#) (with [s. 41\(1\)](#)); [S.S.I. 2011/433](#), [art. 2\(1\)\(c\)\(ii\)\(3A\)\(a\)\(4\)](#)
- F56** Word in [s. 11A\(3\)](#) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), [art. 1](#), [sch. 1 para. 8\(b\)\(i\)](#)
- F57** Word in [s. 11A\(4\)](#) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), [art. 1](#), [sch. 1 para. 8\(b\)\(i\)](#)
- F58** Words in [s. 11A\(4\)\(a\)](#) omitted (1.4.2013) by virtue of [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), [art. 1](#), [sch. 1 para. 8\(b\)\(ii\)](#)
- F59** [S. 11A\(7\)](#) omitted (1.4.2013) by virtue of [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), [art. 1](#), [sch. 1 para. 8\(c\)](#)
- F60** Word in [s. 11A\(8\)\(b\)](#) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), [art. 1](#), [sch. 1 para. 8\(d\)\(i\)](#)
- F61** Words in [s. 11A\(8\)\(f\)](#) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), [art. 1](#), [sch. 1 para. 8\(d\)\(ii\)](#)
- F62** Definition in [s. 11A\(9\)](#) substituted (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), [art. 1](#), [sch. 1 para. 8\(e\)\(i\)](#)
- F63** Definition in [s. 11A\(9\)](#) omitted (1.4.2013) by virtue of [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Modifications and Savings\) Order 2013 \(S.S.I. 2013/119\)](#), [art. 1](#), [sch. 1 para. 8\(e\)\(ii\)](#)

#### 11B Snares: duty to inspect etc.

- (1) Any person who sets a snare in position must while it remains in position inspect it or cause it to be inspected, at least once every day at intervals of no more than 24 hours, for the following purposes—
- to see whether any animal is caught by the snare; and
  - to see whether the snare is free-running.
- (2) Any person who while carrying out such an inspection—
- finds an animal caught by the snare must, during the course of the inspection, release or remove the animal (whether it is alive or dead); and
  - finds that the snare is not free-running must remove the snare or restore it to a state in which it is free-running.
- (3) Subject to the provisions of this Part, any person who—
- without reasonable excuse, contravenes subsection (1); or
  - contravenes subsection (2),
- is guilty of an offence.
- (4) For the purposes of this section, a snare is “free-running” if—
- it is not self-locking;

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- (b) it is not capable (whether because of rust, damage or other condition or matter) of locking; and
- (c) subject only to the restriction on such movement created by the stop fitted in accordance with section 11(1A)(a) or (b), the noose of the snare is able at all times freely to become wider or tighten (and is not prevented from doing so whether because of rust, damage or other condition or matter other than the stop).

#### Textual Amendments

**F55** Ss. 11A-11F inserted (1.1.2012 for specified purposes, 22.11.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 13(3), 43(1)** (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(c)(ii)(3A)(a)(4)

### 11C Snares: authorisation from landowners etc.

Subject to the provisions of this Part, any person who without reasonable excuse—

- (a) while on any land has in his possession any snare without the authorisation of the owner or occupier of the land; or
- (b) sets any snare in position on any land without the authorisation of the owner or occupier of the land,

is guilty of an offence.

#### Textual Amendments

**F55** Ss. 11A-11F inserted (1.1.2012 for specified purposes, 22.11.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 13(3), 43(1)** (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(c)(ii)(3A)(a)(4)

### 11D Snares: presumption arising from identification number

The identification number which appears on a tag fitted on a snare is presumed in any proceedings to be the identification number of the person who set the snare in position.

#### Textual Amendments

**F55** Ss. 11A-11F inserted (1.1.2012 for specified purposes, 22.11.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 13(3), 43(1)** (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(c)(ii)(3A)(a)(4)

### 11E Snares: record keeping

- (1) Any person who has an identification number must keep a record of the following—
  - (a) the location of every snare set in position by the person which remains in position;
  - (b) the location of every other snare set in position by the person within the past two years;
  - (c) the date on which each snare mentioned in paragraph (a) or (b) was set;



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- (d) the date on which each snare mentioned in paragraph (b) was removed;
  - (e) in relation to each animal caught in a snare mentioned in paragraph (a) or (b)—
    - (i) the type of animal;
    - (ii) the date it was found;
  - (f) such other information as the Scottish Ministers may by order specify.
- (2) For the purposes of subsection (1)(a) and (b), the location of a snare is to be recorded—
- (a) by reference to a map; or
  - (b) by such other means (for example, by means of a description) capable of readily identifying the location.
- (3) Any person who, without reasonable excuse, fails to comply with the duty under subsection (1) is guilty of an offence.
- (4) Any person who—
- (a) is requested to produce the record kept under subsection (1) to a constable; and
  - (b) fails to do so within 21 days of being so requested,
- is guilty of an offence.
- (5) Subsection (1) does not apply in relation to any snare set in position by a person before the person is issued with an identification number.

#### Textual Amendments

**F55** Ss. 11A-11F inserted (1.1.2012 for specified purposes, 22.11.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 13(3), 43(1)** (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(c)(ii)(3A)(a)(4)

#### 11F Snaring: review and report to the Scottish Parliament

- (1) The Scottish Ministers must carry out, or secure the carrying out by another person of, a review of the operation and effect of—
- (a) section 11 and any orders made under that section (in so far as the section and the orders make provision as regards snaring);
  - (b) sections 11A, 11B, 11C, 11D and 11E and any orders made under those sections.
- (2) A review must be carried out under subsection (1) no later than—
- (a) 31st December 2016 (“the first review date”);
  - (b) the end of the period of 5 years beginning with the first review date; and
  - (c) the end of each subsequent period of 5 years.
- (3) In carrying out a review under subsection (1), the matters that must be considered include whether in the opinion of the Ministers (or, if the review is being carried out by another person, that person) amendment of this Act or enactment of other legislation is appropriate.
- (4) In carrying out a review under subsection (1), the Scottish Ministers (or, if the review is being carried out by another person, that person) must consult such persons and organisations as they consider (or, as the case may be, the other person considers) have an interest in it.

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- (5) The Scottish Ministers must, as soon as practicable after a review is carried out under subsection (1), lay a report of the review before the Scottish Parliament.]

#### Textual Amendments

**F55** Ss. 11A-11F inserted (1.1.2012 for specified purposes, 22.11.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 13(3), 43(1)** (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(c)(ii)(3A)(a)(4)

#### [<sup>F64</sup>11G Prevention of poaching: wild hares, rabbits etc.

- (1) Subject to the provisions of this Part, any person who intentionally or recklessly kills, injures or takes any wild animal included in Schedule 6A is guilty of an offence.
- (2) In any proceedings for an offence under subsection (1), the animal in question is to be presumed to have been a wild animal unless the contrary is shown.

#### Textual Amendments

**F64** Ss. 11G , 11H inserted (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 7(3), 43(1)** (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(e)

#### 11H Exceptions to s. 11G

- (1) A person is not guilty of an offence under section 11G(1)—
- (a) by reason of the killing of an animal included in Schedule 6A if he had a legal right, or permission from a person who had a right to give permission, to kill such an animal; or
  - (b) by reason of the taking of such an animal if he had a legal right, or permission from a person who had a right to give permission, to take such an animal.
- (2) A person is not guilty of an offence under section 11G(1) by reason of the killing of an animal included in Schedule 6A if he shows that the animal had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering.
- (3) Nothing in section 11G makes unlawful—
- (a) anything done in pursuance of a requirement by the Scottish Ministers under section 39 of the Agriculture (Scotland) Act 1948; or
  - (b) anything done under, or in pursuance of an order made under, the Animal Health Act 1981.]

#### Textual Amendments

**F64** Ss. 11G , 11H inserted (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 7(3), 43(1)** (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(e)

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[<sup>F65</sup>**11I Sale, possession etc. of wild hares, rabbits etc. killed or taken unlawfully**

- (1) Any person who does any of the following is guilty of an offence—
- (a) has in his possession or control any live or dead wild animal which has been killed or taken in contravention of section 10A or 11G, or any part of or anything derived from such an animal;
  - (b) sells, offers or exposes for sale, or has in his possession or transports for the purposes of sale any such animal or any part of or anything derived from such an animal; or
  - (c) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells or intends to buy or sell any of those things.
- (2) A person is not guilty of an offence under subsection (1) in relation to an activity mentioned in that subsection if he shows that he carried out the activity concerned with reasonable excuse.
- (3) In any proceedings for an offence under subsection (1), the animal in question is to be presumed to have been a wild animal unless the contrary is shown.]

**Textual Amendments**

- F65** S. 11I inserted (S.) (29.6.2011 for specified purposes, 1.1.2012 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 8(2), 43(1)** (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(f); S.S.I. 2011/433, art. 2(1)(b)

[<sup>F66</sup>**12YA Relaxation of restriction on night shooting of hares and rabbits**

Schedule 7, which amends certain Acts prohibiting night shooting of hares and rabbits by occupiers of land etc., has effect.]

**Textual Amendments**

- F66** S. 12YA inserted (S.) (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 11(2), 43(1)** (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(b)

**12 Protection of certain mammals.**

[<sup>F67</sup>Schedule 7, which amends the law relating to the protection of certain mammals, shall have effect.]

**Textual Amendments**

- F67** S. 12 repealed (S.) (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 11(3), 43(1)** (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(b)

*Protection of plants*

**13 Protection of wild plants. E+W**

- (1) Subject to the provisions of this Part, if any person—

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- (a) intentionally picks, uproots or destroys any wild plant included in Schedule 8; or
  - (b) not being an authorised person, intentionally uproots any wild plant not included in that Schedule,
- he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person—
- (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live or dead wild plant included in Schedule 8, or any part of, or anything derived from, such a plant; or
  - (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,
- he shall be guilty of an offence.
- (3) Notwithstanding anything in subsection (1), a person shall not be guilty of an offence by reason of any act made unlawful by that subsection if he shows that the act was an incidental result of a lawful operation and could not reasonably have been avoided.
- (4) In any proceedings for an offence under subsection (2)(a), the plant in question shall be presumed to have been a wild plant unless the contrary is shown.

#### Extent Information

**E11** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

### 13 Protection of wild plants. **S**

- (1) Subject to the provisions of this Part, if any person—
- (a) intentionally [<sup>F560</sup>or recklessly] picks, uproots or destroys [<sup>F561</sup>(i)] any wild plant included in Schedule 8; or [<sup>F562</sup>(ii)] any seed or spore attached to any such wild plant; or
  - (b) not being an authorised person, intentionally [<sup>F563</sup>or recklessly] uproots any wild plant not included in that Schedule,
- he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person—
- (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live or dead wild plant included in Schedule 8, or any part of, or anything derived from, such a plant; or
  - (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,
- he shall be guilty of an offence.
- (3) Notwithstanding anything in subsection (1), a person shall not be guilty of an offence by reason of any act made unlawful by that subsection [<sup>F564</sup> (“an unlawful act”) if he shows—
- (a) that the unlawful act was the incidental result of a lawful operation or other activity;
  - (b) that the person who carried out the lawful operation or other activity—

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- (i) took reasonable precautions for the purpose of avoiding carrying out the unlawful act; or
  - (ii) did not foresee, and could not reasonably have foreseen, that the unlawful act would be an incidental result of the carrying out of the lawful operation or other activity; and
- (c) that the person who carried out the unlawful act took, immediately upon the consequence of that act becoming apparent, such steps as were reasonably practicable in the circumstances to minimise the damage to the wild plant in relation to which the unlawful act was carried out.]

[<sup>F565</sup>(3A) 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 shall be guilty of an offence.]

(4) In any proceedings for an offence under subsection (2)(a) [<sup>F566</sup>or for an offence under subsection (3A) relating to an act which is mentioned in subsection (2)(a)] , the plant in question shall be presumed to have been a wild plant unless the contrary is shown.

#### Extent Information

**E38** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

**F560** Words in s. 13(1)(a) inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 11\(2\)\(a\)](#); S.S.I. 2004/407, [art. 2](#)

**F561** Words in s. 13(1)(a) renumbered (S.) (1.10.2004) as s. 13(1)(a)(i) by virtue of [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 11\(2\)\(b\)](#); S.S.I. 2004/407, [art. 2](#)

**F562** S. 13(1)(a)(ii) inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 11\(2\)\(c\)](#); S.S.I. 2004/407, [art. 2](#)

**F563** Words in s. 13(1)(b) inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 11\(3\)](#); S.S.I. 2004/407, [art. 2](#)

**F564** Words in s. 13(3) substituted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 11\(4\)](#); S.S.I. 2004/407, [art. 2](#)

**F565** S. 13(3A) inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 11\(5\)](#); S.S.I. 2004/407, [art. 2](#)

**F566** Words in s. 13(4) inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 11\(6\)](#); S.S.I. 2004/407, [art. 2](#)

### Miscellaneous

#### 14 Introduction of new species etc. **E+W**

- (1) Subject to the provisions of this Part, if any person releases or allows to escape into the wild any animal which—
- (a) is of a kind which is not ordinarily resident in and is not a regular visitor to Great Britain in a wild state; or
  - (b) is included in Part I [<sup>F68</sup>, IA or IB] of Schedule 9,
- he shall be guilty of an offence.

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- (2) Subject to the provisions of this Part, if any person plants or otherwise causes to grow in the wild any plant which is included in Part II of Schedule 9, he shall be guilty of an offence.
- (3) Subject to subsection (4), it shall be a defence to a charge of committing an offence under subsection (1) or (2) to prove that the accused took all reasonable steps and exercised all due diligence to avoid committing the offence.
- (4) Where the defence provided by subsection (3) involves an allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on the defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice giving such information identifying or assisting in the identification of the other person as was then in his possession.
- [<sup>F69</sup>(4A) Schedule 9A contains provision about species control agreements and orders and related matters.]
- <sup>F70</sup>(5) .....
- <sup>F70</sup>(6) .....

#### Extent Information

- E12** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

- F68** Words in s. 14(1)(b) inserted (E.W.) (5.3.2015 for E.) by [Infrastructure Act 2015 \(c. 7\)](#), **ss. 25(2)**, 57(4); [S.I. 2015/481](#), **reg. 2(c)**
- F69** S. 14(4A) inserted (E.W.) (12.4.2015) by [Infrastructure Act 2015 \(c. 7\)](#), **ss. 23(2)**, 57(4); [S.I. 2015/481](#), **reg. 3(a)**; [S.I. 2015/990](#), **reg. 2**
- F70** S. 14(5)(6) repealed (E.W.) (30.1.2001) by [2000 c. 37](#), **ss. 102**, 103(2), **Sch. 16 Pt. IV**

#### Modifications etc. (not altering text)

- C3** S. 14 excluded (E.W.) (21.8.2007) by [S.I. 1994/2716](#), **reg. 37C(9)** (as inserted by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#) {**reg. 5(12)**})
- C4** S. 14 excluded (E.W.) (1.4.2010) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), **regs. 1(2)**, **52(8)**

## 14 Introduction of new species etc. **S**

- [<sup>F567</sup>(1) Subject to the provisions of this Part, any person who—
- (a) releases, or allows to escape from captivity, any animal—
    - (i) to a place outwith its native range; or
    - (ii) of a type the Scottish Ministers, by order, specify; or
  - (b) otherwise causes any animal outwith the control of any person to be at a place outwith its native range,
- is guilty of an offence.
- (2) Subject to the provisions of this Part, any person who plants, or otherwise causes to grow, any plant in the wild at a place outwith its native range is guilty of an offence.

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- (2A) Subsection (1) does not apply to the following animals where those animals are released or allowed to escape from captivity for the purpose of being subsequently killed by shooting—
- (a) common pheasant;
  - (b) red-legged partridge.
- (2B) The Scottish Ministers may, by order, specify—
- (a) other types of animals to which subsection (1)(a)(i) or (1)(b) does not apply; and
  - (b) types of plants to which subsection (2) does not apply.
- (2C) The Scottish Ministers may, by order, disapply subsection (1) or (2) in relation to—
- (a) any person specified in the order;
  - (b) any conduct undertaken for the purposes of any enactment (including any enactment contained in or made under an Act of the Scottish Parliament) so specified; or
  - (c) any conduct authorised by, under or in pursuance of any such enactment.
- (2D) An order under subsection (1)(a)(ii), (2B) or (2C) may make different provision for different cases and, in particular, for—
- (a) different types of animal or plant;
  - (b) different circumstances or purposes;
  - (c) different persons;
  - (d) different times of the year; and
  - (e) different areas or places.]
- (3) Subject to subsection (4), it shall be a defence to a charge of committing an offence under subsection (1) or (2) to [<sup>F568</sup>show] that the accused took all reasonable steps and exercised all due diligence to avoid committing the offence.
- (4) Where the defence provided by subsection (3) involves an allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on the defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice giving such information identifying or assisting in the identification of the other person as was then in his possession.

<sup>F569</sup>(5) .....

<sup>F569</sup>(6) .....

#### Extent Information

**E39** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

**F567** S. 14(1)-(2D) substituted for s. 14(1)(2) (S.) (1.5.2012 for specified purposes, 2.7.2012 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 14(2)(a)**, 43(1) (with s. 41(1)); S.S.I. 2012/116, art. 2(a)(i); S.S.I. 2012/175, art. 2(1)(a) (with art. 3(3))

**F568** Word in s. 14(3) substituted (S.) (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 14(2)(b)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(a)

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**F569** S. 14(5)(6) repealed (S.) (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 14\(2\)\(c\), 43\(1\)](#) (with s. 41(1)); S.S.I. 2012/175, art. 2(a)

### [<sup>F71</sup>14ZASale etc. of [<sup>F72</sup>certain animals and plants included in Schedule 9]

- (1) Subject to the provisions of this Part, a person is guilty of an offence if he sells, offers or exposes for sale, or has in his possession or transports for the purposes of sale—
  - (a) an animal or plant to which this section applies, or
  - (b) anything from which such an animal or plant can be reproduced or propagated.
- (2) Subject to the provisions of this Part, a person is guilty of an offence if he publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell—
  - (a) an animal or plant to which this section applies, or
  - (b) anything from which such an animal or plant can be reproduced or propagated.
- (3) This section applies to an animal or plant which—
  - (a) is within section 14(1) or (2) (animals and plants which must not be released etc. into the wild),
  - (b) is of a description prescribed for the purposes of this section by an order made by the Secretary of State, and
  - (c) is a live animal or live plant.
- (4) An order under subsection (3) may be made in relation to a particular area or a particular time of the year.
- (5) Subsections (3) and (4) of section 14 (defence of due diligence etc.) apply to an offence under this section as they apply to an offence under that section.]

#### Textual Amendments

- F71** S. 14ZA inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), [ss. 50, 107](#); S.I. 2006/2541, [art. 2](#)
- F72** Words in s. 14ZA heading substituted (5.3.2015 for E.) by [Infrastructure Act 2015 \(c. 7\)](#), [ss. 25\(3\), 57\(4\)](#); S.I. 2015/481, [reg. 2\(c\)](#)

### [<sup>F73</sup>14ZBCodes of practice in connection with [<sup>F74</sup>species which are non-native or included in Schedule 9]

- (1) The Secretary of State may issue or approve a code of practice relating to—
  - (a) animals which are not ordinarily resident in and are not regular visitors to Great Britain in a wild state,
  - (b) animals or plants included in Schedule 9, or
  - (c) any description of animals or plants mentioned in paragraph (a) or (b).
- (2) The Secretary of State may revise or replace a code or approve its revision or replacement.
- (3) The Secretary of State must ensure that a code is published in a way that is appropriate for bringing it to the attention of persons likely to be affected by it.



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- (4) A person's failure to comply with a provision of a code does not make him liable to criminal or civil proceedings.
- (5) A code—
  - (a) is admissible in evidence in any proceedings, and
  - (b) must be taken into account by a court in any case in which it appears to the court to be relevant.]

#### Textual Amendments

- F73** S. 14ZB inserted (E.W.) (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), [ss. 51, 107](#); [S.I. 2006/2541](#), [art. 2](#)
- F74** Words in s. 14ZB heading substituted (5.3.2015 for E.) by [Infrastructure Act 2015 \(c. 7\)](#), [ss. 25\(4\), 57\(4\)](#); [S.I. 2015/481](#), [reg. 2\(c\)](#)

#### [<sup>F75</sup>14ZC] Prohibition on keeping etc. of invasive animals or plants

- (1) Subject to the provisions of this Part, any person who keeps, has in the person's possession, or has under the person's control—
  - (a) any invasive animal of a type which the Scottish Ministers, by order, specify; or
  - (b) any invasive plant of a type so specified,is guilty of an offence.
- (2) An order under subsection (1) may make different provision for different cases and, in particular, for—
  - (a) different types of invasive animal or invasive plant;
  - (b) different circumstances or purposes;
  - (c) different persons;
  - (d) different times of the year; and
  - (e) different areas or places.
- (3) Subject to subsection (4), it is a defence to a charge of committing an offence under subsection (1) to show that the accused took all reasonable steps and exercised all due diligence to avoid committing the offence.
- (4) Where the defence provided by subsection (3) involves an allegation that the commission of the offence was due to the act or omission of another person, the person charged must not, without leave of the court, be entitled to rely on the defence unless, within a period ending 7 days before the hearing, the person has served on the prosecutor a notice giving such information or assisting in the identification of the other person as was then in the person's possession.
- (5) The Scottish Ministers may, in an order under subsection (1), make provision for or in connection with the compensation of persons who, at the time of the coming into force of the order, may no longer keep, have in their possession or have under their control, an animal or plant.]

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#### Textual Amendments

- F75** S. 14ZC inserted (S.) (1.5.2012 for specified purposes, 2.7.2012 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 14(3)**, 43(1) (with s. 41(1)); S.S.I. 2012/116, art. 2(a)(ii); S.S.I. 2012/175, art. 2(1)(a) (with art. 3(3))

### [<sup>F76</sup>14A Prohibition on sale etc. of [<sup>F77</sup>invasive] animals or plants

[<sup>F78</sup>(1) This section applies to—

- (a) any type of invasive animal; or
- (b) any type of invasive plant,

the Scottish Ministers, by order, specify.]

(2) Subject to the provisions of this Part, any person who—

- (a) sells, offers or exposes for sale or has in the person's possession or transports for the purpose of sale any animal or plant to which this section applies; or
- (b) publishes or causes to be published any advertisement likely to be understood as conveying that the person buys or sells, or intends to buy or sell, any such animal or plant,

is guilty of an offence.

[<sup>F79</sup>(3) An order under subsection (1) may make different provision for different cases and, in particular, for—

- (a) different types of invasive animal or invasive plant;
- (b) different circumstances or purposes;
- (c) different persons;
- (d) different times of the year; and
- (e) different areas or places.]]

#### Textual Amendments

- F76** Ss. 14A, 14B inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, **Sch. 6 para. 13**; S.S.I. 2004/407, art. 2
- F77** Word in s. 14A heading substituted (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 14(4)(a)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(a)
- F78** S. 14A(1) substituted (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 14(4)(b)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(a)
- F79** S. 14A(3) substituted (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 14(4)(c)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(a)

### [<sup>F80</sup>14B Notification of presence of invasive animals or plants etc.

(1) The Scottish Ministers may, by order, make provision about the notification of the presence of—

- (a) invasive animals; or
- (b) invasive plants,

at any specified place outwith their native range where persons are, or become, aware of the presence of such animals or plants.

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- (2) An order under subsection (1) may make provision for, or in connection with—
  - (a) the persons (or types of persons) who must make a notification;
  - (b) the circumstances in which a notification must be made;
  - (c) the times of the year when a notification must be made;
  - (d) the persons to whom a notification must be made;
  - (e) the form and method of any notification; and
  - (f) the period within which any notification must be made.
- (3) An order under subsection (1) may require a person (or type of person) to make a notification only if the Scottish Ministers consider that the person (or that type of person) has or should have knowledge of, or is likely to encounter, the invasive animal or invasive plant to which the order relates.
- (4) An order under subsection (1) may make different provision for different cases and, in particular, for—
  - (a) different types of invasive animal or invasive plant;
  - (b) different circumstances or purposes;
  - (c) different persons;
  - (d) different times of the year; and
  - (e) different areas or places.
- (5) A person who, without reasonable excuse, fails to make a notification in accordance with the requirements of an order made under subsection (1) is guilty of an offence.]

#### Textual Amendments

**F80** S. 14B substituted (S.) (1.5.2012 for specified purposes, 2.7.2012 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 14(5)**, 43(1) (with s. 41(1)); S.S.I. 2012/116, art. 2(a)(iii); S.S.I. 2012/175, art. 2(1)(a) (with art. 3(3))

#### [<sup>F81</sup>14C Non-native species etc.: code of practice

- (1) The Scottish Ministers may make a code of practice for the purpose of providing practical guidance in respect of—
  - (a) the application of any of sections 14, 14ZC, 14A and 14B;
  - (b) the application of any order made under any of those sections;
  - (c) species control agreements;
  - (d) species control orders;
  - (e) licences granted under section 16(4)(c).
- (2) A code of practice may, in particular, provide guidance on—
  - (a) how Scottish Natural Heritage, the Scottish Environment Protection Agency, the Forestry Commissioners and the Scottish Ministers should co-ordinate the way in which they exercise their respective functions in relation to animals or plants which are outwith their native range;
  - (b) which species, sub-species, varieties or races of animal or plant, or hybrids of animals or plants, are considered to be particular types of animals or plants for the purposes of—
    - (i) this section;

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- (ii) section 14, 14ZC, 14A or 14B;
    - (iii) any order made under any of those sections;
    - (iv) species control agreements;
    - (v) species control orders;
    - (vi) the code;
  - (c) the native range of any type of animal or plant;
  - (d) the circumstances in which any type of animal is considered to be—
    - (i) in captivity; or
    - (ii) under the control or otherwise of a person at a place outwith its native range;
  - (e) the circumstances in which a type of plant is considered to be growing in the wild outwith its native range, and conduct that would cause any type of plant to grow in the wild;
  - (f) the circumstances in which a type of invasive animal or plant is considered to be kept in a person's possession or under a person's control;
  - (g) which types of animals or plants are invasive and the circumstances (if any) in which any such type of animal or plant is not considered to be invasive;
  - (h) best practice (where permitted) for—
    - (i) keeping animals of any type which are invasive or which are kept at a place from which they may not be put outwith the control of any person;
    - (ii) keeping plants of any type which are invasive or which are kept at a place outwith their native range;
    - (iii) releasing animals of any type from captivity; and
    - (iv) planting, or otherwise causing to grow, any type of plant in the wild;
  - (i) best practice for—
    - (i) containing, capturing or killing animals of any type which are outwith the control of any person and which are—
      - (A) at a place outwith their native range; or
      - (B) animals of a type specified in an order made under section 14(1)(a)(ii);
    - (ii) containing, uprooting or destroying plants of any type which are growing in the wild outwith their native range; and
    - (iii) transferring animals or plants of any type which are not permitted to be kept by virtue of section 14ZC into the custody of Scottish Natural Heritage or any other person (and for keeping such animals or plants prior to the transfer);
  - (j) the making and content of species control agreements;
  - (k) the making, content of and enforcement of species control orders.
- (3) The Scottish Ministers may revoke, replace or revise a code of practice.
- (4) The first code of practice, and any replacement code of practice, made under this section—
- (a) requires to be laid before, and approved by resolution of, the Scottish Parliament; and
  - (b) comes into effect on such date after approval under paragraph (a) as is specified in the code.

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- (5) Any revision to a code of practice (or revocation of a code of practice which is not being replaced) must—
  - (a) be laid before the Scottish Parliament; and
  - (b) specify the date on which it is to come into effect (such date to be at least 40 days after it is so laid, disregarding any period during which the Parliament is dissolved or in recess).
- (6) The Scottish Parliament may, before any such revision or revocation comes into effect, resolve that it is not to come into effect.
- (7) The Scottish Ministers must publish a code of practice (or any replacement or revision) made under this section no later than the day before the code (or replacement or revision) is to come into effect.
- (8) Before making, revoking, replacing or revising a code of practice, the Scottish Ministers must consult—
  - (a) Scottish Natural Heritage; and
  - (b) any other person appearing to them to have an interest in the code.
- (9) A person's failure to comply with a provision of a code of practice—
  - (a) does not of itself render the person liable to proceedings of any sort; but
  - (b) may be taken into account in determining any question in any such proceedings.
- (10) In any proceedings for an offence under section 14, 14ZC, 14A, 14B or 14K—
  - (a) failure to comply with a relevant provision of a code of practice may be relied upon as tending to establish liability;
  - (b) compliance with a relevant provision of a code of practice may be relied upon as tending to negative liability.]

#### Textual Amendments

**F81** S. 14C inserted (S.) (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), ss. [15](#), [43\(1\)](#) (with s. [41\(1\)](#)); S.S.I. 2011/433, art. [2\(1\)\(d\)](#)

#### [<sup>F82</sup>14D Power to make species control orders

- (1) A relevant body may make an order (a “species control order”) in respect of premises where—
  - (a) it is satisfied of the presence on the premises of—
    - (i) an invasive animal at a place outwith its native range; or
    - (ii) an invasive plant at a place outwith its native range; and
  - (b) any of subsections (2) to (4) applies.
- (2) This subsection applies where—
  - (a) the relevant body has offered to enter into an agreement with the owner or, as the case may be, occupier of the premises to control or eradicate—
    - (i) invasive animals outwith their native range; or
    - (ii) invasive plants outwith their native range,
 on the premises (referred to in this section as a “species control agreement”);

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- (b) 42 days have elapsed since the date of the offer; and
  - (c) the owner or occupier has refused or otherwise failed to enter into the agreement.
- (3) This subsection applies where—
- (a) a person has entered into a species control agreement with the relevant body; and
  - (b) the person has failed to comply with the terms of the agreement.
- (4) This subsection applies where the relevant body has failed to ascertain the name or address of any owner or occupier of the premises (having made reasonable efforts to do so) and accordingly has not been able to offer to enter into a species control agreement.
- (5) Subsection (4) does not apply unless—
- (a) the relevant body has given notice in accordance with subsection (6) stating that it wishes to offer to enter into a species control agreement;
  - (b) 48 hours have passed since the notice was given; and
  - (c) no owner or occupier of the premises has identified themselves to the relevant body.
- (6) A notice under this subsection must be addressed to “The owners and any occupiers” of the premises (describing it) and a copy of it must be affixed to some conspicuous object on the premises (in so doing the relevant body is to be treated as having provided notice to each owner or occupier whose name and address is unknown).

#### Textual Amendments

**F82** Ss. 14D-14P inserted (S.) (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 16, 43\(1\)](#) (with [s. 41\(1\)](#)); [S.S.I. 2012/175](#), [art. 2\(1\)\(b\)](#)

### 14E Emergency species control orders

- (1) Where a relevant body considers that the making of a species control order is urgently necessary, the relevant body may, despite section 14D(1)(b), make a species control order whether or not any of subsections (2) to (4) of section 14D apply (such an order is referred to in this Part as an “emergency species control order”).
- (2) An emergency species control order expires 49 days after it is made.

#### Textual Amendments

**F82** Ss. 14D-14P inserted (S.) (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 16, 43\(1\)](#) (with [s. 41\(1\)](#)); [S.S.I. 2012/175](#), [art. 2\(1\)\(b\)](#)

### 14F Content of species control orders

- (1) A species control order must—
- (a) describe the premises to which it relates;
  - (b) be accompanied by a map on which the premises to which it relates are delineated;
  - (c) specify the type of invasive animal or plant in question;

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- (d) specify—
    - (i) any operations which are to be carried out on the premises for the purpose of controlling or eradicating the type of invasive animal or plant in question;
    - (ii) the person who is to carry out the operations; and
    - (iii) how and when the operations are to be carried out;
  - (e) specify any operations which must not be carried out on the premises (referred to in this Part as “excluded operations”);
  - (f) specify the date on which the order is to come into effect and the period for which it is to have effect; and
  - (g) set out the circumstances in which an appeal may be made under section 14H against either the decision to make the order or the terms of the order.
- (2) A species control order—
- (a) may provide for the making of payments by the relevant body making the order;
  - (b) other than an emergency species control order, may provide for the making of payments by the owner or occupier of the premises to which the order relates, to any person in respect of reasonable costs incurred by a person carrying out an operation under the order.

**Textual Amendments**

**F82** Ss. 14D-14P inserted (S.) (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 16, 43(1)** (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(b)

**14G Notice of species control orders**

- (1) A relevant body making a species control order must give notice of the making of the order—
- (a) to the owner and any occupier of the premises to which the order relates; and
  - (b) where the relevant body is a body other than the Scottish Ministers, to the Scottish Ministers.
- (2) Notice must—
- (a) be in writing;
  - (b) specify the relevant body's reasons for making the order;
  - (c) attach a copy of the order; and
  - (d) where the order is an emergency species control order, state that fact.

**Textual Amendments**

**F82** Ss. 14D-14P inserted (S.) (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 16, 43(1)** (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(b)

**14H Appeals in connection with species control orders**

- (1) Any owner or occupier of premises to which a species control order relates may appeal to the sheriff if aggrieved by—

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- (a) a decision of a relevant body to make the species control order; or
  - (b) the terms of such an order.
- (2) An appeal under subsection (1) must be lodged not later than 28 days after the date on which the relevant body gave notice to the appellant of the decision being appealed.
- (3) The sheriff may suspend any effect of an emergency species control order pending the determination of an appeal.
- (4) The sheriff must determine an appeal under subsection (1) on the merits rather than by way of review and may do so by—
- (a) affirming the order in question;
  - (b) directing the relevant body to amend the order in such manner as the sheriff may specify;
  - (c) directing the relevant body to revoke the order; or
  - (d) making such other order as the sheriff thinks fit.
- (5) A decision of the sheriff on appeal is final except on a point of law.

#### Textual Amendments

**F82** Ss. 14D-14P inserted (S.) (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 16, 43\(1\)](#) (with [s. 41\(1\)](#)); [S.S.I. 2012/175](#), [art. 2\(1\)\(b\)](#)

### 14I Coming into effect of species control orders

Unless a species control order specifies a later date under section 14F(1)(f), such an order has effect from—

- (a) in the case where an order is an emergency species control order, the giving of notice in accordance with section 14G;
- (b) in any other case—
  - (i) the expiry of the time limit for appealing against the decision to make the order; or
  - (ii) where such an appeal is made, its withdrawal or final determination.

#### Textual Amendments

**F82** Ss. 14D-14P inserted (S.) (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 16, 43\(1\)](#) (with [s. 41\(1\)](#)); [S.S.I. 2012/175](#), [art. 2\(1\)\(b\)](#)

### 14J Review of species control orders

- (1) A relevant body which has made a species control order may, when it thinks fit, review the order prior to its expiry for the purposes of determining whether it should make an order revoking the order.
- (2) If, on completion of a review, the relevant body decides that the species control order should be revoked, it may make an order to that effect.
- (3) The making of an order to revoke a species control order does not prevent a relevant body subsequently making a species control order in relation to the same premises.



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#### Textual Amendments

**F82** Ss. 14D-14P inserted (S.) (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 16, 43\(1\)](#) (with [s. 41\(1\)](#)); [S.S.I. 2012/175](#), [art. 2\(1\)\(b\)](#)

### 14K Offences in relation to species control orders

- (1) Any person who, without reasonable excuse, fails to carry out, in the manner required by a species control order, an operation which the person is required by the order to carry out is guilty of an offence.
- (2) Any person who intentionally obstructs any person from carrying out an operation required to be carried out under a species control order is guilty of an offence.
- (3) Any person who, without reasonable excuse, carries out, or causes or permits to be carried out, any excluded operation is guilty of an offence.

#### Textual Amendments

**F82** Ss. 14D-14P inserted (S.) (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 16, 43\(1\)](#) (with [s. 41\(1\)](#)); [S.S.I. 2012/175](#), [art. 2\(1\)\(b\)](#)

### 14L Enforcement of operations under species control orders

- (1) This section applies where a relevant body considers—
  - (a) that any operation required to be carried out by a species control order it has made has not been carried out within the period or by the date specified in it; or
  - (b) that any such operation has been carried out otherwise than in the manner required under the order.
- (2) The relevant body—
  - (a) may carry out the operation, or such further work as is necessary to ensure that it is carried out, in the manner required under the order;
  - (b) is not required to make any payment (and may recover any payments made) in pursuance of the species control order in relation to the operation in question; and
  - (c) may recover from the person whom the species control order required to carry out the operation any expenses reasonably incurred by it in doing so (less any payment which the relevant body is required to make in relation to the carrying out of the operation under the order by virtue of section 14F(2)(a)).

#### Textual Amendments

**F82** Ss. 14D-14P inserted (S.) (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 16, 43\(1\)](#) (with [s. 41\(1\)](#)); [S.S.I. 2012/175](#), [art. 2\(1\)\(b\)](#)

### 14M Species control orders: powers of entry

- (1) A person authorised in writing by a relevant body may enter any premises for any of the following purposes—

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- (a) to determine whether or not to offer to enter into a species control agreement with the owner or, as the case may be, occupier of the premises;
  - (b) to determine whether or not to make or revoke a species control order;
  - (c) to serve notice to an owner or occupier of premises in accordance with section 14D(5)(a) or 14G;
  - (d) to ascertain whether an offence under section 14K is being, or has been, committed in relation to an order made by the relevant body;
  - (e) to carry out an operation or other work in pursuance of section 14L(2)(a).
- (2) A person so authorised to enter premises may not demand admission as of right to any land which is occupied unless—
- (a) the entry is for a purpose mentioned in subsection (1)(a) or (b) and at least 24 hours' notice of the intended entry has been given;
  - (b) the entry is for a purpose mentioned in subsection (1)(c) or (d); or
  - (c) the entry is for a purpose mentioned in subsection (1)(e) and at least 14 days' notice of the intended entry has been given.
- (3) Subsection (2) does not apply in relation to entry in connection with an emergency species control order.
- (4) Nothing in this section authorises any person to break any lock barring access to premises which the person is authorised to enter.

#### Textual Amendments

**F82** Ss. 14D-14P inserted (S.) (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 16, 43\(1\)](#) (with [s. 41\(1\)](#)); [S.S.I. 2012/175](#), [art. 2\(1\)\(b\)](#)

#### 14N Species control orders: entry by warrant etc.

- (1) If a sheriff or justice of the peace is satisfied, by evidence on oath, that there are reasonable grounds for a person authorised by a relevant body to enter premises for a purpose mentioned in section 14M(1) and that—
- (a) admission to the premises has been refused;
  - (b) such refusal is reasonably apprehended;
  - (c) the premises are unoccupied;
  - (d) the occupier is temporarily absent from the premises;
  - (e) the giving of notice under section 14M(2) would defeat the object of the proposed entry; or
  - (f) the situation is one of urgency,
- the sheriff or justice may grant a warrant authorising the person to enter premises (including lockfast places), if necessary using reasonable force.
- (2) In the cases of a warrant under subsection (1)(a) to (d), a sheriff or justice must not grant a warrant unless satisfied that notice of the intended entry has been given in the manner described in section 14M.
- (3) A warrant under this section—
- (a) may be executed without notice; and
  - (b) continues in force until the purpose for which the entry is required has been satisfied or, if earlier, the expiry of such period as the warrant may specify.

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- (4) Any person authorised by a warrant to enter any premises must, if required to do so by the owner or occupier or anyone acting on the owner or occupier's behalf, show that person the warrant.
- (5) Any person authorised by a warrant to use reasonable force—
  - (a) must be accompanied by a constable when doing so; and
  - (b) may not use force against an individual.

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**Textual Amendments**

**F82** Ss. 14D-14P inserted (S.) (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 16, 43(1)** (with [s. 41\(1\)](#)); S.S.I. 2012/175, art. 2(1)(b)

## **14O Species control orders: powers of entry: supplemental**

- (1) Any person who exercises a power of entry to premises in accordance with section 14M or 14N may—
  - (a) be accompanied by any other person; and
  - (b) take any machinery, other equipment or materials on to the premises, for the purpose of assisting the person in the exercise of that power.
- (2) A power specified in subsection (1) which is exercisable under a warrant is subject to the terms of the warrant.
- (3) Any person leaving any premises which have been entered in exercise of a power conferred by section 14M or a warrant granted under section 14N, being either unoccupied premises or premises from which the occupier is temporarily absent, must leave the premises as effectively secured against unauthorised entry as the person found the premises.
- (4) A relevant body must compensate any person who has sustained damage by reason of—
  - (a) the exercise by a person authorised by the relevant body of any powers of entry conferred on the person by section 14M or a warrant granted under section 14N; or
  - (b) the failure of a person so authorised to perform the duty imposed by subsection (3),unless the damage is attributable to the fault of the person who sustained it.
- (5) Any dispute as to a person's entitlement to compensation, or to the amount of such compensation, is to be determined by arbitration.

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**Textual Amendments**

**F82** Ss. 14D-14P inserted (S.) (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 16, 43(1)** (with [s. 41\(1\)](#)); S.S.I. 2012/175, art. 2(1)(b)

## **14P Interpretation of sections 14 to 14O**

- (1) This section applies to sections 14 to 14O only.

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- (2) Any reference to the native range of an animal or plant, or a type of animal or plant, is a reference to the locality to which the animal or plant of that type is indigenous, and does not refer to any locality to which that type of animal or plant has been imported (whether intentionally or otherwise) by any person.
- (3) The native range of a hybrid animal or plant is any locality within the native range of both parents of the hybrid animal or plant.
- (4) Any reference to an invasive animal or invasive plant, or type of such an animal or plant, is a reference to an animal or plant of a type which if not under the control of any person, would be likely to have a significant adverse impact on—
  - (a) biodiversity;
  - (b) other environmental interests; or
  - (c) social or economic interests.
- (5) Any reference to premises—
  - (a) includes reference to land (including lockfast places and other buildings), movable structures, vehicles, vessels, aircraft and other means of transport; but
  - (b) does not include reference to dwellings.
- (6) Any reference to a relevant body is a reference to—
  - (a) the Scottish Ministers;
  - (b) Scottish Natural Heritage;
  - (c) the Scottish Environment Protection Agency; or
  - (d) the Forestry Commissioners.
- (7) Any reference to an animal includes a reference to ova, semen and milt of the animal.
- (8) “Plant” includes fungi and any reference to a plant includes a reference to—
  - (a) bulbs, corms and rhizomes of the plant; and
  - (b) notwithstanding section 27(3ZA), seeds and spores of the plant.]

#### Textual Amendments

**F82** Ss. 14D-14P inserted (S.) (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 16, 43(1)** (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(b)

## 15 Endangered species (import and export).

- <sup>x1</sup>(1) The <sup>M9</sup>Endangered Species (Import and Export) Act 1976 shall have effect subject to the amendments provided for in Schedule 10 ; and in that Schedule “the 1976 Act” means that Act.
- (2) The functions of the [<sup>F83</sup>GB conservation bodies] shall include power to advise or assist—
  - (a) any constable;
  - (b) any officer commissioned or other person appointed or authorised by the Commissioners of Customs and Excise to exercise any function conferred on the Commissioners by the said Act of 1976; or

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- (c) any person duly authorised by the Secretary of State under section 7(3) of that Act,  
in, or in connection with, the enforcement of that Act or any order made under it.

#### Editorial Information

- X1** The text of ss. 15(1), 38(6), 40, 46(1)-(3), and 47(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

#### Textual Amendments

- F83** Words in s. 15(2) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1), 107, [Sch. 11 para. 71](#); S.I. 2006/2541, [art. 2](#)

#### Marginal Citations

- M9** [1976 c. 72](#).

### [<sup>F84</sup>15A Possession of pesticides

- (1) Any person who is in possession of any pesticide containing one or more prescribed active ingredient shall be guilty of an offence.
- (2) A person shall not be guilty of an offence under subsection (1) if the person shows that the possession of the pesticide was for the purposes of doing anything in accordance with—
- (a) any regulations made under section 16(2) of the Food and Environment Protection Act 1985 (c. 48), or
- [<sup>F85</sup>(b) Regulation (EU) No 528/2012 of the European Parliament and of the Council.]

[ Subject to the provisions of this Part, any person who knowingly causes or permits to <sup>F86</sup>(2A) be done an act which is made unlawful by subsection (1) shall be guilty of an offence.]

- (3) In this section—
- “pesticide” has the meaning given in the Food and Environment Protection Act 1985 (c. 48), and
- “prescribed active ingredient” means an ingredient of a pesticide which fits it for use as such and which is of a type prescribed by order made by the Scottish Ministers.]

#### Textual Amendments

- F84** S. 15A inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 14](#); S.S.I. 2004/407, [art. 2](#)
- F85** S. 15A(2)(b) substituted (1.9.2013) by [The Biocidal Products and Chemicals \(Appointment of Authorities and Enforcement\) Regulations 2013 \(S.I. 2013/1506\)](#), reg. 2(1), [Sch. 5 para. 1](#) (with regs. 3(4)(5), 31)
- F86** S. 15A(2A) inserted (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 21\(4\)](#), 43(1) (with s. 41(1)); S.S.I. 2011/433, [art. 2\(1\)\(e\)](#)

*Status: Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Supplemental

#### 16 Power to grant licences. **E+W**

(1) Sections 1, 5, 6(3), 7 and 8 and orders under section 3 do not apply to anything done—

- [<sup>F87</sup>(a) for scientific, research or educational purposes;]
- (b) for the purpose of ringing or marking, or examining any ring or mark on, wild birds;
- (c) for the purpose of conserving wild birds;
- [<sup>F88</sup>(ca) for the purposes of the re-population of an area with, or the re-introduction into an area of, wild birds, including any breeding necessary for those purposes;
- (cb) for the purpose of conserving flora or fauna;]
- (d) for the purpose of protecting any collection of wild birds;
- (e) for the purposes of falconry or aviculture;
- (f) for the purposes of any public exhibition or competition;
- (g) for the purposes of taxidermy;
- (h) for the purpose of photography;
- (i) for the purposes of preserving public health or public or air safety;
- (j) for the purpose of preventing the spread of disease; or
- (k) for the purposes of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber [<sup>F89</sup>, fisheries or inland waters],

if it is done under and in accordance with the terms of a licence granted by the appropriate authority.

[<sup>F90</sup>(1A) The appropriate authority—

- (a) shall not grant a licence for any purpose mentioned in subsection (1) unless it is satisfied that, as regards that purpose, there is no other satisfactory solution; and
- (b) shall not grant a licence for any purpose mentioned in paragraphs (e) to (h) of that subsection otherwise than on a selective basis and in respect of a small number of birds.]

(2) Section 1 and orders under section 3 do not apply to anything done for the purpose of providing food for human consumption in relation to—

- (a) a gannet on the island of Sula Sgeir; or
- (b) a gull's egg or, at any time before 15th April in any year, a lapwing's egg,

if it is done under and in accordance with the terms of a licence granted by the appropriate authority.

<sup>F91F92</sup>(3) Sections 9(1), (2) [<sup>F93</sup>, (4) and (4A)], 11(1) and (2) and 13(1) do not apply to anything done—

- (a) for scientific or educational purposes;
- (b) for the purpose of ringing or marking, or examining any ring or mark on, wild animals;
- (c) for the purpose of conserving wild animals or wild plants or introducing them to particular areas;
- (d) for the purpose of protecting any zoological or botanical collection;
- (e) for the purpose of photography;

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- (f) for the purpose of preserving public health or public safety;
- (g) for the purpose of preventing the spread of disease; or
- (h) for the purpose of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries,

if it is done under and in accordance with the terms of a licence granted by the appropriate authority.

(4) The following provisions, namely—

(a) section 6(1) and (2);

<sup>F94</sup>(b) sections 9(5) and 13(2); and

(c) [<sup>F95</sup>sections 14 and 14ZA],

do not apply to anything done under and in accordance with the terms of a licence granted by the appropriate authority.

(5) Subject to [<sup>F96</sup>subsections (5A) and (6)], a licence under the foregoing provisions of this section—

(a) may be, to any degree, general or specific;

(b) may be granted either to persons of a class or to a particular person;

(c) may be subject to compliance with any specified conditions;

(d) may be modified or revoked at any time by the appropriate authority; and

(e) subject to paragraph (d), shall be valid for the period stated in the licence;

and the appropriate authority may charge therefor such reasonable sum (if any) as they may determine.

[<sup>F97</sup>(5A) A licence under subsection (1) which authorises any action in respect of wild birds—

(a) shall specify the species of wild birds in respect of which, the circumstances in which, and the conditions subject to which, the action may be taken;

(b) shall specify the methods, means or arrangements which are authorised or required for the taking of the action; and

(c) subject to subsection (5)(d), shall be valid for the period, not exceeding two years, stated in the licence.]

(6) A licence under subsection [<sup>F98</sup>(2) or (3)] which authorises any person to kill wild birds or wild animals—

(a) shall specify the area within which, and the methods by which the wild birds or wild animals may be killed; and

(b) subject to subsection (5)(d), shall be valid for the period, not exceeding two years, stated in the licence.

(7) It shall be a defence in proceedings for an offence under section 8(b) of the <sup>M10</sup>Protection of Animals Act 1911 or section 7(b) of the <sup>M11</sup>Protection of Animals (Scotland) Act 1912 (which restrict the placing on land of poison and poisonous substances) to show that—

(a) the act alleged to constitute the offence was done under and in accordance with the terms of a licence issued under subsection (1) or (3); and

(b) any conditions specified in the licence were complied with.

(8) For the purposes of a licence granted under the foregoing provisions of this section, the definition of a class of persons may be framed by reference to any circumstances whatever including, in particular, their being authorised by any other person.

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- [<sup>F99</sup>(8A) In this section, in the case of a licence under any of subsections (1) to (4), so far as relating to the restricted English inshore region (see subsection (12)), “the appropriate authority” means the Marine Management Organisation.]
- [<sup>F100</sup>(8C) In this section, in the case of a licence under any of subsections (1) to (4), so far as relating to Wales, “the appropriate authority” means the Natural Resources Body for Wales.]
- (9) [<sup>F101</sup>Except as provided by [<sup>F102</sup>subsections (8A) and (8C)],] In this section “the appropriate authority” means—
- (a) in the case of a licence under [<sup>F103</sup>any of paragraphs (a) to (cb)] of subsection (1), either the Secretary of State after consultation with whichever one of the advisory bodies he considers is best able to advise him as to whether the licence should be granted, or the [<sup>F104</sup>relevant][<sup>F105</sup>conservation body];
  - (b) in the case of a licence under any of paragraphs (d) to (g) of subsection (1), subsection (2) or paragraph (a) or (b) of subsection (4), the Secretary of State after such consultation as aforesaid;
  - (c) in the case of a licence under paragraph (h) of subsection (1) or any of paragraphs (a) to (e) of subsection (3), the [<sup>F104</sup>relevant][<sup>F105</sup>conservation body];
  - (d) in the case of a licence under paragraph (i), (j) or (k) of subsection (1) or paragraph (f), (g) or (h) of subsection (3) or a licence under paragraph (c) of subsection (4) which authorises anything to be done in relation to fish or shellfish, the agriculture Minister; and
  - (e) in the case of any other licence under paragraph (c) of subsection (4), the Secretary of State.
- [<sup>F106</sup>(9A) In this section “re-population” and “re-introduction”, in relation to wild birds, have the same meaning as in [<sup>F107</sup>the Wild Birds Directive].]
- (10) The agriculture Minister—
- (a) shall from time to time consult with [<sup>F108</sup>each of the [<sup>F109</sup>GB conservation bodies]] as to the exercise [<sup>F110</sup>in the area of that [<sup>F111</sup>body]] of his functions under this section; and
  - (b) shall not grant a licence of any description unless he has been advised by the [<sup>F112</sup>relevant [<sup>F105</sup>conservation body]] as to the circumstances in which, in their opinion, licences of that description should be granted.
- [<sup>F113</sup>(11) For the purposes of this section a reference to a relevant Nature Conservancy Council is a reference to the [<sup>F105</sup>conservation body] for the area in which it is proposed to carry on the activity requiring a licence.]
- [<sup>F114</sup>(12) In this section—
- (a) “the restricted English inshore region” means so much of the English inshore region as lies to seaward of mean low water mark;
  - (b) “the English inshore region” has the meaning given by section 322 of the Marine and Coastal Access Act 2009.
- [ “Wales” has the meaning given by section 158 of the Government of Wales
- <sup>F115</sup>(c) Act 2006.]]



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### Extent Information

- E13** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

### Textual Amendments

- F87** S. 16(1)(a) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(2)(a)**
- F88** S. 16(1)(ca)(cb) inserted (30.11.1995) by S.I. 1995/2825, **reg. 3(2)(b)**
- F89** Words in s. 16(2)(k) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(2)(c)**
- F90** S. 16(1A) inserted (30.11.1995) by S.I. 1995/2825, **reg. 3(3)**
- F91** Word in s. 16(3) inserted (S.) (29.6.2011 for specified purposes, 1.1.2012 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 9(a)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, **art. 2(1)(g)**; S.S.I. 2011/433, **art. 2(1)(b)**
- F92** Word in s. 16(3) inserted (S.) (29.6.2011 for specified purposes, 1.1.2012 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 9(a)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, **art. 2(1)(g)**; S.S.I. 2011/433, **art. 2(1)(b)**
- F93** Words in s. 16(3) substituted (E.W.) (30.1.2001) by 2000 c. 37, **ss. 81(1)**, 103(2), **Sch. 12 para. 6**
- F94** Word in s. 16(4)(b) inserted (S.) (29.6.2011 for specified purposes, 1.1.2012 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 9(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, **art. 2(1)(g)**; S.S.I. 2011/433, **art. 2(1)(b)**
- F95** Words in s. 16(4) substituted (E.W.) (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), **ss. 105(1)**, 107, **Sch. 11 para. 72(2)**; S.I. 2006/2541, **art. 2**
- F96** Words in s. 16(5) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(4)**
- F97** S. 16(5A) inserted (30.11.1995) by S.I. 1995/2825, **reg. 3(5)**
- F98** Words in s. 16(6) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(6)**
- F99** S. 16(8A) inserted (1.4.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), **ss. 10(2)(5)**, 324(3); S.I. 2010/298, **art. 2**, **Sch. Pt. 1 para. 2**
- F100** S. 16(8C) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), **art. 1(2)**, **Sch. 2 para. 170(2)** (with **Sch. 7**)
- F101** Words in s. 16(9) inserted (1.4.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), **ss. 10(3)(5)**, 324(3); S.I. 2010/298, **art. 2**, **Sch. Pt. 1 para. 2**
- F102** Words in s. 16(9) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), **art. 1(2)**, **Sch. 2 para. 170(3)** (with **Sch. 7**)
- F103** Words in s. 16(9)(a) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(7)**
- F104** Word in s. 16(9) inserted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 132(1)(a), **Sch. 9 para. 11(4)(a)**; S.I. 1991/685, **art. 3**
- F105** Words in s. 15(9)(a)(c)(10)(b)(11) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), **ss. 105(1)**, 107, **Sch. 11 para. 72(3)**; S.I. 2006/2541, **art. 2**
- F106** S. 16(9A) inserted (30.11.1995) by S.I. 1995/2825, **reg. 3(8)**
- F107** Words in s. 16(9A) substituted (E.W.) (21.8.2007) by [The Conservation \(Natural Habitats, & c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), **reg. 7(5)**
- F108** Words in s. 16(10)(a) substituted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 132(1)(a), **Sch. 9 para. 11(4)(b)**; S.I. 1991/685, **art. 3**
- F109** Words in s. 16(10)(a) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), **ss. 105(1)**, 107, **Sch. 11 para. 72(4)(a)**; S.I. 2006/2541, **art. 2**
- F110** Words in s. 16(10)(a) inserted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 132(1)(a), **Sch. 9 para. 11(4)(b)**; S.I. 1991/685, **art. 3**
- F111** Word in s. 16(10)(a) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), **ss. 105(1)**, 107, **Sch. 11 para. 72(4)(b)**; S.I. 2006/2541, **art. 2**
- F112** Words in s. 16(10)(b) inserted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 132(1)(a), **Sch. 9 para. 11(4)(c)**; S.I. 1991/685, **art. 3**

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- F113** S. 16(11) inserted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 132(1)(a), [Sch. 9 para. 11\(4\)\(d\)](#); [S.I. 1991/685, art. 3](#)
- F114** S. 16(12) inserted (1.4.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), [ss. 10\(4\)\(5\)](#), 324(3); [S.I. 2010/298, art. 2, Sch. Pt. 1 para. 2](#)
- F115** S. 16(12)(c) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 170\(4\)](#) (with Sch. 7)

#### Modifications etc. (not altering text)

- C5** S. 16: Functions transferred (W.) (1.7.1999) by [S.I. 1999/672, art. 2, Sch. 1](#)

#### Marginal Citations

- M10** 1911 c. 27.  
**M11** 1912 c. 14.

## 16 Power to grant licences. **S**

- (1) Sections 1, 5, 6(3), 7 and 8<sup>F570</sup> ... do not apply to anything done—
- [<sup>F571</sup>(a) for scientific, research or educational purposes;]
  - (b) for the purpose of ringing or marking, or examining any ring or mark on, wild birds;
  - (c) for the purpose of conserving wild birds;
  - [<sup>F572</sup>(ca) for the purposes of the re-population of an area with, or the re-introduction into an area of, wild birds, including any breeding necessary for those purposes;
  - (cb) for the purpose of conserving flora or fauna;]
  - (d) for the purpose of protecting any collection of wild birds;
  - (e) for the purposes of falconry or aviculture;
  - (f) for the purposes of any public exhibition or competition;
  - (g) for the purposes of taxidermy;
  - (h) for the purpose of photography;
  - (i) for the purposes of preserving public health or public or air safety;
  - (j) for the purpose of preventing the spread of disease; or
  - (k) for the purposes of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber [<sup>F573</sup>, fisheries or inland waters],

if it is done under and in accordance with the terms of a licence granted by the appropriate authority.

[<sup>F574</sup>(1A) The appropriate authority—

- (a) shall not grant a licence for any purpose mentioned in subsection (1) unless it is satisfied that, as regards that purpose, there is no other satisfactory solution; and
- (b) shall not grant a licence for any purpose mentioned in paragraphs (e) to (h) of that subsection otherwise than on a selective basis and in respect of a small number of birds.]

(2) Section 1 [<sup>F575</sup>does] not apply to anything done for the purpose of providing food for human consumption in relation to—

- (a) a gannet on the island of Sula Sgeir; or
- (b) a gull's egg<sup>F576</sup> . . . ,

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if it is done under and in accordance with the terms of a licence granted by the appropriate authority.

- (3) Sections 9(1), (2) [F577, (4) and (4A)], [F9210A(1),] 11(1) [F578, (2) and (3C)(a)] [F579, 11C] [F91, 11G(1)] and 13(1) do not apply to anything done—
- (a) for scientific [F580, research] or educational purposes;
  - (b) for the purpose of ringing or marking, or examining any ring or mark on, wild animals;
  - (c) for the purpose of conserving [F581wild birds,] wild animals or wild plants or introducing them to particular areas;
  - [F582](ca) for the purpose of conserving any area of natural habitat;
  - (d) for the purpose of protecting any zoological or botanical collection;
  - (e) for the purpose of photography;
  - (f) for the purpose of preserving public health or public safety;
  - (g) for the purpose of preventing the spread of disease; F583 ...
  - (h) for the purpose of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries [F584, or
  - (i) for any other social, economic or environmental purpose,]

if it is done under and in accordance with the terms of a licence granted by the appropriate authority.

[F585(3A) The appropriate authority shall not grant a licence under subsection (3)(i) unless it is satisfied—

- (a) that undertaking the conduct authorised by the licence will give rise to, or contribute towards the achievement of, a significant social, economic or environmental benefit; and
- (b) that there is no other satisfactory solution.]

(4) The following provisions, namely—

- (a) section 6(1) and (2);
- (b) sections 9(5) [F94, 11I(1)] and 13(2); and
- (c) [F586sections 14 [F587, 14ZC] and 14A],

do not apply to anything done under and in accordance with the terms of a licence granted by the appropriate authority.

[F588(4A) The appropriate authority shall not grant a licence under subsection (4) permitting anything to be done in contravention of section 6(1) or (2) unless it is satisfied that there is no other satisfactory solution.]

(5) Subject to [F589subsections (5A) and (6)], a licence under the foregoing provisions of this section—

- (a) may be, to any degree, general or specific;
- (b) may be granted either to persons of a class or to a particular person;
- (c) may be subject to compliance with any specified conditions;
- (d) may be modified or revoked at any time by the appropriate authority; and
- (e) subject to paragraph (d), shall be valid for the period stated in the licence;

and the appropriate authority may charge therefor such reasonable sum (if any) as they may determine.

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- [<sup>F590</sup>(5A) A licence under subsection (1) which authorises any action in respect of wild birds—
- (a) shall specify the species of wild birds in respect of which, the circumstances in which, and the conditions subject to which, the action may be taken;
  - (b) shall specify the methods, means or arrangements which are authorised or required for the taking of the action; and
  - (c) subject to subsection (5)(d), shall be valid for the period, not exceeding two years, stated in the licence.]
- (6) A licence under subsection [<sup>F591</sup>(2) or (3)] which authorises any person to kill wild birds or wild animals—
- (a) shall specify the area within which, and the methods by which the wild birds or wild animals may be killed; and
  - (b) subject to subsection (5)(d), shall be valid for the period, not exceeding two years, stated in the licence.
- (7) It shall be a defence in proceedings for an offence under section 8(b) of the <sup>M43</sup>Protection of Animals Act 1911 or section 7(b) of the <sup>M44</sup>Protection of Animals (Scotland) Act 1912 (which restrict the placing on land of poison and poisonous substances) to show that—
- (a) the act alleged to constitute the offence was done under and in accordance with the terms of a licence issued under subsection (1) or (3); and
  - (b) any conditions specified in the licence were complied with.
- (8) For the purposes of a licence granted under the foregoing provisions of this section, the definition of a class of persons may be framed by reference to any circumstances whatever including, in particular, their being authorised by any other person.
- [<sup>F99</sup>(8A) In this section, in the case of a licence under any of subsections (1) to (4), so far as relating to the restricted English inshore region (see subsection (12)), “the appropriate authority” means the Marine Management Organisation.]
- <sup>F592</sup>[<sup>F593</sup>(8B) . . . . .]
- [<sup>F594</sup>(9) In this section “the appropriate authority” means the Scottish Ministers or such other person to whom the Scottish Ministers delegate power under section 16A.
- (9ZA) The Scottish Ministers must consult Scottish Natural Heritage before granting or modifying a licence under any of subsections (1) to (5).
- (9ZB) Subsection (9ZA) does not apply in relation to licences granted under—
- (a) paragraph (i), (j) or (k) of subsection (1);
  - (b) paragraph (f), (g) or (h) of subsection (3); or
  - (c) paragraph (c) of subsection (4).]

[<sup>F595</sup>(9A) In this section “re-population” and “re-introduction”, in relation to wild birds, have the same meaning as in the Directive of the Council of the European Communities dated 2nd April 1979 ( No. 79/409/ EEC ) on the conservation of wild birds.]

(10) The agriculture Minister—

    - (a) shall from time to time consult with [<sup>F596</sup>each of the [<sup>F597</sup>GB conservation bodies]] as to the exercise [<sup>F598</sup>in the area of that [<sup>F599</sup>body]] of his functions under this section; and

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- (b) shall not grant a licence of any description unless he has been advised by the [F600relevant [F601conservation body]] as to the circumstances in which, in their opinion, licences of that description should be granted.

[F602(11) For the purposes of this section a reference to a relevant Nature Conservancy Council is a reference to the [F601conservation body] for the area in which it is proposed to carry on the activity requiring a licence.]

[F114(12) In this section—

- (a) “the restricted English inshore region” means so much of the English inshore region as lies to seaward of mean low water mark;  
(b) “the English inshore region” has the meaning given by section 322 of the Marine and Coastal Access Act 2009.

[F115(c) “Wales” has the meaning given by section 158 of the Government of Wales Act 2006.]

F603[F604(13) . . . . .]

**Extent Information**

**E40** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

**Textual Amendments**

- F91** Word in s. 16(3) inserted (S.) (29.6.2011 for specified purposes, 1.1.2012 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 9(a)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(g); S.S.I. 2011/433, art. 2(1)(b)
- F92** Word in s. 16(3) inserted (S.) (29.6.2011 for specified purposes, 1.1.2012 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 9(a)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(g); S.S.I. 2011/433, art. 2(1)(b)
- F94** Word in s. 16(4)(b) inserted (S.) (29.6.2011 for specified purposes, 1.1.2012 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 9(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(g); S.S.I. 2011/433, art. 2(1)(b)
- F99** S. 16(8A) inserted (1.4.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), **ss. 10(2)(5)**, 324(3); S.I. 2010/298, **art. 2**, Sch. Pt. 1 para. 2
- F114** S. 16(12) inserted (1.4.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), **ss. 10(4)(5)**, 324(3); S.I. 2010/298, **art. 2**, Sch. Pt. 1 para. 2
- F115** S. 16(12)(c) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 170(4)** (with Sch. 7)
- F570** Words in s. 16(1) repealed (S.) (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 4(4)(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(a)
- F571** S. 16(1)(a) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(2)(a)**
- F572** S. 16(1)(ca)(cb) inserted (30.11.1995) by S.I. 1995/2825, **reg. 3(2)(b)**
- F573** Words in s. 16(2)(k) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(2)(c)**
- F574** S. 16(1A) inserted (30.11.1995) by S.I. 1995/2825, **reg. 3(3)**
- F575** Word in s. 16(2) substituted (S.) (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 4(4)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(a)
- F576** Words in s. 16(2)(b) repealed (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, **Sch. 6 para. 15(a)**; S.S.I. 2004/407, **art. 2**
- F577** Words in s. 16(3) substituted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, **Sch. 6 para. 15(b)(i)**; S.S.I. 2004/407, **art. 2**
- F578** Words in s. 16(3) substituted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, **Sch. 6 para. 15(b)(ii)**; S.S.I. 2004/407, **art. 2**

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- F579** Word in s. 16(3) inserted (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 13(4)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(c)(iii)
- F580** Words in s. 16(3)(a) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 15(b)(iii)**; S.S.I. 2004/407, **art. 2**
- F581** Words in s. 16(3)(c) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 15(b)(iv)**; S.S.I. 2004/407, **art. 2**
- F582** S. 16(3)(ca) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 15(b)(v)**; S.S.I. 2004/407, **art. 2**
- F583** Word in s. 16(3) repealed (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 18(2)(a)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(j)
- F584** S. 16(3)(i) and word inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 18(2)(a)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(j)
- F585** S. 16(3A) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 18(2)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(j)
- F586** Words in s. 16(4) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 15(c)**; S.S.I. 2004/407, **art. 2**
- F587** Word in s. 16(4)(c) inserted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 17(2)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(c) (with art. 3(3)(4))
- F588** S. 16(4A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 15(d)**; S.S.I. 2004/407, **art. 2**
- F589** Words in s. 16(5) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(4)**
- F590** S. 16(5A) inserted (30.11.1995) by S.I. 1995/2825, **reg. 3(5)**
- F591** Words in s. 16(6) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(6)**
- F592** S. 16(8B) repealed (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 18(2)(c)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(j)
- F593** S. 16(8B) inserted (S.) (1.7.2010) by Marine (Scotland) Act 2010 (asp 5), **ss. 104(2)**, 168(1) (with s. 162); S.S.I. 2010/230, **art. 2(b)**
- F594** S. 16(9)-(9ZB) substituted for s. 16(9)-(9ZC) (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 18(2)(d)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(j)
- F595** S. 16(9A) inserted (30.11.1995) by S.I. 1995/2825, **reg. 3(8)**
- F596** Words in s. 16(10)(a) substituted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132(1)(a), **Sch. 9 para. 11(4)(b)**; S.I. 1991/685, **art. 3**
- F597** Words in s. 16(10)(a) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 72(4)(a)**; S.I. 2006/2541, **art. 2**
- F598** Words in s. 16(10)(a) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132(1)(a), **Sch. 9 para. 11(4)(b)**; S.I. 1991/685, **art. 3**
- F599** Word in s. 16(10)(a) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 72(4)(b)**; S.I. 2006/2541, **art. 2**
- F600** Words in s. 16(10)(b) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132(1)(a), **Sch. 9 para. 11(4)(c)**; S.I. 1991/685, **art. 3**
- F601** Words in s. 16(9)(a)(c)(10)(b)(11) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 72(3)**; S.I. 2006/2541, **art. 2**
- F602** S. 16(11) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132(1)(a), **Sch. 9 para. 11(4)(d)**; S.I. 1991/685, **art. 3**
- F603** S. 16(13) repealed (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 18(2)(e)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(j)
- F604** S. 16(13) inserted (S.) (1.7.2010) by Marine (Scotland) Act 2010 (asp 5), **ss. 104(5)**, 168(1) (with s. 162); S.S.I. 2010/230, **art. 2(b)**

#### Modifications etc. (not altering text)

- C34** S. 16: Functions transferred (W.) (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

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#### Marginal Citations

- M43** 1911 c. 27.  
**M44** 1912 c. 14.

### [<sup>F116</sup>16A Delegation of licence-granting power: Scotland

- (1) The Scottish Ministers may delegate their functions in relation to licences under section 16 to—
  - (a) Scottish Natural Heritage; or
  - (b) a local authority.
- (2) But a function may be delegated to a local authority only in so far as it relates to—
  - (a) the development of land within the meaning of section 26(1) of the Town and Country Planning (Scotland) Act 1997 (c. 8); or
  - (b) the demolition of buildings within the meaning of section 55 of the Building (Scotland) Act 2003 (asp 8).
- (3) A delegation may be, to any degree, general or specific and may in particular relate to—
  - (a) a particular type of bird, other animal or plant;
  - (b) a particular licence or type of licence;
  - (c) a particular area.
- (4) Unless it specifies otherwise, a delegation relating to a particular type of licence includes the power to modify or revoke licences of that type that were granted before the delegation.
- (5) A delegation to—
  - (a) Scottish Natural Heritage under subsection (1)(a) is to be made by written direction;
  - (b) a local authority under subsection (1)(b) is to be made by order.
- (6) A local authority which is delegated a function under subsection (1)(b) must, before granting or modifying a licence, consult Scottish Natural Heritage.
- (7) The Scottish Ministers may modify or revoke a direction under subsection (5)(a).
- (8) Where a direction or order under subsection (5) is revoked, any existing licence granted under the direction or order continues to have effect (unless the revoking direction or order provides otherwise).]

#### Textual Amendments

- F116** S. 16A inserted (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), ss. **18(3)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(j)

### 17 **False statements made for obtaining registration**[<sup>F117</sup>, **identification number**] **or licence etc.**

A person who, for the purposes of obtaining, whether for himself or another, a registration in accordance with regulations made under section [<sup>F118</sup>6(2) or] 7(1)[<sup>F119</sup>,

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an identification number under section 11A(4)] or the grant of a licence under section 16—

- (a) makes a statement or representation, or furnishes a document or information, which he knows to be false in a material particular; or
- (b) recklessly makes a statement or representation, or furnishes a document or information, which is false in a material particular,

shall be guilty of an offence.

#### Textual Amendments

**F117** Words in s. 17 heading inserted (S.) (22.11.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 13\(5\)\(a\)](#), 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(3A)(b) (as inserted by S.S.I. 2012/281, art. 2(2))

**F118** Words in s. 17 repealed (E.W.) (30.1.2001) by 2000 c. 37, ss. 102, 103(2), [Sch. 16 Pt. IV](#)

**F119** Words in s. 17 inserted (S.) (22.11.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 13\(5\)\(b\)](#), 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(3A)(b) (as inserted by S.S.I. 2012/281, art. 2(2))

## 18 Attempts to commit offences etc.

- (1) Any person who attempts to commit an offence under the foregoing provisions of this Part shall be guilty of an offence and shall be punishable in like manner as for the said offence.
- (2) Any person who for the purposes of committing an offence under the foregoing provisions of this Part, has in his possession anything capable of being used for committing the offence shall be guilty of an offence and shall be punishable in like manner as for the said offence.

### [<sup>F120</sup>18A Wildlife inspectors **E+W**

- (1) In this Part, “wildlife inspector” means a person authorised in writing under this section by—
  - (a) the Secretary of State (in relation to England), or
  - (b) the National Assembly for Wales (in relation to Wales).
- (2) An authorisation under subsection (1) is subject to any conditions or limitations specified in it.
- (3) A wildlife inspector must, if required to do so, produce evidence of his authority before entering any premises under section 18B or 18D.
- (4) A wildlife inspector entering premises under either of those sections may take with him a veterinary surgeon if he has reasonable grounds for believing that such a person will be needed for the exercise of powers under section 18C or 18E.]

#### Extent Information

**E14** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only



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**Changes to legislation:** Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

#### Textual Amendments

**F120** Ss. 18A-18F inserted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), ss. 52, 107, [Sch. 5 para. 1](#); S.I. 2006/1382, [art. 2](#)

#### Modifications etc. (not altering text)

**C6** S. 18A applied (with modifications) (31.5.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), ss. 52, 107, [Sch. 5 para. 7-11](#); S.I. 2006/1382, [art. 2](#)

### [<sup>F605</sup>18A Vicarious liability for certain offences by employee or agent **S**

- (1) This subsection applies where, on or in relation to any land, a person (A) commits a relevant offence while acting as the employee or agent of a person (B) who—
  - (a) has a legal right to kill or take a wild bird on or over that land; or
  - (b) manages or controls the exercise of any such right.
- (2) Where subsection (1) applies, B is also guilty of the offence and liable to be proceeded against and punished accordingly.
- (3) In any proceedings under subsection (2), it is a defence for B to show—
  - (a) that B did not know that the offence was being committed by A; and
  - (b) that B took all reasonable steps and exercised all due diligence to prevent the offence being committed.
- (4) Proceedings may be taken against B in respect of the offence whether or not proceedings are also taken against A.
- (5) For the purposes of subsection (1)(b), management or control of the exercise of a right to kill or take any wild bird on or over land includes in particular management or control of any of the following—
  - (a) the operation or activity of killing or taking any such birds on or over that land;
  - (b) the habitat of any such birds on that land;
  - (c) the presence on or over that land of predators of any such birds;
  - (d) the release of birds from captivity for the purpose of their being killed or taken on or over that land.
- (6) In this section and section 18B, “a relevant offence” is—
  - (a) an offence under—
    - (i) section 1(1), (5) or (5B);
    - (ii) section 5(1)(a) or (b); or
    - (iii) section 15A(1); and
  - (b) an offence under section 18 committed in relation to any of the offences mentioned in paragraph (a).]

#### Extent Information

**E41** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

*Status: Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

**F605** Ss. 18A, 18B inserted (S.) (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 24, 43\(1\)](#) (with [s. 41\(1\)](#)); [S.S.I. 2011/433](#), [art. 2\(1\)\(e\)](#)

## [<sup>F120</sup>18B Group 1 offences and licences: power to enter premises **E+W**

- (1) A wildlife inspector may, at any reasonable time, enter and inspect any premises—
- (a) for the purpose of ascertaining whether a Group 1 offence is being or has been committed;
  - (b) for the purpose of—
    - (i) verifying any statement or representation made, or document or information supplied, by an occupier in connection with an application for, or the holding of, a Group 1 licence, or
    - (ii) ascertaining whether any condition to which a Group 1 licence was subject has been complied with.
- (2) In this Part—
- “Group 1 offence” means an offence under section 1, 5, 9(1), (2) or (4), 11, 13(1) or 14ZA, and
- “Group 1 licence” means a licence authorising anything which would otherwise be a Group 1 offence.
- (3) Nothing in this section confers power to enter a dwelling.]

### Extent Information

**E15** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

### Textual Amendments

**F120** Ss. 18A-18F inserted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), [ss. 52, 107](#), [Sch. 5 para. 1](#); [S.I. 2006/1382](#), [art. 2](#)

### Modifications etc. (not altering text)

**C7** S. 18B applied (with modifications) (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), [ss. 52, 107](#), [Sch. 5 para. 7-11](#); [S.I. 2006/1382](#), [art. 2](#)

## [<sup>F605</sup>18B Liability where securing services through another **S**

- (1) This subsection applies where, on or in relation to any land—
- (a) a person (A) commits a relevant offence;
  - (b) at the time the offence is committed, A is providing relevant services for a person (B); and
  - (c) B—
    - (i) has a legal right to kill or take a wild bird on or over that land; or
    - (ii) manages or controls the exercise of any such right.
- (2) Where subsection (1) applies, B is also guilty of the offence and liable to be proceeded against and punished accordingly.

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- (3) In any proceedings under subsection (2), it is a defence for B to show—
  - (a) that B did not know that the offence was being committed by A; and
  - (b) that B took all reasonable steps and exercised all due diligence to prevent the offence being committed.
- (4) Proceedings may be taken against B in respect of the offence whether or not proceedings are also taken against A.
- (5) For the purposes of subsection (1)(b), A is providing “relevant services” for B—
  - (a) if A manages or controls any of the following—
    - (i) the operation or activity of killing or taking any wild birds on or over that land;
    - (ii) the habitat of any such birds on that land;
    - (iii) the presence on or over that land of predators of any such birds;
    - (iv) the release of birds from captivity for the purpose of their being killed or taken on or over that land; and
  - (b) whether A is providing the services—
    - (i) by arrangement between A and B; or
    - (ii) by arrangement with or as employee or agent of any other person (C) who is providing or securing the provision of relevant services for B.
- (6) For the purposes of subsection (5)(b)(ii), C is providing or securing the provision of relevant services for B if C manages or controls any of the things mentioned in subparagraphs (i) to (iv) of subsection (5)(a).]

#### Extent Information

**E42** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

**F605** Ss. 18A, 18B inserted (S.) (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 24, 43(1)** (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(e)

### [<sup>F120</sup>18C Group 1 offences and licences: examining specimens and taking samples

- (1) The powers conferred by this section are exercisable where a wildlife inspector has entered any premises for a purpose mentioned in section 18B(1)(a) or (b).
- (2) The inspector, or a veterinary surgeon accompanying him, may—
  - (a) for any such purpose, examine any specimen, and
  - (b) subject to subsection (5) and section 18F, take a sample from it.
- (3) “Specimen” means—
  - (a) any bird, other animal or plant, or
  - (b) any part of, or anything derived from, a bird, other animal or plant.
- (4) “Sample” means a sample of blood, tissue or other biological material.
- (5) No sample may be taken under subsection (2) from a live bird, other animal or plant except for the purpose of establishing its identity or ancestry.

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- (6) The inspector may require an occupier of the premises to give such assistance as is reasonable in the circumstances for the purpose of—
- (a) making an examination under subsection (2)(a), or
  - (b) taking a sample under subsection (2)(b).
- (7) The inspector may take and remove from the premises a specimen which is not a live bird, other animal or plant, if there are reasonable grounds for believing that it is evidence of a Group 1 offence.

#### Textual Amendments

**F120** Ss. 18A-18F inserted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), ss. 52, 107, [Sch. 5 para. 1](#); S.I. 2006/1382, [art. 2](#)

#### Modifications etc. (not altering text)

**C8** S. 18C applied (with modifications) (31.5.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), ss. 52, 107, [Sch. 5 para. 7-11](#); S.I. 2006/1382, [art. 2](#)

### 18D Group 2 offences and licences etc. : power to enter premises

- (1) A wildlife inspector may, at any reasonable time, enter and inspect any premises—
- (a) for the purpose of ascertaining whether an offence under section 6, 9(5) or 13(2) is being, or has been, committed on those premises;
  - (b) where he has reasonable cause to believe that any birds included in Schedule 4 are kept, for the purpose of ascertaining whether an offence under section 7 is being, or has been, committed on those premises;
  - (c) for the purpose of ascertaining whether an offence under section 14 is being, or has been, committed on those premises;
  - (d) for the purpose of—
    - (i) verifying any statement or representation made, or document or information supplied, by an occupier in connection with an application for, or the holding of, a Group 2 licence or a relevant registration, or
    - (ii) ascertaining whether any condition to which a Group 2 licence was subject has been complied with.
- (2) In this Part—
- “Group 2 offence” means an offence under section 6, 7, 9(5), 13(2) or 14,
- “Group 2 licence” means a licence authorising anything which would otherwise be a Group 2 offence, and
- “relevant registration” means a registration in accordance with regulations under section 7(1).
- (3) In subsection (1)—
- (a) paragraphs (a) and (b) do not confer power to enter a dwelling except for purposes connected with—
    - (i) a Group 2 licence or a relevant registration held by an occupier of the dwelling, or
    - (ii) an application by an occupier of the dwelling for a Group 2 licence or a relevant registration, and

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- (b) paragraph (c) does not confer any power to enter a dwelling.

#### Textual Amendments

**F120** Ss. 18A-18F inserted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), ss. 52, 107, [Sch. 5 para. 1](#); S.I. 2006/1382, [art. 2](#)

### 18E Group 2 offences: examining specimens and taking samples

- (1) A wildlife inspector may, for the purpose of ascertaining whether a Group 2 offence is being, or has been, committed in respect of any specimen, require any person who has the specimen in his possession or control to make it available for examination by the inspector or a veterinary surgeon.
- (2) A wildlife inspector may, for the purpose of ascertaining whether a Group 2 offence is being or has been committed, require the taking of a sample from a specimen found by him in the exercise of powers conferred by section 18D in order to determine its identity or ancestry.
- (3) A wildlife inspector may, for the purpose of ascertaining whether a Group 2 offence is being or has been committed in respect of any specimen (the relevant specimen), require any person to make available for the taking of a sample any specimen (other than the relevant specimen) in that person's possession or control which—
  - (a) is alleged to be, or
  - (b) which the wildlife inspector suspects with reasonable cause to be, a specimen a sample from which will tend to establish the identity or ancestry of the relevant specimen.
- (4) Where, pursuant to a requirement under this section—
  - (a) a bird or other animal is to be examined, or
  - (b) a sample is to be taken from a bird or other animal,a person who has the bird or animal in his possession or control must give the person making the examination or taking the sample such assistance as he may reasonably require for that purpose.
- (5) “Specimen” and “sample” have the same meaning as in section 18C.
- (6) This section is subject to section 18F.

#### Textual Amendments

**F120** Ss. 18A-18F inserted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), ss. 52, 107, [Sch. 5 para. 1](#); S.I. 2006/1382, [art. 2](#)

### 18F Restrictions on taking of samples from live specimens

- (1) No sample may be taken by virtue of section 18C, 18E or 19XA from a live bird or other animal except by a veterinary surgeon.

*Status: Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) No sample may be taken by virtue of section 18C, 18E or 19XA from a live bird, other animal or plant unless the person taking it is satisfied on reasonable grounds that taking the sample will not cause lasting harm to the specimen.]

#### Textual Amendments

**F120** Ss. 18A-18F inserted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), ss. 52, 107, [Sch. 5 para. 1](#); S.I. 2006/1382, [art. 2](#)

#### Modifications etc. (not altering text)

**C9** S. 18F applied (with modifications) (31.5.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), ss. 52, 107, [Sch. 5 para. 7-11](#); S.I. 2006/1382, [art. 2](#)

## 19 Enforcement. E+W

- (1) If a constable suspects with reasonable cause that any person is committing or has committed an offence under this Part, the constable may without warrant—
- (a) stop and search that person if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found on that person;
  - (b) search or examine any thing which that person may then be using or have in his possession if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found on that thing;
  - (c) <sup>F121</sup> . . . . .
  - (d) seize and detain for the purposes of proceedings under this Part any thing which may be evidence of the commission of the offence or may be liable to be forfeited under section 21.
- (2) If a constable suspects with reasonable cause that any person is committing <sup>F122</sup>or has committed] an offence under this Part, he may, for the purpose of exercising the powers conferred by subsection (1) <sup>F123</sup>or arresting a person, in accordance with <sup>F124</sup>section 24] of Police and Criminal Evidence Act 1984, for such an offence], <sup>F125</sup>enter any premises other than a dwelling].
- <sup>F126</sup>(2A) A constable may, for the purpose of assisting him in exercising the powers conferred by subsection (1)(b) and (d) when he has entered any premises under subsection (2), take with him—
- (a) any other person, and
  - (b) any equipment or materials.]
- (3) If a justice of the peace is satisfied by information on oath that there are reasonable grounds for <sup>F127</sup>suspecting that an offence under this Part has been committed] and that evidence of the offence may be found on any premises, he may grant a warrant to any constable <sup>F128</sup>. . . to enter upon and search those premises for the purpose of obtaining that evidence.
- In the application of this subsection to Scotland, the reference to a justice of the peace includes a reference to the sheriff.
- <sup>F129</sup>(9) This section does not apply in relation to offences under Schedule 9A.]

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**Changes to legislation:** Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### Extent Information

- E16** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

### Textual Amendments

- F121** S. 19(1)(c) repealed (E.W.) by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), [Sch. 7 Pt. I](#)
- F122** Words in s. 19(2) inserted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 52, 107, [Sch. 5 para. 2\(2\)\(a\)](#); S.I. 2006/1382, [art. 2](#)
- F123** Words inserted (E.W.) by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), [Sch. 6 para. 25](#)
- F124** Words in s. 19(2) substituted (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 111, 178, [Sch. 7 para. 56](#) (subject to [art. 2\(2\)](#)); S.I. 2005/3495, [art. 2\(1\)\(m\)](#)
- F125** Words in s. 19(2) substituted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 52, 107, [Sch. 5 para. 2\(2\)\(b\)](#); S.I. 2006/1382, [art. 2](#)
- F126** S. 19(2A) inserted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 52, 107, [Sch. 5 para. 2\(3\)](#); S.I. 2006/1382, [art. 2](#)
- F127** Words in s. 19(3) substituted (E.W.) (30.1.2001) by [2000 c. 37](#), ss. 81(1), 103(2), [Sch. 12 para. 7](#)
- F128** Words in s. 19(3) omitted (E.W.) (31.5.2006) by virtue of [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 52, 107, [Sch. 5 para. 2\(4\)](#) and repealed (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(2), 107, [Sch. 12](#); S.I. 2006/1382, [art. 2](#); S.I. 2006/2541, [art. 2](#)
- F129** S. 19(9) inserted (E.W.) (12.4.2015) by [Infrastructure Act 2015 \(c. 7\)](#), ss. [23\(4\)](#), 57(4); S.I. 2015/481, [reg. 3\(a\)](#); S.I. 2015/990, [reg. 2](#); S.I. 2015/481, [reg. 3\(a\)](#); S.I. 2015/990, [reg. 2](#)

### Modifications etc. (not altering text)

- C10** S. 19(3) applied (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 52, 107, [Sch. 5 para. 13](#); S.I. 2006/1382, [art. 2](#)

## 19 Enforcement. **S**

- (1) If a constable suspects with reasonable cause that any person is committing or has committed an offence under this Part, the constable may without warrant—
- stop and search that person if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found on that person;
  - [<sup>F606</sup>search for,] search or examine any thing which that person may then be using or [<sup>F607</sup>may have used, or may have or have had in his possession,] if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found [<sup>F608</sup>in or] on that thing;
  - arrest that person <sup>F609</sup>. . . ;
  - seize and detain for the purposes of proceedings under this Part any thing which may be evidence of the commission of the offence or may be liable to be forfeited under section 21.
- (2) If a constable suspects with reasonable cause that any person is committing [<sup>F610</sup>or has committed] an offence under this Part, he may, for the purpose of exercising the powers conferred by subsection (1), enter any land other than a [<sup>F611</sup>dwelling or lockfast premises].
- (3) If a justice of the peace is satisfied by [<sup>F612</sup>evidence] on oath that there are reasonable grounds for suspecting that [<sup>F613</sup>an offence under this Part] has been committed and that evidence of the offence may be found on any premises, he may grant a warrant

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to any constable [<sup>F614</sup>to enter those premises, if necessary using reasonable force, and search them] for the purpose of obtaining that evidence.

In the application of this subsection to Scotland, the reference to a justice of the peace includes a reference to the sheriff.

- [<sup>F615</sup>(4) A warrant under subsection (3) continues in force until the purpose for which the entry is required has been satisfied or, if earlier, the expiry of such period as the warrant may specify.
- (5) A constable authorised by virtue of this section to enter any land must, if required to do so by the occupier or anyone acting on the occupier’s behalf, produce evidence of the constable’s authority.
- (6) A constable who enters any land in the exercise of a power conferred by this section—
- (a) may—
    - (i) be accompanied by any other persons, and
    - (ii) take any machinery, other equipment or materials on to the land, for the purpose of assisting the constable in the exercise of that power,
  - (b) may take samples of any articles or substances found there and remove the samples from the land.
- (7) A power specified in subsection (6)(a) or (b) which is exercisable under a warrant is subject to the terms of the warrant.
- (8) A constable leaving any land which has been entered in exercise of a power conferred by subsection (2) or by a warrant under subsection (3), being either unoccupied land or land from which the occupier is temporarily absent, must leave it as effectively secured against unauthorised entry as the constable found it.]

#### Extent Information

**E43** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

**F606** Words in s. 19(1)(b) inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 16\(a\)\(i\)](#); S.S.I. 2004/407, [art. 2](#)

**F607** Words in s. 19(1)(b) substituted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 16\(a\)\(ii\)](#); S.S.I. 2004/407, [art. 2](#)

**F608** Words in s. 19(1)(b) inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 16\(a\)\(iii\)](#); S.S.I. 2004/407, [art. 2](#)

**F609** Words in s. 19(1)(c) repealed (S.) (26.3.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. 77, 89(2)(b), [Sch. 3 para. 4\(a\)](#)

**F610** Words in s. 19(2) inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 16\(b\)\(i\)](#); S.S.I. 2004/407, [art. 2](#)

**F611** Words in s. 19(2) substituted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 16\(b\)\(ii\)](#); S.S.I. 2004/407, [art. 2](#)

**F612** Words in s. 19(3) substituted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 16\(c\)\(i\)](#); S.S.I. 2004/407, [art. 2](#)

**F613** S. 19(3): paras. (a)(b) substituted (S.) (26.3.2003) for words by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. 77, 89(2)(b), [Sch. 3 para. 4\(b\)](#)

**F614** Words in s. 19(3) substituted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 16\(c\)\(ii\)](#); S.S.I. 2004/407, [art. 2](#)



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**F615** S. 19(4)-(8) inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 16\(d\)](#); S.S.I. 2004/407, [art. 2](#)

### **[<sup>F130</sup>19XA] Constables' powers in connection with samples**

- (1) A constable who suspects with reasonable cause that a specimen found by him in the exercise of powers conferred [<sup>F131</sup>by section 19] is one in respect of which an offence under this Part is being or has been committed may require the taking from it of a sample.
- (2) A constable who suspects with reasonable cause that an offence under this Part is being or has been committed in respect of any specimen (the relevant specimen) may require any person to make available for the taking of a sample any specimen (other than the relevant specimen) in that person's possession or control which—
  - (a) is alleged to be, or
  - (b) the constable suspects with reasonable cause to be,a specimen a sample from which will tend to establish the identity or ancestry of the relevant specimen.
- (3) Where a sample from a live bird or other animal is to be taken pursuant to a requirement under this section, any person who has possession or control of the specimen must give the person taking the sample such assistance as he may reasonably require for that purpose.
- (4) “Specimen” and “sample” have the same meaning as in section 18C.
- (5) This section is subject to section 18F (restrictions on taking samples).

#### **Textual Amendments**

- F130** S. 19XA, 19XB inserted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 52, 107, [Sch. 5 para. 3](#); S.I. 2006/1382, [art. 2](#)
- F131** Words in s. 19XA(1) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148(1), 153(7), [Sch. 26 para. 7](#); S.I. 2008/1586, [art. 2\(1\)\(3\)](#), [Sch. 1 para. 48\(e\)](#) (subject to [Sch. 2](#))

### **19XB Offences in connection with enforcement powers**

- (1) A person is guilty of an offence if he—
  - (a) intentionally obstructs a wildlife inspector acting in the exercise of powers conferred by section 18B(1) or 18C(2) or (7), or
  - (b) fails without reasonable excuse to give any assistance reasonably required under section 18C(6).
- (2) A person is guilty of an offence if he—
  - (a) intentionally obstructs a wildlife inspector acting in the exercise of powers conferred by section 18D(1) or 18E(2), or
  - (b) fails without reasonable excuse to make available any specimen in accordance with a requirement under section 18E(1) or (3), or
  - (c) fails without reasonable excuse to give any assistance reasonably required under section 18E(4).
- (3) A person is guilty of an offence if he—

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- (a) fails without reasonable excuse to make available any specimen in accordance with a requirement under section 19XA(2), or
  - (b) fails without reasonable excuse to give any assistance reasonably required under section 19XA(3).
- (4) Any person who, with intent to deceive, falsely pretends to be a wildlife inspector is guilty of an offence.]

#### Textual Amendments

**F130** S. 19XA, 19XB inserted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), ss. 52, 107, [Sch. 5 para. 3](#); S.I. 2006/1382, [art. 2](#)

### 19ZA Enforcement: wildlife inspectors.

**F132** .....

#### Textual Amendments

**F132** S. 19ZA omitted (31.5.2006) by virtue of [Natural Environment and Rural Communities Act 2006](#) (c. 16), ss. 52, 107, [Sch. 5 para. 4](#) and repealed (1.10.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), ss. 105(2), 107 {[Sch. 12](#)}; S.I. 2006/1382, [art. 2](#); S.I. 2006/2541, [art. 2](#)

### 19ZB Power to take samples.

**F133** .....

#### Textual Amendments

**F133** S. 19ZB omitted (31.5.2006) by virtue of [Natural Environment and Rural Communities Act 2006](#) (c. 16), ss. 52, 107, [Sch. 5 para. 4](#) and repealed (1.10.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), ss. 105(2), 107 {[Sch. 12](#)}; S.I. 2006/1382, [art. 2](#); S.I. 2006/2541, [art. 2](#)

### <sup>F134</sup> Wildlife inspectors: Scotland

#### 19ZC

- (1) The Scottish Ministers may authorise any person to carry out the functions conferred by this section and section 19ZD(3), (4) and (8) (and any person so authorised is to be known as a “wildlife inspector”).
- (2) An authorisation under subsection (1)—
  - (a) shall be in writing, and
  - (b) is subject to any conditions or limitations specified in it.
- (3) A wildlife inspector may, at any reasonable time and (if required to do so) upon producing evidence of authorisation, enter and inspect—
  - (a) any premises for the purpose of ascertaining whether an offence under section 6, 9(5) [<sup>F135</sup>, 11I(1)] or 13(2) is being, or has been, committed on those premises;

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- (b) any premises where the inspector has reasonable cause to believe that any birds included in Schedule 4 are kept, for the purpose of ascertaining whether an offence under section 7 is being, or has been, committed on those premises;
  - (c) any premises where the inspector has reasonable cause to believe that any birds are kept, for the purpose of ascertaining whether an offence under section 8(1) is being, or has been, committed on those premises;
  - (d) any premises for the purpose of ascertaining whether an offence under section 14 [<sup>F136</sup>, 14ZC, 14A, 14B or 14K] is being, or has been, committed on those premises;
  - (e) any premises for the purpose of [<sup>F137</sup>—
    - (i) verifying any statement or representation made, or document or information supplied, by an occupier in connection with an application for, or the holding of, a relevant registration or licence; or
    - (ii) ascertaining whether a condition to which a relevant registration or licence was subject to has been complied with.]
- (4) In subsection (3)—
- (a) paragraphs (a) to (c) do not confer power to enter a dwelling except for purposes connected with—
    - (i) a relevant registration or licence held by an occupier of the dwelling; or
    - (ii) an application by an occupier of the dwelling for a relevant registration or licence,
  - (b) paragraph (d) does not confer power to enter a dwelling.
- (5) A wildlife inspector may, for the purpose of ascertaining whether an offence under section 6, 7, 8(1), 9(5), [<sup>F138</sup> 11I(1), 13(2), 14, 14ZC, 14A, 14B or 14K] is being, or has been, committed in respect of any specimen, require any person who has possession or control of the specimen to make it available for examination by the inspector.
- (6) Any person who has possession or control of any live bird or other animal shall give any wildlife inspector acting in the exercise of powers conferred by this section such assistance as the inspector may reasonably require for the purpose of examining the bird or other animal.
- (7) Any person who—
- (a) intentionally obstructs a wildlife inspector acting in the exercise of powers conferred by subsection (3) or (5); or
  - (b) fails without reasonable excuse to give any assistance reasonably required under subsection (6),
- shall be guilty of an offence.
- (8) Any person who, with intent to deceive, falsely pretends to be a wildlife inspector shall be guilty of an offence.
- (9) In this section—
- “relevant registration or licence” means—
- (a) a registration in accordance with regulations under section 7(1); or
  - (b) a licence under section 16 authorising anything which would otherwise be an offence under section 6, 7, 8(1), 9(5), [<sup>F139</sup> 11I(1), 13(2), 14, 14ZC or 14A];

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“specimen” means any bird, other animal or plant or any part of, or anything derived from, a bird, other animal or plant.

#### Textual Amendments

- F134** Ss. 19ZC, 19ZD inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 17](#); [S.S.I. 2004/407](#), [art. 2](#)
- F135** Word in s. 19ZC(3)(a) inserted (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 22\(4\)\(a\)\(i\)](#), 43(1) (with s. 41(1)); [S.S.I. 2012/175](#), [art. 2\(1\)\(d\)](#)
- F136** Words in s. 19ZC(3)(d) substituted (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 22\(4\)\(a\)\(ii\)](#), 43(1) (with s. 41(1)); [S.S.I. 2012/175](#), [art. 2\(1\)\(d\)](#)
- F137** Words in s. 19ZC(3)(e) substituted (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 22\(4\)\(a\)\(iii\)](#), 43(1) (with s. 41(1)); [S.S.I. 2012/175](#), [art. 2\(1\)\(d\)](#)
- F138** Words in s. 19ZC(5) substituted (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 22\(4\)\(b\)](#), 43(1) (with s. 41(1)); [S.S.I. 2012/175](#), [art. 2\(1\)\(d\)](#)
- F139** Words in s. 19ZC(9) substituted (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 22\(4\)\(c\)](#), 43(1) (with s. 41(1)); [S.S.I. 2012/175](#), [art. 2\(1\)\(d\)](#)

#### Modifications etc. (not altering text)

- C11** S. 19ZC applied (with modifications) (S.) (29.11.2004) by [S.I. 1994/2716](#), [reg. 101A\(3\)](#) (as substituted by [The Conservation \(Natural Habitats, & c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#)), [reg. 18](#)

### 19ZD Power to take samples: Scotland

- (1) A constable who suspects with reasonable cause that a specimen found by the constable in the exercise of powers conferred by section 19 is one in respect of which an offence under this Part is being or has been committed may require the taking from it of a sample of blood or tissue in order to determine its origin, identity or ancestry.
- (2) A constable who suspects with reasonable cause that an offence under this Part is being or has been committed in respect of any specimen (“the relevant specimen”) may require any person to make available for the taking of a sample of blood or tissue any specimen (other than the relevant specimen) in that person’s possession or control which is alleged to be, or which the constable suspects with reasonable cause to be, a specimen a sample from which will tend to establish the origin, identity or ancestry of the relevant specimen.
- (3) A wildlife inspector may, for the purpose of ascertaining whether an offence under section 6, 7, 9(5), <sup>F140</sup>11I(1), 13(2), 14, 14ZC, 14A, 14B or 14K] is being or has been committed, require the taking of a sample of blood or tissue from a specimen found by the inspector in the exercise of powers conferred by section 19ZC(3)(a) to (d) in order to determine its origin, identity or ancestry.
- (4) A wildlife inspector may, for the purpose of ascertaining whether an offence under section 6, 7, 9(5), <sup>F140</sup>11I(1), 13(2), 14, 14ZC, 14A, 14B or 14K] is being or has been committed in respect of any specimen (“the relevant specimen”), require any person to make available for the taking of a sample of blood or tissue any specimen (other than the relevant specimen) in that person’s possession or control which is alleged to be, or which the inspector suspects with reasonable cause to be, a specimen a sample from which will tend to establish the origin, identity or ancestry of the relevant specimen.

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- (5) No sample from a live bird, other animal or plant shall be taken pursuant to a requirement under this section unless the person taking it is satisfied on reasonable grounds that taking the sample will not cause lasting harm to the specimen.
- (6) No sample from a live bird or other animal shall be taken pursuant to such a requirement except by a veterinary surgeon.
- (7) Where a sample from a live bird or other animal is to be taken pursuant to such a requirement, any person who has possession or control of the specimen shall give the person taking the sample such assistance as that person may reasonably require for that purpose.
- (8) A constable entering premises under section 19(2), and any wildlife inspector entering premises under section 19ZC(3), may take with him a veterinary surgeon if the constable or, as the case may be, inspector has reasonable grounds for believing that such a person will be required for the exercise on the premises of powers under subsection (1) or (2) or, as the case may be, (3) or (4).
- (9) Any person who—
- (a) intentionally obstructs a wildlife inspector acting in the exercise of the power conferred by subsection (3),
  - (b) fails without reasonable excuse to make available any specimen in accordance with a requirement under subsection (2) or (4), or
  - (c) fails without reasonable excuse to give any assistance reasonably required under subsection (7),
- shall be guilty of an offence.
- (10) In this section—
- (a) “specimen” has the same meaning as in section 19ZC;
  - (b) in relation to a specimen which is a part of, or is derived from, a bird, other animal or plant, references to determining its origin, identity or ancestry are to determining the origin, identity or ancestry of the bird, other animal or plant.
- [ “tissue” means any type of biological material other than blood.]]
- <sup>F141</sup>(c)

#### Textual Amendments

**F134** Ss. 19ZC, 19ZD inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 17](#); S.S.I. 2004/407, [art. 2](#)

**F140** Words in s. 19ZD(3)(4) substituted (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 22\(5\)\(a\)](#), 43(1) (with s. 41(1)); S.S.I. 2012/175, [art. 2\(1\)\(d\)](#)

**F141** S. 19ZD(10)(c) inserted (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 22\(5\)\(b\)](#), 43(1) (with s. 41(1)); S.S.I. 2012/175, [art. 2\(1\)\(d\)](#)

#### Modifications etc. (not altering text)

**C12** S. 19ZD applied (with modifications) (S.) (29.11.2004) by [S.I. 2004/2716, reg. 101A\(3\)](#) (as substituted by [The Conservation \(Natural Habitats, & c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), [reg. 18](#))

*Status: Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## [<sup>F143</sup>19A Evidence in Scotland [<sup>F142</sup>in certain proceedings].

In any proceedings in Scotland for [<sup>F144</sup>any of the following offences], the accused may be convicted on the evidence of one witness [<sup>F145</sup>—

- (a) an offence under section 1(1)(a) in relation to a grouse, partridge, pheasant or ptarmigan included in Part I of Schedule 2;
- (b) an offence under section 1(1)(c);
- (c) an offence under section 6(1) in relation to a grouse, partridge or pheasant included in Part IA of Schedule 3;
- (d) an offence under section 6(2) in relation to a grouse, partridge, pheasant or ptarmigan included in Part IIA of that Schedule;
- (e) an offence under section 10A(1), 11G(1) or 11I(1)].]

### Textual Amendments

**F142** Words in s. 19A substituted (29.6.2011 for specified purposes, 1.1.2012 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 12(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(i); S.S.I. 2011/433, art. 2(1)(b)

**F143** S. 19A inserted (18.9.1993) (S.) by 1993 c. 9, **s.36** (with s. 47(2), Sch. 6 paras. 1, 2); S.I. 1993/2050, art. 3(3), **Sch.2**.

**F144** Words in s. 19A substituted (29.6.2011 for specified purposes, 1.1.2012 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 12(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(i); S.S.I. 2011/433, art. 2(1)(b)

**F145** S. 19A(a)(e) inserted (29.6.2011 for specified purposes, 1.1.2012 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 12(c)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(i); S.S.I. 2011/433, art. 2(1)(b)

## 20 [<sup>F146</sup>Proceedings for summary offences]. **E+W**

<sup>F147</sup>(1) .....

(2) [<sup>F148</sup>Proceedings for a summary offence under this Part] may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge; but no such proceedings shall be brought by virtue of this section more than two years after the commission of the offence.

(3) For the purpose of this section a certificate signed by or on behalf of the prosecutor and stating the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

### Extent Information

**E17** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

### Textual Amendments

**F146** S. 20 heading substituted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), **ss. 53, 107, Sch. 6 para. 3(3)**; S.I. 2006/1382, **art. 2**

**F147** S. 20(1) repealed (E.W.) (30.1.2001) by 2000 c. 37, **ss. 81(1), 102, 103(2), Sch. 12 para. 9(1)(a), Sch. 16 Pt. IV** (with Sch. 12 para. 9(2))

*Status:* Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.  
*Changes to legislation:* Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**F148** Words in s. 20(2) substituted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), ss. 53, 107, Sch. 6 para. 3\(2\); S.I. 2006/1382, art. 2](#)

**20 Summary prosecutions. S**

- (1) <sup>F616</sup> .....
- (2) Summary proceedings for an offence [<sup>F617</sup>under this Part] may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge; but no such proceedings shall be brought by virtue of this section more than [<sup>F618</sup>three] years after the commission of the offence [<sup>F619</sup>or, in the case of a continuous contravention, after the last date on which the offence was committed].
- (3) For the purpose of this section a certificate signed by or on behalf of the prosecutor and stating the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

**Extent Information**

**E44** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

**Textual Amendments**

- F616** S. 20(1) repealed (S.) (26.3.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\), ss. 77, 89\(2\)\(b\), Sch. 3 para. 5\(a\)](#)
- F617** Words in s. 20(2) substituted (S.) (26.3.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\), ss. 77, 89\(2\)\(b\), Sch. 3 para. 5\(b\)](#)
- F618** Word in s. 20(2) substituted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\), ss. 50, 59, Sch. 6 para. 18\(a\); S.S.I. 2004/407, art. 2](#)
- F619** Word in s. 20(2) inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\), ss. 50, 59, Sch. 6 para. 18\(b\); S.S.I. 2004/407, art. 2](#)

**21 Penalties, forfeitures etc. E+W**

- [<sup>F149</sup>(1) Subject to subsection (5), a person guilty of an offence under any of sections 1 to 13 or section 17 shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.]
- (4) A person guilty of an offence under section 14 [<sup>F150</sup>or 14ZA] shall be liable—
  - (a) on summary conviction, [<sup>F151</sup>to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both];
  - (b) on conviction on indictment, [<sup>F151</sup>to imprisonment for a term not exceeding two years or to a fine, or to both].
- [<sup>F152</sup>(4A) <sup>F153</sup> .....
- [ Except in a case falling within subsection (4B) a person guilty of an offence under <sup>F154</sup>(4AA) section 19XB(1), (2) or (3) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.]

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- (4B) A person guilty of an offence under [<sup>F155</sup>section 19XB(1)(a) or (2)(a)] in relation to a wildlife inspector [<sup>F156</sup>entering premises to ascertain whether an offence under section 14 or 14ZA is being or has been committed] shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (4C) A person guilty of an offence under section [<sup>F157</sup>19XB(4)] shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum, or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.
- (4D) <sup>F158</sup> . . . . . ]
- (5) Where an offence to which subsection (1) <sup>F159</sup> . . . applies was committed in respect of more than one bird, nest, egg, other animal, plant or other thing, the maximum fine which may be imposed under that subsection shall be determined as if the person convicted had been convicted of a separate offence in respect of each bird, nest, egg, animal, plant or thing.
- (6) The court by which any person is convicted of an offence under this Part—
- (a) shall order the forfeiture of any bird, nest, egg, other animal, plant or other thing in respect of which the offence was committed; and
  - (b) may order the forfeiture of any vehicle, animal, weapon or other thing which was used to commit the offence and, in the case of an offence under section 14 [<sup>F160</sup>or 14ZA], any animal or plant which is of the same kind as that in respect of which the offence was committed and was found in his possession.
- (7) Any offence under this Part shall, for the purpose of conferring jurisdiction, be deemed to have been committed in any place where the offender is found or to which he is first brought after the commission of the offence.

#### Extent Information

**E18** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

**F149** S. 21(1) substituted for s. 21(1)-(3) (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), **Sch. 12 para. 10(2)(6)**

**F150** Words in s. 21(4)(6)(b) inserted (E.W.) (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 73(1)**; S.I. 2006/2541, **art. 2**

**F151** Words in s. 21(4)(a)(b) substituted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), **Sch. 9 para. 10(3)(a)(b)(6)**

**F152** S. 21(4A)-(4D) inserted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), **Sch. 12 para. 10(4)(6)**

**F153** S. 21(4A)(4D) omitted (31.5.2006) by virtue of Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, **Sch. 5 para. 5(2)**; S.I. 2006/1382, **art. 2**

**F154** S. 21(4AA) inserted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, **Sch. 5 para. 5(3)**; S.I. 2006/1382, **art. 2**

**F155** Words in s. 21(4B) substituted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, **Sch. 5 para. 5(4)(a)**; S.I. 2006/1382, **art. 2**



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**F156** Words in s. 21(4B) substituted (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, **Sch. 5 para. 5(4)(b)**; S.I. 2006/1382, **art. 2**

**F157** Words in s. 21(4C) substituted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, **Sch. 5 para. 5(5)**; S.I. 2006/1382, **art. 2**

**F158** S. 21(4A)(4D) omitted (31.5.2006) by virtue of Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, **Sch. 5 para. 5(2)**; S.I. 2006/1382, **art. 2**

**F159** Words in s. 21(5) repealed (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 102, 103(2), Sch. 9 para. 10(5) (6), **Sch. 16 Pt. IV**

**F160** Words in s. 21(4)(6)(b) inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 73(1)**; S.I. 2006/2541, **art. 2**

**Modifications etc. (not altering text)**

**C13** S. 21(4AA)-(4C) applied (with modifications) (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, **Sch. 5 para. 7-11**; S.I. 2006/1382, **art. 2**

**21 Penalties, forfeitures etc. S**

[<sup>F620</sup>(1) Subject to subsection (5), a person guilty of an offence under any of sections 1 to 13 [<sup>F621</sup>, 14B][<sup>F622</sup>, 15A, 17, 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)) or 19ZD] shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.]

(2) <sup>F623</sup> .....

(3) <sup>F623</sup> .....

(4) A person guilty of an offence under section 14 [<sup>F624</sup>, 14ZC][<sup>F625</sup> or 14A] shall be liable—

[<sup>F626</sup>(a) on summary conviction, to imprisonment for a term not exceeding [<sup>F627</sup>12] months or to a fine not exceeding the [<sup>F628</sup>£40,000], or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.]

[<sup>F629</sup>(4ZA) Any person guilty of an offence under section 14K is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding £40,000, or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.]

[<sup>F630</sup>(4A) A person guilty of an offence under section 19ZC(7) in relation to a wildlife inspector acting in exercise of the power conferred by subsection (3)(d) of that section shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.]

(5) Where an offence to which subsection (1), <sup>F631</sup> . . . applies was committed in respect of more than one bird, nest, egg, other animal, plant or other thing, the maximum fine which may be imposed under that subsection shall be determined as if the person convicted had been convicted of a separate offence in respect of each bird, nest, egg, animal, plant or thing.

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- (6) The court by which any person is convicted of an offence under this Part—
- (a) shall order the forfeiture of any bird, nest, egg, other animal, plant or other thing in respect of which the offence was committed; and
  - (b) may order the forfeiture of any vehicle, animal, weapon or other thing which was used to commit the offence and, in the case of an offence under section 14 [F632, 14ZC, 14A, 14B or 14K], any animal or plant which is of the same kind as that in respect of which the offence was committed and was found in his possession.
- (7) Any offence under this Part shall, for the purpose of conferring jurisdiction, be deemed to have been committed in any place where the offender is found or to which he is first brought after the commission of the offence.

#### Extent Information

**E45** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

- F620** S. 21(1) substituted (S.) (26.3.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. 77, 89(2)(b), [Sch. 3 para. 6\(a\)](#)
- F621** Word in s. 21(1) inserted (S.) (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 17\(3\)\(a\)](#), 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(c)
- F622** Words in s. 21(1) substituted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 19\(a\)](#); S.S.I. 2004/407, [art. 2](#)
- F623** S. 21(2)(3) repealed (S.) (26.3.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. 77, 89(2)(b), [Sch. 3 para. 6\(b\)](#)
- F624** Word in s. 21(4) inserted (S.) (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 17\(3\)\(b\)\(i\)](#), 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(c)
- F625** Words in s. 21(4) inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 19\(b\)\(i\)](#); S.S.I. 2004/407, [art. 2](#)
- F626** S. 21(4)(a)(b) substituted (S.) (26.3.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. 77, 89(2)(b), [Sch. 3 para. 6\(c\)](#)
- F627** Word in s. 21(4)(a) substituted (S.) (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 17\(3\)\(b\)\(ii\)](#), 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(c)
- F628** Words in s. 21(4)(a) substituted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 19\(b\)\(ii\)](#); S.S.I. 2004/407, [art. 2](#)
- F629** S. 21(4ZA) inserted (S.) (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 17\(3\)\(c\)](#), 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(c)
- F630** S. 21(4A) inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 19\(c\)](#); S.S.I. 2004/407, [art. 2](#)
- F631** Words in s. 21(5) repealed (S.) (26.3.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. 77, 89(2)(b), [Sch. 3 para. 6\(d\)](#)
- F632** Words in s. 21(6)(b) substituted (S.) (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 17\(3\)\(d\)](#), 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(c)

## 22 Power to vary Schedules. **E+W**

- (1) The Secretary of State may by order, either generally or with respect to particular provisions of this Part, particular areas of Great Britain or particular times of the year,

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add any bird to, or remove any bird from, any of or any Part of [<sup>F161</sup>Schedules ZA1 to 4].

- (2) An order under subsection (1) adding any bird to Part II of Schedule 1 or Part I of Schedule 2 may prescribe a close season in the case of that bird for the purposes of sections 1 and 2; and any close season so prescribed shall commence on a date not later than 21st February and end on a date not earlier than 31st August.
- (3) The Secretary of State may, on a representation made [<sup>F162</sup>to him by the GB conservation bodies acting through the Joint Nature Conservation Committee in accordance with Part 2 of the 2006 Act], by order, either generally or with respect to particular provisions of this Part, particular areas of Great Britain or particular times of the year—
  - (a) add to Schedule 5 or Schedule 8 any animal or plant which, in his opinion, is in danger of extinction in Great Britain or is likely to become so endangered unless conservation measures are taken; and
  - (b) remove from Schedule 5 or Schedule 8 any animal or plant which, in his opinion, is no longer so endangered or likely to become so endangered

<sup>F163</sup> .....

[<sup>F164</sup>(3A) The 2006 Act means the Natural Environment and Rural Communities Act 2006.]

- (4) The Secretary of State may, for the purpose of complying with an international obligation, by order, either generally or with respect to particular provisions of this Part or particular times of the year—
  - (a) add any animals to, or remove any animals from, Schedule 5 or Schedule 6; and
  - (b) add any plants to, or remove any plants from, Schedule 8.
- (5) The Secretary of State may by order, either generally or with respect to particular areas of Great Britain—
  - (a) add any animals to, or remove any animals from, Part I [<sup>F165</sup>, IA or IB] of Schedule 9; and
  - (b) add any plants to, or remove any plants from, Part II of that Schedule.

**Extent Information**

**E19** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

**Textual Amendments**

- F161** Words in s. 22(1) substituted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), [ss. 47\(5\)](#), [107](#); S.I. 2006/1382, [art. 2](#)
- F162** Words in s. 22(3) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), [ss. 105\(1\)](#), [107](#), [Sch. 11 para. 74\(2\)\(a\)](#); S.I. 2006/2541, [art. 2](#)
- F163** Words in s. 22(3) repealed (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), [ss. 105\(1\)\(2\)](#), [107](#), [Sch. 11 para. 74\(2\)\(b\)](#), [Sch. 12](#); S.I. 2006/2541, [art. 2](#)
- F164** S. 22(3A) inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), [ss. 105\(1\)](#), [107](#), [Sch. 11 para. 74\(3\)](#); S. I. 2006/2541, [art. 2](#)
- F165** Words in s. 22(5)(a) inserted (5.3.2015 for E., 12.4.2015 for W.) by [Infrastructure Act 2015 \(c. 7\)](#), [ss. 25\(5\)](#), [57\(4\)](#); S.I. 2015/481, [reg. 2\(c\)](#); S.I. 2015/990, [reg. 2](#)

*Status: Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.*

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**22 Power to vary Schedules. S**

- (1) The Secretary of State may by order, either generally or with respect to particular provisions of this Part, particular areas of Great Britain or particular times of the year
  - [<sup>F633</sup>(a)] add any bird to, or remove any bird from, any of or any Part of Schedules [<sup>F634</sup>A1] to 4.
  - [<sup>F635</sup>(b)] add any animal to, or remove any animal from, Schedule 5 [<sup>F636</sup>, 5A, 6 or 6A]<sup>F637</sup> ...;
  - (c) add any plant to, or remove any plant from, Schedule 8 <sup>F638</sup> ....]

(2) An order under subsection (1) adding any bird to Part II of Schedule 1 or Part I of Schedule 2 may prescribe a close season in the case of that bird for the purposes of sections 1 and 2; and any close season so prescribed shall commence on a date not later than 21st February and end on a date not earlier than 31st August.

[<sup>F639</sup>(2ZA) An order under subsection (1) adding any animal to Schedule 5A may prescribe a close season in the case of that animal for the purposes of section 10A.]

[<sup>F640</sup>(2A) Before making an order under subsection (1) the Scottish Ministers shall consult Scottish Natural Heritage.]

(3) The Secretary of State may, on a representation made [<sup>F641</sup>to him by the GB conservation bodies acting through the Joint Nature Conservation Committee in accordance with Part 2 of the 2006 Act], by order, either generally or with respect to particular provisions of this Part, particular areas of Great Britain or particular times of the year—

- (a) add to Schedule 5 or Schedule 8 any animal or plant which, in his opinion, is in danger of extinction in Great Britain or is likely to become so endangered unless conservation measures are taken; and
- (b) remove from Schedule 5 or Schedule 8 any animal or plant which, in his opinion, is no longer so endangered or likely to become so endangered

<sup>F642</sup> .....

[<sup>F643</sup>(3A) The 2006 Act means the Natural Environment and Rural Communities Act 2006.]

(4) <sup>F644</sup> .....

(5) <sup>F644</sup> .....

**Extent Information**

**E46** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

**Textual Amendments**

**F633** Words in s. 22(1) renumbered (S.) (1.10.2004) as s. 22(1)(a) by virtue of [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, **Sch. 6 para. 20(a)(i)**; S.S.I. 2004/407, **art. 2**

**F634** Word in s. 22(1) substituted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, **Sch. 6 para. 20(a)(ii)**; S.S.I. 2004/407, **art. 2**

**F635** S. 22(1)(b)(c) inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, **Sch. 6 para. 20(a)(iii)**; S.S.I. 2004/407, **art. 2**

**F636** Words in s. 22(1)(b) substituted (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 10(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, **art. 2(1)(h)**

**Status:** Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.

**Changes to legislation:** Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F637** Words in s. 22(1)(b) repealed (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 17(4)(a)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(c)
- F638** Words in s. 22(1)(c) repealed (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 17(4)(b)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(c)
- F639** S. 22(2ZA) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 10(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(h)
- F640** S. 22(2A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), **ss. 50, 59, Sch. 6 para. 20(b)**; S.S.I. 2004/407, **art. 2**
- F641** Words in s. 22(3) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), **ss. 105(1), 107, Sch. 11 para. 74(2)(a)**; S.I. 2006/2541, **art. 2**
- F642** Words in s. 22(3) repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), **ss. 105(1)(2), 107, Sch. 11 para. 74(2)(b), Sch. 12**; S.I. 2006/2541, **art. 2**
- F643** S. 22(3A) inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), **ss. 105(1), 107, Sch. 11 para. 74(3)**; S. I. 2006/2541, **art. 2**
- F644** S. 22(4)(5) repealed (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), **ss. 50, 59, Sch. 6 para. 20(c)**; S.S.I. 2004/407, **art. 2**

## 23 Advisory bodies and their functions.

- (1) The Secretary of State may—
  - (a) establish any body or bodies, consisting in each case of such members as he may from time to time appoint;
  - (b) assign to any body or bodies the duty referred to in subsection (4).
- (2) Without prejudice to his power under subsection (1), the Secretary of State shall, as soon as practicable after the commencement date,—
  - (a) establish at least one body under paragraph (a) of subsection (1); or
  - (b) assign to at least one body, under paragraph (b) of that subsection, the duty referred to in subsection (4).
- (3) A reference in this Part to an advisory body is a reference to a body which is established under subsection (1) or to which the duty there referred to is assigned under that subsection.
- (4) It shall be the duty of an advisory body to advise the Secretary of State on any question which he may refer to it or on which it considers it should offer its advice—
  - (a) in connection with the administration of this Part; or
  - (b) otherwise in connection with the protection of birds or other animals or plants.
- (5) In so far as it does not have power to do so apart from this subsection, an advisory body may publish reports relating to the performance by it of its duty under subsection (4).
- (6) Before appointing a person to be a member of an advisory body established under subsection (1)(a), the Secretary of State shall consult such persons or bodies as he thinks fit.
- (7) The Secretary of State may, out of moneys provided by Parliament and to such an extent as may be approved by the Treasury, defray or contribute towards the expenses of an advisory body established under subsection (1)(a).

*Status: Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.*

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## 24 <sup>F166</sup>Functions of GB conservation bodies] **E+W**

- (1) The <sup>F167</sup>GB conservation bodies, acting through the Joint Nature Conservation Committee in accordance with Part 2 of the 2006 Act] may at any time and shall five years after <sup>F168</sup>30th October 1991] and every five years thereafter, review Schedules 5 and 8 and advise the Secretary of State whether, in their opinion,—
- (a) any animal should be added to, or removed from, Schedule 5;
  - (b) any plant should be added to, or removed from, Schedule 8

<sup>F169</sup> .....

<sup>F170</sup>(1A) The 2006 Act means the Natural Environment and Rural Communities Act 2006.]

- (2) Advice may be given under subsection (1) either generally or with respect to particular provisions of this Part, particular areas of Great Britain or particular times of the year; and any advice so given shall be accompanied by a statement of the reasons which led <sup>F171</sup>to that advice being given.]

<sup>F172</sup>(3) The Secretary of State shall lay before each House of Parliament a copy of any advice so given and the statements accompanying it.]

- (4) The functions of the <sup>F173</sup>GB conservation bodies] shall include power to advise or assist—

- (a) any constable;
- (b) any proper officer of a local authority; or

<sup>F174</sup>(c) any wildlife inspector,]

in, or in connection with, the enforcement of the provisions of this Part or any order or regulations made under it.

### Extent Information

**E20** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

### Textual Amendments

**F166** S. 24 heading substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), ss. 105\(1\), 107, Sch. 11 para. 75\(5\)](#); S.I. 2006/2541, [art. 2](#)

**F167** Words in s. 24(1) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), ss. 105\(1\), 107, Sch. 11 para. 75\(2\)\(a\)](#); S.I. 2006/2541, [art. 2](#)

**F168** Words in s. 24(1) substituted ( *1.4.1991.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\), s. 132, Sch. 9 para. 11\(6\)\(a\)](#); S.I.1991/685, [art.3.](#)

**F169** Words in s. 24(1) repealed (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), ss. 105\(1\)\(2\), 107, Sch. 11 para. 75\(2\)\(b\), Sch. 12](#); S.I. 2006/2541, [art. 2](#)

**F170** S. 24(1A) inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), ss. 105\(1\), 107, Sch. 11 para. 75\(3\)](#); S.I. 2006/2541, [art. 2](#)

**F171** Words in s. 24(2) substituted ( *1.4.1991*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\), s. 132\(1\)\(a\), Sch. 9 para. 11\(6\)\(b\)](#); 1991/685, [art.3.](#)

**F172** S. 24(3) substituted ( *1.4.1991.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\), s. 132\(1\)\(a\), Sch. 9 para. 11\(6\)\(c\)](#); S.I. 1991/685, [art. 3.](#)

**F173** Words in s. 24(4) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), ss. 105\(1\), 107, Sch. 11 para. 75\(4\)](#); S.I. 2006/2541, [art. 2](#)

**F174** S. 24(4)(c) substituted (E.W.) (30.1.2001) by [2000 c. 37, ss. 81\(1\), 103\(2\), Sch. 12 para. 11](#)

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**24** [<sup>F645</sup>**Functions of GB conservation bodies**] **S**

- (1) The [<sup>F646</sup>GB conservation bodies, acting through the Joint Nature Conservation Committee in accordance with Part 2 of the 2006 Act] may at any time and shall five years after [<sup>F647</sup>30th October 1991] and every five years thereafter, review Schedules 5 and 8 and advise the Secretary of State whether, in their opinion,—
- (a) any animal should be added to, or removed from, Schedule 5;
  - (b) any plant should be added to, or removed from, Schedule 8

<sup>F648</sup> .....

[<sup>F649</sup>(1A) The 2006 Act means the Natural Environment and Rural Communities Act 2006.]

- (2) Advice may be given under subsection (1) either generally or with respect to particular provisions of this Part, particular areas of Great Britain or particular times of the year; and any advice so given shall be accompanied by a statement of the reasons which led [<sup>F650</sup>to that advice being given.]

[<sup>F651</sup>(3) The Secretary of State shall lay before each House of Parliament a copy of any advice so given and the statements accompanying it.]

- (4) The functions of the [<sup>F652</sup>GB conservation bodies] shall include power to advise or assist—

- (a) any constable; [<sup>F653</sup>or]
- (b) any proper officer of a local authority; <sup>F654</sup> ...
- <sup>F655</sup>(c) .....

in, or in connection with, the enforcement of the provisions of this Part or any order or regulations made under it.

[<sup>F656</sup>(4A) The functions of Scottish Natural Heritage include the power to advise or assist—

- (a) another relevant body exercising functions under section 14L(2)(a); and
- (b) a person authorised to enter premises under section 14M exercising functions under that section.]

**Extent Information**

**E47** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

**Textual Amendments**

- F645** S. 24 heading substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), ss. 105\(1\), 107, Sch. 11 para. 75\(5\)](#); S.I. 2006/2541, [art. 2](#)
- F646** Words in s. 24(1) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), ss. 105\(1\), 107, Sch. 11 para. 75\(2\)\(a\)](#); S.I. 2006/2541, [art. 2](#)
- F647** Words in s. 24(1) substituted ( *1.4.1991.*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\), s. 132, Sch. 9 para. 11\(6\)\(a\)](#); S.I.1991/685, [art.3.](#)
- F648** Words in s. 24(1) repealed (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), ss. 105\(1\)\(2\), 107, Sch. 11 para. 75\(2\)\(b\), Sch. 12](#); S.I. 2006/2541, [art. 2](#)
- F649** S. 24(1A) inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), ss. 105\(1\), 107, Sch. 11 para. 75\(3\)](#); S.I. 2006/2541, [art. 2](#)
- F650** Words in s. 24(2) substituted ( *1.4.1991*) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\), s. 132\(1\)\(a\), Sch. 9 para. 11\(6\)\(b\)](#); 1991/685, [art.3.](#)

*Status: Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.*

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- F651** S. 24 (3) substituted ( 1.4.1991.) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132(1)(a), **Sch. 9 para. 11(6)(c)**; S.I. 1991/685, **art.3**.
- F652** Words in s. 24(4) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 75(4)**; S.I. 2006/2541, **art. 2**
- F653** Word in s. 24(4) inserted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 22(6)(a)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(d)
- F654** Word in s. 24(4) repealed (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 22(6)(b)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(d)
- F655** S. 24(4)(c) repealed (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 22(6)(c)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(d)
- F656** S. 24(4A) inserted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 17(5)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(c)

## 25 Functions of local authorities.

- (1) Every local authority shall take such steps as they consider expedient for bringing to the attention of the public and of schoolchildren in particular the effect of—
- (a) the provisions of this Part; and
  - (b) any order made under this Part affecting the whole or any part of their area.
- (2) A local authority in England and Wales may institute proceedings for any offence under this Part or any order made under it which is committed within their area.
- [<sup>F175</sup>(3) Nothing in this section applies in relation to Schedule 9A or orders or offences under it.]

### Textual Amendments

- F175** S. 25(3) inserted (E.W.) (12.4.2015) by Infrastructure Act 2015 (c. 7), **ss. 23(5)**, 57(4); S.I. 2015/481, reg. 3(a); S.I. 2015/990, reg. 2

## 26 Regulations, orders, notices etc. **E+W**

- (1) Any power to make regulations or orders under this Part shall be exercisable by statutory instrument.
- (2) A statutory instrument containing regulations under this Part, or an order under a provision of this Part other than sections 2(6), 3, 5 and 11, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) No order under section 5 or 11 shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (4) Before making any order under this Part, the Secretary of State—
- <sup>F176</sup>(a) except in the case of an order under section 2(6), shall give to any local authority affected and, except in the case of an order under section 3, any other person affected, by such means as he may think appropriate, an opportunity to submit objections or representations with respect to the subject matter of the order;
  - <sup>F177</sup>(b) except in the case of an order under section 22(3), shall consult with whichever one of the advisory bodies he considers is best able to advise him as to whether the order should be made; and



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- (c) may, if he thinks fit, cause a public inquiry to be held.
- (5) Notice of the making of an order under this Part shall be published by the Secretary of State—
- (a) if the order relates in whole or in part to England and Wales, in the London Gazette; and
- (b) if the order relates in whole or in part to Scotland, in the Edinburgh Gazette.
- (6) The Secretary of State shall give consideration to any proposals for the making by him of an order under this Part with respect to any area which may be submitted to him by a local authority whose area includes that area.
- [<sup>F178</sup>(7) In this section references to orders do not include species control orders under Schedule 9A.]

#### Extent Information

**E21** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

- F176** Words in s. 26(4)(a) inserted (S.) (1.5.2012 for specified purposes, 2.7.2012 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 17\(6\)\(b\)\(ii\)](#), 43(1) (with s. 41(1)); S.S.I. 2012/116, art. 2(b)(i); S.S.I. 2012/175, art. 2(1)(c)
- F177** Words in s. 26(4)(b) inserted (S.) (1.5.2012 for specified purposes, 2.7.2012 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 17\(6\)\(b\)\(iii\)](#), 43(1) (with s. 41(1)); S.S.I. 2012/116, art. 2(b)(i); S.S.I. 2012/175, art. 2(1)(c)
- F178** S. 26(7) inserted (E.W.) (12.4.2015) by [Infrastructure Act 2015 \(c. 7\)](#), [ss. 23\(6\)](#), 57(4); S.I. 2015/481, reg. 3(a); S.I. 2015/990, reg. 2; S.I. 2015/481, reg. 3(a); S.I. 2015/990, reg. 2

## 26 Regulations, orders, notices etc. **S**

- (1) Any power to make regulations or orders under [<sup>F657</sup> a provision of this Part other than section 14D] shall be exercisable by statutory instrument.
- (2) A statutory instrument containing regulations under this Part, or an order under a provision of this Part other than [<sup>F658</sup>—
- (a) an order under any of] sections 2(6), <sup>F659</sup>... 5 [<sup>F660</sup>, 10A(4)]<sup>F661</sup> or [<sup>F662</sup>11(4)]<sup>F663</sup>; and
- (b) an order under section 22(1)(a) which removes from Part I of Schedule 2 black grouse, common pheasant, grey partridge, ptarmigan, red grouse or red-legged partridge,],
- shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) No [<sup>F664</sup>—
- (a) order under section 5 or [<sup>F662</sup>11(4)]<sup>F665</sup>; or
- (b) order under section 22(1)(a) which removes from Part I of Schedule 2 any bird referred to in paragraph (b) of subsection (2),]
- shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

*Status: Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.*

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- (4) Before making any order under [<sup>F666</sup>a provision of this Part other than section 14D], the Secretary of State—
- (a) except in the case of an order under section 2(6) [<sup>F176</sup> 14, 14ZC, 14A or 14B], shall give to any local authority affected and <sup>F667</sup>... any other person affected, by such means as he may think appropriate, an opportunity to submit objections or representations with respect to the subject matter of the order;
  - [<sup>F668</sup>(aa) in the case of an order under section 16A(5)(b), shall consult Scottish Natural Heritage;]
  - (b) except in the case of an order under section [<sup>F177</sup>14, 14ZC, 14A, 14B,][<sup>F669</sup>16A(5)(b) or][<sup>F670</sup>22], shall consult with whichever one of the advisory bodies he considers is best able to advise him as to whether the order should be made; and
  - (c) may [<sup>F671</sup>except in the case of an order under section 16A(5)(b),], if he thinks fit, cause a public inquiry to be held.
- [<sup>F672</sup>(4A) The Scottish Ministers may make an order under section 14, 14ZC or 14A only where they have consulted—
- (a) Scottish Natural Heritage; and
  - (b) any other person appearing to them to have an interest in the making of the order.
- (4B) Subsection (4A) does not apply where the Scottish Ministers consider it necessary to make the order urgently and without consultation.]
- (5) Notice of the making of an order under this Part [<sup>F673</sup> other than an order under section 16A(5)(b),] shall be published by the Secretary of State—
- (a) if the order relates in whole or in part to England and Wales, in the London Gazette; and
  - (b) if the order relates in whole or in part to Scotland, in the Edinburgh Gazette.
- (6) The Secretary of State shall give consideration to any proposals for the making by him of an order under this Part with respect to any area which may be submitted to him by a local authority whose area includes that area.

#### Extent Information

**E48** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

**F176** Words in s. 26(4)(a) inserted (S.) (1.5.2012 for specified purposes, 2.7.2012 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 17(6)(b)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2012/116, art. 2(b)(i); S.S.I. 2012/175, art. 2(1)(c)

**F177** Words in s. 26(4)(b) inserted (S.) (1.5.2012 for specified purposes, 2.7.2012 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 17(6)(b)(iii)**, 43(1) (with s. 41(1)); S.S.I. 2012/116, art. 2(b)(i); S.S.I. 2012/175, art. 2(1)(c)

**F657** Words in s. 26(1) substituted (S.) (2.7.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 17(6)(a)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(c)

**F658** S. 26(2)(a) and word inserted (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 3(6)(a)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)

**F659** Word in s. 26(2) repealed (S.) (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 4(5)(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(a)

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- F660** Word in s. 26(2) inserted (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 6(3), 43(1)** (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(b)
- F661** Word in s. 26(2) substituted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(6)(a)(ii), 43(1)** (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)
- F662** Word in s. 26(2)(3) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 21(a)**; S.S.I. 2004/407, **art. 2**
- F663** S. 26(2)(b) and word inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(6)(a)(iii), 43(1)** (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)
- F664** Para reference (a) in s. 26(3) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(6)(b)(i), 43(1)** (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)
- F665** S. 26(3)(b) and word inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(6)(b)(ii), 43(1)** (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)
- F666** Words in s. 26(4) substituted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 17(6)(b)(i), 43(1)** (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(c)
- F667** Words in s. 26(4)(a) repealed (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 4(5)(b), 43(1)** (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(a)
- F668** S. 26(4)(aa) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 18(4)(a)(i), 43(1)** (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(j)
- F669** Words in s. 26(4)(b) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 18(4)(a)(ii), 43(1)** (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(j)
- F670** Word in s. 26(4)(b) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 21(b)**; S.S.I. 2004/407, **art. 2**
- F671** Words in s. 26(4)(c) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 18(4)(a)(iii), 43(1)** (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(j)
- F672** S. 26(4A)(4B) inserted (S.) (1.5.2012 for specified purposes, 2.7.2012 in so far as not already in force) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 17(6)(c), 43(1)** (with s. 41(1)); S.S.I. 2012/116, art. 2(b)(ii); S.S.I. 2012/175, art. 2(1)(c)
- F673** Words in s. 26(5) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 18(4)(b), 43(1)** (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(j)

## [<sup>F179</sup>26A Enforcement of wildlife legislation

Regulations under section 2(2) of the European Communities Act 1972 (c. 68) for the purpose of implementing Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora [<sup>F180</sup> (that is, the Directive as amended from time to time by any other [<sup>F181</sup>EU] instrument or otherwise)] may, despite paragraph 1(1) (d) of Schedule 2 to that Act, create offences punishable on summary conviction with imprisonment for a term not exceeding six months.]

### Textual Amendments

- F179** S. 26A inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 22**; S.S.I. 2004/407, **art. 2**
- F180** Words in s. 26A substituted (23.4.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 44(2), 84**; S.S.I. 2007/250, **art. 3** (subject to art. 4)
- F181** 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 arts. 3(2)(3), 4(2), 6(4)(5))

*Status: Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## [<sup>F182</sup>26B Annual report on wildlife crime

- (1) The Scottish Ministers must, after the end of each calendar year, lay before the Scottish Parliament a report on offences relating to wildlife.
- (2) The report may, in particular, include—
  - (a) information on the incidence and prosecution of such offences during the year to which the report relates;
  - (b) information on research and advice relating to wildlife which the Scottish Ministers consider relevant to such offences.
- (3) The report need only include information in relation to such offences relating to wildlife as the Scottish Ministers consider appropriate.
- (4) For the purposes of this section, an offence relating to wildlife is an offence—
  - (a) under Part 1 of this Act; or
  - (b) under any other enactment which the Scottish Ministers consider may have an impact on wildlife.]

### Textual Amendments

**F182** S. 26B inserted (S.) (2.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), ss. 20, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(2)

## 27 Interpretation of Part I. **E+W**

- (1) In this Part, unless the context otherwise requires—
  - “advertisement” includes a catalogue, a circular and a price list;
  - “advisory body” has the meaning given by section 23;
  - “agriculture Minister” means the Minister of Agriculture, Fisheries and Food or the Secretary of State;
  - “authorised person” means—
    - (a) the owner or occupier, or any person authorised by the owner or occupier, of the land on which the action authorised is taken;
    - (b) any person authorised in writing by the local authority for the area within which the action authorised is taken;
    - (c) as respects anything done in relation to wild birds, any person authorised in writing [<sup>F183</sup> by—
      - (i) the Welsh Ministers, in relation to things done for purposes relating to fishing or fisheries in the Welsh inshore region (within the meaning of the Marine and Coastal Access Act 2009);
      - (ii) any] of the following bodies, that is to say, [<sup>F184</sup>any of the [<sup>F185</sup>GB conservation bodies]], <sup>F186</sup> . . . a district board for a fishery district within the meaning of the <sup>M12</sup>Salmon Fisheries (Scotland) Act 1862 [<sup>F187</sup>or an inshore fisheries and conservation authority]<sup>F188</sup> . . .;
    - (d) [<sup>F189</sup>any person authorised in writing by—
      - (i) the Environment Agency, in relation to anything done in England;

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(ii) the Natural Resources Body for Wales, in relation to anything done in Wales; or

(iii) a water undertaker or a sewerage undertaker.]

so, however, that the authorisation of any person for the purposes of this definition shall not confer any right of entry upon any land;

“automatic weapon” and “semi-automatic weapon” do not include any weapon the magazine of which is incapable of holding more than two rounds;

“aviculture” means the breeding and rearing of birds in captivity;

“destroy”, in relation to an egg, includes doing anything to the egg which is calculated to prevent it from hatching, and “destruction” shall be construed accordingly;

“domestic duck” means any domestic form of duck;

“domestic goose” means any domestic form of goose;

“firearm” has the same meaning as in the <sup>M13</sup>Firearms Act 1968;

“game bird” means any pheasant, partridge, grouse (or moor game), black (or heath) game or ptarmigan;

[<sup>F190</sup> “inland waters” means—

(a) inland waters within the meaning of the Water Resources Act 1991; <sup>M14</sup>

(b) any waters not falling within paragraph (a) above which are within the seaward limits of the territorial sea;

(c) controlled waters within the meaning of Part II of the Control of Pollution Act 1974 <sup>M15</sup> other than ground waters as defined in section 30A(1)(d) of that Act.]

[<sup>F191</sup> “inshore fisheries and conservation authority” means the authority for an inshore fisheries and conservation district established under section 149 of the Marine and Coastal Access Act 2009;]

“livestock” includes any animal which is kept—

(a) for the provision of food, wool, skins or fur;

(b) for the purpose of its use in the carrying on of any agricultural activity; or

(c) for the provision or improvement of shooting or fishing;

“local authority” means—

(a) in relation to England <sup>F192</sup> . . . , a county, district or London borough council <sup>F193</sup> . . . ;

(aa) [<sup>F194</sup> in relation to Wales, a county council or county borough council;]

(b) in relation to Scotland, a [<sup>F195</sup> council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];

“occupier”, in relation to any land other than the foreshore, includes any person having any right of hunting, shooting, fishing or taking game or fish;

“pick”, in relation to a plant, means gather or pluck any part of the plant without uprooting it;

“poultry” means domestic fowls, geese, ducks, guinea-fowls, pigeons and quails, and turkeys;

[<sup>F196</sup> “premises” includes land (including buildings), movable structures, vehicles, vessels, aircraft and other means of transport;]

“sale” includes hire, barter and exchange and cognate expressions shall be construed accordingly;

“uproot”, in relation to a plant, means dig up or otherwise remove the plant from the land on which it is growing;

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“vehicle” includes aircraft, hovercraft and boat;

<sup>F197</sup>  
.....

“wild animal” means any animal (other than a bird) which is or (before it was killed or taken) was living wild;

“wild bird” means any bird of a [<sup>F198</sup>species] which is ordinarily resident in or is a visitor to [<sup>F199</sup>the European territory of any member State] in a wild state but does not include poultry or, except in sections 5 and 16, any game bird;

[<sup>F200</sup>“the Wild Birds Directive” means Council Directive 79/409/EEC on the conservation of wild birds;]

“wild plant” means any plant which is or (before it was picked, uprooted or destroyed) was growing wild and is of a kind which ordinarily grows in Great Britain in a wild state.

[<sup>F201</sup>“wildlife inspector” has the meaning given by [<sup>F202</sup>section 18A(1)].]

- (2) A bird shall not be treated as bred in captivity for the purposes of this Part unless its parents were lawfully in captivity when the egg was laid.
- (3) Any reference in this Part to an animal of any kind includes, unless the context otherwise requires, a reference to an egg, larva, pupa, or other immature stage of an animal of that kind.

[<sup>F203</sup>(3A) In this Part “the GB conservation bodies” means—

- (a) Natural England,
- (b) [<sup>F204</sup>the Natural Resources Body for Wales], and
- (c) Scottish Natural Heritage,

and references to a conservation body are to be read accordingly.]

- (4) This Part shall apply to the Isles of Scilly as if the Isles were a county and as if the Council of the Isles were a county council.
- (5) This Part extends to the territorial waters adjacent to Great Britain, and for the purposes of this Part any part of Great Britain which is bounded by territorial waters shall be taken to include the territorial waters adjacent to that part.

#### Extent Information

**E22** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

**F183** S. 27(1): words in para. (c) of definition of “authorised person” substituted (E.W.) (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. **193(4)**, 324(2)(c)

**F184** Words in s. 27(1) substituted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. **132(1)(a)**, Sch. 9 para. 11(7)(a); S.I. 1991/685, art. 3.

**F185** S. 27(1): words in definition of “authorised person” substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1), 107, **Sch. 11 para. 76(2)**; S.I. 2006/2541, art. 2

**F186** Words in s. 27(1) repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

**F187** Words in s. 27(1) inserted (1.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), **Sch. 14 para. 11(a)**; S.I. 2011/556, art. 2(2)(k)

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- F188** Words in s. 27(1) repealed (E.W.) (1.4.2010 for W., 1.4.2011 for E.) by [Marine and Coastal Access Act 2009 \(c. 23\), s. 324\(3\), Sch. 22 Pt. 4](#); S.I. 2010/630, art. 3(b) (with arts. 8, 12); S.I. 2011/556, art. 2(2) (o) (with art. 2(3))
- F189** Words in s. 27(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\), art. 1\(2\), Sch. 2 para. 171\(2\)](#) (with Sch. 7)
- F190** Definition in s. 27(1) inserted (30.11.1995) by S.I. 1995/2825, [reg. 4](#)
- F191** Definition "inshore fisheries and conservation authority" in s. 27(1) inserted (1.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\), s. 324\(3\), Sch. 14 para. 11\(b\)](#); S.I. 2011/556, art. 2(2)(k)
- F192** Words in s. 27(1) repealed (1.4.1996) by 1994 c. 19, s. 66(6)(8), [Sch. 16 para. 65\(2\), Sch. 18](#) (with ss. 54(5)(7), 55(5), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); S.I. 1996/396, art. 4, [Sch. 2](#)
- F193** Words in s. 27(1) repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\), ss. 1, 102, Sch. 17](#)
- F194** S. 27(1): para. (aa) in the definition of "local authority" inserted (1.4.1996) by 1994 c. 19, s. 66(6), [Sch. 16 para. 65\(2\)](#) (with ss. 54(5)(7), 55(5), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); S.I. 1996/396, art. 4, [Sch. 2](#)
- F195** Words in s. 27(1) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), [Sch. 13 para. 125\(2\)](#); S.I. 1996/323, [art. 4\(1\)\(b\)\(c\)](#)
- F196** S. 27(1): definition of "premises" inserted (E.W.) (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), ss. 105\(2\), 107, Sch. 11 para. 76\(3\)\(5\)](#); S.I. 2006/2541, [art. 2](#)
- F197** S. 27(1): definition of "water authority" repealed (S.) (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71, Sch. 7 para. 11\(2\)](#); S.S.I. 2002/118, [art. 2\(3\)](#)
- F198** S. 27(1): word in definition of "wild bird" substituted (E.W.) (14.7.2004) by [The Wildlife and Countryside Act 1981\(England and Wales\) \(Amendment\) Regulations 2004 \(S.I. 2004/1487\)](#), {reg. 4(a)} and also expressed to be substituted (W.) (2.8.2004) by [S.I. 2004/1733, reg. 3\(1\), Sch. para. 2\(a\)](#)
- F199** S. 27(1): words in definition of "wild bird" substituted (E.W.) (14.7.2004) by [The Wildlife and Countryside Act 1981\(England and Wales\) \(Amendment\) Regulations 2004 \(S.I. 2004/1487\)](#), {reg. 4(b)} and also expressed to be substituted (W.) (2.8.2004) by [S.I. 2004/1733, reg. 3\(1\), Sch. para. 2\(b\)](#)
- F200** S. 27: definition of "the Wild Birds Directive" inserted (E.W.) (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\), reg. 7\(6\)](#)
- F201** S. 27(1): definition of "wildlife inspector" inserted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), [Sch. 12 para. 12](#)
- F202** S. 27(1): words in definition of "wildlife inspector" substituted (E.W.) (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), ss. 52, 107, Sch. 5 para. 6](#); S.I. 2006/1382, [art. 2](#)
- F203** S. 27(3A) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), ss. 105\(2\), 107, Sch. 11 para. 76\(4\)](#); S.I. 2006/2541, [art. 2](#)
- F204** Words in s. 27(3A) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\), art. 1\(2\), Sch. 2 para. 171\(3\)](#) (with Sch. 7)

#### Marginal Citations

- M12** 1862 c. 97.  
**M13** 1968 c. 27.  
**M14** 1991 c.57.  
**M15** 1974 c.40.

## 27 Interpretation of Part I. **S**

<sup>F674</sup>(1) In this Part, unless the context otherwise requires—

- “advertisement” includes a catalogue, a circular and a price list;
- “advisory body” has the meaning given by section 23;
- “agriculture Minister” means the Minister of Agriculture, Fisheries and Food or the Secretary of State;
- “authorised person” means—

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- (a) the owner or occupier, or any person authorised by the owner or occupier, of the land on which the action authorised is taken;
- (b) any person authorised in writing by the local authority for the area within which the action authorised is taken;
- (c) as respects anything done in relation to wild birds, any person authorised in writing by any of the following bodies, that is to say, <sup>F184</sup>any of the <sup>F675</sup>GB conservation bodies], <sup>F186</sup>. . . a district board for a fishery district within the meaning of the <sup>M12</sup>Salmon Fisheries (Scotland) Act 1862 <sup>F188</sup> . . . <sup>M45F188</sup> . . .;

so, however, that the authorisation of any person for the purposes of this definition shall not confer any right of entry upon any land;

“automatic weapon” and “semi-automatic weapon” do not include any weapon the magazine of which is incapable of holding more than two rounds;

“aviculture” means the breeding and rearing of birds in captivity;

“destroy”, in relation to an egg, includes doing anything to the egg which is calculated to prevent it from hatching, and “destruction” shall be construed accordingly;

“domestic duck” means any domestic form of duck;

“domestic goose” means any domestic form of goose;

“firearm” has the same meaning as in the <sup>M13</sup>Firearms Act 1968;

<sup>F676</sup> . . . <sup>F676</sup> . . . <sup>F676</sup> . . .

<sup>F190</sup> “inland waters” means—

- (a) inland waters within the meaning of the Water Resources Act 1991; <sup>M14</sup>
- (b) any waters not falling within paragraph (a) above which are within the seaward limits of the territorial sea;
- (c) controlled waters within the meaning of Part II of the Control of Pollution Act 1974 <sup>M15</sup> other than ground waters as defined in section 30A(1)(d) of that Act.]

“livestock” includes any animal which is kept—

- (a) for the provision of food, wool, skins or fur;
- (b) for the purpose of its use in the carrying on of any agricultural activity; or
- (c) for the provision or improvement of shooting or fishing;

“local authority” means—

- (a) in relation to England <sup>F192</sup>. . . , a county, district or London borough council <sup>F193</sup> . . . ;
- (aa) <sup>F194</sup> in relation to Wales, a county council or county borough council;]
- (b) in relation to Scotland, a <sup>F195</sup> council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];

“occupier”, in relation to any land other than the foreshore, includes any person having any right of hunting, shooting, fishing or taking game or fish;

“pick”, in relation to a plant, means gather or pluck any part of the plant without uprooting it;

“poultry” means <sup>F677</sup> the domestic forms of the following, that is to say] fowls, geese, ducks, guinea-fowls, pigeons and quails, and turkeys;

“sale” includes hire, barter and exchange and cognate expressions shall be construed accordingly;

“uproot”, in relation to a plant, means dig up or otherwise remove the plant from the land on which it is growing;



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*Changes to legislation:* Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“vehicle” includes aircraft, hovercraft and boat;

<sup>F197</sup>  
...

“wild animal” means any animal (other than a bird) which is or (before it was killed or taken) was living wild;

“wild bird” means any bird of a [<sup>F678</sup>species] which is ordinarily resident in or is a visitor to [<sup>F679</sup>any member State or the European territory of any member State] in a wild state but does not include poultry <sup>F680</sup>...;

“wild plant” means any plant [<sup>F681</sup>(including fungi)] which is or (before it was picked, uprooted or destroyed) was growing wild and is of a kind which ordinarily grows in Great Britain in a wild state.

[<sup>F201</sup> “wildlife inspector” has the meaning given by section 19ZA(1).]

(2) A bird shall not be treated as bred in captivity for the purposes of this Part unless its parents were lawfully in captivity when the egg was laid.

[<sup>F682</sup>(2A) An animal shall not be treated as bred in captivity for the purposes of this Part unless its parents were lawfully held in captivity—

- (a) where the animal is of a viviparous species, when it was born,
- (b) where the animal is of an oviparous species, when the egg was laid.]

(3) Any reference in this Part to an animal of any kind includes, unless the context otherwise requires, a reference to an egg, larva, pupa, or other immature stage of an animal of that kind.

[<sup>F683</sup>(3ZA) Any reference in this Part to a plant which is growing—

- (a) includes a reference to a bulb, corm or rhizome;
- (b) does not include a reference to a seed or spore.]

[<sup>F684</sup>(3A) In this Part “the GB conservation bodies” means—

- (a) Natural England,
- (b) [<sup>F204</sup>the Natural Resources Body for Wales], and
- (c) Scottish Natural Heritage,

and references to a conservation body are to be read accordingly.]

(4) This Part shall apply to the Isles of Scilly as if the Isles were a county and as if the Council of the Isles were a county council.

(5) This Part extends to the territorial waters adjacent to Great Britain, and for the purposes of this Part any part of Great Britain which is bounded by territorial waters shall be taken to include the territorial waters adjacent to that part.

#### Extent Information

**E49** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

**F184** Words in s. 27(1) substituted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. [132\(1\)\(a\)](#), Sch. 9 para. 11(7)(a); S.I. 1991/685, art. 3.

**F186** Words in s. 27(1) repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, [Sch. 27 Pt. I](#)

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*Changes to legislation:* Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F188** Words in s. 27(1) repealed (E.W.) (1.4.2010 for W., 1.4.2011 for E.) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 22 Pt. 4**; S.I. 2010/630, art. 3(b) (with arts. 8, 12); S.I. 2011/556, art. 2(2) (o) (with art. 2(3))
- F190** Definition in s. 27(1) inserted (30.11.1995) by S.I. 1995/2825, **reg. 4**
- F192** Words in s. 27(1) repealed (1.4.1996) by 1994 c. 19, s. 66(6)(8), **Sch. 16 para. 65(2)**, **Sch. 18** (with ss. 54(5)(7), 55(5), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1996/396, art. 4, **Sch. 2**
- F193** Words in s. 27(1) repealed by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 102, **Sch. 17**
- F194** S. 27(1): para. (aa) in the definition of “local authority” inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 65(2)** (with ss. 54(5)(7), 55(5), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1996/396, art. 4, **Sch. 2**
- F195** Words in s. 27(1) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 125(2)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F197** S. 27(1): definition of “water authority” repealed (S.) (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, **Sch. 7 para. 11(2)**; S.S.I. 2002/118, **art. 2(3)**
- F201** S. 27(1): definition of “wildlife inspector” inserted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), **Sch. 12 para. 12**
- F204** Words in s. 27(3A) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 171(3)** (with Sch. 7)
- F674** Words in s. 27(1) repealed (1.4.2010 for W., 1.4.2011 for E.) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 22 Pt. 4**; S.I. 2010/630, art. 3(b) (with arts. 8, 12); S.I. 2011/556, art. 2(2)(o) (with art. 2(3))
- F675** S. 27(1): words in definition of “authorised person” substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 76(2)**; S.I. 2006/2541, **art. 2**
- F676** Definition “game bird” in s. 27(1) repealed (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 2(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(a)
- F677** S. 27(1): words in the definition of “poultry” substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 23(2)(a)**; S.S.I. 2004/407, **art. 2**
- F678** S. 27(1): word in the definition of “wild bird” substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 23(2)(b)(i)**; S.S.I. 2004/407, **art. 2**
- F679** S. 27(1): words in the definition of “wild bird” substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 23(2)(b)(ii)**; S.S.I. 2004/407, **art. 2**
- F680** Words in s. 27(1) repealed (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 2(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(a)
- F681** S. 27(1): words in definition of “wild plant” inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 23(2)(c)**; S.S.I. 2004/407, **art. 2**
- F682** S. 27(2A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 23(3)**; S.S.I. 2004/407, **art. 2**
- F683** S. 23(3ZA) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 23(4)**; S.S.I. 2004/407, **art. 2**
- F684** S. 27(3A) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(2), 107, **Sch. 11 para. 76(4)**; S.I. 2006/2541, **art. 2**

**Marginal Citations**

- M12** 1862 c. 97.
- M13** 1968 c. 27.
- M14** 1991 c.57.
- M15** 1974 c.40.
- M45** 1966 c. 38.

**Status:** Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.  
**Changes to legislation:** Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

#### Textual Amendments

- F205** S. 27ZA inserted (E.W.) (14.7.2004) by The Wildlife and Countryside Act 1981(England and Wales) (Amendment) Regulations 2004 (S.I. 2004/1487), {reg. 5}
- F206** S. 27ZA ceases to have effect (W.) (2.8.2004) by virtue of [The Wildlife and Countryside Act 1981 \(Amendment\) \(Wales\) Regulations 2004 \(S.I. 2004/1733\)](#), [reg. 3\(1\)](#)

## PART II

### NATURE CONSERVATION, COUNTRYSIDE AND NATIONAL PARKS

<sup>x2</sup>[\[<sup>F207</sup> Sites of special scientific interest and limestone pavements \]](#)

#### Editorial Information

- X2** S. 27A and preceding heading repealed (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1)(2), 107, [Sch. 11 para. 77](#), [Sch. 12](#); S.I. 2006/2541, [art. 2](#) and new s. 27AA and preceding heading inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1), 107, [Sch. 11 para. 78](#); S.I. 2006/2541, [art. 2](#)

#### Textual Amendments

- F207** S. 27AA and preceding heading inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1), 107, [Sch. 11 para. 78](#); S.I. 2006/2541, [art. 2](#)

### 27A Construction of references to Nature Conservancy Council.

<sup>F208</sup> .....

#### Textual Amendments

- F208** S. 27A and preceding heading repealed (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1)(2), 107, [Sch. 11 para. 77](#), [Sch. 12](#); S.I. 2006/2541, [art. 2](#)

### <sup>F209</sup>27AA Application of sections 28 to 34 in Wales

In relation to land in Wales, sections 28 to 34 (which relate to sites of special scientific interest and limestone pavements) have effect as if references to Natural England were references to <sup>F210</sup>the Natural Resources Body for Wales and as if section 28D(2)(d) were omitted].]

#### Textual Amendments

- F209** S. 27AA and preceding heading inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1), 107, [Sch. 11 para. 78](#); S.I. 2006/2541, [art. 2](#)
- F210** Words in s. 27AA substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [art. 1\(2\)](#), [Sch. 2 para. 172](#) (with Sch. 7)

*Status: Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**[<sup>F211</sup> 28 Sites of special scientific interest. E+W**

- (1) Where [<sup>F212</sup>Natural England] are of the opinion that any area of land is of special interest by reason of any of its flora, fauna, or geological or physiographical features, it shall be the duty of [<sup>F212</sup>Natural England] to notify that fact—
- (a) to the local planning authority [<sup>F213</sup>(if any)] in whose area the land is situated;
  - (b) to every owner and occupier of any of that land; and
  - (c) to the Secretary of State.

[ The reference in subsection (1) to land includes—

- <sup>F214</sup>(1A)
  - (a) any land lying above mean low water mark;
  - (b) any land covered by estuarial waters.

- (1B) Where the area of land to which a notification under subsection (1) relates includes land falling within subsection (1A)(a) or (b) (“area A”), it may also include land not falling within subsection (1A)(a) or (b) (“area B”) if—
- (a) area B adjoins area A, and
  - (b) any of the conditions in subsection (1C) is satisfied.

(1C) The conditions are—

- (a) that the flora, fauna or features leading to the notification of area A is or are also present in area B;
- (b) that the notification of area A is by reason of any flora or fauna which are dependent (wholly or in part) on anything which takes place in, or is present in, area B;
- (c) that, without the inclusion of area B, the identification of the boundary of the land notified (either in the notification or on the ground for the purposes of exercising functions in relation to it) would be impossible or impracticable.]

- (2) [<sup>F212</sup>Natural England] shall also publish a notification of [<sup>F215</sup>the fact mentioned in subsection (1)] in at least one local newspaper circulating in the area in which the land is situated.

- (3) A notification under subsection (1) shall specify the time (not being less than three months from the date of the giving of the notification) within which, and the manner in which, representations or objections with respect to it may be made; and [<sup>F212</sup>Natural England] shall consider any representation or objection duly made.

(4) A notification under subsection (1)(b) shall also specify—

- (a) the flora, fauna, or geological or physiographical features by reason of which the land is of special interest, and
- (b) any operations appearing to [<sup>F212</sup>Natural England] to be likely to damage that flora or fauna or those features,

and shall contain a statement of [<sup>F216</sup>Natural England's] views about the management of the land (including any views [<sup>F212</sup>Natural England] may have about the conservation and enhancement of that flora or fauna or those features).

- (5) Where a notification under subsection (1) has been given, [<sup>F212</sup>Natural England] may within the period of nine months beginning with the date on which the notification was served on the Secretary of State either—

- (a) give notice to the persons mentioned in subsection (1) withdrawing the notification; or

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- (b) give notice to those persons confirming the notification (with or without modifications).

[<sup>F217</sup>In the case of a notification given in relation to land lying below mean low water mark by virtue of subsection (1B), this subsection is subject to section 28CB(4) and (6).]

- (6) A notification shall cease to have effect—

- (a) on the giving of notice of its withdrawal under subsection (5)(a) to any of the persons mentioned in subsection (1); or  
(b) if not withdrawn or confirmed by notice under subsection (5) within the period of nine months referred to there, at the end of that period.

[ Subsection (6)(b) does not apply in a case where notice has been given to Natural <sup>F218</sup>(6A) England under section 28CB(3).]

- (7) [<sup>F216</sup>Natural England's] power under subsection (5)(b) to confirm a notification under subsection (1) with modifications shall not be exercised so as to add to the operations specified in the notification or extend the area to which it applies.

- (8) As from the time when there is served on the owner or occupier of any land which has been notified under subsection (1)(b) a notice under subsection (5)(b) confirming the notification with modifications, the notification shall have effect in its modified form in relation to so much (if any) of that land as remains subject to it.

- (9) A notification under subsection (1)(b) of land in England and Wales shall be a local land charge.

[ For the purposes of this Part “estuarial waters” means any waters within the limits <sup>F219</sup>(9A) of transitional waters, within the meaning of the Water Framework Directive (that is to say, Directive 2000/60/ EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy). ]

- (10) For the purposes of this section and sections 28A to 28D, “local planning authority”, in relation to land within the Broads, includes the Broads Authority.]

#### Extent Information

**E23** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

**F211** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

**F212** Words in s. 28 substituted (1.10.2006) by **Natural Environment and Rural Communities Act 2006** (c. 16), ss. 105(1), 107, **Sch. 11 para. 79**; S.I. 2006/2541, **art. 2**

**F213** Words in s. 28(1)(a) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by **Marine and Coastal Access Act 2009** (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 2(2)(8)**; S.I. 2014/3088, **art. 2(b)**

**F214** S. 28(1A)-(1C) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by **Marine and Coastal Access Act 2009** (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 2(3)(8)**; S.I. 2014/3088, **art. 2(b)**

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*Changes to legislation:* Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F215** Words in s. 28(2) substituted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 148, 324(2)(b)(ii), [Sch. 13 para. 2\(4\)\(8\)](#); S.I. 2014/3088, art. 2(b)
- F216** Words in s. 28 substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1), 107, [Sch. 11 para. 79](#); S.I. 2006/2541, art. 2
- F217** Words in s. 28(5) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 148, 324(2)(b)(ii), [Sch. 13 para. 2\(5\)\(8\)](#); S.I. 2014/3088, art. 2(b)
- F218** S. 28(6A) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 148, 324(2)(b)(ii), [Sch. 13 para. 2\(6\)\(8\)](#); S.I. 2014/3088, art. 2(b)
- F219** S. 28(9A) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 148, 324(2)(b)(ii), [Sch. 13 para. 2\(7\)\(8\)](#); S.I. 2014/3088, art. 2(b)

## 28 Areas of special scientific interest. **S**

F685

### Extent Information

**E50** This version of this provision extends to Scotland only; a separate version has been created for England and Wales

### Textual Amendments

**F685** S. 28 repealed (S.) (29.11.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 57, 59, [Sch. 7 para. 4](#) (with transitional provisions and savings in [Sch. 5 Pt. 2](#)) (S.S.I. 2004/495), {art. 2}

## [<sup>F220</sup>28A Variation of notification under section 28.

- (1) At any time after notice has been given under section 28(5)(b) confirming a notification (with or without modifications), [<sup>F221</sup>Natural England] may by notice vary the matters specified or stated in the confirmed notification (whether by adding to them, changing them, or removing matter from them).
- (2) The area of land cannot be varied under this section.
- (3) [<sup>F221</sup>Natural England] shall give notice setting out the variation to—
  - (a) the local planning authority [<sup>F222</sup>(if any)] in whose area the land is situated,
  - (b) every owner and occupier of any of the land who in the opinion of the Council may be affected by the variation, and
  - (c) the Secretary of State,
 and after service of a notice under paragraph (b) the notification under section 28(1)(b) shall have effect in its varied form.
- (4) Section 28(3) shall apply to such a notice as it applies to a notification under section 28(1).
- (5) Where a notice under subsection (3) has been given, [<sup>F221</sup>Natural England] may within the period of nine months beginning with the date the last of the owners and occupiers referred to in subsection (3)(b) was served with the notice either—

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- (a) give notice to the persons mentioned in subsection (3) withdrawing the notice; or
  - (b) give notice to them confirming the notice (with or without modifications).
- (6) A notice under subsection (3) shall cease to have effect—
- (a) on the giving of notice of its withdrawal under subsection (5)(a) to any of the persons mentioned in subsection (3); or
  - (b) if not withdrawn or confirmed by notice under subsection (5) within the period of nine months referred to in that subsection, at the end of that period.
- (7) As from the time when there is served on the owner or occupier of any land a notice under subsection (5)(b) confirming a notice of variation with modifications, the notification under section 28(1)(b) shall have effect as so varied.
- (8) A local land charge existing by virtue of section 28(9) shall be varied in accordance with a notice under subsection (3) or (5)(b).]

#### Textual Amendments

- F220** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)
- F221** Words in s. 28A substituted (1.10.2006) by **Natural Environment and Rural Communities Act 2006 (c. 16)**, ss. 105(1), 107, **Sch. 11 para. 79**; S.I. 2006/2541, **art. 2**
- F222** Words in s. 28A(3)(a) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by **Marine and Coastal Access Act 2009 (c. 23)**, ss. 148, 324(2)(b)(ii), **Sch. 13 para. 3**; S.I. 2014/3088, **art. 2(b)**

#### [<sup>F223</sup>28B Notification of additional land.

- (1) Where [<sup>F224</sup>Natural England] are of the opinion that if land adjacent to a site of special scientific interest (“the extra land”) were combined with the site of special scientific interest (“the SSSI ”), the combined area of land would be of special interest by reason of any of its flora, fauna, or geological or physiographical features, [<sup>F224</sup>Natural England] may decide to notify that fact.
- (2) If they do so decide, the persons whom they must notify are—
- (a) the local planning authority [<sup>F225</sup>(if any)] in whose area the extra land is situated;
  - (b) every owner and occupier of any of that extra land; and
  - (c) the Secretary of State.

[ The reference in subsection (1) to land includes—

- <sup>F226</sup>(2A) (a) any land lying above mean low water mark;
- (b) any land covered by estuarial waters.

(2B) If any of the conditions in subsection (2C) is satisfied, the extra land may consist of or include an area of land not falling within subsection (2A)(a) or (b).

(2C) The conditions are—

- (a) that the flora, fauna or features that led to the notification of the SSSI is or are also present in the area of the extra land not falling within subsection (2A) (a) or (b);

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- (b) that the notification of the SSSI is by reason of any flora or fauna which are dependent (wholly or in part) on anything which takes place in, or is present in, that area;
  - (c) that, without the inclusion of that area, the identification of the boundary of the SSSI (either in the notification or on the ground for the purposes of exercising functions in relation to it) would be impossible or impracticable.]
- (3) No [F227 notification under subsection (2)] may be given until after notice has been given under section 28(5)(b) confirming (with or without modifications) the notification under section 28(1) relating to the SSSI.
- (4) Subsections (2) and (3) of section 28 shall apply for the purposes of this section as they apply for the purposes of that section.
- (5) A notification under subsection (2)(b) shall also specify—
- (a) the area of land constituting the SSSI;
  - (b) what (as at the date of the notification under subsection (2)(b)) is specified or contained in the notification under section 28(1)(b) relating to the SSSI by virtue of section 28(4); and
  - (c) the reasons why [F224 Natural England] is of the opinion referred to in subsection (1).
- (6) In addition, the notification under subsection (2)(b) shall include a statement—
- (a) saying whether or not anything among the matters specified in the notification by virtue of subsection (5)(c) is particularly relevant to the extra land; and
  - (b) if any such thing is of particular relevance, specifying which.
- (7) Subsections (5) to (7) of section 28 apply in relation to a notification under subsection (2) of this section as they apply in relation to a notification under subsection (1) of that section, as if references to “subsection (1)” [F228 and “subsection (1B)”] in section 28(5) to (7) were references to subsection (2) [F229 and subsection (2B) of this section respectively].
- (8) As from the time when a notification under subsection (2)(b) is served on the owner or occupier of any land, the notification under section 28(1)(b) shall have effect as if it included the notification under subsection (2)(b).
- (9) As from the time when there is served on the owner or occupier of any land which has been notified under subsection (2)(b) a notice under section 28(5)(b) (as applied by subsection (7) of this section) confirming the notification under subsection (2)(b) with modifications, the notification under section 28(1)(b) (as extended by virtue of subsection (8) of this section) shall have effect in its modified form.
- (10) A local land charge existing by virtue of section 28(9) shall be varied in accordance with a notification under subsection (2) or under section 28(5)(b) as applied by subsection (7) of this section.]

#### Textual Amendments

**F223** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

**F224** Words in s. 28B substituted (1.10.2006) by **Natural Environment and Rural Communities Act 2006** (c. 16), ss. 105(1), 107, **Sch. 11 para. 79**; S.I. 2006/2541, **art. 2**



*Status:* Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.

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- F225** Words in s. 28B(2)(a) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 5(2)(6)**; S.I. 2014/3088, art. 2(b)
- F226** S. 28B(2A)-(2C) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 5(3)(6)**; S.I. 2014/3088, art. 2(b)
- F227** Words in s. 28B(3) substituted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 5(4)(6)**; S.I. 2014/3088, art. 2(b)
- F228** Words in s. 28B(7) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 5(5)(a)(6)**; S.I. 2014/3088, art. 2(b)
- F229** Words in s. 28B(7) substituted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 5(5)(b)(6)**; S.I. 2014/3088, art. 2(b)

## [<sup>F230</sup> 28C Enlargement of SSSI.

- (1) Where [<sup>F231</sup> Natural England] are of the opinion that any area of land which includes, but also extends beyond, a site of special scientific interest (“the SSSI”) is of special interest by reason of any of its flora, fauna, or geological or physiographical features, [<sup>F231</sup> Natural England] may decide to notify that fact.
- (2) If they do so decide, the persons whom they must notify are—
- the local planning authority [<sup>F232</sup> (if any)] in whose area the land (including the SSSI) is situated;
  - every owner and occupier of any of that land (including the SSSI); and
  - the Secretary of State.

[ The reference in subsection (1) to land includes—

- <sup>F233</sup>(2A) (a) any land lying above mean low water mark;
- (b) any land covered by estuarial waters.

(2B) If any of the conditions in subsection (2C) is satisfied, the area of land to which a notification under subsection (2) relates may include an area of land not falling within subsection (2A)(a) or (b).

(2C) The conditions are—

- that the flora, fauna or features that led to the notification of the SSSI is or are also present in the area of land not falling within subsection (2A)(a) or (b);
- that the notification of the SSSI is by reason of any flora or fauna which are dependent (wholly or in part) on anything which takes place in, or is present in, that area;
- that, without the inclusion of that area, the identification of the boundary of the SSSI (either in the notification or on the ground for the purposes of exercising functions in relation to it) would be impossible or impracticable.]

(3) Subsections (2) to (8) of section 28 apply to a notification under subsection (2) of this section as they apply to a notification under subsection (1) of that section, as if references to “subsection (1)” [<sup>F234</sup>, “subsection (1)(b)” and “subsection (1B)”] in section 28(2) to (8) were references to subsection (2) [<sup>F235</sup>, subsection (2)(b) and subsection (2B)] of this section respectively.

*Status: Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.*

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- (4) No notification may be given under subsection (2) until after notice has been given under section 28(5)(b) (or section 28(5)(b) as applied by subsection (3)) confirming (with or without modifications) the notification under section 28(1) (or subsection (2)) relating to the SSSI.
- (5) As from the time when a notification under subsection (2) is served on the owner or occupier of any land included in the SSSI, the notification in relation to that land which had effect immediately before the service of the notification under subsection (2) shall cease to have effect.
- (6) A notification under subsection (2)(b) of land in England and Wales shall be a local land charge; and, to the extent that any such land was the subject of a local land charge by virtue of section 28(9), that local land charge shall be discharged.
- (7) A notice under section 28E(1)(a) and a consent under section 28E(3)(a) given before a notification under subsection (2)(b) continue to have effect.
- (8) The enlargement of a site of special scientific interest under this section does not affect anything done under section 28J to 28L.
- (9) Any reference to—
  - (a) a notification under section 28(1) (or any of its paragraphs) shall be construed as including the corresponding notification under subsection (2);
  - (b) a notification under section 28(5)(b) shall be construed as including a notification under that provision as applied by subsection (3); and
  - (c) a local land charge existing by virtue of section 28(9) shall be treated as including one existing by virtue of subsection (6).]

#### Textual Amendments

- F230** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)
- F231** Words in s. 28C substituted (1.10.2006) by **Natural Environment and Rural Communities Act 2006** (c. 16), ss. 105(1), 107, **Sch. 11 para. 79**; S.I. 2006/2541, **art. 2**
- F232** Words in s. 28C(2)(a) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by **Marine and Coastal Access Act 2009** (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 6(2)(5)**; S.I. 2014/3088, **art. 2(b)**
- F233** S. 28C(2A)-(2C) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by **Marine and Coastal Access Act 2009** (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 6(3)(5)**; S.I. 2014/3088, **art. 2(b)**
- F234** Words in s. 28C(3) substituted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by **Marine and Coastal Access Act 2009** (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 6(4)(a)(5)**; S.I. 2014/3088, **art. 2(b)**
- F235** Words in s. 28C(3) substituted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by **Marine and Coastal Access Act 2009** (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 6(4)(b)(5)**; S.I. 2014/3088, **art. 2(b)**

#### [<sup>F236</sup>28C] **Guidance in relation to subtidal notifications of SSSIs**

- (1) The ministerial authority may issue guidance to Natural England about the exercise of the power conferred by section 28(1B), 28B(2B) or 28C(2B) to give a notification

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under section 28(1), 28B(2) or 28C(2) (as the case may be) in relation to land lying below mean low water mark.

- (2) In this section and section 28CB “the ministerial authority” means—
- (a) in relation to England, the Secretary of State;
  - (b) in relation to Wales, the Welsh Ministers.]

#### Textual Amendments

**F236** S. 28CA inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 148, 324(2)(b)(ii), [Sch. 13 para. 7](#); S.I. 2014/3088, art. 2(b)

#### [<sup>F237</sup>28CB] Power to call in subtidal notifications

- (1) This section applies where a notification under section 28(1), 28B(2) or 28C(2) has been given in relation to land lying below mean low water mark (“the subtidal land”) by virtue of section 28(1B), 28B(2B) or 28C(2B) (as the case may be).
- (2) Natural England may not give notice under section 28(5)(b) confirming the notification unless, at least 21 days before doing so, they have given notice of their intention to the ministerial authority.  

(For the meaning of “the ministerial authority”, see section 28CA.)
- (3) At any time before the notification is confirmed the ministerial authority may give notice to Natural England that the ministerial authority is considering whether to give a direction under subsection (5) regarding the subtidal land.
- (4) If the ministerial authority gives notice under subsection (3), Natural England may not give notice under section 28(5) until the ministerial authority has given a direction under subsection (5).
- (5) The ministerial authority may direct—
  - (a) that the notification (if confirmed) must include all of the subtidal land;
  - (b) that the notification (if confirmed) must not include any of the subtidal land;
  - (c) that the notification (if confirmed) must, or must not, include such part of that land as is specified in the direction;
  - (d) that the decision whether the notification (if confirmed) should include the subtidal land is to be taken by Natural England.
- (6) If the ministerial authority gives a direction under subsection (5), Natural England must give notice under section 28(5)(a) or (b), in accordance with that direction, within the period of three months beginning with the date on which the direction is received by them.
- (7) The ministerial authority may, before deciding whether to give a direction under subsection (5), give to any person the opportunity of—
  - (a) appearing before and being heard by a person appointed by the ministerial authority for that purpose;
  - (b) providing written representations to such a person.
- (8) A person appointed under subsection (7) must make a report to the ministerial authority of any oral or written representations made under that subsection.

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- (9) The ministerial authority may make regulations providing for the procedure to be followed (including decisions as to costs) at hearings held under subsection (7).
- (10) The power to make regulations under subsection (9) is exercisable by statutory instrument.
- (11) A statutory instrument containing regulations made under subsection (9) by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (12) A statutory instrument containing regulations made under subsection (9) by the Welsh Ministers shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.]

#### Textual Amendments

**F237** S. 28CB inserted (E.W.) (12.11.2009 for specified purposes, 12.1.2010 for specified purposes, 12.12.2014 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\), s. 324\(1\)\(c\)\(d\)\(2\)\(b\)\(ii\)](#), [Sch. 13 para. 8](#); S.I. 2014/3088, art. 2(b)

#### [<sup>F238</sup>28D Denotification.

- (1) Where [<sup>F239</sup>Natural England] are of the opinion that all or part of a site of special scientific interest
  - [<sup>F240</sup>(a)] is [<sup>F241</sup>not] of special interest by reason of any of the matters mentioned in section 28(1), [<sup>F242</sup>or
  - (b) should no longer be the subject of a notification under section 28(1) because that land has been designated as (or as part of) a marine conservation zone under section 116 of the Marine and Coastal Access Act 2009,]
 they may decide to notify that fact.
- (2) If they do so decide, the persons whom they must notify are—
  - (a) the local planning authority [<sup>F243</sup>(if any)] in whose area [<sup>F244</sup>the land mentioned in subsection (1)] is situated;
  - (b) every owner and occupier of any of that land;
  - (c) the Secretary of State;
  - (d) the Environment Agency; and
  - (e) every relevant undertaker (within the meaning of section 4(1) of the <sup>M16</sup> Water Industry Act 1991) and every internal drainage board (within the meaning of section 61C(1) of the <sup>M17</sup> Land Drainage Act 1991) whose works, operations or activities may affect the land.
- (3) [<sup>F239</sup>Natural England] shall also publish a notification of [<sup>F245</sup>the fact mentioned in subsection (1)(a) or (b)] in at least one local newspaper circulating in the area in which the land referred to in subsection (2)(a) is situated.
- (4) Section 28(3) shall apply to a notification under subsection (2) or (3) as it applies to a notification under section 28(1).
- (5) Where a notification under subsection (2) has been given, [<sup>F239</sup>Natural England] may within the period of nine months beginning with the date on which the notification was served on the Secretary of State either—

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- (a) give notice to the persons mentioned in subsection (2) withdrawing the notification, or
  - (b) give notice to those persons confirming the notification, or confirming it in relation to an area of land specified in the notice which is smaller than that specified in the notification under subsection (2),
- but if they do neither the notification shall cease to have effect.
- (6) A notification under subsection (2) shall have effect in relation to any land as from the time a notice under subsection (5)(b) is served on its owner or occupier, and from that time a notification under section 28(1)(b) in relation to that land shall cease to have effect.
- (7) A local land charge existing by virtue of section 28(9) shall be discharged in relation to land which is the subject of a notice under subsection (5)(b).]

#### Textual Amendments

- F238** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11** paras. 1-17, 20)
- F239** Words in s. 28D substituted (1.10.2006) by **Natural Environment and Rural Communities Act 2006** (c. 16), ss. 105(1), 107, **Sch. 11 para. 79**; S.I. 2006/2541, **art. 2**
- F240** Words in s. 28D(1) renumbered (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) as s. 28D(1)(a) by virtue of **Marine and Coastal Access Act 2009** (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 9(2)**; S.I. 2014/3088, **art. 2(b)**
- F241** Words in s. 28D substituted (31.5.2006) by **Natural Environment and Rural Communities Act 2006** (c. 16), ss. 56, 107; S.I. 2006/1382, **art. 2**
- F242** S. 28D(1)(b) and preceding word inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by **Marine and Coastal Access Act 2009** (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 9(2)**; S.I. 2014/3088, **art. 2(b)**
- F243** Words in s. 28D(2)(a) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by **Marine and Coastal Access Act 2009** (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 9(3)(a)**; S.I. 2014/3088, **art. 2(b)**
- F244** Words in s. 28D(2)(a) substituted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by **Marine and Coastal Access Act 2009** (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 9(3)(b)**; S.I. 2014/3088, **art. 2(b)**
- F245** Words in s. 28D(3) substituted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by **Marine and Coastal Access Act 2009** (c. 23), ss. 148, 324(2)(b)(ii), **Sch. 13 para. 9(4)**; S.I. 2014/3088, **art. 2(b)**

#### Marginal Citations

- M16** 1991 c. 56.  
**M17** 1991 c. 59.

#### [<sup>F246</sup>28E Duties in relation to sites of special scientific interest.

- ( 1 ) The owner or occupier of any land included in a site of special scientific interest shall not while the notification under section 28(1)(b) remains in force carry out, or cause or permit to be carried out, on that land any operation specified in the notification unless—
- (a) one of them has, after service of the notification, given [<sup>F247</sup>Natural England] notice of a proposal to carry out the operation specifying its nature and the land on which it is proposed to carry it out; and

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- (b) one of the conditions specified in subsection (3) is fulfilled.
- (2) Subsection (1) does not apply to an owner or occupier being an authority to which section 28G applies acting in the exercise of its functions.
- (3) The conditions are—
- (a) that the operation is carried out with [<sup>F248</sup>Natural England's] written consent;
  - (b) that the operation is carried out in accordance with the terms of an agreement under section 16 of the 1949 Act [<sup>F249</sup>, section 15 of the 1968 Act or section 7 of the Natural Environment and Rural Communities Act 2006];
  - (c) that the operation is carried out in accordance with a management scheme under section 28J or a management notice under section 28K.
- (4) A consent under subsection (3)(a) may be given—
- (a) subject to conditions, and
  - (b) for a limited period,
- as specified in the consent.
- (5) If [<sup>F247</sup>Natural England] do not consent, they shall give notice saying so to the person who gave the notice under subsection (1).
- (6) [<sup>F247</sup>Natural England] may, by notice given to every owner and occupier of any of the land included in the site of special scientific interest, or the part of it to which the consent relates—
- (a) withdraw the consent; or
  - (b) modify it (or further modify it) in any way.
- (7) The following—
- (a) a consent under subsection (3)(a) granting consent subject to conditions or for a limited period, and
  - (b) a notice under subsection (5) or (6),
- must include a notice of [<sup>F248</sup>Natural England's] reasons for imposing the conditions, for the limitation of the period, for refusing consent, or for withdrawing or modifying the consent, and also a notice of the matters set out in subsection (8).
- (8) The matters referred to in subsection (7) are—
- (a) the rights of appeal under section 28F;
  - (b) the effect of subsection (9); and
  - (c) in the case of a notice under subsection (6), the effect of section 28M.
- (9) A withdrawal or modification of a consent is not to take effect until—
- (a) the expiry of the period for appealing against it; or
  - (b) if an appeal is brought, its withdrawal or final determination.
- (10) [<sup>F247</sup>Natural England] shall have power to enforce the provisions of this section.]

#### Textual Amendments

**F246** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

**F247** Words in s. 28E substituted (1.10.2006) by **Natural Environment and Rural Communities Act 2006** (c. 16), ss. 105(1), 107, **Sch. 11 para. 79**; S.I. 2006/2541, **art. 2**

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**F248** Words in s. 28E substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), ss. 105\(1\), 107, Sch. 11 para. 79](#); S.I. 2006/2541, [art. 2](#)

**F249** Words in s. 28E(3)(b) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), ss. 105\(1\), 107, Sch. 11 para. 80](#); S.I. 2006/2541, [art. 2](#)

**Modifications etc. (not altering text)**

**C14** S. 28E(1) excluded (30.1.2001) by [1987 c. 53, s. 9\(7\)\(a\)](#) (as substituted (30.1.2001) by [2000 c. 37, ss. 76\(1\), 103\(2\), Sch. 10 Pt. II para. 6](#))

S. 28E(1) excluded (30.1.2001) by [1996 c. 61, s. 38, Sch. 10 para. 6\(a\)](#) (as substituted (30.1.2001) by [2000 c. 37, ss. 76\(1\), 103\(2\), Sch. 10 Pt. II para. 11](#))

**[<sup>F250</sup>28F Appeals in connection with consents.**

- (1) The following persons—
  - (a) an owner or occupier who has been refused a consent under section 28E(3)(a),
  - (b) an owner or occupier who has been granted such a consent but who is aggrieved by conditions attached to it, or by the fact that it is for a limited period, or by the length of that period,
  - (c) an owner or occupier who is aggrieved by the modification of a consent;
  - (d) an owner or occupier who is aggrieved by the withdrawal of a consent,may by notice appeal to the Secretary of State against the relevant decision.
- (2) If [<sup>F251</sup>Natural England] neither give consent nor refuse it within the period of four months beginning with the date on which the notice referred to in section 28E(1)(a) was sent, the person who gave that notice may for the purposes of subsection (1) treat [<sup>F251</sup>Natural England] as having refused consent (and his appeal is to be determined on that basis).
- (3) Notice of an appeal must reach the Secretary of State—
  - (a) except in a case falling within subsection (2), within the period of two months beginning with the date of the notice giving consent or the notice under section 28E(5) or (6), or
  - (b) in a case falling within subsection (2), within the period of two months beginning immediately after the expiry of the four-month period referred to there,or, in either case, within such longer period as is agreed in writing between [<sup>F251</sup>Natural England] and the appellant.
- (4) Before determining an appeal, the Secretary of State may, if he thinks fit—
  - (a) cause the appeal to take, or continue in, the form of a hearing (which may be held wholly or partly in private if the appellant so requests and the person hearing the appeal agrees), or
  - (b) cause a local inquiry to be held,and he must act as mentioned in paragraph (a) or (b) if either party to the appeal asks to be heard in connection with the appeal.
- (5) On determining an appeal against a decision, the Secretary of State may—
  - (a) affirm the decision,
  - (b) where the decision was a refusal of consent, direct [<sup>F251</sup>Natural England] to give consent,

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- (c) where the decision was as to the terms of a consent (whether the original or a modified one), quash all or any of those terms,
  - (d) where the decision was a withdrawal or modification of consent, quash the decision,
- and where he exercises any of the powers in paragraphs (b), (c) or (d) he may give directions to [<sup>F251</sup>Natural England] as to the terms on which they are to give consent.
- (6) The Secretary of State may by regulations made by statutory instrument make provision about appeals under this section, and in particular about—
    - (a) notices of appeal and supporting documentation required, and
    - (b) how appeals are to be brought and considered,
 and any such regulations may make different provision for different cases and circumstances.
  - (7) A statutory instrument containing regulations under subsection (6) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
  - (8) The Secretary of State may appoint any person to exercise on his behalf, with or without payment, his function of determining an appeal under this section or any matter involved in such an appeal.
  - (9) Schedule 10A shall have effect with respect to appointments under subsection (8).
  - (10) Subsections (2) to (5) of section 250 of the <sup>M18</sup> Local Government Act 1972 (local inquiries: evidence and costs) apply in relation to hearings or local inquiries under this section as they apply in relation to local inquiries under that section, but as if the reference there—
    - (a) to the person appointed to hold the inquiry were a reference to the Secretary of State or to the person appointed to conduct the hearing or hold the inquiry under this section; and
    - (b) to the Minister causing an inquiry to be held were to the Secretary of State.
  - (11) Section 322A of the <sup>M19</sup> Town and Country Planning Act 1990 (orders as to costs where no hearing or inquiry takes place) applies in relation to a hearing or local inquiry under this section as it applies in relation to a hearing or local inquiry referred to in that section.]

#### Textual Amendments

**F250** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

**F251** Words in s. 28F substituted (1.10.2006) by **Natural Environment and Rural Communities Act 2006** (c. 16), ss. 105(1), 107, **Sch. 11 para. 79**; S.I. 2006/2541, **art. 2**

#### Marginal Citations

**M18** 1972 c. 70.

**M19** 1990 c. 8.

#### [<sup>F252</sup>28G Statutory undertakers, etc.: general duty.

- (1) An authority to which this section applies (referred to in this section and in sections 28H and 28I as “a section 28G authority”) shall have the duty set out in subsection (2)



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in exercising its functions so far as their exercise is likely to affect the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest is of special interest.

- (2) The duty is to take reasonable steps, consistent with the proper exercise of the authority's functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest.
- (3) The following are section 28G authorities—
- (a) a Minister of the Crown (within the meaning of the Ministers of the <sup>M20</sup> Crown Act 1975) or a Government department;
  - (b) the National Assembly for Wales;
  - (c) a local authority;
  - (d) a person holding an office—
    - (i) under the Crown,
    - (ii) created or continued in existence by a public general Act of Parliament, or
    - (iii) the remuneration in respect of which is paid out of money provided by Parliament;
  - (e) a statutory undertaker <sup>F253</sup> . . . ; and
  - (f) any other public body of any description.

[ “Statutory undertaker” means a person who is or is deemed to be a statutory undertaker <sup>F254</sup>(4) for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990.]]

#### Textual Amendments

**F252** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

**F253** Words in s. 28G(3)(e) repealed (1.10.2006) by **Natural Environment and Rural Communities Act 2006 (c. 16)**, ss. 105(1)(2), 107, **Sch. 11 para. 81(2)**, **Sch. 12**; S.I. 2006/2541, **art.2**

**F254** S. 28G(4) inserted (1.10.2006) by **Natural Environment and Rural Communities Act 2006 (c. 16)**, ss. 105(1), 107, **Sch. 11 para. 81(3)**; S.I. 2006/2541, **art.2**

#### Modifications etc. (not altering text)

**C15** S. 28G(2) excluded (30.1.2001) by 1987 c. 53, s. 9(7)(b) (as substituted (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), **Sch. 10 Pt. II para. 6**)

S. 28G(2) excluded (30.1.2001) by 1996 c. 61, s. 38, **Sch. 10 para. 6(b)** (as substituted (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), **Sch. 10 Pt. II para. 11**)

#### Marginal Citations

**M20** 1975 c. 26.

#### [<sup>F255</sup>28H Statutory undertakers, etc.: duty in relation to carrying out operations.

- (1) A section 28G authority shall give notice to [<sup>F256</sup>Natural England] before carrying out, in the exercise of its functions, operations likely to damage any of the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest is of special interest.

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- (2) Subsection (1) applies even if the operations would not take place on land included in a site of special scientific interest.
- (3) In response to the notice referred to in subsection (1), [<sup>F256</sup>Natural England] may send a notice—
- (a) saying that they do not assent to the proposed operations, or
  - (b) assenting to them (with or without conditions),
- but if they do not send a notice under paragraph (b) within the period of 28 days beginning with the date of the notice under subsection (1) they shall be treated as having declined to assent.
- (4) If [<sup>F256</sup>Natural England] do not assent, or if the authority proposes to carry out the operations otherwise than in accordance with the terms of the Council's assent, the authority—
- (a) shall not carry out the operations unless the condition set out in subsection (5) is satisfied, and
  - (b) shall comply with the requirements set out in subsection (6) when carrying them out.
- (5) The condition is that the authority has, after the expiry of the period of 28 days beginning with the date of the notice under subsection (1), notified the Council of—
- (a) the date on which it proposes to start the operations (which must be after the expiry of the period of 28 days beginning with the date of the notification under this paragraph), and
  - (b) how (if at all) it has taken account of any written advice it received from [<sup>F256</sup>Natural England], before the date of the notification under this paragraph, in response to the notice under subsection (1).
- (6) The requirements are—
- (a) that the authority carry out the operations in such a way as to give rise to as little damage as is reasonably practicable in all the circumstances to the flora, fauna or geological or physiographical features by reason of which the site is of special interest (taking account, in particular, of any such advice as is referred to in subsection (5)(b)); and
  - (b) that the authority restore the site to its former condition, so far as is reasonably practicable, if any such damage does occur.]

#### Textual Amendments

**F255** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

**F256** Words in s. 28H substituted (1.10.2006) by **Natural Environment and Rural Communities Act 2006** (c. 16), ss. 105(1), 107, **Sch. 11 para. 79**; S.I. 2006/2541, **art. 2**

#### [<sup>F257</sup> **28I Statutory undertakers, etc.: duty in relation to authorising operations.**

- (1) This section applies where the permission of a section 28G authority is needed before operations may be carried out.
- (2) Before permitting the carrying out of operations likely to damage any of the flora, fauna or geological or physiographical features by reason of which a site of special

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scientific interest is of special interest, a section 28G authority shall give notice of the proposed operations to [<sup>F258</sup>Natural England].

- (3) Subsection (2) applies even if the operations would not take place on land included in a site of special scientific interest.
- (4) The authority shall wait until the expiry of the period of 28 days beginning with the date of the notice under subsection (2) before deciding whether to give its permission, unless [<sup>F258</sup>Natural England] have notified the authority that it need not wait until then.
- (5) The authority shall take any advice received from [<sup>F258</sup>Natural England] into account—
  - (a) in deciding whether or not to permit the proposed operations, and
  - (b) if it does decide to do so, in deciding what (if any) conditions are to be attached to the permission.
- (6) If [<sup>F258</sup>Natural England] advise against permitting the operations, or advise that certain conditions should be attached, but the section 28G authority does not follow that advice, the authority—
  - (a) shall give notice of the permission, and of its terms, to [<sup>F258</sup>Natural England], the notice to include a statement of how (if at all) the authority has taken account of the Council’s advice, and
  - (b) shall not grant a permission which would allow the operations to start before the end of the period of 21 days beginning with the date of that notice.
- (7) In this section “permission”, in relation to any operations, includes authorisation, consent, and any other type of permission (and “permit” and “permitting” are to be construed accordingly).]

#### Textual Amendments

**F257** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

**F258** Words in s. 28I substituted (1.10.2006) by **Natural Environment and Rural Communities Act 2006** (c. 16), ss. 105(1), 107, **Sch. 11 para. 79**; S.I. 2006/2541, **art. 2**

#### Modifications etc. (not altering text)

**C16** S. 28I excluded (30.1.2001) by 1987 c. 53, **s. 9(7)** (as substituted (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), **Sch. 10 Pt. II para. 6**)

S. 28I excluded (30.1.2001) by 1996 c. 61, s. 38, **Sch. 10 para. 6** (as substituted (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), **Sch. 10 Pt. II para. 11**)

#### [<sup>F259</sup>28J Management schemes.

- (1) [<sup>F260</sup>Natural England] may formulate a management scheme for all or part of a site of special scientific interest.
- (2) A management scheme is a scheme for—
  - (a) conserving the flora, fauna, or geological or physiographical features by reason of which the land (or the part of it to which the scheme relates) is of special interest; or
  - (b) restoring them; or
  - (c) both.

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*Status: Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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- (3) [<sup>F260</sup>Natural England] shall serve notice of a proposed management scheme on every owner and occupier of any of the land (or the part of it to which the scheme would relate); but it may be served on them only after they have been consulted about the proposed management scheme.
- (4) The notice may be served with the notification referred to in section 28(1)(b) or afterwards.
- (5) The owners and occupiers upon whom the notice must be served (referred to in this section as “the relevant owners and occupiers”) are—
  - (a) if it is served with the notification under section 28(1)(b), or later but before the notification referred to in section 28(5)(b), the owners and occupiers referred to in section 28(1)(b);
  - (b) if it is served with the notification under section 28(5)(b) or later, the owners and occupiers of such of the land as remains subject to the notification.
- (6) The notice of a proposed management scheme must include a copy of the proposed scheme.
- (7) The notice must specify the time (not being less than three months from the date of the giving of the notice) within which, and the manner in which, representations or objections with respect to the proposed management scheme may be made; and [<sup>F260</sup>Natural England] shall consider any representation or objection duly made.
- (8) Where a notice under subsection (3) has been given, [<sup>F260</sup>Natural England] may within the period of nine months beginning with the date on which the notice was served on the last of the relevant owners and occupiers either—
  - (a) give notice to the relevant owners and occupiers withdrawing the notice, or
  - (b) give notice to them confirming the management scheme (with or without modifications),
 and if notice under paragraph (b) is given, the management scheme shall have effect from the time the notice is served on all of the relevant owners or occupiers.
- (9) A notice under subsection (3) shall cease to have effect—
  - (a) on the giving of a notice of withdrawal under subsection (8)(a) to any of the relevant owners and occupiers; or
  - (b) if not withdrawn or confirmed by notice under subsection (8) within the period of nine months referred to there, at the end of that period.
- (10) [<sup>F261</sup>Natural England's] power under subsection (8)(b) to confirm a management scheme with modifications shall not be exercised so as to make complying with it more onerous.
- (11) [<sup>F260</sup>Natural England] may at any time cancel or propose the modification of a management scheme.
- (12) In relation to—
  - (a) the cancellation of a management scheme, subsections (3) to (5) apply, and
  - (b) a proposal to modify a management scheme, subsections (3) to (10) apply, as they apply in relation to a proposal for a management scheme.
- (13) An agreement under section 16 of the 1949 Act or section 15 of the 1968 Act relating to a site of special scientific interest may provide for any matter for which a management scheme relating to that site provides (or could provide).]

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### Textual Amendments

- F259** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)
- F260** Words in s. 28J substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 79**; S.I. 2006/2541, **art. 2**
- F261** Words in s. 28J substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 79**; S.I. 2006/2541, **art. 2**

### [<sup>F262</sup>28K Management notices.

- (1) Where it appears to [<sup>F263</sup>Natural England] that—
  - (a) an owner or occupier of land is not giving effect to a provision of a management scheme, and
  - (b) as a result any flora, fauna or geological or physiographical features by reason of which the land is of special interest are being inadequately conserved or restored,they may if they think fit serve a notice on him (a “management notice”).
- (2) They may not serve a management notice unless they are satisfied that they are unable to conclude, on reasonable terms, an agreement with the owner or occupier as to the management of the land in accordance with the management scheme.
- (3) A management notice is a notice requiring the owner or occupier to—
  - (a) carry out such work on the land, and
  - (b) do such other things with respect to it,as are specified in the notice, and to do so before the dates or within the periods so specified.
- (4) The work and other things specified in the notice must appear to [<sup>F263</sup>Natural England] to be measures which it is reasonable to require in order to ensure that the land is managed in accordance with the management scheme.
- (5) The management notice must explain the effect of subsection (7) and (8) and of sections 28L and 28M(2) to (4).
- (6) A copy of the management notice must be served on every other owner and occupier of the land.
- (7) If any of the work or other things required by a management notice have not been done within the period or by the date specified in it, [<sup>F263</sup>Natural England] may—
  - (a) enter the land, and any other land, and carry out the work, or do the other things; and
  - (b) recover from the owner or occupier upon whom the notice was served any expenses reasonably incurred by them in carrying out the work or doing the other things.
- (8) If an appeal is brought against the management notice, and upon the final determination of the appeal the notice is affirmed (with or without modifications), subsection (7) applies as if the references there to the management notice were to the notice as affirmed.]

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### Textual Amendments

- F262** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)
- F263** Words in s. 28J substituted (1.10.2006) by **Natural Environment and Rural Communities Act 2006** (c. 16), ss. 105(1), 107, **Sch. 11 para. 79**; S.I. 2006/2541, **art. 2**

### [<sup>F264</sup>28L Appeals against management notices.

- (1) A person who is served with a management notice may appeal against its requirements to the Secretary of State; and a management notice does not take effect until—
  - (a) the expiry of the period for appealing against it; or
  - (b) if an appeal is brought, its withdrawal or final determination.
- (2) An appeal may be on the ground that some other owner or occupier of the land should take all or any of the measures specified in the management notice, or should pay all or part of their cost.
- (3) Where the grounds of appeal are, or include, that mentioned in subsection (2), the appellant must serve a copy of his notice of appeal on each other person referred to.
- (4) Before determining an appeal, the Secretary of State may, if he thinks fit—
  - (a) cause the appeal to take, or continue in, the form of a hearing (which may be held wholly or partly in private if the appellant so requests and the person hearing the appeal agrees), or
  - (b) cause a local inquiry to be held,
 and he must act as mentioned in paragraph (a) or (b) if either party to the appeal (or, in a case falling within subsection (2), any of the other persons mentioned there) asks to be heard in connection with the appeal.
- (5) On determining the appeal, the Secretary of State may quash or affirm the management notice; and if he affirms it, he may do so either in its original form or with such modifications as he thinks fit.
- (6) In particular, on determining an appeal whose grounds are, or include, those mentioned in subsection (2), the Secretary of State may—
  - (a) vary the management notice so as to impose its requirements (or some of them) upon any such other person as is referred to in the grounds; or
  - (b) determine that a payment is to be made by any such other person to the appellant.
- (7) In exercising his powers under subsection (6), the Secretary of State must take into account, as between the appellant and any of the other people referred to in subsection (2)—
  - (a) their relative interests in the land (considering both the nature of the interests and the rights and obligations arising under or by virtue of them);
  - (b) their relative responsibility for the state of the land which gives rise to the requirements of the management notice; and
  - (c) the relative degree of benefit to be derived from carrying out the requirements of the management notice.

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- (8) The Secretary of State may by regulations made by statutory instrument make provision about appeals under this section, and in particular about—
- (a) the period within which and the manner in which appeals are to be brought, and
  - (b) the manner in which they are to be considered,
- and any such regulations may make different provision for different cases or circumstances.
- (9) A statutory instrument containing regulations under subsection (8) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) The Secretary of State may appoint any person to exercise on his behalf, with or without payment, his function of determining an appeal under this section or any matter involved in such an appeal.
- (11) Schedule 10A shall have effect with respect to appointments under subsection (10).
- (12) Subsections (2) to (5) of section 250 of the <sup>M21</sup> Local Government Act 1972 (local inquiries: evidence and costs) apply in relation to hearings or local inquiries under this section as they apply in relation to local inquiries under that section, but as if the reference there—
- (a) to the person appointed to hold the inquiry were a reference to the Secretary of State or to the person appointed to conduct the hearing or hold the inquiry under this section; and
  - (b) to the Minister causing an inquiry to be held were to the Secretary of State.
- (13) Section 322A of the <sup>M22</sup> Town and Country Planning Act 1990 (orders as to costs where no hearing or inquiry takes place) applies in relation to a hearing or local inquiry under this section as it applies in relation to a hearing or local inquiry referred to in that section.]

#### Textual Amendments

**F264** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

#### Marginal Citations

**M21** 1972 c. 70.

**M22** 1990 c. 8.

#### [<sup>F265</sup>28MPayments.

- (1) Where [<sup>F266</sup>Natural England], under section 28E(6), modify or withdraw a consent, they shall make a payment to any owner or occupier of the land who suffers loss because of the modification or withdrawal.
- (2) [<sup>F266</sup>Natural England] may, if they think fit, make one or more payments to any owner or occupier of land in relation to which a management scheme under section 28J is in force.
- (3) The amount of a payment under this section is to be determined by [<sup>F266</sup>Natural England] in accordance with guidance given and published by the Ministers.

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- (4) Section 50(3) applies to the determination of the amount of payments under this section as it applies to the determination of the amount of payments under that section.]

#### Textual Amendments

**F265** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

**F266** Words in s. 28M substituted (1.10.2006) by **Natural Environment and Rural Communities Act 2006** (c. 16), ss. 105(1), 107, **Sch. 11 para. 79**; S.I. 2006/2541, **art. 2**

#### [<sup>F267</sup>28N Compulsory purchase.

- (1) [<sup>F268</sup>Natural England] may in circumstances set out in subsection (2) acquire compulsorily all or any part of a site of special scientific interest.
- (2) The circumstances are—
- (a) that [<sup>F268</sup>Natural England] are satisfied that they are unable to conclude, on reasonable terms, an agreement with the owner or occupier as to the management of the land; or
  - (b) that [<sup>F268</sup>Natural England] have entered into such an agreement, but they are satisfied that it has been breached in such a way that the land is not being managed satisfactorily.
- (3) A dispute about whether or not there has been a breach of the agreement for the purposes of subsection (2)(b) is to be determined by an arbitrator appointed by the Lord Chancellor.
- (4) Where [<sup>F268</sup>Natural England] have acquired land compulsorily under this section, they may—
- (a) manage it themselves; or
  - (b) dispose of it, or of any interest in it, on terms designed to secure that the land is managed satisfactorily.
- (5) Section 103 of the 1949 Act (general provisions as to acquisition of land) applies for the purposes of this section as it applies for the purposes of that Act.]

#### Textual Amendments

**F267** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

**F268** Words in s. 28N substituted (1.10.2006) by **Natural Environment and Rural Communities Act 2006** (c. 16), ss. 105(1), 107, **Sch. 11 para. 79**; S.I. 2006/2541, **art. 2**

#### [<sup>F269</sup>28P Offences.

- (1) A person who, without reasonable excuse, contravenes section 28E(1) is guilty of an offence and is liable [<sup>F270</sup>on summary conviction, or on conviction on indictment, to a fine].



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- (2) A section 28G authority which, in the exercise of its functions, carries out an operation which damages any of the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest is of special interest—
- without first complying with section 28H(1), or
  - (if it has complied with section 28H(1)) without first complying with section 28H(4)(a),
- is, unless there was a reasonable excuse for carrying out the operation without complying, guilty of an offence and is liable [<sup>F271</sup>on summary conviction, or on conviction on indictment, to a fine].
- (3) A section 28G authority acting in the exercise of its functions which, having complied with section 28H(1), fails without reasonable excuse to comply with section 28H(4)(b) is guilty of an offence and is liable [<sup>F272</sup>on summary conviction, or on conviction on indictment, to a fine].
- (4) For the purposes of subsections (1), (2) and (3), it is a reasonable excuse in any event for a person to carry out an operation (or to fail to comply with a requirement to send a notice about it) if—
- subject to subsection (5), the operation in question was authorised by a planning permission granted on an application under Part III of the <sup>M23</sup> Town and Country Planning Act 1990 or permitted by a section 28G authority which has acted in accordance with section 28I; or
  - the operation in question was an emergency operation particulars of which (including details of the emergency) were notified to [<sup>F273</sup>Natural England] as soon as practicable after the commencement of the operation.
- (5) If an operation needs both a planning permission and the permission of a section 28G authority, subsection (4)(a) does not provide reasonable excuse unless both have been obtained.
- [ A section 28G authority which, in the exercise of its functions, permits the carrying out
- <sup>F274</sup>(5A) of an operation which damages any of the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest is of special interest—
- without first complying with section 28I(2), or
  - where relevant, without first complying with section 28I(4) or (6),
- is, unless there was a reasonable excuse for permitting the carrying out of the operation without complying, guilty of an offence and is liable [<sup>F275</sup>on summary conviction, or on conviction on indictment, to a fine].
- (5B) For the purposes of subsection (5A), it is a reasonable excuse in any event for a section 28G authority to permit the carrying out of an operation without first complying with section 28I(2), (4) or (6) if the operation in question was an emergency operation particulars of which (including details of the emergency) were notified to Natural England as soon as practicable after the permission was given.]
- (6) A person (other than a section 28G authority acting in the exercise of its functions) who without reasonable excuse—
- intentionally or recklessly destroys or damages any of the flora, fauna, or geological or physiographical features by reason of which land is of special interest, or intentionally or recklessly disturbs any of those fauna, and
  - knew that what he destroyed, damaged or disturbed was within a site of special scientific interest,

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is guilty of an offence and is liable [<sup>F276</sup>on summary conviction, or on conviction on indictment, to a fine].

[ A person (other than a section 28G authority acting in the exercise of its functions) <sup>F277</sup>(6A) who without reasonable excuse—

- (a) intentionally or recklessly destroys or damages any of the flora, fauna, or geological or physiographical features by reason of which a site of special scientific interest is of special interest, or
- (b) intentionally or recklessly disturbs any of those fauna,

is guilty of an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.]

(7) It is a reasonable excuse in any event for a person to do what is mentioned in subsection (6) [<sup>F278</sup>or (6A)] if—

- (a) paragraph (a) or (b) of subsection (4) is satisfied in relation to what was done (reading references there to an operation as references to the destruction, damage or disturbance referred to in subsection (6) [<sup>F279</sup>or (6A)]), and
- (b) where appropriate, subsection (5) is also satisfied, reading the reference there to an operation in the same way.

(8) A person who without reasonable excuse fails to comply with a requirement of a management notice is guilty of an offence and is liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to a fine.

(9) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.

(10) Proceedings in England and Wales for an offence under this section shall not, without the consent of the Director of Public Prosecutions, be taken by a person other than [<sup>F273</sup>Natural England].

(11) In this section, “a section 28G authority” means an authority to which section 28G applies.]

#### Textual Amendments

**F269** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

**F270** Words in s. 28P(1) substituted (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 4 para. 10(2)(a)** (with reg. 5(1))

**F271** Words in s. 28P(2) substituted (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 4 para. 10(2)(b)** (with reg. 5(1))

**F272** Words in s. 28P(3) substituted (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 4 para. 10(2)(c)** (with reg. 5(1))

**F273** Words in s. 28P substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 79**; S.I. 2006/2541, **art. 2**

**F274** S. 28P(5A)(5B) inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), **ss. 55(2), 107**; S.I. 2006/2541, **art. 2**

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- F275** Words in s. 28P(5A) substituted (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 4 para. 10(2)(d)** (with reg. 5(1))
- F276** Words in s. 28P(6) substituted (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 4 para. 10(2)(e)** (with reg. 5(1))
- F277** S. 28P(6A) inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), **ss. 55(3), 107; S.I. 2006/2541, art. 2**
- F278** Words in s. 28P(7) inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), **ss. 55(4), 107; S.I. 2006/2541, art. 2**
- F279** Words in s. 28P(7) inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), **ss. 55(4), 107; S.I. 2006/2541, art. 2**

#### Marginal Citations

**M23** 1990 c. 8.

#### [<sup>F280</sup>28Q Change of owner or occupier.

- (1) This section applies where the owner of land included in a site of special scientific interest—
  - (a) disposes of any interest of his in the land; or
  - (b) becomes aware that it is occupied by an additional or a different occupier.
- (2) If this section applies, the owner shall send a notice to [<sup>F281</sup>Natural England] before the end of the period of 28 days beginning with the date on which he disposed of the interest or became aware of the change in occupation.
- (3) The notice is to specify the land concerned and—
  - (a) in a subsection (1)(a) case, the date on which the owner disposed of the interest in the land, and the name and address of the person to whom he disposed of the interest; or
  - (b) in a subsection (1)(b) case, the date on which the change of occupation took place (or, if the owner does not know the exact date, an indication of when to the best of the owner’s knowledge it took place), and, as far as the owner knows them, the name and address of the additional or different occupier.
- (4) A person who fails without reasonable excuse to comply with the requirements of this section is guilty of an offence and is liable on summary conviction to a fine not exceeding level 1 on the standard scale.
- (5) For the purposes of subsection (1), an owner “disposes of” an interest in land if he disposes of it by way of sale, exchange or lease, or by way of the creation of any easement, right or privilege, or in any other way except by way of mortgage.]

#### Textual Amendments

- F280** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, **ss. 75(1), 103(2), Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)
- F281** Words in s. 28Q substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), **ss. 105(1), 107, Sch. 11 para. 79; S.I. 2006/2541, art. 2**

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[<sup>F282</sup> **28R Byelaws.**

- (1) [<sup>F283</sup> Natural England] may make byelaws for the protection of a site of special scientific interest.
- (2) The following provisions of the 1949 Act apply in relation to byelaws under this section as they apply in relation to byelaws under section 20 of that Act—
  - (a) subsections (2) and (3) of section 20 (reading references there to nature reserves as references to sites of special scientific interest); and
  - (b) sections 106 and 107.]

**Textual Amendments**

**F282** Ss. 28-28R substituted for s. 28 (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 1** (with **Sch. 11 paras. 1-17, 20**)

**F283** Words in s. 28R substituted (1.10.2006) by **Natural Environment and Rural Communities Act 2006 (c. 16)**, ss. 105(1), 107, **Sch. 11 para. 79**; S.I. 2006/2541, **art. 2**

[<sup>F284</sup> **28S Notices and signs relating to SSSIs**

- (1) Natural England may, on any land included in a site of special scientific interest, put up and maintain notices or signs relating to the site.
- (2) Natural England may remove any notice or sign put up under subsection (1).
- (3) Any other person who intentionally or recklessly and without reasonable excuse takes down, damages, destroys or obscures a notice or sign put up under subsection (1) is guilty of an offence.
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.]

**Textual Amendments**

**F284** S. 28S inserted (1.10.2006) by **Natural Environment and Rural Communities Act 2006 (c. 16)**, ss. **58(1), 107**; S.I. 2006/2541, **art. 2**

**29 Special protection for certain areas of special scientific interest.**

F285 .....

**Textual Amendments**

**F285** S. 29 repealed (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 102, 103(2), **Sch. 9 para. 2**, **Sch. 16 Pt. III** and s. 29 repealed (S.) (29.11.2004) by **Nature Conservation (Scotland) Act 2004 (asp 6)**, ss. 57, 59, **Sch. 7 para. 4** (with transitional provisions and savings in **Sch. 5 Pt. II para. 11**); S.S.I. 2004/495, **art. 2**

**30 Compensation where order is made under s. 29.**

F286 .....

*Status: Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

**F286** S. 30 repealed (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 102, 103(2), Sch. 9 para. 2, Sch. 16 Pt. III and s. 30 repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 57, 59, Sch. 7 para. 4; S.S.I. 2004/495, art. 2

## 31 <sup>F287</sup>Restoration following offence under section 28P.] **E+W**

<sup>F288</sup>(1) Where—

- (a) the operation in respect of which a person is convicted of an offence under section 28P(1), (2) or (3) has destroyed or damaged any of the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest is of special interest, or

(b) a person is convicted of an offence under section 28P(6) <sup>F289</sup>or (6A)],

the court by which he is convicted, in addition to dealing with him in any other way, may make an order requiring him to carry out, within such period as may be specified in the order, such operations (whether on land included in the site of special scientific interest or not) as may be so specified for the purpose of restoring the site of special scientific interest to its former condition.]

- (2) An order under this section made on conviction on indictment shall be treated for the purposes of sections 30 and 42(1) and (2) of the <sup>M24</sup>Criminal Appeal Act 1968 (effect of appeals on orders for the restitution of property) as an order for the restitution of property; and where by reason of the quashing by the Court of Appeal of a person's conviction any such order does not take effect, and on appeal to <sup>F290</sup>the Supreme Court] the conviction is restored by <sup>F290</sup>the Supreme Court], <sup>F290</sup>the Supreme Court] may make any order under this section which could be made on his conviction by the court which convicted him.
- (3) In the case of an order under this section made by a magistrates' court the period specified in the order shall not begin to run—
  - (a) in any case until the expiration of the period for the time being prescribed by law for the giving of notice of appeal against a decision of a magistrates' court;
  - (b) where notice of appeal is given within the period so prescribed, until determination of the appeal.
- (4) At any time before an order under this section has been complied with or fully complied with, the court by which it was made may, on the application of the person against whom it was made, discharge or vary the order if it appears to the court that a change in circumstances has made compliance or full compliance with the order impracticable or unnecessary.
- (5) If, within the period specified in an order under this section, the person against whom it was made fails, without reasonable excuse, to comply with it, he shall be liable on summary conviction—
  - (a) to a fine not exceeding <sup>F291</sup>level 5 on the standard scale]; and
  - (b) in the case of a continuing offence, to a further fine not exceeding £100 for each day during which the offence continues after conviction.
- (6) If, within the period specified in an order under this section, any operations specified in the order have not been carried out, <sup>F292</sup>Natural England] may enter the land and

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carry out those operations and recover from the person against whom the order was made any expenses reasonably incurred by them in doing so.

(7) In the application of this section to Scotland—

- (a) subsections (2) and (3) shall not apply; and
- (b) for the purposes of any appeal or review, an order under this section is a sentence.

#### Extent Information

**E24** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

- F287** S. 31 sidenote substituted (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 3(3)**
- F288** S. 31(1) substituted (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), **Sch. 9 para. 3(2)**
- F289** Words in s. 31(1)(b) inserted (1.10.2006) by **Natural Environment and Rural Communities Act 2006** (c. 16), ss. 55(5), 107; S.I. 2006/2541, **art. 2**
- F290** Words in s. 31(2) substituted (1.10.2009) by **Constitutional Reform Act 2005** (c. 4), ss. 40, 148, **Sch. 9 para. 37**; S.I. 2009/1604, **art. 2(a)(d)**
- F291** Words substituted (E.W.S.) by virtue of (E.W.) **Criminal Justice Act 1982** (c. 48, SIF 39:1), **s. 46** and (S.) **Criminal Procedure (Scotland) Act 1975** (c. 21, SIF 39:1), **s. 289G**
- F292** Words in s. 31 substituted (1.10.2006) by **Natural Environment and Rural Communities Act 2006** (c. 16), ss. 105(1), 107, **Sch. 11 para. 79**; S.I. 2006/2541, **art. 2**

#### Marginal Citations

**M24** 1968 c. 19.

### 31 Restoration where order under s. 29 is contravened. **S**

**F686** .....

#### Extent Information

**E51** This version of this provision extends to Scotland only; a separate version has been created for England and Wales

#### Textual Amendments

**F686** S. 31 repealed (S.) (29.11.2004) by **Nature Conservation (Scotland) Act 2004** (asp 6), ss. 57, 59, **Sch. 7 para. 4**; S.S.I. 2004/495, **art. 2**

### 32 Duties of agriculture Ministers with respect to areas of special scientific interest. **E+W**

(1) Where an application for [<sup>F293</sup>a farm capital grant] is made as respects expenditure incurred or to be incurred for the purpose of activities on [<sup>F294</sup>land included in a site of special scientific interest]. . . , the appropriate Minister—

- (a) shall, so far as may be consistent with the purposes of [<sup>F295</sup>the grant provisions], so exercise his functions thereunder as to further the conservation

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- of the flora, fauna, or geological or physiographical features by reason of which the land is of special interest; and
- (b) where [<sup>F296</sup>Natural England] have objected to the making of the grant on the ground that the activities in question have destroyed or damaged or will destroy or damage that flora or fauna or those features, shall not make the grant except after considering the objection and, in the case of land in England, after consulting with the Secretary of State.
- (2) Where, in consequence of an objection by [<sup>F296</sup>Natural England] , an application for a grant as respects expenditure to be incurred is refused on the ground that the activities in question will have such an effect as is mentioned in subsection (1) (b), [<sup>F296</sup>Natural England] shall, within three months of their receiving notice of the appropriate Minister's decision, offer to enter into, in the terms of a draft submitted to the applicant, an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act—
- (a) imposing restrictions as respects those activities; and
- (b) providing for the making by them of payments to the applicant.
- [<sup>F297</sup>(3) In this section—
- “the appropriate Minister” means the Minister responsible for determining the application;
- “farm capital grant” means—
- (a) a grant under a scheme made under section 29 of the Agriculture Act 1970; or
- (b) a grant under regulations made under section 2(2) of the European Communities Act 1972 to a person carrying on an agricultural business within the meaning of those regulations in respect of expenditure incurred or to be incurred for the purposes of or in connection with that business, being expenditure of a capital nature or incurred in connection with expenditure of a capital nature;
- “grant provisions” means—
- (i) in the case of such a grant as is mentioned in paragraph ( a ) above, the scheme under which the grant is made and section 29 of the Agriculture Act 1970; and
- (ii) in the case of such a grant as is mentioned in paragraph ( b ) above, the regulations under which the grant is made and the [<sup>F181</sup>EU] instrument in pursuance of which the regulations were made.]

#### Extent Information

**E25** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

- F181** 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 arts. 3(2)(3), 4(2), 6(4)(5))
- F293** Words substituted by [Agriculture Act 1986](#) (c. 49, SIF 2:1), s. 20(2)(a)
- F294** Words in s. 32(1) substituted (E.W.) (30.1.2001) by 2000 c. 37, ss. 75(1), 103(2), [Sch. 9 para. 4](#)
- F295** Words substituted by [Agriculture Act 1986](#) (c. 49, SIF 2:1), s. 20(2)(b)
- F296** Words in s.32 substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), ss. 105(1), 107, [Sch. 11 para. 79](#); S.I. 2006/2541, [art. 2](#)
- F297** S. 32(3) substituted by [Agriculture Act 1986](#) (c. 49, SIF 2:1), s. 20(3)

*Status:* Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.  
*Changes to legislation:* Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**32 Duties of agriculture Ministers with respect to areas of special scientific interest. S**

F687 .....

**Extent Information**

**E52** This version of this provision extends to Scotland only; a separate version has been created for England and Wales

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**Textual Amendments**

**F687** S. 32 repealed (S.) (29.11.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 57, 59, [Sch. 7 para. 4](#); [S.S.I. 2004/495, art. 2](#)

<sup>F298</sup>**33 Ministerial guidance as respects areas of special scientific interest.**

.....

**Textual Amendments**

**F298** S. 33 repealed (S.) (29.11.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 57, 59, [Sch. 7 para. 4](#); [S.S.I. 2004/495, art. 2](#)

**34 Limestone pavement orders. E+W**

- [<sup>F299</sup>(1) Natural England must notify any local planning authority of any limestone pavement in that authority's area.]
- (2) Where it appears to the Secretary of State or the relevant authority that the character or appearance of any land notified under subsection (1) would be likely to be adversely affected by the removal of the limestone or by its disturbance in any way whatever, the Secretary of State or that authority may make an order (in this section referred to as a “limestone pavement order”) designating the land and prohibiting the removal or disturbance of limestone on or in it; and the provisions of Schedule 11 shall have effect as to the making, confirmation and coming into operation of limestone pavement orders.
- (3) The relevant authority may, after consultation with [<sup>F300</sup>Natural England], amend or revoke a limestone pavement order made by the authority; and the Secretary of State may, after such consultation as aforesaid, amend or revoke any such order made by him or that authority but, in the case of an order made by that authority, only after consultation with that authority.
- (4) If any person without reasonable excuse removes or disturbs limestone on or in any land designated by a limestone pavement order he shall be liable [<sup>F301</sup>on summary conviction, or on conviction on indictment, to a fine].
- (5) It is a reasonable excuse in any event for a person to remove or disturb limestone or cause or permit its removal or disturbance, if the removal or disturbance was authorised by a planning permission granted on an application under [<sup>F302</sup>Part III of the Town and Country Planning Act 1990]. . . .
- (6) In this section—



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F303

“limestone pavement” means an area of limestone which lies wholly or partly exposed on the surface of the ground and has been fissured by natural erosion;

[<sup>F304</sup> “the relevant authority” means—

(a) in relation to a non-metropolitan county [<sup>F305</sup> in England], the county planning authority and, in relation to any other area in England, the local planning authority;

(aa) [<sup>F306</sup> in relation to any area in Wales, the local planning authority;]

(b) [<sup>F307</sup> . . . . . ]

#### Extent Information

**E26** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

**F299** S. 34(1) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1), 107, [Sch. 11 para. 83\(2\)](#); S.I. 2006/2541, [art. 2](#)

**F300** Words in s. 34(3) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1), 107, {[Sch. 11 para. 83\(3\)](#)}; S.I. 2006/2541, [art. 2](#)

**F301** Words in s. 34(4) substituted for paras. (4)(a)(b) (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 4 para. 10\(3\)](#) (with reg. 5(1))

**F302** Words in s. 34(5) substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 54\(1\)](#)

**F303** S. 34(6): definition of “the agency” repealed (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1)(2), 107, [Sch. 11 para. 83\(5\)\(a\)](#), [Sch. 12](#); S.I. 2006/2541, [art. 2](#)

**F304** Definition in s. 34(6) substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 2, 7, [Sch. 3 para. 7\(2\)](#)

**F305** Words in s. 34(1)(3)(6) inserted (1.4.1996) by 1994 c. 19, s. 66(6), [Sch. 16 para. 65\(3\)](#) (with ss. 54(5)(7), 55(5), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); S.I. 1996/396, [art. 4](#), [Sch. 2](#)

**F306** Para. (aa) in the definition of “the relevant authority” in s. 34(6) inserted (1.4.1996) by 1994 c. 19, s. 66(6), [Sch. 16 para. 65\(3\)](#) (with ss. 54(5)(7), 55(5), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); S.I. 1996/396, [art. 4](#), [Sch. 2](#)

**F307** S. 34(6): para. (b) definition of “the relevant authority” repealed (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1)(2), 107, [Sch. 11 para. 83\(5\)\(b\)](#), [Sch. 12](#); S.I. 2006/2541, [art. 2](#)

#### Modifications etc. (not altering text)

**C17** S. 34(2): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853](#), [reg. 2\(1\)](#), [Sch. 1](#)

## 34 Limestone pavement orders. **S**

F688

*Status:* Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.

*Changes to legislation:* Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

#### Extent Information

**E53** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

**F688** S. 34 repealed (S.) (29.11.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 57, 59, [Sch. 7 para. 4](#); S.S.I. 2004/495, [art. 2](#)

<sup>F308</sup> *Nature reserves*, <sup>F309</sup> ... and Ramsar sites

#### Textual Amendments

**F308** S. 34A and preceding cross-heading inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1), 107, [Sch. 11 para. 84](#); S.I. 2006/2541, [art. 2](#)

**F309** Words in cross-heading preceding s. 34A omitted (E.W.) (12.1.2010 so far as not relating to MCZs in W., 12.12.2014 in so far as not already in force) by virtue of [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 146(1), 324(2)(b)(i), [Sch. 11 para. 2\(3\)](#) (with s. 145); S.I. 2014/3088, [art. 2\(b\)](#); and those same words repealed (S.) (1.7.2010) by [Marine \(Scotland\) Act 2010 \(asp 5\)](#), ss. 167, 168(1), [Sch. 4 para. 5\(a\)](#) (with s. 162); S.S.I. 2010/230, [art. 2\(h\)](#)

### 34A Meaning of “appropriate conservation body”

In the following provisions of this Part “the appropriate conservation body” means—

- (a) in relation to England, Natural England;
- (b) in relation to Wales, [<sup>F310</sup>the Natural Resources Body for Wales];
- (c) in relation to Scotland, Scottish Natural Heritage.]

#### Textual Amendments

**F310** Words in s. 34A(b) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [art. 1\(2\)](#), [Sch. 2 para. 173](#) (with Sch. 7)

### <sup>X3</sup>35 National nature reserves.

- (1) Where [<sup>F311</sup>the appropriate conservation body] are satisfied that any land which—
  - (a) is being managed as a nature reserve under an agreement entered into with [<sup>F311</sup>the appropriate conservation body];
  - (b) is held by [<sup>F311</sup>the appropriate conservation body] and is being managed by them as a nature reserve; or
  - (c) is held by an approved body and is being managed by that body as a nature reserve,

is of national importance, they may declare that land to be a national nature reserve.

[<sup>F312</sup>(1A) The land which may be declared to be a national nature reserve in England or Wales includes—

- (a) any land lying above mean low water mark;
- (b) any land covered by estuarial waters.

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- (1B) Where the area of land to which a declaration under subsection (1) relates includes land falling within subsection (1A)(a) or (b) (“area A”), it may also include land not falling within subsection (1A)(a) or (b) (“area B”) if—
- (a) area B adjoins area A, and
  - (b) any of the conditions in subsection (1C) is satisfied.

(1C) The conditions are—

- (a) that the flora, fauna or features leading to the management of area A as a nature reserve is or are also present in area B;
- (b) that the management of area A as a nature reserve is by reason of any flora or fauna which are dependent (wholly or in part) on anything which takes place in, or is present in, area B;
- (c) that, without the inclusion of area B, the identification of the boundary of the land declared to be a national nature reserve (either in the declaration or on the ground for the purposes of exercising functions in relation to it) would be impossible or impracticable.

- (1D) The ministerial authority may issue guidance to the appropriate conservation body about the exercise of the power conferred by subsection (1B) to make a declaration in relation to land lying below mean low water mark.

“The ministerial authority” has the meaning given by section 35A(12).]

- (2) A declaration by [<sup>F311</sup>the appropriate conservation body] that any land is a national nature reserve shall be conclusive of the matters declared; and subsections (4) and (5) of section 19 of the 1949 Act shall apply in relation to any such declaration as they apply in relation to a declaration under that section.
- (3) On the application of the approved body concerned, [<sup>F311</sup>the appropriate conservation body], as respects any land which is declared to be a national nature reserve under subsection (1)(c), make byelaws for the protection of the reserve.
- (4) Subsections (2) and (3) of section 20 and section 106 of the 1949 Act shall apply in relation to byelaws under this section as they apply in relation to byelaws under the said section 20.
- (5) In this section—

“approved body” means a body approved by [<sup>F311</sup>the appropriate conservation body] for the purposes of this section;

“nature reserve” has the same meaning as in Part III of the 1949 Act.

#### Editorial Information

- X3** The insertion of the new cross-heading "Nature reserves, marine nature reserves and Ramsar sites" in Part II on 1.10.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

#### Textual Amendments

- F311** Words in s. 35 substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), ss. 105(1), 107, [Sch. 11 para. 85](#); [S.I. 2006/2541](#), [art. 2](#)

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**F312** S. 35(1A)-(1D) inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 148, 324(2)(b)(ii), [Sch. 13 para. 10](#) (with Sch. 13 para. 10(2)); S.I. 2014/3088, art. 2(b)

### **[<sup>F313</sup>35A Power to call in subtidal declarations**

- (1) This section applies where—
  - (a) the appropriate conservation body propose to declare land to be a national nature reserve under section 35(1), and
  - (b) the land to which the proposed declaration relates includes, by virtue of section 35(1B), land lying below mean low water mark (“the subtidal land”).
- (2) The appropriate conservation body may not declare the reserve unless, at least 21 days before doing so, they have given notice of their intention to the ministerial authority.
- (3) At any time before the reserve is declared the ministerial authority may give notice to the appropriate conservation body that the ministerial authority is considering whether to give a direction under subsection (5) regarding the subtidal land.
- (4) If the ministerial authority gives notice under subsection (3), the appropriate conservation body may not declare the reserve until the ministerial authority has given a direction under subsection (5).
- (5) The ministerial authority may direct—
  - (a) that the reserve (if declared) must include all of the subtidal land;
  - (b) that the reserve (if declared) must not include any of the subtidal land;
  - (c) that the reserve (if declared) must, or must not, include such part of that land as is specified in the direction;
  - (d) that the decision whether the reserve (if declared) should include the subtidal land is to be taken by the appropriate conservation body.
- (6) The ministerial authority may, before deciding whether to give a direction under subsection (5), give to any person the opportunity of—
  - (a) appearing before and being heard by a person appointed by the ministerial authority for that purpose;
  - (b) providing written representations to such a person.
- (7) A person appointed under subsection (6) must make a report to the ministerial authority of any oral or written representations made under that subsection.
- (8) The ministerial authority may make regulations providing for the procedure to be followed (including decisions as to costs) at hearings held under subsection (6).
- (9) The power to make regulations under subsection (8) is exercisable by statutory instrument.
- (10) A statutory instrument containing regulations made under subsection (8) by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) A statutory instrument containing regulations made under subsection (8) by the Welsh Ministers shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.

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- (12) In this section “the ministerial authority” means—
- (a) in relation to England, the Secretary of State;
  - (b) in relation to Wales, the Welsh Ministers.]

**Textual Amendments**

**F313** S. 35A inserted (E.W.) (12.11.2009 for certain purposes, 12.1.2010 for E., 12.12.2014 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 148, 324(1)(c)(2)(b)(ii), [Sch. 13 para. 11](#); S.I. 2014/3088, art. 2(b)

<sup>F314</sup>**36 Marine nature reserves.**

.....

**Textual Amendments**

**F314** S. 36 repealed (E.W.) (12.1.2010 so far as not relating to MCZs in W., 12.12.2014 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 146, 321, 324(2)(b)(i)(4), Sch. 11 para. 2(2)(a), Sch. 22 Pt. 3 (with s. 145, Sch. 12); S.I. 2014/3088, art. 2(b)(c); and s. 36 repealed (S.) (1.7.2010) by [Marine \(Scotland\) Act 2010 \(asp 5\)](#), ss. 167, 168(1), Sch. 4 para. 5(b) (with s. 162); S.S.I. 2010/230, art. 2(h)

[<sup>F315</sup>**37 Byelaws for protection of marine nature reserves.**

.....]

**Textual Amendments**

**F315** S. 37 repealed (E.W.) (12.1.2010 so far as not relating to MCZs in W., 12.12.2014 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 146, 321, 324(2)(b)(i)(4), Sch. 11 para. 2(2)(a), [Sch. 22 Pt. 3](#) (with s. 145, Sch. 12); S.I. 2014/3088, art. 2(b)(c); and s. 37 repealed (S.) (1.7.2010) by [Marine \(Scotland\) Act 2010 \(asp 5\)](#), ss. 167, 168(1), [Sch. 4 para. 5\(b\)](#) (with s. 162); S.S.I. 2010/230, art. 2(h)

<sup>x4</sup>[<sup>F316</sup>**37 Ramsar sites.**

- (1) Where a wetland in Great Britain has been designated under paragraph 1 of article 2 of the Ramsar Convention for inclusion in the list of wetlands of international importance referred to in that article, the Secretary of State shall—
- (a) notify [<sup>F317</sup>Natural England] if all or part of the wetland is in England;
  - (b) notify [<sup>F318</sup>the Natural Resources Body for Wales] if it is in Wales; or
  - (c) notify both of them if it is partly in England and partly in Wales.
- (2) Subject to subsection (3), upon receipt of a notification under subsection (1), each body notified shall, in turn, notify—
- (a) the local planning authority in whose area the wetland is situated;
  - (b) every owner and occupier of any of that wetland; [<sup>F319</sup>and]
  - <sup>F320</sup>(c) .....

*Status: Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (d) every relevant undertaker (within the meaning of section 4(1) of the <sup>M25</sup>Water Industry Act 1991) and every internal drainage board (within the meaning of section 61C(1) of the <sup>M26</sup>Land Drainage Act 1991) whose works, operations or activities may affect the wetland.

[ Subject to subsection (3), upon receipt of a notification under subsection (1), Natural <sup>F321</sup>(2A) England shall, in turn, notify the Environment Agency.]

- (3) [<sup>F317</sup>Natural England] and [<sup>F322</sup>the Natural Resources Body for Wales] may agree that in a case where the Secretary of State notifies both of them under subsection (1)(c), any notice under subsection (2) is to be sent by one or the other of them (and not both), so as to avoid duplicate notices under that subsection.
- (4) Subject to subsection (5), the “Ramsar Convention” is the Convention on Wetlands of International Importance especially as Waterfowl Habitat signed at Ramsar on 2nd February 1971, as amended by—
- (a) the Protocol known as the Paris Protocol done at Paris on 3rd December 1982; and
  - (b) the amendments known as the Regina Amendments adopted at the Extraordinary Conference of the Contracting Parties held at Regina, Saskatchewan, Canada, between 28th May and 3rd June 1987.
- (5) If the Ramsar Convention is further amended after the passing of the Countryside and Rights of Way Act 2000, the reference to the Ramsar Convention in subsection (1) is to be taken after the entry into force of the further amendments as referring to that Convention as further amended (and the reference to paragraph 1 of article 2 is, if necessary, to be taken as referring to the appropriate successor provision).]

#### Editorial Information

- X4** The insertion of the new cross-heading "Nature reserves, marine nature reserves and Ramsar sites" in Part II on 1.10.2006 gives rise to a change in the structure of this legislation on SLD which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

#### Textual Amendments

- F316** S. 37A inserted (30.1.2001) by 2000 c. 37, ss. 77, 103(2)
- F317** Words in s. 37A(1)(a)(3) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1), 107, [Sch. 11 para. 36](#); S.I. 2006/2541, [art. 2](#)
- F318** Words in s. 37A(1)(b) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [art. 1\(2\)](#), [Sch. 2 para. 175\(2\)](#) (with Sch. 7)
- F319** Word in s. 37A(2)(b) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [art. 1\(2\)](#), [Sch. 2 para. 175\(3\)\(a\)](#) (with Sch. 7)
- F320** S. 37A(2)(c) omitted (1.4.2013) by virtue of [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [art. 1\(2\)](#), [Sch. 2 para. 175\(3\)\(b\)](#) (with Sch. 7)
- F321** S. 37A(2A) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [art. 1\(2\)](#), [Sch. 2 para. 175\(4\)](#) (with Sch. 7)
- F322** Words in s. 37A(3) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [art. 1\(2\)](#), [Sch. 2 para. 175\(5\)](#) (with Sch. 7)

#### Marginal Citations

- M25** 1991 c. 56.  
**M26** 1991 c. 59.

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*Changes to legislation:* Wildlife and Countryside Act 1981 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F323 38 .....

**Textual Amendments**

**F323** S. 38 repealed (1.4.1991) by [Environmental Protection Act 1990 \(c.43, SIF 46:4\)](#), s. 162(2), [Sch. 16 Pt. VI](#); [S.I. 1991/685, art. 3](#)

*Countryside*

**39 Management agreements with owners and occupiers of land.**

- (1) A relevant authority may, for the purpose of conserving or enhancing the natural beauty or amenity of any land which is <sup>F324</sup> . . . within their area or promoting its enjoyment by the public, make an agreement (in this section referred to as a “management agreement”) with any person having an interest in the land with respect to the management of the land during a specified term or without limitation of the duration of the agreement.
- (2) Without prejudice to the generality of subsection (1), a management agreement—
  - (a) may impose on the person having an interest in the land restrictions as respects the method of cultivating the land, its use for agricultural purposes or the exercise of rights over the land and may impose obligations on that person to carry out works or agricultural or forestry operations or do other things on the land;
  - (b) may confer on the relevant authority power to carry out works for the purpose of performing their functions under the 1949 Act and the 1968 Act; and
  - (c) may contain such incidental and consequential provisions (including provisions for the making of payments by either party to the other) as appear to the relevant authority to be necessary or expedient for the purposes of the agreement.
- (3) The provisions of a management agreement with any person interested in the land shall, unless the agreement otherwise provides, be binding on persons deriving title under or from that person and be enforceable by the relevant authority against those persons accordingly.
- (4) Schedule 2 to the <sup>M27</sup>Forestry Act 1967 (power for tenant for life and others to enter into forestry dedication covenants) shall apply to management agreements as it applies to forestry dedication covenants.
- (5) In this section “the relevant authority” means—
  - <sup>F325</sup>(a) .....
  - <sup>F326</sup>(aa) as respects land within the Broads, the Broads Authority;]
  - <sup>F327</sup>(b) .....
  - (c) as respects any other land, the local planning authority.
  - <sup>F328</sup>(d) <sup>F329</sup> .....
  - (e) as respects any land in Wales, [<sup>F330</sup>the Natural Resources Body for Wales];
  - (f) as respects land in any area of outstanding natural beauty designated under section 82 of the Countryside and Rights of Way Act 2000 for which a

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conservation board has been established under section 86 of that Act, that board.]

- (6) The powers conferred by this section on a relevant authority shall be in addition to and not in derogation of any powers conferred on such an authority by or under any enactment.

#### Textual Amendments

**F324** Words in s. 39(1) repealed (1.4.2001 for E. and 1.5.2001 for W.) by 2000 c. 37, ss. 96(a), 102, 103(2), **Sch. 16 Pt. VI**; S.I. 2001/114, **art. 2(2)(m)**; S.I. 2001/1410, **art. 2(g)**

**F325** S. 39(5)(a) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115); S.I. 1996/2560, art. 2, **Sch.**

**F326** S. 39(5)(aa) inserted by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), ss. 2(5), 23(2), 27(2), **Sch. 3 para. 31(2)**

**F327** S. 39(5)(b) repealed by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 102, **Sch. 17**

**F328** S. 39(5)(d)-(f) inserted (1.4.2001 for E. and 1.5.2001 for W.) by 2000 c. 37, s. 96(b); S.I. 2001/114, **art. 2(2)(f)**; S.I. 2001/1410, **art. 2(h)**

**F329** S. 39(5)(d) repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 87, Sch. 12**; S.I. 2006/2541, **art. 2**

**F330** Words in s. 39(5)(e) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 176** (with Sch. 7)

#### Modifications etc. (not altering text)

**C18** S. 39 modified (19.9.1995) by 1995 c. 25, ss. 69(2)(a), 125(2) (with ss. 7(6), 115, Sch. 8 para. 7)

S. 39 modified (20.9.2006) by The Natural Environment and Rural Communities Act 2006 (Commencement No. 3 and Transitional Provisions) Order 2006 (S.I. 2006/2541), art. 3(1), **Sch. para. 5**

#### Marginal Citations

**M27** 1967 c. 10.

#### <sup>x5</sup>40 Experimental schemes.

For subsections (1) and (2) of section 4 of the 1968 Act (under which the Countryside Commission may submit for the Secretary of State's approval proposals for experimental schemes in relation to particular areas and are required to carry out proposals approved by him) there shall be substituted the following subsection—

“(1) The Commission, after consultation with such local authorities and other bodies as appear to the Commission to have an interest, may from time to time make and carry out or promote the carrying out of any experimental scheme designed to facilitate the enjoyment of the countryside, or to conserve or enhance its natural beauty or amenity which—

- (a) in relation to the countryside generally or to any particular area involves the development or application of new methods, concepts or techniques, or the application or further development of existing methods, concepts or techniques ; and
- (b) is designed to illustrate the appropriateness of the scheme in question for the countryside generally or for any particular area.”



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#### Editorial Information

- X5** The text of ss. 15(1), 38(6), 40, 46(1)-(3), and 47(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### 41 Duties of agriculture Ministers with respect to the countryside.

[<sup>F331F332</sup>(1) . . . . .]

(2) In the exercise of his general duty under section 4(2) of the <sup>M28</sup>Small Landholders (Scotland) Act 1911 of promoting the interests of agriculture and other rural industries, and without prejudice to the generality of that duty, the Secretary of State shall make provision, through such organisation as he considers appropriate, for the giving of

- [<sup>F333</sup>(a) advice to persons carrying on agricultural businesses on the conservation and enhancement of the natural beauty and amenity of the countryside;
- (b) advice to such persons on diversification into other enterprises of benefit to the rural economy; and
- (c) advice to government departments and other bodies exercising statutory functions on the promotion and furtherance of such diversification as is mentioned in paragraph (b).]

(3) Where an application for [<sup>F334</sup>a farm capital grant] is made as respects expenditure incurred or to be incurred for the purposes of activities on land which is in a National Park [<sup>F335</sup>(including a National Park in Scotland)] or an area specified for the purposes of this subsection by the Ministers, the appropriate Minister—

- (a) shall, so far as may be consistent with the purposes of the [<sup>F336</sup>the grant provisions], so exercise his functions thereunder as to further the conservation and enhancement of the natural beauty and amenity of the countryside and to promote its enjoyment by the public; and
- (b) where the relevant authority have objected to the making of the grant on the ground that the activities in question have had or will have an adverse effect on the natural beauty or amenity of the countryside or its enjoyment by the public, shall not make the grant except after considering the objection and, in the case of land in England, after consulting with the Secretary of State;

<sup>F337</sup> . . . . .

(4) Where, in consequence of an objection by the relevant authority, an application for a grant as respects expenditure to be incurred is refused on the ground that the activities in question will have such an effect as is mentioned in subsection (3)(b), the relevant authority shall, within three months of their receiving notice of the appropriate Minister’s decision, offer to enter into, in the terms of a draft submitted to the applicant, a management agreement—

- (a) imposing restrictions as respects those activities; and
- (b) providing for the making by them of payments to the applicant.

(5) In this section—

[<sup>F338</sup>“agricultural business” has the same meaning as in section 29 of the Agriculture Act 1970;]

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[<sup>F338</sup> “the appropriate Minister”, “farm capital grant” and “grant provisions” have the same meanings as in section 32;]

[<sup>F339</sup> “management agreement” means—

- (a) in relation to England, an agreement under section 39 or under section 7 of the Natural Environment and Rural Communities Act 2006, and  
(b) in relation to Wales, an agreement under section 39;

“the relevant authority” has the same meaning as in section 39 except that in relation to England it also includes Natural England.]

[<sup>F340</sup>(5A) For the purposes of this section the Broads shall be treated as a National Park [<sup>F341</sup>(and, as respects land within the Broads, any reference in this section to the relevant authority is accordingly a reference to the Broads Authority).].]

(6) <sup>F342</sup>.....]

#### Textual Amendments

**F331** S. 41 repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 57, 59, **Sch. 7 para. 4**; S.S.I. 2004/495, **art. 2**

**F332** S. 41(1) repealed by Agriculture Act 1986 (c. 49, SIF 2:1), s. 24(5), **Sch. 4**

**F333** S. 41(2)(a)–(c) substituted for words by Agriculture Act 1986 (c. 49, SIF 2:1), s. 24(4), **Sch. 3 para. 4**

**F334** Words substituted by Agriculture Act 1986 (c. 49, SIF 2:1), **s. 20(4)(a)**

**F335** Words in s. 41(3) inserted (S.) (8.9.2000) by 2000 asp 10, s. 36, **Sch. 5 para. 8(2)** (with s. 32); S.S.I. 2000/312, **art. 2**

**F336** Words substituted by Agriculture Act 1986 (c. 49, SIF 2:1), **s. 20(4)(b)**

**F337** Words in s. 41(3) repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 88(2)**, **Sch. 12**; S.I. 2006/2541, **art. 2**

**F338** Definition substituted by Agriculture Act 1986 (c. 49, SIF 2:1), **s. 20(5)**

**F339** S. 41(5): definitions of “management agreement” and “the relevant authority” substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 88(3)**; S.I. 2006/2541, **art. 2**

**F340** S. 41(5A) inserted (E.W.) by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), ss. 2(5), 23(2), 27(2), **Sch. 3 Pt. I para. 31(3)**

**F341** Words in s. 41(5A) inserted (1.4.1997) by 1995 c. 25, s. 78, **Sch. 10 para. 22(2)** (with ss. 7(6), 115, Sch. 8 para. 7); S.I. 1996/2560, **art. 2**

**F342** S. 41(6) repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 88(4)**, **Sch. 12**; S.I. 2006/2541, **art. 2**

#### Modifications etc. (not altering text)

**C19** S. 41 modified (E.W.) (19.9.1995) by 1995 c. 25, **ss. 69(2)(a)**, 125(2) (with ss. 7(6), 115, Sch. 8 para. 7

#### Marginal Citations

**M28** 1911 c. 49.

### National Parks

#### [<sup>F343</sup> 41A Application of sections 42 to 45 in Wales

In relation to land in Wales, sections 42 to 45 (which relate to National Parks) have effect as if references to Natural England were references to [<sup>F344</sup>the Natural Resources Body for Wales].]

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### Textual Amendments

**F343** S. 41A inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1), 107, [Sch. 11 para. 89](#); S.I. 2006/2541, [art. 2](#)

**F344** Words in s. 41A substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [art. 1\(2\)](#), [Sch. 2 para. 176](#) (with [Sch. 7](#))

## 42 Notification of agricultural operations on moor and heath in National Parks.

- (1) [<sup>F345</sup>A National Park authority] may, if satisfied that it is expedient to do so, by order apply subsection (2) to any land which is comprised in [<sup>F346</sup>the relevant Park] and which appears to them to consist of or include moor or heath.
- (2) Subject to subsection (3), no person shall—
  - (a) by ploughing or otherwise convert into agricultural land any land to which this subsection applies and which is moor or heath which has not been agricultural land at any time within the preceding 20 years; or
  - (b) carry out on any such land any other agricultural operation or any forestry operation which (in either case) appears to [<sup>F347</sup>the National Park authority] to be likely to affect its character or appearance and is specified in the order applying this subsection to that land.
- (3) Subsection (2) shall not apply in relation to any operation carried out, or caused or permitted to be carried out, by the owner or occupier of the land if—
  - (a) one of them has, after the coming into force of the order, given the [<sup>F348</sup>National Park authority] written notice of a proposal to carry out the operation, specifying its nature and the land on which it is proposed to carry it out; and
  - (b) one of the conditions specified in subsection (4) is satisfied.
- (4) The said conditions are—
  - (a) that the [<sup>F348</sup>National Park authority] have given their consent to the carrying out of the operation;
  - (b) where that authority have neither given nor refused their consent, that three months have expired from the giving of the notice; and
  - (c) where that authority have refused their consent, that twelve months have expired from the giving of the notice.
- (5) A person who, without reasonable excuse, contravenes subsection (2) shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (6) Where the [<sup>F348</sup>National Park authority] are given notice under this section in respect of any land, the authority shall forthwith send copies of the notice to [<sup>F349</sup>Natural England]
- (7) In considering for the purposes of this section whether land has been agricultural land within the preceding 20 years, no account shall be taken of any conversion of the land into agricultural land which was unlawful under the provisions of this section or section 14 of the 1968 Act.

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- [<sup>F350</sup>(8) An order under this section shall be made by statutory instrument and the Statutory Instruments Act 1946 shall apply to such an instrument as if the order had been made by a Minister of the Crown.]
- (9) The said section 14 (which is superseded by this section) shall cease to have effect; but this section shall have effect as if any order under that section in force immediately before the coming into force of this section had been made under this section.

#### Textual Amendments

- F345** Words in s. 42(1) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 63(2)(a), 107; S.I. 2006/2541, art. 2
- F346** Words in s. 42(1) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 63(2)(b), 107; S.I. 2006/2541, art. 2
- F347** Words in s. 42(2)(b) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 63(3), 107; S.I. 2006/2541, art. 2
- F348** Words in s. 42 substituted (1.4.1996) by 1995 c. 25, s. 78, Sch. 10 para. 22(3) (with ss. 7(6), 115, Sch. 8 para. 7); S.I. 1995/2950, art. 3(1)(2)
- F349** Words in s. 42(6) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 63(4), 107; S.I. 2006/2541, art. 2
- F350** S. 42(8) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 63(5), 107; S.I. 2006/2541, art. 2

#### Modifications etc. (not altering text)

- C20** S. 42(2) applied by The Peak District National Park Authority Order 2002 (S.I. 2002/80), art. 2
- C21** S. 42(2) applied by S.I. 1991/1616, art. 2

### 43 Maps of National Parks showing certain areas of moor or heath.

- (1) Every [<sup>F351</sup>local planning authority] whose area comprises the whole or any part of a National Park shall—
- (a) before the expiration of the period of two years beginning with [<sup>F352</sup>the relevant date], prepare a map of the Park or the part thereof showing any areas [<sup>F353</sup>to which this section applies whose natural beauty] it is, in the opinion of the authority, particularly important to conserve; and
  - (b) [<sup>F354</sup>at intervals of not more than five years] review the particulars contained in the map and make such revisions thereof (if any) as may be requisite.
- [<sup>F355</sup>(1A) In considering under subsection (1) whether any area to which this section applies is one whose natural beauty it is particularly important to conserve, a [<sup>F356</sup>local planning authority] shall act in accordance with the guidelines from time to time issued [<sup>F357</sup> . . . under subsection (1B).
- (1B) [<sup>F358</sup>Natural England shall] issue guidelines for the guidance of county planning authorities in considering as mentioned in subsection (1A), and [<sup>F359</sup>Natural England may] from time to time revise any guidelines so issued.
- (1C) Before issuing or revising any guidelines under subsection (1B) [<sup>F360</sup>Natural England] shall consult such bodies as appear to them to represent interests concerned; and before preparing or revising any map under subsection (1) a [<sup>F356</sup>local planning authority] shall consult such bodies as appear to the authority to represent interests concerned with matters affecting the Park or part of the Park in question.]

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- (2) The authority shall cause a map prepared or revised in pursuance of subsection (1) to be printed, and shall cause copies thereof to be put on sale to the public at such price as the authority may determine.
- [<sup>F361</sup>(3) This section applies to any area of mountain, moor, heath, woodland, down, cliff or foreshore (including any bank, barrier, dune, beach, flat or other land adjacent to the foreshore); and in this section “the relevant date” means the date of issue of the first guidelines under subsection (1B).]

#### Textual Amendments

- F351** Words substituted by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 2, 7, **Sch. 3 para. 7(4)**
- F352** Words substituted by Wildlife and Countryside (Amendment) Act 1985 (c. 31, SIF 4:5), s. **3(2)(a)**
- F353** Words substituted by Wildlife and Countryside (Amendment) Act 1985 (c. 31, SIF 4:5), s. **3(2)(b)**
- F354** Words substituted by Wildlife and Countryside (Amendment) Act 1985 (c. 31, SIF 4:5), s. **3(3)**
- F355** S. 43(1A)–(1C) inserted by Wildlife and Countryside (Amendment) Act 1985 (c. 31, SIF 4:5), s. **3(4)**
- F356** Words substituted by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 2, 7, **Sch. 3 para. 7(4)**
- F357** Words in s. 43(1A) repealed (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(2), **Sch. 16 Pt. VI**; S.I. 1991/685, **art. 3**
- F358** Words in s. 43(1B) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 90(2)(a)**; S.I. 2006/2541, **art. 2**
- F359** Words in s. 43(1B) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 90(2)(b)**; S.I. 2006/2541, **art. 2**
- F360** Words in s. 43(1C) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 90(3)**; S.I. 2006/2541, **art. 2**
- F361** S. 43(3) added by Wildlife and Countryside (Amendment) Act 1985 (c. 31, SIF 4:5), s. **3(5)**

#### Modifications etc. (not altering text)

- C22** S. 43 modified (19.9.1995) by 1995 c. 25, **ss. 69(3)**, 125(2) (with ss. 7(6), 115, **Sch. 8 para. 7**)

## 44 Grants and loans for purposes of National Parks.

<sup>F362</sup>(1) . . . . .

[<sup>F363</sup>(1A) <sup>F364</sup> . . . the National Park authority for such a Park may give financial assistance by way of grant or loan, or partly in one way and partly in the other, to any person in respect of expenditure incurred by him in doing anything which, in the opinion of the authority, is conducive to the attainment in the Park in question of any of the purposes mentioned in section 5(1) of the 1949 Act (purposes of conserving and enhancing the natural beauty, wildlife and cultural heritage of National Parks and of promoting opportunities for the understanding and enjoyment of the special qualities of those Parks by the public).]

(2) On making a grant or loan under this section [<sup>F365</sup>the authority in question] may impose such conditions as they think fit, including (in the case of a grant) conditions for repayment in specified circumstances.

(3) [<sup>F365</sup>The authority in question] shall so exercise their powers under subsection (2) as to ensure that any person receiving a grant or loan under this section in respect of premises to which the public are to be admitted, whether on payment or otherwise, shall, in the means of access both to and within the premises, and in the parking facilities and sanitary conveniences to be available (if any), make provision, insofar

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as it is in the circumstances both practicable and reasonable, for the needs of members of the public visiting the premises who are disabled.

[<sup>F366</sup>(4) For the purposes of this section the Broads Authority shall be treated as a [<sup>F367</sup>National Park authority and the Broads as a National Park for which it is the local planning authority.]]

**Textual Amendments**  
**F362** S. 44(1) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115); S.I. 1996/2560, art. 2, **Sch.**  
**F363** S. 44(1A) inserted (19.9.1995) by 1995 c. 25, **ss. 69(4), 125(2)** (with ss. 7(6), 115, Sch. 8 para. 7)  
**F364** Words in s. 44(1A) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115); S.I. 1996/2560, art. 2, **Sch.**  
**F365** Words in s. 44(2)(3) substituted (1.4.1996) by 1995 c. 25, s. 78, **Sch. 10 para. 22(4)(a)(b)** (with ss. 7(6), 115, Sch. 8 para. 7); S.I. 1995/2950, **art. 3(1)**  
**F366** S. 44(4) added by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), ss. 2(5), 23(2), 27(2), **Sch. 3 Pt. I para. 31(4)**  
**F367** Words in s. 44(4) substituted (1.4.1997) by 1995 c. 25, s. 78, **Sch. 10 para. 22(4)(c)** (with ss. 7(6), 115, Sch. 8 para. 7); S.I. 1996/2560, **art. 3**

**45 Power to vary order designating National Park.**

[<sup>F368</sup>(1) [<sup>F369</sup>Natural England](as well as the Secretary of State) shall have power to make an order amending an order made under section 5 of the 1949 Act designating a National Park <sup>F370</sup> . . . , and—

- (a) section 7(5) and (6) of that Act (consultation and publicity in connection with orders under section 5 or 7) shall apply to an order under this section as they apply to an order under section 7(4) of that Act with the substitution for the reference in section 7(5) to the Secretary of State of a reference to [<sup>F369</sup>Natural England] ; and
- (b) Schedule 1 to that Act (procedure in connection with the making and confirmation of orders under section 5 or 7) shall apply to an order under this section as it applies to an order designating a National Park.]

(2) <sup>F371</sup> . . . . .

**Textual Amendments**  
**F368** S. 45(1) renumbered from s. 45 ( 1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 130, **Sch. 8 para. 6(4)**; S.I. 1991/685, **art.3.**  
**F369** Words in s. 45(1) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 91(2)(a)**; S.I. 2006/2541, **art. 2**  
**F370** Words in s. 45(1) repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1)(2), 107, Sch. 11 para. 91(2)(b), **Sch. 12**; S.I. 2006/2541, **art. 2**  
**F371** S. 45(2) repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1)(2), 107, Sch. 11 para. 91(3), **Sch. 12**; S.I. 2006/2541, **art. 2**

<sup>F372</sup>46 . . . . .

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**Textual Amendments**

**F372** S. 46 repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115); S.I. 1996/2560, art. 2, **Sch.**

*Miscellaneous and supplemental*

<sup>F374</sup>**47** [<sup>F373</sup>**Grants to the Countryside Council for Wales**]

.....

**Textual Amendments**

**F373** S. 47 heading substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 92(4)**; S.I. 2006/2541, **art. 2**  
**F374** S. 47 omitted (1.4.2013) by virtue of The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 177** (with Sch. 7)

**48** ..... <sup>F375</sup>

**Textual Amendments**

**F375** S. 48 repealed by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), **Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, Sch. 27 Pt. I**

**49 Extension of power to appoint wardens.**

- (1) This section applies to any land in a National Park or in the countryside if—
  - (a) the public are allowed access to the land; and
  - (b) there is no power under any of the provisions of the 1949 Act and the 1968 Act for a local authority, a local planning authority, [<sup>F376</sup>the Natural Resources Body for Wales] or [<sup>F377</sup>Natural England] to appoint wardens as respects that land.
- (2) Subject to subsections (3) and (4) the power conferred on a local authority by section 92(1) of the 1949 Act (appointment of wardens) shall include a power, exercisable only with the agreement of the owner and of the occupier of any land to which this section applies, to appoint persons to act as wardens as respects that land.
- (3) The only purpose for which wardens may be appointed by virtue of subsection (2) is to advise and assist the public.
- (4) Notwithstanding the provisions of section 41(8) of the 1968 Act ([<sup>F377</sup>Natural England][<sup>F378</sup>or [<sup>F376</sup>the Natural Resources Body for Wales]]) to be local authority for purposes of section 92 of the 1949 Act), nothing in this section shall be construed as conferring on [<sup>F377</sup>Natural England][<sup>F378</sup>or [<sup>F376</sup>the Natural Resources Body for Wales]] any additional power to appoint wardens.

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### Textual Amendments

- F376** Words in s. 49 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 178** (with Sch. 7)
- F377** Words in s. 49(1)(4) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1), 107, **Sch. 11 para. 93**; S.I. 2006/2541, **art. 2**
- F378** Words inserted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 130, **Sch. 8 para. 6(6)**; S.I. 1991/685, **art.3**.

## 50 Payments under certain agreements offered by authorities. **E+W**

- (1) This section applies where—
- <sup>F379</sup>Natural England or <sup>F380</sup>the Natural Resources Body for Wales] offer to enter into a nature reserve agreement or an SSSI agreement or an agreement under] section 16 of the 1949 Act or section 15 of the 1968 Act providing for the making by them of payments <sup>F381</sup>to any person; or]
  - the relevant authority offer to enter into a management agreement providing for the making by them of payments to a person whose application for a farm capital grant has been refused in consequence of an objection by the authority.
- (2) Subject to subsection (3), the said payments shall be of such amounts as may be determined by the offeror in accordance with guidance given by the Ministers.
- (3) If the offeree so requires within one month of receiving the offer, the determination of those amounts shall be referred to an arbitrator <sup>F382</sup>. . . to be appointed, in default of agreement, by the Secretary of State; and where the amounts determined by the arbitrator exceed those determined by the offeror, the offeror shall—
- amend the offer so as to give effect to the arbitrator’s <sup>F382</sup>. . . determination; or
  - except in the case of an offer made to a person whose application for a farm capital grant has been refused in consequence of an objection by the offeror, withdraw the offer.
- (4) In this section—
- <sup>F383</sup> “farm capital grant” has the same meaning as in section 32;]
- “management agreement” and “the relevant authority” have the same meanings as in section 41.
- <sup>F384</sup> “nature reserve agreement” has the same meaning as in Part 3 of the 1949 Act;
- “SSSI agreement” has the same meaning as in section 15A of the 1968 Act.]

### Extent Information

- E27** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

### Textual Amendments

- F379** Words in s. 50(1)(a) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1), 107, **Sch. 11 para. 94(2)**; S.I. 2006/2541, **art. 2**
- F380** Words in s. 50(1)(a) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 179** (with Sch. 7)



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**F381** Words in s. 50(1)(a) substituted for words and s. 50(1)(a)(i)(ii) (E.W.) (30.1.2001) by 2000 c. 37, ss. 79, 103(2)

**F382** Words in s. 50(3) repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1)(2), 107, Sch. 11 para. 94(3), Sch. 12; S.I. 2006/2541, art. 2

**F383** Definition substituted by Agriculture Act 1986 (c. 49, SIF 2:1), s. 20(6)

**F384** S. 50(4): definitions inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, Sch. 11 para. 94(4); S.I. 2006/2541, art. 2

**Modifications etc. (not altering text)**

**C23** S. 50 modified (E.W.) (19.9.1995) by 1995 c. 25, ss. 69(2)(a), 125(2) (with ss. 7(6), 115, Sch. 8 para. 7)

**50 Payments under certain agreements offered by authorities. S**

**F689** .....

**Extent Information**

**E54** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

**Textual Amendments**

**F689** S. 50 repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 57, 59, Sch. 7 para. 4; S.S.I. 2004/495, art. 2

**51 Powers of entry. E+W**

(1) Any person authorised in writing by the relevant authority may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised, enter any land for any of the following purposes—

- <sup>F385</sup>(a) to determine whether the land should be notified under section 28(1);
- (b) to assess the condition of the flora, fauna, or geological or physiographical features by reason of which land which has been notified under section 28(1) is of special interest;
- (c) to determine whether or not to offer to enter into <sup>F386</sup>a nature reserve agreement or an SSSI agreement or] an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act in relation to the land;
- (d) to ascertain whether a condition to which a consent referred to in section 28E(3)(a) was subject has been complied with in relation to the land;
- (e) to ascertain whether an offence under section 28P or under byelaws made by virtue of section 28R is being, or has been, committed on or in relation to the land;
- (f) to formulate a management scheme for the land or determine whether a management scheme (or a proposed management scheme) for the land should be modified;
- (g) to prepare a management notice for the land;
- (h) to ascertain whether the terms of <sup>F386</sup>a nature reserve agreement or an SSSI agreement or] an agreement under section 16 of the 1949 Act or section 15 of the 1968 Act in relation to the land, or the terms of a management scheme

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or the requirements of a management notice in relation to the land, have been complied with;

- (i) to determine whether or not to offer to make a payment under section 28M in relation to the land;
- (j) to determine any question in relation to the acquisition of the land by agreement or compulsorily;
- (k) to determine any question in relation to compensation under section 20(3) of the 1949 Act as applied by section 28R of this Act;
- [<sup>F387</sup>(ka) for the purposes of putting up, maintaining or removing notices or signs under section 28S;]
- (l) to ascertain whether an order should be made in relation to the land under section 34 or if an offence under that section is being, or has been, committed on the land;
- (m) to ascertain whether an order should be made in relation to the land under section 42 or if an offence under that section is being, or has been, committed on the land;]

but nothing in this subsection shall authorise any person to enter a dwelling.

[<sup>F388</sup>(1A) The power conferred by subsection (1) to enter land for any purpose includes power to enter for the same purpose any land other than that referred to in subsection (1).

(1B) More than one person may be authorised for the time being under subsection (1) to enter any land.]

(2) In subsection (1) “the relevant authority” means—

- (a) for the purposes of [<sup>F389</sup>paragraphs (a) to (ka)] of that subsection, [<sup>F390</sup>Natural England or [<sup>F391</sup>the Natural Resources Body for Wales]];]
- (b) for the purposes of [<sup>F392</sup>paragraph (l)] of that subsection, the Secretary of State or the relevant authority within the meaning of section 34;
- (c) for the purposes of [<sup>F392</sup>paragraph (m)] of that subsection, <sup>F393</sup> . . . the [<sup>F394</sup>National Park authority].

[<sup>F395</sup>(2A) In subsection (1)—

“nature reserve agreement” has the same meaning as in Part 3 of the 1949 Act;

“SSSI agreement” has the same meaning as in section 15A of the 1968 Act.]

(3) A person shall not demand admission as of right to any land which is occupied unless either—

- (a) 24 hours notice of the intended entry has been given to the occupier; or
- [<sup>F396</sup>(b) the purpose of the entry is to ascertain if an offence under section 28P, 34 or 42 is being, or has been, committed on or (as the case may be) in relation to that land.]

[<sup>F397</sup>(3A) A person acting in the exercise of a power conferred by subsection (1) may—

- (a) use a vehicle or a boat to enter the land;
- (b) take a constable with him if he reasonably believes he is likely to be obstructed;
- (c) take with him equipment and materials needed for the purpose for which he is exercising the power of entry;
- (d) take samples of the land and of anything on it.

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(3B) If in the exercise of a power conferred by subsection (1) a person enters land which is unoccupied or from which the occupier is temporarily absent, he must on his departure leave it as effectively secured against unauthorised entry as he found it.]

(4) Any person who intentionally obstructs a person acting in the exercise of any power conferred by subsection (1) shall be liable on summary conviction to a fine not exceeding [<sup>F398</sup>level 3 on the standard scale].

[<sup>F399</sup>(5) It is the duty of a relevant authority to compensate any person who has sustained damage as a result of—

- (a) the exercise of a power conferred by subsection (1) by a person authorised to do so by that relevant authority, or
- (b) the failure of a person so authorised to perform the duty imposed on him by subsection (3B),

except where the damage is attributable to the fault of the person who sustained it; and any dispute as to a person's entitlement to compensation under this subsection or as to its amount shall be referred to an arbitrator to be appointed, in default of agreement, by the Secretary of State.]

#### Extent Information

**E28** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

- F385** S. 51(1)(a)-(m) substituted for s. 51(1)(a)-(d) (E.W.) (30.1.2001) by 2000 c. 37, **ss. 80(2)**, 103(2)
- F386** Words in s. 51(1)(c)(h) inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), **ss. 105(1)**, 107, **Sch. 11 para. 95(2)**; S.I. 2006/2541, **art. 2**
- F387** S. 51(1)(ka) inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), **ss. 58(2)**, 107; S.I. 2006/2541, **art. 2**
- F388** S. 51(1A)(1B) inserted (E.W.) (30.1.2001) by 2000 c. 37, **ss. 80(3)**, 103(2)
- F389** Words in s. 51(2) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), **ss. 58(3)**, 107; S.I. 2006/2541, **art. 2**
- F390** Words in s. 51(2)(a) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), **ss. 105(1)**, 107, **Sch. 11 para. 95(3)**; S.I. 2006/2541, **art. 2**
- F391** Words in s. 51(2)(a) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013](#) (S.I. 2013/755), **art. 1(2)**, **Sch. 2 para. 179** (with Sch. 7)
- F392** Words in s. 51(2)(a)(b)(c) substituted (E.W.) (30.1.2001) by 2000 c. 37, **ss. 80(4)(a)(b)(c)**
- F393** Words in s. 51(2)(c) repealed (1.10.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), **ss. 63(6)**, 105(2), 107, **Sch. 12**; S.I. 2006/2541, **art. 2**
- F394** Words in s. 51(2)(c) substituted (1.4.1996) by virtue of 1995 c. 25, s. 78, **Sch. 10 para. 22(5)** (with **ss. 7(6)**, 115, **Sch. 8 para. 7**); S.I. 1995/2950, **art. 3(1)(2)**
- F395** S. 51(2A) inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006](#) (c. 16), **ss. 105(1)**, 107, **Sch. 11 para. 95(4)**; S.I. 2006/2541, **art. 2**
- F396** S. 51(3)(b) substituted (E.W.) (30.1.2001) by 2000 c. 37, **ss. 80(5)**, 103(2)
- F397** S. 51(3A)(3B) inserted (E.W.) (30.1.2001) by 2000 c. 37, **ss. 80(6)**, 103(2)
- F398** Words substituted (E.W.S.) by virtue of (E.W.) [Criminal Justice Act 1982](#) (c. 48, SIF 39:1), **s. 46** and (S.) [Criminal Procedure \(Scotland\) Act 1975](#) (c. 21, SIF 39:1), **s. 289G**
- F399** S. 51(5) inserted (E.W.) (30.1.2001) by 2000 c. 37, **ss. 80(7)**, 103(2)

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**Modifications etc. (not altering text)**

**C24** S. 51 amended (E.W.) (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), **Sch. 11 para. 21**

**51 Powers of entry. S**

**F690** .....

**Extent Information**

**E55** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

**Textual Amendments**

**F690** S. 51 repealed (S.) (29.11.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 57, 59, **Sch. 7 para. 4** (with transitional provisions and savings in [Sch. 5 Pt. 2](#)); S.I. 2004/495, **art. 2**

**[<sup>F400</sup>51A Summary prosecutions**

- (1) Proceedings in England and Wales for a summary offence under this Part may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.
- (2) But subsection (1) does not authorise the commencement of proceedings for an offence more than 2 years after the date on which the offence was committed.
- (3) For the purposes of this section, a certificate signed by or on behalf of the prosecutor and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact.
- (4) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.]

**Textual Amendments**

**F400** S. 51A inserted (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 53, 107, **Sch. 6 para. 4**; S.I. 2006/1382, **art. 2**

**52 Interpretation of Part II.**

- (1) In this Part, unless the context otherwise requires,—
  - “agricultural land” does not include land which affords rough grazing for livestock but is not otherwise used as agricultural land;
  - [<sup>F401</sup> “estuarial waters” has the meaning given by section 28(9A);]
  - “the Ministers”, in the application of this Part to England, means the Secretary of State and the Minister of Agriculture, Fisheries and Food, and, in the application of this Part to Scotland or Wales, means the Secretary of State.

**F402** .....

**F403** .....

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[<sup>F404</sup> “notice” and “notification” mean notice or notification in writing;  
“site of special scientific interest” means an area of land which has been notified under section 28(1)(b);]

(2) [<sup>F405</sup> In the application of this Part to England (except as respects [<sup>F406</sup> a National Park for which a National Park authority is the local planning authority,] a metropolitan county or Greater London) <sup>F407</sup> . . . references to a local planning authority shall be construed—

- <sup>F408</sup>(a) . . . . .  
(b) <sup>F409</sup> . . . as references to a county planning authority and a district planning authority;]

and in the application of this Part to Scotland references to a local planning authority shall be construed as references to a regional planning authority, a general planning authority and a district planning authority [<sup>F410</sup> and, in sections 28 to 28D, shall also be construed in accordance with section 28(10);].

[<sup>F411</sup>(2A) Where a notification under section 28(1)(b) has been—

- (a) modified under section 28(5)(b),
- (b) varied under section 28A(3), or
- (c) varied with modifications under section 28A(5)(b),
- (d) extended under section 28B(2), or
- (e) extended with modifications by virtue of section 28B(7),

a reference to such a notification (however expressed) is (unless the context otherwise requires) a reference to the notification as thus altered.

(2B) References to a notification under section 28(1) or 28(5)(b), or to a local land charge existing by virtue of section 28(9), shall be construed in accordance with section 28C(9).

(2C) For the purposes of this Part, in relation to land in England and Wales which is [<sup>F412</sup>common land][<sup>F412</sup>subject to rights of common (within the meaning of the Commons Act 2006)], “occupier” includes [<sup>F412</sup>the commoners or any of them; and

[<sup>F412</sup>the persons with such rights or any of them and any commons council established under Part 2 of the Commons Act 2006 for that land]]

(3) References in this Part to the conservation of the natural beauty of any land shall be construed as including references to the conservation of its flora, fauna and geological and physiographical features.

(4) Section 114 of the 1949 Act shall apply for the construction of this Part.

(5) <sup>F413</sup> . . . . .

#### Textual Amendments

**F401** S. 52(1): definition of “estuarial waters” inserted (E.W.) (12.1.2010 for E., 12.12.2014 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), ss. 148, 324(2)(b)(ii), [Sch. 13 para. 4](#); [S.I. 2014/3088](#), art. 2(b)

**F402** S. 52(1): definition of “the Nature Conservancy Councils” repealed (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), ss. 105(1)(2), 107, [Sch. 11 para. 96](#), [Sch. 12](#); [S.I. 2006/2541](#), art. 2

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- F403** Words in s. 52(1) repealed (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), ss. 105\(1\)\(2\), 107, Sch. 11 para. 96, Sch. 12; S.I. 2006/2541, art. 2](#)
- F404** S. 52(1): definitions of "notice", "notification" and "site of special scientific interest" inserted (E.W.) (30.1.2001) by [2000 c. 37, ss. 75\(1\), 103\(2\), Sch. 9 para. 5\(2\)](#)
- F405** Words and s. 52(2)(a)(b) substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\), ss. 1, 2, 7, Sch. 3 para. 7\(5\)](#)
- F406** Words in s. 52(2) inserted (1.4.1997) by [1995 c. 25, s. 78, Sch. 10 para. 22\(6\) \(with ss. 7\(6\), 115, Sch. 8 para. 7\); S.I. 1996/2560, art. 3](#)
- F407** Words in s. 52(2) repealed (1.4.1996) by [1994 c. 19, s. 66\(6\)\(8\), Sch. 16 para. 65\(6\), Sch. 18 \(with ss. 54\(5\)\(7\), 55\(5\), Sch. 17 paras. 22\(1\), 23\(2\)\); S.I. 1996/396, art. 4, Sch. 2](#)
- F408** S. 52(2)(a) repealed (1.4.1997) by [1995 c. 25, s. 120\(3\), Sch. 24 \(with ss. 7\(6\), 115\); S.I. 1996/2560, art. 2](#)
- F409** Words in s. 52(2)(b) repealed (1.4.1997) by [1995 c. 25, s. 120\(3\), Sch. 24 \(with ss. 7\(6\), 115\); S.I. 1996/2560, art. 2](#)
- F410** Words in s. 52(2) inserted (E.W.) (30.1.2001) by [2000 c. 37, ss. 75\(1\), 103\(2\), Sch. 9 para. 5\(3\)](#)
- F411** S. 52(2A)-(2C) inserted (E.W.) (30.1.2001) by [2000 c. 37, ss. 75\(1\), 103\(2\), Sch. 9 para. 5\(4\)](#)
- F412** Words in s. 52(2C) substituted (E.W.) (31.10.2011 for E. in relation to the pilot areas, 12.11.2014 for E. for specified purposes, 15.12.2014 for E. for specified purposes) by [Commons Act 2006 \(c. 26\), s. 56, Sch. 5 para. 3 \(with s. 60\); S.I. 2011/2460, art. 2\(b\); S.I. 2014/3026, art. 3\(1\)\(g\) \(with art. 5\)](#)
- F413** S. 52(5) repealed (27.3.2002) by [The Ministry of Agriculture, Fisheries and Food \(Dissolution\) Order 2002 \(S.I. 2002/794\), art. 5\(2\), Sch. 2 \(with art. 6\)](#)

#### Modifications etc. (not altering text)

- C25** S. 52(2) excluded (E.W.) (19.9.1995) by [1995 c. 25, ss. 69\(2\)\(b\), 125\(2\) \(with ss. 7\(6\), 115, Sch. 8 para. 7\)](#)

#### Marginal Citations

- M29** [1965 c. 64.](#)

## PART III

### PUBLIC RIGHTS OF WAY

#### *Ascertainment of public rights of way*

#### **53 Duty to keep definitive map and statement under continuous review.**

- (1) In this Part “definitive map and statement”, in relation to any area, means, subject to section 57(3) [<sup>F414</sup>and 57A(1)],—
- (a) the latest revised map and statement prepared in definitive form for that area under section 33 of the 1949 Act; or
  - (b) where no such map and statement have been so prepared, the original definitive map and statement prepared for that area under section 32 of that Act; or
  - (c) where no such map and statement have been so prepared, the map and statement prepared for that area under section 55(3).
- (2) As regards every definitive map and statement, the surveying authority shall—
- (a) as soon as reasonably practicable after the commencement date, by order make such modifications to the map and statement as appear to them to be

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- requisite in consequence of the occurrence, before that date, of any of the events specified in subsection (3); and
- (b) as from that date, keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence, on or after that date, of any of those events, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence of that event.
- (3) The events referred to in subsection (2) are as follows—
- (a) the coming into operation of any enactment or instrument, or any other event, whereby—
- (i) a highway shown or required to be shown in the map and statement has been authorised to be stopped up, diverted, widened or extended;
- (ii) a highway shown or required to be shown in the map and statement as a highway of a particular description has ceased to be a highway of that description; or
- (iii) a new right of way has been created over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path <sup>[F415]</sup> or a restricted byway;
- (b) the expiration, in relation to any way in the area to which the map relates, of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public path <sup>[F416]</sup> or restricted byway ;
- (c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows—
- (i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being <sup>[F417]</sup> a right of way such that the land over which the right subsists is a public path <sup>[F418]</sup>, a restricted byway] or, subject to section 54A, a byway open to all traffic];
- (ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description; or
- (iii) that there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.
- (4) The modifications which may be made by an order under subsection (2) shall include the addition to the statement of particulars as to—
- (a) the position and width of any public path <sup>[F419]</sup>, restricted byway] or byway open to all traffic which is or is to be shown on the map; and
- (b) any limitations or conditions affecting the public right of way thereover.
- <sup>[F420]</sup>(4A) Subsection (4B) applies to evidence which, when considered with all other relevant evidence available to the surveying authority, shows as respects a way shown in a definitive map and statement as a restricted byway that the public have, and had immediately before the commencement of section 47 of the Countryside and Rights of Way Act 2000, a right of way for vehicular and all other kinds of traffic over that way.
- (4B) For the purposes of subsection (3)(c)(ii), such evidence is evidence which, when so considered, shows that the way concerned ought, subject to section 54A, to be shown in the definitive map and statement as a byway open to all traffic.]

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- (5) Any person may apply to the authority for an order under subsection (2) which makes such modifications as appear to the authority to be requisite in consequence of the occurrence of one or more events falling within paragraph (b) or (c) of subsection (3); and the provisions of Schedule 14 shall have effect as to the making and determination of applications under this subsection.
- [<sup>F421</sup>(5A) Evidence to which subsection (4B) applies on the commencement of section 47 of the Countryside and Rights of Way Act 2000 shall for the purposes of subsection (5) and any application made under it be treated as not having been discovered by the surveying authority before the commencement of that section.]
- (6) Orders under subsection (2) which make only such modifications as appear to the authority to be requisite in consequence of the occurrence of one or more events falling within paragraph (a) of subsection (3) shall take effect on their being made; and the provisions of Schedule 15 shall have effect as to the making, validity and date of coming into operation of other orders under subsection (2).

#### Textual Amendments

- F414** Words in s. 53(1) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 1(2); S.I. 2006/1172, **art. 2**; S.I. 2006/1279, **art. 2**
- F415** Words in s. 53(3)(a)(iii) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 1(3); S.I. 2006/1172, **art. 2**; S.I. 2006/1279, **art. 2**
- F416** Words in s. 53(3)(b) inserted (2.5.2006 for E. and 16.11.2006 for W.) by Natural Environment and Rural Communities Act 2006 (c. 16), **ss. 70(1)(a)**, 107; S.I. 2006/1176, **art. 6**; S.I. 2006/2992, **art. 2**
- F417** Words in s. 53(3)(c)(i) substituted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 1(4); S.I. 2006/1172, **art. 2**; S.I. 2006/1279, **art. 2**
- F418** Words in s. 53(3)(c)(i) inserted (2.5.2006 for E. and 16.11.2006 for W.) by Natural Environment and Rural Communities Act 2006 (c. 16), **ss. 70(1)(a)**, 107; S.I. 2006/1176, **art. 6**; S.I. 2006/2992, **art. 2**
- F419** Words in s. 53(4)(a) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 1(5); S.I. 2006/1172, **art. 2**; S.I. 2006/1279, **art. 2**
- F420** S. 53(4A)(4B) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 1(6); S.I. 2006/1172, **art. 2**; S.I. 2006/1279, **art. 2**
- F421** S. 53(5A) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 1(7); S.I. 2006/1172, **art. 2**; S.I. 2006/1279, **art. 2**

#### Modifications etc. (not altering text)

- C26** S. 53: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, **reg. 2(1)**, **Sch. 1**  
S. 53 excluded (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 49(5), 103(3); S.I. 2006/1172, **art. 2**; S.I. 2006/1279, **art. 2**

#### [<sup>F422</sup>53A Power to include modifications in other orders.

- (1) This section applies to any order—
- (a) which is of a description prescribed by regulations made by the Secretary of State,
  - (b) whose coming into operation would, as regards any definitive map and statement, be an event within section 53(3)(a),
  - (c) which is made by the surveying authority, and
  - (d) which does not affect land outside the authority's area.



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- (2) The authority may include in the order such provision as it would be required to make under section 53(2)(b) in consequence of the coming into operation of the other provisions of the order.
- (3) An authority which has included any provision in an order by virtue of subsection (2)
  - (a) may at any time before the order comes into operation, and
  - (b) shall, if the order becomes subject to special parliamentary procedure, withdraw the order and substitute for it an order otherwise identical but omitting any provision so included.
- (4) Anything done for the purposes of any enactment in relation to an order withdrawn under subsection (3) shall be treated for those purposes as done in relation to the substituted order.
- (5) No requirement for the confirmation of an order applies to provisions included in the order by virtue of subsection (2), but any power to modify an order includes power to make consequential modifications to any provision so included.
- (6) Provisions included in an order by virtue of subsection (2) shall take effect on the date specified under section 56(3A) as the relevant date.
- (7) Where any enactment provides for questioning the validity of an order on any grounds, the validity of any provision included by virtue of subsection (2) may be questioned in the same way on the grounds—
  - (a) that it is not within the powers of this Part, or
  - (b) that any requirement of this Part or of regulations made under it has not been complied with.
- (8) Subject to subsections (5) to (7), the Secretary of State may by regulations provide that any procedural requirement as to the making or coming into operation of an order to which this section applies shall not apply, or shall apply with modifications prescribed by the regulations, to so much of the order as contains provision included by virtue of subsection (2).
- (9) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

**F422** [S. 53A](#) inserted (21.11.2005 for W. and 18.2.2008 for E.) by [2000 c. 37, ss. 51, 103\(3\), Sch. 5 Pt. I para. 2; S.I. 2005/1314, art. 4; S.I. 2008/308, art. 2](#)

#### [<sup>F423</sup> **53B Register of applications under section 53.**

- (1) Every surveying authority shall keep, in such manner as may be prescribed, a register containing such information as may be prescribed with respect to applications under section 53(5).
- (2) The register shall contain such information as may be prescribed with respect to the manner in which such applications have been dealt with.

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- (3) Regulations may make provision for the register to be kept in two or more parts, each part containing such information relating to applications under section 53(5) as may be prescribed.
- (4) Regulations may make provision—
- (a) for a specified part of the register to contain copies of applications and of the maps submitted with them, and
  - (b) for the entry relating to any application, and everything relating to it, to be removed from any part of the register when—
    - (i) the application (including any appeal to the Secretary of State) has been finally disposed of, and
    - (ii) if an order is made, a decision has been made to confirm or not to confirm the order,
 (without prejudice to the inclusion of any different entry relating to it in another part of the register).
- (5) Every register kept under this section shall be available for inspection free of charge at all reasonable hours.
- (6) In this section—
- “prescribed” means prescribed by regulations;
- “regulations” means regulations made by the Secretary of State by statutory instrument;
- and a statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

**F423** S. 53B inserted (27.9.2005 for E. and 21.11.2005 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 2; S.I. 2005/2459, art. 2(1); S.I. 2005/1314, art. 4

## 54 Duty to reclassify roads used as public paths.

F424 .....

#### Textual Amendments

**F424** S. 54 repealed (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 47(1), 102, 103(3), Sch. 16 Pt. II; S.I. 2006/1172, art. 2 (with art. 3); S.I. 2006/1279, art. 2

PROSPECTIVE

### [<sup>F425</sup>54A BOATs not to be added to definitive maps.

- (1) No order under this Part shall, after the cut-off date, modify a definitive map and statement so as to show as a byway open to all traffic any way not shown in the map and statement as a highway of any description.

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- (2) In this section “the cut-off date” means, subject to regulations under subsection (3), 1st January 2026.
- (3) The Secretary of State may make regulations—
- (a) substituting as the cut-off date a date later than the date specified in subsection (2) or for the time being substituted under this paragraph;
  - (b) containing such transitional provisions or savings as appear to the Secretary of State to be necessary or expedient in connection with the operation of subsection (1), including in particular its operation in relation to—
    - (i) an order under section 53(2) for which on the cut-off date an application is pending,
    - (ii) an order under this Part which on that date has been made but not confirmed,
    - (iii) an order under section 55 made after that date, or
    - (iv) an order under this Part relating to any way as respects which such an order, or any provision of such an order, has after that date been to any extent quashed.
- (4) Regulations under subsection (3)(a)—
- (a) may specify different dates for different areas; but
  - (b) may not specify a date later than 1st January 2031, except as respects an area within subsection (5).
- (5) An area is within this subsection if it is in—
- (a) the Isles of Scilly, or
  - (b) an area which, at any time before the repeal by section 73 of this Act of sections 27 to 34 of the 1949 Act—
    - (i) was excluded from the operation of those sections by virtue of any provision of the 1949 Act, or
    - (ii) would have been so excluded but for a resolution having effect under section 35(2) of that Act.
- (6) Where by virtue of regulations under subsection (3) there are different cut-off dates for areas into which different parts of any way extend, the cut-off date in relation to that way is the later or latest of those dates.
- (7) Where it appears to the Secretary of State that any provision of this Part can by virtue of subsection (1) have no further application he may by order make such amendments or repeals in this Part as appear to him to be, in consequence, necessary or expedient.
- (8) An order or regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

**F425** S. 54A inserted (prosp.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. 1 para. 4

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## 55 No further surveys or reviews under the 1949 Act.

- (1) No survey under sections 27 to 32 of the 1949 Act, or review under section 33 of that Act, shall be begun after the commencement date; and where on that date a surveying authority have not completed such a survey or review begun earlier, the Secretary of State may, after consultation with the authority, direct the authority—
  - (a) to complete the survey or review; or
  - (b) to abandon the survey or review to such extent as may be specified in the direction.
- (2) Where such a survey or review so begun is abandoned, the Secretary of State shall give such notice of the abandonment as appears to him requisite.
- (3) Where, in relation to any area, no such survey has been so begun or such a survey so begun is abandoned, the surveying authority shall prepare for that area a map and statement such that, when they have been modified in accordance with the provisions of this Part, they will serve as the definitive map and statement for that area.
- (4) Where such a survey so begun is abandoned after a draft map and statement have been prepared and the period for making representations or objections has expired, the authority shall by order modify the map and statement prepared under subsection (3) so as—
  - (a) to give effect to any determination or decision of the authority under section 29(3) or (4) of the 1949 Act in respect of which either there is no right of appeal or no notice of appeal has been duly served;
  - (b) to give effect to any decision of the Secretary of State under section 29(6) of that Act; and
  - (c) to show any particulars shown in the draft map and statement with respect to which no representation or objection has been duly made, or in relation to which all such representations or objections had been withdrawn.
- (5) Where such a review so begun is abandoned after a draft map and statement have been prepared and the period for making representations or objections has expired, the authority shall by order modify the map and statement under review so as—
  - (a) to give effect to any decision of the Secretary of State under paragraph 4(4) of Part II of Schedule 3 to the 1968 Act; and
  - (b) to show any particulars shown in the draft map and statement but not in the map and statement under review, and to omit any particulars shown in the map and statement under review but not in the draft map and statement, being (in either case) particulars with respect to which no representation or objection has been duly made, or in relation to which all such representations or objections have been withdrawn.
- (6) Orders under subsection (4) or (5) shall take effect on their being made.
- [<sup>F426</sup>(7) Every way which—
  - (a) in pursuance of an order under subsection (5) is shown in a definitive map and statement as a byway open to all traffic, a bridleway or a footpath, and
  - (b) before the making of the order, was shown in the map and statement under review as a road used as a public path,
 shall be a highway maintainable at the public expense.
- (8) Subsection (7) does not oblige a highway authority to provide, on a way shown in a definitive map and statement as a byway open to all traffic, a metalled carriage-way

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or a carriage-way which is by any other means provided with a surface suitable for the passage of vehicles.]

#### Textual Amendments

**F426** S. 55(7)(8) inserted (27.9.2005 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 5; S.I. 2005/2459, art. 2(1); S.I. 2006/1279, art. 2

## 56 Effect of definitive map and statement.

(1) A definitive map and statement shall be conclusive evidence as to the particulars contained therein to the following extent, namely—

- (a) where the map shows a footpath, the map shall be conclusive evidence that there was at the relevant date a highway as shown on the map, and that the public had thereover a right of way on foot, so however that this paragraph shall be without prejudice to any question whether the public had at that date any right of way other than that right;
- (b) where the map shows a bridleway, the map shall be conclusive evidence that there was at the relevant date a highway as shown on the map, and that the public had thereover at that date a right of way on foot and a right of way on horseback or leading a horse, so however that this paragraph shall be without prejudice to any question whether the public had at that date any right of way other than those rights;
- (c) where the map shows a byway open to all traffic, the map shall be conclusive evidence that there was at the relevant date a highway as shown on the map, and that the public had thereover at that date a right of way for vehicular and all other kinds of traffic;
- (d) where the map shows a [<sup>F427</sup>restricted byway], the map shall [<sup>F428</sup>, subject to subsection (2A),] be conclusive evidence that there was at the relevant date a highway as shown on the map, and that the public had thereover at that date a right of way on foot and a right of way on horseback or leading a horse [<sup>F429</sup>together with a right of way for vehicles other than mechanically propelled vehicles], so however that this paragraph shall be without prejudice to any question whether the public had at that date any right of way other than those rights; and
- (e) where by virtue of the foregoing paragraphs the map is conclusive evidence, as at any date, as to a highway shown thereon, any particulars contained in the statement as to the position or width thereof shall be conclusive evidence as to the position or width thereof at that date, and any particulars so contained as to limitations or conditions affecting the public right of way shall be conclusive evidence that at the said date the said right was subject to those limitations or conditions, but without prejudice to any question whether the right was subject to any other limitations or conditions at that date.

[<sup>F430</sup>(1A) In subsection (1)(d) “mechanically propelled vehicle” does not include an electrically assisted pedal cycle of a class prescribed for the purposes of section 189(1)(c) of the <sup>M30</sup>Road Traffic Act 1988.]

(2) For the purposes of this section “the relevant date”—

- (a) in relation to any way which is shown on the map otherwise than in pursuance of an order under the foregoing provisions of this Part [<sup>F431</sup>or an order to which

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section 53A applies which includes provision made by virtue of subsection (2) of that section], means [<sup>F432</sup>, subject to subsection (2A),] the date specified in the statement as the relevant date for the purposes of the map;

- (b) in relation to any way which is shown on the map in pursuance of such an order, means the date which, in accordance with subsection (3) [<sup>F433</sup> or (3A)], is specified in the order as the relevant date for the purposes of the order.

[<sup>F434</sup>(2A) In the case of a map prepared before the date of the coming into force of section 47 of the Countryside and Rights of Way Act 2000—

- (a) subsection (1)(d) and (e) have effect subject to the operation of any enactment or instrument, and to any other event, whereby a way shown on the map as a restricted byway has, on or before that date—

- (i) been authorised to be stopped up, diverted or widened, or  
(ii) become a public path, and

- (b) subsection (2)(a) has effect in relation to any way so shown with the substitution of that date for the date mentioned there.]

- (3) Every order under the foregoing provisions of this Part shall specify, as the relevant date for the purposes of the order, such date, not being earlier than six months before the making of the order, as the authority may determine.

[<sup>F435</sup>(3A) Every order to which section 53A applies which includes provision made by virtue of subsection (2) of that section shall specify, as the relevant date for the purposes of the order, such date as the authority may in accordance with regulations made by the Secretary of State determine.]

- (4) A document purporting to be certified on behalf of the surveying authority to be a copy of or of any part of a definitive map or statement as modified in accordance with the provisions of this Part shall be receivable in evidence and shall be deemed, unless the contrary is shown, to be such a copy.

[<sup>F436</sup>(4A) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

- (5) <sup>F437</sup> .....

#### Textual Amendments

**F427** Words in s. 56(1)(d) substituted (2. 5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 6(2)(a); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2

**F428** Words in s. 56(1)(d) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 6(2)(b); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2

**F429** Words in s. 56(1)(d) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 6(2)(c); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2

**F430** S. 56(1A) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 6(3); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2

**F431** Words in s. 56(2)(a) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 6(4)(a)(i); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2

**F432** Words in s. 56(2)(a) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 6(4)(a)(ii); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2

**F433** Words in s. 56(2)(b) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 6(4)(b); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2

**F434** S. 56(2A) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 6(5); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2

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- F435** S. 56(3A) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 6(6); S.I. 2006/1172, **art. 2**; S.I. 2006/1279, **art. 2**
- F436** S. 56(4A) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 6(7); S.I. 2006/1172, **art. 2**; S.I. 2006/1279, **art. 2**
- F437** S. 56(5) repealed (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 102, 103(3), Sch. 5 Pt. I para. 6(8), Sch. 16 Pt. II; S.I. 2006/1172, **art. 2**; S.I. 2006/1279, **art. 2**

#### Marginal Citations

**M30** 1988 c. 52.

### 57 Supplementary provisions as to definitive maps and statements.

- (1) An order under the foregoing provisions of this Part shall be in such form as may be prescribed by regulations made by the Secretary of State, and shall contain a map, [<sup>F438</sup>on such scale as may be so prescribed,] showing the modifications to which the order relates.
- (2) Regulations made by the Secretary of State may prescribe the scale on which maps are to be prepared under [<sup>F439</sup>subsection (1) or any other provision of this Part], and the method of showing in definitive maps and statements anything which is required to be so shown.
- (3) Where, in the case of a definitive map and statement for any area which have been modified in accordance with the foregoing provisions of this Part, it appears to the surveying authority expedient to do so, they may prepare a copy of that map and statement as so modified; and where they do so, the map and statement so prepared, and not the map and statement so modified, shall be regarded for the purposes of the foregoing provisions of this Part [<sup>F440</sup>, and for the purposes of section 57A(1),] as the definitive map and statement for that area.
- [<sup>F441</sup>(3A) Where as respects any definitive map and statement the requirements of section 53(2), and of section 55 so far as it applies, have been complied with, the map and statement are to be regarded for the purposes of subsection (3) as having been modified in accordance with the foregoing provisions of this Part whether or not, as respects the map and statement, the requirements of section 54 have been complied with.]
- (4) The statement prepared under subsection (3) shall specify, as the relevant date for the purposes of the map, such date, not being earlier than six months before the preparation of the map and statement, as the authority may determine.
- (5) As regards every definitive map and statement, the surveying authority shall keep—
  - (a) a copy of the map and statement; and
  - (b) copies of all orders under this Part modifying the map and statement, available for inspection free of charge at all reasonable hours at one or more places in each district comprised in the area to which the map and statement relate and, so far as appears practicable to the surveying authority, a place in each parish so comprised; and the authority shall be deemed to comply with the requirement to keep such copies available for inspection in a district or parish if they keep available for inspection there a copy of so much of the map and statement and copies of so many of the orders as relate to the district or parish.
- [<sup>F442</sup>(5A) Subsection (5) shall apply in relation to land in Wales as if “in each district comprised” were omitted.]

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- (6) Notwithstanding anything in subsection (5), an authority shall not be required to keep available for inspection more than one copy of—
- (a) any definitive map and statement; or
  - (b) each order under this Part modifying the map and statement,
- if, as respects the area to which that map and statement relate, a subsequent map and statement have been prepared under subsection (3); and the said single copies may be kept in such place in the area of the authority as they may determine.
- [<sup>F443</sup>(6A) In subsection (1), the reference to an order under the foregoing provisions of this Part includes a reference to so much of an order to which section 53A applies as contains provision made by virtue of subsection (2) of that section; and subsections (5) and (6) apply to—
- (a) orders to which section 53A applies modifying the map and statement, and
  - (b) such documents relating to them as may be prescribed by regulations made by the Secretary of State,
- as those subsections apply to orders under this Part modifying the map and statement.
- (6B) Regulations under paragraph (b) of subsection (6A) may require any document to be prepared by a surveying authority for the purposes of that paragraph, and any such document shall be in such form as may be prescribed by the regulations.
- (6C) Regulations made by the Secretary of State may require any surveying authority—
- (a) to keep such other documents as may be prescribed by the regulations available for inspection at such times and places and in such manner as may be so prescribed, or
  - (b) to provide to any other surveying authority any document so prescribed which that authority is, by regulations under paragraph (a), required to keep available for inspection.]

(7) Every surveying authority shall take such steps as they consider expedient for bringing to the attention of the public the provisions of this Part including, in particular, section 53(5) and subsection (5).

(8) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F438** Words in s. 57(1) repealed (2.5.2006 for E. and otherwise prosp.) by 2000 c. 37, ss. 51, 102, 103(3), Sch. 5 Pt. I para. 7(2), Sch. 16 Pt. II; S.I. 2006/1172, art. 2
- F439** Words in s. 57(2) substituted (2.5.2006 for E. and otherwise prosp.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 7(3); S.I. 2006/1172, art. 2
- F440** Words in s. 57(3) inserted (2.5.2006 for E. and otherwise prosp.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 7(4); S.I. 2006/1172, art. 2
- F441** S. 57(3A) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 7(5); S.I. 2006/1172, art. 2
- F442** S. 57(5A) inserted (1.4.1996) by 1994 c. 19, s. 66(6), Sch. 16 para. 65(7) (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, Sch. 2
- F443** S. 57(6A)(6B)(6C) inserted (2.5.2006 for E. and otherwise prosp.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 7(6); S.I. 2006/1172, art. 2



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## [<sup>F444</sup>57A Consolidation of definitive maps and statements.

- (1) Where—
  - (a) different definitive maps and statements relate to different parts of a surveying authority's area,
  - (b) as respects so much of each definitive map and statement as relates to that area the requirements of section 53(2), and of section 55 so far as it applies, have been complied with, and
  - (c) there is no part of that area to which no definitive map and statement relate, the authority may, if it appears to them expedient to do so, prepare a map and statement comprising copies of so much of each definitive map and statement as relates to the authority's area; and where they do so the map and statement so prepared and not, so far as copied, the earlier maps and statements shall be regarded for the purposes of sections 53 to 56 and 57(2) and (3) as the definitive map and statement for the area to which they relate.
- (2) The power conferred by subsection (1) is not exercisable by a surveying authority if the definitive map and statement relating to any part of the authority's area is a map and statement in respect of which a review under section 33 of the 1949 Act was begun before the commencement date but has been neither abandoned in pursuance of a direction under section 55(1) nor completed.
- (3) References in subsection (1) to a definitive map and statement are, in the case of a map and statement modified in accordance with any of the foregoing provisions of this Part, references to the map and statement as modified.
- (4) The statement prepared under subsection (1) shall specify, as the relevant date for the purposes of the map, such date, not being earlier than six months before the preparation of the map and statement, as the authority may determine.
- (5) Every surveying authority shall take such steps as they consider expedient for bringing to the attention of the public the preparation by them of any map and statement under subsection (1).]

### Textual Amendments

**F444** S. 57A inserted (13.2.2004 for E. and 31.5.2005 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 8; S.I. 2004/292, art. 2; S.I. 2005/1314, art. 2

## 58 Application of ss. 53 to 57 to inner London.

- (1) Subject to subsection (2), the foregoing provisions of this Part shall not apply to any area to which this subsection applies; and this subsection applies to any area which, immediately before 1st April 1965, formed part of the administrative county of London.
- (2) A London borough council may by resolution adopt the said foregoing provisions as respects any part of their area specified in the resolution, being a part to which subsection (1) applies, and those provisions shall thereupon apply accordingly.
- (3) Where by virtue of a resolution under subsection (2), the said foregoing provisions apply to any area, those provisions shall have effect in relation thereto as if for

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references to the commencement date there were substituted references to the date on which the resolution comes into operation.

*Miscellaneous and supplemental*

**59 Prohibition on keeping bulls on land crossed by public rights of way.**

- (1) If, in a case not falling within subsection (2), the occupier of a field or enclosure crossed by a right of way to which this Part applies [<sup>F445</sup>or a restricted byway] permits a bull to be at large in the field or enclosure, he shall be liable on summary conviction to a fine not exceeding [<sup>F446</sup>level 3 on the standard scale].
- (2) Subsection (1) shall not apply to any bull which—
  - (a) does not exceed the age of ten months; or
  - (b) is not of a recognised dairy breed and is at large in any field or enclosure in which cows or heifers are also at large.
- (3) Nothing in any byelaws, whenever made, shall make unlawful any act which is, or but for subsection (2) would be, made unlawful by subsection (1).
- (4) In this section “recognised dairy breed” means one of the following breeds, namely, Ayrshire, British Friesian, British Holstein, Dairy Shorthorn, Guernsey, Jersey and Kerry.
- (5) The Secretary of State may by order add any breed to, or remove any breed from, subsection (4); and an order under this subsection shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Textual Amendments**

**F445** Words in s. 59(1) inserted (3.7.2006 for E. and 12.7.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177, reg. 1(3)(5), **Sch. Pt. 1**; S.I. 2006/1172, art. 2(a)-(d) (with art. 3); S.I. 2006/1279, art. 2(a)-(d) (with art. 3)

**F446** Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46

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**Modifications etc. (not altering text)**

**C27** S. 59 applied (3.7.2006 for E. and 12.7.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), regs. 1(3)(5), 2(1), **Sch. Pt. 1**; S.I. 2006/1172, art. 2(a)-(d) (with art. 3); S.I. 2006/1279, art. 2(a)-(d) (with art. 3)

<sup>F447</sup>**60** .....

**Textual Amendments**

**F447** S. 60 repealed by Road Traffic Regulation Act 1984 (c. 27, SIF 107:1), s. 146, **Sch. 14**

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[<sup>F448X6</sup>61 Ploughing of public rights of way.

- (1) Section 134 of the <sup>M31</sup>Highways Act 1980 (ploughing of footpath or bridleway) shall have effect subject to the amendments provided for by subsections (2) to (9).
- (2) Subsection (3) (7 days' notice of intention to plough) shall be omitted.
- (3) In subsection (4) (duty to restore surface of footpath or bridleway), for paragraphs (a) and (b) there shall be substituted the following paragraphs—
  - “(a) not later than 2 weeks from the time when the occupier began to plough the footpath or bridleway, or
  - (b) if prevented from doing so by exceptional weather conditions, as soon as practicable thereafter.”.
- (4) In subsection (5) (failure to comply with subsection (3) or (4)) the words “(3) or” shall be omitted, for paragraphs (a) and (b) there shall be substituted the words “to a fine not exceeding £200” and for the words “subsection (4)”, in the second place where they occur, there shall be substituted the words “that subsection”.
- (5) After that subsection there shall be inserted the following subsection—

“(5A) A person who ploughs any footpath, bridleway or other highway otherwise than in the exercise of a right to plough it shall be guilty of an offence and liable to a fine not exceeding £200.”
- (6) In subsection (6) (enforcement of subsections (3) to (5)) for the words “subsections (3) to (5) above as respects any footpath or bridleway” there shall be substituted the words “subsections (4) to (5A) above as respects any footpath, bridleway or other highway”.
- (7) In subsection (7) (proceedings by parish or community councils) after the words “subsection (4)” there shall be inserted the words “or (5A)”.
- (8) In subsection (8) (power of competent authority to restore surface of footpath or bridleway) for the words “footpath or bridleway” there shall be substituted the words “footpath, bridleway or other highway”.
- (9) In subsection (10) (competent authorities for the purposes of subsections (8) and (9)) for the words “footpath or bridleway”, in both places where they occur, there shall be substituted the words “footpath, bridleway or other highway”.
- (10) In section 135(1) of the said Act of 1980 (temporary diversion of footpath or bridleway ploughed up under section 134) the words “6 or” and “6 weeks or” shall be omitted.]

**Editorial Information**

**X6** The text of s. 61 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Textual Amendments**

**F448** S. 61 repealed (E.W.) by [Rights of Way Act 1990 \(c. 24, SIF 59\)](#), s. 6(4)

**Marginal Citations**

**M31** 1980 c. 66.

*Status:* Point in time view as at 12/04/2015. This version of this Act contains provisions that are prospective.

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## 62 Appointment of wardens for public rights of way.

A local authority may appoint such number of persons as appears to the authority to be necessary or expedient to act as wardens as respects a footpath, bridleway [<sup>F449</sup>, restricted byway] or byway open to all traffic which is both in the countryside and in the area of the authority, and the purpose for which the wardens may be so appointed is to advise and assist the public in connection with the use of the path or way.

### Textual Amendments

**F449** Words in s. 62 inserted (2.5.2006 for E. and 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), regs. 1(2)(4), **Sch. Pt. 1**; S.I. 2006/1172, art. 2(a)-(d) (with art. 3); S.I. 2006/1279, art. 2(a)-(d) (with art. 3)

### Modifications etc. (not altering text)

**C28** S. 62: functions made exercisable concurrently (22.7.2004) by virtue of [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), **art. 25(1)(2)(xxx)**, Sch. (with art. 35)

S. 62: functions made exercisable concurrently (22.7.2004) by virtue of [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\)](#), **art. 25(1)(2)(xxx)**, Sch. (with art. 35)

**C29** S. 62 applied (2.5.2006 for E. and 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), regs. 1(2)(4), 2(1), **Sch. Pt. 1**; S.I. 2006/1172, art. 2(a)-(d) (with art. 3); S.I. 2006/1279, art. 2(a)-(d) (with art. 3)

## 63 Orders creating, extinguishing or diverting footpaths and bridleways.

The enactments mentioned in Schedule 16 (which relate to the making and confirmation of certain orders creating, extinguishing or diverting footpaths and bridleways) shall have effect subject to the amendments provided for in that Schedule.

## <sup>X7</sup>64 Publication of dedication of footpaths and bridleways.

At the end of section 25 of the <sup>M32</sup> Highways Act 1980 (creation of footpath or bridleway by agreement) there shall be inserted the following subsection—

“(6) As soon as may be after the dedication of a footpath or bridleway in accordance with a public path creation agreement, the local authority who are party to the agreement shall give notice of the dedication by publication in at least one local newspaper circulating in the area in which the land to which the agreement relates is situated.”.

### Editorial Information

**X7** The text of ss. 64, 65, 72(2)-(9)(11)(13)(14) and 73(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### Marginal Citations

**M32** 1980 c. 66.

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## <sup>x8</sup>65 Signposting of byways open to all traffic.

(1) In section 27 of the 1968 Act (signposting of footpaths and bridleways) for the words “or bridleway”, wherever they occur, there shall be substituted the words “bridleway or byway” ; and for the words “and bridleways” in subsection (6) of that section there shall be substituted the words “bridleways and byways”.

(2) After subsection (7) of that section there shall be inserted the following subsection—

“(8) In this section “byway” means a byway open to all traffic, that is to say, a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purposes for which footpaths and bridleways are so used.”

### Editorial Information

**X8** The text of ss. 64, 65, 72(2)-(9)(11)(13)(14) and 73(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## 66 Interpretation of Part III.

(1) In this Part—

“bridleway” means a highway over which the public have the following, but no other, rights of way, that is to say, a right of way on foot and a right of way on horseback or leading a horse, with or without a right to drive animals of any description along the highway;

“byway open to all traffic” means a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used;

“definitive map and statement” has the meaning given by section 53(1);

“footpath” means a highway over which the public have a right of way on foot only, other than such a highway at the side of a public road;

“horse” includes a pony, ass and mule, and “horseback” shall be construed accordingly;

“public path” means a highway being either a footpath or a bridleway;

[<sup>F450</sup>“restricted byway” has the same meaning as in Part II of the Countryside and Rights of Way Act 2000;]

“right of way to which this Part applies” means a right of way such that the land over which the right subsists is a public path or a byway open to all traffic;

[<sup>F451</sup> “surveying authority”, in relation to any area, means the county council, [<sup>F452</sup>county borough council,] metropolitan district council, or London borough council whose area includes that area.]

(2) A highway at the side of a river, canal or other inland navigation shall not be excluded from any definition contained in subsection (1) by reason only that the public have a right to use the highway for purposes of navigation, if the highway would fall within that definition if the public had no such right thereover.

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- (3) The provisions of section 30(1) of the 1968 Act (riding of pedal cycles on bridleways) shall not affect the definition of bridleway in subsection (1) and any rights exercisable by virtue of those provisions shall be disregarded for the purposes of this Part.

#### Textual Amendments

- F450** S. 66(1): definition of “restricted byway” inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 9; S.I. 2006/1172, **art. 2**; S.I. 2006/1279, **art. 2**
- F451** Definition substituted by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 2, 7, **Sch. 3 para. 7(6)**
- F452** Words in s. 66(1) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 65(8)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

## PART IV

### MISCELLANEOUS AND GENERAL

#### [<sup>F453</sup> 66A Application of Part 1 to Crown

- (1) Subject to subsections (2) to (5), Part 1 and regulations and orders made under it bind the Crown.
- (2) No contravention by the Crown of any provision of Part 1 makes the Crown criminally liable; but the High Court may, on the application of any person appearing to the Court to have an interest, declare unlawful an act or omission of the Crown which constitutes such a contravention.
- (3) Despite subsection (2), Part 1 applies to persons in the public service of the Crown as it applies to other persons.
- (4) But the powers conferred by sections 18A to 19XA are not exercisable in relation to premises occupied by the Crown.
- (5) Nothing in this Part affects Her Majesty in her private capacity.
- (6) Subsection (5) is to be read as if section 38(3) of the Crown Proceedings Act 1947 (c. 44) (meaning of Her Majesty in her private capacity) were contained in this Act.]

#### Textual Amendments

- F453** S. 66A inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), **ss. 54(1), 107**; S.I. 2006/2541, **art. 2**

#### [<sup>F454</sup> 66B Application of Part 1 to Crown: Scotland

- (1) Subject to subsections (2) to (5), Part 1 (including regulations and orders made under it) bind the Crown.
- (2) No contravention by the Crown of any provision made by or under Part 1 makes the Crown criminally liable but the Court of Session may, on the application of any public body or office-holder having responsibility for enforcing that provision, declare unlawful any act or omission of the Crown which constitutes such a contravention.

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- (3) Despite subsection (2), any provision made by or under Part 1 applies to persons in the public service of the Crown as it applies to other persons.
- (4) A species control order may be made under section 14D in relation to Crown land only with the consent of the appropriate authority.
- (5) The powers conferred by sections 14M and 19ZC are exercisable in relation to Crown land only with the consent of the appropriate authority.
- (6) In this section, “Crown land” means an interest in land which—
  - (a) belongs to Her Majesty in right of the Crown;
  - (b) belongs to Her Majesty in right of Her private estates;
  - (c) belongs to an office-holder in the Scottish Administration or is held in trust for Her Majesty by such an office-holder for the purposes of the Scottish Administration; or
  - (d) belongs to a government department or is held in trust for Her Majesty for the purposes of a government department.
- (7) In this section, the “appropriate authority”—
  - (a) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, means the Crown Estate Commissioners;
  - (b) in the case of any other land belonging to Her Majesty in right of the Crown, means the office-holder in the Scottish Administration who or, as the case may be, government department which manages the land;
  - (c) in the case of land belonging to Her Majesty in right of Her private estates, means a person appointed by Her Majesty in writing under the Royal Sign Manual or, if no such appointment is made, the Scottish Ministers;
  - (d) in the case of land belonging to an office-holder in the Scottish Administration or held in trust for Her Majesty by such an office-holder for the purposes of the Scottish Administration, means that office-holder;
  - (e) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that government department.
- (8) The references in subsections (6)(b) and (7)(c) to Her Majesty's private estates are to be construed in accordance with section 1 of the Crown Private Estates Act 1862 (c.37).
- (9) It is for the Scottish Ministers to determine any question which arises as to who is the appropriate authority in relation to any land, and their decision is final.]

#### Textual Amendments

**F454** S. 66B inserted (S.) (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), ss. **41(3)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(i)

#### 67 [F455 Application of Parts 2 and 3 to Crown land]

- (1) Subject to the following provisions of this section, Part II, except section 51, and Part III shall apply to Crown land, that is to say, land an interest in which belongs to Her Majesty in the right of the Crown or the Duchy of Lancaster or to the Duchy of Cornwall, and land an interest in which belongs to a Government department or is held in trust for Her Majesty for the purposes of a Government department.

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- [<sup>F456</sup>(1A) An interest in Crown land, other than one held by or on behalf of the Crown, may be acquired under section 28N, but only with the consent of the appropriate authority.
- (1B) Byelaws made by virtue of section 28R may apply to Crown land if the appropriate authority consents.]
- (2) No order shall be made under section <sup>F457</sup> . . . 34 [<sup>F458</sup> . . . ] or 42 in relation to Crown land unless the appropriate authority has consented to the making of that order.
- (3) An agreement under section 39 as respects any interest in Crown land, other than an interest held by or on behalf of the Crown, shall not have effect unless approved by the appropriate authority.
- (4) Section 101(11) of the 1949 Act (Crown land) shall apply for the construction of references in this section to the appropriate authority.

#### Textual Amendments

**F455** S. 67 heading substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), ss. 54\(2\), 107; S.I. 2006/2541, art. 2](#)

**F456** S. 67(1A)(1B) inserted (E.W.) (30.1.2001) by [2000 c. 37, ss. 75\(1\), 103\(2\), Sch. 9 para. 6](#)

**F457** Word in s. 67(2) repealed (30.1.2001) by [2000 c. 37, ss. 102, 103\(2\), Sch. 16 Pt. III](#)

**F458** Word in s. 67(2) repealed (E.W.) (12.1.2010 so far as not relating to MCZs in W., 12.12.2014 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\), ss. 321, 324\(2\)\(b\)\(i\)\(4\), Sch. 22 Pt. 3 \(with s. 145, Sch. 12\); S.I. 2014/3088, art. 2\(c\); and same word repealed \(S.\) \(1.7.2010\) by Marine \(Scotland\) Act 2010 \(asp 5\), ss. 167, 168\(1\), Sch. 4 para. 5\(c\) \(with s. 162\); S.S.I. 2010/230, art. 2\(h\)](#)

#### Modifications etc. (not altering text)

**C30** S. 67 amended (E.W.) (2.5.2006 for E. and 11.5.2006 for W.) by [2000 c. 37, ss. 49\(6\), 103\(3\); S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2](#)

## 68 Application to the Isles of Scilly.

The Secretary of State may, after consultation with the Council of the Isles of Scilly, by order made by statutory instrument provide for the application of the provisions of Part II or III to the Isles of Scilly as if those Isles were a separate county; any any such order may provide for the application of those provisions to those Isles subject to such modifications as may be specified in the order.

## 69 Offences by bodies corporate etc.

- (1) Where a body corporate is guilty of an offence under this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.



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#### [<sup>F459</sup>69A Offences by Scottish partnerships etc.

Where a Scottish partnership or other unincorporated association is guilty of an offence under Part 1 of this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

- (a) in relation to a Scottish partnership, any partner or any person who was purporting to act in such capacity;
- (b) in relation to an unincorporated association other than a Scottish partnership, any person who is concerned in the management or control of the association or any person who was purporting to act in any such capacity,

he (as well as the partnership or, as the case may be, other unincorporated association) is guilty of the offence and is liable to be proceeded against and punished accordingly.]

#### Textual Amendments

**F459** S. 69A inserted (S.) (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), ss. 23, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(e)

#### 70 Financial provisions.

- (1) There shall be defrayed out of money provided by Parliament—
  - (a) any administrative expenses incurred by any Minister of the Crown under this Act; and
  - (b) any increase attributable to the provisions of this Act in the sums payable out of money so provided under any other enactment.
- (2) Any sums received by a Minister of the Crown under this Act shall be paid into the Consolidated Fund.

#### [<sup>F460</sup>70A Service of notices.

- (1) Subject to subsection (2), [<sup>F461</sup>section 329 of the <sup>M33</sup>Town and Country Planning Act 1990] and [<sup>F462</sup>section 271 of the Town and Country Planning (Scotland) Act 1997] (which provide for the service of notices and other documents) shall apply to notices and other documents required or authorised to be served or given under this Act.
  - (2) [<sup>F463</sup>Subsections (2) and (3) of the said section 329] shall not apply to a notice required to be served under paragraph 2 of Schedule 14.
- [<sup>F464</sup>(2A) Subsection (1)(cc) of the said section 271 shall not apply to a notice required to be served under section 14G.
- (2B) Subsection (2) of the said section 271 shall not apply to a notice required to be served under section 14D(5)(a).]
  - (3) This section shall not affect the operation of paragraph 2(4) of Schedule 11 or paragraph 3(4) of Schedule 15.

#### Textual Amendments

**F460** S. 70A inserted by [Wildlife and Countryside \(Services of Notices\) Act 1985 \(c. 59, SIF 4:5\)](#), s. 1(1)

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**F461** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 54(2)(a)**

**F462** Words in s. 70A(1) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 34(2)**

**F463** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 54(2)(b)**

**F464** S. 70A(2A)(2B) inserted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 17(7), 43(1)** (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(c)

#### Modifications etc. (not altering text)

**C31** S. 70A applied (E.W.) (30.1.2001) by 2000 c. 37, ss. 76(2), 103(2), **Sch. 11 para. 22**

#### Marginal Citations

**M33** 1990 c. 8 (123:1).

### [<sup>F465</sup>70B Effect of failure to serve certain notices

- (1) This section applies where the relevant conservation body—
  - (a) has (whether before or after the commencement of this section) taken all reasonable steps to ensure that, under any provision listed in subsection (2), notice is served on every owner and occupier of any land to which the notice relates, but
  - (b) has failed to do so.
- (2) The provisions are—
  - (a) section 28(1) (notification of SSSI);
  - (b) section 28(5) (confirmation or withdrawal of notification of SSSI);
  - (c) section 28A(3) (notice varying notification under section 28);
  - (d) section 28A(5) (notice confirming or withdrawing variation of notification);
  - (e) section 28B(2) (notification of additional land to be included in SSSI);
  - (f) section 28B(7) (confirmation or withdrawal of notification);
  - (g) section 28C(2) (notification of enlargement of SSSI);
  - (h) section 28C(3) (confirmation or withdrawal of notification of enlargement);
  - (i) section 28D(2) (denotification);
  - (j) section 28D(5) (withdrawal or confirmation of denotification);
  - (k) section 28J(3) (notice of proposed management scheme);
  - (l) section 28J(8) (withdrawal or confirmation of management scheme).
- (3) The validity of the notice is not affected by the failure to serve it on every owner and occupier of the land.
- (4) For the purposes of sections 28 to 28Q, the time when the notice is to be treated as having been served is the time when the relevant conservation body took the last of the steps referred to in subsection (1)(a).
- (5) If the relevant conservation body becomes aware of its failure to serve a notice on an owner or occupier, it must serve a copy of the notice on that owner or occupier.
- (6) Nothing in subsection (3) or (4) renders the owner or occupier liable—
  - (a) in relation to anything done or omitted to be done before the commencement of this section, or

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- (b) under section 28P(1) or 28Q(4) in relation to anything done or omitted to be done before the copy of the notice is served under subsection (5).
- (7) “The relevant conservation body” means—
- (a) in relation to land in an area in England—
- (i) subject to sub-paragraph (ii), Natural England;
- (ii) in relation to any time before the commencement of section 27AA, English Nature;
- (b) in relation to land in an area in Wales, [<sup>F466</sup>the Natural Resources Body for Wales].]

#### Textual Amendments

**F465** S. 70B inserted (31.5.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), [ss. 57, 107](#); [S.I. 2006/1382](#), [art. 2](#)

**F466** Words in s. 70B(7)(b) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), [art. 1\(2\)](#), [Sch. 2 para. 179](#) (with [Sch. 7](#))

## 71 General interpretation.

[<sup>F467</sup>(1)] In this Act—

“the <sup>M34</sup>1949 Act” means the National Parks and Access to the Countryside Act 1949;

“the <sup>M35</sup>1968 Act” means the Countryside Act 1968;

[<sup>F468</sup> “the Broads” has the same meaning as in the Norfolk and Suffolk Broads Act 1988.]

“the commencement date”, in relation to any provision of this Act and any area, means the date of the coming into force of that provision in that area;

“London borough council” includes the Common Council of the City of London;

“modifications” includes additions, alterations and omissions, and cognate expressions shall be construed accordingly;

<sup>F469</sup>

[<sup>F470</sup>(2) For the avoidance of doubt it is hereby declared that in this Act “plants” include fungi and algae.]

#### Textual Amendments

**F467** S. 71 renumbered (E.W.) (1.10.2006) as s. 71(1) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), [ss. 105\(1\), 107](#), [Sch. 11 para. 97\(2\)\(4\)](#); [S.I. 2006/2541](#), [art. 2](#)

**F468** Definition inserted (E.W.) by [Norfolk and Suffolk Broads Act 1988 \(c. 4, SIF 81:1\)](#), [ss. 2\(5\), 23\(2\), 27\(2\)](#), [Sch. 3 Pt. I para. 31\(5\)](#)

**F469** S. 71: definition of “statutory maximum” repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), [Sch. 1 Pt. XIV](#) Group 2.

**F470** S. 72(2) inserted (E.W.) (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), [ss. 105, 107](#), [Sch. 11 para. 97\(3\)\(4\)](#); [S.I. 2006/2541](#), [art. 2](#)

#### Marginal Citations

**M34** 1949 c. 97.

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M35 1968 c. 41.

## 72 Minor amendments.

- <sup>F471</sup>(1) .....
- <sup>X9</sup>(2) In section 20(2) of the <sup>M36</sup> Hill Farming Act 1946 (penalty for contravening regulations with respect to the burning of heather and grass) as originally enacted for the words from “five pounds” onwards there shall be substituted the words “£200”.
- <sup>X9</sup>(3) In sections 27 of that Act (penalty for contravening the provisions of that Act relating to muirburn) for the words from “five pounds” onwards there shall be substituted the words “£200”.
- <sup>X9</sup>(4) In section 39 of the <sup>M37</sup> Agriculture (Scotland) Act 1948 for the words “the First Schedule to the Protection of Birds Act 1954” there shall be substituted the words “Schedule I to the Wildlife and Countryside Act 1981”.
- <sup>X9</sup>(5) In section 11(1) of the 1949 Act (general powers of local planning authorities in relation to National Parks) after the word “accomplishment” there shall be inserted the words “of any”.
- <sup>X9</sup>(6) In section 74(4) of the <sup>M38</sup> Public Health Act 1961 (power to reduce numbers of pigeons and other birds in built-up areas), for the words “the Protection of Birds Act 1954” there shall be substituted the words “Part I of the Wildlife and Countryside Act 1981”.
- <sup>X9</sup>(7) In section 2(8) of the 1968 Act (publicity and information services) for the words from “encouraging” onwards there shall be substituted the words “informing persons resorting to the countryside of their rights and obligations”.
- <sup>X9</sup>(8) In section 15(1) of that Act (areas of special scientific interest) the words “which is not for the time being managed as a nature reserve but” shall be omitted.
- <sup>X9</sup>(9) In section 37 of that Act (protection for interests in the countryside) for the words “and the Act of 1949” there shall be substituted the words “the Act of 1949 and the Wildlife and Countryside Act 1981”.
- <sup>F472</sup>(10) .....
- <sup>X9</sup>(11) In section 31(10) of the <sup>M39</sup> Highways Act 1980 (dedication of way as highway presumed after public use for 20 years), for the words from “subsection (4)” to “that section” there shall be substituted the words “section 56(1) of the Wildlife and Countryside Act 1981 (which provides that a definitive map and statement” and the words “or of that subsection” onwards shall be omitted.
- (12) Section 80 of that Act (power of highway authority to fence highways) shall have effect in relation to any area in the countryside of which walls of a particular construction are a feature, as if references to fences included references to walls of that construction ; and in exercising their powers under that section in relation to any such area, a highway authority shall have regard to the desirability of exercising the powers conferred by the foregoing provisions of this subsection.
- <sup>X9</sup>(13) In section 136(4) of that Act (time when hedges may not be required to be cut or pruned) immediately before the words “between the last day of September and the first day of April” there shall be inserted the word “except”.

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<sup>x9</sup>(14) In section 4(5) of the <sup>M40</sup>Zoo Licensing Act 1981 (grant or refusal of licence) the entries relating to the Protection of Birds Acts 1954 to 1967 and the Conservation of Wild Creatures and Wild Plants Act 1975 shall be omitted and there shall be added at the end the following entry—

“Part I of the Wildlife and Countryside Act 1981”.

**Editorial Information**

**X9** The text of ss. 64, 65, 72(2)-(9)(11)(13)(14) and 73(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Textual Amendments**

**F471** S. 72(1) repealed by [Statute Law \(Repeals\) Act 1989 \(c. 43\), s. 1\(1\), Sch. 1 Pt. VII](#)  
**F472** S. 72(10) repealed (1.4.1997) by [1995 c. 25, s. 120\(3\), Sch. 24 \(with ss. 7\(6\), 115\); S.I. 1996/2560, art. 2](#)

**Marginal Citations**

**M36** 1946 c. 73.  
**M37** 1948 c. 45.  
**M38** 1961 c. 64.  
**M39** 1980 c. 66.  
**M40** 1981 c. 37.

**73 Repeals and savings.**

<sup>x10</sup>(1) The enactments mentioned in Schedule 17 are hereby repealed to the extent specified in the third column of that Schedule.

(2) Nothing in the repeals made by this section shall affect the operation of sections 27 to 32 of the 1949 Act in relation to any survey begun before the commencement date.

(3) Nothing in the repeals made by this section shall affect the operation of sections 33 and 34 of the 1949 Act and Parts II, III, and IV of Schedule 3 to the 1968 Act in relation to any review begun before the commencement date.

<sup>F473</sup>(4) .....

**Editorial Information**

**X10** The text of ss. 64, 65, 72(2)-(9)(11)(13)(14) and 73(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Textual Amendments**

**F473** S. 73(4) repealed (16.10.1992) by [Protection of Badgers Act 1992 \(c. 51\), s. 15\(2\)\(3\), Sch.](#)

**74 Short title commencement and extent.**

(1) This Act may be cited as the Wildlife and Countryside Act 1981.

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- (2) The following provisions of this Act, namely—  
Part II, except sections 29 to 32, 41 and 46 to 48 and Schedule 13;  
sections 59 to 62 and 65 and 66; and  
Part IV, except section 72(4), (6) and (14) and section 73(1) so far as relating to  
Part II of Schedule 17,  
shall come into force on the expiration of the period of one month beginning with the  
passing of this Act.
- (3) The remaining provisions of this Act shall come into force on such day as the Secretary  
of State may by order made by statutory instrument appoint and different days may be  
appointed under this subsection for different provisions, different purposes or different  
areas.
- (4) An order under subsection (3) may make such transitional provision as appears to  
the Secretary of State to be necessary or expedient in connection with the provisions  
thereby brought into force.
- (5) The following provisions of this Act, namely—  
sections 39, 40 and 42 to 49 and Schedule 13; and Part III, do not extend to Scotland.
- [<sup>F474</sup>(5A) [<sup>F475</sup>Sections 29 and 30 extend to Scotland only.]]
- (6) This Act, except section 15(1) and Schedule 10 and, so far as regards any enactment  
mentioned in Schedule 17 that so extends, section 73 and that Schedule, does not  
extend to Northern Ireland.

#### Textual Amendments

**F474** S. 74(5A) inserted (E.W.S.) (30.1.2001) by 2000 c. 37, ss. 76(1), 103(2), **Sch. 10 Pt. I para. 2**

**F475** S. 74(5A) repealed (S.) (29.11.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 57, 59,  
**Sch. 7 para. 4; S.S.I. 2004/495, art. 2**

#### Modifications etc. (not altering text)

**C32** Power of appointment conferred by s. 74(3) fully exercised: **S.I. 1982/3237**, 990, 1136, 1217, 1983/20,  
87

**Status:**

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