Wildlife and Countryside Act 1981

1981 CHAPTER 69

PART I

WILDLIFE

Protection of birds

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;

[[F1](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 **[**[F2]lawfully**]** killed or taken [F3]. . . ; or

(b) the bird, egg or other thing in his possession or control had been **[**[F4]lawfully**]** sold (whether to him or any other person) [F5]. . . ;

[F6]. . .

[[F7](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 [F8] and orders made under those Acts,

(c) any other legislation which implements Council Directive 79/409/EEC[F9] on the conservation of wild birds 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 [F10], or to any area to which British fishery limits extend in accordance with section 1 of the Fishery Limits Act 1976 [F11], and

(d) the provisions of the law of any member State (other than the United Kingdom) implementing the Council Directive referred to in paragraph (c).**]**

(4) [F12]. . . . . .

(5) Subject to the provisions of this Part, if any person intentionally **[**[F13]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[F14]. . . .

[[F15](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 the Directive of the Council of the European Communities dated 2nd April 1979 (No 1979/409/EEC) on the conservation of wild birds.**]**

(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

F1 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**

F2 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)**

F3 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)**

F4 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)**

F5 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)**

F6 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)**

F7 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)**

F8 1954 c. 30; 1964 c. 59; 1967 c. 46.

F9 O.J. No. L103, 25.04.79 p.1.

F10 1964 c. 29.

F11 1976 c. 86.

F12 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**

F13 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**

F14 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**

F15 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**

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

(1) Subject to the provisions of this Part, if any person intentionally **[**[F146]or recklessly**]**—

(a) kills, injures or takes any wild bird;

(b) takes, damages **[**[F147], destroys or otherwise interferes with**]** the nest of any wild bird while that nest is in use or being built; or

[[F148](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.

(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 **[**[F149]at or from a place in Scotland**]** otherwise than in contravention of the relevant provisions; [F150]. . .

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Wildlife and Countryside Act 1981, Part I is up to date with all changes known to be in force on or before 05 October 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 bird, egg or other thing in his possession or control had been sold **[**[F151]at a place in Scotland**]**(whether to him or any other person) otherwise than in contravention of those provisions; **[**[F152]; 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.**]**

[F153]. . .

[[F154](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 Community instrument replacing either of them).**]**

(4) [F12]. . . . . .

(5) Subject to the provisions of this Part, if any person intentionally **[**[F13]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[F14]. . . .

[[F155](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.

(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.**]**

(6) In this section "wild bird" does not include any bird which is shown to have been bred in captivity.

(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

F12 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**

F13 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**

F14 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**

F146 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**

F147 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**

F148 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**

F149 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**

F150 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**

F151 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**

F152 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**

F153 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**

F154 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**

F155 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**

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;

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(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.

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. S

(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) [F156] . . . . . .

(3) **[**[F157]Subsection (1)**]** 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 **[**[F158]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.

Extent Information

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

Textual Amendments

F156 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**

F157 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**

F158 Words in s. 2(4)(a) omitted (S.) (4.11.2001) by virtue of S.S.I. 2001/337, **reg. 2(2)**

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

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Changes to legislation: *Wildlife and Countryside Act 1981, Part I is up to date with all changes known to be in force on or before 05 October 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)*

(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, **[**[F16]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;

(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 **[**[F17]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

F16 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**

F17 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**

3 Areas of special protection. S

(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 **[**[F159]or recklessly**]**—

(i) kills, injures or takes any wild bird or any wild bird so specified;

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Wildlife and Countryside Act 1981, Part I is up to date with all changes known to be in force on or before 05 October 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)*

(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) [F160] . . . . . .

(2) [F161] . . . . . .

(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 **[**[F162]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

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

Textual Amendments

F159 Words in s. 3(1)(a) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 4(a)**; S.S.I. 2004/407, **art. 2**

F160 S. 3(1)(c) repealed (S.) (26.3.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89(2)(d), **Sch. 5**

F161 S. 3(2) repealed (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 4(b)**; S.S.I. 2004/407, **art. 2**

F162 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**

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

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Wildlife and Countryside Act 1981, Part I is up to date with all changes known to be in force on or before 05 October 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)*

[M1]Agriculture Act 1947, or by the Secretary of State under section 39 of the [M2]Agriculture (Scotland) Act 1948;

(b) anything done under, or in pursuance of an order made under, section 21 or 22 of the [M3]Animal Health Act 1981; or

(c) except in the case of a wild bird included in Schedule **[**[F18]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, **[**[F19], fisheries or inland waters**]**.

[[F20](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 01/10/2006.*
Changes to legislation: *Wildlife and Countryside Act 1981, Part I is up to date with all changes known to be in force on or before 05 October 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

F18 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**

F19 Words in s. 4(3)(c) substituted (30.11.1995) by S.I. 1995/2825, **reg. 2(1)**

F20 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 Exceptions to ss. 1 and 3. S

(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 [M1]Agriculture Act 1947, or by the Secretary of State under section 39 of the [M2]Agriculture (Scotland) Act 1948;

(b) anything done under, or in pursuance of an order made under, section 21 or 22 of the [M3]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 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 **[**[F163] (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.**]**

[[F164](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 01/10/2006.*
Changes to legislation: *Wildlife and Countryside Act 1981, Part I is up to date with all changes known to be in force on or before 05 October 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 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, **[**[F19], fisheries or inland waters**]**.

[[F20](4) An authorised person shall not be regarded as showing that any action of his was necessary for a purpose mentioned in subsection **[**[F165](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 **[**[F166](3)**]** as respects any action taken at any time for any purpose mentioned in that **[**[F167]subsection**]** 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 **[**[F168](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

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

Textual Amendments

F19 Words in s. 4(3)(c) substituted (30.11.1995) by S.I. 1995/2825, **reg. 2(1)**

F20 S. 4(4)-(6) inserted (30.11.1995) by S.I. 1995/2825, **reg. 2(2)**

F163 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**

F164 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**

F165 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**

F166 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**

F167 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**

F168 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.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Wildlife and Countryside Act 1981, Part I is up to date with all changes known to be in force on or before 05 October 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 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; [F21] . . .

(e) uses any mechanically propelled vehicle in immediate pursuit of a wild bird for the purpose of killing or taking that bird, **[**[F22] ; 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[F23]. . . .

(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 exerciseable, 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.

[[F24](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 [M4]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

F21 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).

F22 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).

F23 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**

F24 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 **[**[F169]likely**]** 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;

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Wildlife and Countryside Act 1981, Part I is up to date with all changes known to be in force on or before 05 October 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)*

(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; [F21] . . .

(e) uses any mechanically propelled vehicle in immediate pursuit of a wild bird for the purpose of killing or taking that bird, **[**[F22] ; 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[F23]. . . .

(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 exerciseable, 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.

[[F24](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) [F170]. . . . . .

(b) [F170]. . . . . .

(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

E23 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Textual Amendments

F21 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).

F22 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).

F23 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**

F24 S. 5(4A) inserted (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), **ss. 1(4)**, 3(3).

F169 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**

F170 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**

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

(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 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

(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.

(2) Subject to the provisions of this Part, if any person[F25]. . . —

(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 or III of Schedule 3, 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.

(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) [F26]. . . . . .

[[F27](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 the Directive of the Council of the European Communities dated 2nd April 1979 (No 1979/409/EEC) on the conservation of wild birds.

(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) [F28] . . . . . .

(8) [F28] . . . . . .

(8A) [F28] . . . . . .

(9) [F28] . . . . . .

(10) [F28] . . . . . .

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

F25 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))

F26 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**

F27 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**

F28 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))

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 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

(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.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Wildlife and Countryside Act 1981, Part I is up to date with all changes known to be in force on or before 05 October 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) 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 or III of Schedule 3, 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.

(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) [F26]. . . . . .

(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 was bred in captivity and has been ringed or marked in accordance with regulations made by the Secretary of State; and regulations so made 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) 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 **[**[F171]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 [M18]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).

(9) Any person authorised in writing by the Secretary of State may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised, enter and inspect any premises where a registered person keeps any wild birds for the purpose

of ascertaining whether an offence under this section is being, or has been, committed on those premises.

(10) Any person who intentionally obstructs a person acting in the exercise of the power conferred by subsection (9) shall be guilty of an offence.

Extent Information

E24 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

Textual Amendments

F26 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**

F171 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**

Marginal Citations

M18 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 [F29]. . ..

(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.

[[F30](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—

(a) within five years of his having been convicted of an offence under this Part **[**[F31]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.

[[F32](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 **[**[F33]ZA1 or**]** 1 or any part of, or anything derived from, such a bird,

(ii) the nest of such a bird, or

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Changes to legislation: *Wildlife and Countryside Act 1981, Part I is up to date with all changes known to be in force on or before 05 October 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)*

(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 **[**[F33]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;

[[F34](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 [M5]Rehabilitation of Offenders Act 1974.

[F35](6) . . . . . .

[F35](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

F29 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))

F30 S. 7(2A) inserted (21.3.1997) by 1997 c. 55, **s. 1(2)**

F31 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)**

F32 S. 7(3A) inserted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), **Sch. 12 para. 4(2)**

F33 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**

F34 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**

F35 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.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Wildlife and Countryside Act 1981, Part I is up to date with all changes known to be in force on or before 05 October 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)*

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 [F172]. . . .

(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.

[[F173](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 **[**[F174]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); [F175]. . .

(b) any other offence involving their ill-treatment**][**[F176]; 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**[**[F177] 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 [M19]Rehabilitation of Offenders Act 1974.

(6) Any person authorised in writing by the Secretary of State may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised, enter and inspect any premises where any birds included in Schedule 4 are kept for the purpose of ascertaining whether an offence under this section is being, or has been, committed on those premises.

(7) Any person who intentionally obstructs a person acting in the exercise of the power conferred by subsection (6) shall be guilty of an offence.

Extent Information

E25 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Textual Amendments

F172 Words in s. 7(1) repealed (S.) (26.3.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), s. 86, **Sch. 5**

F173 S. 7(2A) inserted (21.3.1997) by 1997 c. 55, **s. 1(2)**

F174 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**

F175 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**

F176 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**

F177 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**

Modifications etc. (not altering text)

C12 S. 7(2A): power to transfer functions conferred (1.5.2000) by S.I. 2000/745, art. 2(1), **Sch.**

Marginal Citations

M19 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[F36]. . . .

(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,

shall be guilty of an offence[F37]. . . .

Textual Amendments

F36 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**

F37 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**

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Wildlife and Countryside Act 1981, Part I is up to date with all changes known to be in force on or before 05 October 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)*

Protection of other animals

9 Protection of certain wild animals.

(1) Subject to the provisions of this Part, if any person intentionally **[**[F38]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 **[**[F39]at or from a place in Scotland**]** otherwise than in contravention of the relevant provisions; **[**[F40]or**]**

(b) the animal or other thing in his possession or control had been sold **[**[F41]at a place in Scotland**]**(whether to him or any other person) otherwise than in contravention of those provisions **[**[F42]; 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.**]**

[[F43]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**]**

[[F44](3A) In subsection (3)—

"the relevant provisions" means such of the provisions of the Conservation of Wild Creatures and Wild Plants Act 1975 (c. 48) and this Part as were in force at the time when the animal was killed or taken or, as the case may be, the animal or other thing was sold, and

"the relevant regulations" means—

(a) Council Regulation 338/97/EC on the protection of species of wild fauna and flora by regulating trade, and

(b) Commission Regulation 1808/2001/EC on the implementation of that Council Regulation,

as amended from time to time (or any Community instrument replacing either of them).**]**

(4) Subject to the provisions of this Part, if any person intentionally **[**[F45]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.

[[F46](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.**]**

[[F47](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.

[[F48](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) **[**[F49]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.

Textual Amendments

F38 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**

F39 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**

F40 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**

F41 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**

F42 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**

F43 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**

F44 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**

F45 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**

F46 S. 9(4A) inserted (E.W.) (30.1.2001) by 2000 c. 37 , ss. 81(1), 103(2), **Sch. 12 para. 5(b)**

F47 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**

F48 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**

F49 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 [M6]Agriculture Act 1947, or by the Secretary of State under section 39 of the [M7]Agriculture (Scotland) Act 1948; or

(b) anything done under, or in pursuance of an order made under, the [M8]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 of a dwelling house unless he had notified the **[**[F50]conservation body**][**[F51]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

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

Textual Amendments

F50 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**

F51 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 [M6]Agriculture Act 1947, or by the Secretary of State under section 39 of the [M7]Agriculture (Scotland) Act 1948; or

(b) anything done under, or in pursuance of an order made under, the [M8]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 **[**[F178] ("an unlawful act") if he shows—

(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.**]**

[[F179](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 **[**[F180]conservation body**][**[F51]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.

[[F181](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

E26 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Textual Amendments

F51 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**.

F178 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**

F179 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**

F180 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**

F181 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.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Wildlife and Countryside Act 1981, Part I is up to date with all changes known to be in force on or before 05 October 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)*

M7 1948 c. 45.
M8 1981 c. 22.

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; [F52] . . .

(c) uses as a decoy, for the purpose of killing or taking any wild animal, any live mammal or bird whatever, **[**[F53] ; 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; [F54] . . .

(e) uses any mechanically propelled vehicle in immediate pursuit of any such wild animal for the purpose of driving, killing or taking that animal, **[**[F55] ; 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 **[**[F56]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

(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), **[**[F57]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.

[[F58](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

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

Textual Amendments

F52 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).

F53 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).

F54 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).

F55 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).

F56 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).

F57 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).

F58 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—

(a) sets in position **[**[F182]or otherwise uses**]** any self-locking snare **[**[F183]or a snare of any other type specified in an order made by the Scottish Ministers**]** ;

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Wildlife and Countryside Act 1981, Part I is up to date with all changes known to be in force on or before 05 October 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)*

[[F184](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 **[**[F185]animal**]** , any bow or cross-bow or any explosive other than ammunition for a firearm; [F52] . . .

(c) uses as a decoy, for the purpose of killing or taking any wild animal, any live mammal or bird whatever, **[**[F53] ; 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 **[**[F186]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);

(d) uses as a decoy, for the purpose of killing or taking any such wild animal, any sound recording; [F54] . . .

(e) uses any mechanically propelled vehicle in immediate pursuit of any such wild animal for the purpose of driving, killing or taking that animal, **[**[F55] ; 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.

[[F187](3) Any person who sets a snare in position or who knowingly causes or permits a snare to be so set 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.

(3A) Any person who, while carrying out such an inspection, finds an animal caught by the snare being inspected must, during the course of the inspection, release or remove the animal (whether live or dead).

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

(a) without reasonable excuse, contravenes subsection (3), or

(b) contravenes subsection (3A),

shall be guilty of an offence.

(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.

(3D) 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,

shall be guilty of an offence.

(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.

[[F188](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 **[**[F189](1)(c)**]** or (2)(b), (c), (d) or (e), **[**[F57]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.

[F58]**[**(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

E27 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Textual Amendments

F52 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).

F53 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).

F54 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).

F55 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).

F57 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).

F58 S. 11(7) added (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), **ss. 2(6)**, 3(3).

F182 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**

F183 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**

F184 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**

F185 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**

F186 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**

F187 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**

F188 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**

F189 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**

12 Protection of certain mammals.

Schedule 7, which amends the law relating to the protection of certain mammals, shall have effect.

Protection of plants

13 Protection of wild plants. E+W

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

(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.

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Wildlife and Countryside Act 1981, Part I is up to date with all changes known to be in force on or before 05 October 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 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

E10 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 **[**[F190]or recklessly**]** picks, uproots or destroys **[**[F191](i)**]** any wild plant included in Schedule 8; or

[[F192](ii) any seed or spore attached to any such wild plant; or**]**

(b) not being an authorised person, intentionally **[**[F193]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 **[**[F194] ("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—

(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.**]**

[[F195](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) **[**[F196]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

E28 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Textual Amendments

F190 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**

F191 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**

F192 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**

F193 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**

F194 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**

F195 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**

F196 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 of Schedule 9,

he shall be guilty of an offence.

(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.

[[F59](5) Any person authorised in writing by the Secretary of State may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised, enter any land for the purpose of ascertaining whether an offence under subsection (1) or (2) is being, or has been, committed on that land; but nothing in this subsection shall authorise any person to enter a dwelling.**]**

[[F59](6) Any person who intentionally obstructs a person acting in the exercise of the power conferred by subsection (5) shall be guilty of an offence.**]**

Extent Information

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

Textual Amendments

F59 S. 14(5)(6) repealed (E.W.) (30.1.2001) by 2000 c. 37, ss. 102, 103(2), **Sch. 16 Pt. IV**

14 Introduction of new species etc. S

(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 **[**[F197]a hybrid of any animal of that kind**]** ,

he shall be guilty of an offence.

[[F198](1A) Subject to the provisions of this Part, if any person releases or allows to escape from captivity any animal which is—

(a) included in Part I of Schedule 9; or

(b) a hybrid of any animal included in that Part,

he shall be guilty of an offence.**]**

(2) Subject to the provisions of this Part, if any person plants or otherwise causes to grow in the wild any plant which is

[[F199](a)**]** included in Part II of Schedule 9 **[**[F200]; or

(b) a hybrid of any plant included in that Part**]**

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.

(5) Any person authorised in writing by the Secretary of State may, at any reasonable time and (if required to do so) upon producing evidence that he is authorised, enter any land

for the purpose of ascertaining whether an offence under subsection (1) or (2) is being, or has been, committed on that land; but nothing in this subsection shall authorise any person to enter a dwelling.

(6) Any person who intentionally obstructs a person acting in the exercise of the power conferred by subsection (5) shall be guilty of an offence.

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

F197 Words in s. 14(1)(b) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para.12(a)**; S.S.I. 2004/407, **art. 2**

F198 S. 14(1A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para.12(b)**; S.S.I. 2004/407, **art. 2**

F199 Words in s. 14(2) renumbered (S.) (1.10.2004) as s. 14(2)(a) by virtue of Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para.12(c)(i)**; S.S.I. 2004/407, **art. 2**

F200 S. 14(2)(b) and preceding word inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para.12(c)(ii)**; S.S.I. 2004/407, **art. 2**

[F60 14ZA Sale etc. of invasive non-native species

(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.]

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Wildlife and Countryside Act 1981, Part I is up to date with all changes known to be in force on or before 05 October 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

F60 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**

[F61 14ZB Codes of practice in connection with invasive non-native species

(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.

(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

F61 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**

[F62 14A Prohibition on sale etc. of certain animals or plants

(1) This section applies to—

(a) any animal of a type mentioned in subsection (1) or (1A) of section 14 specified in an order made by the Scottish Ministers for the purposes of this section; and

(b) any plant—

(i) which does not ordinarily grow in Great Britain in a wild state or which is a hybrid of such a plant; or

(ii) of a type mentioned in subsection (2) of section 14,

specified in such an order.

(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.

(3) An order under subsection (1) may specify particular types of animals or plants—

(a) subject to such exceptions;

(b) only at such times of the year;

(c) only in relation to such areas,

as the order may specify.

Textual Amendments

F62 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**

14B Guidance: non-native species

(1) The Scottish Ministers may issue guidance (or approve guidance issued by others) for the purpose of providing persons with recommendations, advice and information regarding—

(a) any animal of a type mentioned in subsection (1) or (1A) of section 14,

(b) any plant of a type mentioned in subsection (2) of that section or specified in an order under section 14A(1)(b)(i),

and may issue revisions of any guidance issued by them (or approve revisions of guidance issued by others).

(2) A person who fails to comply with any guidance issued or approved under subsection (1) is not by reason only of that failure liable in any criminal or civil proceedings.

(3) But any such guidance is admissible in evidence in such proceedings and a court may take account of any failure to comply with it in determining any questions in the proceedings.**]**

Textual Amendments

F62 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**

15 Endangered species (import and export).

[X1](1) The [M9]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 **[**[F63]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

(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

F63 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.

[F64 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

(b) the Biocidal Products Regulations 2001 (S.I. 2001/880) or any regulations replacing those regulations.

(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

F64 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**

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—

[F65(a) for scientific, research or educational purposes;**]**

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Wildlife and Countryside Act 1981, Part I is up to date with all changes known to be in force on or before 05 October 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) for the purpose of ringing or marking, or examining any ring or mark on, wild birds;

(c) for the purpose of conserving wild birds;

[[F66](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 **[**[F67], fisheries or inland waters**]**,

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

[[F68](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.

(3) Sections 9(1), (2) **[**[F69], (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;

(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);
- (b) sections 9(5) and 13(2); and
- (c) **[**[F70]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 **[**[F71]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.

[[F72](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 **[**[F73](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 [M10]Protection of Animals Act 1911 or section 7(b) of the [M11]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.

(9) In this section "the appropriate authority" means—
- (a) in the case of a licence under **[**[F74]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 **[**[F75]relevant**][**[F76]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 **[**[F75]relevant**][**[F76]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.

[[F77](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 **[**[F78]each of the **[**[F79]GB conservation bodies**]]** as to the exercise **[**[F80]in the area of that **[**[F81]body**]]** of his functions under this section; and

(b) shall not grant a licence of any description unless he has been advised by the **[**[F82]relevant **[**[F76]conservation body**]]** as to the circumstances in which, in their opinion, licences of that description should be granted.

[[F83](11) For the purposes of this section a reference to a relevant Nature Conservancy Council is a reference to the **[**[F76]conservation body**]** for the area in which it is proposed to carry on the activity requiring a licence.**]**

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

F65 S. 16(1)(a) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(2)(a)**

F66 S. 16(1)(ca)(cb) inserted (30.11.1995) by S.I. 1995/2825, **reg. 3(2)(b)**

F67 Words in s. 16(2)(k) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(2)(c)**

F68 S. 16(1A) inserted (30.11.1995) by S.I. 1995/2825, **reg. 3(3)**

F69 Words in s. 16(3) substituted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), **Sch. 12 para. 6**

F70 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**

F71 Words in s. 16(5) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(4)**

F72 S. 16(5A) inserted (30.11.1995) by S.I. 1995/2825, **reg. 3(5)**

F73 Words in s. 16(6) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(6)**

F74 Words in s. 16(9)(a) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(7)**

F75 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**

F76 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**

F77 S. 16(9A) inserted (30.11.1995) by S.I. 1995/2825, **reg. 3(8)**

F78 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**

F79 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**

F80 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**

F81 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**

F82 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**

F83 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**

Modifications etc. (not altering text)

C3 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 and orders under section 3 do not apply to anything done—

[[F201](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;

[[F202](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 **[**[F203], fisheries or inland waters**]**,

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

[[F204](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.**]**

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Wildlife and Countryside Act 1981, Part I is up to date with all changes known to be in force on or before 05 October 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) 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 [F205]. . . ,

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

(3) Sections 9(1), (2) **[**[F206], (4) and (4A)**]**, 11(1) **[**[F207], (2) and (3C)(a)**]** and 13(1) do not apply to anything done—
  (a) for scientific **[**[F208], 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 **[**[F209]wild birds,**]** wild animals or wild plants or introducing them to particular areas;
  [[F210](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; 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);
  (b) sections 9(5) and 13(2); and
  (c) **[**[F211]sections 14 and 14A**]**,

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

[[F212](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 **[**[F213]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.

[[F214](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 **[**[F215](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 [M20]Protection of Animals Act 1911 or section 7(b) of the [M21]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.

(9) In this section "the appropriate authority" means—

(a) in the case of a licence under **[**[F216]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 **[**[F217]relevant**][**[F218]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 **[**[F217]relevant**][**[F218]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.

[[F219](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 **[**[F220]each of the **[**[F221]GB conservation bodies**]]** as to the exercise **[**[F222]in the area of that **[**[F223]body**]]** of his functions under this section; and

(b) shall not grant a licence of any description unless he has been advised by the **[**[F224]relevant **[**[F218]conservation body**]]** as to the circumstances in which, in their opinion, licences of that description should be granted.

[[F225](11) For the purposes of this section a reference to a relevant Nature Conservancy Council is a reference to the **[**[F218]conservation body**]** for the area in which it is proposed to carry on the activity requiring a licence.**]**

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

F201 S. 16(1)(a) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(2)(a)**
F202 S. 16(1)(ca)(cb) inserted (30.11.1995) by S.I. 1995/2825, **reg. 3(2)(b)**
F203 Words in s. 16(2)(k) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(2)(c)**
F204 S. 16(1A) inserted (30.11.1995) by S.I. 1995/2825, **reg. 3(3)**
F205 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**
F206 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**
F207 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**
F208 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**
F209 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**
F210 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**
F211 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**
F212 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**
F213 Words in s. 16(5) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(4)**
F214 S. 16(5A) inserted (30.11.1995) by S.I. 1995/2825, **reg. 3(5)**
F215 Words in s. 16(6) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(6)**
F216 Words in s. 16(9)(a) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(7)**
F217 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**
F218 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**
F219 S. 16(9A) inserted (30.11.1995) by S.I. 1995/2825, **reg. 3(8)**
F220 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**
F221 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**
F222 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**
F223 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**
F224 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**
F225 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**

Modifications etc. (not altering text)

C13 S. 16: Functions transferred (W.) (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

Marginal Citations

M20 1911 c. 27.

M21 1912 c. 14.

17 False statements made for obtaining registration 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 **[**[F84]6(2) or**]** 7(1) 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

F84 Words in s. 17 repealed (E.W.) (30.1.2001) by 2000 c. 37, ss. 102, 103(2), **Sch. 16 Pt. IV**

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.

[[F85]18A Wildlife inspectors

(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.

Textual Amendments

F85 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)

C4 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**

18B Group 1 offences and licences: 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 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.

Textual Amendments

F85 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)

C5 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**

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.

(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

F85 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. 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—

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Wildlife and Countryside Act 1981, Part I is up to date with all changes known to be in force on or before 05 October 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)*

(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

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

Textual Amendments

F85 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

F85 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.

(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

F85 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. 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) [F86] . . . . . .

(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 **[**[F87]or has committed**]** an offence under this Part, he may, for the purpose of exercising the powers conferred by subsection (1) **[**[F88]or arresting a person, in accordance with **[**[F89]section 24**]** of Police and Criminal Evidence Act 1984, for such an offence**]**, **[**[F90]enter any premises other than a dwelling**]** .

[[F91](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 **[**[F92]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 [F93]. . . 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.

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

F86 S. 19(1)(c) repealed (E.W.) by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), **Sch. 7 Pt. I**

F87 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**

F88 Words inserted (E.W.) by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), **Sch. 6 para. 25**

F89 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)**

F90 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**

F91 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**

F92 Words in s. 19(3) substituted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), **Sch. 12 para. 7**

F93 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**

Modifications etc. (not altering text)

C8 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—

(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) **[**[F226]search for,**]**search or examine any thing which that person may then be using or **[**[F227]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 **[**[F228]in or**]** on that thing;

(c) arrest that person [F229]. . . ;

(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 **[**[F230]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 **[**[F231]dwelling or lockfast premises**]** .

(3) If a justice of the peace is satisfied by **[**[F232]evidence**]** on oath that there are reasonable grounds for suspecting that **[**[F233]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 **[**[F234]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.

[[F235](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

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

Textual Amendments

F226 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**

F227 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**

F228 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**

F229 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)**

F230 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**

F231 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**

F232 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**

F233 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)**

F234 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**

F235 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**

[F94 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 by this section 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

F94 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**

[F94 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—

(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

F94 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.

F95 . . . . . .

Textual Amendments

F95 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.

F96 . . . . . .

Textual Amendments

F96 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**

[F97 19ZC Wildlife inspectors: Scotland

(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) or 13(2) is being, or has been, committed on those premises;

(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;

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Wildlife and Countryside Act 1981, Part I is up to date with all changes known to be in force on or before 05 October 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) 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 or 14A is being, or has been, committed on those premises;

(e) any premises for the purpose of verifying any statement or representation which has been made by an occupier, or any document or information which has been furnished by the occupier, and which the occupier made or furnished—

(i) for the purposes of obtaining (whether for the occupier or another person) a relevant registration or licence; or

(ii) in connection with a relevant registration or licence held by the occupier.

(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), 13(2), 14 or 14A 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), 13(2), 14 or 14A;

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

Textual Amendments

F97 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**

Modifications etc. (not altering text)

C9 S. 19ZC applied (with modifications) (S.) (29.11.2004) by S.I. 1994/2716, reg. 101A(3) (as susbstituted 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), 13(2), 14 or 14A 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), 13(2), 14 or 14A 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.

(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.**]**

Textual Amendments

F97 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**

Modifications etc. (not altering text)

C10 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**)

[[F98]19A Evidence in Scotland as to taking or destruction of eggs.

In any proceedings in Scotland for an offence under section 1(1)(c) of, or by virtue of section 3(1)(a)(iii) of, this Act, the accused may be convicted on the evidence of one witness.**]**

Textual Amendments

F98 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**.

20 [[F99]Proceedings for summary offences]. E+W

[F100](1) . . . . . .

(2) **[**[F101]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

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

Textual Amendments

F99 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**

F100 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))

F101 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) [F236] . . . . . .

(2) Summary proceedings for an offence **[**[F237]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 **[**[F238]three**]** years after the commission of the offence **[**[F239]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

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

Textual Amendments

F236 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)**

F237 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)**

F238 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**

F239 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

[[F102](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

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Wildlife and Countryside Act 1981, Part I is up to date with all changes known to be in force on or before 05 October 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)*

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 **[**[F103]or 14ZA**]** shall be liable—

(a) on summary conviction, **[**[F104]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, **[**[F104]to imprisonment for a term not exceeding two years or to a fine, or to both**]**.

[[F105](4A) [F106]. . . . . .

[Except in a case falling within subsection (4B) a person guilty of an offence under [F107](4AA) section 19XB(1), (2) or (3) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.**]**

(4B) A person guilty of an offence under **[**[F108]section 19XB(1)(a) or (2)(a)**]** in relation to a wildlife inspector **[**[F109]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 **[**[F110]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) [F111]. . . . . .**]**

(5) Where an offence to which subsection (1) [F112]. . . 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 **[**[F113]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

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

Textual Amendments

F102 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)**

F103 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**

F104 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)**

F105 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)**

F106 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**

F107 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**

F108 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**

F109 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**

F110 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**

F111 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**

F112 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**

F113 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)

C11 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

[[F240](1) Subject to subsection (5), a person guilty of an offence under any of sections 1 to 13 **[**[F241], 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) [F242]. . . . . .

(3) [F242]. . . . . .

(4) A person guilty of an offence under section 14 **[**[F243]or 14A**]** shall be liable—

[[F244](a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the **[**[F245]£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.**]**

[[F246](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), [F247]. . . 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 **[**[F248]or 14A**]** , 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

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

Textual Amendments

F240 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)**

F241 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**

F242 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)**

F243 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**

F244 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)**

F245 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**

F246 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**

F247 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)**

F248 Word in s. 21(6)(a) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 19(d)**; S.S.I. 2004/407, **art. 2**

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, add any bird to, or remove any bird from, any of or any Part of **[**[F114]Schedules ZA1 to 4**]** .

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Wildlife and Countryside Act 1981, Part I is up to date with all changes known to be in force on or before 05 October 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) 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 **[**[F115]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

[F116] . . . . . .

[[F117](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 of Schedule 9; and

(b) add any plants to, or remove any plants from, Part II of that Schedule.

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

F114 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**

F115 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**

F116 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**

F117 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**

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

[[F249](a)**]** add any bird to, or remove any bird from, any of or any Part of Schedules **[**[F250]A1**]** to 4.

[[F251](b) add any animal to, or remove any animal from, Schedule 5 or 6 or Part I of Schedule 9;

(c) add any plant to, or remove any plant from, Schedule 8 or Part II of Schedule 9.**]**

(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.

[[F252](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 **[**[F253]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

[F254] . . . . . .

[[F255](3A) The 2006 Act means the Natural Environment and Rural Communities Act 2006.**]**

(4) [F256] . . . . . .

(5) [F256] . . . . . .

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

F249 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**

F250 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**

F251 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**

F252 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**

F253 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**

F254 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**

F255 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**

F256 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).

24 [F118Functions of GB conservation bodies] E+W

(1) The [F119GB 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 [F12030th 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

F121 . . . . . .

[F122(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 [F123to that advice being given.]

[[F124](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 **[**[F125]GB conservation bodies**]** shall include power to advise or assist—

(a) any constable;

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

[[F126](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

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

Textual Amendments

F118 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**

F119 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**

F120 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**.

F121 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**

F122 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**

F123 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.

F124 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**.

F125 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**

F126 S. 24(4)(c) substituted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), **Sch. 12 para. 11**

24 [F257]Functions of GB conservation bodies] S

(1) The **[**[F258]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 **[**[F259]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

[F260] . . . . . .

[[F261](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 **[**[F262]to that advice being given.**]**

[[F263](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 **[**[F264]GB conservation bodies**]** shall include power to advise or assist—

(a) any constable;

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

(c) any person duly authorised by the Secretary of State under section 6(9), 7(6) or 14(5),

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

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

F257 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**

F258 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**

F259 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**.

F260 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**

F261 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**

F262 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.

F263 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**.

F264 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**

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.

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—

(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;

(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

(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.

Extent Information

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

26 Regulations, orders, notices etc. S

(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 **[**[F265]11(4)**]** , shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) No order under section 5 or **[**[F265]11(4)**]** 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—

(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;

(b) except in the case of an order under section **[**[F266]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, 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.

Extent Information

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

Textual Amendments

F265 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**

F266 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**

[[F127]**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 as amended by the Act of Accession to the European Union of Austria, Finland and Sweden and by Council Directive 97/62/EC 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

F127 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**

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—

Status: *Point in time view as at 01/10/2006.*
Changes to legislation: *Wildlife and Countryside Act 1981, Part I is up to date with all changes known to be in force on or before 05 October 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) 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, **[**[F128]any of the **[**[F129]GB conservation bodies**]]**, [F130]. . . a district board for a fishery district within the meaning of the [M12]Salmon Fisheries (Scotland) Act 1862 or a local fisheries committee constituted under the [M13]Sea Fisheries Regulation Act 1966;

(d) **[**[F131]any person authorised in writing by the National Rivers Authority, 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 [M14]Firearms Act 1968;

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

[[F132]"inland waters" means—

(a) inland waters within the meaning of the Water Resources Act 1991; [M15]

(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 [M16] 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 [F133]. . ., a county, district or London borough council [F134]. . .;

(aa) **[**[F135]in relation to Wales, a county council or county borough council;**]**

(b) in relation to Scotland, a **[**[F136]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;

[[F137]"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;

"vehicle" includes aircraft, hovercraft and boat;

[[F138]"water authority", in relation to Scotland, has the same meaning as in the [M17]Water (Scotland) Act 1980;**]**

"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 **[**[F139]species**]** which is ordinarily resident in or is a visitor to **[**[F140]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;

"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.

[[F141]"wildlife inspector" has the meaning given by **[**[F142]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.

[[F143](3A) In this Part "the GB conservation bodies" means—

(a) Natural England,

(b) the Countryside Council 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

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

Textual Amendments

F128 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**.

F129 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**

F130 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**

F131 S. 27(1): para. (d) in definition of "authorised person" inserted (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 60(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 25 para. 66(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

F132 Definition in s. 27(1) inserted (30.11.1995) by S.I. 1995/2825, **reg. 4**

F133 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**

F134 Words in s. 27(1) repealed by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 102, **Sch. 17**

F135 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**

F136 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)**

F137 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**

F138 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)**

F139 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)**

F140 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)**

F141 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**

F142 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**

F143 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 1966 c. 38.

M14 1968 c. 27.

M15 1991 c.57.

M16 1974 c.40.

M17 1980 c. 45.

27 Interpretation of Part I. S

(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 by any of the following bodies, that is to say, [[F128]any of the

[[F267]GB conservation bodies**]]**, [F130]. . . a district board for a fishery district within the meaning of the [M12]Salmon Fisheries (Scotland) Act 1862 or a local fisheries committee constituted under the [M13]Sea Fisheries Regulation Act 1966;

(d) **[**[F131]any person authorised in writing by the National Rivers Authority, 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 [M14]Firearms Act 1968;

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

[[F132]"inland waters" means—

(a) inland waters within the meaning of the Water Resources Act 1991; [M15]

(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 [M16] 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 [F133]. . ., a county, district or London borough council [F134]. . .;

(aa) **[**[F135]in relation to Wales, a county council or county borough council;**]**

(b) in relation to Scotland, a **[**[F136]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 **[**[F268]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;

"vehicle" includes aircraft, hovercraft and boat;

[[F138]"water authority", in relation to Scotland, has the same meaning as in the [M17]Water (Scotland) Act 1980;**]**

"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 **[**[F269]species**]** which is ordinarily resident in or is a visitor to **[**[F270]any member State or 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;

"wild plant" means any plant **[**[F271](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.

[[F141]"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.

[[F272](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.

[[F273](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.**]**

[[F274](3A) In this Part "the GB conservation bodies" means—

(a) Natural England,

(b) the Countryside Council 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

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

Textual Amendments

F128 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**.

F130 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**

F131 S. 27(1): para. (d) in definition of "authorised person" inserted (E.W.) by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 60(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 25 para. 66(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

F132 Definition in s. 27(1) inserted (30.11.1995) by S.I. 1995/2825, **reg. 4**

F133 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**

F134 Words in s. 27(1) repealed by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 102, **Sch. 17**

F135 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**

F136 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)**

F138 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)**

F141 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**

F267 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**

F268 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**

F269 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**

F270 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**

F271 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**

F272 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**

F273 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**

F274 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 1966 c. 38.

M14 1968 c. 27.

M15 1991 c.57.

M16 1974 c.40.

M17 1980 c. 45.

[F144 27ZA Application of Part 1 to England and Wales

[F145 (1) The amendments made to this Part of the Act by the 2004 Regulations have effect in relation to England only, and accordingly, in the application of this Act in relation to Wales, this Part continues to have effect without the amendments made by the 2004 Regulations.

This subsection is subject to any regulations which may be made under section 2(2) of the European Communities Act 1972 by the National Assembly for Wales.

(2) In this section "the 2004 Regulations" means the Wildlife and Countryside Act 1981 (England and Wales) (Amendment) Regulations 2004.]]

Textual Amendments

F144 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}

F145 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)**

Status:
Point in time view as at 01/10/2006.

Changes to legislation:
Wildlife and Countryside Act 1981, Part I is up to date with all changes known to be in force on or before 05 October 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.