Wildlife and Countryside Act 1981

1981 CHAPTER 69

PART I

WILDLIFE

Protection of birds [F1 and prevention of poaching]

Textual Amendments

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

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

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

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

[F2(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 [F3lawfully] killed or taken F4. . . ; or

(b) the bird, egg or other thing in his possession or control had been [F5lawfully] sold (whether to him or any other person) F6. . . ;

F7. . .

[F8(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 F9 and orders made under those Acts,

(c) any other legislation which implements [F10 the Wild Birds Directive] and extends to any part of the United Kingdom, to any area designated in accordance with section 1(7) of the Continental Shelf Act 1964 F11 , or to any area to which British fishery limits extend in accordance with section 1 of the Fishery Limits Act 1976 F12 , and

(d) the provisions of the law of any member State (other than the United Kingdom) implementing [F13the Wild Birds Directive] .]

(4) F14. . . . . .

(5) Subject to the provisions of this Part, if any person intentionally [F15or 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 offenceF16. . . .

[F17(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 [F18 the Wild Birds Directive] .]

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

Extent Information

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

Textual Amendments

F2 S. 1(1)(aa) inserted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c.16), **ss. 47(2)**,107; S.I. 2006/1382, **art. 2**

F3 Word in s. 1(3)(a) inserted (E.W.) (14.7.2004 as specified in S.I. 2004/1487 and 2.8.2004 as specified in S.I. 2004/1733) by The Wildlife and Countryside Act 1981(England and Wales) (Amendment) Regulations 2004 (S.I. 2004/1487), {reg. 3(a)(i)} and by The Wildlife and Countryside Act 1981 (Amendment) (Wales) Regulations 2004 (S.I. 2004/1733), reg. 3(1), **Sch. para. 1(a)(i)**

F4 Words in s. 1(3)(a) omitted (E.W.) (14.7.2004 as specified in S.I. 2004/1487 and 2.8.2004 as specified in S.I. 2004/1733) by virtue of The Wildlife and Countryside Act 1981(England and Wales) (Amendment) Regulations 2004 (S.I. 2004/1487), {reg. 3(a)(ii)} and by virtue of The Wildlife and Countryside Act 1981 (Amendment) (Wales) Regulations 2004 (S.I. 2004/1733), reg. 3(1), **Sch. para. 1(a)(ii)**

F5 Word in s. 1(3)(b) inserted (E.W.) (14.7.2004 as specified in S.I. 2004/1487 and 2.8.2004 as specified in S.I. 2004/1733) by The Wildlife and Countryside Act 1981(England and Wales) (Amendment) Regulations 2004 (S.I. 2004/1487), {reg. 3(b)(i)} and by The Wildlife and Countryside Act 1981 (Amendment) (Wales) Regulations 2004 (S.I. 2004/1733), reg. 3(1), **Sch. para. 1(b)(i)**

F6 Words in s. 1(3)(b) omitted (E.W.) (14.7.2004 as specified in S.I. 2004/1487 and 2.8.2004 as specified in S.I. 2004/1733) by virtue of The Wildlife and Countryside Act 1981(England and Wales) (Amendment) Regulations 2004 (S.I. 2004/1487), {reg. 3(b)(ii)} and by virtue of The Wildlife and Countryside Act 1981 (Amendment) (Wales) Regulations 2004 (S.I. 2004/1733), reg. 3(1), **Sch. para. 1(b)(ii)**

F7 Words in s. 1(3) omitted (E.W.) (14.7.2004 as specified in S.I. 2004/1487 and 2.8.2004 as specified in S.I. 2004/1733) by virtue of The Wildlife and Countryside Act 1981(England and Wales) (Amendment) Regulations 2004 (S.I. 2004/1487), {reg. 3(c)} and by virtue of The Wildlife and Countryside Act 1981 (Amendment) (Wales) Regulations 2004 (S.I. 2004/1733), reg. 3(1), **Sch. para. 1(c)**

F8 S. 1(3A) inserted (E.W.) (14.7.2004 as specified in S.I. 2004/1487 and 2.8.2004 as specified in S.I. 2004/1733) by The Wildlife and Countryside Act 1981(England and Wales) (Amendment) Regulations 2004 (S.I. 2004/1487), {reg. 3(d)} and by The Wildlife and Countryside Act 1981 (Amendment) (Wales) Regulations 2004 (S.I. 2004/1733), reg. 3(1), **Sch. para. 1(d)**

F9 1954 c. 30; 1964 c. 59; 1967 c. 46.

F10 Words in s. 1(3A)(c) substituted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, & c.) (Amendment) Regulations 2007 (S.I. 2007/1843), **reg. 7(2)(a)(i)**

F11 1964 c. 29.

F12 1976 c. 86.

F13 Words in s. 1(3A)(d) substituted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, & c.) (Amendment) Regulations 2007 (S.I. 2007/1843), **reg. 7(2)(a)(ii)**

F14 S. 1(4) repealed (30.1.2001 for E.W and 26.3.2003 for S.) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6)) and by the Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89(2)(d), **Sch. 5**

F15 Words in s. 1(5) inserted (30.1.2001 for E.W. and 1.10.2004 for S.) by 2000 c. 37, ss. 81(1), 103(2), Sch. 12 para. 1 and inserted by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 2(5)**; S.S.I. 2004/407, **art. 2**

F16 Words in s. 1(5) repealed (30.1.2001 for E.W. and 26.3.2003 for S.) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6)) and by the Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89(2)(d), **Sch. 5**

F17 S. 1(6)(6A) substituted (E.W.) (1.10.2006) for s. 1(6) by Natural Environment and Rural Communities Act 2006 (c.16), **ss. 48(1)**,107; S.I. 2006/2541, **art. 2**

F18 Words in s. 1(6A) substituted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, & c.) (Amendment) Regulations 2007 (S.I. 2007/1843), **reg. 7(2)(b)**

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

(1) Subject to the provisions of this Part, if any person intentionally **[**[F199]or recklessly**]**—

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

(b) takes, damages **[**[F200], destroys or otherwise interferes with**]** the nest of any wild bird while that nest is in use or being built; or

[[F201](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.

Status: *Point in time view as at 01/04/2013.*
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 02 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 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 **[**[F202]at or from a place in Scotland**]** otherwise than in contravention of the relevant provisions; [F203]. . .

(b) the bird, egg or other thing in his possession or control had been sold **[**[F204]at a place in Scotland**]**(whether to him or any other person) otherwise than in contravention of those provisions; **[**[F205]; 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.**]**

[F206]. . .

[[F207](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 **[**[F173]EU**]** instrument replacing either of them). **]**

(4) [F14]. . . . . .

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

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

(b) disturbs dependent young of such a bird,

he shall be guilty of an offence[F16]. . . .

[[F208](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.**]**

[[F209](6) For the purposes of this section, the definition of "wild bird" in section 27(1) is to be read as not including any bird which is shown to have been bred in captivity unless—

(a) it has been lawfully released or allowed to escape from captivity as part of a re-population or re-introduction programme; or

(b) it is a mallard, grey or red-legged partridge, common pheasant or red grouse which is no longer in captivity and is not in a place where it was reared.**]**

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

Extent Information

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

Textual Amendments

F14 S. 1(4) repealed (30.1.2001 for E.W and 26.3.2003 for S.) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6)) and by the Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89(2)(d), **Sch. 5**

F15 Words in s. 1(5) inserted (30.1.2001 for E.W. and 1.10.2004 for S.) by 2000 c. 37, ss. 81(1), 103(2), Sch. 12 para. 1 and inserted by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 2(5)**; S.S.I. 2004/407, **art. 2**

F16 Words in s. 1(5) repealed (30.1.2001 for E.W. and 26.3.2003 for S.) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6)) and by the Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89(2)(d), **Sch. 5**

F173 Words in Act substituted (22.4.2011) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), arts. 2, **3**, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))

F199 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**

F200 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**

F201 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**

F202 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**

F203 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**

F204 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**

F205 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**

F206 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**

F207 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**

F208 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**

F209 S. 1(6) substituted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(3)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)

2 Exceptions to s. 1. E+W

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

(2) Subject to the provisions of this section, an authorised person shall not be guilty of an offence under section 1 by reason of—

(a) the killing or taking of a bird included in Part II of Schedule 2, or the injuring of such a bird in the course of an attempt to kill it;

(b) the taking, damaging or destruction of a nest of such a bird; or

(c) the taking or destruction of an egg of such a bird.

(3) Subsections (1) and (2) shall not apply in Scotland on Sundays or on Christmas Day; and subsection (1) shall not apply on Sundays in any area of England and Wales which the Secretary of State may by order prescribe for the purposes of that subsection.

(4) In this section and section 1 "close season" means—

(a) in the case of capercaillie and (except in Scotland) woodcock, the period in any year commencing with 1st February and ending with 30th September;

(b) in the case of snipe, the period in any year commencing with 1st February and ending with 11th August;

(c) in the case of wild duck and wild geese in or over any area below high-water mark of ordinary spring tides, the period in any year commencing with 21st February and ending with 31st August;

(d) in any other case, subject to the provisions of this Part, the period in any year commencing with 1st February and ending with 31st August.

(5) The Secretary of State may by order made with respect to the whole or any specified part of Great Britain vary the close season for any wild bird specified in the order.

(6) If it appears to the Secretary of State expedient that any wild birds included in Part II of Schedule 1 or Part I of Schedule 2 should be protected during any period outside the close season for those birds, he may by order made with respect to the whole or any specified part of Great Britain declare any period (which shall not in the case of any order exceed fourteen days) as a period of special protection for those birds; and this section and section 1 shall have effect as if any period of special protection declared under this subsection for any birds formed part of the close season for those birds.

(7) Before making an order under subsection (6) the Secretary of State shall consult a person appearing to him to be a representative of persons interested in the shooting of birds of the kind proposed to be protected by the order.

Status: *Point in time view as at 01/04/2013.*
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 02 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)*

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[F210: acts by certain persons outside close season]. S

(1) Subject to the provisions of this section **[**F211where subsection (1A) applies**]**, a person shall not be guilty of an offence under section 1 by reason of the killing or taking of a bird included in Part I of Schedule 2 outside the close season for that bird, or the injuring of such a bird outside that season in the course of an attempt to kill it.

[F212(1A) This subsection applies where—

(a) the person who kills or injures had—

(i) a legal right to kill such a bird; or

(ii) permission, from a person who had a right to give permission, to kill such a bird; or

(b) the person who takes had—

(i) a legal right to take such a bird; or

(ii) permission, from a person who had a right to give permission, to take such a bird.**]**

(2) F213. . . . . .

(3) **[**F214Subsection (1)**]** shall not apply in Scotland on Sundays or on Christmas Day **[**F215in relation to those birds included in Part I of Schedule 2 which are also included in Part IA of that Schedule**]**; and subsection (1) shall not apply on Sundays in any area of England and Wales which the Secretary of State may by order prescribe for the purposes of that subsection.

[F216(3A) Subject to the provisions of this section, where subsection (3B) applies a person does not commit an offence under section 1 by reason of the taking for the purposes of breeding of—

(a) a partridge or pheasant included in Part I of Schedule 2; or

(b) an egg of such a bird.

(3B) This subsection applies where—

(a) the person who takes does so during the period of 28 days commencing with the first day of the close season for the bird; and

(b) the person who takes had—

(i) a legal right to take such a bird; or

(ii) permission, from a person who had a right to give permission, to take such a bird.

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

(a) the grouse is taken—

(i) for the purpose of preventing the spread of disease; and

(ii) with the intention of releasing it from captivity after no more than 12 hours; and

(b) the person had—

(i) a legal right to take such a grouse; or

(ii) permission, from a person who had a right to give permission, to take such a grouse.**]**

(4) In **[**[F217]section 1, this section and section 6**]** "close season" means—

(a) in the case of **[**[F218]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;

[[F219](ba) in the case of pheasant, the period in any year commencing with 2nd February and ending with 30th September;

(bb) in the case of partridge, the period in any year commencing with 2nd February and ending with 31st August;**]**

(c) in the case of wild duck and wild geese in or over any area below high-water mark of ordinary spring tides, the period in any year commencing with 21st February and ending with 31st August;

[[F220](ca) in the case of black grouse, the period commencing with 11th December in any year and ending with 19th August in the following year;

(cb) in the case of ptarmigan and red grouse, the period commencing with 11th December in any year and ending with 11th August in the following year;**]**

(d) in any other case, subject to the provisions of this Part, the period in any year commencing with 1st February and ending with 31st August.

(5) The Secretary of State may by order made with respect to the whole or any specified part of Great Britain vary the close season for any wild bird specified in the order.

(6) If it appears to the Secretary of State expedient that any wild birds included in Part II of Schedule 1 or Part I of Schedule 2 should be protected during any period outside the close season for those birds, he may by order made with respect to the whole or any specified part of Great Britain declare any period (which shall not in the case of any order exceed fourteen days) as a period of special protection for those birds; and **[**[F221]section 1, this section and section 6**]** shall have effect as if any period of special protection declared under this subsection for any birds formed part of the close season for those birds.

(7) Before making an order under subsection (6) the Secretary of State shall consult **[**[F222]such persons**]** appearing to him to be a representative of persons interested in the shooting of birds of the kind proposed to be protected by the order **[**[F223]as he considers appropriate**]**.

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

F210 Words in s. 2 title added (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(4)(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)

F211 Words in s. 2(1) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(4)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)

F212 S. 2(1A) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(4)(c)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)

F213 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**

F214 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**

F215 Words in s. 2(3) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(4)(d)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)

F216 S. 2 inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(4)(e)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)

F217 Words in s. 2(4) substituted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 5(2)(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(c)

F218 Words in s. 2(4)(a) omitted (S.) (4.11.2001) by virtue of S.S.I. 2001/337, **reg. 2(2)**

F219 S. 2(4)(ba)(bb) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(4)(f)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)

F220 S. 2(4)(ca)(cb) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(4)(f)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)

F221 Words in s. 2(6) substituted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 5(2)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(c)

F222 Words in s. 2(7) substituted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(4)(g)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)

F223 Words in s. 2(7) added (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(4)(g)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)

3 Areas of special protection. E+W

(1) The Secretary of State may by order make provision with respect to any area specified in the order providing for all or any of the following matters, that is to say—

(a) that any person who, within that area or any part of it specified in the order, at any time or during any period so specified, intentionally—

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

(ii) takes, damages or destroys the nest of such a bird while that nest is in use or being built;

(iii) takes or destroys an egg of such a bird;

(iv) disturbs such a bird while it is building a nest or is in, on or near a nest containing eggs or young; or

(v) disturbs dependent young of such a bird,

shall be guilty of an offence under this section;

(b) that any person who, except as may be provided in the order, enters into that area or any part of it specified in the order at any time or during any period so specified shall be guilty of an offence under this section;

(c) that where any offence under this Part, or any such offence under this Part as may be specified in the order, is committed within that area, **[**[F19]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 **[**[F20]locality**]** in which that area is situated.

(5) The Secretary of State shall not make an order under this section unless—
(a) all the owners and occupiers aforesaid have consented thereto;
(b) no objections thereto have been made by any of those owners or occupiers before the expiration of a period of three months from the date of the giving of the notice or the publication of the advertisement; or
(c) any such objections so made have been withdrawn.

Extent Information

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

Textual Amendments

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

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

[F224]3 Areas of special protection. S

. . . . . .

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

F224 S. 3 repealed (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 4(2)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(a)

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

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

[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 **[**[F21]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, **[**[F22], fisheries or inland waters**]**.

[[F23](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

Textual Amendments

F21 Words in s. 4(1)(c) inserted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c.16), **ss. 47(4)(a)**,107; S.I. 2006/1382, **art. 2**

F22 Words in s. 4(3)(c) substituted (30.11.1995) by S.I. 1995/2825, **reg. 2(1)**

F23 S. 4(4)-(6) inserted (30.11.1995) by S.I. 1995/2825, **reg. 2(2)**

Marginal Citations

M1 1947 c. 48.

M2 1948 c. 45.

M3 1981 c. 22.

4 [F225Further exceptions to s. 1] S

(1) Nothing in section 1 F226... 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 M1Agriculture Act 1947, or by the Secretary of State under section 39 of the M2Agriculture (Scotland) Act 1948;

(b) anything done under, or in pursuance of an order made under, section 21 or 22 of the M3Animal 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 F227..., 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 **[**F228 (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.**]**

[F229(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.**]**

(3) Notwithstanding anything in the provisions of section 1 [F230]..., 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, **[**[F22], fisheries or inland waters**]**.

[[F23](4) An authorised person shall not be regarded as showing that any action of his was necessary for a purpose mentioned in subsection **[**[F231](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 **[**[F232](3)**]** as respects any action taken at any time for any purpose mentioned in that **[**[F233]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 **[**[F234](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

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

Textual Amendments

F22 Words in s. 4(3)(c) substituted (30.11.1995) by S.I. 1995/2825, **reg. 2(1)**

F23 S. 4(4)-(6) inserted (30.11.1995) by S.I. 1995/2825, **reg. 2(2)**

F225 S. 4 heading substituted (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 4(3)(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(a)

F226 Words in s. 4(1) repealed (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 4(3)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(a)

F227 Words in s. 4(2) repealed (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 4(3)(c)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(a)

F228 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**

F229 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**

F230 Words in s. 4(3) repealed (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 4(3)(c)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(a)

F231 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**

F232 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**

F233 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**

F234 Words in s. 4(6) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 5(6)**; S.S.I. 2004/407, **art. 2**

Marginal Citations

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

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

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

(a) sets in position any of the following articles, being an article which is of such a nature and is so placed as to be calculated to cause bodily injury to any wild bird coming into contact therewith, that is to say, any springe, trap, gin, snare, hook and line, any electrical device for killing, stunning or frightening or any poisonous, poisoned or stupefying substance;

(b) uses for the purpose of killing or taking any wild bird any such article as aforesaid, whether or not of such a nature and so placed as aforesaid, or any net, baited board, bird-lime or substance of a like nature to bird-lime;

(c) uses for the purpose of killing or taking any wild bird—

(i) any bow or crossbow;

(ii) any explosive other than ammunition for a firearm;

(iii) any automatic or semi-automatic weapon;

(iv) any shot-gun of which the barrel has an internal diameter at the muzzle of more than one and three-quarter inches;

(v) any device for illuminating a target or any sighting device for night shooting;

(vi) any form of artificial lighting or any mirror or other dazzling device;

(vii) any gas or smoke not falling within paragraphs (a) and (b); or

(viii) any chemical wetting agent;

(d) uses as a decoy, for the purpose of killing or taking any wild bird, any sound recording or any live bird or other animal whatever which is tethered, or which is secured by means of braces or other similar appliances, or which is blind, maimed or injured; [F24] . . .

(e) uses any mechanically propelled vehicle in immediate pursuit of a wild bird for the purpose of killing or taking that bird, **[**[F25] ; 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[F26]. . . .

(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.

[F27]**[**(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

F24 Word "or" in s. 5(1)(d) omitted (25.9.1991) by virtue of Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), **ss. 1(2)**, 3(3).

F25 Word "or" and s. 5(1)(f) inserted (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), **ss. 1(3)**, 3(3).

F26 Words in s. 5(1) repealed (30.1.2001 for E.W. and 26.3.2002 for S.) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6)) and by the Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89(2)(d), **Sch. 5**

F27 S. 5(4A) inserted (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), **ss. 1(4)**, 3(3).

Marginal Citations

M4 1954 c. 30.

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

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

(a) sets in position any of the following articles, being an article which is of such a nature and is so placed as to be **[**[F235]likely**]** to cause bodily injury to any wild bird coming into contact therewith, that is to say, any springe, trap, gin, snare,

Status: *Point in time view as at 01/04/2013.*
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 02 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)*

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; [F24] . . .

(e) uses any mechanically propelled vehicle in immediate pursuit of a wild bird for the purpose of killing or taking that bird, **[**[F25] ; 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[F26]. . . .

(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.

[F27]**[**(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) [F236]. . . . . .

(b) [F236]. . . . . .

(c) the use of a cage-trap or net for the purpose of taking any **[**[F237]grouse, mallard, partridge or pheasant included in Part I of Schedule 2**]** if it is shown that the taking of the bird is solely for the purpose of breeding;

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

Extent Information

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

Textual Amendments

F24 Word "or" in s. 5(1)(d) omitted (25.9.1991) by virtue of Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), **ss. 1(2)**, 3(3).

F25 Word "or" and s. 5(1)(f) inserted (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), **ss. 1(3)**, 3(3).

F26 Words in s. 5(1) repealed (30.1.2001 for E.W. and 26.3.2002 for S.) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6)) and by the Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89(2)(d), **Sch. 5**

F27 S. 5(4A) inserted (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), **ss. 1(4)**, 3(3).

F235 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**

F236 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**

F237 Words in s. 5(5)(c) substituted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(5)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)

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

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

(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[F28]. . . —

(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

Status: *Point in time view as at 01/04/2013.*
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 02 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) any live bird one of whose parents was such a wild bird,

he shall be guilty of an offence.

(4) [F29] . . . . . .

[[F30](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 **[**[F31] the Wild Birds Directive **]** .

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

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

(7) [F32] . . . . . .

(8) [F32] . . . . . .

(8A) [F32] . . . . . .

(9) [F32] . . . . . .

(10) [F32] . . . . . .

Extent Information

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

Textual Amendments

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

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

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

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

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

Status: *Point in time view as at 01/04/2013.*
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 02 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)*

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 [F238]..., or an egg of a wild bird or any part of such an egg **[**[F239]other than—

(i) a bird included in Part I of Schedule 3 (see also subsection (5));

(ii) a bird included in Part 1A of that Schedule to which subsection (1A) applies; or

(iii) an egg to which subsection (1B) applies or any part of such an egg**]**; or

(b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,

he shall be guilty of an offence.

[[F240](1A) This subsection applies to a bird which—

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

(b) was a wild bird for the purposes of section 1 (see section 1(6)) and was taken by a person who had a legal right to take such a bird or a person with permission, from a person who had a right to give permission, to take such a bird outside the close season for the bird; or

(c) was such a wild bird of the following type and was taken by a person with such right or permission during the period of 28 days which commences with the first day of its close season—

(i) a partridge included also in Part I of Schedule 2; or

(ii) a pheasant included also in that Part.

(1B) This subsection applies to the following eggs—

(a) an egg of a bird included in Part IA of Schedule 3 to which subsection (1A) applies; or

(b) an egg of a bird included in Part IA of Schedule 3 to which that subsection does not apply if the egg was taken—

(i) outside the close season for the bird or during the period of 28 days commencing with the first day of its close season; and

(ii) by a person who had a legal right to take such a bird or a person with permission, from a person who had a right to give permission, to take such a bird.**]**

(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 **[**[F241], IIA**]** or III of Schedule 3 **[**[F242](see also subsections (5B) and (6))**]**, or any part of, or anything derived from, such a wild bird; or

(b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,

he shall be guilty of an offence.

[[F243](2A) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by any of the foregoing provisions of this section (other than subsections (1)(b) and (2)(b)) shall be guilty of an offence.**]**

Status: *Point in time view as at 01/04/2013.*
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 02 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) 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) [F29] . . . . . .

[[F244](5) Any reference in this section to any bird included in Part I of Schedule 3 is a reference to any bird included in that Part which—

(a) was bred in captivity;

(b) has been ringed or marked in accordance with regulations made by the Scottish Ministers; and

(c) has not been lawfully released or allowed to escape from captivity as part of a re-population or re-introduction programme.

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

[[F245](5B) Any reference in this section to any bird included in Part IIA of Schedule 3 is a reference to any bird included in that Part which was killed outside the close season for the bird by a person who had a legal right to kill such a bird or permission, from a person who had a right to give permission, to kill such a bird.]

[[F246](6) Any reference in this section to any bird included in Part III of Schedule 3 is a reference, during the period commencing with 1st September in any year and ending with 28th February of the following year, to any bird included in that Part.]

(7) The power of the Secretary of State to make regulations under subsection (2) shall include power—

(a) to impose requirements as to the carrying out by a person registered in accordance with the regulations of any act which, apart from the registration, would constitute an offence under this section; and

(b) to provide that any contravention of the regulations shall constitute such an offence.

(8) Regulations under subsection (2) shall secure that no person shall become or remain registered [[F247]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 [M16]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).

[F248](9) . . . . . .

[F248](10) . . . . . .

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

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

F238 Words in s. 6(1)(a) repealed (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 5(3)(a)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(c)

F239 Words in s. 6(1)(a) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 5(3)(a)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(c)

F240 S. 6(1A)(1B) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 5(3)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(c)

F241 Word in s. 6(2)(a) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 5(3)(c)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(c)

F242 Words in s. 6(2)(a) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 5(3)(c)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(c)

F243 S. 6(2A) inserted (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 21(2)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(e)

F244 S. 6(5)(5A) substituted for s. 6(5) (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 5(3)(d)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(c)

F245 S. 6(5B) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 5(3)(e)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(c)

F246 S. 6(6) substituted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 5(3)(f)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(c)

F247 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**

F248 S. 6(9)(10) repealed (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 22(2)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(d)

Marginal Citations

M16 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 [F33]. . ..

(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.

[[F34](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 **[**[F35]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.

[[F36](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 **[**[F37]ZA1 or**]** 1 or any part of, or anything derived from, such a bird,

(ii) the nest of such a bird, or

(iii) an egg of such a bird or any part of such an egg;

(b) any offence under section 1(5) or 5;

(c) any offence under section 6 in respect of—

(i) a bird included in Schedule **[**[F37]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;

[[F38](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.

[F39](6) . . . . . .

[F39](7) . . . . . .

Extent Information

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

Textual Amendments

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

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

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

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

F37 Words in s. 7(3A)(a)(i)(c)(i) inserted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c.16), **ss. 47(4)(b)**, 107; S.I. 2006/1382, **art. 2**

F38 S. 7(3A)(ca) inserted (E.W.) (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c.16), **ss. 49**, 107; S.I. 2006/2541, **art. 2**

F39 S. 7(6)(7) repealed (E.W.) (30.1.2001) by 2000 c. 37, ss. 102, 103(2), **Sch. 16 Pt. IV** (with Sch. 12 para. 10(6))

Modifications etc. (not altering text)

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

Marginal Citations

M5 1974 c. 53.

7 Registration etc. of certain captive birds. S

(1) If any person keeps or has in his possession or under his control any bird included in Schedule 4 which has not been registered and ringed or marked in accordance with regulations made by the Secretary of State, he shall be guilty of an offence [F249]. . . .

(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.

[[F250](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 **[**[F251]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); [F252]. . .

(b) any other offence involving their ill-treatment**][**[F253]; 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**[**[F254] 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 [M17]Rehabilitation of Offenders Act 1974.

[[F255](5A) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by any of the foregoing provisions of this section shall be guilty of an offence.**]**

[F256](6) . . . . . .

[F256](7) . . . . . .

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

F249 Words in s. 7(1) repealed (S.) (26.3.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), s. 86, **Sch. 5**

F250 S. 7(2A) inserted (21.3.1997) by 1997 c. 55, **s. 1(2)**

F251 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**

F252 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**

F253 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**

F254 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**

F255 S. 7(5A) inserted (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 21(3)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(e)

F256 S. 7(6)(7) repealed (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 22(3)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(d)

Modifications etc. (not altering text)

C14 S. 7(2A): power to transfer functions conferred (1.5.2000) by S.I. 2000/745, art. 2(1), **Sch.**

Marginal Citations

M17 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[F40]. . . .

(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[F41]. . . .

Textual Amendments

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

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

*Protection of other animals **[**[F42]and prevention of poaching**]***

Textual Amendments

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

9 Protection of certain wild animals. E+W

(1) Subject to the provisions of this Part, if any person intentionally kills, injures or takes any wild animal included in Schedule 5, he shall be guilty of an offence.

(2) Subject to the provisions of this Part, if any person has in his possession or control any live or dead wild animal included in Schedule 5 or any part of, or anything derived from, such an animal, he shall be guilty of an offence.

(3) A person shall not be guilty of an offence under subsection (2) if he shows that—

(a) the animal had not been killed or taken, or had been killed or taken otherwise than in contravention of the relevant provisions; or

(b) the animal or other thing in his possession or control had been sold (whether to him or any other person) otherwise than in contravention of those provisions

and in this subsection "the relevant provisions" means the provisions of this Part and of the Conservation of Wild Creatures and Wild Plants Act 1975

[[F43](4) Subject to the provisions of this Part, a person is guilty of an offence if intentionally or recklessly—

(a) he damages or destroys any structure or place which any wild animal specified in Schedule 5 uses for shelter or protection;

(b) he disturbs any such animal while it is occupying a structure or place which it uses for shelter or protection; or

(c) he obstructs access to any structure or place which any such animal uses for shelter or protection.**]**

[[F44](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.**]**

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

(a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live or dead wild animal included in Schedule 5, or any part of, or anything derived from, such an animal; or

(b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,

he shall be guilty of an offence.

(6) In any proceedings for an offence under subsection (1), (2) or (5)(a) , the animal in question shall be presumed to have been a wild animal unless the contrary is shown.

Extent Information

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

Textual Amendments

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

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

9 Protection of certain wild animals. S

(1) Subject to the provisions of this Part, if any person intentionally **[**[F257]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 **[**[F258]at or from a place in Scotland**]** otherwise than in contravention of the relevant provisions; [F259]. . .

(b) the animal or other thing in his possession or control had been sold **[**[F260]at a place in Scotland**]** (whether to him or any other person) otherwise than in contravention of those provisions **[**[F261]; 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.**]**

[F262]. . .

[[F263](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 **[**[F264]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.

[[F265](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.

[[F266](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) **[**[F267]or for an offence under subsection (5A) relating to an act which is mentioned in subsection (1), (2) or (5)(a)**]**, the animal in question shall be presumed to have been a wild animal unless the contrary is shown.

Extent Information

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

Textual Amendments

F257 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**

F258 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**

F259 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**

F260 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**

F261 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**

F262 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**

F263 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**

F264 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**

F265 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**

F266 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**

F267 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 **[**[F45]conservation body**][**[F46]for the area in which the house is situated or, as the case may be, the act is to take place**]** of the proposed action or operation and allowed them a reasonable time to advise him as to whether it should be carried out and, if so, the method to be used.

(6) An authorised person shall not be entitled to rely on the defence provided by subsection (4) as respects any action taken at any time if it had become apparent, before that time, that that action would prove necessary for the purpose mentioned in that subsection and either—

(a) a licence under section 16 authorising that action had not been applied for as soon as reasonably practicable after that fact had become apparent; or

(b) an application for such a licence had been determined.

Extent Information

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

Textual Amendments

F45 Words in s. 10(5) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 70**; S.I. 2006/2541, **art. 2**

F46 Words in s. 10(5) inserted (*1.4.1991*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132, **Sch. 9 para. 11(2)**; S.I. 1991/685, **art.3**.

Marginal Citations

M6 1947 c. 48.

M7 1948 c. 45.

M8 1981 c. 22.

10 Exceptions to s. 9. S

(1) Nothing in section 9 shall make unlawful—

(a) anything done in pursuance of a requirement by the Minister of Agriculture, Fisheries and Food or the Secretary of State under section 98 of the [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 **[**[F268] ("an unlawful act") if he shows—

Status: *Point in time view as at 01/04/2013.*
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 02 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) 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.**]**

[[F269](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 **[**[F270]conservation body**][**[F46]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.

[[F271](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

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

Textual Amendments

F46 Words in s. 10(5) inserted (*1.4.1991*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 132, **Sch. 9 para. 11(2)**; S.I. 1991/685, **art.3**.

F268 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**

F269 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**

F270 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**

F271 S. 10(6A) inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 9(c)**; S.S.I. 2004/407, **art. 2**

Marginal Citations

M6 1947 c. 48.

M7 1948 c. 45.

M8 1981 c. 22.

[F47 10A Protection of wild hares etc.

(1) Subject to the provisions of this Part, any person who intentionally or recklessly kills, injures or takes any wild animal included in Schedule 5A in the close season for the animal is guilty of an offence.

(2) In this section, "close season" means—

(a) in the case of a mountain hare, the period in any year beginning with 1st March and ending with 31st July;

(b) in the case of a brown hare, the period in any year beginning with 1st February and ending with 30th September.

(3) The Scottish Ministers may by order vary the close season for any wild animal included in Schedule 5A which is specified in the order.

(4) If it appears to the Scottish Ministers expedient that any wild animals included in Schedule 5A should be protected during any period outside the close season for those animals, they may by order declare any period not exceeding 14 days as a period of special protection for those animals.

(5) Before making an order under subsection (4), the Scottish Ministers must consult such persons appearing to them to be representative of persons interested in the killing or taking of animals of the kind proposed to be protected by the order as they consider appropriate.

(6) Where an order is made under subsection (4), this section has effect as if any period of special protection declared by the order forms part of the close season for those animals.

(7) An order under subsection (3) or (4) may be made as respects the whole of Scotland or any part of Scotland specified in the order.

(8) In any proceedings for an offence under subsection (1), the animal in question is to be presumed to have been a wild animal unless the contrary is shown.

Status: *Point in time view as at 01/04/2013.*
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 02 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

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

10B Exceptions to s. 10A

(1) A person is not guilty of an offence under section 10A(1) by reason of the killing of an animal included in Schedule 5A if he shows that the animal had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering.

(2) A person is not guilty of an offence under section 10A(1) by reason of taking any such animal if he shows that—

(a) he had a legal right to take such an animal or permission, from a person who had a right to give permission, to take such an animal; and

(b) the animal—

(i) had been disabled otherwise than by his unlawful act; and

(ii) was taken solely for the purpose of tending it and releasing it when no longer disabled.

(3) An authorised person is not guilty of an offence under section 10A(1) by reason of the killing or injuring of an animal included in Schedule 5A if he shows that his action was necessary for the purpose of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries.

(4) An authorised person is not entitled to rely on the defence provided by subsection (3) as respects any action if—

(a) it had become apparent, before the action was taken, that it would prove necessary for the purpose mentioned in that subsection; and

(b) either—

(i) a licence under section 16 authorising the action had not been applied for as soon as reasonably practicable after that fact had become apparent; or

(ii) an application for such a licence had been determined.

(5) An authorised person is not entitled to rely on the defence provided by subsection (3) as respects any action unless he notified the appropriate authority as soon as reasonably practicable after the action was taken that he had taken it.

(6) In subsection (5), "the appropriate authority" has the same meaning as in section 16(9).

(7) Nothing in section 10A makes unlawful—

(a) anything done in pursuance of a requirement by the Scottish Ministers under section 39 of the Agriculture (Scotland) Act 1948; or

(b) anything done under, or in pursuance of an order made under, the Animal Health Act 1981.**]**

Textual Amendments

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

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

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

(a) sets in position any self-locking snare which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal coming into contact therewith;

(b) uses for the purpose of killing or taking any wild animal any self-locking snare, whether or not of such a nature or so placed as aforesaid, any bow or cross-bow or any explosive other than ammunition for a firearm; [F48] . . .

(c) uses as a decoy, for the purpose of killing or taking any wild animal, any live mammal or bird whatever, **[**[F49] ; 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; [F50] . . .

(e) uses any mechanically propelled vehicle in immediate pursuit of any such wild animal for the purpose of driving, killing or taking that animal, **[**[F51] ; 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 **[**[F52]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), **[**[F53]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.

[F54]**[**(7) In any proceedings for an offence under subsection (2)(f) relating to an act which is mentioned in subsection (2)(a) it shall be a defence to show that the article was set in position for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took or caused to be taken all reasonable precautions to prevent injury thereby to any wild animals included in Schedule 6.**]**

Extent Information

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

Textual Amendments

F48 Word "or" in s. 11(1)(b) omitted (25.9.1991) by virtue of Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), **ss. 2(2)(a)**, 3(3).

F49 Word "or" and s. 11(1)(d) inserted (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), **ss. 2(2)(b)**, 3(3).

F50 Word "or" in s. 11(2)(d) omitted (25.9.1991) by virtue of Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), **ss. 2(3)(a)**, 3(3).

F51 Word "or" and s. 11(2)(f) inserted (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), **ss. 2(3)(b)**, 3(3).

F52 Words in s. 11(3)(a) inserted (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), **ss. 2(4)**, 3(3).

F53 Words in s. 11(5) inserted (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), **ss. 2(5)**, 3(3).

F54 S. 11(7) added (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), **ss. 2(6)**, 3(3).

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

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

Status: *Point in time view as at 01/04/2013.*
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 02 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) sets in position **[**[F272]or otherwise uses**]** any self-locking snare **[**[F273]or a snare of any other type specified in an order made by the Scottish Ministers**]**;

[[F274](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 **[**[F275]animal**]** , any bow or cross-bow or any explosive other than ammunition for a firearm; [F48] . . .

(c) uses as a decoy, for the purpose of killing or taking any wild animal, any live mammal or bird whatever, **[**[F49]; 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.

[[F276](1A) For the purposes of subsection (1)(aa), a snare which is of such a nature or so placed (or both) as to be calculated to cause unnecessary suffering to any animal coming into contact with it includes—

(a) where the person who sets in position or otherwise uses the snare does so to catch any animal other than a fox, a snare which is not fitted with a stop which is capable of preventing the noose of the snare reducing in circumference to less than 13 centimetres;

(b) where the person who sets in position or otherwise uses the snare does so to catch a fox, a snare which is not fitted with a stop which is capable of preventing the noose of the snare reducing in circumference to less than 23 centimetres;

(c) a snare which is neither—

(i) staked to the ground; nor

(ii) attached to an object,

in a manner which will prevent the snare being dragged by an animal caught by it; and

(d) a snare which is set in a place where an animal caught by the snare is likely to—

(i) become fully or partially suspended; or

(ii) drown.**]**

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

(a) sets in position any of the following articles, being an article which is of such a nature and so placed as to be **[**[F277]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; [F50] . . .

(e) uses any mechanically propelled vehicle in immediate pursuit of any such wild animal for the purpose of driving, killing or taking that animal, **[**[F51] ; 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.

[F278]**[**[F279](3) . . . . . .

[F278](3A) . . . . . .

[F278](3B) . . . . . .

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

(a) is, without reasonable excuse, in possession of; or

(b) sells, or offers or exposes for sale,

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

[F280](3D) . . . . . .

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

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

[[F281](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 **[**[F282](1)(c)**]** or (2)(b), (c), (d) or (e), **[**[F53]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.

[F54]**[**(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

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

Textual Amendments

F48 Word "or" in s. 11(1)(b) omitted (25.9.1991) by virtue of Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), **ss. 2(2)(a)**, 3(3).

F49 Word "or" and s. 11(1)(d) inserted (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), **ss. 2(2)(b)**, 3(3).

F50 Word "or" in s. 11(2)(d) omitted (25.9.1991) by virtue of Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), **ss. 2(3)(a)**, 3(3).

F51 Word "or" and s. 11(2)(f) inserted (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), **ss. 2(3)(b)**, 3(3).

F53 Words in s. 11(5) inserted (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), **ss. 2(5)**, 3(3).

F54 S. 11(7) added (25.9.1991) by Wildlife and Countryside (Amendment) Act 1991 (c. 39, SIF 4:5), **ss. 2(6)**, 3(3).

F272 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**

F273 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**

F274 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**

F275 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**

F276 S. 11(1A) inserted (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 13(2)(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(c)(i)

F277 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**

F278 S. 11(3)-(3B) repealed (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 13(2)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, **art. 2(1)(c)(i)**

F279 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**

F280 S. 11(3D) repealed (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 13(2)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(c)(i)

F281 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**

F282 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**

[F55 11A Snares: training, identification numbers, tags etc.

(1) Any person who sets a snare in position must have an identification number (see also subsections (3), (4) and (7) in relation to identification numbers and training).

(2) Any person who sets in position or otherwise uses a snare must ensure—

(a) that a tag is fitted on the snare in such a manner that it is not capable of being easily removed from the snare;

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(b) that there is displayed on the tag (in a manner in which it will remain readable) the identification number of the person who set the snare in position; and

(c) where the snare is intended to catch the following types of animal—

(i) brown hares or rabbits; or

(ii) foxes,

that there is also displayed on the tag (in a manner in which it will remain readable) a statement that it is intended to catch the type of animal in question.

(3) For the purposes of this section and sections 11D and 11E, the identification number of a person who sets a snare in position is the identification number issued to him by **[**[F56]the**]** chief constable.

(4) **[**[F57]The**]** chief constable—

(a) on receipt of an appropriate application from any person for an identification number for the purpose of setting snares in position [F58]...; and

(b) on being satisfied that the applicant has been trained to set a snare in position and on the circumstances in which the setting of snares is an appropriate method of predator control,

must grant the application and issue the applicant with an identification number.

(5) Any person who fails to comply with subsection (1) is guilty of an offence.

(6) Any person who—

(a) has an identification number and sets in position or otherwise uses a snare; but

(b) fails to comply with subsection (2) in any respect,

is guilty of an offence.

[F59](7) . . . . . .

(8) The Scottish Ministers may by order make provision as regards—

(a) when a person has been trained to set a snare in position and on the circumstances in which the setting of snares is an appropriate method of predator control;

(b) how **[**[F60]the**]** chief constable is to be satisfied that an applicant for an identification number has been so trained;

(c) the manner in which a tag is to be fitted for the purposes of subsection (2)(a) (including the material from which a tag is to be made);

(d) the manner in which an identification number is to appear on a tag for the purposes of subsection (2)(b), and in which a statement is to be displayed on a tag for the purposes of subsection (2)(c);

(e) the form of and manner of making an application for an identification number;

(f) the determining by the Scottish Ministers, or by **[**[F61]the chief constable**]** in accordance with the order, of any fee to accompany the application and the charging of any such fee;

(g) the issuing of identification numbers under subsection (4);

(h) the keeping of records of identification numbers issued, the persons to whom they are issued and the sharing of information from such records;

(i) such other matters in relation to training, tags or identification numbers (including the making of an application for, or the issuing of, an identification number) as they consider appropriate.

(9) In this section—

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

[F62"chief constable" means the chief constable of the Police Service of Scotland]

F63 …

Textual Amendments

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

F56 Word in s. 11A(3) substituted (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Modifications and Savings) Order 2013 (S.S.I. 2013/119), art. 1, **sch. 1 para. 8(a)**

F57 Word in s. 11A(4) substituted (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Modifications and Savings) Order 2013 (S.S.I. 2013/119), art. 1, **sch. 1 para. 8(b)(i)**

F58 Words in s. 11A(4)(a) omitted (1.4.2013) by virtue of The Police and Fire Reform (Scotland) Act 2012 (Consequential Modifications and Savings) Order 2013 (S.S.I. 2013/119), art. 1, **sch. 1 para. 8(b)(ii)**

F59 S. 11A(7) omitted (1.4.2013) by virtue of The Police and Fire Reform (Scotland) Act 2012 (Consequential Modifications and Savings) Order 2013 (S.S.I. 2013/119), art. 1, **sch. 1 para. 8(c)**

F60 Word in s. 11A(8)(b) substituted (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Modifications and Savings) Order 2013 (S.S.I. 2013/119), art. 1, **sch. 1 para. 8(d)(i)**

F61 Words in s. 11A(8)(f) substituted (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Modifications and Savings) Order 2013 (S.S.I. 2013/119), art. 1, **sch. 1 para. 8(d)(ii)**

F62 Definition in s. 11A(9) substituted (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Modifications and Savings) Order 2013 (S.S.I. 2013/119), art. 1, **sch. 1 para. 8(e)(i)**

F63 Definition in s. 11A(9) omitted (1.4.2013) by virtue of The Police and Fire Reform (Scotland) Act 2012 (Consequential Modifications and Savings) Order 2013 (S.S.I. 2013/119), art. 1, **sch. 1 para. 8(e)(ii)**

11B Snares: duty to inspect etc.

(1) Any person who sets a snare in position must while it remains in position inspect it or cause it to be inspected, at least once every day at intervals of no more than 24 hours, for the following purposes—

(a) to see whether any animal is caught by the snare; and

(b) to see whether the snare is free-running.

(2) Any person who while carrying out such an inspection—

(a) finds an animal caught by the snare must, during the course of the inspection, release or remove the animal (whether it is alive or dead); and

(b) finds that the snare is not free-running must remove the snare or restore it to a state in which it is free-running.

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

(a) without reasonable excuse, contravenes subsection (1); or

(b) contravenes subsection (2),

is guilty of an offence.

(4) For the purposes of this section, a snare is "free-running" if—

(a) it is not self-locking;

(b) it is not capable (whether because of rust, damage or other condition or matter) of locking; and

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

Textual Amendments

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

11C Snares: authorisation from landowners etc.

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

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

(b) sets any snare in position on any land without the authorisation of the owner or occupier of the land,

is guilty of an offence.

Textual Amendments

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

11D Snares: presumption arising from identification number

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

Textual Amendments

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

11E Snares: record keeping

(1) Any person who has an identification number must keep a record of the following—

(a) the location of every snare set in position by the person which remains in position;

(b) the location of every other snare set in position by the person within the past two years;

(c) the date on which each snare mentioned in paragraph (a) or (b) was set;

(d) the date on which each snare mentioned in paragraph (b) was removed;

(e) in relation to each animal caught in a snare mentioned in paragraph (a) or (b)—

(i) the type of animal;

(ii) the date it was found;

(f) such other information as the Scottish Ministers may by order specify.

(2) For the purposes of subsection (1)(a) and (b), the location of a snare is to be recorded—

(a) by reference to a map; or

(b) by such other means (for example, by means of a description) capable of readily identifying the location.

(3) Any person who, without reasonable excuse, fails to comply with the duty under subsection (1) is guilty of an offence.

(4) Any person who—

(a) is requested to produce the record kept under subsection (1) to a constable; and

(b) fails to do so within 21 days of being so requested,

is guilty of an offence.

(5) Subsection (1) does not apply in relation to any snare set in position by a person before the person is issued with an identification number.

Textual Amendments

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

11F Snaring: review and report to the Scottish Parliament

(1) The Scottish Ministers must carry out, or secure the carrying out by another person of, a review of the operation and effect of—

(a) section 11 and any orders made under that section (in so far as the section and the orders make provision as regards snaring);

(b) sections 11A, 11B, 11C, 11D and 11E and any orders made under those sections.

(2) A review must be carried out under subsection (1) no later than—

(a) 31st December 2016 ("the first review date");

(b) the end of the period of 5 years beginning with the first review date; and

(c) the end of each subsequent period of 5 years.

(3) In carrying out a review under subsection (1), the matters that must be considered include whether in the opinion of the Ministers (or, if the review is being carried out by another person, that person) amendment of this Act or enactment of other legislation is appropriate.

(4) In carrying out a review under subsection (1), the Scottish Ministers (or, if the review is being carried out by another person, that person) must consult such persons and organisations as they consider (or, as the case may be, the other person considers) have an interest in it.

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

Textual Amendments

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

[F64 11G Prevention of poaching: wild hares, rabbits etc.

(1) Subject to the provisions of this Part, any person who intentionally or recklessly kills, injures or takes any wild animal included in Schedule 6A is guilty of an offence.

(2) In any proceedings for an offence under subsection (1), the animal in question is to be presumed to have been a wild animal unless the contrary is shown.

Textual Amendments

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

11H Exceptions to s. 11G

(1) A person is not guilty of an offence under section 11G(1)—

(a) by reason of the killing of an animal included in Schedule 6A if he had a legal right, or permission from a person who had a right to give permission, to kill such an animal; or

(b) by reason of the taking of such an animal if he had a legal right, or permission from a person who had a right to give permission, to take such an animal.

(2) A person is not guilty of an offence under section 11G(1) by reason of the killing of an animal included in Schedule 6A if he shows that the animal had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering.

(3) Nothing in section 11G makes unlawful—

(a) anything done in pursuance of a requirement by the Scottish Ministers under section 39 of the Agriculture (Scotland) Act 1948; or

(b) anything done under, or in pursuance of an order made under, the Animal Health Act 1981.**]**

Textual Amendments

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

Status: *Point in time view as at 01/04/2013.*
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 02 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)*

[F65 11I Sale, possession etc. of wild hares, rabbits etc. killed or taken unlawfully

(1) Any person who does any of the following is guilty of an offence—

(a) has in his possession or control any live or dead wild animal which has been killed or taken in contravention of section 10A or 11G, or any part of or anything derived from such an animal;

(b) sells, offers or exposes for sale, or has in his possession or transports for the purposes of sale any such animal or any part of or anything derived from such an animal; or

(c) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells or intends to buy or sell any of those things.

(2) A person is not guilty of an offence under subsection (1) in relation to an activity mentioned in that subsection if he shows that he carried out the activity concerned with reasonable excuse.

(3) In any proceedings for an offence under subsection (1), the animal in question is to be presumed to have been a wild animal unless the contrary is shown.**]**

Textual Amendments

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

[F66 12YA Relaxation of restriction on night shooting of hares and rabbits

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

Textual Amendments

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

12 Protection of certain mammals.

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

Textual Amendments

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

Protection of plants

13 Protection of wild plants. E+W

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

(a) intentionally picks, uproots or destroys any wild plant included in Schedule 8; or

(b) not being an authorised person, intentionally uproots any wild plant not included in that Schedule,

he shall be guilty of an offence.

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

(a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live or dead wild plant included in Schedule 8, or any part of, or anything derived from, such a plant; or

(b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things,

he shall be guilty of an offence.

(3) Notwithstanding anything in subsection (1), a person shall not be guilty of an offence by reason of any act made unlawful by that subsection if he shows that the act was an incidental result of a lawful operation and could not reasonably have been avoided.

(4) In any proceedings for an offence under subsection (2)(a), the plant in question shall be presumed to have been a wild plant unless the contrary is shown.

Extent Information

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

13 Protection of wild plants. S

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

(a) intentionally **[**[F283]or recklessly**]** picks, uproots or destroys **[**[F284](i)**]** any wild plant included in Schedule 8; or

[[F285](ii) any seed or spore attached to any such wild plant; or**]**

(b) not being an authorised person, intentionally **[**[F286]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 **[**[F287] ("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.**]**

[[F288](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) **[**[F289]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

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

Textual Amendments

F283 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**

F284 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**

F285 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**

F286 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**

F287 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**

F288 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**

F289 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

[F68](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.

[F68](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.

(5) [F69]. . . . . .

(6) [F69]. . . . . .

Extent Information

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

Textual Amendments

F68 S. 14(1)-(2D) substituted for s. 14(1)(2) (S.) (1.5.2012 for specified purposes, 2.7.2012 in so far as not already in force) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 14(2)(a)**, 43(1) (with s. 41(1)); S.S.I. 2012/116, art. 2(a)(i); S.S.I. 2012/175, art. 2(1)(a) (with art. 3(3))

F69 S. 14(5)(6) repealed (E.W.) (30.1.2001) by 2000 c. 37, ss. 102, 103(2), **Sch. 16 Pt. IV**

Modifications etc. (not altering text)

C3 S. 14 excluded (E.W.) (21.8.2007) by S.I. 1994/2716, **reg. 37C(9)** (as inserted by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843) {reg. 5(12)}

C4 S. 14 excluded (E.W.) (1.4.2010) by The Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490), regs. 1(2), **52(8)**

14 Introduction of new species etc. S

[[F68](1) Subject to the provisions of this Part, any person who—

(a) releases, or allows to escape from captivity, any animal—

(i) to a place outwith its native range; or

(ii) of a type the Scottish Ministers, by order, specify; or

(b) otherwise causes any animal outwith the control of any person to be at a place outwith its native range,

is guilty of an offence.

(2) Subject to the provisions of this Part, any person who plants, or otherwise causes to grow, any plant in the wild at a place outwith its native range is guilty of an offence.

(2A) Subsection (1) does not apply to the following animals where those animals are released or allowed to escape from captivity for the purpose of being subsequently killed by shooting—

(a) common pheasant;
(b) red-legged partridge.

(2B) The Scottish Ministers may, by order, specify—
(a) other types of animals to which subsection (1)(a)(i) or (1)(b) does not apply; and
(b) types of plants to which subsection (2) does not apply.

(2C) The Scottish Ministers may, by order, disapply subsection (1) or (2) in relation to—
(a) any person specified in the order;
(b) any conduct undertaken for the purposes of any enactment (including any enactment contained in or made under an Act of the Scottish Parliament) so specified; or
(c) any conduct authorised by, under or in pursuance of any such enactment.

(2D) An order under subsection (1)(a)(ii), (2B) or (2C) may make different provision for different cases and, in particular, for—
(a) different types of animal or plant;
(b) different circumstances or purposes;
(c) different persons;
(d) different times of the year; and
(e) different areas or places.**]**

(3) Subject to subsection (4), it shall be a defence to a charge of committing an offence under subsection (1) or (2) to **[**[F290]show**]** that the accused took all reasonable steps and exercised all due diligence to avoid committing the offence.

(4) Where the defence provided by subsection (3) involves an allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on the defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice giving such information identifying or assisting in the identification of the other person as was then in his possession.

[F291](5) . . . . . .

[F291](6) . . . . . .

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

F68 S. 14(1)-(2D) substituted for s. 14(1)(2) (S.) (1.5.2012 for specified purposes, 2.7.2012 in so far as not already in force) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 14(2)(a)**, 43(1) (with s. 41(1)); S.S.I. 2012/116, art. 2(a)(i); S.S.I. 2012/175, art. 2(1)(a) (with art. 3(3))

F290 Word in s. 14(3) substituted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 14(2)(b)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(a)

F291 S. 14(5)(6) repealed (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 14(2)(c)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(a)

Status: *Point in time view as at 01/04/2013.*
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 02 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)*

[F70 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.**]**

Textual Amendments

F70 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**

[F71 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

F71 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**

[F72 14ZC Prohibition on keeping etc. of invasive animals or plants

(1) Subject to the provisions of this Part, any person who keeps, has in the person's possession, or has under the person's control—

(a) any invasive animal of a type which the Scottish Ministers, by order, specify; or

(b) any invasive plant of a type so specified,

is guilty of an offence.

(2) An order under subsection (1) may make different provision for different cases and, in particular, for—

(a) different types of invasive animal or invasive plant;

(b) different circumstances or purposes;

(c) different persons;

(d) different times of the year; and

(e) different areas or places.

(3) Subject to subsection (4), it is a defence to a charge of committing an offence under subsection (1) to show that the accused took all reasonable steps and exercised all due diligence to avoid committing the offence.

(4) Where the defence provided by subsection (3) involves an allegation that the commission of the offence was due to the act or omission of another person, the person charged must not, without leave of the court, be entitled to rely on the defence unless, within a period ending 7 days before the hearing, the person has served on the prosecutor a notice giving such information or assisting in the identification of the other person as was then in the person's possession.

(5) The Scottish Ministers may, in an order under subsection (1), make provision for or in connection with the compensation of persons who, at the time of the coming into force of the order, may no longer keep, have in their possession or have under their control, an animal or plant.**]**

Textual Amendments

F72 S. 14ZC inserted (S.) (1.5.2012 for specified purposes, 2.7.2012 in so far as not already in force) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 14(3)**, 43(1) (with s. 41(1)); S.S.I. 2012/116, art. 2(a)(ii); S.S.I. 2012/175, art. 2(1)(a) (with art. 3(3))

[F73 14A Prohibition on sale etc. of [F74 invasive] animals or plants

[F75 (1) This section applies to—

(a) any type of invasive animal; or

(b) any type of invasive plant,

the Scottish Ministers, by order, specify.**]**

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

(a) sells, offers or exposes for sale or has in the person's possession or transports for the purpose of sale any animal or plant to which this section applies; or

(b) publishes or causes to be published any advertisement likely to be understood as conveying that the person buys or sells, or intends to buy or sell, any such animal or plant,

is guilty of an offence.

[[F76](3) An order under subsection (1) may make different provision for different cases and, in particular, for—

(a) different types of invasive animal or invasive plant;

(b) different circumstances or purposes;

(c) different persons;

(d) different times of the year; and

(e) different areas or places.**]]**

Textual Amendments

F73 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**

F74 Word in s. 14A heading substituted (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 14(4)(a)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(a)

F75 S. 14A(1) substituted (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 14(4)(b)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(a)

F76 S. 14A(3) substituted (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 14(4)(c)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(a)

[[F77]14B Notification of presence of invasive animals or plants etc.

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

(a) invasive animals; or

(b) invasive plants,

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

(2) An order under subsection (1) may make provision for, or in connection with—

(a) the persons (or types of persons) who must make a notification;

(b) the circumstances in which a notification must be made;

(c) the times of the year when a notification must be made;

(d) the persons to whom a notification must be made;

(e) the form and method of any notification; and

(f) the period within which any notification must be made.

(3) An order under subsection (1) may require a person (or type of person) to make a notification only if the Scottish Ministers consider that the person (or that type of person) has or should have knowledge of, or is likely to encounter, the invasive animal or invasive plant to which the order relates.

(4) An order under subsection (1) may make different provision for different cases and, in particular, for—
- (a) different types of invasive animal or invasive plant;
- (b) different circumstances or purposes;
- (c) different persons;
- (d) different times of the year; and
- (e) different areas or places.

(5) A person who, without reasonable excuse, fails to make a notification in accordance with the requirements of an order made under subsection (1) is guilty of an offence.**]**

Textual Amendments

F77 S. 14B substituted (S.) (1.5.2012 for specified purposes, 2.7.2012 in so far as not already in force) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 14(5)**, 43(1) (with s. 41(1)); S.S.I. 2012/116, art. 2(a)(iii); S.S.I. 2012/175, art. 2(1)(a) (with art. 3(3))

[F78 14C Non-native species etc.: code of practice

(1) The Scottish Ministers may make a code of practice for the purpose of providing practical guidance in respect of—
- (a) the application of any of sections 14, 14ZC, 14A and 14B;
- (b) the application of any order made under any of those sections;
- (c) species control agreements;
- (d) species control orders;
- (e) licences granted under section 16(4)(c).

(2) A code of practice may, in particular, provide guidance on—
- (a) how Scottish Natural Heritage, the Scottish Environment Protection Agency, the Forestry Commissioners and the Scottish Ministers should co-ordinate the way in which they exercise their respective functions in relation to animals or plants which are outwith their native range;
- (b) which species, sub-species, varieties or races of animal or plant, or hybrids of animals or plants, are considered to be particular types of animals or plants for the purposes of—
  - (i) this section;
  - (ii) section 14, 14ZC, 14A or 14B;
  - (iii) any order made under any of those sections;
  - (iv) species control agreements;
  - (v) species control orders;
  - (vi) the code;
- (c) the native range of any type of animal or plant;
- (d) the circumstances in which any type of animal is considered to be—
  - (i) in captivity; or
  - (ii) under the control or otherwise of a person at a place outwith its native range;

Status: *Point in time view as at 01/04/2013.*
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 02 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)*

(e) the circumstances in which a type of plant is considered to be growing in the wild outwith its native range, and conduct that would cause any type of plant to grow in the wild;

(f) the circumstances in which a type of invasive animal or plant is considered to be kept in a person's possession or under a person's control;

(g) which types of animals or plants are invasive and the circumstances (if any) in which any such type of animal or plant is not considered to be invasive;

(h) best practice (where permitted) for—

(i) keeping animals of any type which are invasive or which are kept at a place from which they may not be put outwith the control of any person;

(ii) keeping plants of any type which are invasive or which are kept at a place outwith their native range;

(iii) releasing animals of any type from captivity; and

(iv) planting, or otherwise causing to grow, any type of plant in the wild;

(i) best practice for—

(i) containing, capturing or killing animals of any type which are outwith the control of any person and which are—

(A) at a place outwith their native range; or

(B) animals of a type specified in an order made under section 14(1)(a)(ii);

(ii) containing, uprooting or destroying plants of any type which are growing in the wild outwith their native range; and

(iii) transferring animals or plants of any type which are not permitted to be kept by virtue of section 14ZC into the custody of Scottish Natural Heritage or any other person (and for keeping such animals or plants prior to the transfer);

(j) the making and content of species control agreements;

(k) the making, content of and enforcement of species control orders.

(3) The Scottish Ministers may revoke, replace or revise a code of practice.

(4) The first code of practice, and any replacement code of practice, made under this section—

(a) requires to be laid before, and approved by resolution of, the Scottish Parliament; and

(b) comes into effect on such date after approval under paragraph (a) as is specified in the code.

(5) Any revision to a code of practice (or revocation of a code of practice which is not being replaced) must—

(a) be laid before the Scottish Parliament; and

(b) specify the date on which it is to come into effect (such date to be at least 40 days after it is so laid, disregarding any period during which the Parliament is dissolved or in recess).

(6) The Scottish Parliament may, before any such revision or revocation comes into effect, resolve that it is not to come into effect.

(7) The Scottish Ministers must publish a code of practice (or any replacement or revision) made under this section no later than the day before the code (or replacement or revision) is to come into effect.

(8) Before making, revoking, replacing or revising a code of practice, the Scottish Ministers must consult—
- (a) Scottish Natural Heritage; and
- (b) any other person appearing to them to have an interest in the code.

(9) A person's failure to comply with a provision of a code of practice—
- (a) does not of itself render the person liable to proceedings of any sort; but
- (b) may be taken into account in determining any question in any such proceedings.

(10) In any proceedings for an offence under section 14, 14ZC, 14A, 14B or 14K—
- (a) failure to comply with a relevant provision of a code of practice may be relied upon as tending to establish liability;
- (b) compliance with a relevant provision of a code of practice may be relied upon as tending to negative liability.**]**

Textual Amendments

F78 S. 14C inserted (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 15**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(d)

[[F79]14D Power to make species control orders

(1) A relevant body may make an order (a "species control order") in respect of premises where—
- (a) it is satisfied of the presence on the premises of—
  - (i) an invasive animal at a place outwith its native range; or
  - (ii) an invasive plant at a place outwith its native range; and
- (b) any of subsections (2) to (4) applies.

(2) This subsection applies where—
- (a) the relevant body has offered to enter into an agreement with the owner or, as the case may be, occupier of the premises to control or eradicate—
  - (i) invasive animals outwith their native range; or
  - (ii) invasive plants outwith their native range,

  on the premises (referred to in this section as a "species control agreement");
- (b) 42 days have elapsed since the date of the offer; and
- (c) the owner or occupier has refused or otherwise failed to enter into the agreement.

(3) This subsection applies where—
- (a) a person has entered into a species control agreement with the relevant body; and
- (b) the person has failed to comply with the terms of the agreement.

(4) This subsection applies where the relevant body has failed to ascertain the name or address of any owner or occupier of the premises (having made reasonable efforts to do so) and accordingly has not been able to offer to enter into a species control agreement.

(5) Subsection (4) does not apply unless—

(a) the relevant body has given notice in accordance with subsection (6) stating that it wishes to offer to enter into a species control agreement;

(b) 48 hours have passed since the notice was given; and

(c) no owner or occupier of the premises has identified themselves to the relevant body.

(6) A notice under this subsection must be addressed to "The owners and any occupiers" of the premises (describing it) and a copy of it must be affixed to some conspicuous object on the premises (in so doing the relevant body is to be treated as having provided notice to each owner or occupier whose name and address is unknown).

Textual Amendments

F79 Ss. 14D-14P inserted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 16**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(b)

14E Emergency species control orders

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

(2) An emergency species control order expires 49 days after it is made.

Textual Amendments

F79 Ss. 14D-14P inserted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 16**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(b)

14F Content of species control orders

(1) A species control order must—

(a) describe the premises to which it relates;

(b) be accompanied by a map on which the premises to which it relates are delineated;

(c) specify the type of invasive animal or plant in question;

(d) specify—

(i) any operations which are to be carried out on the premises for the purpose of controlling or eradicating the type of invasive animal or plant in question;

(ii) the person who is to carry out the operations; and

(iii) how and when the operations are to be carried out;

(e) specify any operations which must not be carried out on the premises (referred to in this Part as "excluded operations");

(f) specify the date on which the order is to come into effect and the period for which it is to have effect; and

(g) set out the circumstances in which an appeal may be made under section 14H against either the decision to make the order or the terms of the order.

(2) A species control order—

(a) may provide for the making of payments by the relevant body making the order;

(b) other than an emergency species control order, may provide for the making of payments by the owner or occupier of the premises to which the order relates,

to any person in respect of reasonable costs incurred by a person carrying out an operation under the order.

Textual Amendments

F79 Ss. 14D-14P inserted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 16**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(b)

14G Notice of species control orders

(1) A relevant body making a species control order must give notice of the making of the order—

(a) to the owner and any occupier of the premises to which the order relates; and

(b) where the relevant body is a body other than the Scottish Ministers, to the Scottish Ministers.

(2) Notice must—

(a) be in writing;

(b) specify the relevant body's reasons for making the order;

(c) attach a copy of the order; and

(d) where the order is an emergency species control order, state that fact.

Textual Amendments

F79 Ss. 14D-14P inserted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 16**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(b)

14H Appeals in connection with species control orders

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

(a) a decision of a relevant body to make the species control order; or

(b) the terms of such an order.

(2) An appeal under subsection (1) must be lodged not later than 28 days after the date on which the relevant body gave notice to the appellant of the decision being appealed.

(3) The sheriff may suspend any effect of an emergency species control order pending the determination of an appeal.

(4) The sheriff must determine an appeal under subsection (1) on the merits rather than by way of review and may do so by—
- (a) affirming the order in question;
- (b) directing the relevant body to amend the order in such manner as the sheriff may specify;
- (c) directing the relevant body to revoke the order; or
- (d) making such other order as the sheriff thinks fit.

(5) A decision of the sheriff on appeal is final except on a point of law.

Textual Amendments

F79 Ss. 14D-14P inserted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 16**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(b)

14I Coming into effect of species control orders

Unless a species control order specifies a later date under section 14F(1)(f), such an order has effect from—
- (a) in the case where an order is an emergency species control order, the giving of notice in accordance with section 14G;
- (b) in any other case—
  - (i) the expiry of the time limit for appealing against the decision to make the order; or
  - (ii) where such an appeal is made, its withdrawal or final determination.

Textual Amendments

F79 Ss. 14D-14P inserted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 16**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(b)

14J Review of species control orders

(1) A relevant body which has made a species control order may, when it thinks fit, review the order prior to its expiry for the purposes of determining whether it should make an order revoking the order.

(2) If, on completion of a review, the relevant body decides that the species control order should be revoked, it may make an order to that effect.

(3) The making of an order to revoke a species control order does not prevent a relevant body subsequently making a species control order in relation to the same premises.

Textual Amendments

F79 Ss. 14D-14P inserted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 16**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(b)

14K Offences in relation to species control orders

(1) Any person who, without reasonable excuse, fails to carry out, in the manner required by a species control order, an operation which the person is required by the order to carry out is guilty of an offence.

(2) Any person who intentionally obstructs any person from carrying out an operation required to be carried out under a species control order is guilty of an offence.

(3) Any person who, without reasonable excuse, carries out, or causes or permits to be carried out, any excluded operation is guilty of an offence.

Textual Amendments

F79 Ss. 14D-14P inserted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 16**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(b)

14L Enforcement of operations under species control orders

(1) This section applies where a relevant body considers—

(a) that any operation required to be carried out by a species control order it has made has not been carried out within the period or by the date specified in it; or

(b) that any such operation has been carried out otherwise than in the manner required under the order.

(2) The relevant body—

(a) may carry out the operation, or such further work as is necessary to ensure that it is carried out, in the manner required under the order;

(b) is not required to make any payment (and may recover any payments made) in pursuance of the species control order in relation to the operation in question; and

(c) may recover from the person whom the species control order required to carry out the operation any expenses reasonably incurred by it in doing so (less any payment which the relevant body is required to make in relation to the carrying out of the operation under the order by virtue of section 14F(2)(a)).

Textual Amendments

F79 Ss. 14D-14P inserted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 16**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(b)

14M Species control orders: powers of entry

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

(a) to determine whether or not to offer to enter into a species control agreement with the owner or, as the case may be, occupier of the premises;
(b) to determine whether or not to make or revoke a species control order;
(c) to serve notice to an owner or occupier of premises in accordance with section 14D(5)(a) or 14G;
(d) to ascertain whether an offence under section 14K is being, or has been, committed in relation to an order made by the relevant body;
(e) to carry out an operation or other work in pursuance of section 14L(2)(a).

(2) A person so authorised to enter premises may not demand admission as of right to any land which is occupied unless—
(a) the entry is for a purpose mentioned in subsection (1)(a) or (b) and at least 24 hours' notice of the intended entry has been given;
(b) the entry is for a purpose mentioned in subsection (1)(c) or (d); or
(c) the entry is for a purpose mentioned in subsection (1)(e) and at least 14 days' notice of the intended entry has been given.

(3) Subsection (2) does not apply in relation to entry in connection with an emergency species control order.

(4) Nothing in this section authorises any person to break any lock barring access to premises which the person is authorised to enter.

Textual Amendments

F79 Ss. 14D-14P inserted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 16**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(b)

14N Species control orders: entry by warrant etc.

(1) If a sheriff or justice of the peace is satisfied, by evidence on oath, that there are reasonable grounds for a person authorised by a relevant body to enter premises for a purpose mentioned in section 14M(1) and that—
(a) admission to the premises has been refused;
(b) such refusal is reasonably apprehended;
(c) the premises are unoccupied;
(d) the occupier is temporarily absent from the premises;
(e) the giving of notice under section 14M(2) would defeat the object of the proposed entry; or
(f) the situation is one of urgency,

the sheriff or justice may grant a warrant authorising the person to enter premises (including lockfast places), if necessary using reasonable force.

(2) In the cases of a warrant under subsection (1)(a) to (d), a sheriff or justice must not grant a warrant unless satisfied that notice of the intended entry has been given in the manner described in section 14M.

(3) A warrant under this section—
(a) may be executed without notice; and
(b) continues in force until the purpose for which the entry is required has been satisfied or, if earlier, the expiry of such period as the warrant may specify.

(4) Any person authorised by a warrant to enter any premises must, if required to do so by the owner or occupier or anyone acting on the owner or occupier's behalf, show that person the warrant.

(5) Any person authorised by a warrant to use reasonable force—
  (a) must be accompanied by a constable when doing so; and
  (b) may not use force against an individual.

Textual Amendments

F79 Ss. 14D-14P inserted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 16**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(b)

14O Species control orders: powers of entry: supplemental

(1) Any person who exercises a power of entry to premises in accordance with section 14M or 14N may—
  (a) be accompanied by any other person; and
  (b) take any machinery, other equipment or materials on to the premises,

for the purpose of assisting the person in the exercise of that power.

(2) A power specified in subsection (1) which is exercisable under a warrant is subject to the terms of the warrant.

(3) Any person leaving any premises which have been entered in exercise of a power conferred by section 14M or a warrant granted under section 14N, being either unoccupied premises or premises from which the occupier is temporarily absent, must leave the premises as effectively secured against unauthorised entry as the person found the premises.

(4) A relevant body must compensate any person who has sustained damage by reason of—
  (a) the exercise by a person authorised by the relevant body of any powers of entry conferred on the person by section 14M or a warrant granted under section 14N; or
  (b) the failure of a person so authorised to perform the duty imposed by subsection (3),

unless the damage is attributable to the fault of the person who sustained it.

(5) Any dispute as to a person's entitlement to compensation, or to the amount of such compensation, is to be determined by arbitration.

Textual Amendments

F79 Ss. 14D-14P inserted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 16**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(b)

14P Interpretation of sections 14 to 14O

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

(2) Any reference to the native range of an animal or plant, or a type of animal or plant, is a reference to the locality to which the animal or plant of that type is indigenous, and does not refer to any locality to which that type of animal or plant has been imported (whether intentionally or otherwise) by any person.

(3) The native range of a hybrid animal or plant is any locality within the native range of both parents of the hybrid animal or plant.

(4) Any reference to an invasive animal or invasive plant, or type of such an animal or plant, is a reference to an animal or plant of a type which if not under the control of any person, would be likely to have a significant adverse impact on—
- (a) biodiversity;
- (b) other environmental interests; or
- (c) social or economic interests.

(5) Any reference to premises—
- (a) includes reference to land (including lockfast places and other buildings), movable structures, vehicles, vessels, aircraft and other means of transport; but
- (b) does not include reference to dwellings.

(6) Any reference to a relevant body is a reference to—
- (a) the Scottish Ministers;
- (b) Scottish Natural Heritage;
- (c) the Scottish Environment Protection Agency; or
- (d) the Forestry Commissioners.

(7) Any reference to an animal includes a reference to ova, semen and milt of the animal.

(8) "Plant" includes fungi and any reference to a plant includes a reference to—
- (a) bulbs, corms and rhizomes of the plant; and
- (b) notwithstanding section 27(3ZA), seeds and spores of the plant.**]**

Textual Amendments

F79 Ss. 14D-14P inserted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 16**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(b)

15 Endangered species (import and export).

[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 **[**[F80]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

F80 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.

[F81 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.

F82 **[** Subject to the provisions of this Part, any person who knowingly causes or permits to (2A) be done an act which is made unlawful by subsection (1) shall be guilty of an offence.**]**

(3) In this section—

"pesticide" has the meaning given in the Food and Environment Protection Act 1985 (c. 48), and

"prescribed active ingredient" means an ingredient of a pesticide which fits it for use as such and which is of a type prescribed by order made by the Scottish Ministers.**]**

Textual Amendments

F81 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**

F82 S. 15A(2A) inserted (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 21(4)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(e)

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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 02 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)*

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—

[[F83](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;

[[F84](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 **[**[F85], fisheries or inland waters**]**,

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

[[F86](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.

[F87][F88](3) Sections 9(1), (2) **[**[F89], (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);

[F90](b) sections 9(5) and 13(2); and

(c) **[**[F91]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 **[**[F92]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.

[[F93](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 **[**[F94](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.

[[F95](8A) In this section, in the case of a licence under any of subsections (1) to (4), so far as relating to the restricted English inshore region (see subsection (12)), "the appropriate authority" means the Marine Management Organisation.**]**

[[F96](8C) In this section, in the case of a licence under any of subsections (1) to (4), so far as relating to Wales, "the appropriate authority" means the Natural Resources Body for Wales.**]**

(9) **[**[F97]Except as provided by **[**[F98]subsections (8A) and (8C)**],]** In this section "the appropriate authority" means—

(a) in the case of a licence under **[**[F99]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 **[**[F100]relevant**][**[F101]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 **[**[F100]relevant**][**[F101]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.

[[F102](9A) In this section "re-population" and "re-introduction", in relation to wild birds, have the same meaning as in **[**[F103]the Wild Birds Directive**].]**

(10) The agriculture Minister—

(a) shall from time to time consult with **[**[F104]each of the **[**[F105]GB conservation bodies**]]** as to the exercise **[**[F106]in the area of that **[**[F107]body**]]** of his functions under this section; and

(b) shall not grant a licence of any description unless he has been advised by the **[**[F108]relevant **[**[F101]conservation body**]]** as to the circumstances in which, in their opinion, licences of that description should be granted.

[[F109](11) For the purposes of this section a reference to a relevant Nature Conservancy Council is a reference to the **[**[F101]conservation body**]** for the area in which it is proposed to carry on the activity requiring a licence.**]**

[[F110](12) In this section—

(a) "the restricted English inshore region" means so much of the English inshore region as lies to seaward of mean low water mark;

(b) "the English inshore region" has the meaning given by section 322 of the Marine and Coastal Access Act 2009.

[[F111](c) "Wales" has the meaning given by section 158 of the Government of Wales Act 2006.**]]**

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

F83 S. 16(1)(a) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(2)(a)**

F84 S. 16(1)(ca)(cb) inserted (30.11.1995) by S.I. 1995/2825, **reg. 3(2)(b)**

F85 Words in s. 16(2)(k) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(2)(c)**

F86 S. 16(1A) inserted (30.11.1995) by S.I. 1995/2825, **reg. 3(3)**

F87 Word in s. 16(3) inserted (S.) (29.6.2011 for specified purposes, 1.1.2012 in so far as not already in force) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 9(a)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(g); S.S.I. 2011/433, art. 2(1)(b)

F88 Word in s. 16(3) inserted (S.) (29.6.2011 for specified purposes, 1.1.2012 in so far as not already in force) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 9(a)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(g); S.S.I. 2011/433, art. 2(1)(b)

F89 Words in s. 16(3) substituted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), **Sch. 12 para. 6**

F90 Word in s. 16(4)(b) inserted (S.) (29.6.2011 for specified purposes, 1.1.2012 in so far as not already in force) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 9(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(g); S.S.I. 2011/433, art. 2(1)(b)

F91 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**

F92 Words in s. 16(5) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(4)**

F93 S. 16(5A) inserted (30.11.1995) by S.I. 1995/2825, **reg. 3(5)**

F94 Words in s. 16(6) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(6)**

F95 S. 16(8A) inserted (1.4.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 10(2)(5)**, 324(3); S.I. 2010/298, **art. 2**, Sch. Pt. 1 para. 2

F96 S. 16(8C) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 170(2)** (with Sch. 7)

F97 Words in s. 16(9) inserted (1.4.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 10(3)(5)**, 324(3); S.I. 2010/298, **art. 2**, Sch. Pt. 1 para. 2

F98 Words in s. 16(9) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 170(3)** (with Sch. 7)

F99 Words in s. 16(9)(a) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(7)**

F100 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**

F101 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**

F102 S. 16(9A) inserted (30.11.1995) by S.I. 1995/2825, **reg. 3(8)**

F103 Words in s. 16(9A) substituted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, & c.) (Amendment) Regulations 2007 (S.I. 2007/1843), **reg. 7(5)**

F104 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**

F105 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**

F106 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**

F107 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**

F108 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**

F109 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**

F110 S. 16(12) inserted (1.4.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 10(4)(5)**, 324(3); S.I. 2010/298, **art. 2**, Sch. Pt. 1 para. 2

F111 S. 16(12)(c) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 170(4)** (with Sch. 7)

Modifications etc. (not altering text)

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

Marginal Citations

M10 1911 c. 27.

M11 1912 c. 14.

16 Power to grant licences. S

(1) Sections 1, 5, 6(3), 7 and 8 [F292]... do not apply to anything done—

[[F293](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;

[[F294](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 [[F295], fisheries or inland waters],

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

[[F296](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 [[F297]does] not apply to anything done for the purpose of providing food for human consumption in relation to—

(a) a gannet on the island of Sula Sgeir; or

(b) a gull's egg [F298]. . . ,

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

(3) Sections 9(1), (2) **[**[F299], (4) and (4A)**]**, **[**[F88]10A(1),**]** 11(1) **[**[F300], (2) and (3C)(a)**]**[[F301], 11C**]**[[F87], 11G(1)**]** and 13(1) do not apply to anything done—

(a) for scientific **[**[F302], 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 **[**[F303]wild birds,**]** wild animals or wild plants or introducing them to particular areas;

[[F304](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; [F305]...

(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 **[**[F306]; or

(i) for any other social, economic or environmental purpose,**]**

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

[[F307](3A) The appropriate authority shall not grant a licence under subsection (3)(i) unless it is satisfied—

(a) that undertaking the conduct authorised by the licence will give rise to, or contribute towards the achievement of, a significant social, economic or environmental benefit; and

(b) that there is no other satisfactory solution.**]**

(4) The following provisions, namely—

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

(b) sections 9(5) **[**[F90], 11I(1)**]** and 13(2); and

(c) **[**[F308]sections 14 **[**[F309], 14ZC**]** and 14A**]**,

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

[[F310](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 **[**[F311]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.

[[F312](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 **[**[F313](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 [M18]Protection of Animals Act 1911 or section 7(b) of the [M19]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.

[[F95](8A) In this section, in the case of a licence under any of subsections (1) to (4), so far as relating to the restricted English inshore region (see subsection (12)), "the appropriate authority" means the Marine Management Organisation.**]**

[F314]**[**[F315](8B) . . . . . .**]**

[[F316](9) In this section "the appropriate authority" means the Scottish Ministers or such other person to whom the Scottish Ministers delegate power under section 16A.

(9ZA) The Scottish Ministers must consult Scottish Natural Heritage before granting or modifying a licence under any of subsections (1) to (5).

(9ZB) Subsection (9ZA) does not apply in relation to licences granted under—

(a) paragraph (i), (j) or (k) of subsection (1);

(b) paragraph (f), (g) or (h) of subsection (3); or

(c) paragraph (c) of subsection (4).**]**

[[F317](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 **[**[F318]each of the **[**[F319]GB conservation bodies**]]** as to the exercise **[**[F320]in the area of that **[**[F321]body**]]** of his functions under this section; and

(b) shall not grant a licence of any description unless he has been advised by the **[**[F322]relevant **[**[F323]conservation body**]]** as to the circumstances in which, in their opinion, licences of that description should be granted.

[[F324](11) For the purposes of this section a reference to a relevant Nature Conservancy Council is a reference to the **[**[F323]conservation body**]** for the area in which it is proposed to carry on the activity requiring a licence.**]**

[[F110](12) In this section—

(a) "the restricted English inshore region" means so much of the English inshore region as lies to seaward of mean low water mark;

(b) "the English inshore region" has the meaning given by section 322 of the Marine and Coastal Access Act 2009.

[[F111](c) "Wales" has the meaning given by section 158 of the Government of Wales Act 2006.**]]**

[F325]**[**[F326](13) . . . . . .**]**

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

F87 Word in s. 16(3) inserted (S.) (29.6.2011 for specified purposes, 1.1.2012 in so far as not already in force) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 9(a)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(g); S.S.I. 2011/433, art. 2(1)(b)

F88 Word in s. 16(3) inserted (S.) (29.6.2011 for specified purposes, 1.1.2012 in so far as not already in force) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 9(a)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(g); S.S.I. 2011/433, art. 2(1)(b)

F90 Word in s. 16(4)(b) inserted (S.) (29.6.2011 for specified purposes, 1.1.2012 in so far as not already in force) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 9(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(g); S.S.I. 2011/433, art. 2(1)(b)

F95 S. 16(8A) inserted (1.4.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 10(2)(5)**, 324(3); S.I. 2010/298, **art. 2**, Sch. Pt. 1 para. 2

F110 S. 16(12) inserted (1.4.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 10(4)(5)**, 324(3); S.I. 2010/298, **art. 2**, Sch. Pt. 1 para. 2

F111 S. 16(12)(c) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 170(4)** (with Sch. 7)

F292 Words in s. 16(1) repealed (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 4(4)(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(a)

F293 S. 16(1)(a) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(2)(a)**

F294 S. 16(1)(ca)(cb) inserted (30.11.1995) by S.I. 1995/2825, **reg. 3(2)(b)**

F295 Words in s. 16(2)(k) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(2)(c)**

F296 S. 16(1A) inserted (30.11.1995) by S.I. 1995/2825, **reg. 3(3)**

F297 Word in s. 16(2) substituted (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 4(4)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(a)

F298 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**

F299 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**

F300 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**

F301 Word in s. 16(3) inserted (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 13(4)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(c)(iii)

F302 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**

F303 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**

F304 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**

F305 Word in s. 16(3) repealed (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 18(2)(a)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(j)

F306 S. 16(3)(i) and word inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 18(2)(a)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(j)

F307 S. 16(3A) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 18(2)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(j)

F308 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**

F309 Word in s. 16(4)(c) inserted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 17(2)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(c) (with art. 3(3)(4))

F310 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**

F311 Words in s. 16(5) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(4)**

F312 S. 16(5A) inserted (30.11.1995) by S.I. 1995/2825, **reg. 3(5)**

F313 Words in s. 16(6) substituted (30.11.1995) by S.I. 1995/2825, **reg. 3(6)**

F314 S. 16(8B) repealed (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 18(2)(c)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(j)

F315 S. 16(8B) inserted (S.) (1.7.2010) by Marine (Scotland) Act 2010 (asp 5), **ss. 104(2)**, 168(1) (with s. 162); S.S.I. 2010/230, **art. 2(b)**

F316 S. 16(9)-(9ZB) substituted for s. 16(9)-(9ZC) (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 18(2)(d)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(j)

F317 S. 16(9A) inserted (30.11.1995) by S.I. 1995/2825, **reg. 3(8)**

F318 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**

F319 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**

F320 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**

F321 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**

F322 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**

F323 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**

F324 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**

F325 S. 16(13) repealed (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 18(2)(e)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(j)

F326 S. 16(13) inserted (S.) (1.7.2010) by Marine (Scotland) Act 2010 (asp 5), **ss. 104(5)**, 168(1) (with s. 162); S.S.I. 2010/230, **art. 2(b)**

Modifications etc. (not altering text)

C15 S. 16: Functions transferred (W.) (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

Marginal Citations

M18 1911 c. 27.

M19 1912 c. 14.

[F112 16A Delegation of licence-granting power: Scotland

(1) The Scottish Ministers may delegate their functions in relation to licences under section 16 to—

(a) Scottish Natural Heritage; or

(b) a local authority.

(2) But a function may be delegated to a local authority only in so far as it relates to—

(a) the development of land within the meaning of section 26(1) of the Town and Country Planning (Scotland) Act 1997 (c. 8); or

(b) the demolition of buildings within the meaning of section 55 of the Building (Scotland) Act 2003 (asp 8).

(3) A delegation may be, to any degree, general or specific and may in particular relate to—

(a) a particular type of bird, other animal or plant;

(b) a particular licence or type of licence;

(c) a particular area.

(4) Unless it specifies otherwise, a delegation relating to a particular type of licence includes the power to modify or revoke licences of that type that were granted before the delegation.

(5) A delegation to—

(a) Scottish Natural Heritage under subsection (1)(a) is to be made by written direction;

(b) a local authority under subsection (1)(b) is to be made by order.

(6) A local authority which is delegated a function under subsection (1)(b) must, before granting or modifying a licence, consult Scottish Natural Heritage.

(7) The Scottish Ministers may modify or revoke a direction under subsection (5)(a).

(8) Where a direction or order under subsection (5) is revoked, any existing licence granted under the direction or order continues to have effect (unless the revoking direction or order provides otherwise).**]**

Textual Amendments

F112 S. 16A inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 18(3)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(j)

17 False statements made for obtaining registration[F113, identification number] or licence etc.

A person who, for the purposes of obtaining, whether for himself or another, a registration in accordance with regulations made under section **[**F114 6(2) or**]** 7(1)**[**F115,

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

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

(b) recklessly makes a statement or representation, or furnishes a document or information, which is false in a material particular,

shall be guilty of an offence.

Textual Amendments

F113 Words in s. 17 heading inserted (S.) (22.11.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 13(5)(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(3A)(b) (as inserted by S.S.I. 2012/281, art. 2(2))

F114 Words in s. 17 repealed (E.W.) (30.1.2001) by 2000 c. 37, ss. 102, 103(2), **Sch. 16 Pt. IV**

F115 Words in s. 17 inserted (S.) (22.11.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 13(5)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(3A)(b) (as inserted by S.S.I. 2012/281, art. 2(2))

18 Attempts to commit offences etc.

(1) Any person who attempts to commit an offence under the foregoing provisions of this Part shall be guilty of an offence and shall be punishable in like manner as for the said offence.

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

[F116 18A Wildlife inspectors E+W

(1) In this Part, "wildlife inspector" means a person authorised in writing under this section by—

(a) the Secretary of State (in relation to England), or

(b) the National Assembly for Wales (in relation to Wales).

(2) An authorisation under subsection (1) is subject to any conditions or limitations specified in it.

(3) A wildlife inspector must, if required to do so, produce evidence of his authority before entering any premises under section 18B or 18D.

(4) A wildlife inspector entering premises under either of those sections may take with him a veterinary surgeon if he has reasonable grounds for believing that such a person will be needed for the exercise of powers under section 18C or 18E.**]**

Extent Information

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

Textual Amendments

F116 Ss. 18A-18F inserted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, **Sch. 5 para. 1**; S.I. 2006/1382, **art. 2**

Modifications etc. (not altering text)

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

[F327 18A Vicarious liability for certain offences by employee or agent S

(1) This subsection applies where, on or in relation to any land, a person (A) commits a relevant offence while acting as the employee or agent of a person (B) who—
  (a) has a legal right to kill or take a wild bird on or over that land; or
  (b) manages or controls the exercise of any such right.

(2) Where subsection (1) applies, B is also guilty of the offence and liable to be proceeded against and punished accordingly.

(3) In any proceedings under subsection (2), it is a defence for B to show—
  (a) that B did not know that the offence was being committed by A; and
  (b) that B took all reasonable steps and exercised all due diligence to prevent the offence being committed.

(4) Proceedings may be taken against B in respect of the offence whether or not proceedings are also taken against A.

(5) For the purposes of subsection (1)(b), management or control of the exercise of a right to kill or take any wild bird on or over land includes in particular management or control of any of the following—
  (a) the operation or activity of killing or taking any such birds on or over that land;
  (b) the habitat of any such birds on that land;
  (c) the presence on or over that land of predators of any such birds;
  (d) the release of birds from captivity for the purpose of their being killed or taken on or over that land.

(6) In this section and section 18B, "a relevant offence" is—
  (a) an offence under—
    (i) section 1(1), (5) or (5B);
    (ii) section 5(1)(a) or (b); or
    (iii) section 15A(1); and
  (b) an offence under section 18 committed in relation to any of the offences mentioned in paragraph (a).]

Extent Information

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

Textual Amendments

F327 Ss. 18A, 18B inserted (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 24**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(e)

[F116 18B Group 1 offences and licences: power to enter premises E+W

(1) A wildlife inspector may, at any reasonable time, enter and inspect any premises—

(a) for the purpose of ascertaining whether a Group 1 offence is being or has been committed;

(b) for the purpose of—

(i) verifying any statement or representation made, or document or information supplied, by an occupier in connection with an application for, or the holding of, a Group 1 licence, or

(ii) ascertaining whether any condition to which a Group 1 licence was subject has been complied with.

(2) In this Part—

"Group 1 offence" means an offence under section 1, 5, 9(1), (2) or (4), 11, 13(1) or 14ZA, and

"Group 1 licence" means a licence authorising anything which would otherwise be a Group 1 offence.

(3) Nothing in this section confers power to enter a dwelling.**]**

Extent Information

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

Textual Amendments

F116 Ss. 18A-18F inserted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, **Sch. 5 para. 1**; S.I. 2006/1382, **art. 2**

Modifications etc. (not altering text)

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

[F327 18B Liability where securing services through another S

(1) This subsection applies where, on or in relation to any land—

(a) a person (A) commits a relevant offence;

(b) at the time the offence is committed, A is providing relevant services for a person (B); and

(c) B—

(i) has a legal right to kill or take a wild bird on or over that land; or

(ii) manages or controls the exercise of any such right.

(2) Where subsection (1) applies, B is also guilty of the offence and liable to be proceeded against and punished accordingly.

(3) In any proceedings under subsection (2), it is a defence for B to show—
- (a) that B did not know that the offence was being committed by A; and
- (b) that B took all reasonable steps and exercised all due diligence to prevent the offence being committed.

(4) Proceedings may be taken against B in respect of the offence whether or not proceedings are also taken against A.

(5) For the purposes of subsection (1)(b), A is providing "relevant services" for B—
- (a) if A manages or controls any of the following—
  - (i) the operation or activity of killing or taking any wild birds on or over that land;
  - (ii) the habitat of any such birds on that land;
  - (iii) the presence on or over that land of predators of any such birds;
  - (iv) the release of birds from captivity for the purpose of their being killed or taken on or over that land; and
- (b) whether A is providing the services—
  - (i) by arrangement between A and B; or
  - (ii) by arrangement with or as employee or agent of any other person (C) who is providing or securing the provision of relevant services for B.

(6) For the purposes of subsection (5)(b)(ii), C is providing or securing the provision of relevant services for B if C manages or controls any of the things mentioned in sub-paragraphs (i) to (iv) of subsection (5)(a).**]**

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

F327 Ss. 18A, 18B inserted (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 24**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(e)

[F116 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

F116 Ss. 18A-18F inserted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, **Sch. 5 para. 1**; S.I. 2006/1382, **art. 2**

Modifications etc. (not altering text)

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

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

(1) A wildlife inspector may, at any reasonable time, enter and inspect any premises—
  (a) for the purpose of ascertaining whether an offence under section 6, 9(5) or 13(2) is being, or has been, committed on those premises;
  (b) where he has reasonable cause to believe that any birds included in Schedule 4 are kept, for the purpose of ascertaining whether an offence under section 7 is being, or has been, committed on those premises;
  (c) for the purpose of ascertaining whether an offence under section 14 is being, or has been, committed on those premises;
  (d) for the purpose of—
    (i) verifying any statement or representation made, or document or information supplied, by an occupier in connection with an application for, or the holding of, a Group 2 licence or a relevant registration, or
    (ii) ascertaining whether any condition to which a Group 2 licence was subject has been complied with.

(2) In this Part—

"Group 2 offence" means an offence under section 6, 7, 9(5), 13(2) or 14,

"Group 2 licence" means a licence authorising anything which would otherwise be a Group 2 offence, and

"relevant registration" means a registration in accordance with regulations under section 7(1).

(3) In subsection (1)—
  (a) paragraphs (a) and (b) do not confer power to enter a dwelling except for purposes connected with—
    (i) a Group 2 licence or a relevant registration held by an occupier of the dwelling, or
    (ii) an application by an occupier of the dwelling for a Group 2 licence or a relevant registration, and

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

Textual Amendments

F116 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

F116 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

F116 Ss. 18A-18F inserted (E.W.) (31.5.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 52, 107, **Sch. 5 para. 1**; S.I. 2006/1382, **art. 2**

Modifications etc. (not altering text)

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

19 Enforcement. E+W

(1) If a constable suspects with reasonable cause that any person is committing or has committed an offence under this Part, the constable may without warrant—

(a) stop and search that person if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found on that person;

(b) search or examine any thing which that person may then be using or have in his possession if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found on that thing;

(c) [F117] . . . . . .

(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 **[**[F118]or has committed**]** an offence under this Part, he may, for the purpose of exercising the powers conferred by subsection (1) **[**[F119]or arresting a person, in accordance with **[**[F120]section 24**]** of Police and Criminal Evidence Act 1984, for such an offence**]**, **[**[F121]enter any premises other than a dwelling**]**.

[[F122](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 **[**[F123]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 [F124]. . . 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

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

Textual Amendments

F117 S. 19(1)(c) repealed (E.W.) by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), **Sch. 7 Pt. I**

F118 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**

F119 Words inserted (E.W.) by Police and Criminal Evidence Act 1984 (c. 60, SIF 95), **Sch. 6 para. 25**

F120 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)**

F121 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**

F122 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**

F123 Words in s. 19(3) substituted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), **Sch. 12 para. 7**

F124 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)

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

19 Enforcement. S

(1) If a constable suspects with reasonable cause that any person is committing or has committed an offence under this Part, the constable may without warrant—

(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) **[**[F328]search for,**]** search or examine any thing which that person may then be using or **[**[F329]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 **[**[F330]in or**]** on that thing;

(c) arrest that person [F331]. . . ;

(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 **[**[F332]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 **[**[F333]dwelling or lockfast premises**]**.

(3) If a justice of the peace is satisfied by **[**[F334]evidence**]** on oath that there are reasonable grounds for suspecting that **[**[F335]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 **[**[F336]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.

[[F337](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

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

Textual Amendments

F328 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**

F329 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**

F330 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**

F331 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)**

F332 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**

F333 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**

F334 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**

F335 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)**

F336 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**

F337 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**

[F125 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 **[**F126 by section 19**]** is one in respect of which an offence under this Part is being or has been committed may require the taking from it of a sample.

(2) A constable who suspects with reasonable cause that an offence under this Part is being or has been committed in respect of any specimen (the relevant specimen) may require any person to make available for the taking of a sample any specimen (other than the relevant specimen) in that person's possession or control which—

(a) is alleged to be, or

(b) the constable suspects with reasonable cause to be,

a specimen a sample from which will tend to establish the identity or ancestry of the relevant specimen.

(3) Where a sample from a live bird or other animal is to be taken pursuant to a requirement under this section, any person who has possession or control of the specimen must give the person taking the sample such assistance as he may reasonably require for that purpose.

(4) "Specimen" and "sample" have the same meaning as in section 18C.

(5) This section is subject to section 18F (restrictions on taking samples).

Textual Amendments

F125 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**

F126 Words in s. 19XA(1) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148(1), 153(7), **Sch. 26 para. 7**; S.I. 2008/1586, **art. 2(1)(3)**, Sch. 1 para. 48(e) (subject to Sch. 2)

19XB Offences in connection with enforcement powers

(1) A person is guilty of an offence if he—

(a) intentionally obstructs a wildlife inspector acting in the exercise of powers conferred by section 18B(1) or 18C(2) or (7), or

(b) fails without reasonable excuse to give any assistance reasonably required under section 18C(6).

(2) A person is guilty of an offence if he—

(a) intentionally obstructs a wildlife inspector acting in the exercise of powers conferred by section 18D(1) or 18E(2), or

(b) fails without reasonable excuse to make available any specimen in accordance with a requirement under section 18E(1) or (3), or

(c) fails without reasonable excuse to give any assistance reasonably required under section 18E(4).

(3) A person is guilty of an offence if he—

(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

F125 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.

[F127] . . . . . .

Textual Amendments

F127 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.

[F128] . . . . . .

Textual Amendments

F128 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**

[[F129] 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) **[**[F130], 11I(1)**]** 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;

(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 **[**[F131], 14ZC, 14A, 14B or 14K**]** is being, or has been, committed on those premises;

(e) any premises for the purpose of **[**[F132]—

(i) verifying any statement or representation made, or document or information supplied, by an occupier in connection with an application for, or the holding of, a relevant registration or licence; or

(ii) ascertaining whether a condition to which a relevant registration or licence was subject to has been complied with.**]**

(4) In subsection (3)—

(a) paragraphs (a) to (c) do not confer power to enter a dwelling except for purposes connected with—

(i) a relevant registration or licence held by an occupier of the dwelling; or

(ii) an application by an occupier of the dwelling for a relevant registration or licence,

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

(5) A wildlife inspector may, for the purpose of ascertaining whether an offence under section 6, 7, 8(1), 9(5), **[**[F133]11I(1), 13(2), 14, 14ZC, 14A, 14B or 14K**]** is being, or has been, committed in respect of any specimen, require any person who has possession or control of the specimen to make it available for examination by the inspector.

(6) Any person who has possession or control of any live bird or other animal shall give any wildlife inspector acting in the exercise of powers conferred by this section such assistance as the inspector may reasonably require for the purpose of examining the bird or other animal.

(7) Any person who—

(a) intentionally obstructs a wildlife inspector acting in the exercise of powers conferred by subsection (3) or (5); or

(b) fails without reasonable excuse to give any assistance reasonably required under subsection (6),

shall be guilty of an offence.

(8) Any person who, with intent to deceive, falsely pretends to be a wildlife inspector shall be guilty of an offence.

(9) In this section—

"relevant registration or licence" means—

(a) a registration in accordance with regulations under section 7(1); or

(b) a licence under section 16 authorising anything which would otherwise be an offence under section 6, 7, 8(1), 9(5), **[**[F134]11I(1), 13(2), 14, 14ZC 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

F129 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**

F130 Word in s. 19ZC(3)(a) inserted (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 22(4)(a)(i)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(d)

F131 Words in s. 19ZC(3)(d) substituted (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 22(4)(a)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(d)

F132 Words in s. 19ZC(3)(e) substituted (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 22(4)(a)(iii)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(d)

F133 Words in s. 19ZC(5) substituted (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 22(4)(b)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(d)

F134 Words in s. 19ZC(9) substituted (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 22(4)(c)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(d)

Modifications etc. (not altering text)

C11 S. 19ZC applied (with modifications) (S.) (29.11.2004) by S.I. 1994/2716, reg. 101A(3) (as 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), **[**[F135]11I(1), 13(2), 14, 14ZC, 14A, 14B or 14K**]** is being or has been committed, require the taking of a sample of blood or tissue from a specimen found by the inspector in the exercise of powers conferred by section 19ZC(3)(a) to (d) in order to determine its origin, identity or ancestry.

(4) A wildlife inspector may, for the purpose of ascertaining whether an offence under section 6, 7, 9(5), **[**[F135]11I(1), 13(2), 14, 14ZC, 14A, 14B or 14K**]** is being or has been committed in respect of any specimen ("the relevant specimen"), require any person to make available for the taking of a sample of blood or tissue any specimen (other than the relevant specimen) in that person's possession or control which is alleged to be, or which the inspector suspects with reasonable cause to be, a specimen a sample from which will tend to establish the origin, identity or ancestry of the relevant specimen.

(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.

[F136(c) "tissue" means any type of biological material other than blood.**]]**

Textual Amendments

F129 Ss. 19ZC, 19ZD inserted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 17**; S.S.I. 2004/407, **art. 2**

F135 Words in s. 19ZD(3)(4) substituted (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 22(5)(a)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(d)

F136 S. 19ZD(10)(c) inserted (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 22(5)(b)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(d)

Modifications etc. (not altering text)

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

[F138 19A Evidence in Scotland [F137 in certain proceedings].

In any proceedings in Scotland for [F139 any of the following offences], the accused may be convicted on the evidence of one witness [F140 —

(a) an offence under section 1(1)(a) in relation to a grouse, partridge, pheasant or ptarmigan included in Part I of Schedule 2;

(b) an offence under section 1(1)(c);

(c) an offence under section 6(1) in relation to a grouse, partridge or pheasant included in Part IA of Schedule 3;

(d) an offence under section 6(2) in relation to a grouse, partridge, pheasant or ptarmigan included in Part IIA of that Schedule;

(e) an offence under section 10A(1), 11G(1) or 11I(1)].]

Textual Amendments

F137 Words in s. 19A substituted (29.6.2011 for specified purposes, 1.1.2012 in so far as not already in force) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 12(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(i); S.S.I. 2011/433, art. 2(1)(b)

F138 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**.

F139 Words in s. 19A substituted (29.6.2011 for specified purposes, 1.1.2012 in so far as not already in force) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 12(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(i); S.S.I. 2011/433, art. 2(1)(b)

F140 S. 19A(a)(e) inserted (29.6.2011 for specified purposes, 1.1.2012 in so far as not already in force) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 12(c)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(i); S.S.I. 2011/433, art. 2(1)(b)

20 [F141 Proceedings for summary offences]. E+W

F142 (1) . . . . . .

(2) [F143 Proceedings for a summary offence under this Part] may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge; but no such proceedings shall be brought by virtue of this section more than two years after the commission of the offence.

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

Extent Information

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

Textual Amendments

F141 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**

F142 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))

F143 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) [F338] . . . . . .

(2) Summary proceedings for an offence **[**[F339]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 **[**[F340]three**]** years after the commission of the offence **[**[F341]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

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

Textual Amendments

F338 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)**

F339 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)**

F340 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**

F341 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

[[F144](1) Subject to subsection (5), a person guilty of an offence under any of sections 1 to 13 or section 17 shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.**]**

(4) A person guilty of an offence under section 14 **[**[F145]or 14ZA**]** shall be liable—

(a) on summary conviction, **[**[F146]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, **[**[F146]to imprisonment for a term not exceeding two years or to a fine, or to both**]**.

[[F147](4A) [F148] . . . . . .

[F149](4AA) **[** Except in a case falling within subsection (4B) a person guilty of an offence under 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 **[**[F150]section 19XB(1)(a) or (2)(a)**]** in relation to a wildlife inspector **[**[F151]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 **[**[F152]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) [F153] . . . . . **]**

(5) Where an offence to which subsection (1) [F154]. . . 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 **[**[F155]or 14ZA**]**, any animal or plant which is of the same kind as that in respect of which the offence was committed and was found in his possession.

(7) Any offence under this Part shall, for the purpose of conferring jurisdiction, be deemed to have been committed in any place where the offender is found or to which he is first brought after the commission of the offence.

Extent Information

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

Textual Amendments

F144 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)**

F145 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**

F146 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)**

F147 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)**

F148 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**

F149 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**

F150 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**

F151 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**

F152 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**

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

F154 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**

F155 Words in s. 21(4)(6)(b) inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107, **Sch. 11 para. 73(1)**; S.I. 2006/2541, **art. 2**

Modifications etc. (not altering text)

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

21 Penalties, forfeitures etc. S

[[F342](1) Subject to subsection (5), a person guilty of an offence under any of sections 1 to 13 **[**[F343], 14B**][**[F344], 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) [F345]. . . . . .

(3) [F345]. . . . . .

(4) A person guilty of an offence under section 14 **[**[F346], 14ZC**][**[F347]or 14A**]** shall be liable—

[[F348](a) on summary conviction, to imprisonment for a term not exceeding **[**[F349]12**]** months or to a fine not exceeding the **[**[F350]£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.**]**

[[F351](4ZA) Any person guilty of an offence under section 14K is liable—

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

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

[[F352](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), [F353]. . . 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 **[**[F354], 14ZC, 14A, 14B or 14K**]**, any animal or plant which is of the same kind as that in respect of which the offence was committed and was found in his possession.

(7) Any offence under this Part shall, for the purpose of conferring jurisdiction, be deemed to have been committed in any place where the offender is found or to which he is first brought after the commission of the offence.

Extent Information

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

Textual Amendments

F342 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)**

F343 Word in s. 21(1) inserted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 17(3)(a)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(c)

F344 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**

F345 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)**

F346 Word in s. 21(4) inserted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 17(3)(b)(i)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(c)

F347 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**

F348 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)**

F349 Word in s. 21(4)(a) substituted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 17(3)(b)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(c)

F350 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**

F351 S. 21(4ZA) inserted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 17(3)(c)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(c)

F352 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**

F353 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)**

F354 Words in s. 21(6)(b) substituted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 17(3)(d)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(c)

22 Power to vary Schedules. E+W

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

add any bird to, or remove any bird from, any of or any Part of **[**[F156]Schedules ZA1 to 4**]**.

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

(3) The Secretary of State may, on a representation made **[**[F157]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

[F158] . . . . . .

[[F159](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

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

Textual Amendments

F156 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**

F157 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**

F158 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**

F159 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

[[F355](a)**]** add any bird to, or remove any bird from, any of or any Part of Schedules **[**[F356]A1**]** to 4.

[[F357](b) add any animal to, or remove any animal from, Schedule 5 **[**[F358], 5A, 6 or 6A**]**[F359]...;

(c) add any plant to, or remove any plant from, Schedule 8 [F360]....**]**

(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.

[[F361](2ZA) An order under subsection (1) adding any animal to Schedule 5A may prescribe a close season in the case of that animal for the purposes of section 10A.**]**

[[F362](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 **[**[F363]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

[F364] . . . . . .

[[F365](3A) The 2006 Act means the Natural Environment and Rural Communities Act 2006.**]**

(4) [F366] . . . . . .

(5) [F366] . . . . . .

Extent Information

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

Textual Amendments

F355 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**

F356 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**

F357 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**

F358 Words in s. 22(1)(b) substituted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 10(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(h)

F359 Words in s. 22(1)(b) repealed (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 17(4)(a)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(c)

F360 Words in s. 22(1)(c) repealed (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 17(4)(b)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(c)

F361 S. 22(2ZA) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 10(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(h)

F362 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**

F363 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**

F364 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**

F365 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**

F366 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 [F160Functions of GB conservation bodies] E+W

(1) The [F161GB 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 [F16230th 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

F163 . . . . . .

[F164(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 [F165to that advice being given.]

[F166(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 [F167GB conservation bodies] shall include power to advise or assist—

(a) any constable;

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

[F168(c) any wildlife inspector,]

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

Extent Information

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

Textual Amendments

F160 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**

F161 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**

F162 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**.

F163 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**

F164 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**

F165 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.

F166 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**.

F167 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**

F168 S. 24(4)(c) substituted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), **Sch. 12 para. 11**

Status: *Point in time view as at 01/04/2013.*
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 02 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)*

24 [F367Functions of GB conservation bodies] S

(1) The [F368GB 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 [F369]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

F370 . . . . . .

[F371(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 [F372to that advice being given.]

[F373(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 [F374GB conservation bodies] shall include power to advise or assist—

(a) any constable; [F375or]

(b) any proper officer of a local authority; F376...

F377(c) . . . . . .

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

[F378(4A) The functions of Scottish Natural Heritage include the power to advise or assist—

(a) another relevant body exercising functions under section 14L(2)(a); and

(b) a person authorised to enter premises under section 14M exercising functions under that section.]

Extent Information

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

Textual Amendments

F367 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**

F368 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**

F369 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**.

F370 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**

F371 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**

F372 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.

F373 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**.

F374 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**

F375 Word in s. 24(4) inserted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 22(6)(a)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(d)

F376 Word in s. 24(4) repealed (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 22(6)(b)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(d)

F377 S. 24(4)(c) repealed (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 22(6)(c)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(d)

F378 S. 24(4A) inserted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 17(5)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(c)

25 Functions of local authorities.

(1) Every local authority shall take such steps as they consider expedient for bringing to the attention of the public and of schoolchildren in particular the effect of—

(a) the provisions of this Part; and

(b) any order made under this Part affecting the whole or any part of their area.

(2) A local authority in England and Wales may institute proceedings for any offence under this Part or any order made under it which is committed within their area.

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—

F169(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;

F170(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

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

Textual Amendments

F169 Words in s. 26(4)(a) inserted (S.) (1.5.2012 for specified purposes, 2.7.2012 in so far as not already in force) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 17(6)(b)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2012/116, art. 2(b)(i); S.S.I. 2012/175, art. 2(1)(c)

F170 Words in s. 26(4)(b) inserted (S.) (1.5.2012 for specified purposes, 2.7.2012 in so far as not already in force) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 17(6)(b)(iii)**, 43(1) (with s. 41(1)); S.S.I. 2012/116, art. 2(b)(i); S.S.I. 2012/175, art. 2(1)(c)

26 Regulations, orders, notices etc. S

(1) Any power to make regulations or orders under **[**[F379]a provision of this Part other than section 14D**]** shall be exercisable by statutory instrument.

(2) A statutory instrument containing regulations under this Part, or an order under a provision of this Part other than **[**[F380]—

(a) an order under any of**]** sections 2(6), [F381]... 5 **[**[F382], 10A(4)**][**[F383]or**][**[F384]11(4)**][**[F385]; and

(b) an order under section 22(1)(a) which removes from Part I of Schedule 2 black grouse, common pheasant, grey partridge, ptarmigan, red grouse or red-legged partridge,**]**,

shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) No **[**[F386]—

(a)**]** order under section 5 or **[**[F384]11(4)**][**[F387]; or

(b) order under section 22(1)(a) which removes from Part I of Schedule 2 any bird referred to in paragraph (b) of subsection (2),**]**

shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

(4) Before making any order under **[**[F388]a provision of this Part other than section 14D**]**, the Secretary of State—

(a) except in the case of an order under section 2(6) **[**[F169], 14, 14ZC, 14A or 14B**]**, shall give to any local authority affected and [F389]... 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;

[[F390](aa) in the case of an order under section 16A(5)(b), shall consult Scottish Natural Heritage;**]**

(b) except in the case of an order under section **[**[F170]14, 14ZC, 14A, 14B,**][**[F391]16A(5)(b) or**][**[F392]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 **[**[F393]except in the case of an order under section 16A(5)(b),**]**, if he thinks fit, cause a public inquiry to be held.

[[F394](4A) The Scottish Ministers may make an order under section 14, 14ZC or 14A only where they have consulted—

(a) Scottish Natural Heritage; and

(b) any other person appearing to them to have an interest in the making of the order.

(4B) Subsection (4A) does not apply where the Scottish Ministers consider it necessary to make the order urgently and without consultation.**]**

(5) Notice of the making of an order under this Part **[**[F395] other than an order under section 16A(5)(b),**]** shall be published by the Secretary of State—

(a) if the order relates in whole or in part to England and Wales, in the London Gazette; and

(b) if the order relates in whole or in part to Scotland, in the Edinburgh Gazette.

(6) The Secretary of State shall give consideration to any proposals for the making by him of an order under this Part with respect to any area which may be submitted to him by a local authority whose area includes that area.

Extent Information

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

Textual Amendments

F169 Words in s. 26(4)(a) inserted (S.) (1.5.2012 for specified purposes, 2.7.2012 in so far as not already in force) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 17(6)(b)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2012/116, art. 2(b)(i); S.S.I. 2012/175, art. 2(1)(c)

F170 Words in s. 26(4)(b) inserted (S.) (1.5.2012 for specified purposes, 2.7.2012 in so far as not already in force) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 17(6)(b)(iii)**, 43(1) (with s. 41(1)); S.S.I. 2012/116, art. 2(b)(i); S.S.I. 2012/175, art. 2(1)(c)

F379 Words in s. 26(1) substituted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 17(6)(a)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(c)

F380 S. 26(2)(a) and word inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(6)(a)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)

F381 Word in s. 26(2) repealed (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 4(5)(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(a)

F382 Word in s. 26(2) inserted (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 6(3)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(b)

F383 Word in s. 26(2) substituted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(6)(a)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)

F384 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**

F385 S. 26(2)(b) and word inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(6)(a)(iii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)

F386 Para reference (a) in s. 26(3) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(6)(b)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)

F387 S. 26(3)(b) and word inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(6)(b)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)

F388 Words in s. 26(4) substituted (S.) (2.7.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 17(6)(b)(i)**, 43(1) (with s. 41(1)); S.S.I. 2012/175, art. 2(1)(c)

F389 Words in s. 26(4)(a) repealed (S.) (1.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 4(5)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(1)(a)

F390 S. 26(4)(aa) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 18(4)(a)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(j)

F391 Words in s. 26(4)(b) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 18(4)(a)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(j)

F392 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**

F393 Words in s. 26(4)(c) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 18(4)(a)(iii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(j)

F394 S. 26(4A)(4B) inserted (S.) (1.5.2012 for specified purposes, 2.7.2012 in so far as not already in force) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 17(6)(c)**, 43(1) (with s. 41(1)); S.S.I. 2012/116, art. 2(b)(ii); S.S.I. 2012/175, art. 2(1)(c)

F395 Words in s. 26(5) inserted (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 18(4)(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(j)

[F171 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 **[**F172 (that is, the Directive as amended from time to time by any other **[**F173EU**]** instrument or otherwise)**]** may, despite paragraph 1(1)(d) of Schedule 2 to that Act, create offences punishable on summary conviction with imprisonment for a term not exceeding six months.**]**

Textual Amendments

F171 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**

F172 Words in s. 26A substituted (23.4.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 44(2)**, 84; S.S.I. 2007/250, **art. 3** (subject to art. 4)

F173 Words in Act substituted (22.4.2011) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), arts. 2, **3**, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))

[F174 26B Annual report on wildlife crime

(1) The Scottish Ministers must, after the end of each calendar year, lay before the Scottish Parliament a report on offences relating to wildlife.

(2) The report may, in particular, include—
  (a) information on the incidence and prosecution of such offences during the year to which the report relates;
  (b) information on research and advice relating to wildlife which the Scottish Ministers consider relevant to such offences.

(3) The report need only include information in relation to such offences relating to wildlife as the Scottish Ministers consider appropriate.

Status: *Point in time view as at 01/04/2013.*
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 02 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)*

(4) For the purposes of this section, an offence relating to wildlife is an offence—

(a) under Part 1 of this Act; or

(b) under any other enactment which the Scottish Ministers consider may have an impact on wildlife.**]**

Textual Amendments

F174 S. 26B inserted (S.) (2.1.2012) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 20**, 43(1) (with s. 41(1)); S.S.I. 2011/433, art. 2(2)

27 Interpretation of Part I. E+W

(1) In this Part, unless the context otherwise requires—

"advertisement" includes a catalogue, a circular and a price list;

"advisory body" has the meaning given by section 23;

"agriculture Minister" means the Minister of Agriculture, Fisheries and Food or the Secretary of State;

"authorised person" means—

(a) the owner or occupier, or any person authorised by the owner or occupier, of the land on which the action authorised is taken;

(b) any person authorised in writing by the local authority for the area within which the action authorised is taken;

(c) as respects anything done in relation to wild birds, any person authorised in writing **[**[F175] by—

(i) the Welsh Ministers, in relation to things done for purposes relating to fishing or fisheries in the Welsh inshore region (within the meaning of the Marine and Coastal Access Act 2009);

(ii) any**]** of the following bodies, that is to say, **[**[F176]any of the **[**[F177]GB conservation bodies**]]**, [F178]. . . a district board for a fishery district within the meaning of the [M12]Salmon Fisheries (Scotland) Act 1862 **[**[F179]or an inshore fisheries and conservation authority**]**[F180]...;

(d) **[**[F181]any person authorised in writing by—

(i) the Environment Agency, in relation to anything done in England;

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

(iii) a water undertaker or a sewerage undertaker,**]**

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

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

"aviculture" means the breeding and rearing of birds in captivity;

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

"domestic duck" means any domestic form of duck;

Status: *Point in time view as at 01/04/2013.*
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 02 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)*

"domestic goose" means any domestic form of goose;

"firearm" has the same meaning as in the [M13]Firearms Act 1968;

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

[[F182] "inland waters" means—

(a) inland waters within the meaning of the Water Resources Act 1991; [M14]

(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 [M15] other than ground waters as defined in section 30A(1)(d) of that Act.**]**

[[F183] "inshore fisheries and conservation authority" means the authority for an inshore fisheries and conservation district established under section 149 of the Marine and Coastal Access Act 2009;**]**

"livestock" includes any animal which is kept—

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

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

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

"local authority" means—

(a) in relation to England [F184]. . ., a county, district or London borough council [F185]. . .;

(aa) **[**[F186]in relation to Wales, a county council or county borough council;**]**

(b) in relation to Scotland, a **[**[F187]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;

[[F188] "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;

[F189] .....

"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 **[**[F190]species**]** which is ordinarily resident in or is a visitor to **[**[F191]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;

[[F192] "the Wild Birds Directive" means Council Directive 79/409/ EEC on the conservation of wild birds;**]**

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

[[F193] "wildlife inspector" has the meaning given by **[**[F194] 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.

[[F195](3A) In this Part "the GB conservation bodies" means—

(a) Natural England,

(b) **[**[F196]the Natural Resources Body for Wales**]**, and

(c) Scottish Natural Heritage,

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

(4) This Part shall apply to the Isles of Scilly as if the Isles were a county and as if the Council of the Isles were a county council.

(5) This Part extends to the territorial waters adjacent to Great Britain, and for the purposes of this Part any part of Great Britain which is bounded by territorial waters shall be taken to include the territorial waters adjacent to that part.

Extent Information

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

Textual Amendments

F175 S. 27(1): words in para. (c) of definition of "authorised person" substituted (E.W.) (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), **ss. 193(4)**, 324(2)(c)

F176 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**.

F177 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**

F178 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**

F179 Words in s. 27(1) inserted (1.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 14 para. 11(a)**; S.I. 2011/556, art. 2(2)(k)

F180 Words in s. 27(1) repealed (E.W.) (1.4.2010 for W., 1.4.2011 for E.) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 22 Pt. 4**; S.I. 2010/630, art. 3(b) (with arts. 8, 12); S.I. 2011/556, art. 2(2)(o) (with art. 2(3))

F181 Words in s. 27(1) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 171(2)** (with Sch. 7)

F182 Definition in s. 27(1) inserted (30.11.1995) by S.I. 1995/2825, **reg. 4**

F183 Definition "inshore fisheries and conservation authority" in s. 27(1) inserted (1.4.2011) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 14 para. 11(b)**; S.I. 2011/556, art. 2(2)(k)

F184 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**

F185 Words in s. 27(1) repealed by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 102, **Sch. 17**

F186 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**

F187 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)**

F188 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**

F189 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)**

F190 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)**

F191 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)**

F192 S. 27: definition of "the Wild Birds Directive" inserted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), **reg. 7(6)**

F193 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**

F194 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**

F195 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**

F196 Words in s. 27(3A) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 171(3)** (with Sch. 7)

Marginal Citations

M12 1862 c. 97.

M13 1968 c. 27.

M14 1991 c.57.

M15 1974 c.40.

27 Interpretation of Part I. S

[F396](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, **[**[F176]any of the **[**[F397]GB conservation bodies**]]**, [F178]. . . a district board for a fishery district within the meaning of the [M12]Salmon Fisheries (Scotland) Act 1862 [F180]...[M20F180]...;

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;

Status: *Point in time view as at 01/04/2013.*
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 02 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)*

"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 [M13]Firearms Act 1968;

[F398]… [F398]… [F398]…

[[F182] "inland waters" means—

(a) inland waters within the meaning of the Water Resources Act 1991; [M14]

(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 [M15] 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 [F184]. . ., a county, district or London borough council [F185]. . .;

(aa) [[F186]in relation to Wales, a county council or county borough council;]

(b) in relation to Scotland, a [[F187]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 [[F399]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;

[F189]…

"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 [[F400]species] which is ordinarily resident in or is a visitor to [[F401]any member State or the European territory of any member State] in a wild state but does not include poultry [F402]...;

"wild plant" means any plant [[F403](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.

[[F193] "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.

[[F404](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.

[[F405](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.**]**

[[F406](3A) In this Part "the GB conservation bodies" means—

(a) Natural England,

(b) **[**[F196]the Natural Resources Body for Wales**]**, and

(c) Scottish Natural Heritage,

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

(4) This Part shall apply to the Isles of Scilly as if the Isles were a county and as if the Council of the Isles were a county council.

(5) This Part extends to the territorial waters adjacent to Great Britain, and for the purposes of this Part any part of Great Britain which is bounded by territorial waters shall be taken to include the territorial waters adjacent to that part.

Extent Information

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

Textual Amendments

F176 Words in s. 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**.

F178 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**

F180 Words in s. 27(1) repealed (E.W.) (1.4.2010 for W., 1.4.2011 for E.) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 22 Pt. 4**; S.I. 2010/630, art. 3(b) (with arts. 8, 12); S.I. 2011/556, art. 2(2)(o) (with art. 2(3))

F182 Definition in s. 27(1) inserted (30.11.1995) by S.I. 1995/2825, **reg. 4**

F184 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**

F185 Words in s. 27(1) repealed by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 102, **Sch. 17**

F186 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**

F187 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)**

F189 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)**

F193 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**

F196 Words in s. 27(3A) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 171(3)** (with Sch. 7)

F396 Words in s. 27(1) repealed (1.4.2010 for W., 1.4.2011 for E.) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 22 Pt. 4**; S.I. 2010/630, art. 3(b) (with arts. 8, 12); S.I. 2011/556, art. 2(2)(o) (with art. 2(3))

F397 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**

F398 Definition "game bird" in s. 27(1) repealed (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 2(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(a)

F399 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**

F400 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**

F401 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**

F402 Words in s. 27(1) repealed (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 2(b)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(a)

F403 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**

F404 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**

F405 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**

F406 S. 27(3A) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(2), 107, **Sch. 11 para. 76(4)**; S.I. 2006/2541, **art. 2**

Marginal Citations

M12 1862 c. 97.

M13 1968 c. 27.

M14 1991 c.57.

M15 1974 c.40.

M20 1966 c. 38.

F198[F197 27ZA Application of Part 1 to England and Wales

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Textual Amendments

F197 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}

F198 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 01/04/2013.

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 02 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.