



# Wildlife and Countryside Act 1981

## 1981 CHAPTER 69

### PART I

#### WILDLIFE

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

#### Textual Amendments

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

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

- (1) Subject to the provisions of this Part, if any person intentionally—
- (a) kills, injures or takes any wild bird;
  - [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 [F3]lawfully] killed or taken <sup>F4</sup>. . . ; or

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: Wildlife and Countryside Act 1981, Cross Heading: Protection of birds and prevention of poaching is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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

<sup>F7</sup> . . .

[<sup>F8</sup>(3ZA) A person shall not be guilty of an offence under subsection (2)(b) if the person shows that the egg, or the part of the egg, was in any person’s possession or control before 28th September 1982.]

[<sup>F9</sup>(3A) In subsection (3) “lawfully ” means without any contravention of—

- (a) this Part and orders made under it,
- (b) the Protection of Birds Acts 1954 to 1967 <sup>F10</sup> and orders made under those Acts,
- (c) any other legislation which implements [<sup>F11</sup> the Wild Birds Directive ] and extends to any part of the United Kingdom, to any area designated in accordance with section 1(7) of the Continental Shelf Act 1964 <sup>F12</sup> , or to any area to which British fishery limits extend in accordance with section 1 of the Fishery Limits Act 1976 <sup>F13</sup> , and
- (d) the provisions of the law of any member State (other than the United Kingdom) implementing [<sup>F14</sup>the Wild Birds Directive] . ]

(4) <sup>F15</sup> . . . . .

(5) Subject to the provisions of this Part, if any person intentionally [<sup>F16</sup>or recklessly]—

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

he shall be guilty of an offence <sup>F17</sup>. . . .

[<sup>F18</sup>(6) For the purposes of this section the definition of “wild bird” in section 27(1) is to be read as not including any bird which is shown to have been bred in captivity unless it has been lawfully released into the wild as part of a re-population or re-introduction programme.

(6A) “ Re-population ” and “ re-introduction ” have the same meaning as in [<sup>F19</sup> the Wild Birds Directive ] . ]

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

**Extent Information**

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

**Textual Amendments**

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

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

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: Wildlife and Countryside Act 1981, Cross Heading: Protection of birds and prevention of poaching is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 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(3ZA) inserted (E.W.) (6.4.2016) by The Wildlife and Countryside Act 1981 (England and Wales) (Amendment) Regulations 2016 ([S.I. 2016/127](#)), regs. 1(2), **2(2)**
- F9** 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)**
- F10** 1954 c. 30; 1964 c. 59; 1967 c. 46.
- F11** 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)**
- F12** 1964 c. 29.
- F13** 1976 c. 86.
- F14** 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)**
- F15** 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**
- F16** 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**
- F17** 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**
- F18** 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**
- F19** Words in s. 1(6A) substituted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, & c.) (Amendment) Regulations 2007 ([S.I. 2007/1843](#)), **reg. 7(2)(b)**

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

- (1) Subject to the provisions of this Part, if any person intentionally [<sup>F43</sup>or recklessly]—
- (a) kills, injures or takes any wild bird;
  - (b) takes, damages [<sup>F44</sup>, destroys or otherwise interferes with] the nest of any wild bird while that nest is in use or being built; or

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- [<sup>F45</sup>(ba) at any other time takes, damages, destroys or otherwise interferes with any nest habitually used by any wild bird included in Schedule A1;
- (bb) obstructs or prevents any wild bird from using its nest;]
- (c) takes or destroys an egg of any wild bird,
- he shall be guilty of an offence.
- (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 [<sup>F46</sup>at or from a place in Scotland] otherwise than in contravention of the relevant provisions; <sup>F47</sup> . . .
- (b) the bird, egg or other thing in his possession or control had been sold [<sup>F48</sup>at a place in Scotland](whether to him or any other person) otherwise than in contravention of those provisions; [<sup>F49</sup>; 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.]
- <sup>F50</sup> . . .
- [<sup>F51</sup>(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 [<sup>F52</sup>EU] instrument replacing either of them). ]
- (4) <sup>F15</sup> . . . . .
- (5) Subject to the provisions of this Part, if any person intentionally [<sup>F16</sup>or recklessly]—
- (a) disturbs any wild bird included in Schedule 1 while it is building a nest or is in, on or near a nest containing eggs or young; or

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- (b) disturbs dependent young of such a bird,  
he shall be guilty of an offence<sup>F17</sup> . . . .
- [<sup>F53</sup>(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.]
- [<sup>F54</sup>(6) For the purposes of this section, the definition of “wild bird” in section 27(1) is to be read as not including any bird which is shown to have been bred in captivity unless—
- (a) it has been lawfully released or allowed to escape from captivity as part of a re-population or re-introduction programme; or
- (b) it is a mallard, grey or red-legged partridge, common pheasant or red grouse which is no longer in captivity and is not in a place where it was reared.]
- (7) Any reference in this Part to any bird included in Schedule 1 is a reference to any bird included in Part I and, during the close season for the bird in question, any bird included in Part II of that Schedule.

#### Extent Information

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

#### Textual Amendments

- F15** 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
- F16** 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
- F17** 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
- F43** 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
- F44** 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
- F45** 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
- F46** 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
- F47** 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
- F48** 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

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- F49** 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](#)
- F50** 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](#)
- F51** 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](#)
- F52** 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))
- F53** 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](#)
- F54** 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.

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

**Extent Information**

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

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

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

**2 Exceptions to s. 1<sup>F55</sup>: acts by certain persons outside close season]. **S****

- (1) Subject to the provisions of this section [<sup>F56</sup>where subsection (1A) applies], a person shall not be guilty of an offence under section 1 by reason of the killing or taking of a bird included in Part I of Schedule 2 outside the close season for that bird, or the injuring of such a bird outside that season in the course of an attempt to kill it.

[<sup>F57</sup>(1A) This subsection applies where—

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

(2) <sup>F58</sup> .....

- (3) [<sup>F59</sup>Subsection (1)] shall not apply in Scotland on Sundays or on Christmas Day [<sup>F60</sup>in relation to those birds included in Part I of Schedule 2 which are also included in Part IA of that Schedule]; and subsection (1) shall not apply on Sundays in any area of England and Wales which the Secretary of State may by order prescribe for the purposes of that subsection.

[<sup>F61</sup>(3A) Subject to the provisions of this section, where subsection (3B) applies a person does not commit an offence under section 1 by reason of the taking for the purposes of breeding of—

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

(3B) This subsection applies where—

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

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- (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 [<sup>F62</sup>section 1, this section and section 6] “close season” means—
- (a) in the case of [<sup>F63</sup>capercaillie and] (except in Scotland) woodcock, the period in any year commencing with 1st February and ending with 30th September;
  - (b) in the case of snipe, the period in any year commencing with 1st February and ending with 11th August;
  - [<sup>F64</sup>(ba) in the case of pheasant, the period in any year commencing with 2nd February and ending with 30th September;
  - (bb) in the case of partridge, the period in any year commencing with 2nd February and ending with 31st August;]
  - (c) in the case of wild duck and wild geese in or over any area below high-water mark of ordinary spring tides, the period in any year commencing with 21st February and ending with 31st August;
  - [<sup>F65</sup>(ca) in the case of black grouse, the period commencing with 11th December in any year and ending with 19th August in the following year;
  - (cb) in the case of ptarmigan and red grouse, the period commencing with 11th December in any year and ending with 11th August in the following year;]
  - (d) in any other case, subject to the provisions of this Part, the period in any year commencing with 1st February and ending with 31st August.
- (5) The Secretary of State may by order made with respect to the whole or any specified part of Great Britain vary the close season for any wild bird specified in the order.
- (6) If it appears to the Secretary of State expedient that any wild birds included in Part II of Schedule 1 or Part I of Schedule 2 should be protected during any period outside the close season for those birds, he may by order made with respect to the whole or any specified part of Great Britain declare any period (which shall not in the case of any order exceed fourteen days) as a period of special protection for those birds; and [<sup>F66</sup>section 1, this section and section 6] shall have effect as if any period of special protection declared under this subsection for any birds formed part of the close season for those birds.
- (7) Before making an order under subsection (6) the Secretary of State shall consult [<sup>F67</sup>such persons] appearing to him to be a representative of persons interested in the shooting of birds of the kind proposed to be protected by the order [<sup>F68</sup>as he considers appropriate].

#### Extent Information

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



*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: Wildlife and Countryside Act 1981, Cross Heading: Protection of birds and prevention of poaching is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

- F55** 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)
- F56** 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)
- F57** 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)
- F58** 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**
- F59** 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**
- F60** 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)
- F61** 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)
- F62** 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)
- F63** Words in s. 2(4)(a) omitted (S.) (4.11.2001) by virtue of S.S.I. 2001/337, **reg. 2(2)**
- F64** 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)
- F65** 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)
- F66** 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)
- F67** 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)
- F68** Words in s. 2(7) added (S.) (29.6.2011) by Wildlife and Natural Environment (Scotland) Act 2011 (asp 6), **ss. 3(4)(g)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(b)

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

- (1) The Secretary of State may by order make provision with respect to any area specified in the order providing for all or any of the following matters, that is to say—
- (a) that any person who, within that area or any part of it specified in the order, at any time or during any period so specified, intentionally—
- (i) kills, injures or takes any wild bird or any wild bird so specified;
- (ii) takes, damages or destroys the nest of such a bird while that nest is in use or being built;
- (iii) takes or destroys an egg of such a bird;
- (iv) disturbs such a bird while it is building a nest or is in, on or near a nest containing eggs or young; or
- (v) disturbs dependent young of such a bird,
- shall be guilty of an offence under this section;
- (b) that any person who, except as may be provided in the order, enters into that area or any part of it specified in the order at any time or during any period so specified shall be guilty of an offence under this section;
- (c) that where any offence under this Part, or any such offence under this Part as may be specified in the order, is committed within that area, [<sup>F20</sup>the offence shall be treated as falling within section 7(3A)].

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: Wildlife and Countryside Act 1981, Cross Heading: Protection of birds and prevention of poaching is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) 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 [<sup>F21</sup>locality] in which that area is situated.
- (5) The Secretary of State shall not make an order under this section unless—
- (a) all the owners and occupiers aforesaid have consented thereto;
  - (b) no objections thereto have been made by any of those owners or occupiers before the expiration of a period of three months from the date of the giving of the notice or the publication of the advertisement; or
  - (c) any such objections so made have been withdrawn.

#### Extent Information

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

#### Textual Amendments

**F20** 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**

**F21** Word in s. 3(4) substituted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 65(1)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

### <sup>F69</sup>3 Areas of special protection. **S**

#### Extent Information

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

#### Textual Amendments

**F69** 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)

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: Wildlife and Countryside Act 1981, Cross Heading: Protection of birds and prevention of poaching is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### 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 <sup>M1</sup>Agriculture Act 1947, or by the Secretary of State under section 39 of the <sup>M2</sup>Agriculture (Scotland) Act 1948;
  - (b) anything done under, or in pursuance of an order made under, section 21 or 22 of the <sup>M3</sup>Animal Health Act 1981; or
  - (c) except in the case of a wild bird included in Schedule [<sup>F22</sup>ZA1 or] 1 or the nest or egg of such a bird, anything done under, or in pursuance of an order made under, any other provision of the said Act of 1981.
- (2) Notwithstanding anything in the provisions of section 1 or any order made under section 3, a person shall not be guilty of an offence by reason of—
  - (a) the taking of any wild bird if he shows that the bird had been disabled otherwise than by his unlawful act and was taken solely for the purpose of tending it and releasing it when no longer disabled;
  - (b) the killing of any wild bird if he shows that the bird had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering; or
  - (c) any act made unlawful by those provisions if he shows that the act was the incidental result of a lawful operation and could not reasonably have been avoided.
- (3) Notwithstanding anything in the provisions of section 1 or any order made under section 3, an authorised person shall not be guilty of an offence by reason of the killing or injuring of any wild bird, other than a bird included in Schedule 1, if he shows that his action was necessary for the purpose of—
  - (a) preserving public health or public or air safety;
  - (b) preventing the spread of disease; or
  - (c) preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, [<sup>F23</sup>, fisheries or inland waters].
- [<sup>F24</sup>(4) An authorised person shall not be regarded as showing that any action of his was necessary for a purpose mentioned in subsection (3)(c) unless he shows that as regards that purpose, there was no other satisfactory solution.
- (5) An authorised person shall not be entitled to rely on the defence provided by subsection (3)(c) as respects any action taken at any time for any purpose mentioned in that paragraph if it had become apparent, before that time, that that action would prove necessary for that purpose and either—
  - (a) a licence under section 16 authorising that action had not been applied for by him as soon as reasonably practicable after that fact had become apparent; or
  - (b) an application by him for such a licence had been determined.
- (6) An authorised person shall not be entitled to rely on the defence provided by subsection (3)(c) as respects any action taken at any time unless he notified the agriculture Minister as soon as reasonably practicable after that time that he had taken the action.]

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: Wildlife and Countryside Act 1981, Cross Heading: Protection of birds and prevention of poaching is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Extent Information

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

#### Textual Amendments

- F22** 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](#)
- F23** Words in s. 4(3)(c) substituted (30.11.1995) by [S.I. 1995/2825](#), [reg. 2\(1\)](#)
- F24** S. 4(4)-(6) inserted (30.11.1995) by [S.I. 1995/2825](#), [reg. 2\(2\)](#)

#### Marginal Citations

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

## 4 <sup>[F70]</sup>Further exceptions to s. 1] **S**

- (1) Nothing in section 1 <sup>F71</sup>... shall make unlawful—
- (a) anything done in pursuance of a requirement by the Minister of Agriculture, Fisheries and Food or the Secretary of State under section 98 of the <sup>M1</sup>Agriculture Act 1947, or by the Secretary of State under section 39 of the <sup>M2</sup>Agriculture (Scotland) Act 1948;
  - (b) anything done under, or in pursuance of an order made under, section 21 or 22 of the <sup>M3</sup>Animal Health Act 1981; or
  - (c) except in the case of a wild bird included in Schedule 1 or the nest or egg of such a bird, anything done under, or in pursuance of an order made under, any other provision of the said Act of 1981.
- (2) Notwithstanding anything in the provisions of section 1 <sup>F72</sup>..., a person shall not be guilty of an offence by reason of—
- (a) the taking of any wild bird if he shows that the bird had been disabled otherwise than by his unlawful act and was taken solely for the purpose of tending it and releasing it when no longer disabled;
  - (b) the killing of any wild bird if he shows that the bird had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering; or
  - (c) any act made unlawful by those provisions <sup>[F73]</sup> (an unlawful act if he shows that each of the conditions specified in subsection (2A) was satisfied in relation to the carrying out of the unlawful act.)

<sup>[F74]</sup>(2A) Those conditions are—

- (a) that the unlawful act was the incidental result of a lawful operation or other activity;
- (b) that the person who carried out the lawful operation or other activity—
  - (i) took reasonable precautions for the purpose of avoiding carrying out the unlawful act; or
  - (ii) did not foresee, and could not reasonably have foreseen, that the unlawful act would be an incidental result of the carrying out of the lawful operation or other activity; and

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- (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 <sup>F75</sup>..., an authorised person shall not be guilty of an offence by reason of the killing or injuring of any wild bird, other than a bird included in Schedule 1, if he shows that his action was necessary for the purpose of—
- (a) preserving public health or public or air safety;
  - (b) preventing the spread of disease; or
  - (c) preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, [<sup>F23</sup>, fisheries or inland waters].
- [<sup>F24</sup>(4) An authorised person shall not be regarded as showing that any action of his was necessary for a purpose mentioned in subsection [<sup>F76</sup>(3)] unless he shows that as regards that purpose, there was no other satisfactory solution.
- (5) An authorised person shall not be entitled to rely on the defence provided by subsection [<sup>F77</sup>(3)] as respects any action taken at any time for any purpose mentioned in that [<sup>F78</sup>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 [<sup>F79</sup>(3)] as respects any action taken at any time unless he notified the agriculture Minister as soon as reasonably practicable after that time that he had taken the action.]

#### Extent Information

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

#### Textual Amendments

- F23** Words in s. 4(3)(c) substituted (30.11.1995) by S.I. 1995/2825, **reg. 2(1)**
- F24** S. 4(4)-(6) inserted (30.11.1995) by S.I. 1995/2825, **reg. 2(2)**
- F70** 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)
- F71** 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)
- F72** 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)
- F73** 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**
- F74** 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**
- F75** 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)
- F76** 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**

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- F77** 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**
- F78** 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**
- F79** Words in s. 4(6) substituted (S.) (1.10.2004) by Nature Conservation (Scotland) Act 2004 (asp 6), ss. 50, 59, **Sch. 6 para. 5(6)**; S.S.I. 2004/407, **art. 2**

#### Marginal Citations

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

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

- (1) Subject to the provisions of this Part, if any person—
- (a) sets in position any of the following articles, being an article which is of such a nature and is so placed as to be calculated to cause bodily injury to any wild bird coming into contact therewith, that is to say, any springe, trap, gin, snare, hook and line, any electrical device for killing, stunning or frightening or any poisonous, poisoned or stupefying substance;
  - (b) uses for the purpose of killing or taking any wild bird any such article as aforesaid, whether or not of such a nature and so placed as aforesaid, or any net, baited board, bird-lime or substance of a like nature to bird-lime;
  - (c) uses for the purpose of killing or taking any wild bird—
    - (i) any bow or crossbow;
    - (ii) any explosive other than ammunition for a firearm;
    - (iii) any automatic or semi-automatic weapon;
    - (iv) any shot-gun of which the barrel has an internal diameter at the muzzle of more than one and three-quarter inches;
    - (v) any device for illuminating a target or any sighting device for night shooting;
    - (vi) any form of artificial lighting or any mirror or other dazzling device;
    - (vii) any gas or smoke not falling within paragraphs (a) and (b); or
    - (viii) any chemical wetting agent;
  - (d) uses as a decoy, for the purpose of killing or taking any wild bird, any sound recording or any live bird or other animal whatever which is tethered, or which is secured by means of braces or other similar appliances, or which is blind, maimed or injured;<sup>F25</sup> . . .
  - (e) uses any mechanically propelled vehicle in immediate pursuit of a wild bird for the purpose of killing or taking that bird, [<sup>F26</sup> ; or
  - (f) knowingly causes or permits to be done an act which is mentioned in the foregoing provisions of this subsection and which is not lawful under subsection (5),]
- he shall be guilty of an offence<sup>F27</sup> . . . .
- (2) Subject to subsection (3), the Secretary of State may by order, either generally or in relation to any kind of wild bird specified in the order, amend subsection (1) by adding any method of killing or taking wild birds or by omitting any such method which is mentioned in that subsection.

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: Wildlife and Countryside Act 1981, Cross Heading: Protection of birds and prevention of poaching is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) The power conferred by subsection (2) shall not be exercisable, except for the purpose of complying with an international obligation, in relation to any method of killing or taking wild birds which involves the use of a firearm.
- (4) In any proceedings under subsection (1)(a) it shall be a defence to show that the article was set in position for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took all reasonable precautions to prevent injury thereby to wild birds.
- <sup>F28</sup>[( 4A ) In any proceedings under subsection (1)(f) relating to an act which is mentioned in subsection (1)(a) it shall be a defence to show that the article was set in position for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took or caused to be taken all reasonable precautions to prevent injury thereby to wild birds.]
- (5) Nothing in subsection (1) shall make unlawful—
- (a) the use of a cage-trap or net by an authorised person for the purpose of taking a bird included in Part II of Schedule 2;
  - (b) the use of nets for the purpose of taking wild duck in a duck decoy which is shown to have been in use immediately before the passing of the <sup>M4</sup>Protection of Birds Act 1954; or
  - (c) the use of a cage-trap or net for the purpose of taking any game bird if it is shown that the taking of the bird is solely for the purpose of breeding;
- but nothing in this subsection shall make lawful the use of any net for taking birds in flight or the use for taking birds on the ground of any net which is projected or propelled otherwise than by hand.

#### Extent Information

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

#### Textual Amendments

- F25** 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)**.
- F26** 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)**.
- F27** 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**
- F28** 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—

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- (a) sets in position any of the following articles, being an article which is of such a nature and is so placed as to be <sup>F80</sup>likely] to cause bodily injury to any wild bird coming into contact therewith, that is to say, any springe, trap, gin, snare, hook and line, any electrical device for killing, stunning or frightening or any poisonous, poisoned or stupefying substance;
- (b) uses for the purpose of killing or taking any wild bird any such article as aforesaid, whether or not of such a nature and so placed as aforesaid, or any net, baited board, bird-lime or substance of a like nature to bird-lime;
- (c) uses for the purpose of killing or taking any wild bird—
  - (i) any bow or crossbow;
  - (ii) any explosive other than ammunition for a firearm;
  - (iii) any automatic or semi-automatic weapon;
  - (iv) any shot-gun of which the barrel has an internal diameter at the muzzle of more than one and three-quarter inches;
  - (v) any device for illuminating a target or any sighting device for night shooting;
  - (vi) any form of artificial lighting or any mirror or other dazzling device;
  - (vii) any gas or smoke not falling within paragraphs (a) and (b); or
  - (viii) any chemical wetting agent;
- (d) uses as a decoy, for the purpose of killing or taking any wild bird, any sound recording or any live bird or other animal whatever which is tethered, or which is secured by means of braces or other similar appliances, or which is blind, maimed or injured, <sup>F25</sup> . . .
- (e) uses any mechanically propelled vehicle in immediate pursuit of a wild bird for the purpose of killing or taking that bird, <sup>F26</sup> ; or
- (f) knowingly causes or permits to be done an act which is mentioned in the foregoing provisions of this subsection and which is not lawful under subsection (5),]

he shall be guilty of an offence <sup>F27</sup> . . . .

- (2) Subject to subsection (3), the Secretary of State may by order, either generally or in relation to any kind of wild bird specified in the order, amend subsection (1) by adding any method of killing or taking wild birds or by omitting any such method which is mentioned in that subsection.
  - (3) The power conferred by subsection (2) shall not be exercisable, except for the purpose of complying with an international obligation, in relation to any method of killing or taking wild birds which involves the use of a firearm.
  - (4) In any proceedings under subsection (1)(a) it shall be a defence to show that the article was set in position for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took all reasonable precautions to prevent injury thereby to wild birds.
- <sup>F28</sup>[(4A) In any proceedings under subsection (1)(f) relating to an act which is mentioned in subsection (1)(a) it shall be a defence to show that the article was set in position for the purpose of killing or taking, in the interests of public health, agriculture, forestry, fisheries or nature conservation, any wild animals which could be lawfully killed or taken by those means and that he took or caused to be taken all reasonable precautions to prevent injury thereby to wild birds.]



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

- (a) <sup>F81</sup> .....
- (b) <sup>F81</sup> .....
- (c) the use of a cage-trap or net for the purpose of taking any [<sup>F82</sup>grouse, mallard, partridge or pheasant included in Part I of Schedule 2] if it is shown that the taking of the bird is solely for the purpose of breeding;

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

#### Extent Information

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

#### Textual Amendments

**F25** 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)**.

**F26** 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)**.

**F27** 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**

**F28** S. 5(4A) inserted (25.9.1991) by [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), **ss. 1(4), 3(3)**.

**F80** 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**

**F81** 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**

**F82** 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<sup>F29</sup> . . . —

- (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.

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: Wildlife and Countryside Act 1981, Cross Heading: Protection of birds and prevention of poaching is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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

(4) <sup>F30</sup> .....

- [<sup>F31</sup>(5) Any reference in this section to any bird included in Part 1 of Schedule 3 is a reference to any bird included in that Part which—
  - (a) was bred in captivity,
  - (b) has been ringed or marked in accordance with regulations made by the Secretary of State, and
  - (c) has not been lawfully released into the wild as part of a re-population or re-introduction programme.

(5A) “ Re-population ” and “ re-introduction ” have the same meaning as in [<sup>F32</sup> the Wild Birds Directive ] .

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

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

(7) <sup>F33</sup> .....

(8) <sup>F33</sup> .....

(8A) <sup>F33</sup> .....

(9) <sup>F33</sup> .....

(10) <sup>F33</sup> .....

**Extent Information**

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

**Textual Amendments**

**F29** 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))

**F30** 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**

**F31** 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**

**F32** 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)}

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: Wildlife and Countryside Act 1981, Cross Heading: Protection of birds and prevention of poaching is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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

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

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

- (a) sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live wild bird <sup>F83</sup>..., or an egg of a wild bird or any part of such an egg [<sup>F84</sup>other than—
  - (i) a bird included in Part I of Schedule 3 (see also subsection (5));
  - (ii) a bird included in Part 1A of that Schedule to which subsection (1A) applies; or
  - (iii) an egg to which subsection (1B) applies or any part of such an egg];
- (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things, he shall be guilty of an offence.

[<sup>F85</sup>(1A) This subsection applies to a bird which—

- (a) was bred in captivity and remained in captivity or a place where it was reared;
- (b) was a wild bird for the purposes of section 1 (see section 1(6)) and was taken by a person who had a legal right to take such a bird or a person with permission, from a person who had a right to give permission, to take such a bird outside the close season for the bird; or
- (c) was such a wild bird of the following type and was taken by a person with such right or permission during the period of 28 days which commences with the first day of its close season—
  - (i) a partridge included also in Part I of Schedule 2; or
  - (ii) a pheasant included also in that Part.

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

- (a) an egg of a bird included in Part 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 [<sup>F86</sup>, IIA] or III of Schedule 3 [<sup>F87</sup>(see also subsections (5B) and (6))], or any part of, or anything derived from, such a wild bird; or
- (b) publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things, he shall be guilty of an offence.

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: Wildlife and Countryside Act 1981, Cross Heading: Protection of birds and prevention of poaching is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- [<sup>F88</sup>(2A) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by any of the foregoing provisions of this section (other than subsections (1)(b) and (2)(b)) shall be guilty of an offence.]
- (3) Subject to the provisions of this Part, if any person shows or causes or permits to be shown for the purposes of any competition or in any premises in which a competition is being held—
- (a) any live wild bird other than a bird included in Part I of Schedule 3; or
  - (b) any live bird one of whose parents was such a wild bird,
- he shall be guilty of an offence.
- (4) <sup>F30</sup> .....
- [<sup>F89</sup>(5) Any reference in this section to any bird included in Part I of Schedule 3 is a reference to any bird included in that Part which—
- (a) was bred in captivity;
  - (b) has been ringed or marked in accordance with regulations made by the Scottish Ministers; and
  - (c) has not been lawfully released or allowed to escape from captivity as part of a re-population or re-introduction programme.
- (5A) Regulations made for the purposes of subsection (5)(b) may make different provision for different birds or different provisions of this section.]
- [<sup>F90</sup>(5B) Any reference in this section to any bird included in Part IIA of Schedule 3 is a reference to any bird included in that Part which was killed outside the close season for the bird by a person who had a legal right to kill such a bird or permission, from a person who had a right to give permission, to kill such a bird.]
- [<sup>F91</sup>(6) Any reference in this section to any bird included in Part III of Schedule 3 is a reference, during the period commencing with 1st September in any year and ending with 28th February of the following year, to any bird included in that Part.]
- (7) The power of the Secretary of State to make regulations under subsection (2) shall include power—
- (a) to impose requirements as to the carrying out by a person registered in accordance with the regulations of any act which, apart from the registration, would constitute an offence under this section; and
  - (b) to provide that any contravention of the regulations shall constitute such an offence.
- (8) Regulations under subsection (2) shall secure that no person shall become or remain registered [<sup>F92</sup>within five years of his having been convicted of—
- (a) an offence under this Part (being an offence relating to the protection of birds or other animals); or
  - (b) any other offence involving their ill-treatment,]
- no account being taken for this purpose of a conviction which has become spent by virtue of the <sup>M6</sup>Rehabilitation of Offenders Act 1974.
- (8A) The Secretary of State may charge such reasonable sum (if any) as he may determine in respect of any registration effected in accordance with regulations under subsection (2).

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: Wildlife and Countryside Act 1981, Cross Heading: Protection of birds and prevention of poaching is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F<sup>93</sup>(9) . . . . .
- F<sup>93</sup>(10) . . . . .

**Extent Information**

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

**Textual Amendments**

- F30** 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
- F83** 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)
- F84** 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)
- F85** 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)
- F86** 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)
- F87** 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)
- F88** 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)
- F89** 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)
- F90** 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)
- F91** 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)
- F92** 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
- F93** 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**

**M6** 1974. c. 53.

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

- (1) If any person keeps or has in his possession or under his control any bird included in Schedule 4 which has not been registered and ringed or marked in accordance with regulations made by the Secretary of State, he shall be guilty of an offence<sup>F34</sup>. . . .
- (2) The power of the Secretary of State to make regulations under subsection (1) shall include power—
  - (a) to impose requirements which must be satisfied in relation to a bird included in Schedule 4 before it can be registered in accordance with the regulations; and
  - (b) to make different provision for different birds or different descriptions of birds.

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: Wildlife and Countryside Act 1981, Cross Heading: Protection of birds and prevention of poaching is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[<sup>F35</sup>(2A) The Secretary of State may charge such reasonable sum (if any) as he may determine in respect of any registration effected in accordance with regulations under subsection (1).]

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

- (a) within five years of his having been convicted of an offence under this Part [<sup>F36</sup>which falls within subsection (3A)]; or
- (b) within three years of his having been convicted of any other offence under this Part so far as it relates to the protection of birds or other animals or any offence involving their ill-treatment,

he shall be guilty of an offence.

[<sup>F37</sup>(3A) The offences falling within this subsection are—

- (a) any offence under section 1(1) or (2) in respect of—
  - (i) a bird included in Schedule [<sup>F38</sup>ZA1 or] 1 or any part of, or anything derived from, such a bird,
  - (ii) the nest of such a bird, or
  - (iii) an egg of such a bird or any part of such an egg;
- (b) any offence under section 1(5) or 5;
- (c) any offence under section 6 in respect of—
  - (i) a bird included in Schedule [<sup>F38</sup>ZA1 or] 1 or any part of, or anything derived from, such a bird, or
  - (ii) an egg of such a bird or any part of such an egg;

[ any offence under subsection (1);]

<sup>F39</sup>(ca)

- (d) any offence under section 8.]

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

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

he shall be guilty of an offence.

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

<sup>F40</sup>(6) .....

<sup>F40</sup>(7) .....

#### Extent Information

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

#### Textual Amendments

**F34** 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)**)

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: Wildlife and Countryside Act 1981, Cross Heading: Protection of birds and prevention of poaching is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F35** S. 7(2A) inserted (21.3.1997) by 1997 c. 55, s. 1(2)
- F36** 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)
- F37** S. 7(3A) inserted (E.W.) (30.1.2001) by 2000 c. 37, ss. 81(1), 103(2), Sch. 12 para. 4(2)
- F38** 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
- F39** 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
- F40** S. 7(6)(7) repealed (E.W.) (30.1.2001) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6))

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

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

**Marginal Citations**

- M5** 1974 c. 53.

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

- (1) If any person keeps or has in his possession or under his control any bird included in Schedule 4 which has not been registered and ringed or marked in accordance with regulations made by the Secretary of State, he shall be guilty of an offence<sup>F94</sup>. . . .
- (2) The power of the Secretary of State to make regulations under subsection (1) shall include power—
- (a) to impose requirements which must be satisfied in relation to a bird included in Schedule 4 before it can be registered in accordance with the regulations; and
  - (b) to make different provision for different birds or different descriptions of birds.
- [<sup>F95</sup>(2A) The Secretary of State may charge such reasonable sum (if any) as he may determine in respect of any registration effected in accordance with regulations under subsection (1).]
- (3) If any person keeps or has in his possession or under his control any bird included in Schedule 4 [<sup>F96</sup>within five years of his having been convicted of—
- (a) an offence under this Part (being an offence relating to the protection of birds or other animals);<sup>F97</sup> . . .
  - (b) any other offence involving their ill-treatment][<sup>F98</sup>; or
  - (c) any offence under the Control of Trade in Endangered Species (Enforcement) Regulations 1997 (S.I. 1997/1372) relating to birds (other than an offence under Regulation 9 of those Regulations)]
- he shall be guilty of an offence.
- (4) If any person knowingly disposes of or offers to dispose of any bird included in Schedule 4 to any person[<sup>F99</sup> within five years of that person's having been convicted of such an offence as is mentioned in subsection (3),] he shall be guilty of an offence.
- (5) No account shall be taken for the purposes of subsections (3) and (4) of any conviction which has become spent for the purpose of the<sup>M7</sup> Rehabilitation of Offenders Act 1974.
- [<sup>F100</sup>(5A) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by any of the foregoing provisions of this section shall be guilty of an offence.]

*Status: Point in time view as at 06/04/2016.*

*Changes to legislation: Wildlife and Countryside Act 1981, Cross Heading: Protection of birds and prevention of poaching is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F101(6) . . . . .

F101(7) . . . . .

#### Extent Information

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

#### Textual Amendments

**F94** Words in s. 7(1) repealed (S.) (26.3.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), s. 86, **Sch. 5**

**F95** S. 7(2A) inserted (21.3.1997) by [1997 c. 55, s. 1\(2\)](#)

**F96** 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**

**F97** 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**

**F98** 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**

**F99** 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**

**F100** 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)**

**F101** 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)

**C3** S. 7(2A): power to transfer functions conferred (1.5.2000) by [S.I. 2000/745](#), **art. 2(1)**, **Sch.**

#### Marginal Citations

**M7** [1974 c. 53](#).

## 8 Protection of captive birds.

- (1) If any person keeps or confines any bird whatever in any cage or other receptacle which is not sufficient in height, length or breadth to permit the bird to stretch its wings freely, he shall be guilty of an offence<sup>F41</sup> . . . .
- (2) Subsection (1) does not apply to poultry, or to the keeping or confining of any bird—
  - (a) while that bird is in the course of conveyance, by whatever means;
  - (b) while that bird is being shown for the purposes of any public exhibition or competition if the time during which the bird is kept or confined for those purposes does not in the aggregate exceed 72 hours; or
  - (c) while that bird is undergoing examination or treatment by a veterinary surgeon or veterinary practitioner.
- (3) Every person who—
  - (a) promotes, arranges, conducts, assists in, receives money for, or takes part in, any event whatever at or in the course of which captive birds are liberated by hand or by any other means whatever for the purpose of being shot immediately after their liberation; or



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(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<sup>F42</sup>. . . .

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**Textual Amendments**

- F41** 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**
- F42** Words in s. 8(3) repealed (30.1.2001 for E.W. and 26.3.2003 for S.) by 2000 c. 37, ss. 102, 103(2), Sch. 16 Pt. IV (with Sch. 12 para. 10(6)) and by the Criminal Justice (Scotland) Act 2003 (asp 7), ss. 86, 89(2)(d), **Sch. 5**

**Status:**

Point in time view as at 06/04/2016.

**Changes to legislation:**

Wildlife and Countryside Act 1981, Cross Heading: Protection of birds and prevention of poaching is up to date with all changes known to be in force on or before 23 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.