



# Wildlife and Countryside Act 1981

## 1981 CHAPTER 69

### PART I

#### WILDLIFE

#### *Protection of other animals <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. **7(2)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(e)

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

- (1) Subject to the provisions of this Part, if any person intentionally kills, injures or takes any wild animal included in Schedule 5, he shall be guilty of an offence.
- (2) Subject to the provisions of this Part, if any person has in his possession or control any live or dead wild animal included in Schedule 5 or any part of, or anything derived from, such an animal, he shall be guilty of an offence.
- (3) A person shall not be guilty of an offence under subsection (2) if he shows that—
  - (a) the animal had not been killed or taken, or had been killed or taken otherwise than in contravention of the relevant provisions; or
  - (b) the animal or other thing in his possession or control had been sold (whether to him or any other person) otherwise than in contravention of those provisions and in this subsection "the relevant provisions" means the provisions of this Part and of the Conservation of Wild Creatures and Wild Plants Act 1975
- <sup>[F2]</sup>(4) Subject to the provisions of this Part, a person is guilty of an offence if intentionally or recklessly—
  - (a) he damages or destroys any structure or place which any wild animal specified in Schedule 5 uses for shelter or protection;

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- (b) he disturbs any such animal while it is occupying a structure or place which it uses for shelter or protection; or
- (c) he obstructs access to any structure or place which any such animal uses for shelter or protection.]

[<sup>F3</sup>(4A) Subject to the provisions of this Part, if any person intentionally or recklessly disturbs any wild animal included in Schedule 5 as—

- (a) a dolphin or whale (cetacea), or
- (b) a basking shark (cetorhinus maximus),

he shall be guilty of an offence.]

(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

- 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. 9(4) substituted (E.W.) (21.8.2007) by [The Conservation \(Natural Habitats, & c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#) {reg. 7(4)}
- F3** S. 9(4A) inserted (E.W.) (30.1.2001) by [2000 c. 37](#), ss. 81(1), 103(2), [Sch. 12 para. 5\(b\)](#)

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

(1) Subject to the provisions of this Part, if any person intentionally [<sup>F33</sup>or recklessly] kills, injures or takes any wild animal included in Schedule 5, he shall be guilty of an offence.

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

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

- (a) the animal had not been killed or taken, or had been killed or taken [<sup>F34</sup>at or from a place in Scotland] otherwise than in contravention of the relevant provisions; <sup>F35</sup> . . .
- (b) the animal or other thing in his possession or control had been sold [<sup>F36</sup>at a place in Scotland] (whether to him or any other person) otherwise than in contravention of those provisions [<sup>F37</sup>; or
- (c) that the animal or other thing in his possession or control had been killed at, taken from or sold at a place outwith Scotland and—

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- (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.]

F38

[<sup>F39</sup>(3A) In subsection (3)—

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

“the relevant regulations” means—

- (a) Council Regulation 338/97/EC on the protection of species of wild fauna and flora by regulating trade, and
- (b) Commission Regulation 1808/2001/EC on the implementation of that Council Regulation,

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

- (4) Subject to the provisions of this Part, if any person intentionally [<sup>F40</sup>or recklessly]—
  - (a) damages or destroys, or obstructs access to, any structure or place which any wild animal included in Schedule 5 uses for shelter or protection; or
  - (b) disturbs any such animal while it is occupying a structure or place which it uses for that purpose,
 he shall be guilty of an offence.

[<sup>F41</sup>(4A) Subject to the provisions of this Part, any person who, intentionally or recklessly, disturbs or harasses any wild animal included in Schedule 5 as a—

- (a) dolphin, whale or porpoise (cetacea); or
- (b) basking shark (*cetorhinus maximus*),

shall be guilty of an offence.]

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

[<sup>F42</sup>(5A) Subject to the provisions of this Part, any person who knowingly causes or permits to be done an act which is made unlawful by any of the foregoing provisions of this section (other than subsection (5)(b)) shall be guilty of an offence.]

- (6) In any proceedings for an offence under subsection (1), (2) or (5)(a) [<sup>F43</sup>or for an offence under subsection (5A) relating to an act which is mentioned in subsection (1), (2) or (5)(a)], the animal in question shall be presumed to have been a wild animal unless the contrary is shown.

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### Extent Information

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

### Textual Amendments

- F33** 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](#)
- F34** 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](#)
- F35** 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](#)
- F36** 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](#)
- F37** 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](#)
- F38** 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](#)
- F39** 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](#)
- F40** 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](#)
- F41** 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](#)
- F42** 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](#)
- F43** Words in s. 9(6) inserted (S.) (1.10.2004) by [Nature Conservation \(Scotland\) Act 2004 \(asp 6\)](#), ss. 50, 59, [Sch. 6 para. 8\(8\)](#); S.S.I. 2004/407, [art. 2](#)

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

- (1) Nothing in section 9 shall make unlawful—
- (a) anything done in pursuance of a requirement by the Minister of Agriculture, Fisheries and Food or the Secretary of State under section 98 of the <sup>M1</sup>Agriculture Act 1947, or by the Secretary of State under section 39 of the <sup>M2</sup>Agriculture (Scotland) Act 1948; or
  - (b) anything done under, or in pursuance of an order made under, the <sup>M3</sup>Animal Health Act 1981.
- (2) Nothing in subsection (4) of section 9 shall make unlawful anything done within a dwelling-house.
- (3) Notwithstanding anything in section 9, a person shall not be guilty of an offence by reason of—
- (a) the taking of any such animal if he shows that the animal had been disabled otherwise than by his unlawful act and was taken solely for the purpose of tending it and releasing it when no longer disabled;
  - (b) the killing of any such animal if he shows that the animal had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering; or

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- (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 [<sup>F4</sup>conservation body][<sup>F5</sup>for the area in which the house is situated or, as the case may be, the act is to take place] of the proposed action or operation and allowed them a reasonable time to advise him as to whether it should be carried out and, if so, the method to be used.
- (6) An authorised person shall not be entitled to rely on the defence provided by subsection (4) as respects any action taken at any time if it had become apparent, before that time, that that action would prove necessary for the purpose mentioned in that subsection and either—
- a licence under section 16 authorising that action had not been applied for as soon as reasonably practicable after that fact had become apparent; or
  - an application for such a licence had been determined.

#### Extent Information

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

#### Textual Amendments

- F4** 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](#)
- F5** 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

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

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

- (1) Nothing in section 9 shall make unlawful—
- 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; or
  - anything done under, or in pursuance of an order made under, the <sup>M3</sup>Animal Health Act 1981.

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- (2) Nothing in subsection (4) of section 9 shall make unlawful anything done within a dwelling-house.
- (3) Notwithstanding anything in section 9, a person shall not be guilty of an offence by reason of—
- (a) the taking of any such animal if he shows that the animal had been disabled otherwise than by his unlawful act and was taken solely for the purpose of tending it and releasing it when no longer disabled;
  - (b) the killing of any such animal if he shows that the animal had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering; or
  - (c) any act made unlawful by that section [<sup>F44</sup> (“an unlawful act”) if he shows—
    - (i) that each of the conditions specified in subsection (3A) was satisfied in relation to the carrying out of the unlawful act, or
    - (ii) that the unlawful act was carried out in relation to an animal bred and, at the time the act was carried out, lawfully held in captivity.]

[<sup>F45</sup>(3A) Those conditions are—

- (a) that the unlawful act was the incidental result of a lawful operation or other activity;
  - (b) that the person who carried out the lawful operation or other activity—
    - (i) took reasonable precautions for the purpose of avoiding carrying out the unlawful act; or
    - (ii) did not foresee, and could not reasonably have foreseen, that the unlawful act would be an incidental result of the carrying out of the lawful operation or other activity; and
  - (c) that the person who carried out the unlawful act took, immediately upon the consequence of that act becoming apparent to the person, such steps as were reasonably practicable in the circumstances to minimise the damage or disturbance to the wild animal, or the damage or obstruction to the structure or place, in relation to which the unlawful act was carried out.]
- (4) Notwithstanding anything in section 9, an authorised person shall not be guilty of an offence by reason of the killing or injuring of a wild animal included in Schedule 5 if he shows that his action was necessary for the purpose of preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries.
- (5) A person shall not be entitled to rely on the defence provided by subsection (2) or (3)(c) as respects anything done in relation to a bat otherwise than in the living area of a dwelling house unless he had notified the [<sup>F46</sup>conservation body][<sup>F5</sup>for the area in which the house is situated or, as the case may be, the act is to take place] of the proposed action or operation and allowed them a reasonable time to advise him as to whether it should be carried out and, if so, the method to be used.
- (6) An authorised person shall not be entitled to rely on the defence provided by subsection (4) as respects any action taken at any time if it had become apparent, before that time, that that action would prove necessary for the purpose mentioned in that subsection and either—
- (a) a licence under section 16 authorising that action had not been applied for as soon as reasonably practicable after that fact had become apparent; or
  - (b) an application for such a licence had been determined.

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[<sup>F47</sup>(6A) An authorised person shall not be entitled to rely on the defence provided by subsection (4) as respects any action taken at any time unless he notified the Scottish Ministers as soon as reasonably practicable after that time that he had taken the action.]

**Extent Information**

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

**Textual Amendments**

- F5** 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](#).
- F44** 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](#)
- F45** 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](#)
- F46** 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](#)
- F47** 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**

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

[<sup>F6</sup>**10A Protection of wild hares etc.**

- (1) Subject to the provisions of this Part, any person who intentionally or recklessly kills, injures or takes any wild animal included in Schedule 5A in the close season for the animal is guilty of an offence.
- (2) In this section, “close season” means—
  - <sup>F7</sup>(a) .....
  - (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.

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- (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.

#### Textual Amendments

- F6** 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)
- F7** S. 10A(2)(a) repealed (1.3.2021) by [Animals and Wildlife \(Penalties, Protections and Powers\) \(Scotland\) Act 2020 \(asp 14\)](#), **ss. 18(2), 22(2)**; S.S.I. 2021/42, reg. 2

### 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.

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- (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

- F6** Ss. 10A, 10B inserted (S.) (29.6.2011 for specified purposes, 1.1.2012 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 6(2), 43(1)** (with s. 41(1)); [S.S.I. 2011/279](#), art. 2(1)(d); [S.S.I. 2011/433](#), art. 2(1)(b)

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

- (1) Subject to the provisions of this Part, if any person—
- (a) sets in position any self-locking snare which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal coming into contact therewith;
  - (b) uses for the purpose of killing or taking any wild animal any self-locking snare, whether or not of such a nature or so placed as aforesaid, any bow or cross-bow or any explosive other than ammunition for a firearm;<sup>F8</sup> . . .
  - (c) uses as a decoy, for the purpose of killing or taking any wild animal, any live mammal or bird whatever,<sup>F9</sup> ; or
  - (d) knowingly causes or permits to be done an act which is mentioned in the foregoing provisions of this section,]

he shall be guilty of an offence.

- [<sup>F10</sup>(2) Subject to the provisions of this Part, a person shall be guilty of an offence if that person—
- (a) uses any trap or snare for the purpose of killing or taking or restraining any wild animal included in Schedule 6 or 6ZA;
  - (b) sets in position any trap or snare of such a nature and so placed as to be—
    - (i) in England and Wales, calculated to cause bodily injury to any wild animal included in Schedule 6 or 6ZA;
    - (ii) in Scotland, likely to cause bodily injury to any such wild animal;
  - (c) sets in position any electrical device for killing or stunning, or any poisonous, poisoned or stupefying substance, of such a nature and so placed as to be—
    - (i) in England and Wales, calculated to cause bodily injury to any wild animal included in Schedule 6;
    - (ii) in Scotland, likely to cause bodily injury to any such wild animal;
  - (d) uses for the purpose of killing or taking any wild animal included in Schedule 6—
    - (i) any electrical device for killing or stunning;

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- (ii) any poisonous, poisoned or stupefying substance;
  - (iii) any net;
  - (iv) any automatic or semi-automatic weapon;
  - (v) any device for illuminating a target or sighting device for night shooting;
  - (vi) any form of artificial light or any mirror or other dazzling device;
  - (vii) any gas or smoke not falling within sub-paragraph (ii);
  - (viii) any sound recording used as a decoy; or
  - (ix) any mechanically propelled vehicle in immediate pursuit of any such animal;
- (e) uses any mechanically propelled vehicle for the purpose of driving any wild animal included in Schedule 6; or
- (f) knowingly causes or permits to be done an act mentioned in paragraphs (a) to (e).]
- (3) Subject to the provisions of this Part, if any person—
- (a) sets in position [<sup>F11</sup>or knowingly causes or permits to be set in position] any snare which is of such a nature and so placed as to be calculated to cause bodily injury to any wild animal coming into contact therewith; and
  - (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 [<sup>F12</sup>(2)(a), (d) or (e)], [<sup>F13</sup>and in any proceedings for an offence under subsection (1)(d) or (2)(f) relating to an act which is mentioned in any of those paragraphs] the animal in question shall be presumed to have been a wild animal unless the contrary is shown.
- (6) In any proceedings for an offence under [<sup>F14</sup>subsection (2)(b) or (c)] 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 [<sup>F15</sup>the relevant Schedule].
- <sup>F16</sup>[(7) In any proceedings for an offence under subsection (2)(f) relating to an act which is mentioned in [<sup>F17</sup>subsection (2)(b) or (c)] 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 [<sup>F18</sup>the relevant Schedule].]
- <sup>F19</sup>(7A) In subsections (6) and (7), “the relevant Schedule” means—
- (a) where proceedings relate to an offence under subsection (2)(b), Schedule 6 or 6ZA;
  - (b) where proceedings relate to an offence under subsection (2)(c), Schedule 6.]

**Changes to legislation:** *Wildlife and Countryside Act 1981, Cross Heading: Protection of other animals and prevention of poaching is up to date with all changes known to be in force on or before 09 October 2021. 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) View outstanding changes*

### 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

- F8** 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).
- F9** 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).
- F10** S. 11(2) substituted (28.3.2019) by [The Humane Trapping Standards Regulations 2019 \(S.I. 2019/22\)](#), regs. 1(1), [3\(2\)](#)
- F11** 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).
- F12** Words in s. 11(5) substituted (28.3.2019) by [The Humane Trapping Standards Regulations 2019 \(S.I. 2019/22\)](#), regs. 1(1), [3\(3\)](#)
- F13** 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).
- F14** Words in s. 11(6) substituted (28.3.2019) by [The Humane Trapping Standards Regulations 2019 \(S.I. 2019/22\)](#), regs. 1(1), [3\(4\)\(a\)](#)
- F15** Words in s. 11(6) substituted (28.3.2019) by [The Humane Trapping Standards Regulations 2019 \(S.I. 2019/22\)](#), regs. 1(1), [3\(4\)\(b\)](#)
- F16** S. 11(7) added (25.9.1991) by [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), [ss. 2\(6\)](#), 3(3).
- F17** Words in s. 11(7) substituted (28.3.2019) by [The Humane Trapping Standards Regulations 2019 \(S.I. 2019/22\)](#), regs. 1(1), [3\(4\)\(a\)](#)
- F18** Words in s. 11(7) substituted (28.3.2019) by [The Humane Trapping Standards Regulations 2019 \(S.I. 2019/22\)](#), regs. 1(1), [3\(4\)\(b\)](#)
- F19** S. 11(7A) inserted (28.3.2019) by [The Humane Trapping Standards Regulations 2019 \(S.I. 2019/22\)](#), regs. 1(1), [3\(5\)](#)

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

- (1) Subject to the provisions of this Part, if any person—
- (a) sets in position [<sup>F48</sup>or otherwise uses] any self-locking snare [<sup>F49</sup>or a snare of any other type specified in an order made by the Scottish Ministers];
  - [<sup>F50</sup>(aa) sets in position or otherwise uses any other type of snare which is either of such a nature or so placed (or both) as to be calculated to cause unnecessary suffering to any animal coming into contact with it;]
  - (b) uses for the purpose of killing or taking any [<sup>F51</sup>animal] , any bow or cross-bow or any explosive other than ammunition for a firearm; <sup>F8</sup> . . .
  - (c) uses as a decoy, for the purpose of killing or taking any wild animal, any live mammal or bird whatever, [<sup>F9</sup>; or
  - (d) knowingly causes or permits to be done an act which is mentioned in the foregoing provisions of this section,]

he shall be guilty of an offence.

- [<sup>F52</sup>(1A) For the purposes of subsection (1)(aa), a snare which is of such a nature or so placed (or both) as to be calculated to cause unnecessary suffering to any animal coming into contact with it includes—

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- (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.]

[<sup>F10</sup>(2) Subject to the provisions of this Part, a person shall be guilty of an offence if that person—

- (a) uses any trap or snare for the purpose of killing or taking or restraining any wild animal included in Schedule 6 or 6ZA;
- (b) sets in position any trap or snare of such a nature and so placed as to be—
  - (i) in England and Wales, calculated to cause bodily injury to any wild animal included in Schedule 6 or 6ZA;
  - (ii) in Scotland, likely to cause bodily injury to any such wild animal;
- (c) sets in position any electrical device for killing or stunning, or any poisonous, poisoned or stupefying substance, of such a nature and so placed as to be—
  - (i) in England and Wales, calculated to cause bodily injury to any wild animal included in Schedule 6;
  - (ii) in Scotland, likely to cause bodily injury to any such wild animal;
- (d) uses for the purpose of killing or taking any wild animal included in Schedule 6—
  - (i) any electrical device for killing or stunning;
  - (ii) any poisonous, poisoned or stupefying substance;
  - (iii) any net;
  - (iv) any automatic or semi-automatic weapon;
  - (v) any device for illuminating a target or sighting device for night shooting;
  - (vi) any form of artificial light or any mirror or other dazzling device;
  - (vii) any gas or smoke not falling within sub-paragraph (ii);
  - (viii) any sound recording used as a decoy; or
  - (ix) any mechanically propelled vehicle in immediate pursuit of any such animal;
- (e) uses any mechanically propelled vehicle for the purpose of driving any wild animal included in Schedule 6; or
- (f) knowingly causes or permits to be done an act mentioned in paragraphs (a) to (e).]

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<sup>F53</sup><sup>F54</sup>(3) .....

<sup>F53</sup>(3A) .....

<sup>F53</sup>(3B) .....

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

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

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

<sup>F55</sup>(3D) .....

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

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

<sup>F56</sup>(4A) The Scottish Ministers may by order specify—

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

(5) In any proceedings for an offence under subsection <sup>F57</sup>(1)(c) or <sup>F12</sup>(2)(a), (d) or (e)], <sup>F13</sup>and in any proceedings for an offence under subsection (1)(d) or (2)(f) relating to an act which is mentioned in any of those paragraphs] the animal in question shall be presumed to have been a wild animal unless the contrary is shown.

(6) In any proceedings for an offence under <sup>F14</sup>subsection (2)(b) or (c)] 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 <sup>F15</sup>the relevant Schedule].

<sup>F16</sup>(7) In any proceedings for an offence under subsection (2)(f) relating to an act which is mentioned in <sup>F17</sup>subsection (2)(b) or (c)] 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 <sup>F18</sup>the relevant Schedule].]

<sup>F19</sup>(7A) In subsections (6) and (7), “the relevant Schedule” means—

- (a) where proceedings relate to an offence under subsection (2)(b), Schedule 6 or 6ZA;
- (b) where proceedings relate to an offence under subsection (2)(c), Schedule 6.]

**Changes to legislation:** *Wildlife and Countryside Act 1981, Cross Heading: Protection of other animals and prevention of poaching is up to date with all changes known to be in force on or before 09 October 2021. 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) View outstanding changes*

### Extent Information

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

### Textual Amendments

- F8** 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).
- F9** 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).
- F10** S. 11(2) substituted (28.3.2019) by [The Humane Trapping Standards Regulations 2019 \(S.I. 2019/22\)](#), regs. 1(1), [3\(2\)](#)
- F12** Words in s. 11(5) substituted (28.3.2019) by [The Humane Trapping Standards Regulations 2019 \(S.I. 2019/22\)](#), regs. 1(1), [3\(3\)](#)
- F13** 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).
- F14** Words in s. 11(6) substituted (28.3.2019) by [The Humane Trapping Standards Regulations 2019 \(S.I. 2019/22\)](#), regs. 1(1), [3\(4\)\(a\)](#)
- F15** Words in s. 11(6) substituted (28.3.2019) by [The Humane Trapping Standards Regulations 2019 \(S.I. 2019/22\)](#), regs. 1(1), [3\(4\)\(b\)](#)
- F16** S. 11(7) added (25.9.1991) by [Wildlife and Countryside \(Amendment\) Act 1991 \(c. 39, SIF 4:5\)](#), [ss. 2\(6\)](#), 3(3).
- F17** Words in s. 11(7) substituted (28.3.2019) by [The Humane Trapping Standards Regulations 2019 \(S.I. 2019/22\)](#), regs. 1(1), [3\(4\)\(a\)](#)
- F18** Words in s. 11(7) substituted (28.3.2019) by [The Humane Trapping Standards Regulations 2019 \(S.I. 2019/22\)](#), regs. 1(1), [3\(4\)\(b\)](#)
- F19** S. 11(7A) inserted (28.3.2019) by [The Humane Trapping Standards Regulations 2019 \(S.I. 2019/22\)](#), regs. 1(1), [3\(5\)](#)
- F48** 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](#)
- F49** 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](#)
- F50** 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](#)
- F51** 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](#)
- F52** 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\(1\)\(c\)\(i\)](#)
- F53** 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\(1\)\(c\)\(i\)](#)
- F54** 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](#)
- F55** 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\(1\)\(c\)\(i\)](#)
- F56** 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](#)
- F57** 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](#)

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**[<sup>F20</sup>11A Snares: training, identification numbers, tags etc.**

- (1) Any person who sets a snare in position must have an identification number (see also subsections (3), (4) and (7) in relation to identification numbers and training).
- (2) Any person who sets in position or otherwise uses a snare must ensure—
  - (a) that a tag is fitted on the snare in such a manner that it is not capable of being easily removed from the snare;
  - (b) that there is displayed on the tag (in a manner in which it will remain readable) the identification number of the person who set the snare in position; and
  - (c) where the snare is intended to catch the following types of animal—
    - (i) brown hares or rabbits; or
    - (ii) foxes,that there is also displayed on the tag (in a manner in which it will remain readable) a statement that it is intended to catch the type of animal in question.
- (3) For the purposes of this section and sections 11D and 11E, the identification number of a person who sets a snare in position is the identification number issued to him by [<sup>F21</sup>the] chief constable.
- (4) [<sup>F22</sup>The] chief constable—
  - (a) on receipt of an appropriate application from any person for an identification number for the purpose of setting snares in position <sup>F23</sup>...; and
  - (b) on being satisfied that the applicant has been trained to set a snare in position and on the circumstances in which the setting of snares is an appropriate method of predator control,must grant the application and issue the applicant with an identification number.
- (5) Any person who fails to comply with subsection (1) is guilty of an offence.
- (6) Any person who—
  - (a) has an identification number and sets in position or otherwise uses a snare; but
  - (b) fails to comply with subsection (2) in any respect,is guilty of an offence.
- <sup>F24</sup>(7) .....
- (8) The Scottish Ministers may by order make provision as regards—
  - (a) when a person has been trained to set a snare in position and on the circumstances in which the setting of snares is an appropriate method of predator control;
  - (b) how [<sup>F25</sup>the] chief constable is to be satisfied that an applicant for an identification number has been so trained;
  - (c) the manner in which a tag is to be fitted for the purposes of subsection (2)(a) (including the material from which a tag is to be made);
  - (d) the manner in which an identification number is to appear on a tag for the purposes of subsection (2)(b), and in which a statement is to be displayed on a tag for the purposes of subsection (2)(c);
  - (e) the form of and manner of making an application for an identification number;
  - (f) the determining by the Scottish Ministers, or by [<sup>F26</sup>the chief constable] in accordance with the order, of any fee to accompany the application and the charging of any such fee;

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- (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);

[<sup>F27</sup>“chief constable” means the chief constable of the Police Service of Scotland]

<sup>F28</sup> ...

#### Textual Amendments

- F20** 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\(1\)\(c\)\(ii\)\(3A\)\(a\)\(4\)](#)
- F21** 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\(a\)](#)
- F22** 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\(b\)\(i\)](#)
- F23** 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\(b\)\(ii\)](#)
- F24** [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\(c\)](#)
- F25** 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\(d\)\(i\)](#)
- F26** 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\(d\)\(ii\)](#)
- F27** 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\(e\)\(i\)](#)
- F28** 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.

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- (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).

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**Textual Amendments**

**F20** 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.

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**Textual Amendments**

**F20** 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.

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**Textual Amendments**

**F20** 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)

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## 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

**F20** 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.

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**Changes to legislation:** *Wildlife and Countryside Act 1981, Cross Heading: Protection of other animals and prevention of poaching is up to date with all changes known to be in force on or before 09 October 2021. 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) View outstanding changes*

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- (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.]

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**Textual Amendments**

**F20** Ss. 11A-11F inserted (1.1.2012 for specified purposes, 22.11.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 13(3), 43(1)** (with [s. 41\(1\)](#)); S.S.I. 2011/433, art. 2(1)(c)(ii)(3A)(a)(4)

[<sup>F29</sup>**11G Prevention of poaching: wild hares, rabbits etc.**

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

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**Textual Amendments**

**F29** 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.]

*Changes to legislation:* Wildlife and Countryside Act 1981, Cross Heading: Protection of other animals and prevention of poaching is up to date with all changes known to be in force on or before 09 October 2021. 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) View outstanding changes

#### Textual Amendments

**F29** 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)

### [<sup>F30</sup>11I Sale, possession etc. of wild hares, rabbits etc. killed or taken unlawfully

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

#### Textual Amendments

**F30** S. 11I inserted (S.) (29.6.2011 for specified purposes, 1.1.2012 in so far as not already in force) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 8\(2\)](#), [43\(1\)](#) (with [s. 41\(1\)](#)); S.S.I. 2011/279, art. 2(1)(f); S.S.I. 2011/433, art. 2(1)(b)

### [<sup>F31</sup>12YARelaxation 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

**F31** S. 12YA inserted (S.) (1.1.2012) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), [ss. 11\(2\)](#), [43\(1\)](#) (with [s. 41\(1\)](#)); S.S.I. 2011/433, art. 2(1)(b)

## 12 Protection of certain mammals.

[<sup>F32</sup>Schedule 7, which amends the law relating to the protection of certain mammals, shall have effect.]

#### Textual Amendments

**F32** 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)

**Changes to legislation:**

Wildlife and Countryside Act 1981, Cross Heading: Protection of other animals and prevention of poaching is up to date with all changes known to be in force on or before 09 October 2021. 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.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 53(3)(c)(ia) inserted by [2015 c. 20 Sch. 7 para. 2\(b\)](#)
- s. 53B(4A)(4B) inserted by [2015 c. 20 Sch. 7 para. 4](#)
- s. 53ZA inserted by [2015 c. 20 Sch. 7 para. 3](#)
- s. 54B54C inserted by [2015 c. 20 Sch. 7 para. 5](#)
- Sch. 13A inserted by [2015 c. 20 Sch. 7 para. 6](#)
- Sch. 14A inserted by [2015 c. 20 Sch. 7 para. 7](#)