



# Game (Scotland) Act 1832

1832 CHAPTER 68 2 and 3 Will 4

An Act for the more effectual Prevention of Trespasses upon Property by Persons in pursuit of Game in . . . .  
FI

Scotland.

[17th July 1832]

## Textual Amendments

F1 Words repealed by [Statute Law Revision Act 1948 \(c. 62\), s. 4\(b\)](#)

## Modifications etc. (not altering text)

- C1 Short title “The Game (Scotland) Act, 1832” given by [Short Titles Act 1896 \(c. 14\)](#)
- C2 Act amended by [Game Laws Amendment \(Scotland\) Act 1877 \(c. 28, SIF 4:3\), s. 10](#)
- C3 Preamble omitted under authority of [Statute Law Revision \(No. 2\) Act 1890 \(c. 51\)](#)
- C4 Certain words of enactment repealed by [Statute Law Revision \(No. 2\) Act 1888 \(c. 57\)](#) and remaining words of enactment and certain other words repealed by [Statute Law Revision \(No. 2\) Act 1890 \(c. 51\)](#)

## [1.] Penalty on persons trespassing in the day-time upon lands in search of game. Proviso.

If any person whatsoever shall commit any trespass by entering or being, in the day-time, upon any land, without leave of the proprietor, in search or pursuit of game, or of . . . <sup>F2</sup>, woodcocks, snipes, . . . <sup>F3</sup>, wild ducks, or conies, such person shall, on being summarily convicted thereof before a justice of the peace, on proof on oath by one or more credible witness or witnesses, or confession of the offence, or upon other legal evidence, forfeit and pay such sum of money, not exceeding [<sup>F4</sup>level 1 on the standard scale], as to the justice shall seem meet, together with the costs of the conviction; and if any person having his face blackened, coloured, or otherwise disfigured for the purpose of disguise, or if any persons to the number of five or more together shall commit any trespass by entering or being, in the day-time, upon any land in search or pursuit of game, or of . . . <sup>F2</sup>, woodcocks, snipes, . . . <sup>F3</sup>, wild ducks, or conies, each of such persons shall, on being summarily convicted thereof before a justice of the peace on proof on oath by one or more credible witness or witnesses, or confession of the offence, or upon other legal evidence, forfeit and pay such sum of money, not

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exceeding [<sup>F5</sup>level 3 on the standard scale], as to the said justice shall seem meet, together with the expenses of process: Provided always, that any person charged with any such trespass shall be at liberty to prove, by way of defence, any matter which would have been a defence to an action at law for such trespass.

#### Textual Amendments

- F2** Words repealed by [Deer \(Scotland\) Act 1959 \(c. 40\)](#), **Sch. 3**
- F3** Words repealed by [Protection of Birds Act 1954 \(c. 30\)](#), **Sch. 6**
- F4** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G, 457A**
- F5** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G, 457A**

## 2 **Such trespassers may be required to quit the land, and to give their names and abodes; and in case of refusal may be arrested. Penalty. Party arrested must be discharged, unless brought before a justice within 12 hours.**

Where any person shall be trespassing on any land, in the day-time, in search or pursuit of game, or woodcocks, snipes, . . . <sup>F6</sup>, wild ducks, or conies, it shall be lawful for any person having the right of killing the game upon such land, or for the occupier of the land, or for any gamekeeper or servant of either of them, or for any person authorized by either of them, to require the person so trespassing forthwith to quit the land whereon he shall be so trespassing, and also to tell his christian name, surname, and place of abode; and in case such person shall, after being so required, offend by refusing to tell his real name or place of abode, or by giving such a general description of his place of abode as shall be illusory for the purpose of discovery, or by wilfully continuing or returning upon the land, it shall be lawful for the party so requiring as aforesaid, and also for any person acting by his order and in his aid, to apprehend such offender, and to convey him, or cause him to be conveyed, as soon as conveniently may be, before a justice of the peace; and such offender (whether so apprehended or not), upon being summarily convicted of any such offence before a justice of the peace, at the instance of the owner or occupier of such land, or of the procurator fiscal for the county, on proof on oath by one or more credible witness or witnesses, or confession of the offence, or upon other legal evidence, shall forfeit and pay such sum of money, not exceeding [<sup>F7</sup>level 1 on the standard scale], as to the convicting justice shall seem meet, together with expenses of process: Provided always, that no person so apprehended shall on any pretence whatsoever be detained for a longer period than twelve hours from the time of his apprehension until he shall be brought before some justice of the peace; and that if he cannot, on account of the absence or distance of the residence of any such justice of the peace, or owing to any other reasonable cause, be brought before a justice of the peace within such twelve hours as aforesaid, then the person so apprehended shall be discharged at the end of that time, but may nevertheless be proceeded against for his offence by summons or warrant, according to the provisions herein-after mentioned, as if no such apprehension had taken place.

#### Textual Amendments

- F6** Words repealed by [Protection of Birds Act 1954 \(c. 30\)](#), **Sch. 6**
- F7** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289C, 289G**

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### 3 What to be deemed day-time.

For the purposes of this Act the day-time shall be deemed to commence at the beginning of the last hour before sunrise, and to conclude at the expiration of the first hour after sunset.

### 4 The provisions as to trespassers not to apply to persons hunting, &c.

Provided always, that the aforesaid provisions against trespassers shall not extend to any person hunting or coursing upon any lands with hounds or greyhounds, and being in fresh pursuit of any . . . <sup>F8</sup>, hare, or fox already started upon any other land on which such person was entitled to hunt or course.

#### Textual Amendments

**F8** Words repealed by [Deer \(Scotland\) Act 1959 \(c. 40\)](#), [Sch. 3](#)

### 5 Game may be taken from trespassers not delivering up the same when demanded.

Where any person shall be found trespassing by day upon any land in search or pursuit of game, and shall then and there have in his possession any game, it shall be lawful for any person having the right of killing the game upon such land, or for the occupier of such land, or for any gamekeeper or servant of either of them, or for any other person authorized by either of them, or for any person acting by the order and in aid of any of the said several persons, to demand from such trespasser such game in his possession, and in case such trespasser shall not immediately deliver up such game, to seize and take the same from him, for the use of the person entitled to the game upon such land.

### 6 Penalty on Aggressors for assaulting any one executing this Act.

If any person being in the commission of a trespass shall assault or obstruct any person acting in the execution or in virtue of the powers and provisions of this Act, such person, on being convicted thereof before two justices of peace, on proof on oath by one or more credible witness or witnesses, or confession of the offence, or upon other legal evidence, shall forfeit and pay any sum not exceeding [<sup>F9</sup>level 1 on the standard scale], over and above any penalty which he may have incurred by contravening this Act, and in default of payment thereof at such time as to the said justices may seem fit, shall be imprisoned in the common gaol or house of correction (with or without hard labour) for a period not exceeding three months.

#### Textual Amendments

**F9** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289C, 289G](#)

### 7 Application of penalties.

Every penalty and forfeiture for any offence against this Act shall be paid [<sup>F10</sup>into the Exchequer]

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The justice or justices of the peace by whom any person shall be summarily convicted and adjudged to pay any sum of money for any offence against this Act, together with expenses, may adjudge that such person shall pay the same, either immediately, or within such period as the said justice or justices shall think fit; and that in default of payment at the time appointed, such person shall be imprisoned in the common gaol or house of correction (with or without hard labour), as to the justice or justices shall seem meet, . . . <sup>F11</sup> the imprisonment to cease upon payment of the amount and costs.

**Textual Amendments****F11** Words repealed by [Statute Law Revision Act 1891 \(c. 67\)](#)**9 . . . . . <sup>F12</sup>****Textual Amendments****F12** [Ss. 9, 10, 13–15](#) repealed by [Statute Law Revision Act 1891 \(c. 67\)](#)**10 . . . . . <sup>F13</sup>****Textual Amendments****F13** [Ss. 9, 10, 13–15](#) repealed by [Statute Law Revision Act 1891 \(c. 67\)](#)**11 As to Prosecutions for Offences.**

The prosecution for every offence punishable by virtue of this Act shall be commenced within three calendar months after the commission of the offence; . . . <sup>F14</sup>

**Textual Amendments****F14** Words repealed by [Statute Law Revision Act 1891 \(c. 67\)](#)**12 Prosecutor not required to prove a negative.**

It shall not be necessary in any proceeding against any person under this Act to negative by evidence any licence, consent, authority, or other matter of exception or defence; but the party seeking to avail himself of any such licence, consent, authority, or other matter of exception or defence, shall be bound to prove the same.

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13— ..... F15  
15.

#### Textual Amendments

F15 Ss. 9, 10, 13–15 repealed by Statute Law Revision Act 1891 (c. 67)

#### 16 This Act not to preclude actions for trespass; but no double proceedings shall be had for the same trespass.

Provided always, that nothing in this Act contained shall prevent any person from proceeding by way of civil action to recover damages in respect of any trespass upon his land, whether committed in pursuit of game or otherwise, save and except that where any proceedings shall have been instituted under the provisions of this Act against any person for or in respect of any trespass, no action at law shall be maintainable for the same trespass by any person at whose instance or with whose concurrence or assent such proceedings shall have been instituted, but that such proceedings shall in such case be a bar to any such action, and may be given in evidence to this purpose and effect.

#### 17 Venue. Notice of Action. Tender of Amends.

All actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act shall be commenced within six calendar months after the fact committed, and not otherwise; and notice in writing of such action, and of cause thereof, shall be given to the defender one calendar month at least before the commencement of the action; and no prosecutor shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into court after such action brought, by or on behalf of the defender.

#### 18 Limits of Act.

Nothing in this Act contained shall extend to England, Wales, or Ireland.

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