

STATUTORY INSTRUMENTS

1994 No. 2716

The Conservation (Natural Habitats, &c.) Regulations 1994

[^{F1}PART III

PROTECTION OF SPECIES

F1 Regulations revoked (E.W.) (1.4.2010 except so far as relating to the revocation in relation to W. of reg. 36 and specified words in reg. 3(3), 12.12.2014 in so far as not already in force) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), regs. 1(2)(4)(b), **133(3)** (with regs. 125, 134)

Protection of animals

European protected species of animals

38. The species of animals listed in Annex IV(a) to the Habitats Directive whose natural range includes any area in Great Britain are listed in Schedule 2 to these Regulations.

References in these Regulations to a “European protected species” of animal are to any of those species.

Commencement Information

II Reg. 38 in force at 30.10.1994, see [reg. 1\(2\)](#)

[^{F2}Protection of wild animals of European protected species

39.—(1) It is an offence—

- (a) deliberately or recklessly to capture, injure or kill a wild animal of a European protected species;
- (b) deliberately or recklessly—
 - (i) to harass a wild animal or group of wild animals of a European protected species;
 - (ii) to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
 - (iii) to disturb such an animal while it is rearing or otherwise caring for its young;
 - (iv) to obstruct access to a breeding site or resting place of such an animal, or otherwise to deny the animal use of the breeding site or resting place;
 - (v) to disturb such an animal in a manner that is, or in circumstances which are, likely to significantly affect the local distribution or abundance of the species to which it belongs; ^{F3} ...

- (vi) to disturb such an animal in a manner that is, or in circumstances which are, likely to impair its ability to survive, breed or reproduce, or rear or otherwise care for its young; [^{F4}or
 - (vii) to disturb such an animal while it is migrating or hibernating;]
 - (c) deliberately or recklessly to take or destroy the eggs of such an animal; or
 - (d) to damage or destroy a breeding site or resting place of such an animal.
- (2) Subject to the provisions of this Part, it is an offence to deliberately or recklessly disturb any dolphin, porpoise or whale (cetacean).
- (3) It is an offence for any person—
- (a) on or after 1st May 2007 to possess or control;
 - (b) on or after 1st May 2007 to transport;
 - (c) to sell or exchange; or
 - (d) to offer for sale or exchange,
- anything to which paragraph (4) applies.
- (4) This paragraph applies to—
- (a) any live or dead animal or part of an animal—
 - (i) which has been taken from the wild; and
 - (ii) which is of a species or subspecies listed in Annex IV(a) to the Habitats Directive; and
 - (b) anything derived from, such an animal or part of such an animal.
- (5) The offences in paragraph (1), (2) and (3) apply to all stages of the life of the animals to which they apply.
- (6) Subject to paragraph (7), a person shall not be guilty of an offence under paragraph (3) if that person shows that the animal, or part of the animal in question, or the animal or part of the animal from which the thing in question is derived, was lawfully taken from the wild.
- (7) The defence under paragraph (6) does not apply—
- (a) in respect of the offences in paragraph (3)(a) or (b) if—
 - (i) the animal in question is an animal of a European protected species, or the part or thing in question is derived from such an animal; and
 - (ii) the animal, part or thing in question was in the defender's possession, or transported by the defender, for the purpose of sale or exchange;
 - (b) in respect of the offences in paragraph (3)(c) or (d), if the animal is an animal of a European protected species, or the part or thing in question is derived from such an animal.
- (8) For the purposes of paragraph (6) an animal, or part of an animal, shall be treated as having been lawfully taken from the wild if—
- [^{F5}(aa) it was taken from the wild in the United Kingdom, without contravention of the law and before 10th June 1994;]
 - (a) it was taken from the wild in the European territory of a member State to which the Habitats Directive applies without contravention of the law of that member State and before the implementation date; or
 - (b) it was taken from the wild elsewhere without contravention of the law of the country or territory from where it was taken.

(9) A person shall not be guilty of an offence under paragraph (3) if that person shows that the animal, or the animal from which the part or thing in question is derived—

- (a) is of a species listed in the second column of the table in Schedule 2A and was from a population occurring in a country or area which is specified in respect of that species in the third column of that Schedule;
- (b) is of the species *Capra aegagrus* and was not from a naturally occurring population;
- (c) is of the species *Ovis gmelini musimon* and was not from a naturally occurring population in Corsica or Sardinia; or
- (d) is of the species *Coregonus oxyrinchus* and either was from Finland or was not from an anadromous population.

(10) Subject to the provisions of this Part, it is an offence to knowingly cause or permit to be done an act which is made unlawful by any of the provisions of this regulation.

(11) Unless the contrary is shown, in any proceedings—

- (a) for an offence under paragraph (1) or (2), the animal in question shall be presumed to have been a wild animal; and
- (b) for an offence under paragraph (3) (as the case may be)—
 - (i) the animal or part of the animal in question shall be presumed to have been taken from the wild; or
 - (ii) the part or thing in question shall be presumed to be from an animal or part of an animal taken from the wild.

(12) [^{F6}A person guilty of an offence under this regulation is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding £40,000 (or both),
- (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both).]

^{F7}(13)

(14) In this regulation—

“the implementation date” means—

- (a) where the relevant State became a member State before 10th June 1994, 10th June 1994; and
- (b) in any other case, the date on which the relevant State became a member State; and

“relevant State” means the State in whose territory the animal, or part of it, was taken from the wild.]

F2	Reg. 39 substituted (S.) (15.2.2007) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2007 (S.S.I. 2007/80) , regs. 2, 10 (with reg. 31)
F3	Word in reg. 39(1)(b)(v) omitted (26.1.2009) by virtue of The Conservation (Natural Habitats, &c.) Amendment (No. 2) (Scotland) Regulations 2008 (S.S.I. 2008/425) , regs. 1(1), 4(a)
F4	Reg. 39(1)(b)(vii) and word inserted (26.1.2009) by The Conservation (Natural Habitats, &c.) Amendment (No. 2) (Scotland) Regulations 2008 (S.S.I. 2008/425) , regs. 1(1), 4(b)
F5	Reg. 39(8)(aa) inserted (31.12.2020) by The Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/113) , regs. 1, 16 ; 2020 c. 1, Sch. 5 para. 1(1)
F6	Reg. 39(12) substituted (30.11.2020) by Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020 (asp 14) , ss. 9(2) , 22(2); S.S.I. 2020/379, reg. 2(1), sch. (with reg. 3)

F7 Reg. 39(13) omitted (25.2.2008) by virtue of [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2008 \(S.S.I. 2008/17\)](#), regs. 1(1), **2(3)**

[^{F8}Exceptions from regulation 39

40.—(1) A person shall not be guilty of an offence under regulation 39(1)(a) or (b), (2), or (3) (a) or (b), if that person shows that what was done—

- (a) was in relation to an animal that had been seriously disabled otherwise than by that person's unlawful act and there was no reasonable chance of its recovering; and
- (b) was done solely for one or more of the purposes of—
 - (i) ending the animal's life in a humane manner; or
 - (ii) where the animal's life had been so ended, disposing of it (otherwise than by sale or exchange) as soon as practicable after it was dead.

(2) A person shall not be guilty of the offence under regulation 39(1)(a) of deliberately or recklessly capturing a wild animal of a European protected species, or an offence under regulation 39(3)(a) or (b), if that person shows that what was done—

- (a) was in relation to an animal that had been disabled otherwise than by that person's unlawful act; and
- (b) was done solely for one or more of the purposes of—
 - (i) tending it and releasing it when no longer disabled; or
 - (ii) releasing it after it had been tended,
 and was done in a manner or in circumstances unlikely to cause the animal unnecessary suffering.

(3) A person shall not be guilty of an offence by reason of any act made unlawful by regulation 39 if that person shows that the act was carried out in relation to an animal bred and, at the time the act was carried out, lawfully held in captivity.

[^{F9}(4) The exceptions to regulation 39 in paragraphs (1) and (2) shall not apply where it is shown that—

- (a) there was a satisfactory alternative to what was done; or
- (b) what was done was detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range.]]

F8 Reg. 40 substituted (S.) (15.2.2007) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2007 \(S.S.I. 2007/80\)](#), regs. 2, **11**

F9 Reg. 40(4) inserted (26.1.2009) by [The Conservation \(Natural Habitats, &c.\) Amendment \(No. 2\) \(Scotland\) Regulations 2008 \(S.S.I. 2008/425\)](#), regs. 1(1), **5**

Prohibition of certain methods of taking or killing wild animals

41.—(1) This regulation applies in relation to the taking or killing of a wild animal—

- (a) of any of the species listed in Schedule 3 to these Regulations (which shows the species listed in Annex V(a) to the Habitats Directive, and to which Article 15 applies, whose natural range includes any area of Great Britain), or
- (b) of a European protected species, where the taking or killing of such animals is permitted in accordance with these Regulations.

(2) It is an offence to use for the purpose of taking or killing any such wild animal—

- [^{F10}(a) any means listed in paragraphs 1 or 2 of Schedule 3A;
- (b) any form of taking or killing from the modes of transport listed in paragraph 3 of Schedule 3A; or]
- (c) any other means of taking or killing which is indiscriminate and capable of causing the local disappearance of, or serious disturbance to, a population of any species of animal listed in Schedule 3 to these Regulations or any European protected species of animal.

[^{F11}(3)

[^{F11}(4)

[^{F11}(5)

[^{F12}(6) A person guilty of an offence under this regulation is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding £40,000 (or both),
- (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both).]

<p>F10 Reg. 41(2)(a)(b) substituted (31.12.2020) by The Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/113), regs. 1, 17(2); 2020 c. 1, Sch. 5 para. 1(1)</p> <p>F11 Reg. 41(3)-(5) omitted (31.12.2020) by virtue of The Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/113), regs. 1, 17(3); 2020 c. 1, Sch. 5 para. 1(1)</p> <p>F12 Reg. 41(6) substituted (30.11.2020) by Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020 (asp 14), ss. 9(3), 22(2); S.S.I. 2020/379, reg. 2(1), sch. (with reg. 3)</p> <hr/> <p>Commencement Information</p> <p>I2 Reg. 41 in force at 30.10.1994, see reg. 1(2)</p>
--

[^{F13}**Monitoring incidental capture and killing**

41A.—(1) Scottish Natural Heritage must make arrangements in accordance with paragraphs (2) to (5) for monitoring the incidental capture or killing (a “monitoring system”) of animals of the species listed in Annex IV(a) to the Habitats Directive.

(2) Scottish Natural Heritage must, from time to time, review the monitoring system and, if they think it appropriate, revise it.

(3) In light of the information gathered from the monitoring system, Scottish Natural Heritage must—

- (a) make arrangements for the carrying out of such research, or
- (b) where appropriate, advise the Scottish Ministers on such conservation measures

as appears or appear to Scottish Natural Heritage to be necessary to ensure that such incidental capture or killing does not have a significant negative impact on the species in question.

(4) In implementing that monitoring system Scottish Natural Heritage must, in relation to the species of animal listed in Annex IV(a) to the Habitats Directive which are found in Scotland—

- (a) identify the risks of incidental capture or killing to which those species are subject, and the activities which give rise to such risks;

Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART III. (See end of Document for details)

- (b) maintain a record of instances of incidental capture or killing of animals of those species of which Scottish Natural Heritage is aware as a result of the surveillance carried out under regulation 37A, the monitoring carried out under this regulation, or otherwise;
- (c) assess to what extent monitoring of incidental capture or killing is needed, having regard to—
 - (i) the risks identified under sub-paragraph (a);
 - (ii) the instances of incidental capture or killing recorded under sub-paragraph (b);
 - (iii) whether the species is a priority species; and
 - (iv) the conservation status of the species; and
- (d) ensure that monitoring of incidental capture or killing is carried out.
- (5) Monitoring for the purposes of this regulation may be carried out by—
 - (a) Scottish Natural Heritage; or
 - (b) any other body or person—
 - (i) pursuant to an agreement with Scottish Natural Heritage, provided that Scottish Natural Heritage is satisfied as to the standards and methods of monitoring used by that body or person; or
 - (ii) as a condition of a licence or other authorisation granted by a competent authority.
- (6) The Scottish Ministers may, from time to time, give directions to Scottish Natural Heritage as to the exercise of its functions under paragraphs (1) to (5).]

F13 Reg. 41A substituted (26.1.2009) by [The Conservation \(Natural Habitats, &c.\) Amendment \(No. 2\) \(Scotland\) Regulations 2008 \(S.S.I. 2008/425\)](#), regs. 1(1), 6

Protection from incidental capture and killing

^{F1}**41B.**

Protection of plants

European protected species of plants

42. The species of plants listed in Annex IV(b) to the Habitats Directive whose natural range includes any area in Great Britain are listed in Schedule 4 to these Regulations.

References in these Regulations to a “European protected species” of plant are to any of those species.

Commencement Information
I3 Reg. 42 in force at 30.10.1994, see [reg. 1\(2\)](#)

[^{F14}Protection of certain wild plants

43.—(1) It is an offence deliberately or recklessly to pick, collect, cut, uproot or destroy a wild plant of a European protected species.

- (2) It is an offence for any person—
 - (a) on or after 1st May 2007 to possess or control;

- (b) on or after 1st May 2007 to transport;
 - (c) to sell or exchange; or
 - (d) to offer for sale or exchange,
- anything to which paragraph (3) applies.
- (3) This paragraph applies to—
- (a) any live or dead plant, or part of a plant—
 - (i) which has been taken in the wild; and
 - (ii) which is of a species or subspecies listed in Annex II(b) (other than any bryophyte) or IV(b) to the Habitats Directive; and
 - (b) anything derived from such a plant or part of such a plant.
- (4) The offences in paragraphs (1) and (2) apply to all stages of the biological cycle of the plants to which they apply.
- (5) Subject to paragraph (6), a person shall not be guilty of an offence under paragraph (2) if that person shows that the plant or part of the plant in question, or the plant or part of the plant from which the thing in question is derived, was lawfully taken in the wild.
- (6) The defence under paragraph (5) does not apply—
- (a) in the case of the offences in paragraph (2)(a) or (b) if—
 - (i) the plant in question is a plant of a European protected species, or the part or thing in question is derived from such a plant; and
 - (ii) the plant, part or thing in question was in the defender's possession or control, or transported by the defender, for the purpose of sale or exchange;
 - (b) in the case of the offences in paragraph (2)(c) or (d) if the plant in question is a plant of a European protected species, or the part or thing in question is derived from such a plant.
- (7) For the purposes of paragraph (5) a plant, or part of a plant, shall be treated as having been lawfully taken in the wild if—
- [^{F15}(aa) it was taken from the wild in the United Kingdom, without contravention of the law and before 10th June 1994;]
 - (a) it was taken in the wild in the European territory of a member State to which the Habitats Directive applies without contravention of the law of that member State and before the implementation date; or
 - (b) it was taken in the wild elsewhere without contravention of the law of the country or territory in which it was taken.
- (8) 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 provisions of this regulation shall be guilty of an offence.
- (9) Unless the contrary is shown, in any proceedings—
- (a) for an offence under paragraph (1), the plant in question shall be presumed to have been a wild plant; and
 - (b) for an offence under paragraph (2) (as the case may be)—
 - (i) the plant or part of the plant in question shall be presumed to have been taken in the wild; or
 - (ii) the part or thing in question shall be presumed to be from a plant or part of a plant taken in the wild.

(10) A person guilty of an offence under this regulation is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.

(11) In this regulation—

“the implementation date” means—

- (a) where the relevant State became a member State before 10th June 1994, 10th June 1994; and
- (b) in any other case, the date on which the relevant State became a member State; and

“relevant State” means the State in whose territory the plant, or part of it, was taken in the wild.]

- F14** Reg. 43 substituted (S.) (15.2.2007) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2007 (S.S.I. 2007/80), regs. 2, **14** (with reg. 31)
- F15** Reg. 43(7)(aa) inserted (31.12.2020) by The Conservation (Natural Habitats, &c.) (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/113), regs. 1, **18**; 2020 c. 1, Sch. 5 para. 1(1)

Power to grant licences

Grant of licences for certain purposes

44.—(1) Regulations 39, 41 and 43 do not apply to anything done for any of the following purposes under and in accordance with the terms of a licence granted by the appropriate authority.

(2) The purposes referred to in paragraph (1) are—

- (a) scientific [^{F16}, research] or educational purposes;
- (b) ringing or marking, or examining any ring or mark on, wild animals;
- (c) conserving wild animals [^{F17}, including wild birds,] or wild plants or introducing them to particular areas;

[^{F18}(ca) conserving natural habitats;]

- (d) protecting any zoological or botanical collection;
- (e) preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment;
- (f) preventing the spread of disease; or
- (g) preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber or any other form of property or to fisheries.

[^{F19}(2A) Subject to paragraph (2B), the appropriate authority may grant a licence to permit the taking or the possession or control of certain specimens of any of the species listed in Annex IV to the Habitats Directive notwithstanding that the licence is for a purpose not falling within paragraph (2).

(2B) The appropriate authority shall only grant a licence under paragraph (2A) where it is satisfied that the grant of the licence would be compatible with the restrictions in Article 16(1)(e) of the Habitats Directive.

(2C) Regulations 39, 41 and 43 do not apply to anything done under and in accordance with the terms of a licence granted by the appropriate authority under paragraph (2A).]

(3) The appropriate authority shall not grant a licence under this regulation unless they are satisfied—

- (a) that there is no satisfactory alternative, and

- (b) that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
- (4) For the purposes of this regulation “the appropriate authority” means—
- (a) in the case of a licence under any of sub-paragraphs (a) to (d) of paragraph (2), the appropriate nature conservation body; and
- [^{F20}(b) in the case of any other licence granted under this regulation, the Scottish Ministers.]

[^{F21}(5) The Scottish Ministers shall from time to time consult with the nature conservation bodies as to the exercise of the Scottish Ministers' functions under this regulation; and they shall not grant a licence of any description unless they have been advised by the appropriate nature conservation body as to the circumstances in which, in the opinion of the appropriate nature conservation body, licences of that description should be granted.]

- F16** Word in reg. 44(2)(a) inserted (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **14(a)** (with regs. 20, 21)
- F17** Words in reg. 44(2)(c) inserted (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **14(b)** (with regs. 20, 21)
- F18** Reg. 44(2)(ca) inserted (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **14(c)** (with regs. 20, 21)
- F19** Reg. 44(2A)-(2C) inserted (S.) (15.2.2007) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2007 \(S.S.I. 2007/80\)](#), regs. 2, **15(a)**
- F20** Reg. 44(4)(b) substituted (S.) (15.2.2007) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2007 \(S.S.I. 2007/80\)](#), regs. 2, **15(b)**
- F21** Reg. 44(5) substituted (S.) (15.2.2007) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2007 \(S.S.I. 2007/80\)](#), regs. 2, **15(c)**

Commencement Information

- I4** Reg. 44 in force at 30.10.1994, see [reg. 1\(2\)](#)

[^{F22}Delegation of licence granting power: Scotland

44A.—(1) The Scottish Ministers may delegate their functions in relation to licences under regulation 44 to the appropriate nature conservation body.

- (2) A delegation may be, to any degree, general or specific and may in particular relate to—
- (a) a particular type of animal or plant,
- (b) a particular licence or type of licence, or
- (c) a particular area.

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

(4) A delegation is to be made by written direction.

(5) The Scottish Ministers may modify or revoke a direction under paragraph (4).

(6) The requirement on the Scottish Ministers under regulation 44(5) to take advice from the appropriate nature conservation body does not apply in the period when a direction under paragraph (4) has effect, in respect of any licence granted under the direction.

(7) Where a direction is revoked, any existing licence granted under the direction continues to have effect (unless the revoking direction provides otherwise).]

F22 Reg. 44A inserted (6.4.2011) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2011 (S.S.I. 2011/155), regs. 1(1), 6

Licences: supplementary provisions

45.—(1) [^{F23}Subject to the provisions of this regulation,] A licence under regulation 44—

- (a) may be, to any degree, general or specific;
- (b) may be granted either to persons of a class or to a particular person; and
- (c) may be subject to compliance with any specified conditions.

(2) For the purposes of a licence under regulation 44 the definition of a class of persons may be framed by reference to any circumstances whatever including, in particular, their being authorised by any other person.

(3) A licence under regulation 44 may be modified or revoked at any time by the appropriate authority; but otherwise shall be valid for the period stated in the licence.

(4) A licence under regulation 44 which authorises any person to kill wild animals shall specify the area within which and the methods by which the wild animals may be killed and shall not be granted for a period of more than two years.

[^{F24}(4A) A licence granted under regulation 44(2A) shall specify—

- (a) the species of animal or plant the specimens of which the person authorised by the licence may take or possess or control;
- (b) the maximum number of specimens which the person authorised by the licence may take or possess or control, or which particular specimens that person may take or possess or control; and
- (c) the conditions subject to which the action authorised by the licence may be taken and in particular—
 - (i) the methods, means or arrangements by which specimens may be taken or be in the possession or control of the person authorised by the licence;
 - (ii) when or over what period the action authorised by the licence may be taken; and
 - (iii) where it authorises any person to take specimens, the area from which they may be taken.]

(5) It shall be a defence in proceedings for an offence under section 8(b) of the Protection of Animals Act 1911(1) or section 7(b) of the Protection of Animals (Scotland) Act 1912(2) (which restrict the placing on land of poison and poisonous substances) to show that—

- (a) the act alleged to constitute the offence was done under and in accordance with the terms of a licence under regulation 44, and
- (b) any conditions specified in the licence were complied with.

(6) The appropriate authority may charge for a licence under regulation 44 such reasonable sum (if any) as they may determine.

[^{F25}(7) Within two years from exit day, and thereafter within two years of the publication of the last such report, the Scottish Ministers must publish, in such form as they see fit, a report on licences granted under regulation 44 in the preceding two years.

(8) The reports made under paragraph (7) must specify—

(1) 1911 c. 27; section 8 was amended by section 1 of the Protection of Animals (Amendment) Act 1927 (c. 27).
 (2) 1912 c. 14.

- (a) the species which are subject to the licence and the reason for granting it, including the nature of the risk, with, if appropriate, a reference to alternatives rejected and scientific data used;
- (b) in relation to any animal species, any means authorised for the capture or killing of the species and the reasons for the use of that means;
- (c) when and where the licence was granted; and
- (d) the supervisory measures taken to check that the required conditions of the licence have been complied with, any monitoring that has been carried out of compliance with the conditions of the licence, and the results of that monitoring.]

- F23** Words in [reg. 45\(1\)](#) inserted (S.) (15.2.2007) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2007 \(S.S.I. 2007/80\)](#), regs. 2, **16(a)**
- F24** [Reg. 45\(4A\)](#) inserted (S.) (15.2.2007) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2007 \(S.S.I. 2007/80\)](#), regs. 2, **16(b)**
- F25** [Reg. 45\(7\)\(8\)](#) inserted (31.12.2020) by [The Conservation \(Natural Habitats, &c.\) \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/113\)](#), regs. 1, **19**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I5** [Reg. 45](#) in force at 30.10.1994, see [reg. 1\(2\)](#)

False statements made for obtaining licence

46.—(1) A person commits an offence who, for the purposes of obtaining, whether for himself or another, the grant of a licence under regulation 44—

- (a) makes a statement or representation, or furnishes a document or information, which he knows to be false in a material particular, or
- (b) recklessly makes a statement or representation, or furnishes a document or information, which is false in a material particular.

(2) A person guilty of an offence under this regulation is liable on summary conviction [^{F26}to imprisonment for a term not exceeding six months or] to a fine not exceeding level [^{F27}5] on the standard scale [^{F28}, or to both].

- F26** Words in [reg. 46\(2\)](#) inserted (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **15(a)** (with regs. 20, 21)
- F27** Word in [reg. 46\(2\)](#) substituted (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **15(b)** (with regs. 20, 21)
- F28** Words in [reg. 46\(2\)](#) inserted (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **15(c)** (with regs. 20, 21)

Commencement Information

- I6** [Reg. 46](#) in force at 30.10.1994, see [reg. 1\(2\)](#)

[^{F29}Offence of breaching licence condition

46A.—(1) It is an offence for any person authorised by virtue of a licence granted under regulation 44 on or after 15th May 2007 to contravene, or fail to comply with, any condition imposed on the grant of a licence.

- (2) A person shall not be guilty of an offence under paragraph (1) if that person shows that—

Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART III. (See end of Document for details)

- (a) that person took all reasonable precautions and exercised all due diligence to avoid commission of the offence; or
 - (b) the commission of the offence was otherwise due to matters beyond that person's control.
- (3) A person guilty of an offence under paragraph (1) is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 5 on the standard scale, or to both.]]

F29 Reg. 46A inserted (S.) (15.2.2007) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2007 (S.S.I. 2007/80), regs. 2, 17

Changes to legislation:

There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART III.