

NATURE CONSERVATION (SCOTLAND) ACT 2004

EXPLANATORY NOTES

THE ACT

3. The Act sets out a series of measures which are designed to conserve biodiversity and to protect and enhance the biological and geological natural heritage of Scotland. In doing so, the Act provides the principal legislative components of a new, integrated, system for nature conservation within Scotland.
4. The Act also locates the conservation of biodiversity and of Scotland's natural environment within a wider British, European and global context. In relation to biodiversity in particular, it requires public bodies and office-holders to consider the effect of their actions at a local, regional, national and international level. Measures relating to the protection of species and habitats also recognise the importance of the wider international context. The Act does not, however, confer any extraterritorial powers on Scottish public bodies or office holders.
5. The Act is in 5 parts and contributes to the new system for nature conservation by means of a combination of both new measures and amendments to existing legislation.
 - It introduces, in Part 1, a new general duty on all public bodies and office holders (referred to in these notes as "public bodies") to further the conservation of biodiversity;
 - It makes significant changes, in Part 2, to the existing arrangements for the establishment and protection of sites of special scientific interest. In doing so, it replaces most of Part II of the existing [Wildlife and Countryside Act 1981 \(c.69\)](#) ("the 1981 Act");
 - It extends in Part 3 the law in relation to the protection of birds, animals and plants by making significant amendments to the current provisions of Part I of the 1981 Act and by requiring production of a new code of guidance covering whale and dolphin watching and similar activities;
 - It updates, also in Part 3, the provisions of the existing [Protection of Badgers Act 1992 \(c.51\)](#), in order to increase penalties for offences such as badger baiting and aims to ensure greater consistency between that Act and the 1981 Act;
 - It requires, in Part 4, the creation by Scottish Natural Heritage ("SNH") of a code of guidance setting out recommendations, advice and information relating to fossils;
 - It provides, in Part 5, for various supplemental matters including the publication of statutory guidance about the duty to further the conservation of biodiversity and SNH's functions under Part 2 and for minor and consequential amendments and repeals to a variety of other statutes.