



Wildlife and Natural Environment (Scotland) Act 2011

2011 asp 6

PART 2

WILDLIFE UNDER THE 1981 ACT

Wild birds, their nests and eggs

5 Sale of live or dead wild birds, their eggs etc.

- (1) The 1981 Act is amended as follows.
- (2) In section 2—
 - (a) in subsection (4) (close seasons), for “this section and section 1” substitute “section 1, this section and section 6”;
 - (b) in subsection (6) (period of special protection forms part of close season), for “this section and section 1” substitute “section 1, this section and section 6”.
- (3) In section 6 (sale etc. of live or dead wild birds, eggs etc.)—
 - (a) in subsection (1)(a)—
 - (i) the words from “other” to “3” are repealed,
 - (ii) after “egg” where it second occurs insert “other than—
 - (i) a bird included in Part I of Schedule 3 (see also subsection (5));
 - (ii) a bird included in Part 1A of that Schedule to which subsection (1A) applies; or
 - (iii) an egg to which subsection (1B) applies or any part of such an egg”;
 - (b) after subsection (1) insert—

“(1A) This subsection applies to a bird which—

 - (a) was bred in captivity and remained in captivity or a place where it was reared;

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- (b) was a wild bird for the purposes of section 1 (see section 1(6)) and was taken by a person who had a legal right to take such a bird or a person with permission, from a person who had a right to give permission, to take such a bird outside the close season for the bird; or
 - (c) was such a wild bird of the following type and was taken by a person with such right or permission during the period of 28 days which commences with the first day of its close season—
 - (i) a partridge included also in Part I of Schedule 2; or
 - (ii) a pheasant included also in that Part.
- (1B) This subsection applies to the following eggs—
- (a) an egg of a bird included in Part IA of Schedule 3 to which subsection (1A) applies; or
 - (b) an egg of a bird included in Part IA of Schedule 3 to which that subsection does not apply if the egg was taken—
 - (i) outside the close season for the bird or during the period of 28 days commencing with the first day of its close season; and
 - (ii) by a person who had a legal right to take such a bird or a person with permission, from a person who had a right to give permission, to take such a bird.”
- (c) in subsection (2)(a)—
- (i) after “Part II” insert “, IIA ”,
 - (ii) after “Schedule 3” insert “ (see also subsections (5B) and (6)) ”,
- (d) for subsection (5) substitute—
- “(5) Any reference in this section to any bird included in Part I of Schedule 3 is a reference to any bird included in that Part which—
- (a) was bred in captivity;
 - (b) has been ringed or marked in accordance with regulations made by the Scottish Ministers; and
 - (c) has not been lawfully released or allowed to escape from captivity as part of a re-population or re-introduction programme.
- (5A) Regulations made for the purposes of subsection (5)(b) may make different provision for different birds or different provisions of this section.”,
- (e) after subsection (5A) (as inserted by paragraph (d)) insert—
- “(5B) Any reference in this section to any bird included in Part IIA of Schedule 3 is a reference to any bird included in that Part which was killed outside the close season for the bird by a person who had a legal right to kill such a bird or permission, from a person who had a right to give permission, to kill such a bird.”,
- (f) for subsection (6), substitute—
- “(6) Any reference in this section to any bird included in Part III of Schedule 3 is a reference, during the period commencing with 1st

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September in any year and ending with 28th February of the following year, to any bird included in that Part.”.

(4) In Schedule 3 (birds which may be sold)—

(a) after Part I insert—

“PART IA

ALIVE IF TAKEN IN CAPTIVITY OR BY CERTAIN PERSONS OUTSIDE
CLOSE SEASON OR DURING FIRST 28 DAYS OF CLOSE SEASON

<i>Common name</i>	<i>Scientific name</i>
Grouse, Red	Lagopus lagopus scoticus
Mallard	Anas platyrhynchos
Partridge, Grey	Perdix perdix
Partridge, Red-legged	Alectoris rufa
Pheasant, Common	Phasianus colchicus”

(b) after Part II insert—

“PART IIA

DEAD IF KILLED OUTSIDE CLOSE SEASON BY CERTAIN PERSONS

<i>Common name</i>	<i>Scientific name</i>
Coot	Fulica atra
Duck, Tufted	Aythya fuligula
Grouse, Black	Tetrao tetrix
Grouse, Red	Lagopus lagopus scoticus
Mallard	Anas platyrhynchos
Partridge, Grey	Perdix perdix
Partridge, Red-legged	Alectoris rufa
Pheasant, Common	Phasianus colchicus
Pintail	Anas acuta
Plover, Golden	Pluvialis apricaria
Pochard	Aythya ferina
Ptarmigan	Lagopus mutus
Shoveler	Anas clypeata
Snipe, Common	Gallinago gallinago
Teal	Anas crecca

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Wigeon

Anas penelope

Woodcock

Scolopax rusticola”,

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- (c) in Part III (birds which may be sold dead from 1st September to 28th February), the entries relating to birds with the following common names are repealed—

Coot

Duck, Tufted

Mallard

Pintail

Plover, Golden

Pochard

Shoveler

Snipe, Common

Teal

Wigeon

Woodcock.

Commencement Information

II S. 5 in force at 29.6.2011 by S.S.I. 2011/279, art. 2(1)(c)

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