



# Protection of Badgers Act 1992

## 1992 CHAPTER 51

### *Exceptions and licences*

#### 10 Licences. **E+W**

- (1) A licence may be granted to any person by [<sup>F1</sup>the appropriate conservation body] authorising him, notwithstanding anything in the foregoing provisions of this Act, but subject to compliance with any conditions specified in the licence—
- (a) for scientific or educational purposes or for the conservation of badgers—
    - (i) to kill or take, within an area specified in the licence by any means so specified, or to sell, or to have in his possession, any number of badgers so specified; or
    - (ii) to interfere with any badger sett within an area specified in the licence by any means so specified;
  - (b) for the purpose of any zoological gardens or collection specified in the licence, to take within an area specified in the licence by any means so specified, or to sell, or to have in his possession, any number of badgers so specified;
  - (c) for the purpose of ringing and marking, to take badgers within an area specified in the licence, to mark such badgers or to attach to them any ring, tag or other marking device as specified in the licence;
  - (d) for the purpose of any development as defined in section 55(1) of the <sup>M1</sup>Town and Country Planning Act 1990 or, as respects Scotland, [<sup>F2</sup>section 26(1) of the Town and Country Planning (Scotland) Act 1997], to interfere with a badger sett within an area specified in the licence by any means so specified;
  - (e) for the purpose of the preservation, or archaeological investigation, of a monument scheduled under section 1 of the <sup>M2</sup>Ancient Monuments and Archaeological Areas Act 1979, to interfere with a badger sett within an area specified in the licence by any means so specified;
  - (f) for the purpose of investigating whether any offence has been committed or gathering evidence in connection with proceedings before any court, to interfere with a badger sett within an area specified in the licence by any means so specified.

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- (2) A licence may be granted to any person by the appropriate Minister authorising him, notwithstanding anything in the foregoing provisions of this Act, but subject to compliance with any conditions specified in the licence—
- (a) for the purpose of preventing the spread of disease, to kill or take badgers, or to interfere with a badger sett, within an area specified in the licence by any means so specified;
  - (b) for the purpose of preventing serious damage to land, crops, poultry or any other form of property, to kill or take badgers, or to interfere with a badger sett, within an area specified in the licence by any means so specified;
  - (c) for the purpose of any agricultural or forestry operation, to interfere with a badger sett within an area specified in the licence by any means so specified;
  - (d) for the purpose of any operation (whether by virtue of the <sup>M3</sup>Land Drainage Act 1991 or otherwise) to maintain or improve any existing watercourse or drainage works, or to construct new works required for the drainage of any land, including works for the purpose of defence against sea water or tidal water, to interfere with a badger sett within an area specified in the licence by any means so specified.
- (3) A licence may be granted to any person either by [<sup>F3</sup>the appropriate conservation body] or the appropriate Minister authorising that person, notwithstanding anything in the foregoing provisions of this Act, but subject to compliance with any conditions specified in the licence, to interfere with a badger sett within an area specified in the licence by any means so specified for the purpose of controlling foxes in order to protect livestock, game or wild life.
- [<sup>F4</sup>(4) In this section “[<sup>F5</sup>the appropriate conservation body]” means, in relation to a licence for an area—
- (b) in Wales, [<sup>F7</sup>the Natural Resources Body for Wales]].
- [<sup>F4</sup>(4) In this section “the appropriate authority” means the Scottish Ministers or such other person to whom the Scottish Ministers delegate power under section 10A below.]
- (5) In this section “the appropriate Minister” means in relation to a licence for an area—
- (a) in England, the [<sup>F8</sup>Secretary of State]; and
  - (b) in Wales or in Scotland, the Secretary of State.
- (6) The appropriate Minister shall from time to time consult with [<sup>F9</sup>the appropriate conservation body] as to the exercise of his functions under subsection (2)(b), (c) or (d) above and shall not grant a licence of any description unless he has been advised by [<sup>F9</sup>the appropriate conservation body] as to the circumstances in which, in that [<sup>F10</sup>body's] opinion, licences of that description should be granted.
- (7) In relation to Scottish Natural Heritage subsection (6) above shall have effect with the omission of the reference to subsection (2)(c) and (d).
- (8) A licence granted under this section may be revoked at any time by the authority by whom it was granted, and without prejudice to any other liability to a penalty which he may have incurred under this or any other Act, a person who contravenes or fails to comply with any condition imposed on the grant of a licence under this section is guilty of an offence.
- (9) A licence under this section shall not be unreasonably withheld or revoked.

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- (10) It shall be a defence in proceedings for an offence under section 8(b) of the <sup>M4</sup>Protection of Animals Act 1911 or section 7(b) of the <sup>M5</sup>Protection of Animals (Scotland) Act 1912 (each of which restricts the placing on land of poison and poisonous substances) to show that—
- (a) the act alleged to constitute the offence was done under the authority of a licence granted under subsection (2)(a) above; and
  - (b) any conditions specified in the licence were complied with.

#### 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

- F1** Words in s. 10(1) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), s. 107, Sch. 11 para. 137\(a\)](#); S.I. 2006/2541, art. 2 (with Sch.)
- F2** Words in s. 10(1)(d) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), [Sch. 2 para. 53](#)
- F3** Words in s. 10(3) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), s. 107, Sch. 11 para. 137\(a\)](#); S.I. 2006/2541, art. 2 (with Sch.)
- F4** S. 10(4) substituted (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\), ss. 33\(6\)\(d\), 43\(1\)](#) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)
- F5** Words in s. 10(4) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), s. 107, Sch. 11 para. 137\(a\)](#); S.I. 2006/2541, art. 2 (with Sch.)
- F6** Words in s. 10(4)(a) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), s. 107, Sch. 11 para. 137\(b\)](#); S.I. 2006/2541, art. 2 (with Sch.)
- F7** Words in s. 10(4)(b) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\), art. 1\(2\), Sch. 2 para. 341](#) (with Sch. 7)
- F8** Words in s. 10(5)(a) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), [Sch. 1 para. 35](#) (with art. 6)
- F9** Words in s. 10(6) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), s. 107, Sch. 11 para. 137\(a\)](#); S.I. 2006/2541, art. 2 (with Sch.)
- F10** Word in s. 10(6) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), s. 107, Sch. 11 para. 137\(c\)](#); S.I. 2006/2541, art. 2 (with Sch.)

#### Marginal Citations

- M1** 1990 c. 8 .
- M2** 1979 c. 46 .
- M3** 1991 c. 59 .
- M4** 1911 c. 27 .
- M5** 1912 c. 14 .

## 10 Licences. **S**

- (1) A licence may be granted to any person by [<sup>F11</sup>the appropriate [<sup>F12</sup>authority]] authorising him, notwithstanding anything in the foregoing provisions of this Act, but subject to compliance with any conditions specified in the licence—
- (a) for scientific or educational purposes or for the conservation of badgers—
    - (i) to kill or take, within an area specified in the licence by any means so specified, or to sell, or to have in his possession, any number of badgers so specified; or

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- (ii) to interfere with any badger sett within an area specified in the licence by any means so specified;
  - (b) for the purpose of any zoological gardens or collection specified in the licence, to take within an area specified in the licence by any means so specified, or to sell, or to have in his possession, any number of badgers so specified;
  - (c) for the purpose of ringing and marking, to take badgers within an area specified in the licence, to mark such badgers or to attach to them any ring, tag or other marking device as specified in the licence;
  - (d) for the purpose of any development as defined in section 55(1) of the <sup>M6</sup>Town and Country Planning Act 1990 or, as respects Scotland, [<sup>F13</sup>section 26(1) of the Town and Country Planning (Scotland) Act 1997], to interfere with a badger sett within an area specified in the licence by any means so specified;
  - (e) for the purpose of the preservation, or archaeological investigation, of a monument scheduled under section 1 of the <sup>M7</sup>Ancient Monuments and Archaeological Areas Act 1979, to interfere with a badger sett within an area specified in the licence by any means so specified;
  - (f) for the purpose of investigating whether any offence has been committed or gathering evidence in connection with proceedings before any court, to interfere with a badger sett within an area specified in the licence by any means so specified.
- (2) <sup>F14</sup> ...
- [<sup>F15</sup>(g)] for the purpose of preventing the spread of disease, to kill or take badgers, or to interfere with a badger sett, within an area specified in the licence by any means so specified;
  - [<sup>F15</sup>(h)] for the purpose of preventing serious damage to land, crops, poultry or any other form of property, to kill or take badgers, or to interfere with a badger sett, within an area specified in the licence by any means so specified;
  - [<sup>F15</sup>(i)] for the purpose of any agricultural or forestry operation, to interfere with a badger sett within an area specified in the licence by any means so specified;
  - [<sup>F15</sup>(j)] for the purpose of any operation (whether by virtue of the <sup>M8</sup>Land Drainage Act 1991 or otherwise) to maintain or improve any existing watercourse or drainage works, or to construct new works required for the drainage of any land, including works for the purpose of defence against sea water or tidal water, to interfere with a badger sett within an area specified in the licence by any means so specified.
- (3) <sup>F16</sup> ...
- [<sup>F17</sup>(k)] to interfere with a badger sett within an area specified in the licence by any means so specified for the purpose of controlling foxes in order to protect livestock, game or wild life.

[<sup>F18</sup>(4) In this section “the appropriate authority” means the Scottish Ministers or such other person to whom the Scottish Ministers delegate power under section 10A below.]

<sup>F19</sup>(5) .....

[<sup>F20</sup>(6) The Scottish Ministers must consult Scottish Natural Heritage before granting a licence under subsection (1) above.]

<sup>F21</sup>(7) .....

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- (8) A licence granted under this section may be <sup>F22</sup>modified or] revoked at any time by the authority by whom it was granted, and without prejudice to any other liability to a penalty which he may have incurred under this or any other Act, a person who contravenes or fails to comply with any condition imposed on the grant of a licence under this section is guilty of an offence.
- (9) A licence under this section shall not be unreasonably withheld or revoked.
- (10) It shall be a defence in proceedings for an offence under section 8(b) of the <sup>M9</sup>Protection of Animals Act 1911 or section 7(b) of the <sup>M10</sup>Protection of Animals (Scotland) Act 1912 (each of which restricts the placing on land of poison and poisonous substances) to show that—
- the act alleged to constitute the offence was done under the authority of a licence granted under <sup>F23</sup>subsection (1)(g)] above; and
  - any conditions specified in the licence were complied with.

#### Extent Information

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

#### Textual Amendments

- F11** Words in s. 10(1) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), s. 107, **Sch. 11 para. 137(a)**; S.I. 2006/2541, art. 2 (with Sch.)
- F12** Word in s. 10(1) substituted (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 33(6)(a)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)
- F13** Words in s. 10(1)(d) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 53**
- F14** Words in s. 10(2) repealed (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 33(6)(b)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)
- F15** S. 10(2)(a)-(d) renumbered as s. 10(1)(g)-(j) (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 33(6)(b)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, **art. 2(1)(m)**
- F16** Words in s. 10(3) repealed (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 33(6)(c)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)
- F17** Words in s. 10(3) renumbered as s. 10(1)(k) (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 33(6)(c)(ii)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)
- F18** S. 10(4) substituted (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 33(6)(d)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)
- F19** S. 10(5) repealed (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 33(6)(e)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)
- F20** S. 10(6) substituted (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 33(6)(f)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)
- F21** S. 10(7) repealed (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 33(6)(g)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)
- F22** Words in s. 10(8) inserted (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 33(6)(h)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)
- F23** Words in s. 10(10) substituted (S.) (29.6.2011) by [Wildlife and Natural Environment \(Scotland\) Act 2011 \(asp 6\)](#), **ss. 33(6)(i)**, 43(1) (with s. 41(1)); S.S.I. 2011/279, art. 2(1)(m)

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**M9** 1911 c. 27 .

**M10** 1912 c. 14 .

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**Changes and effects yet to be applied to :**

- s. 10(1)(e) words inserted by [2023 asc 3 Sch. 13 para. 164](#)