



# Badgers Act 1973

## 1973 CHAPTER 57

An Act to prohibit, save as permitted under this Act, the taking, injuring or killing of badgers. [25th July 1973]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **1 Taking, injuring or killing of badgers**

If, save as permitted by or under this Act, any person wilfully kills, injures or takes, or attempts to kill, injure or take, any badger, he shall be guilty of an offence.

(2) If, save as permitted by or under this Act, any person has in his possession or under his control—

- (a) a recently killed badger, or
- (b) a pelt from a freshly skinned badger,

he shall, subject to subsection (3) below, be guilty of an offence.

(3) A person shall not be guilty of an offence under subsection (2) above if the killing of the badger concerned was permitted by or under this Act.

### **2 Offences of cruelty**

If any person shall—

- (a) cruelly ill-treat any badger,
- (b) use in the course of killing or taking, or attempting to kill or take any badger, any badger tongs,
- (c) subject to section 7(3) of this Act, dig for any badger, or
- (d) use for the purpose of killing or taking any badger any firearm other than a smooth bore weapon of not less than 20 bore or a rifle using ammunition

having a muzzle energy of not less than 160 footpounds and a bullet weighing not less than 38 grains,  
he shall be guilty of an offence.

### **3 Selling and possession of live badgers**

If, save as permitted by or under this Act, any person sells, offers for sale or has in his possession or under his control any live badger he shall be guilty of an offence.

### **4 Restriction of marking and ringing**

If, save as may be authorised by licence granted under section 9 of this Act, any person marks, or attaches any ring, tag or other marking device to, any badger (other than one which is lawfully in his possession by virtue of section 8(2)(a) of this Act or of such a licence) he shall be guilty of an offence.

### **5 Offenders may be required to quit land**

If any person shall be found committing an offence under section 1 of this Act on any land, it shall be lawful for the owner or occupier of the land, or any servant of the owner or occupier, or any constable, to require that person forthwith to quit such land and also to give his name and address; and if that person on being so required wilfully remains upon the land or refuses to give his full name or address, he shall be guilty of an offence.

### **6 Special protection for badgers**

- (1) Where after consultation with the Natural Environment Research Council it appears to the Secretary of State necessary for the proper conservation of badgers he may by order declare any area specified in the order to be an area of special protection for badgers.
- (2) Any order made under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament and may be varied or revoked by a subsequent order made in like manner.

### **7 Exceptions for authorised persons**

- (1) Except within an area of special protection, an authorised person shall not be guilty of an offence under section 1(1) of this Act by reason of—
  - (a) the killing or taking or attempted killing or taking of any badger, or
  - (b) the injuring of any badger in the course of taking it, or attempting to take or kill it.
- (2) Within an area of special protection, an authorised person shall not be guilty of an offence under section 1(1) of this Act by reason of—
  - (a) the killing or taking or attempted killing or taking of any badger, or
  - (b) the injuring of any badger in the course of taking it, or attempting to take or kill it,

if he satisfies the court before whom he is charged that his action was necessary for the purpose of preventing serious damage to land, crops, poultry or any other form of property or for the purpose of preventing the spread of disease.

- (3) An authorised person shall not be guilty of an offence under paragraph (c) of section 2 of this Act if he satisfies the court before whom he is charged that his action was necessary for the purpose of preventing serious damage to land, crops, poultry or any other form of property or for the purpose of preventing the spread of disease.

## **8 General exceptions**

- (1) A person shall not be guilty of an offence under this Act by reason only of—
- (a) the taking or attempted taking of any badger which had been disabled otherwise than by his act and was taken or to be taken solely for the purpose of tending it;
  - (b) the killing or attempted killing of any badger which appeared to be so seriously injured or in such a condition that to kill it would be an act of mercy;
  - (c) the unavoidable killing or injuring of any badger as an incidental result of a lawful action.
- (2) It shall not be an offence under section 3 of this Act for any person to have a live badger in his possession or under his control if—
- (a) it has been kept in captivity by that person for a continuous period beginning before the passing of this Act,
  - (b) it is in that person's possession or under his control, as the case may be, in the course of his business as a carrier,
  - (c) it has, within the preceding seven days, been taken by that person in circumstances in which, by virtue of section 7(1) or (2) of this Act, the taking of the badger did not constitute an offence under this Act, or
  - (d) it has been taken in circumstances in which, by virtue of subsection (1)(a), above, the taking of the badger did not constitute an offence under this Act and it is necessary for the purpose of tending it for it to remain in that person's possession, or under his control, as the case may be.
- (3) A person shall not be guilty of an offence under this Act by reason only of something done in connection with an experiment on a living badger if what is done does not constitute a contravention of the Cruelty to Animals Act 1876.

## **9 Licences**

- (1) A licence may be granted to any person by the appropriate authority specified in the next subsection authorising that person, 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 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;
  - (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;

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*Status: This is the original version (as it was originally enacted).*

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- (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 preventing the spread of disease to kill or take badgers within an area specified in the licence by any means so specified.
- (2) The appropriate authority for the grant of a licence under the foregoing subsection shall be—
- (a) in the case of a licence under paragraph (a), (b) or (c) of that subsection, the Natural Environment Research Council;
  - (b) in the case of a licence under paragraph (d) of that subsection, the Minister of Agriculture, Fisheries and Food or, in Scotland, the Secretary of State.
- (3) 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, any person who contravenes or fails to comply with any condition imposed on the grant of a licence under this section shall be guilty of an offence.

## **10 Enforcement, penalties, etc.**

- (1) Where a constable has reasonable grounds for suspecting that any person is committing an offence under this Act, or has committed an offence under this Act and that evidence of the commission of the offence is to be found on that person or any vehicle or article he may have with him, the constable may—
- (a) without warrant stop and search that person and search any vehicle or article he may have with him;
  - (b) without warrant arrest that person if he fails to give his full name and address to the constable's satisfaction; and
  - (c) seize and detain for the purposes of proceedings under this Act any badger whether alive or dead, or any weapon or article capable of being used to kill or take badgers, which may be in that person's possession.
- (2) Any person guilty of an offence—
- (a) under section 5 of this Act shall be liable on summary conviction to a fine not exceeding £20,
  - (b) under any other section of this Act shall be liable on summary conviction to a fine not exceeding £100:

Provided that where the offence was committed in respect of more than one badger, the maximum fine which may be imposed under paragraph (b) of this subsection shall be determined as if the person convicted has been convicted of a separate offence in respect of each badger.

- (3) The court before whom any person is convicted of an offence under this Act shall order the forfeiture of any badger or skin thereof in respect of which the offence was committed and may, if they think fit, order the forfeiture of any weapon or article in respect of or by means of which the offence was committed.

## **11 Interpretation**

In this Act, unless the context otherwise requires, the following expressions have the following meaning—

" ammunition " has the same meaning as in the Firearms Act 1968;

" area of special protection " means an area specified, in an order made under section 6 of this Act, to be an area of special protection for badgers;

" authorised person " means—

- (a) the owner or occupier, or any servant of the owner or occupier, shown to have been authorised by the owner or occupier, of any land on which the action authorised is taken;
- (b) any person authorised in writing by the owner or occupier of any land on which the action authorised is taken;
- (c) any person authorised in writing by the local authority for the area within which the action authorised is taken;
- (d) any person authorised in writing by the Natural Environment Research Council or by the Minister of Agriculture, Fisheries and Food or, in Scotland, the Secretary of State; so, however, that the authorisation of any person for the purpose of this definition shall not confer any right of entry upon any land;

" badger " means any animal of the species *Meles meles*;

" firearm " has the same meaning as in the Firearms Act 1968;

" local authority " means—

- (a) as respects England and Wales up to and including 31st March 1974, the council of a county borough, a London borough or a county district or the Common Council of the City of London;
- (b) as respects England and Wales on and after 1st April 1974, the council of a district or a London borough or the Common Council of the City of London; and
- (c) as respects Scotland, the council of a county or a burgh.

## **12 Short title, extent and commencement**

- (1) This Act may be cited as the Badgers Act 1973.
- (2) This Act does not extend to Northern Ireland.
- (3) This Act shall come into force at the expiry of six months beginning with the date of its passing.